

LAWS
of
UTAH 2019

Published by Authority
Utah Legislative Printing Office

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LAWS
of the
STATE OF UTAH, 2018

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

**Convened at the State Capitol in the City of Salt Lake
and Adjourned Sine Die
December 3, 2018**

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2018 Third Special Session of the Sixty-second Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2018 Third Special Session of the Sixty-second Legislature of the State of Utah convened at the Capitol in Salt Lake City on December 3, 2018 and adjourned on the same day.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 7th day of August, 2019.




Spencer J. Cox
Lieutenant Governor

**CHAPTER 1
H. B. 3001**

Passed December 3, 2018
Approved December 3, 2018
Effective December 3, 2018
(Exception clause in Section 140)

UTAH MEDICAL CANNABIS ACT

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill provides for the cultivation, processing, medical recommendation, and patient use of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for licensing and regulation of a cannabis cultivation facility, a cannabis processing facility, an independent cannabis testing laboratory, and a medical cannabis pharmacy;
- ▶ provides for security and tracking of medical cannabis and a medical cannabis product from cultivation to use to ensure safety and chemical content;
- ▶ requires certain labeling and childproof packaging of medical cannabis and a medical cannabis product;
- ▶ requires the Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services to create an electronic verification system to facilitate recommendation, dispensing, and record-keeping for medical cannabis transactions;
- ▶ allows physicians, osteopathic physicians, advanced practice registered nurses, and physician assistants to recommend medical cannabis;
- ▶ allows an individual with a qualifying condition to obtain a medical cannabis patient card on the recommendation of a certain medical professional to gain access to medical cannabis;
- ▶ allows a patient to designate a caregiver to assist with accessing medical cannabis;
- ▶ provides for a parent or legal guardian to obtain a medical cannabis guardian card for an eligible minor patient and for the minor patient to concurrently receive a provisional patient card;
- ▶ provides certain state employment discrimination protection for an individual who lawfully uses medical cannabis;
- ▶ limits the form and amount of medical cannabis available to a patient at one time;
- ▶ prohibits a minor from entering a medical cannabis pharmacy;
- ▶ requires the Department of Health to establish the state central fill medical cannabis pharmacy;
- ▶ provides for a process of state central fill shipment of medical cannabis and cannabis product to a local health department for patient retrieval;
- ▶ creates certain enterprise funds;

- ▶ imposes criminal penalties for improperly giving or selling medical cannabis;
- ▶ decriminalizes certain conduct for certain individuals before the medical cannabis card program and medical cannabis pharmacies are operational;
- ▶ creates protections from state prosecution for the lawful possession, use, and sale of medical cannabis;
- ▶ exempts medical cannabis and medical cannabis products from sales tax;
- ▶ prohibits a court from considering the lawful use of medical cannabis in a custody proceeding;
- ▶ repeals superfluous sections related to authorized use of cannabis or a cannabis product;
- ▶ provides a severability clause;
- ▶ re-enacts language that the voter initiative repealed by implication through use of outdated code; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

- 4-41-102, as last amended by Laws of Utah 2018, Chapters 227 and 452
- 7-1-401, as last amended by Laws of Utah 2018, Chapter 446
- 10-9a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 17-27a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 26-61-202, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapter 110
- 26-65-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452
- 26-65-103 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452
- 30-3-10, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 34A-2-418, as last amended by Laws of Utah 2016, Chapter 242
- 41-6a-517 (Superseded 07/01/19), as last amended by Laws of Utah 2017, Chapter 446
- 41-6a-517 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 452
- 49-11-1401, as last amended by Laws of Utah 2018, Chapter 61
- 53-1-106.5, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 58-17b-302, as last amended by Laws of Utah 2014, Chapter 72
- 58-17b-310, as enacted by Laws of Utah 2004, Chapter 280
- 58-17b-502, as last amended by Laws of Utah 2018, Chapter 295
- 58-31b-305, as last amended by Laws of Utah 2014, Chapter 316
- 58-31b-502, as last amended by Laws of Utah 2016, Chapter 127

58-37-3.6 (Superseded 07/01/19), as last amended by Laws of Utah 2018, Chapters 333 and 446

58-37-3.6 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapters 333, 446, and 452

58-37-3.7, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37-3.8, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37-3.9, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37f-203 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapters 123 and 452

58-67-304, as last amended by Laws of Utah 2018, Chapters 282 and 318

58-67-502, as last amended by Laws of Utah 2017, Chapter 299

58-68-304, as last amended by Laws of Utah 2018, Chapter 318

58-68-502, as last amended by Laws of Utah 2017, Chapter 299

58-70a-303, as last amended by Laws of Utah 2001, Chapter 268

58-70a-503, as last amended by Laws of Utah 2017, Chapter 309

58-85-102, as last amended by Laws of Utah 2018, Chapter 333

58-85-104, as last amended by Laws of Utah 2018, Chapter 333

58-85-105, as last amended by Laws of Utah 2018, Chapter 333

62A-4a-202.1, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

63I-1-226, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468

63I-1-258, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapter 399

67-19-33, as last amended by Laws of Utah 2006, Chapter 139

78A-6-508 (Superseded 07/01/19), as last amended by Laws of Utah 2014, Chapter 409

78A-6-508 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 452

ENACTS:

4-41a-104, Utah Code Annotated 1953

4-41a-105, Utah Code Annotated 1953

4-41a-106, Utah Code Annotated 1953

4-41a-405, Utah Code Annotated 1953

26-36d-101, Utah Code Annotated 1953

26-36d-102, Utah Code Annotated 1953

26-36d-103, Utah Code Annotated 1953

26-36d-201, Utah Code Annotated 1953

26-36d-202, Utah Code Annotated 1953

26-36d-203, Utah Code Annotated 1953

26-36d-204, Utah Code Annotated 1953

26-36d-205, Utah Code Annotated 1953

26-36d-206, Utah Code Annotated 1953

26-36d-207, Utah Code Annotated 1953

26-36d-208, Utah Code Annotated 1953

26-61a-108, Utah Code Annotated 1953

26-61a-110, Utah Code Annotated 1953

26-61a-112, Utah Code Annotated 1953

26-61a-113, Utah Code Annotated 1953

26-61a-114, Utah Code Annotated 1953

26-61a-205, Utah Code Annotated 1953

26-61a-403, Utah Code Annotated 1953

26-61a-503, Utah Code Annotated 1953

26-61a-601, Utah Code Annotated 1953

26-61a-602, Utah Code Annotated 1953

26-61a-603, Utah Code Annotated 1953

26-61a-604, Utah Code Annotated 1953

26-61a-605, Utah Code Annotated 1953

26-61a-606, Utah Code Annotated 1953

26-61a-607, Utah Code Annotated 1953

26-61a-608, Utah Code Annotated 1953

26-61a-609, Utah Code Annotated 1953

26-61a-610, Utah Code Annotated 1953

26-61a-611, Utah Code Annotated 1953

26-61a-701, Utah Code Annotated 1953

58-20b-101, Utah Code Annotated 1953

58-20b-102, Utah Code Annotated 1953

58-20b-201, Utah Code Annotated 1953

58-20b-301, Utah Code Annotated 1953

58-20b-302, Utah Code Annotated 1953

58-20b-303, Utah Code Annotated 1953

58-20b-304, Utah Code Annotated 1953

58-20b-305, Utah Code Annotated 1953

58-20b-401, Utah Code Annotated 1953

58-20b-501, Utah Code Annotated 1953

59-12-104.10, Utah Code Annotated 1953

62A-3-322, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

4-41a-101, (Renumbered from 4-41b-101, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-102, (Renumbered from 4-41b-102, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-103, (Renumbered from 4-41b-103, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-201, (Renumbered from 4-41b-201, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-202, (Renumbered from 4-41b-302, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-203, (Renumbered from 4-41b-202, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-204, (Renumbered from 4-41b-203, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-205, (Renumbered from 4-41b-204, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-301, (Renumbered from 4-41b-301, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-302, (Renumbered from 4-41b-303, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-401, (Renumbered from 4-41b-401, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41-301, as enacted by Laws of Utah 2018, Chapter 446

4-41-302, as enacted by Laws of Utah 2018, Chapter 446

4-41-303, as enacted by Laws of Utah 2018, Chapter 446

4-41-304, as enacted by Laws of Utah 2018, Chapter 446

4-41b-104, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

4-43-101 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-201 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-202 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-203 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-301 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-401 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-402 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-501 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-502 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-503 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-601 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-602 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-701 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-702 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-703 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

4-43-801 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

26-60b-104, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-67-808 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

58-68-808 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

58-85-103.5, as enacted by Laws of Utah 2018, Chapter 333

58-88-101 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

58-88-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

58-88-103 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

58-88-104 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-12-104.7 (Repealed 01/01/19), as repealed by Laws of Utah 2018, Second Special Session, Chapter 6

59-12-104.9 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-101 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-103 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-104 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-105 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-106 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-107 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-108 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

Utah Code Sections Affected by Revisor

Instructions:

4-41a-106, Utah Code Annotated 1953

4-41a-201, Utah Code Annotated 1953

4-41a-301, (Renumbered from 4-41b-301, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-401, (Renumbered from 4-41b-401, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-114, Utah Code Annotated 1953

26-61a-202, (Renumbered from 26-60b-202, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-301, (Renumbered from 26-60b-301, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-401, (Renumbered from 26-60b-401, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-602, Utah Code Annotated 1953

26-61a-606, Utah Code Annotated 1953

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

Section 1. Section 4-41-102 is amended to read:

4-41-102. Definitions.

[For purposes of] As used in this chapter:

(1) "Agricultural pilot program" means a program to study the growth, cultivation, or marketing of industrial hemp.

(2) "Cannabidiol product" means a chemical compound extracted from a hemp product that:

(a) is processed into a medicinal dosage form; and

(b) contains less than 0.3% tetrahydrocannabinol by dry weight [~~before processing and no more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing~~].

(3) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(4) "Industrial hemp certificate" means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(5) "Industrial hemp license" means a license issued by the department to a person for the

purpose of participating in a research pilot program.

(6) “Industrial hemp product” means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(7) “Licensee” means an individual or business entity possessing a license issued by the department under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(8) “Medicinal dosage form” means ~~that term is defined in Section 26-65-102.~~

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a sublingual preparation;

(e) a topical preparation;

(f) a transdermal preparation;

(g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(h) other preparations that the department approves.

(9) “Person” means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

(10) “Research pilot program” means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

Section 2. Section 4-41a-101, which is renumbered from Section 4-41b-101 is renumbered and amended to read:

CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS

Part 1. General Provisions.

[4-41b-101]. 4-41a-101. Title.

[4] This chapter is known as “Cannabis Production Establishments.”

Section 3. Section 4-41a-102, which is renumbered from Section 4-41b-102 is renumbered and amended to read:

[4-41b-102]. 4-41a-102. Definitions.

As used in this chapter:

(1) “Cannabis” means the same as that term is defined in Section [58-37-3.9] 26-61a-102.

(2) “Cannabis cultivation facility” means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis ~~[production establishments]~~ cultivation facility or to a cannabis ~~[dispensaries]~~ processing facility.

(3) “Cannabis cultivation facility agent” means an individual who:

(a) is an ~~[owner, officer, director, board member,] employee[, or volunteer]~~ of a cannabis cultivation facility[-]; and

(b) holds a valid cannabis production establishment agent registration card.

[4] ~~“Cannabis dispensary” means the same as that term is defined in Section 26-60b-102.~~

[5] ~~“Cannabis dispensary agent” means the same as that term is defined in Section 26-60b-102.~~

[6] (4) “Cannabis processing facility” means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabidiol Act;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis ~~[dispensary]~~ pharmacy or the state central fill medical cannabis pharmacy.

[7] (5) “Cannabis processing facility agent” means an individual who:

(a) is an ~~[owner, officer, director, board member,] employee[, or volunteer]~~ of a cannabis processing facility[-]; and

(b) holds a valid cannabis production establishment agent registration card.

[8] (6) “Cannabis product” means the same as that term is defined in Section [58-37-3.9] 26-61a-102.

[9] (7) “Cannabis production establishment” means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[10] (8) “Cannabis production establishment agent” means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[11] (9) “Cannabis production establishment agent registration card” means a registration card[, issued by] that the department[, issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[12] (10) “Community location” means a public or private school, a church, a public library, a public playground, or a public park.

(11) “Department” means the Department of Agriculture and Food.

(12) “Family member” means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(13) “Independent cannabis testing laboratory” means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) “Independent cannabis testing laboratory agent” means an individual who:

(a) is an ~~owner, officer, director, board member,~~ employee, ~~or volunteer~~ of an independent cannabis testing laboratory~~[-];~~ and

(b) holds a valid cannabis production establishment agent registration card.

(15) “Inventory control system” means ~~the~~ a system described in Section ~~[4-41b-103]~~ 4-41a-103.

(16) “Medical cannabis” means the same as that term is defined in Section 26-61a-102.

~~[(46)]~~ (17) “Medical cannabis card” means the same as that term is defined in Section ~~[26-60b-102]~~ 26-61a-102.

(18) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(19) “Medical cannabis pharmacy agent” means the same as that term is defined in Section 26-61a-102.

~~[(17)]~~ “Medical Cannabis Restricted Account” means the account created in Section ~~26-60b-109.~~

(20) “Medical cannabis treatment” means the same as that term is defined in Section 26-61a-102.

(21) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

~~[(48)]~~ “Physician” (22) “Qualified medical provider” means the same as that term is defined in Section ~~[26-60b-107]~~ 26-61a-102.

(23) “Qualified Production Enterprise Fund” means the fund created in Section 4-41a-104.

(24) “State central fill agent” means the same as that term is defined in Section 26-61a-102.

(25) “State central fill medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(26) “State central fill shipment” means the same as that term is defined in Section 26-61a-102.

~~[(49)]~~ (27) “State electronic verification system” means the system described in Section ~~[26-60b-103]~~ 26-61a-103.

(28) “Tetrahydrocannabinol” means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) “Total composite tetrahydrocannabinol” means ~~delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.~~

Section 4. Section 4-41a-103, which is renumbered from Section 4-41b-103 is renumbered and amended to read:

[4-41b-103]. 4-41a-103. Inventory control system.

(1) [A] ~~Each~~ cannabis production establishment ~~[and a], each medical cannabis [dispensary] pharmacy, and the state central fill medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.~~

(2) ~~[An]~~ A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall ensure that the inventory control system ~~[shall track]~~ maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall~~;~~ and has a root ball~~;~~ until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card~~[-(3) An inventory control system shall store];~~

(b) maintains in real time a record of the amount of cannabis and cannabis products in the ~~[cannabis production establishment’s or cannabis dispensary’s] possession[-(4) An inventory control system shall include] of the establishment or pharmacy;~~

(c) includes a video recording system that:

~~[(a)]~~ (i) tracks all handling and processing of cannabis or a cannabis product in the ~~[cannabis production] establishment or [cannabis dispensary] pharmacy;~~

~~[(b)]~~ (ii) is tamper proof; ~~[and (e) is capable of storing]~~

(iii) stores a video record for at least 45 days~~[-(5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain];~~ and

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

~~[(6)]~~ (3) A cannabis production establishment ~~[or], a medical cannabis [dispensary] pharmacy, and the state central fill medical cannabis pharmacy shall allow the department or the Department of Health access to the cannabis production establishment’s [or], medical cannabis [dispensary’s] pharmacy’s, or state central fill~~

medical cannabis pharmacy's inventory control system ~~[during an inspection]~~ at any time.

~~[(7)]~~ (4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Section 5. Section 4-41a-104 is enacted to read:

4-41a-104. Qualified Production Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created an enterprise fund known as the "Qualified Production Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's implementation of this chapter.

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 6. Section 4-41a-105 is enacted to read:

4-41a-105. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 7. Section 4-41a-106 is enacted to read:

4-41a-106. Severability clause.

(1) If a final decision of a court of competent jurisdiction holds invalid any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 8. Section 4-41a-201, which is renumbered from Section 4-41b-201 is renumbered and amended to read:

Part 2. Cannabis Production Establishment [4-41b-201]. 4-41a-201. Cannabis production establishment -- License.

(1) A person may not operate a cannabis production establishment without a license ~~issued by~~ that the department issues under this chapter.

(2) (a) Subject to Subsections (6) ~~[and]~~, (7), and (8), and to Section ~~[4-41b-204]~~ 4-41a-205, the department shall, ~~[within 90 days after receiving a complete application]~~ in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a cannabis production establishment to ~~[a person who]~~ an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

~~[(a)]~~ (i) a proposed name and address, located in a zone described in Subsection 4-41a-406(1)(a) or (b), where the ~~person~~ applicant will operate the cannabis production establishment that is not within ~~[600]~~ 1,000 feet of a community location or within ~~[300]~~ 600 feet of an area zoned ~~[exclusively]~~ primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit;

~~[(b)]~~ (ii) the name and address of any individual who has:

(A) a financial or voting interest of ~~[two percent]~~ 2% or greater in the proposed cannabis production establishment; or ~~[who has]~~

(B) the power to direct or cause the management or control of a proposed ~~[medical]~~ cannabis production establishment;

~~[(c)]~~ (iii) an operating plan that:

(A) complies with Section ~~[4-41b-203 and that]~~ 4-41a-204;

(B) includes operating procedures ~~[to]~~ that comply with ~~[the requirements of]~~ this chapter and ~~[with]~~ any ~~[laws adopted by]~~ law the municipality or county ~~[that are]~~ in which the person is located adopts that is consistent with Section ~~[4-41b-405]~~ 4-41a-406; and

(C) the department approves;

~~[(d)]~~ (iv) ~~[financial statements demonstrating that the person possesses a minimum of]~~ evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) ~~[\$500,000 in liquid assets available]~~ \$250,000 for each cannabis cultivation facility for which the ~~person~~ applicant applies; or ~~[a minimum of]~~ \$100,000

(B) ~~[in liquid assets available]~~ \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the ~~person~~ applicant applies;

~~[(e)]~~ if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis production establishment is in compliance with the restrictions;

~~[(f)]~~ (v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit ~~[or license]~~, a copy of the applicant's approved application for the local land use permit ~~[or license]~~; and

~~[(g)]~~ (vi) an application fee ~~[established by]~~ in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, ~~that is necessary to cover the department's cost to implement this chapter.~~

(3) If the department ~~[determines that a cannabis production establishment is eligible]~~ approves an application for a license under this section~~];~~:

(a) the applicant shall pay the department ~~[shall charge the cannabis establishment]~~ an initial license fee in an amount ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~];~~ and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection ~~[(5)]~~ (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

~~[(5)]~~ (b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) ~~[that]~~ holds a license or has an ownership interest in a ~~medical~~ cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility ~~[in the state]~~;

(b) ~~[that]~~ has an owner, officer, director, or employee whose ~~[immediate]~~ family member holds a license or has an ownership interest in a ~~medical~~ cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) ~~[who]~~ proposes to operate the independent cannabis testing laboratory at the same physical location as a ~~medical~~ cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual ~~[who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant]~~ described in Subsection (2)(b)(ii):

(a) has been convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law~~]; or~~ of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is [less] younger than 21 years [of age] old.

(8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

(a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).

~~[(8)]~~ (9) The department may revoke a license under this part:

(a) if the cannabis production establishment [is] does not [operating] begin cannabis production operations within one year [of the issuance of] after the day on which the department issues the initial license[-];

(b) after the cannabis production establishment makes the same violation of this chapter three times; or

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

~~[(9)]~~ (10) The department shall deposit the proceeds of a fee [imposed by] that the department imposes under this section [in] into the [Medical Cannabis Restricted Account] Qualified Production Enterprise Fund.

~~[(10)]~~ (11) The department shall begin accepting applications under this part [no later than] on or before January 1, 2020.

(12) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 9. Section 4-41a-202, which is renumbered from Section 4-41b-302 is renumbered and amended to read:

[4-41b-302]. 4-41a-202. Cannabis production establishment owners and directors -- Criminal background checks.

(1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of [two percent] 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the [department; and] Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(2)]~~ The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).]

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 10. Section 4-41a-203, which is renumbered from Section 4-41b-202 is renumbered and amended to read:

[4-41b-202]. 4-41a-203. Renewal.

~~[(1)]~~ The department shall renew a [person's] license issued under Section [4-41b-201] 4-41a-201 every [two years,] year if, at the time of renewal:

~~[(a)]~~ (1) the [person] licensee meets the requirements of Section [4-41b-201] 4-41a-201; [and]

~~[(b)]~~ (2) the [person] licensee pays the department a license renewal fee in an amount [determined by]

that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[.]; and

(3) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Section 11. Section 4-41a-204, which is renumbered from Section 4-41b-203 is renumbered and amended to read:

[4-41b-203]. 4-41a-204. Operating plan.

(1) A person applying for a cannabis production [facility] establishment license or license renewal shall submit to the department for the department's review a proposed [operation] operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, [ø] and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a [plan to make] description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

[~~(f)~~] (g) for a cannabis cultivation facility, the information described in Subsection (2);

[~~(g)~~] (h) for a cannabis processing facility, the information described in Subsection (3); and

[~~(h)~~] (i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan [~~shall include the cannabis cultivation~~] includes the facility's intended:

(i) cannabis cultivation practices, including the [~~cannabis cultivation~~] facility's intended pesticide use[.]; and fertilizer use[.]; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation[.]; and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c) or (d):

(i) a cannabis cultivation facility that cultivates cannabis indoors may not:

(A) use more than 100,000 square feet for cultivation; or

(B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; and

(ii) a cannabis cultivation facility that cultivates cannabis outdoors may not use more than four acres for cultivation.

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.

(3) A cannabis processing facility's operating plan shall include the [~~cannabis processing~~] facility's intended cannabis processing practices, including the cannabis processing facility's intended [~~offered variety of cannabis product, cannabinoid extraction method, cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation and food safety procedures.~~];

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the [~~independent cannabis testing~~] laboratory's intended:

(a) cannabis and cannabis product testing capability [~~and~~];

(b) cannabis and cannabis product testing equipment[.]; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Section 12. Section 4-41a-205, which is renumbered from Section 4-41b-204 is renumbered and amended to read:

[4-41b-204]. 4-41a-205. Number of licenses -- Cannabis cultivation facilities.

(1) Except as ~~[otherwise]~~ provided in Subsection ~~[(2)]~~ (2)(a), the department may ~~not~~ issue ~~[not]~~ more than ~~[15]~~ 10 licenses to operate a cannabis cultivation ~~[facilities]~~ facility.

(2) (a) ~~[After January 1, 2022, the]~~ The department may issue ~~[additional]~~ up to five licenses to operate a cannabis cultivation ~~[facilities]~~ facility in addition to the 10 licenses described in Subsection (1) if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form, that each additional ~~[licenses are needed]~~ license is necessary to provide an adequate supply, quality, or variety of ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form to medical cannabis ~~[card holders in Utah]~~ cardholders.

(b) If the recipient of one of the initial 10 licenses described in Subsection (1) ceases operations or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than ~~[there are]~~ the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

- (i) complying with a regulatory environment~~[,];~~
- (ii) tracking inventory~~[,];~~ and
- (iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products ~~[for patients]~~ in a medicinal dosage form.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 13. Section 4-41a-301, which is renumbered from Section 4-41b-301 is renumbered and amended to read:

Part 3. Cannabis Production Establishments Agents

[4-41b-301]. 4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual ~~[is registered by the department]~~ as a cannabis production establishment agent.

(2) ~~[A physician]~~ The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent~~[-]~~, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis ~~[dispensary]~~ pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after ~~[receiving]~~ the day on which the department receives a complete application from a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to ~~[an individual who]~~ the prospective agent if the cannabis production establishment:

~~[(a)]~~ (i) provides to the department:

(A) the ~~[individual's]~~ prospective agent's name and address ~~[and];~~

(B) the name and location of a licensed cannabis production establishment where the ~~[individual]~~ prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

~~[(b)]~~ (ii) pays a fee to the department~~[,]~~ in an amount ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~[, that is necessary to cover the department's cost to implement this part].~~

(b) Each prospective agent described in Subsection (4)(a) shall:

- (i) submit to the department:
- (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
- (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
- (ii) consent to a fingerprint background check by:
- (A) the Bureau of Criminal Identification; and
- (B) the Federal Bureau of Investigation.
- (c) The Bureau of Criminal Identification shall:
- (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
- (ii) report the results of the background check to the department;
- (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
- (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
- (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
- (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
- (ii) remit the fee described in Subsection (4)(d) to the Bureau of Criminal Identification.
- (5) The department shall designate, on an individual's cannabis production establishment agent registration card:
- (a) the name of the cannabis production establishment where the individual is registered as an agent; and
- (b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

- (6) A cannabis production establishment agent shall comply with:
- (a) a certification standard ~~[developed by]~~ that the department develops; or
- (b) ~~[with a third party]~~ a third-party certification standard ~~[designated by]~~ that the department designates by rule ~~[made]~~, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) The department shall ensure that the certification standard described in Subsection (6) ~~[shall include]~~ includes training:
- (a) in Utah medical cannabis law;
- (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;
- (c) for a cannabis processing facility agent, in cannabis processing, ~~[food]~~ manufacturing safety procedures for items for human consumption, and sanitation best practices; and
- (d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.
- (8) ~~[The department may revoke or refuse to issue the]~~ For an individual who holds or applies for a cannabis production establishment agent registration card ~~[of an individual who]~~:
- (a) ~~the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter;~~ ~~[or]~~ and
- (b) the department shall revoke or refuse to issue the card if the individual is convicted ~~[of an offense that is a felony]~~ under state or federal law of:
- (i) a felony; or
- (ii) after the effective date of this bill, a misdemeanor for drug distribution.
- (9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.
- (b) A cannabis production establishment agent may renew the agent's registration card if the agent:
- (i) is eligible for a cannabis production establishment registration card under this section;
- (ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and
- (iii) pays to the department a renewal fee in an amount that:
- (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
- (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 14. Section 4-41a-302, which is renumbered from Section 4-41b-303 is renumbered and amended to read:

[4-41b-303]. 4-41a-302. Cannabis production establishment agent registration card -- Rebuttable presumption.

(1) A cannabis production establishment agent ~~[who is registered with]~~ whom the department registers under Section ~~[4-41b-301]~~ 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the ~~[individual]~~ agent at all times when:

(a) the ~~[individual]~~ agent is on the premises of a cannabis production establishment where the ~~[individual]~~ agent is ~~[a cannabis production establishment agent]~~ registered; ~~[and]~~

(b) the ~~[individual]~~ agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:

(i) two cannabis production establishments; or ~~[between]~~

(ii) a cannabis production establishment and:

(A) a medical cannabis ~~[dispensary]~~ pharmacy; or

(B) the state central fill medical cannabis pharmacy; and

(c) if the cannabis production establishment agent is an agent of a cannabis cultivating facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If ~~[an individual]~~ a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, ~~[a]~~ cannabis product, or ~~[a]~~ medical cannabis device ~~[at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device]~~ in compliance with Subsection (1):

(a) there is a rebuttable presumption that the ~~[individual]~~ agent possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the ~~[individual's]~~ agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) ~~[An individual]~~ A cannabis production establishment agent who ~~[violates]~~ fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

~~[(a)]~~ (A) guilty of an infraction; and

~~[(b)]~~ (B) ~~[is]~~ subject to a \$100 fine~~[-];~~ or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 15. Section 4-41a-401, which is renumbered from Section 4-41b-401 is renumbered and amended to read:

Part 4. General Cannabis Production Establishment Operating Requirements

[4-41b-401]. 4-41a-401. Cannabis production establishment -- General operating requirements.

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan ~~[provided to the department under Section 4-41b-203]~~ described in Sections 4-41a-201 and 4-41a-204.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(c) (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;

(C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and

(D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section ~~[4-41b-301]~~ 4-41a-301; and

(b) at the physical address provided to the department under Section ~~[4-41b-201]~~ 4-41a-201.

(3) A cannabis production establishment may not employ ~~[any person]~~ an individual who is younger than 21 years ~~[of age]~~ old.

(4) A cannabis production establishment ~~[shall conduct a background check into the criminal history of every person who will become an agent of the cannabis production establishment and]~~ may not employ ~~[any person]~~ an individual who has been convicted, ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law ~~[,]~~ of:

(a) a felony; or

(b) after the effective date of this bill, a misdemeanor for drug distribution.

(5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:

(a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and

(b) maintains a record of the individual's access, including arrival and departure.

(6) A cannabis production establishment shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the cannabis production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 16. Section 4-41a-402, which is renumbered from Section 4-41b-402 is renumbered and amended to read:

[4-41b-402]. 4-41a-402. Inspections.

(1) The department may inspect the records and facility of a cannabis production establishment at

any time ~~[in order]~~ during business hours to determine if the cannabis production establishment complies with ~~[the requirements of]~~ this chapter.

(2) (a) An inspection under this section may include:

(i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(ii) questioning of any relevant individual;

(iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;

(iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or

(v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(b) Notwithstanding Section 4-41a-404, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2)(a).

(3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(4) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 17. Section 4-41a-403, which is renumbered from Section 4-41b-403 is renumbered and amended to read:

[4-41b-403]. 4-41a-403. Advertising.

(1) A cannabis production establishment may not advertise to the general public in any medium.

(2) Notwithstanding Subsection (1), a cannabis production establishment may advertise an employment ~~[opportunities]~~ opportunity at the cannabis production facility.

Section 18. Section 4-41a-404, which is renumbered from Section 4-41b-404 is renumbered and amended to read:

[4-41b-404]. 4-41a-404. Cannabis, cannabis product, or medical cannabis device transportation.

(1) ~~[Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual]~~

(a) Only the following individuals may ~~not~~ transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[unless the individual is]~~ under this chapter:

~~[(a)]~~ (i) a registered cannabis production establishment agent; or

~~[(b)]~~ (ii) ~~[a registered cannabis dispensary agent.]~~ a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivating facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card ~~[pursuant to]~~ under Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act, ~~[an individual]~~ who is transporting ~~[cannabis, a cannabis product, or]~~ a medical cannabis ~~[device]~~ treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and

(c) ~~[indicates]~~ identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish~~[,]~~ by rule ~~[made]~~, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that ~~[are related to safety for human]~~ the cannabis ~~[or]~~, cannabis product ~~[consumption-]~~, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

(C) a medical cannabis pharmacy.

(4) (a) ~~[An individual who transports cannabis, a cannabis product, or a medical cannabis device]~~ It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section ~~[is:]~~.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

~~[(a)]~~ (i) guilty of an infraction; and

~~[(b)]~~ (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Section 19. Section 4-41a-405 is enacted to read:

4-41a-405. Excess and disposal.

(1) As used in this section, “medical cannabis waste” means waste and unused material from the cultivation and production of medical cannabis.

(2) A cannabis production establishment shall:

(a) render medical cannabis waste unusable and unrecognizable before transporting the medical cannabis waste from the cannabis production establishment; and

(b) dispose of medical cannabis waste in accordance with:

(i) federal and state laws, rules, and regulations related to hazardous waste;

(ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Section 20. Section 4-41a-406, which is renumbered from Section 4-41b-405 is renumbered and amended to read:

[4-41b-405]. 4-41a-406. Local control.

~~(1) [A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.]~~

(a) If a municipality's or county's zoning ordinances provide for an industrial zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.

(2) (a) A municipality or county may not deny or revoke a land use permit [or license] to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates [a] federal law [of] regarding the [United States] legal status of cannabis.

(b) A municipality or county may not deny or revoke a business license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.

Section 21. Section 4-41a-501, which is renumbered from Section 4-41b-501 is renumbered and amended to read:

Part 5. Cannabis Cultivation Facility Operating Requirements.

[4-41b-501]. 4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible [at] from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system [for] to identify:

(a) beginning at the time a cannabis plant is [8] eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis [transferred] the facility transfers to a medical cannabis [dispensary] pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) [disposal of] any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

Section 22. Section 4-41a-502, which is renumbered from Section 4-41b-502 is renumbered and amended to read:

[4-41b-502]. 4-41a-502. Cannabis -- Labeling and child-resistant packaging.

For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

(1) [Cannabis shall have a] label the cannabis with a label that [:(a)] has a unique batch identification number that is connected to the inventory control system; and [(b) does not display images, words, or phrases that are intended to appeal to children. (2) A cannabis cultivation facility shall]

(2) package the cannabis in a container that is:

(a) [is] tamper evident; and

(b) [is] not appealing to children. [or similar to a candy container;]

[(c) is opaque; and]

[(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.]

Section 23. Section 4-41a-601, which is renumbered from Section 4-41b-601 is renumbered and amended to read:

Part 6. Cannabis Processing Facility Operating Requirements.

[4-41b-601]. 4-41a-601. Cannabis processing facility -- Operating requirements -- General.

[(1)] A cannabis processing facility shall ensure that a cannabis product [sold by] the cannabis processing facility sells complies with the requirements of this part.

[(2) If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood and shall use a system to reclaim solvents.]

Section 24. Section 4-41a-602, which is renumbered from Section 4-41b-602 is renumbered and amended to read:

[4-41b-602]. 4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) [A] For any cannabis product that a cannabis processing facility processes or produces, the facility shall [have a]:

(a) label the cannabis product with a label that:

[(a)] (i) clearly and unambiguously states that the cannabis product contains cannabis;

[(b)] (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the [cannabis product] labeled container;

(e) (iii) has a unique identification number that:

(4) (A) is connected to the inventory control system; and

(4)(ii) (B) identifies the unique cannabis product manufacturing process ~~[by which]~~ the cannabis processing facility used to manufacture the cannabis product ~~[was manufactured]~~;

(4)(d) (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(e) (v) does not display ~~[images, words, or phrases]~~ an image, word, or phrase that ~~[are intended to appeal]~~ the facility knows or should know appeals to children; and

(4)(f) (vi) discloses ~~[ingredients]~~ each active or potentially active ingredient, in order of prominence, and possible ~~[allergens.]~~ allergen; and

(2) (b) ~~[A cannabis processing facility shall]~~ package ~~[a]~~ the cannabis product in a medicinal dosage form in a container that:

(4)(a) (i) ~~except for a blister pack,~~ is tamper evident and tamper resistant;

(4)(b) (ii) does not appeal to children;

(iii) ~~[is not appealing to children or similar to]~~ does not mimic a candy container;

(e) (iv) ~~except for a blister pack,~~ is opaque; ~~[and]~~

(4)(d) (v) complies with child-resistant effectiveness standards ~~[established by]~~ that the United States Consumer Product Safety Commission~~[-]~~ establishes; and

(vi) includes a warning label that states: “WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider.”

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a standard labeling format that:

(a) complies with the requirements of this section; and

(b) ensures inclusion of a pharmacy label.

Section 25. Section 4-41a-603, which is renumbered from Section 4-41b-603 is renumbered and amended to read:

[4-41b-603]. 4-41a-603. Cannabis product -- Product quality.

(1) A cannabis processing facility may not produce a cannabis product in a physical form that:

(a) ~~[is intended to appeal]~~ the facility knows or should know appeals to children; ~~[or]~~

(b) is designed to mimic or could be mistaken for ~~[an existing]~~ a candy product~~[-]~~; or

(c) for a product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children.

~~[(2) A cannabis processing facility may not manufacture a cannabis product by applying a cannabis agent only to the surface of a pre-manufactured food product that is not produced by the cannabis processing facility.]~~

~~[(3) (2) A cannabis product may vary in the cannabis product's labeled [cannabis] cannabinoid profile by up to [15%] 10% of the indicated amount of a given cannabinoid, by weight.~~

~~[(4) (3) The department shall adopt[-] by rule [made], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for [manufacture] the manufacturing of cannabis products that are consistent[-, to the extent possible,] with [rules for similar products that do not contain] best practices for the use of cannabis.~~

Section 26. Section 4-41a-701, which is renumbered from Section 4-41b-701 is renumbered and amended to read:

Part 7. Independent Cannabis Testing Laboratories.

[4-41b-701]. 4-41a-701. Cannabis and cannabis product testing.

(1) ~~[No]~~ A medical cannabis pharmacy and the state central fill medical cannabis pharmacy may not offer any cannabis or cannabis product ~~[may be offered]~~ for sale ~~[at a cannabis dispensary]~~ unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product ~~[has been tested by an independent cannabis testing laboratory]~~ to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using

hydrocarbons, that the cannabis product does not contain ~~[an unhealthy]~~ a level of a residual solvent that is not safe for human consumption.

(2) ~~[The department may determine, by]~~ By rule made, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) may determine the amount of [a] any substance described in [Subsection (1)] Subsections (1)(b) and (c) that is safe for human consumption[-]; and

(b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.

(3) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(4) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(5) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 27. Section 4-41a-702, which is renumbered from Section 4-41b-702 is renumbered and amended to read:

[4-41b-702]. 4-41a-702. Reporting -- Inspections -- Seizure by the department.

(1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human [consumption, the independent cannabis testing laboratory shall] use:

(a) the independent cannabis testing laboratory shall:

~~[(a)]~~ (i) report the results and the cannabis or cannabis product batch to:

~~[(i)]~~ (A) the department; and

~~[(ii)]~~ (B) the cannabis production establishment that prepared the cannabis or cannabis product batch; and

~~[(b)]~~ (ii) retain possession of the cannabis or cannabis product batch for [one week] two weeks in order to investigate the cause of the defective batch and to make a determination; and

~~[(c)]~~ (b) [allow] the cannabis production establishment that prepared the cannabis or cannabis product batch [to] may appeal the

determination described in Subsection ~~[(1)(b)]~~ (1)(a)(ii) to the department.

(2) ~~If, under Subsection (1)(b),]~~ the department determines, under Subsection (1)(a)(ii) or following an appeal under Subsection (1)(b), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.

(3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Section 28. Section 4-41a-801, which is renumbered from Section 4-41b-801 is renumbered and amended to read:

[4-41b-801]. 4-41a-801. Enforcement -- Fine -- Citation.

(1) ~~[The department may, for a violation of this chapter by]~~ If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:

(a) revoke the person's license or cannabis production establishment agent registration card;

(b) ~~[refuse]~~ decline to renew the person's license or cannabis production establishment agent registration card; or

(c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The department shall deposit an administrative penalty imposed under this section [in the general fund] into the General Fund.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon [inspection or] investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:

(i) issue the person a written administrative citation;

- (ii) attempt to negotiate a stipulated settlement;
- (iii) seize, embargo, or destroy the cannabis or cannabis product batch; ~~and~~
- (iv) order the person to cease and desist from the action that creates a violation; and

~~[(iv)]~~ (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section~~[(a)]~~, for a fine amount not already specified in law, assess the person, who is not an individual, a fine~~[,] established in accordance with Section 63J-1-504,~~ of up to \$5,000 per violation, in accordance with a fine schedule ~~established by~~ that the department establishes by rule ~~made~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-or]~~.

~~[(b) order the person to cease and desist from the action that creates a violation.]~~

(5) The department may not revoke a cannabis production establishment's license without first ~~direct~~ directing the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.

(8) ~~[If the department makes a final determination under this section that]~~

(a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual ~~violated~~:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction~~[-]~~; and

(B) subject to a \$100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a \$1,000 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

(9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Section 29. Section 4-41a-802, which is renumbered from Section 4-41b-802 is renumbered and amended to read:

[4-41b-802]. 4-41a-802. Report.

(1) ~~[The]~~ At or before the November interim meeting each year, the department shall report ~~annually~~ to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications ~~received,~~ that the department receives under this chapter;

(b) the number of each type of cannabis production facility ~~licensed~~ that the department licenses in each county~~;~~;

(c) the amount of cannabis ~~grown by~~ that licensees~~;~~ grow;

(d) the amount of cannabis ~~manufactured~~ that licensees manufacture into cannabis products ~~by licensees,~~;

(e) the number of licenses ~~revoked,~~ the department revokes under this chapter; and

(f) the expenses incurred and revenues generated ~~from the medical cannabis program~~ under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

Section 30. Section 7-1-401 is amended to read:

7-1-401. Fees payable to commissioner.

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately preceding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first \$5,000,000 of these assets, the greater of:

(A) 65 cents per \$1,000; or

(B) \$500;

(ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

(iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

(iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

(v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

(vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

(vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of \$500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of \$200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, or 7-18a-202~~[, or 7-26-201]~~ shall pay:

(a) (i) a filing fee of \$500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as~~[-(I)]~~ a depository institution~~[-(II)]~~, a trust company~~[-(I)]~~, or ~~[(III)]~~ any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than \$5,000,000; or

(ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in

addition to the per diem assessment under this Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

(9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

Section 31. Section 10-9a-104 is amended to read:

10-9a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a municipality may enact ~~[an ordinance]~~ a land use regulation imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose ~~[stricter requirements or higher standards than are required by:]~~

~~[(a) Section 4-41b-405;]~~

~~[(b) Section 10-9a-305;]~~

~~[(c) Section 10-9a-514; and]~~

~~[(d) Section 26-60b-506.]~~ a requirement or standard that conflicts with a provision of this chapter, other state law, or federal law.

Section 32. Section 17-27a-104 is amended to read:

17-27a-104. Stricter requirements or higher standards.

(1) Except as provided in Subsection (2), a county may enact ~~[an ordinance]~~ a land use regulation imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose ~~[stricter requirements or higher standards than are required by:]~~

~~[(a) Section 4-41b-405;]~~

~~[(b) Section 17-27a-305;]~~

~~[(c) Section 17-27a-513; and]~~

~~[(d) Section 26-60b-506.]~~ a requirement or standard that conflicts with a provision of this chapter, other state law, or federal law.

Section 33. Section 26-36d-101 is enacted to read:

CHAPTER 36d. HOSPITAL PROVIDER ASSESSMENT ACT.

Part 1. General Provisions.

26-36d-101. Title.

This chapter is known as the "Hospital Provider Assessment Act."

Section 34. Section 26-36d-102 is enacted to read:**26-36d-102. Legislative findings.**

(1) The Legislature finds that there is an important state purpose to improve the access of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state revenues and increases in enrollment under the Utah Medicaid program.

(2) The Legislature finds that in order to improve this access to those persons described in Subsection (1):

(a) the rates paid to Utah hospitals shall be adequate to encourage and support improved access; and

(b) adequate funding shall be provided to increase the rates paid to Utah hospitals providing services pursuant to the Utah Medicaid program.

Section 35. Section 26-36d-103 is enacted to read:**26-36d-103. Definitions.**

As used in this chapter:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a human services program, as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare Cost Report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 36. Section 26-36d-201 is enacted to read:**Part 2. Application of Chapter.****26-36d-201. Application of chapter.**

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;

(b) other applicable federal law;

(c) any state law;

(d) any ad valorem property taxes;

(e) any sales or use taxes; or

(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon hospitals; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 37. Section 26-36d-202 is enacted to read:**26-36d-202. Assessment, collection, and payment of hospital provider assessment.**

(1) A uniform, broad based, assessment is imposed on each hospital as defined in Subsection 26-36d-103(5)(a):

(a) in the amount designated in Section 26-36d-203; and

(b) in accordance with Section 26-36d-204.

(2) (a) The assessment imposed by this chapter is due and payable on a quarterly basis in accordance with Section 26-36d-204.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this chapter, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and

(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this chapter; and

(B) does not file a Medicare Cost Report.

(c) The department shall forward proceeds from the assessment imposed by this chapter to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26-36d-207.

(3) The department may, by rule, extend the time for paying the assessment.

Section 38. Section 26-36d-203 is enacted to read:

26-36d-203. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26-36d-205 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) \$1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and

(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 39. Section 26-36d-204 is enacted to read:

26-36d-204. Quarterly notice -- Collection.

Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

Section 40. Section 26-36d-205 is enacted to read:

26-36d-205. Medicaid hospital adjustment under accountable care organization rates.

To preserve and improve access to hospital services, the division shall, for accountable care organization rates effective on or after April 1, 2013, incorporate an annualized amount equal to \$154,000,000 into the accountable care organization rate structure calculation consistent with the certified actuarial rate range.

Section 41. Section 26-36d-206 is enacted to read:

26-36d-206. Penalties and interest.

(1) A facility that fails to pay any assessment or file a return as required under this chapter, within the time required by this chapter, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this part.

Section 42. Section 26-36d-207 is enacted to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

Section 43. Section 26-36d-208 is enacted to read:

26-36d-208. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

(iii) a division change in rules that reduces any of the following below July 1, 2011 payments:

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or

(C) any cost settlement protocol; or

(iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011 payments; and

(d) the sunset of this chapter in accordance with Section 631-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36d-205 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 44. Section 26-61-202 is amended to read:

26-61-202. Cannabinoid Product Board -- Duties.

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB; or

(b) was conducted or approved by the federal government.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms; ~~and~~

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments[-]; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabinoid product, a cannabinoid product, or an expanded cannabinoid product[-];

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products; and

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products.

(4) The board shall submit the guidelines described in Subsection (3) to:

(a) the director of the Division of Occupational and Professional Licensing; and

(b) the Health and Human Services Interim Committee.

(5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.

(6) Guidelines ~~[developed pursuant to]~~ that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted ~~[pursuant to]~~ under Title 4, Chapter ~~[41b]~~ 41a, Cannabis Production ~~[Establishment]~~

Establishments, or Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

Section 45. Section 26-61a-101, which is renumbered from Section 26-60b-101 is renumbered and amended to read:

**CHAPTER 61a.
UTAH MEDICAL CANNABIS ACT.**

Part 1. General Provisions.

~~[26-60b-101].~~ **26-61a-101. Title.**

This chapter is known as "Utah Medical Cannabis Act."

Section 46. Section 26-61a-102, which is renumbered from Section 26-60b-102 is renumbered and amended to read:

~~[26-60b-102].~~ **26-61a-102. Definitions.**

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

~~[(1)]~~ (3) "Cannabis" means ~~[the same as that term is defined in Section 58-37-3.9]~~ marijuana.

~~[(2)]~~ (4) "Cannabis cultivation facility" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~[(3)]~~ "Cannabis dispensary" means a person that:

~~[(a) acquires or intends to acquire cannabis or a cannabis product from a cannabis production establishment and acquires or intends to acquire a medical cannabis device;]~~

~~[(b) possesses cannabis, a cannabis product, or a medical cannabis device; and]~~

~~[(c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.]~~

~~[(4) "Cannabis dispensary agent" means an owner, officer, director, board member, employee, or volunteer of a cannabis dispensary.]~~

~~[(5) "Cannabis dispensary agent registration card" means a registration card issued by the department that authorizes an individual to act as a cannabis dispensary agent.]~~

~~[(6)]~~ (5) "Cannabis processing facility" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~[(7)]~~ (6) "Cannabis product" means ~~[the same as that term is defined in Section 58-37-3.9.]~~ a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

~~[(8)]~~ (7) "Cannabis production establishment agent" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(49)~~ (8) “Cannabis production establishment agent registration card” means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(40)~~ (9) “Community location” means a public or private school, a church, a public library, a public playground, or a public park.

(10) “Department” means the Department of Health.

(11) “Designated caregiver” means an individual:

(a) whom ~~[a patient]~~ an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient’s caregiver; and

(b) who registers with the department under Section ~~[26-60b-202]~~ 26-61a-202.

(12) “Dosing parameters” means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~(42)~~ (13) “Independent cannabis testing laboratory” means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(43)~~ (14) “Inventory control system” means the system described in Section ~~[4-41b-103]~~ 4-41a-103.

(15) “Local health department” means the same as that term is defined in Section 26A-1-102.

(16) “Local health department distribution agent” means an agent designated and registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.

(17) “Marijuana” means the same as that term is defined in Section 58-37-2.

(18) “Medical cannabis” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~(14)~~ (19) “Medical cannabis card” means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

(20) “Medical cannabis cardholder” means a holder of a medical cannabis card.

(21) “Medical cannabis caregiver card” means an official card ~~[issued by]~~ that:

(a) the department issues to an individual ~~[with a qualifying illness, or the individual’s]~~ whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver ~~[under this chapter, that]; and~~

(b) is connected to the electronic verification system.

~~(15)~~ (22) (a) “Medical cannabis device” means ~~[the same as that term is defined in Section 58-37-3.9.]~~ a device that an individual uses to ingest cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) “Medical cannabis device” does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(23) “Medical cannabis guardian card” means an official card that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(24) “Medical cannabis patient card” means an official card that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(25) “Medical cannabis pharmacy” means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

(26) “Medical cannabis pharmacy agent” means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(27) “Medical cannabis pharmacy agent registration card” means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(28) “Medical cannabis treatment” means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

~~(16)~~ “Medical Cannabis Restricted Account” means the account created in Section ~~26-60b-109.]~~

(29) (a) “Medicinal dosage form” means:

(i) for processed medical cannabis or a medical cannabis product, the following in single dosage form with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

- (C) a concentrated oil;
- (D) a liquid suspension;
- (E) a topical preparation;
- (F) a transdermal preparation;
- (G) a sublingual preparation;
- (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual's qualifying condition has failed to substantially respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) labeled with a barcode that provides information connected to an inventory control system and the individual blister's content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection (29)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (29)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection (29)(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(30) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

(31) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[17] (32) [~~"Physician"~~] "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal

dosage form under Section ~~[26-60b-107]~~ 26-61a-106.

(33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in Section 26-61a-110.

(34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[18] (35) "Qualifying [illness] condition" means a condition described in Section ~~[26-60b-105]~~ 26-61a-104.

(36) "State central fill agent" means an employee of the state central fill medical cannabis pharmacy that the department registers in accordance with Section 26-61a-602.

(37) "State central fill medical cannabis pharmacy" means the central fill pharmacy that the department creates in accordance with Section 26-61a-601.

(38) "State central fill medical provider" means a physician or pharmacist that the state central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders in accordance with Section 26-61a-601.

(39) "State central fill shipment" means a shipment of cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis cardholder in a local health department.

[19] (40) "State electronic verification system" means the system described in Section ~~[26-60b-103]~~ 26-61a-103.

Section 47. Section 26-61a-103, which is renumbered from Section 26-60b-103 is renumbered and amended to read:

~~[26-60b-103]. 26-61a-103. Electronic verification system.~~

(1) The Department of Agriculture and Food, the ~~[Department of Health]~~ department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of ~~[an]~~ the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain ~~[an]~~ the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider ~~[described in]~~ who meets the requirements contained in the request for proposals issued under Subsection (1)(b).

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and

the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1) ~~shall~~:

(a) ~~allow~~ allows an individual, with the individual's ~~physician~~ qualified medical provider in the ~~physician's~~ qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

~~(b)~~ (ii) ~~allow a physician to~~ electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;

~~(e)~~ (d) ~~connect~~ connects with:

(i) an inventory control system ~~used by a cannabis dispensary~~ that a medical cannabis pharmacy and the state central fill medical cannabis pharmacy use to track~~;~~ in real time~~;~~ and ~~to~~ archive ~~for no more than 60 days, purchase history~~ purchases of any cannabis ~~or a~~ in a medicinal dosage form, cannabis product ~~by a~~ in a medicinal dosage form, or medical cannabis ~~card holder~~ device, including:

(A) the time and date of ~~the~~ each purchase~~;~~;

(B) the quantity and type of cannabis ~~or~~, cannabis product, or medical cannabis device purchased~~;~~ and~~;~~;

(C) any cannabis production establishment ~~and cannabis dispensary~~, any medical cannabis pharmacy, or the state central fill medical cannabis pharmacy associated with the cannabis ~~or~~,

cannabis product~~;~~, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

~~(d)~~ (e) ~~provide~~ provides access to:

(i) the ~~Department of Health and the Department of Agriculture and Food~~ department to the extent necessary to carry out the ~~Department of Health's and the Department of Agriculture and Food's~~ department's functions and responsibilities under this chapter ~~and~~;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter ~~41b~~ 41a, Cannabis Production ~~Establishment~~; Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

(f) provides access to and interaction with the state central fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process;

~~(e)~~ (g) ~~provide~~ provides access to state or local law enforcement:

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is ~~complying~~ in compliance with state medical cannabis law~~;~~; or

(ii) after obtaining a warrant; and

~~(f)~~ (h) ~~create~~ creates a record each time a person accesses the database that identifies the person who ~~accessed~~ accesses the database and the individual whose records ~~are accessed~~ and the person accesses.

~~(g)~~ (9) be operational no later than March 1, 2020.

(3) The ~~[Department of Health]~~ department may release de-identified data ~~[collected by]~~ that the system collects for the purpose of:

- (a) ~~conducting medical research; and [for]~~
- (b) providing the report required by Section ~~[26-60b-602]~~ 26-61a-703.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

- (i) a third degree felony; and
- (ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health

Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information on the patient with the patient.

Section 48. Section 26-61a-104, which is renumbered from Section 26-60b-105 is renumbered and amended to read:

~~[26-60b-105]. 26-61a-104. Qualifying condition.~~

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

~~[(1)]~~ (2) For the purposes of this chapter, each of the following conditions ~~[are considered]~~ is a qualifying ~~[illness]~~ condition:

(a) HIV^[;] or acquired immune deficiency syndrome ~~[or an autoimmune disorder];~~

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer^[;];

~~(e) cachexia[, or a condition manifest by physical wasting,];~~

~~(f) persistent nausea[, or malnutrition associated with chronic disease] that is not significantly responsive to traditional treatment, except for nausea related to:~~

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

~~[(e)]~~ (g) Crohn's disease^[;] or ulcerative colitis^{[; or a similar gastrointestinal disorder];}

~~[(f)]~~ (h) epilepsy or ~~[a similar condition that causes]~~ debilitating seizures;

~~[(g)]~~ (i) multiple sclerosis or ~~[a similar condition that causes]~~ persistent and debilitating muscle spasms;

~~[(h)]~~ (j) post-traumatic stress disorder^[;] that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a doctorate-level degree;

(C) a licensed clinical social worker with a doctorate-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

[~~(4)~~] (k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

[~~(4)~~] (n) a rare condition or disease that:

(i) affects less than 200,000 [persons] individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

[~~(4)~~] (o) [chronic or debilitating] pain [in an individual, if] lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) [a physician determines that the individual is at risk of becoming chemically dependent on, or overdosing on, opiate-based pain medication] conventional medications other than opioids or opiates; or

(ii) [a physician determines that the individual is allergic to opiates or is otherwise medically unable to use opiates.] physical interventions; and

[~~(2)~~] (p) [In addition to the conditions described in Subsection (1),] a condition [approved] that the compassionate use board approves under Section [26-60b-106, in] 26-61a-105, on an individual, [on a] case-by-case basis[, is considered a qualifying illness for the purposes of this chapter].

Section 49. Section 26-61a-105, which is renumbered from Section 26-60b-106 is renumbered and amended to read:

[26-60b-106]. 26-61a-105. Compassionate use board.

(1) (a) The department shall establish a [Compassionate Use Board] compassionate use board consisting of:

[~~(a)~~] (i) [five physicians] seven qualified medical providers that the executive director appoints:

(A) who are knowledgeable about the medicinal use of cannabis [and];

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom [certified by] the appropriate board certifies in [one of] the [following specialties:] specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, [and] or gastroenterology; and

[~~(b)~~] (ii) as a nonvoting member and the chair of the board, the executive director [of the Department of Health] or the director's designee [as a non-voting member].

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) [Two of] Of the members of the board that the executive director first [appointed] appoints:

(i) three shall serve [for a] an initial term of [three] two years; and [two of]

(ii) the remaining members [of the board first appointed] shall serve [for a] an initial term of four years.

(b) After [the first members' terms expire, members of the board shall serve for a] an initial term [of] described in Subsection (2)(a) expires:

(i) each term is four years; and [shall be]

(ii) each board member is eligible for reappointment.

(c) [Any] A member of the board may serve until a successor is appointed.

[~~(d) The director of the Department of Health or the director's designee shall serve as the chair of the board.]~~

(3) [A] Four members constitute a quorum of the [Compassionate Use Board shall consist of three members] compassionate use board.

(4) A member of the board may [not] receive:

(a) compensation or benefits for the member's service[, but may receive]; and

(b) per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The [Compassionate Use Board] compassionate use board shall:

(a) review and recommend [to the] for department approval [for] an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual

who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual ~~[offers, in the board's discretion, satisfactory evidence that the individual suffers from a]~~ for an intractable condition that:

(A) substantially impairs the individual's quality of life ~~[and is intractable];~~ and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

~~[(ii)]~~ (iii) the board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it [is] may be in the best [interest] interests of the [patient] individual to allow the [~~compassionate~~] use of medical cannabis;

(b) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly [~~, unless no petitions are pending, or];~~ and

(ii) [as often as necessary] if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(c) complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days [of receipt] after the day on which the board received the petition; and

(d) report, before November 1 of each year, to the Health and Human Services Interim Committee[;]:

(i) the number of compassionate use [approvals] recommendations the board issued during the past year; and

(ii) the types of conditions for which the board approved compassionate use.

(6) (a) (i) The department shall review any compassionate use [approved by] for which the board recommends approval under [this section] Subsection (5)(c) to determine [if] whether the board properly exercised the board's discretion under this section.

~~[(7)]~~ (ii) If the department determines that the board properly [approved an individual] for

compassionate use under this section] exercised the board's discretion in recommending approval under Subsection (5)(c), the department shall:

(A) issue [a] the relevant medical cannabis card[;]; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the board's recommendation for denial under Subsection (5)(c) was arbitrary or capricious:

(A) the department shall notify the board of the department's determination; and

(B) the board shall reconsider the board's refusal to recommend approval under this section.

(c) In reviewing the board's recommendation for approval or denial under Subsection (5)(c) in accordance with this Subsection (6), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

~~[(8)]~~ (7) Any individually identifiable health information contained in a petition [received] that the board or department receives under this section [shall be] is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(9)]~~ (8) The [Compassionate Use Board may recommend] compassionate use board shall annually report the board's activity to the [Health and Human Services Interim Committee].

~~[(a) a condition to designate as a qualifying illness under Section 26-60b-105; or]~~

~~[(b) a condition to remove as a qualifying illness under Section 26-60b-105] Cannabinoid Product Board created in Section 26-61-201.~~

Section 50. Section 26-61a-106, which is renumbered from Section 26-60b-107 is renumbered and amended to read:

[~~26-60b-107~~]. 26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.

(1) ~~[For the purposes of this chapter, a physician means an]~~ An individual[, other than a veterinarian, who] may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and [who]

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled [substances.] substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider or a state central fill medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment or a medical cannabis pharmacy.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

[~~(2) A physician may recommend cannabis if the physician recommends cannabis to no more than 20% of the physician's patients at any given time.]~~

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

[~~(3) (b) Except as provided in Subsection (4)(c), [A physician] a qualified medical provider may recommend a medical cannabis treatment to~~

[greater than 20% of the physician's patients] up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the [physician is certified, by the] appropriate American medical board[, in one of the following specialties:] has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative [care, physiatry] medicine, physical medicine and rehabilitation, rheumatology, or psychiatry[-]; or

(ii) a licensed business employs or contracts the qualified medical provider for the specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a \$100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

[4] (5) A [physician] qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a [physician-patient] qualified medical provider-patient relationship after the [physician] qualifying medical provider has completed and documented in the patient's medical record a [full] thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

[4] (6) (a) Except as provided in Subsection [(5)(b)] (6)(b), a [physician eligible to recommend cannabis or a cannabis product under this section] qualified medical provider may not advertise that the [physician] qualified medical provider recommends medical cannabis [or a cannabis product] treatment.

(b) [A physician may advertise via] For purposes of Subsection (6)(a), the communication of the following, through a website [that displays only] does not constitute advertising:

(i) a green cross;

[(ii) the location and hours of operation of the physician's office;]

[(iii)] (ii) a qualifying [illness] condition that the [physician] qualified medical provider treats; [and] or

[(iv)] (iii) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 51. Section 26-61a-107, which is renumbered from Section 26-60b-108 is renumbered and amended to read:

[26-60b-108]. 26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.

[A physician who recommends treatment with cannabis or a cannabis product to an individual in accordance with this chapter may not, based on the recommendation, be subject to]

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil [liability,] or criminal liability[;], or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act [ø], Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider or a state central fill medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy or the state central fill medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

Section 52. Section 26-61a-108 is enacted to read:

26-61a-108. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a medical cannabis pharmacy on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 53. Section 26-61a-109, which is renumbered from Section 26-60b-109 is renumbered and amended to read:

[26-60b-109]. 26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created [in the General Fund a restricted account] an enterprise fund known as the [“Medical Cannabis Restricted Account.”] “Qualified Patient Enterprise Fund.”

(2) The [account] fund created in this section is funded from:

[(a) money deposited into the account by the Department of Agriculture and Food under Title 4,

Chapter 41b, Cannabis Production Establishments;

(4b) (a) money [deposited] the department deposits into the [account by the department] fund under this chapter;

(4e) (b) appropriations [made] the Legislature makes to the [account by the Legislature] fund; and

(4d) (c) the interest described in Subsection (3).

(3) Interest earned on the [account is] fund shall be deposited [in] into the [account] fund.

(4) [Money] The department may only use money in the [account may only be used] fund to fund the [state medical cannabis program, including Title 26, Chapter 60b, Medical Cannabis Act and Title 4, Chapter 41b, Cannabis Production Establishments] department's responsibilities under this chapter, except for the responsibilities described in Subsection 26-61a-110(4).

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 54. Section 26-61a-110 is enacted to read:

26-61a-110. Qualified Distribution Enterprise Fund -- Creation.

(1) There is created an enterprise fund known as the "Qualified Distribution Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund from the operation of the state central fill medical cannabis pharmacy under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the operation of the state central fill medical cannabis pharmacy.

Section 55. Section 26-61a-111, which is renumbered from Section 26-60b-110 is renumbered and amended to read:

[26-60b-110]. 26-61a-111.

Nondiscrimination for medical care or government employment.

(1) For purposes of medical care, including an organ [and] or tissue [transplants, the use of cannabis by a patient who holds] transplant, a [medical cannabis card] patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) ~~No landlord may refuse to lease to and may not otherwise penalize a person solely for the person's status as a medical cannabis card holder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.~~

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of opioids and opiates.

(b) Subsection (2)(a) does not apply where application would jeopardize federal funding for the employee's position.

Section 56. Section 26-61a-112 is enacted to read:

26-61a-112. No insurance requirement.

Nothing in this chapter requires an insurer, a third-party administrator, or an employer to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device.

Section 57. Section 26-61a-113 is enacted to read:

26-61a-113. No effect on use of hemp extract -- Cannabidiol -- Approved drugs.

(1) Nothing in this chapter prohibits an individual:

(a) with a valid hemp extract registration card that the department issues under Section 26-56-103 from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or

(b) from purchasing, selling, possessing, or using a cannabidiol product in accordance with Section 4-41-402.

(2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Section 58. Section 26-61a-114 is enacted to read:

26-61a-114. Severability clause.

(1) If any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 59. Section 26-61a-201, which is renumbered from Section 26-60b-201 is renumbered and amended to read:

Part 2. Medical Cannabis Card Registration.

[26-60b-201]. 26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.

(1) ~~[The Department of Health shall, no later than] On or before March 1, 2020, [and] the department shall, within 15 days after [an individual] the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in [compliance] accordance with this section[,], or Section 26-61a-202:~~

(a) ~~issue a medical cannabis patient card to an individual [who complies with this section.] described in Subsection (2)(a);~~

(b) ~~issue a medical cannabis guardian card to an individual described in Subsection (2)(b);~~

(c) ~~issue a provisional patient card to a minor described in Subsection (2)(c); and~~

(d) ~~issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).~~

(2) (a) ~~An individual is eligible for a medical cannabis patient card if:~~

~~[(a)] (i) (A) the individual is at least [18] 21 years old[,]; or~~

~~(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;~~

~~(ii) the individual is a Utah resident[, and treatment with medical cannabis has been recommended by];~~

~~(iii) the individual's [physician under] qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4); [or]~~

~~(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and~~

~~(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.~~

(b) (i) ~~[the individual] An individual is eligible for a medical cannabis guardian card if the individual:~~

~~(A) is at least 18 years old;~~

~~(B) is a Utah resident;~~

~~(C) is the parent or legal guardian of a minor[, the individual is at least 18 years old, the individual is a Utah resident, and treatment with] for whom the minor's qualified medical provider recommends a medical cannabis [has been recommended by the minor's physician under Subsection (4)] treatment,~~

~~the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;~~

~~(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);~~

~~(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and~~

~~(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.~~

~~(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.~~

~~(c) (i) A minor is eligible for a provisional patient card if:~~

~~(A) the minor has a qualifying condition;~~

~~(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;~~

~~(C) the minor's parent or legal guardian petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and~~

~~(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b).~~

~~(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.~~

~~(3) (a) An individual who is eligible for a medical cannabis card [under] described in Subsection [(2)] (2)(a) or (b) shall submit an application for a medical cannabis card to the department [via]:~~

~~(i) through an electronic application connected to the state electronic verification system[.];~~

~~(ii) with the recommending [physician] qualified medical provider while in the recommending [physician's] qualified medical provider's office[.]; and [that includes]~~

~~(iii) with information including:~~

~~(A) the [individual's] applicant's name, gender, age, and address[.];~~

~~(B) the number of the applicant's valid form of identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United~~

States passport card, or a United States military identification card;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) ~~[A physician who recommends treatment with]~~ To recommend a medical cannabis treatment to ~~[an individual or minor]~~ a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

~~[(a)]~~ (b) state in the ~~[physician's]~~ qualified medical provider's recommendation that the ~~[individual]~~ patient:

(i) suffers from a qualifying ~~[illness]~~ condition, including the type of qualifying ~~[illness]~~ condition; and ~~[that the individual]~~

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form. ~~[,] and]~~

~~[(b) before recommending cannabis or a cannabis product, look up the individual in the controlled substance database created in Section 58-37f-201.]~~

(5) (a) ~~[A]~~ Except as provided in Subsection (5)(b), a medical cannabis card ~~[issued by]~~ that the department issues under this section is valid for the lesser of:

(i) an amount of time ~~[determined by]~~ that the ~~[physician]~~ qualified medical provider determines; or

(ii) (A) for the first issuance, 30 days; or

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

~~[(6)] (7) (a) [An individual who has been issued a medical cannabis card] A cardholder under this section [may: (a)] shall carry [a] the cardholder's valid medical cannabis card with the patient's name[s].~~

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess[, and] or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device[s].

~~[(e)] (iii) [use or assist with the use of medical cannabis or medical cannabis products to treat] To address the qualifying [illness or symptoms associated with the qualifying illness of the person for whom medical cannabis has been recommended] condition underlying the medical cannabis treatment recommendation:~~

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(d)] (c) If neither a licensed medical cannabis pharmacy nor the state central fill medical cannabis pharmacy is operating within the state after January 1, 2021, [if a licensed cannabis dispensary is not operating within 100 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants for personal medical use within an enclosed and locked space and not within view from a public place and that is not~~

~~within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.] a cardholder under this section is not subject to prosecution for the possession of:~~

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

~~[(7)] (9) The department may establish procedures[,]~~ by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the ~~[medical cannabis card]~~ application and issuance provisions of this section.

~~[(8)] (10) (a) A person may submit, to the department[,]~~ a request to conduct a medical research study using medical cannabis cardholder data ~~[contained in] that the state electronic verification system contains.~~

(b) The department shall review a request ~~[submitted under]~~ described in Subsection ~~[(8)(a)] (10)(a)~~ to determine ~~[if] whether~~ the medical research study is valid.

(c) If the department ~~[determines] makes a determination under Subsection (10)(b) that the medical research study is valid [under Subsection (8)(b)],~~ the department shall notify ~~[a] each~~ relevant ~~[medical cannabis] cardholder asking for the [medical cannabis] cardholder's [participation] consent to participate in the study.~~

(d) The department may release, for the purposes of a study described in this Subsection (10), information about a ~~[medical cannabis] cardholder under this section who consents to [participation] participate under Subsection [(8)(e)] (10)(c).~~

(e) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 60. Section 26-61a-202, which is renumbered from Section 26-60b-202 is renumbered and amended to read:

[26-60b-202]. 26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) ~~[An individual]~~ A cardholder described in Section 26-61a-201 may designate up to two individuals to serve as a designated ~~[caregivers]~~ caregiver for the ~~[individual]~~ cardholder if:

~~[(a) the individual has a valid medical cannabis card under Section 26-60b-201; and]~~

~~[(b) a physician] a qualified medical provider determines that, due to physical difficulty or undue hardship, the ~~[individual]~~ cardholder needs assistance to obtain the medical cannabis ~~[or a cannabis product from a cannabis dispensary]~~ treatment that the qualified medical provider recommends.~~

(2) An individual ~~[registered]~~ that the department registers as a designated caregiver under this section:

~~(a) may~~ ~~[-(a)]~~ carry a valid medical cannabis caregiver card ~~[with the designating patient's name and the designated caregiver's name];~~

~~(b) [purchase, possess, and transport,] in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating [patient] medical cannabis cardholder;~~

~~(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;~~

~~[(e)] (d) may accept reimbursement from the designating [patient] medical cannabis cardholder for direct costs [incurred by] the designated caregiver incurs for assisting with the designating [patient's] cardholder's medicinal use of cannabis; and~~

~~[(d)] (e) [after January 1, 2021,] if neither a licensed medical cannabis [dispensary] pharmacy nor the state central fill medical cannabis pharmacy is [not] operating within [100 miles of the designating patient's primary residence, assist the designating patient with growing up to six cannabis plants for personal medicinal use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.] the state after January 1, 2021, is not subject to prosecution for the possession of:~~

~~(i) no more than 113 grams of marijuana in a medicinal dosage form;~~

~~(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or~~

~~(iii) marijuana drug paraphernalia.~~

(3) (a) The department shall:

~~(i) within [30] 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to [an individual designated as a caregiver under Subsection (1) and who complies with this section.] the applicant if the applicant:~~

~~(A) is designated as a caregiver under Subsection (1);~~

~~(B) is eligible for a medical cannabis caregiver card under Subsection (4); and~~

~~(C) complies with this section; and~~

~~(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.~~

~~(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).~~

(4) An individual is eligible for a medical cannabis ~~[card as a designated]~~ caregiver card if the individual:

(a) is at least ~~[18] 21~~ years old;

(b) is a Utah resident;

~~(c) pays[,]~~ to the department[,]

 a fee ~~[established by]~~ in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of ~~[a] the criminal background check [required by] described in Section [26-60b-203; and] 26-61a-203;~~

~~(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and~~

~~[(d)] (e) has not been convicted of [an] a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence [imposed was completed seven] two or more years [earlier] before the day on which the individual submits the application.~~

(5) An ~~[individual who is]~~ eligible applicant for a medical cannabis caregiver card ~~[-as a designated caregiver]~~ shall:

(a) submit an application for a medical cannabis caregiver card to the department ~~[via]~~ through an electronic application connected to the state electronic verification system; and ~~[shall include the individual's]~~

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address ~~[and];~~

(ii) the name, gender, age, and address of the ~~[patient that] cardholder described in Section 26-61a-201 who designated the [individual under Subsection (1).] applicant; and~~

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age

of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) [A] Except as provided in Subsection (6)(b), a medical cannabis caregiver card [issued by] that the department issues under this section is valid for the lesser of:

(a) an amount of time [~~determined by the physician, by the patient, or 6 months.~~] that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) [~~A medical cannabis card is renewable for a designated caregiver if, at the time of renewal:~~]

~~[(a) the individual with a medical cannabis card described in Subsection (1) renews the caregiver's designation; and]~~

~~[(b) the]~~

(a) If a designated caregiver meets the requirements of Subsection (4)[.], the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

~~[(8) A designated caregiver may not charge an individual a fee to act as the individual's designated caregiver or for services provided.]~~

~~[(9) (8) The [Department of Health] department may revoke a [designated caregiver's] medical cannabis caregiver card if the [individual] designated caregiver:~~

~~(a) violates this chapter; or~~

~~(b) is convicted [of an offense that is a felony] under [either] state or federal law of:~~

~~(i) a felony; or~~

~~(ii) after the effective date of this bill, a misdemeanor for drug distribution.~~

Section 61. Section 26-61a-203, which is renumbered from Section 26-60b-203 is renumbered and amended to read:

[26-60b-203]. 26-61a-203. Designated caregiver -- Guardian -- Criminal background check.

(1) [~~An individual registered as a designated caregiver~~] Each applicant for a medical cannabis guardian card under Section [~~26-60b-202~~] 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:

(a) submit [~~to a criminal background check in accordance with Subsection (2).(2) Each designated caregiver shall~~] to the department, at the time of application:

~~[(a)] (i) [submit, to the department,] a fingerprint card in a form acceptable to the [department and the] Department of Public Safety; and~~

~~(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and~~

(b) consent to a fingerprint background check by:

(i) the [Utah] Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(3) (2) The [Department of Public Safety] Bureau of Criminal Identification shall:~~

~~(a) [complete a Federal Bureau of Investigation Criminal Background Check for each designated caregiver] check the fingerprints the applicant submits under Subsection [~~(2) and~~] (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;~~

~~(b) report the results of the background check to the department[.];~~

~~(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;~~

~~(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and~~

~~(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.~~

(3) The department shall:

(a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 62. Section 26-61a-204, which is renumbered from Section 26-60b-204 is renumbered and amended to read:

[26-60b-204]. 26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) ~~[An individual who has a]~~ A medical cannabis ~~[card and]~~ cardholder who possesses cannabis in a medicinal dosage form or a cannabis product ~~[outside of]~~ in a medicinal dosage form that the ~~[individual's residence]~~ cardholder purchased under this chapter shall:

~~[(a)]~~ (i) carry~~[, with the individual]~~ at all times~~[,]~~ the ~~[individual's]~~ cardholder's medical cannabis card;

~~[(b)]~~ (ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was ~~[originally]~~ sold from a licensed medical cannabis ~~[dispensary and]~~ pharmacy or the state central fill medical cannabis pharmacy; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

~~[(c)]~~ (iii) possess not more than ~~[four ounces]~~;

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 ~~[or fewer]~~ grams of total composite tetrahydrocannabinol ~~[or cannabidiol]~~.

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of \$1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties

described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

~~[(a)]~~ (b) Except as described in Subsection ~~[(2)(b)]~~, ~~an individual who has~~ (2)(c), a medical cannabis ~~[card]~~ patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product ~~[in public view]~~.

~~[(b)]~~ (c) ~~[An]~~ In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use ~~[cannabis or a cannabis product]~~, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view ~~[in the event of a medical emergency]~~, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(3) If ~~[an individual]~~ a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the ~~[individual]~~ cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) ~~[a law enforcement officer does not have]~~ there is no probable cause, based solely on the ~~[individual's]~~ cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the ~~[individual]~~ cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) ~~[holds]~~ is a valid medical cannabis ~~[card]~~ cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

~~[(5) An individual who possesses cannabis, a cannabis product, or a medical cannabis device in~~

violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a \$100 fine.]

Section 63. Section 26-61a-205 is enacted to read:

26-61a-205. Lost or stolen medical cannabis card.

(1) If a medical cannabis card is lost or stolen, the medical cannabis cardholder shall report the lost or stolen card to the department.

(2) Upon receiving the report described in Subsection (1), the department shall designate the medical cannabis card as lost or stolen in the state electronic verification system.

(3) A medical cannabis pharmacy agent or a local health department distribution agent may confiscate a medical cannabis card that is designated as lost or stolen in accordance with Subsection (2) if an individual presents the card at the relevant medical cannabis pharmacy or local health department.

(4) To request a new medical cannabis card, the medical cannabis cardholder described in Subsection (1) shall:

(a) complete a form that the department designates; and

(b) pay a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 64. Section 26-61a-301, which is renumbered from Section 26-60b-301 is renumbered and amended to read:

Part 3. Medical Cannabis Pharmacy License.

[26-60b-301]. 26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis [dispensary] pharmacy without a license [issued by] that the department [issues] issues under this part.

(2) (a) Subject to [Subsections (5)] Subsections (4) and (5) and to Section [26-60b-304] 26-61a-305, the department shall, [within 90 business days after receiving a complete application] in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a medical cannabis [dispensary] pharmacy to [a person who] an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(a) (i) subject to Subsection (2)(c), a proposed name and address where the [person] applicant will operate the medical cannabis [dispensary] pharmacy [that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis

production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area];

(b) (ii) the name and address of [any] an individual who:

(A) has a financial or voting interest of [two percent] 2% or greater in the proposed medical cannabis [dispensary] pharmacy; or [who]

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(c) (iii) [financial statements demonstrating that the person possesses a minimum of \$250,000 in liquid assets available] evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application [submitted] that the applicant submits to the department;

(d) (iv) an operating plan that:

(A) complies with Section [26-60b-303] 26-61a-304; and [that]

(B) includes operating procedures to comply with the operating requirements for a medical cannabis [dispensary] pharmacy described in this chapter and with [any laws adopted by the municipality] a relevant municipal or county law that [are] is consistent with Section [26-60b-506] 26-61a-507;

(e) [if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;]

(f) (v) if the municipality or county where the proposed medical cannabis [dispensary] pharmacy would be located requires a local land use permit [or license], a copy of the person's approved application for the local land use permit [or license]; and

(g) (vi) an application fee [established by] in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504 [that is necessary to cover the department's cost to implement this part;].

(c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an area that the relevant municipality or county has zoned as primarily residential.

(ii) An applicant for a license under this section shall provide evidence of compliance with the proximity requirement described in Subsection (2)(c)(i).

(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

[44] (3) If the department determines that [a cannabis dispensary] an applicant is eligible for a license under this section, the department shall:

(a) charge the [cannabis dispensary] applicant an initial license fee in an amount [determined by] that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[.]; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

[45] (4) The department may not issue a license to operate a medical cannabis [dispensary] pharmacy to an applicant if [any] an individual [who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant] described in Subsection (2)(b)(ii):

(a) has been convicted [of an offense that is a felony] under [either] state or federal law~~[, or]~~ of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is [less] younger than 21 years [of age] old.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis [dispensary is not operating] pharmacy does not begin operations within one year [of the issuance of] after the day on which the department issues the initial license~~[.];~~

(b) the medical cannabis pharmacy makes the same violation of this chapter three times; or

(c) an individual described in Subsection (2)(a)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the [Medical Cannabis Restricted] Qualified Patient Enterprise Account.

(8) The department shall begin accepting applications under this part [no later than] on or before March 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 65. Section 26-61a-302, which is renumbered from Section 26-60b-402 is renumbered and amended to read:

~~[26-60b-402]. 26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal background checks.~~

(1) Each applicant for a license as a medical cannabis pharmacy shall submit, at the time of application, from each individual who has a financial or voting interest of [two percent] 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the [department; and] Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) the [Utah] Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each individual described in Subsection (1).]~~

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the

department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 66. Section 26-61a-303, which is renumbered from Section 26-60b-302 is renumbered and amended to read:

[26-60b-302]. 26-61a-303. Renewal.

(1) ~~Except as provided in Subsection (3), the~~ The department shall renew a ~~person's~~ license under this part every ~~two years~~ year if, at the time of renewal:

(a) the ~~person~~ licensee meets the requirements of Section ~~[26-60b-301]~~ 26-61a-301; and

(b) the ~~person~~ licensee pays the department a license renewal fee in an amount ~~[determined by]~~ that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(2) (a) If a licensed medical cannabis ~~[dispensary]~~ pharmacy abandons the medical cannabis ~~[dispensary's]~~ pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis ~~[dispensary]~~ pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63F-1-701.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[for what actions by a]~~ to identify the medical cannabis ~~[dispensary]~~ pharmacy actions that constitute abandonment of a medical cannabis ~~[dispensary]~~ pharmacy license.

Section 67. Section 26-61a-304, which is renumbered from Section 26-60b-303 is renumbered and amended to read:

[26-60b-303]. 26-61a-304. Operating plan.

~~[(4)]~~ A person applying for a medical cannabis ~~[dispensary]~~ pharmacy license shall submit to the department a proposed operation plan for the medical cannabis ~~[dispensary]~~ pharmacy that complies with this section and that includes:

~~[(a)]~~ (1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

~~[(b)]~~ (2) a description of the credentials and experience of:

~~[(4)]~~ (a) each officer, director, or owner of the proposed medical cannabis ~~[dispensary]~~ pharmacy; and

~~[(4)]~~ (b) any highly skilled or experienced prospective employee;

~~[(e)]~~ (3) the medical cannabis ~~[dispensary's]~~ pharmacy's employee training standards;

~~[(d)]~~ (4) a security plan; ~~[and]~~

~~[(e)]~~ (5) a description of the medical cannabis ~~[dispensary's]~~ pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system~~[-]; and~~

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis.

Section 68. Section 26-61a-305, which is renumbered from Section 26-60b-304 is renumbered and amended to read:

[26-60b-304]. 26-61a-305. Maximum number of licenses.

(1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the department may not issue more than ~~[the greater of, in each county in the state:]~~ seven medical cannabis pharmacy licenses.

~~[(a)]~~ one cannabis dispensary license; or

~~[(b)]~~ an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 150,000, rounded up to the nearest greater whole number.

(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall issue an eighth license if the state central fill medical cannabis pharmacy:

(A) is not operational by January 1, 2021; or

(B) ceases operations after January 1, 2021.

(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the department shall issue a ninth license if the state central fill medical cannabis pharmacy:

(A) is not operational by July 1, 2021; or

(B) ceases operations after July 1, 2021.

(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii), the department shall issue a tenth license if the state central fill medical cannabis pharmacy:

(A) is not operational by January 1, 2022; or

(B) ceases operations after January 1, 2022.

(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and (iii), if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy.

(2) If there are more qualified applicants than there are available licenses for medical cannabis ~~[dispensaries]~~ pharmacies, the department shall:

(a) evaluate ~~[the applicants]~~ each applicant and award the license to the applicant that best demonstrates:

~~[(a)]~~ (i) experience with establishing and successfully operating a business that involves

complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

~~(b)~~ (ii) an operating plan that will best ensure the safety and security of patrons and the community;

~~(c)~~ (iii) positive connections to the local community;

~~(d)~~ (iv) the suitability of the proposed location and ~~its~~ the location's accessibility for qualifying patients; and

~~(e)~~ (v) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients[-]; and

(b) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 69. Section 26-61a-401, which is renumbered from Section 26-60b-401 is renumbered and amended to read:

Part 4. Medical Cannabis Pharmacy Agents [26-60b-401]. 26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis [dispensary] pharmacy agent of a medical cannabis [dispensary] pharmacy unless [the individual is registered by] the department registers the individual as a medical cannabis [dispensary] pharmacy agent.

(2) [A physician] Except as provided in Section 26-61a-403, the following individuals, regardless of the individual's status as a qualified medical provider, may not act as a medical cannabis [dispensary] pharmacy agent[-], have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) (a) The department shall, within 15 days after [receiving] the day on which the department receives a complete application from a medical cannabis [dispensary] pharmacy on behalf of a prospective medical cannabis [dispensary] pharmacy agent, register and issue a medical cannabis [dispensary] pharmacy agent registration

card to [an individual who] the prospective agent if the medical cannabis pharmacy:

~~(a)~~ (i) provides to the department:

(A) the [individual's] prospective agent's name and address [and];

(B) the name and location of the licensed medical cannabis [dispensary] pharmacy where the [individual] prospective agent seeks to act as the medical cannabis [dispensary] pharmacy agent; [and]

(C) the submission required under Subsection (3)(b); and

~~(b)~~ (ii) pays a fee to the department[,], in an amount [determined by] that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[-, that is necessary to cover the department's cost to implement this part].

(b) Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis ~~[dispensary]~~ pharmacy agent registration card[,], the name of the medical cannabis ~~[dispensary]~~ pharmacy where the individual is registered as an agent.

(5) A medical cannabis ~~[dispensary]~~ pharmacy agent shall comply with a certification standard ~~[developed by the department]~~ that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a ~~[third-party]~~ third-party certification standard ~~[designated by]~~ that the department[,], designates by rule ~~[made]~~, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) ~~[shall include]~~ includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis ~~[dispensary]~~ pharmacy best practices.

(7) The department may revoke ~~[or refuse to issue]~~ the medical cannabis ~~[dispensary]~~ pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted ~~[of an offense that is a felony]~~ under state or federal law~~[-]~~ of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 70. Section 26-61a-402, which is renumbered from Section 26-60b-403 is renumbered and amended to read:

[26-60b-403]. 26-61a-402. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

(1) A medical cannabis ~~[dispensary]~~ pharmacy agent ~~[who is registered with the department under section 426-60b-401]~~ shall carry the individual's medical cannabis ~~[dispensary]~~ pharmacy agent registration card with the individual at all times when:

(a) the individual is on the premises of a medical cannabis ~~[dispensary]~~ pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~between [two cannabis production establishments or between]~~ a cannabis production establishment and a medical cannabis ~~[dispensary]~~ pharmacy.

(2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[at a cannabis dispensary,]~~ or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) ~~[a law enforcement officer does not have]~~ there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), ~~[to believe]~~ that the individual is engaging in illegal activity.

(3) (a) ~~[An individual who violates]~~ A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

~~[(a)]~~ (A) guilty of an infraction; and

~~[(b)]~~ (B) is subject to a \$100 fine~~[-]~~; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 71. Section 26-61a-403 is enacted to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a

prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central fill medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 72. Section 26-61a-501, which is renumbered from Section 26-60b-501 is renumbered and amended to read:

Part 5. Medical Cannabis Pharmacy Operation

[26-60b-501]. 26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis [dispensary] pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under [Section 26-60b-303] Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis [dispensary] pharmacy shall notify the department before a change in the medical cannabis [dispensary's] pharmacy's physical address or operating plan.

(2) [A] An individual may not enter a medical cannabis [dispensary shall operate] pharmacy unless the individual:

(a) is at least 18 years old; and

[A] (b) except as provided in Subsection (5), [in a facility that is accessible only by an individual with] possesses a valid:

(i) medical cannabis [dispensary] pharmacy agent registration card; or [a]

(ii) medical cannabis card[; and].

[b] at the physical address provided to the department under Section 26-60b-301.]

(3) A medical cannabis [dispensary] pharmacy may not employ [any person] an individual who is younger than 21 years [of age] old.

(4) A medical cannabis [dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and] pharmacy may not employ [any person] an individual who has been convicted of [an offense that is] a felony under [either] state or federal law.

(5) [A] Notwithstanding Subsection (2), a medical cannabis [dispensary] pharmacy may authorize an individual who is not a medical cannabis [dispensary] pharmacy agent to access the medical cannabis [dispensary] pharmacy if the medical cannabis [dispensary] pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis [dispensary] pharmacy and maintains a record of the individual's access.

(6) A medical cannabis [dispensary] pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis [dispensary] pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis [dispensary] pharmacy is closed; and

(c) a lock on [any] each area where the medical cannabis [dispensary] pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis [dispensary] pharmacy shall post, both clearly and conspicuously in the medical cannabis [dispensary] pharmacy, the limit on the purchase of cannabis described in Subsection [26-60b-502(3)] 26-61a-502(2).

(8) A medical cannabis [dispensary] pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis [dispensary] pharmacy.

(9) A medical cannabis [dispensary] pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis [dispensary] pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) dosing parameters or an indication that the qualified medical provider did not recommend specific dosing parameters; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) The medical cannabis pharmacy may not sell cannabis or a cannabis product unless the cannabis or cannabis product has a label securely affixed to the container indicating the following minimum information:

(i) the name, address, and telephone number of the medical cannabis pharmacy;

(ii) the unique identification number that the medical cannabis pharmacy assigns;

(iii) the date of the sale;

(iv) the name of the patient;

(v) the name of the qualified medical provider who recommended the medical cannabis treatment;

(vi) directions for use and cautionary statements, if any;

(vii) the amount dispensed and the cannabinoid content;

(viii) the beyond use date; and

(ix) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal, face-to-face counseling with the pharmacy medical provider who is a pharmacist; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (A) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 73. Section 26-61a-502, which is renumbered from Section 26-60b-502 is renumbered and amended to read:

~~[26-60b-502]. 26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.~~

(1) (a) A medical cannabis [~~dispensary~~] pharmacy may [~~only~~] not sell a product other than, subject to this chapter:

[(a)] (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

[(b)] (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

[(c)] (iii) a medical cannabis device; or

[(d)] (iv) educational [~~materials~~] material related to the medical use of cannabis.

[(2)] (b) A medical cannabis [~~dispensary~~] pharmacy may only sell [~~the items~~] an item listed in Subsection (1)(a) to an individual with:

(i) a medical cannabis card [~~issued by the department~~]; and

(ii) corresponding identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based

drug that the United States Food and Drug Administration has approved.

~~[(3)] (2)~~ A medical cannabis ~~[dispensary]~~ pharmacy may not dispense ~~[on behalf of any one individual with]~~:

(a) to a medical cannabis ~~[card,]~~ cardholder in any one ~~[14-day]~~ 12-day period, more than the lesser of:

(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

~~[(a)] (ii) (A) [an amount] 56 grams by weight of unprocessed cannabis that [exceeds two ounces by weight] is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or~~

~~[(b)] (B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol [or cannabidiol,];~~

(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

(c) to an individual whose qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

~~[(4)] (3)~~ An individual with a medical cannabis card may not purchase:

(a) more cannabis or cannabis products than the amounts designated in Subsection ~~[(3)] (2)~~ in any one ~~[14-day]~~ 12-day period~~[-];~~ or

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) A medical cannabis ~~[dispensary]~~ pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to ~~[an individual with]~~ a medical cannabis ~~[card]~~ cardholder in order to determine if the ~~[individual]~~ cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection ~~[(3)] (2)~~; and

(ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis ~~[dispensary]~~ pharmacy dispenses cannabis or a cannabis product to ~~[an individual with]~~ a medical cannabis ~~[card,]~~ cardholder;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(6) (a) Except as provided in Subsection (6)(b), a medical cannabis ~~[dispensary]~~ pharmacy may not

sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis [dispensary] pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(7) A medical cannabis [dispensary] pharmacy may not give ~~to an individual with a medical cannabis card~~, at no cost, a product that the medical cannabis [dispensary] pharmacy is allowed to sell under Subsection (1).

(8) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 74. Section 26-61a-503 is enacted to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 75. Section 26-61a-504, which is renumbered from Section 26-60b-503 is renumbered and amended to read:

[26-60b-503]. 26-61a-504. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department may inspect the records and facility of a medical cannabis [dispensary] pharmacy at any time during business hours in order to determine if the medical cannabis [dispensary] pharmacy complies with ~~[the licensing requirements of this part]~~ this chapter.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(b) questioning of any relevant individual; or

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 76. Section 26-61a-505, which is renumbered from Section 26-60b-504 is renumbered and amended to read:

[26-60b-504]. 26-61a-505. Advertising.

(1) Except as provided in Subsections (2) and (3), a medical cannabis [dispensary] pharmacy may not advertise in any medium.

(2) A medical cannabis [dispensary] pharmacy may use signage on the outside of the medical cannabis [dispensary] pharmacy that includes only:

(a) the medical cannabis [dispensary's] pharmacy's name and hours of operation; and

(b) a green cross.

(3) A medical cannabis [dispensary] pharmacy may maintain a website that includes information about:

(a) the location and hours of operation of the medical cannabis [dispensary] pharmacy;

(b) ~~[the products and services]~~ a product or service available at the medical cannabis [dispensary] pharmacy;

(c) personnel affiliated with the medical cannabis [dispensary] pharmacy;

(d) best practices that the medical cannabis [dispensary] pharmacy upholds; and

(e) educational ~~[materials]~~ material related to the medical use of cannabis.

Section 77. Section 26-61a-506, which is renumbered from Section 26-60b-505 is renumbered and amended to read:

[26-60b-505]. 26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.

(1) ~~[Except for an individual with a valid medical cannabis card, an individual]~~ Only the following individuals may ~~[not]~~ transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[unless the individual is]~~ under this chapter:

(a) a registered medical cannabis [production establishment] pharmacy agent; [or]

(b) a registered ~~[cannabis dispensary]~~ state central fill agent[-];

(c) a courier for a state central fill shipment described in Section 26-61a-605; or

(d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card~~[-, an individual]~~ under this chapter who is transporting a medical cannabis~~[-, a cannabis product, or a medical cannabis device]~~ treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for ~~[any]~~ cannabis, a cannabis product, or a medical cannabis device that the individual is transporting; and

(c) ~~[indicates]~~ identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish~~[-,]~~ by rule ~~[made]~~, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for

transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that ~~[are related to safety for human]~~ the cannabis ~~[or]~~, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a medical cannabis pharmacy and another medical cannabis pharmacy; and

(ii) between the state central fill medical cannabis pharmacy and:

(A) another state central fill medical cannabis pharmacy location; or

(B) a local health department.

(4) (a) ~~[An individual who transports cannabis, a cannabis product, or a medical cannabis device]~~ It is unlawful for a registered medical cannabis pharmacy agent, a registered state central fill agent, or a courier described in Section 26-61a-605 to make a transport described in this section with a manifest that does not meet the requirements of ~~[Subsection (2) is:]~~ this section.

(b) Except as provided in Subsection (4)(d), an agent or courier who violates Subsection (4)(a) is:

~~(a)~~ (i) guilty of an infraction; and

~~(b)~~ (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 78. Section 26-61a-507, which is renumbered from Section 26-60b-506 is renumbered and amended to read:

[26-60b-506]. 26-61a-507. Local control.

~~(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.]~~

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:

(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel;

(B) 200 feet from the patron entrance to the community location's property boundary; and

(C) 600 feet from an area zoned primarily residential.

(i) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).

[(2)] (b) (i) A municipality or county may not deny or revoke a land use permit [or license] to operate a medical cannabis [dispensary] pharmacy on the sole basis that the applicant or medical cannabis [dispensary] pharmacy violates [a] federal law [of] regarding the [United States] legal status.

(ii) A municipality or county may not deny or revoke a business license to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.

[(3)] (2) A municipality or county may enact [ordinances] an ordinance that:

(a) is not in conflict with this chapter [governing]; and

(b) governs the time, place, [and] or manner of medical cannabis [dispensary] pharmacy operations in the municipality or county.

Section 79. Section 26-61a-601 is enacted to read:

Part 6. State Central Fill Medical Cannabis Pharmacy

26-61a-601. Department to establish state central fill medical cannabis pharmacy -- Duties -- Pharmacy medical provider registration -- Continuing education.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central fill medical cannabis pharmacy as described in this section.

(2) The state central fill medical cannabis pharmacy shall:

(a) procure cannabis that a cannabis processing facility processes into a medicinal dosage form;

(b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device for shipment to a medical cannabis cardholder under a qualified medical provider's recommendation to address a qualifying condition;

(c) transport a state central fill shipment, in accordance with Section 26-61a-605, to the relevant local health department for distribution, in accordance with Section 26-61a-607;

(d) (i) (A) if the state establishes the state central fill medical cannabis pharmacy, process and accept payment for a transaction involving a state central fill shipment; or

(B) if the state establishes the state central fill medical cannabis pharmacy by contract, process prepaid requests for a state central fill shipment from the department; and

(ii) deposit funds that the state central fill medical cannabis pharmacy collects under Subsection (2)(d)(i) into the Qualified Distribution Enterprise Fund created in Section 26-61a-110.

(3) (a) An individual may not enter a state central fill medical cannabis pharmacy location unless:

(i) the individual is a state central fill agent or an employee of the state central fill medical cannabis pharmacy;

(ii) the individual is an employee of the department; or

(iii) a state central fill agent escorts the individual at all times.

(b) An individual who violates Subsection (3)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (3)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(b).

(4) (a) The state central fill medical cannabis pharmacy:

(i) shall employ at least one pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a state central fill medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a state central fill medical provider;

(iii) shall ensure that a state central fill medical provider described in Subsection (4)(a)(i) works onsite at each location during all business hours;

(iv) shall designate one state central fill medical provider described in Subsection (4)(a)(i) as the pharmacist-in-charge, as that term is defined in Section 58-17b-102, to oversee the operation of and generally supervise the state central fill medical cannabis pharmacy; and

(v) may establish more than one location in which the state central fill medical cannabis pharmacy operates if the department determines, after an analysis of the current and anticipated market for cannabis in a medicinal dosage form and cannabis products in a medicinal dosage form, including costs and logistical issues in transportation of state central fill shipments, that multiple central fill locations are necessary to provide an adequate supply of state central fill shipments to local health departments for distribution to recipient medical cannabis cardholders.

(b) An individual may not serve as a state central fill medical provider unless the department

registers the individual as a state central fill medical provider.

(5) (a) The department shall, within 15 days after the day on which the department receives an application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill medical provider, register and issue a state central fill medical provider registration card to the prospective state central fill medical provider if the state central fill medical cannabis pharmacy provides to the department:

(i) the prospective state central fill medical provider's name and address; and

(ii) evidence that the prospective state central fill medical provider is:

(A) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(B) a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The department may not register a qualified medical provider or a pharmacy medical provider as a state central fill medical provider.

(6) (a) A state central fill medical provider shall complete the continuing education described in this Subsection (6) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (6)(a), the state central fill medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (6)(d); and

(B) offered by the department under Subsection (6)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a state central fill medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a state central fill medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a state central fill medical provider licensed under Title 58, Chapter 68, Utah

Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (6).

(d) The continuing education described in this Subsection (6) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying the medical cannabis recommendation.

(7) (a) A state central fill medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A state central fill medical provider may renew the provider's registration card if the provider:

(i) is eligible for a state central fill medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (5) is accurate or updates the information; and

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (6).

Section 80. Section 26-61a-602 is enacted to read:

26-61a-602. State central fill agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a state central fill agent unless:

(a) the individual is an employee of the state central fill medical cannabis pharmacy; and

(b) the department registers the individual as a state central fill agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill agent, register and issue a state central fill agent registration card to the prospective agent if the state central fill medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(b), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal Identification.

(3) (a) A state central fill agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (3)(a) includes continuing education in:

(i) Utah medical cannabis law;

(ii) the state central fill medical cannabis pharmacy shipment process; and

(iii) state central fill agent best practices.

(4) The department may revoke or refuse to issue the state central fill agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(5) (a) A state central fill agent registration card expires two years after the day on which the department issues or renews the card.

(b) A state central fill agent may renew the agent's registration card if the agent:

(i) is eligible for a state central fill registration card under this section; and

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information.

(6) A state central fill agent who the department registers under this section shall carry the individual's state central fill agent registration card with the individual at all times when:

(a) the individual is on the premises of the state central fill medical cannabis pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and the state central fill medical cannabis pharmacy.

(7) If an individual handling cannabis, a cannabis product, or a medical cannabis device handles the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (6):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the individual's handling of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, that the individual is engaging in illegal activity.

(8) (a) An individual who violates Subsection (6) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 81. Section 26-61a-603 is enacted to read:

26-61a-603. Recommendation.

(1) When an individual receives a recommendation for a medical cannabis treatment from the individual's qualified medical provider, the individual may initiate a shipment from the state central fill medical cannabis pharmacy to a local health department by:

(a) contacting the state central fill medical cannabis pharmacy directly; or

(b) requesting that the qualified medical provider initiate the shipment through the state electronic verification system.

(2) Upon receiving a request to prepare a shipment under Subsection (1), a state central fill agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) process payment, including contacting the medical cannabis cardholder to complete payment if necessary;

(c) prepare the shipment in accordance with Section 26-61a-604;

(d) record the preparation of the shipment in the electronic verification system; and

(e) place the shipment for transportation in accordance with Section 26-61a-605.

Section 82. Section 26-61a-604 is enacted to read:

26-61a-604. State central fill shipment preparation.

(1) (a) The state central fill medical cannabis pharmacy may not prepare or ship to a local health department a product other than:

(i) cannabis in medicinal dosage form that the state central fill medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in medicinal dosage form that the state central fill medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) The state central fill medical cannabis pharmacy may only sell or ship an item listed in Subsection (1)(a) in response to a request for shipment described in Subsection 26-61a-603(1).

(c) Notwithstanding Subsection (1)(a), the state central fill medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) The state central fill medical cannabis pharmacy may not prepare a shipment:

(a) for a medical cannabis cardholder in any one 12-day period, more than the lesser of:

(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;

(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

(c) for an individual whose qualified medical provider did not recommend dosing parameters, any cannabis or cannabis product, until the individual consults with the state central fill medical provider in accordance with Subsection (4).

(3) A medical cannabis cardholder may not receive a state central fill shipment containing:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one 12-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, any cannabis or cannabis product, until the cardholder consults with the state central fill medical provider in accordance with Subsection (4).

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may receive a state central fill shipment, the state central fill medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) The state central fill medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before preparing a shipment of cannabis or a cannabis product to determine if the medical cannabis cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis product described in Subsection (2); and

(ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the request to prepare the shipment; and

(B) notify the qualified medical provider that made the recommendation;

(b) submit a record to the state electronic verification system each time the state central fill medical cannabis pharmacy prepares and ships a shipment of cannabis, a cannabis product, or a medical cannabis device;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) is opaque; and

(d) for any product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(6) (a) Except as provided in Subsection (6)(b), the state central fill medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) The state central fill medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(7) The state central fill medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

(8) (a) The state central fill medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) dosing parameters or an indication that the qualified medical provider did not recommend specific dosing parameters; and

(v) the name and the address of the medical cannabis cardholder if the cardholder is not the patient.

(b) The state central fill medical cannabis pharmacy may not sell cannabis or a cannabis product unless the cannabis or cannabis product has a label securely affixed to the container indicating the following minimum information:

(i) the name and telephone number of the state central fill medical cannabis pharmacy;

(ii) the unique identification number that the state central fill medical cannabis pharmacy assigns;

(iii) the date of the sale;

(iv) the name of the medical cannabis cardholder;

(v) the name of the qualified medical provider who recommends the medical cannabis treatment;

(vi) directions for use and cautionary statements, if any;

(vii) the amount dispensed and the cannabinoid content;

(viii) the beyond use date; and

(ix) any other requirements that the department determines, in consultation with the Division of

Occupational and Professional Licensing and the Board of Pharmacy.

(9) A pharmacy medical provider at the state central fill medical cannabis pharmacy or a state central fill agent shall:

(a) include in each state central fill shipment written counseling regarding the state central fill shipment; and

(b) provide a telephone number or website by which a medical cannabis cardholder may contact a pharmacy medical provider for counseling.

(10) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by the state central fill medical cannabis pharmacy.

(11) The department may impose a uniform fee on each medical cannabis cardholder transaction for a state central fill shipment in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 83. Section 26-61a-605 is enacted to read:

26-61a-605. State central fill shipment transportation.

(1) The state central fill medical cannabis pharmacy shall ensure that the state central fill medical cannabis pharmacy is capable of delivering, in a secure manner, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603.

(2) (a) The department may contract with a private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill shipments to local health departments for distribution to medical cannabis cardholders.

(b) If the department enters into a contract described in Subsection (2)(a), the department shall:

(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(ii) impose security and personnel requirements on the contracted private entity sufficient to ensure the security and safety of state central fill shipments; and

(iii) provide regular oversight of the contracted private entity.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not

transport a state central fill shipment unless the individual is:

(a) a registered state central fill agent; or

(b) an agent of the private courier described in Subsection (2).

(4) An individual transporting a state central fill shipment shall possess a transportation manifest that:

(a) includes a unique identifier that links the state central fill shipment to a relevant inventory control system;

(b) includes origin and destination information for a state central fill shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the state central fill shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting state central fill shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a state central fill shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 84. Section 26-61a-606 is enacted to read:

26-61a-606. Local health department distribution agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a local health department distribution agent unless:

(a) the individual is an employee of a local health department; and

(b) the department registers the individual as a local health department distribution agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a local health department on behalf of a prospective local health department distribution agent, register and issue a local health department distribution agent registration card to the prospective agent if the local health department:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the local health department where the prospective agent seeks to act as a local health department distribution agent;

(C) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next

Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's local health department distribution agent registration card the name of the local health department where the individual is registered as an agent.

(4) (a) A local health department distribution agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the state central fill medical cannabis pharmacy shipment process; and

(iii) local health department distribution agent best practices.

(5) The department may revoke or refuse to issue or renew the local health department distribution agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(6) A local health department distribution agent who the department has registered under this section shall carry the agent's local health department distribution agent registration card with the agent at all times when:

(a) the agent is on the premises of the local health department; and

(b) the agent is handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy.

(7) If a local health department distribution agent handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy possesses the shipment in compliance with Subsection (6):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the shipment containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device, that the agent is engaging in illegal activity.

(8) (a) A local health department distribution agent who violates Subsection (6) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 85. Section 26-61a-607 is enacted to read:

26-61a-607. Local health department distribution.

(1) Each local health department shall designate:

(a) one or more of the local health department's locations as a state central fill shipment distribution location; and

(b) a sufficient number of personnel to ensure that at least one individual is available at all times during business hours:

(i) whom the department has registered as a local health department distribution agent; and

(ii) to distribute state central fill shipments to medical cannabis cardholders in accordance with this section.

(2) An individual may not retrieve a shipment from the state central fill medical cannabis pharmacy at a local health department unless the individual presents:

(a) a form of identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card; and

(b) a valid medical cannabis card under the same name that appears on the identification described in Subsection (2)(a).

(3) Before a local health department distribution agent distributes a state central fill shipment to a medical cannabis cardholder, the local health department distribution agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (2);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in the electronic verification system.

(4) The local health department shall:

(a) (i) store each state central fill shipment that the local health department receives, until the recipient medical cannabis cardholder retrieves the shipment or the local health department returns the shipment to the state central fill medical cannabis pharmacy in accordance with Subsection (5), in a single, secure, locked area that is equipped with a security system that detects and records entry into the area; and

(ii) ensure that only a local health department distribution agent is able to access the area;

(b) return any unclaimed state central fill shipment to the state central fill medical cannabis pharmacy, in accordance with Subsection (5)(a), after the local health department has possessed the state central fill shipment for 10 business days; and

(c) return any state central fill shipment to the state central fill medical cannabis pharmacy, in accordance with Subsection (5)(b), if a medical cannabis cardholder returns the shipment to the local health department after retrieving the shipment.

(5) (a) If a local health department returns an unclaimed state central fill shipment under Subsection (4)(b), the state central fill medical cannabis pharmacy may repackage or otherwise reuse the shipment for another state central fill shipment.

(b) If a local health department returns a returned state central fill shipment under Subsection (4)(c), the state central fill medical cannabis pharmacy shall dispose of the returned shipment by:

(i) rendering the state central fill shipment unusable and unrecognizable before transporting the shipment from the state central fill medical cannabis pharmacy; and

(ii) disposing of the state central fill shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 86. Section 26-61a-608 is enacted to read:

26-61a-608. Department to set state central fill medical cannabis pharmacy prices.

(1) The department shall set a price schedule for cannabis in a medicinal dosage form that the state central fill medical cannabis pharmacy sells to medical cannabis cardholders through distribution to local health departments.

(2) The department shall ensure that the price schedule described in Subsection (1):

(a) through an annual review, takes into consideration:

(i) the demand for medical cannabis and cannabis products dispensed through the state central fill medical cannabis pharmacy and the local health departments;

(ii) the labor required to cultivate and process cannabis into a medicinal dosage form;

(iii) the regulatory burden involved in the creation of the product; and

(iv) any other consideration the department considers necessary; and

(b) after at least three medical cannabis pharmacies that the department licenses under Section 26-61a-301 are operational, contains pricing for a specific product that is within 10% of the average price for the product among the operational medical cannabis pharmacies.

(3) The department shall ensure that the price schedule that the department sets under Subsection (1) includes a set fee that the department deposits into the Qualified Distribution Enterprise Fund to cover the cost of:

(a) the state central fill medical cannabis pharmacy; and

(b) the courier described in Section 26-61a-605, if any.

Section 87. Section 26-61a-609 is enacted to read:

26-61a-609. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) The state central fill medical cannabis pharmacy may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A state central fill medical provider who is a pharmacist may, upon the request of a medical

cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-604(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the state central fill medical provider determined dosing parameters for the partial fill under Subsection 26-61a-604(4); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 88. Section 26-61a-610 is enacted to read:

26-61a-610. Records -- Inspections.

(1) The state central fill medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department may inspect the records and facility of the state central fill medical cannabis pharmacy or a local health department at any time during business hours in order to determine compliance with this chapter.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(b) questioning of any relevant individual; or

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 89. Section 26-61a-611 is enacted to read:

26-61a-611. Advertising.

(1) Except as provided in Subsection (2), the state central fill medical cannabis pharmacy may not advertise in any medium.

(2) The state central fill medical cannabis pharmacy may maintain a website that includes information about:

(a) the contact information for the state central fill medical cannabis pharmacy;

(b) a product or service available through shipment from the state central fill medical cannabis pharmacy;

(c) a description of the state central fill medical cannabis pharmacy shipment process;

(d) information about retrieving a state central fill shipment at a local health department; or

(e) educational material related to the medical use of cannabis.

Section 90. Section 26-61a-701 is enacted to read:**Part 7. Enforcement****26-61a-701. Enforcement -- Misdemeanor.**

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments, and Sections 26-61a-502, 26-61a-605, and 26-61a-607, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a \$1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (2)(a).

Section 91. Section 26-61a-702, which is renumbered from Section 26-60b-601 is renumbered and amended to read:**[26-60b-601]. 26-61a-702. Enforcement -- Fine -- Citation.**

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter [~~by a person who is a cannabis dispensary or cannabis dispensary agent~~]:

(a) (i) revoke the [~~person's license or~~] medical cannabis [~~dispensary agent registration card~~] pharmacy license;

(b) (ii) refuse to renew the [~~person's license or~~] medical cannabis [~~dispensary agent registration card~~] pharmacy license; or

(c) (iii) assess the [~~person~~] medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or state central fill agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or state central fill agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or state central fill agent registration card; or

(iii) assess the medical cannabis pharmacy agent or state central fill agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section [~~in~~] into the [~~general fund~~] General Fund.

(3) [~~The department may, for~~] For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine, [~~established in accordance with Section 63J-1-504,~~] of up to \$5,000 per violation, in accordance with a fine schedule [~~established~~] that the department establishes by rule [~~made~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis [~~dispensary's~~] pharmacy's license without first directing the medical cannabis [~~dispensary~~] pharmacy to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license [~~or cannabis dispensary~~] agent registration card; or

(b) suspend, revoke, or place on probation the person's license or [~~cannabis dispensary~~] agent registration card.

~~(7) (a) [If the department makes a final determination under this section that] Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual ~~[violated]~~ violates a provision of this chapter, the individual is:~~

- ~~(i) guilty of an infraction[.]; and~~
- ~~(ii) subject to a \$100 fine.~~

~~(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).~~

Section 92. Section 26-61a-703, which is renumbered from Section 26-60b-602 is renumbered and amended to read:

[26-60b-602]. 26-61a-703. Report.

~~(1) [The] By the November interim meeting each year, the department shall report ~~[annually]~~ to the Health and Human Services Interim Committee on:~~

- ~~(a) the number of applications and renewal applications filed for medical cannabis cards[.];~~
- ~~(b) the number of qualifying patients and designated caregivers[.];~~
- ~~(c) the nature of the debilitating medical conditions of the qualifying patients[.];~~
- ~~(d) the age and county of residence of cardholders[.];~~
- ~~(e) the number of medical cannabis cards revoked[.];~~
- ~~(f) the number of practitioners providing recommendations for qualifying patients[.];~~
- ~~(g) the number of license applications and renewal license applications received[.];~~
- ~~(h) the number of licenses the department has issued in each county[.];~~
- ~~(i) the number of licenses the department has revoked[, and];~~
- ~~(j) the quantity and timeliness of state central fill shipments, including the amount of time between recommendation to the state central fill medical cannabis pharmacy and arrival of a state central fill shipment at a local health department;~~
- ~~(k) the market share of state central fill shipments;~~
- ~~(l) the expenses incurred and revenues generated from the medical cannabis program[.];~~
- ~~(m) the expenses incurred and revenues generated from the state central fill medical cannabis pharmacy, including a profit and loss statement; and~~

~~(n) an analysis of product availability, including the price differential between comparable products, in medical cannabis pharmacies and the state central fill medical cannabis pharmacy.~~

(2) The department may not include personally identifying information in the report described in this section.

Section 93. Section 26-65-102 (Effective 07/01/19) is amended to read:

26-65-102 (Effective 07/01/19). Definitions.

(1) "Agent" means an employee or independent contractor of an entity.

~~[(2) "Cannabidiol laboratory" means the same as that term is defined in Section 4-43-102.]~~

~~[(3)] (2) "Cannabidiol product" means [the same as that term is defined in Section 4-41-102.] a chemical compound extracted from cannabis that:~~

- ~~(a) is processed into a medicinal dosage form; and~~
- ~~(b) contains less than 0.3% tetrahydrocannabinol by dry weight.~~

~~(3) "Cannabis" means marijuana, as that term is defined in Section 58-37-2.~~

~~[(4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in Section 4-43-102.]~~

~~[(5) "Cannabinoid Product Restricted Account" means the account created in Section 4-43-801.]~~

~~[(6)] (4) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol product under Section 26-65-103.~~

~~[(7)] (5) "Physician" means an individual who is licensed to practice:~~

- ~~(a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or~~
- ~~(b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.~~

Section 94. Section 26-65-103 (Effective 07/01/19) is amended to read:

26-65-103 (Effective 07/01/19). Medicinal dosage form.

(1) For the purpose of this chapter, any of the following is a qualifying medicinal dosage form for a cannabidiol product:

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a liquid suspension;
- (e) a transdermal preparation; and
- (f) a sublingual preparation.

(2) A patient may not purchase, use, or possess a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(3) A ~~[cannabidiol-qualified]~~ pharmacy may not purchase, possess, or sell a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(4) The department may recommend that the Legislature approve the use of an additional medicinal dosage form.

Section 95. Section 30-3-10 is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a ~~husband and wife~~ married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either ~~the mother or father~~ parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;

(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and

(v) those factors outlined in Section 30-3-10.2.

(b) There ~~shall be~~ is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) (i) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(ii) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) ~~The children~~ A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the ~~children~~ child be heard and there is no other reasonable method to present ~~their~~ the child's testimony.

(e) (i) The court may inquire of ~~the children~~ the child's and take into consideration the ~~children's~~ the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) (i) If ~~interviews~~ an interview with ~~the children are~~ a child is conducted by the court pursuant to Subsection (1)(e), ~~they~~ the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with ~~the children~~ a child is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) ~~If a~~ The court ~~takes a parent's~~ may not consider the disability ~~into account~~ of a parent as a factor in awarding custody or ~~determining whether~~ modifying an award of custody based on a determination of a substantial change ~~has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing~~ in circumstances, unless the court makes specific findings that:

(i) the disability ~~does not~~ significantly or substantially ~~inhibit~~ inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability ~~has~~ lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(6) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

~~[(6)]~~ (7) In considering the past conduct and demonstrated moral standards of each ~~[of the parties as described]~~ party under Subsection (1)(a)(i)[s] or any other factor a court finds relevant, the court may not discriminate against a parent because of or otherwise consider the parent's:

(a) lawful possession or ~~[consumption]~~ use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act, except as it relates to that parent's ability to care for a child; or ~~[because of]~~

(b) ~~[the parent's]~~ status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) state central fill agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with ~~[Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a medical cannabis card holder in accordance with]~~ Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

Section 96. Section 34A-2-418 is amended to read:

34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial means and appliances.

(1) In addition to the compensation provided in this chapter or Chapter 3, Utah Occupational Disease Act, and subject to Subsection 34A-2-407(11), the employer or the insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for medicines, and for artificial means, appliances, and prostheses necessary to treat the injured employee.

(2) The employer and the insurance carrier are not required to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

~~[(2)]~~ (3) If death results from the injury, the employer or the insurance carrier shall pay the burial expenses in ordinary cases as established by rule.

~~[(3)]~~ (4) If a compensable accident results in the breaking of or loss of an employee's artificial means or appliance including eyeglasses, the employer or insurance carrier shall provide a replacement of the artificial means or appliance.

~~[(4)]~~ (5) An administrative law judge may require the employer or insurance carrier to maintain the artificial means or appliances or provide the employee with a replacement of any artificial means or appliance for the reason of breakage, wear and tear, deterioration, or obsolescence.

~~[(5)]~~ (6) An administrative law judge may, in unusual cases, order, as the administrative law judge considers just and proper, the payment of additional sums:

(a) for burial expenses; or

(b) to provide for artificial means or appliances.

Section 97. Section 41-6a-517 (Superseded 07/01/19) is amended to read:

41-6a-517 (Superseded 07/01/19).

Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused; ~~[or]~~

~~[(c)]~~ (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

~~[(e)]~~ (d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 98. Section 41-6a-517 (Effective 07/01/19) is amended to read:

41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused [~~or recommended by a physician for use by the accused; or~~];

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

[(e)] (d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the

person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 99. Section 49-11-1401 is amended to read:

49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) (i) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

(i) (A) during the performance of the employee's duties;

(ii) (B) within the scope of the employee's employment; or

(iii) (C) under color of the employee's authority.

(ii) "Employment related offense" does not include any federal offense for conduct that is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection (6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded its duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

(7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored

contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(9) The board may make rules to implement this section.

(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 100. Section 53-1-106.5 is amended to read:

53-1-106.5. Utah Medical Cannabis Act -- Department duties.

In addition to the duties described in Section 53-1-106, the department shall:

(1) provide standards for training peace officers and law enforcement agencies in the use of the state electronic verification system; and

(2) collaborate with the Department of Health and the Department of Agriculture and Food to provide standards for training peace officers and law enforcement agencies in medical cannabis law.

Section 101. Section 58-17b-302 is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307[-]; and

(b) for the operation of a medical cannabis pharmacy or the state central fill medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

- (a) class A pharmacy;
- (b) class B pharmacy;
- (c) class C pharmacy;
- (d) class D pharmacy;
- (e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy, including the state central fill medical cannabis pharmacy, shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 102. Section 58-17b-310 is amended to read:

58-17b-310. Continuing education.

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (1) continuing education that a pharmacist completes in accordance with Sections 26-61a-403 and 26-61a-601.

Section 103. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

~~(4)~~ (a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

~~(2)-(a)~~ (b) except as provided in Subsection ~~(2)~~~~(4b)~~:

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals[-];

~~(4b) Subsection (2)(a) does not apply to;~~

~~(i) giving or receiving price discounts based on purchase volume;~~

~~(ii) passing along pharmaceutical manufacturer's rebates; or~~

~~(iii) providing compensation for services to a veterinarian.]~~

~~(3)~~ (c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

~~(4)~~ (d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription “sample” or “not for resale” or similar words or phrases;

~~(5)~~ (e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer’s sealed container, as defined in rule;

~~(6)~~ (f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person’s professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

~~(7)~~ (g) violating:

~~(a)~~ (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

~~(b)~~ (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

~~(c)~~ (iii) rules or regulations adopted under either act;

~~(8)~~ (h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

~~(9)~~ (i) administering:

~~(a)~~ (i) without appropriate training, as defined by rule;

~~(b)~~ (ii) without a physician’s order, when one is required by law; and

~~(c)~~ (iii) in conflict with a practitioner’s written guidelines or written protocol for administering;

~~(10)~~ (j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

~~(11)~~ (k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

~~(12)~~ (l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

~~(13)~~ (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; ~~and~~

~~(14)~~ (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when

dispensing a self-administered hormonal contraceptive under a standing order~~]; and~~

~~(o)~~ violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

~~(2)~~ Subsection (1)(b) does not apply to:

~~(a)~~ giving or receiving a price discount based on purchase volume;

~~(b)~~ passing along a pharmaceutical manufacturer’s rebate; or

~~(c)~~ providing compensation for services to a veterinarian.

~~(3)~~ “Unprofessional conduct” does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

~~(a)~~ when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

~~(b)~~ when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

~~(4)~~ Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 104. Section 58-20b-101 is enacted to read:

CHAPTER 20b. ENVIRONMENTAL HEALTH SCIENTIST ACT

Part 1. General Provisions.

58-20b-101. Title.

This chapter is known as the “Environmental Health Scientist Act.”

Section 105. Section 58-20b-102 is enacted to read:

58-20b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Accredited program” means a degree-offering program from:

(a) an institution, college, or university that is accredited by the Department of Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent to Department of Education-accredited programs, as determined by a third party selected by the board.

(2) “Board” means the Environmental Health Scientist Board created in Section 58-20b-201.

(3) “General supervision” means the supervising environmental health scientist is available for

immediate voice communication with the person he or she is supervising.

(4) "Practice of environmental health science" means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food quality;

(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

(ix) vector control;

(x) drinking water quality;

(xi) milk sanitation;

(xii) rabies control;

(xiii) public health nuisances;

(xiv) indoor clean air regulations;

(xv) institutional and residential sanitation; or

(xvi) recreational facilities sanitation; or

(b) representing oneself in any manner as, or using the titles "environmental health scientist," "environmental health scientist-in-training," or "registered sanitarian."

(5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

(6) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-20b-501 and as may be further defined by division rule.

Section 106. Section 58-20b-201 is enacted to read:

Part 2. Board.

58-20b-201. Board.

(1) There is created the Environmental Health Scientist Board consisting of four environmental health scientists in good standing and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the investigation of the complaint is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 107. Section 58-20b-301 is enacted to read:

Part 3. Licensing.

58-20b-301. License required -- License classifications.

(1) A person shall hold a license under this chapter in order to engage in the practice of environmental health science while employed by any of the following, except as specifically exempted in Section 58-20b-305 or 58-1-307:

(a) a local health department;

(b) the state Department of Health;

(c) the state Department of Human Services;

(d) the Department of Agriculture and Food as a food and dairy compliance officer; or

(e) a local health department as its director of environmental health services.

(2) Any other individual not subject to Subsection (1) may also be licensed under this chapter upon compliance with all requirements.

(3) The division shall issue to persons who qualify under this chapter a license in the classification:

(a) environmental health scientist; or

(b) environmental health scientist-in-training.

Section 108. Section 58-20b-302 is enacted to read:

58-20b-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

(e) pass an examination as determined by division rule in collaboration with the board; and

(f) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 109. Section 58-20b-303 is enacted to read:

58-20b-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license for an environmental health scientist in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) Each license for an environmental health scientist-in-training shall be issued for a term of two years and may not be renewed.

(3) Each license issued under this chapter automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 110. Section 58-20b-304 is enacted to read:

58-20b-304. Continuing education.

Each person holding a license under this chapter as an environmental health scientist or an environmental health scientist-in-training shall complete in each two-year period of licensure not fewer than 30 hours of professional continuing education in accordance with standards defined by division rule.

Section 111. Section 58-20b-305 is enacted to read:

58-20b-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, a person is exempt from the licensure requirements of this chapter if:

(1) the person's practice of environmental health science is limited to inspecting in order to enforce compliance with an inspection and maintenance

program established pursuant to Section 41-6a-1642 or to issuing permits under that program;

(2) the person is a laboratory staff person employed by the Department of Agriculture and Food or the Department of Health, and in the person's employment inspects, permits, certifies, or otherwise enforces laboratory standards in laboratories regulated by state or local public health laws; or

(3) the person is the local health officer of a local public health department, which employs a director of environmental health services licensed under this chapter.

Section 112. Section 58-20b-401 is enacted to read:

Part 4. License Denial and Discipline.

58-20b-401. Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Section 113. Section 58-20b-501 is enacted to read:

Part 5. Unprofessional Conduct.

58-20b-501. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) acting dishonestly or fraudulently in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training;

(2) intentionally filing a false report or record in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training; and

(3) willfully impeding or obstructing another person from filing a report in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training.

Section 114. Section 58-31b-305 is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the division;

(b) pays a renewal fee established by the division under Section 63J-1-504; and

(c) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as [a] an advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on the license or certification unless renewed in accordance with Section 58-1-308.

(6) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)(c) continuing education that an advanced practice registered nurse completes in accordance with Section 26-61a-106.

Section 115. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

[4] (a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

[2] (b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

[3] (c) engaging in sexual relations with a patient during any:

[a] (i) period when a generally recognized professional relationship exists between the person

licensed or certified under this chapter and the patient; or

[4b] (ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

[4] (a) (d) (i) as a result of any circumstance under Subsection [4] (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

[4b] (ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

[5] (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

[6] (f) unauthorized taking or personal use of nursing supplies from an employer;

[7] (g) unauthorized taking or personal use of a patient's personal property;

[8] (h) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;

[9] (i) unlawful or inappropriate delegation of nursing care;

[10] (j) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

[11] (k) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

[12] (l) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

[13] (m) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

[14] (n) failure to pay a penalty imposed by the division;

[15] (o) prescribing a Schedule [II-III] II or III controlled substance without complying with the requirements in Section 58-31b-803;

[16] (p) violating Section 58-31b-801;

[17] (q) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; and

[48] (r) establishing or operating a pain clinic without a consultation and referral plan for Schedule [H-III] II or III controlled substances.

(2) “Unprofessional conduct” does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 116. Section 58-37-3.6 (Superseded 07/01/19) is amended to read:

58-37-3.6 (Superseded 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) “Cannabinoid product” means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) “Cannabis” means any part of the plant cannabis sativa, whether growing or not.

(c) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.

(d) “Expanded cannabinoid product” means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) “Medicinal dosage form” means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

(f) “Tetrahydrocannabinol” means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter, an individual who possesses or distributes

a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act.

[3] Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.]

[4] Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]

Section 117. Section 58-37-3.6 (Effective 07/01/19) is amended to read:

58-37-3.6 (Effective 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

[~~(a)~~ “Cannabidiol product” means the same as that term is defined in Section 4-41-102.]

[~~(b)~~ (a) “Cannabinoid product” means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

[~~(c)~~ (b) “Cannabis” means any part of the plant cannabis sativa, whether growing or not.

[~~(d)~~ (c) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.

[~~(e)~~ (d) “Expanded cannabinoid product” means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

[~~(f)~~ (e) “Medicinal dosage form” means:

(i) a tablet;

(ii) a capsule;

- (iii) a concentrated oil;
- (iv) a liquid suspension;
- (v) a transdermal preparation; or
- (vi) a sublingual preparation.

~~[(g)]~~ (f) “Tetrahydrocannabinol” means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter~~[-(a)]~~ an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act~~[;]~~.

~~[(b) — an individual who grows, processes, possesses, transports, or distributes cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent that the individual’s growth, processing, possession, transportation, or distribution of the cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol Producers; and]~~

~~[(c) — a person who processes, possesses, or sells cannabidiol is not subject to the penalties described in this title if:]~~

~~[(i) — the person is a cannabidiol-qualified pharmacy; or]~~

~~[(ii) — the person is an individual whose physician has recommended use of the cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified pharmacy.]~~

~~[(3) Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.]~~

~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual’s possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]~~

Section 118. Section 58-37-3.7 is amended to read:

58-37-3.7. Medical cannabis decriminalization.

- (1) As used in this section:

(a) “Cannabis” means the same as that term is defined in Section 26-61a-102.

(b) “Cannabis product” means the same as that term is defined in Section 26-61a-102.

(c) “Medical cannabis card” means the same as that term is defined in Section 26-61a-102.

(d) “Medical cannabis device” means the same as that term is defined in Section 26-61a-102.

(e) “Medical cannabis pharmacy” means the same as that term is defined in Section 26-61a-102.

(f) “Medicinal dosage form” means the same as that term is defined in Section 26-61a-102.

(g) “Qualified medical provider” means the same as that term is defined in Section 26-61a-102.

(h) “Qualifying condition” means the same as that term is defined in Section 26-61a-102.

(i) “Tetrahydrocannabinol” means the same as that term is defined in Section 58-37-3.9.

~~[(1)]~~ (2) Before ~~[July]~~ January 1, ~~[2020]~~ 2021, ~~[it is an affirmative defense to criminal charges against an individual]~~ an individual is not guilty under this chapter for the use~~[,]~~ or possession~~[, or manufacture]~~ of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia ~~[under this chapter that] if:~~

(a) at the time of the arrest, the individual ~~[would be eligible for a medical cannabis card, and that the individual’s conduct would have been lawful, after July 1, 2020.]:~~

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual’s illness described in Subsection (2)(a)(i)(A) could benefit from the use in question; or

(ii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

~~[(2)]~~ (3) ~~[It is an affirmative defense to criminal charges against an individual]~~ An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) at the time of the arrest, the individual:

(i) ~~[is a]~~ was not a resident of Utah or has been a resident of Utah for less than 45 days ~~[and was issued];~~

(ii) had a currently valid medical cannabis [identification] card or [its] the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

~~(b) (iii) [the individual has] had been diagnosed with a qualifying [illness] condition as described in Section [26-60b-105.] 26-61a-104; and~~

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

~~(3) A court shall, for charges that the court dismisses under Subsection (1) or Subsection (2), dismiss the charges without prejudice.]~~

Section 119. Section 58-37-3.8 is amended to read:

58-37-3.8. Enforcement.

(1) ~~[No] A law enforcement officer [employed by an agency that receives state or local government funds shall], as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:~~

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that ~~[such] the activity is in compliance with the state medical cannabis laws[, nor shall any such officer expend any state or local resources, including the officer's time, to];~~

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to ~~[such] an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.~~

(2) ~~[No] An agency or political subdivision of [Utah] the state may [rely on a violation of federal law as the sole basis for taking] not take an adverse action against a person for providing a professional [services] service to a medical cannabis [dispensary] pharmacy, as that term is defined in Section 26-61a-102, the state central fill medical cannabis pharmacy, as that term is defined in Section 26-61a-102, or a cannabis production establishment [if the person has not violated the state medical cannabis laws], as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.~~

Section 120. Section 58-37-3.9 is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

~~(b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.]~~

~~(c) (b) "Cannabis product" means [a product that: (i) is intended for human ingestion; and (ii) contains cannabis or tetrahydrocannabinol] the same as that term is defined in Section 26-61a-102.~~

~~(d) "Designated caregiver" means the same as that term is defined in Section 26-60b-102.]~~

~~(e) (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.~~

~~(f) "Marijuana" means the same as that term is defined in Section 58-37-2.]~~

~~(g) (d) "Medical cannabis [card] cardholder" means the same as that term is defined in Section [26-60b-102] 26-61a-102.~~

~~(h) (e) [(i)] "Medical cannabis device" means [a device that an individual uses to ingest cannabis or a cannabis product] the same as that term is defined in Section 26-61a-102.~~

~~(ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit.]~~

~~(i) (f) "[Qualifying illness] Medicinal dosage form" means the same as that term is defined in Section [26-60b-102] 26-61a-102.~~

~~(j) (g) "Tetrahydrocannabinol" means a substance derived from cannabis [that meets the description] or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).~~

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual ~~[who] is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:~~

(i) ~~[possesses, produces, manufactures, dispenses, distributes, sells, or offers] possessing, ingesting, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or [who possesses]~~

~~(ii) possessing cannabis or a cannabis product with the intent to [produce, manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the penalties described in this title for] engage in the conduct [to the extent that the individual's conduct complies with:] described in Subsection (2)(a)(i); and~~

~~(i) (b) an individual is guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter [41b] 41a, Cannabis Production [Establishment;] Establishments, and [(ii)] Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act[;]~~

~~[(b)] (i) [an individual who] possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or~~

(ii) ~~[who] possesses a medical cannabis device with the intent to [manufacture, distribute, sell, or offer to sell a medical cannabis device is authorized and is not subject to the penalties described in this title for the possession, manufacture, distribution, sale, or offer for sale of drug paraphernalia to the extent that the individual's] engage in any of the conduct [complies with:] described in Subsection (2)(b)(i).~~

~~[(i) Title 4, Chapter 41b, Cannabis Production Establishment; and]~~

~~[(ii) Title 26, Chapter 60b, Medical Cannabis Act.]~~

~~[(3) For purposes of state law, except as otherwise provided in this section, activities related to cannabis shall be considered lawful and any cannabis consumed shall be considered legally ingested, as long as the conduct is in accordance with:]~~

~~[(a) Title 4, Chapter 41b, Cannabis Production Establishment; and]~~

~~[(b) Title 26, Chapter 60b, Medical Cannabis Act.]~~

~~[(4)] (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.~~

~~(b) [It is not lawful for] Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis [card holder] cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis. [An individual convicted of violating this section is guilty of an infraction. For purposes of this section, smoking does not include a means of administration that involves cannabis combustion at a temperature that is not greater than 750 degrees Fahrenheit and that does not involve using a flame.]~~

~~(c) A medical cannabis cardholder who smokes cannabis or engages in any other conduct described in Subsection (3)(b):~~

~~(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and~~

~~(ii) is subject to charges under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b).~~

~~[(5) An individual is not exempt from the penalties described in this title for ingesting cannabis or a cannabis product while operating a motor vehicle.]~~

~~[(6)] (4) An individual who is assessed a penalty or convicted of [an infraction] a crime under Title 4, Chapter [41b] 41a, Cannabis Production [Establishment] Establishments, or Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty~~

or conviction, subject to [the penalties] a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 121. Section 58-37f-203 (Effective 07/01/19) is amended to read:

58-37f-203 (Effective 07/01/19). Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) ~~[(a)]~~ The pharmacist-in-charge and the pharmacist described in Subsection (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a

health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6).

~~[(b) The pharmacist described in Subsection (2) shall, in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product, submit the following information to the division:]~~

~~[(i) the name of the recommending physician;]~~

~~[(ii) the date of the recommendation;]~~

~~[(iii) the date the recommendation was filed by the cannabidiol-qualified pharmacy;]~~

~~[(iv) the name of the individual for whom the recommendation was written; and]~~

~~[(v) any other information the division requires by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

Section 122. Section 58-67-304 is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

- (a) of the name and business address of the physician; and
- (b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) and continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 123. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) “Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8; ~~or~~

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable~~[-]; or~~

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) “Unprofessional conduct” does not include~~[-];~~:

(a) in compliance with Section 58-85-103:

~~[(a)]~~ (i) obtaining an investigational drug or investigational device;

~~[(b)]~~ (ii) administering the investigational drug to an eligible patient; or

~~[(c)]~~ (iii) treating an eligible patient with the investigational drug or investigational device~~[-]; or~~

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsection (2)(b).

Section 124. Section 58-68-304 is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee’s patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: “Do you perform elective abortions in Utah in a location other than a hospital?”; and

(b) immediately following the question, contain the following statement: “For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest.”

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician’s license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) and continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 125. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) “Unprofessional conduct” includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in

accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [ø]

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5[.]; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include[.];

(a) in compliance with Section 58-85-103:

[~~(a)~~] (i) obtaining an investigational drug or investigational device;

[~~(b)~~] (ii) administering the investigational drug to an eligible patient; or

[~~(c)~~] (iii) treating an eligible patient with the investigational drug or investigational device[.]; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsection (2)(b).

Section 126. Section 58-70a-303 is amended to read:

58-70a-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2) continuing education that a physician assistant completes in accordance with Section 26-61a-106.

Section 127. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

[~~(1)~~] (a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

[~~(2)~~] (b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

[~~(3)~~] (c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

[~~(4)~~] (d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

[~~(5)~~] (e) failure to make the delegation of services agreement available to the division for review upon request;

[~~(6)~~] (f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule; and

[~~(7)~~] (g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 128. Section 58-85-102 is amended to read:

58-85-102. Definitions.

As used in this chapter:

~~[(1) “Cannabis” means cannabis that has been grown by a state-approved grower and processed into a medicinal dosage form.]~~

~~[(2) “Cannabis-based treatment” means a course of treatment involving cannabis.]~~

~~[(3)] (1) “Eligible patient” means an individual who has been diagnosed with a terminal illness by a physician.~~

~~[(4) “Health care facility” means the same as that term is defined in Section 26-55-102.]~~

~~[(5)] (2) “Insurer” means the same as that term is defined in Section 31A-1-301.~~

~~[(6)] (3) “Investigational device” means a device that:~~

(a) meets the definition of “investigational device” in 21 C.F.R. Sec. 812.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational device described in 21 C.F.R. Part 812.

~~[(7)] (4) “Investigational drug” means a drug that:~~

(a) meets the definition of “investigational new drug” in 21 C.F.R. Sec. 312.3; and

(b) has successfully completed the United States Food and Drug Administration Phase 1 testing for an investigational new drug described in 21 C.F.R. Part 312.

~~[(8)] (5) “Medicinal dosage form” means the same as that term is defined in Section 58-37-3.6.~~

~~[(9)] (6) “Physician” means an individual who is licensed under:~~

(a) Title 58, Chapter 67, Utah Medical Practice Act; or

(b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(10) “State-approved grower and processor” means a person who grows cannabis pursuant to state law and processes the cannabis into a medicinal dosage form.]~~

~~[(11)] (7) “Terminal illness” means a condition of a patient that:~~

(a) as determined by a physician:

(i) is likely to pose a greater risk to the patient than the risk posed to the patient by treatment with an investigational drug or investigational device; and

(ii) will inevitably lead to the patient’s death; and

(b) presents the patient, after the patient has explored conventional therapy options, with no treatment option that is satisfactory or comparable to treatment with an investigational drug or device.

Section 129. Section 58-85-104 is amended to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) ~~[(a)]~~ It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

~~[(b) It is not a breach of the applicable standard of care for a physician to recommend a cannabis-based treatment to a terminally ill patient under this chapter, or a health care facility to aid or assist in any way a terminally ill patient’s use of cannabis.]~~

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter~~[, or a physician who recommends a cannabis-based treatment to a terminally ill patient or a health care facility that facilitates a terminally ill patient’s recommended use of a cannabis-based treatment under this chapter,]~~ may not, for any harm done to the eligible patient by the investigational drug or device, ~~[or for any harm done to the terminally ill patient by the cannabis-based treatment,]~~ be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under:

(i) for a physician:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) for the other licensed health care provider, the act governing the other licensed health care provider’s license; or

(iii) for the hospital ~~[or health care facility]~~, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(3) This chapter does not:

(a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient’s physician;

(b) require a physician to agree to:

(i) administer an investigational drug to an eligible patient under this chapter; or

(ii) treat an eligible patient with an investigational device under this chapter; or

~~[(iii) recommend a cannabis-based treatment to a terminally ill patient; or]~~

(c) create a private right of action for an eligible patient:

(i) against a physician or hospital, for the physician's or hospital's refusal to:

(A) administer an investigational drug to an eligible patient under this chapter; or

(B) treat an eligible patient with an investigational device under this chapter; or

~~[(C) recommend a cannabis-based treatment to the terminally ill patient; or]~~

(ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 130. Section 58-85-105 is amended to read:

58-85-105. Insurance coverage.

(1) This chapter does not:

(a) require an insurer to cover the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter; or

~~[(iii) a cannabis-based treatment; or]~~

(b) prohibit an insurer from covering the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter~~;~~.

~~[(iii) a cannabis-based treatment.]~~

(2) Except as described in Subsection (3), an insurer may deny coverage to an eligible patient who is treated with an investigational drug or investigational device, for harm to the eligible patient caused by the investigational drug or investigational device.

(3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

(a) the eligible patient's preexisting condition;

(b) benefits that commenced before the day on which the eligible patient is treated with the investigational drug or investigational device; or

(c) palliative or hospice care for an eligible patient that has been treated with an investigational drug or device, but is no longer receiving curative treatment with the investigational drug or device.

Section 131. Section 59-12-104.10 is enacted to read:

59-12-104.10. Exemption from sales tax for cannabis.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(e) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy or the state central fill medical cannabis pharmacy of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy or the state central fill medical cannabis pharmacy is subject to the taxes this chapter imposes.

Section 132. Section 62A-3-322 is enacted to read:

62A-3-322. Medical cannabis use by a vulnerable adult or guardian.

A peace officer or an employee or agent of the division may not solicit or provide, and a court may not order, emergency services for a vulnerable adult based solely on:

(1) the vulnerable adult's possession or use of cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 133. Section 62A-4a-202.1 is amended to read:

62A-4a-202.1. Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.

(1) A peace officer or child welfare worker may not:

(a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection 78A-6-106(2); or

(b) remove a child from the child's home or take a child into custody under this section solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school; or

(ii) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter 60b, Medical Cannabis Act], as those terms are defined in Section 26-61a-102.~~

(2) A child welfare worker within the division may take action under Subsection ~~[(4)]~~ (1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

(3) (a) If possible, consistent with the child's safety and welfare, before taking a child into protective custody, the child welfare worker shall also determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(b) If the services described in Subsection (3)(a) are reasonably available, they shall be utilized.

(c) In determining whether the services described in Subsection (3)(a) are reasonably available, and in making reasonable efforts to provide those services, the child's health, safety, and welfare shall be the child welfare worker's paramount concern.

(4) (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:

(i) a shelter facility; or

(ii) an emergency placement in accordance with Section 62A-4a-209.

(c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or friend, in accordance with Section 62A-4a-209.

~~[(a)]~~ (d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.

(5) When a child is removed from the child's home or school or taken into protective custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

(a) the parent's rights under this part, including the right to be present and participate in any court proceeding relating to the child's case;

(b) that it may be in the parent's best interest to contact an attorney and that, if the parent cannot afford an attorney, the court will appoint one;

(c) the name and contact information of a division employee the parent may contact with questions;

(d) resources that are available to the parent, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:

(a) evaluated periodically for its effectiveness at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language; and

(c) available in English and other languages as the division determines to be appropriate and necessary.

Section 134. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

~~[(4)]~~ (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

~~[(2)]~~ (3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

~~[(3) Section 26-21-23, Licensing of non-Medicaid nursing facility beds, is repealed July 1, 2018.]~~

~~[(4)]~~ (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(5)]~~ (8) Title 26, Chapter ~~[36a]~~ 36d, Hospital Provider Assessment Act, is repealed July 1, ~~[2016]~~ 2019.

~~[(6) Section 26-38-2.5 is repealed July 1, 2017.]~~

~~[(7) Section 26-38-2.6 is repealed July 1, 2017.]~~

~~[(8)]~~ (9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.

(10) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 135. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter [20a] 20b, Environmental Health Scientist Act, is repealed July 1, [2018] 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

[45] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

[46] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

[47] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

[48] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

[49] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

[40] (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[41] (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, 2019:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 136. Section 67-19-33 is amended to read:

67-19-33. Controlled substances and alcohol use prohibited.

[Aa] Except as provided in Title 26, Chapter 61a, Utah Medical Cannabis Act, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of \$25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section 67-19-34; or

(3) refuse to submit to a drug or alcohol test under Section 67-19-36.

Section 137. Section 78A-6-508 (Superseded 07/01/19) is amended to read:

78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent [because of

the] or otherwise consider a parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102, in accordance with Title 26, Chapter ~~60b~~ 61a, Utah Medical Cannabis Act.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 138. Section 78A-6-508 (Effective 07/01/19) is amended to read:

78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person

having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26-61a-102 or a medical cannabis device, in accordance with Title 26, Chapter ~~60b~~ 61a, Utah Medical Cannabis Act.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 139. Repealer.

This bill repeals:

Section 4-41-201, Title.

Section 4-41-202, Definitions.

Section 4-41-203, Department to cultivate cannabis.

Section 4-41-301, Department to establish a state dispensary.

Section 4-41-302, Labeling.

Section 4-41-303, Department to set prices.

Section 4-41-304, Department to make rules regarding purchasers, communication -- Report.

Section 4-41b-104, Preemption.

Section 4-43-101 (Effective 07/01/19), Title.

Section 4-43-102 (Effective 07/01/19), Definitions.

Section 4-43-201 (Effective 07/01/19), Cannabidiol processor -- Cannabidiol laboratory -- License -- Renewal.

Section 4-43-202 (Effective 07/01/19), Renewal.

Section 4-43-203 (Effective 07/01/19), Bond required for license.

Section 4-43-301 (Effective 07/01/19), Cannabidiol processor and laboratory agents.

Section 4-43-401 (Effective 07/01/19), Cannabidiol processor or cannabidiol

laboratory -- General operating requirements.

Section 4-43-402 (Effective 07/01/19), Cannabidiol processor or cannabidiol laboratory -- Inspection by department.

Section 4-43-501 (Effective 07/01/19), Cannabidiol processor -- Operating requirements.

Section 4-43-502 (Effective 07/01/19), Cannabidiol product.

Section 4-43-503 (Effective 07/01/19), Cannabidiol medicine -- Labeling and packaging.

Section 4-43-601 (Effective 07/01/19), Hemp and cannabidiol product testing.

Section 4-43-602 (Effective 07/01/19), Reporting -- Inspections.

Section 4-43-701 (Effective 07/01/19), Enforcement -- Fine -- Citation.

Section 4-43-702 (Effective 07/01/19), Report to the Legislature.

Section 4-43-703 (Effective 07/01/19), Fees -- Deposit into Cannabinoid Product Restricted Account.

Section 4-43-801 (Effective 07/01/19), Cannabinoid Product Restricted Account -- Creation.

Section 26-60b-104, Preemption.

Section 58-67-808 (Effective 07/01/19), Recommendation of cannabidiol products.

Section 58-68-808 (Effective 07/01/19), Recommendation of cannabidiol products.

Section 58-85-103.5, Right to request a recommendation for a cannabis-based treatment.

Section 58-88-101 (Effective 07/01/19), Title.

Section 58-88-102 (Effective 07/01/19), Definitions.

Section 58-88-103 (Effective 07/01/19), Cannabidiol-qualified pharmacy requirements.

Section 58-88-104 (Effective 07/01/19), Division to make rules -- Study.

Section 59-12-104.7 (Repealed 01/01/19), Reporting by purchaser of certain sales and use tax exempt purchases.

Section 59-12-104.9 (Effective 07/01/19), Exemption from sales tax for cannabinoid products.

Section 59-29-101 (Effective 07/01/19), Title.

Section 59-29-102 (Effective 07/01/19), Definitions.

Section 59-29-103 (Effective 07/01/19), Imposition of tax -- Rate -- Administration.

Section 59-29-104 (Effective 07/01/19), Collection of tax.

**Section 59-29-105 (Effective 07/01/19),
Deposit of tax revenue.**

**Section 59-29-106 (Effective 07/01/19),
Records.**

**Section 59-29-107 (Effective 07/01/19),
Rulemaking authority.**

**Section 59-29-108 (Effective 07/01/19),
Penalties and interest.**

Section 140. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Sections 26-65-102 (Effective 07/01/19), 26-65-103 (Effective 07/01/19), 41-6a-517 (Effective 07/01/19), 58-37-3.6 (Effective 07/01/19), and 78A-6-508 (Effective 07/01/19) in this bill take effect on July 1, 2019.

Section 141. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) in Sections 4-41a-106 and 26-61a-114 replace the language from "this bill" with the bill's designated chapter number in the Laws of Utah; and

(2) in Sections 4-41a-201, 4-41a-301, 4-41a-401, 26-61a-202, 26-61a-301, 26-61a-401, 26-61a-602, and 26-61a-606, replace the language from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 2**S. B. 3002**

Passed December 3, 2018
 Approved December 6, 2018
 Effective February 2, 2019

**REAL ID ACT COMPLIANCE
 AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill repeals provisions prohibiting compliance with the REAL ID Act of 2005.

Highlighted Provisions:

This bill:

- ▶ repeals provisions prohibiting compliance with the REAL ID Act of 2005; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-1007, as enacted by Laws of Utah 2011, Chapter 21

REPEALS:

53-3-104.5, as enacted by Laws of Utah 2010, Chapter 253

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

Section 1. Section 76-9-1007 is amended to read:

76-9-1007. Determining an alien's immigration status -- Transfer or maintenance of information.

~~[(1)]~~ Except as limited by federal law, any state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of any person by communicating with any federal, state, or local governmental entity for any lawful purpose, including:

~~[(a)]~~ (1) determining a person's eligibility for any public benefit, service, or license provided by any federal agency, by this state, or by any political subdivision of this state;

~~[(b)]~~ (2) confirming a person's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;

~~[(e)]~~ (3) if the person is an alien, determining if the person is in compliance with the federal registration laws of Title II, Part 7, Immigration and Nationality Act; or

~~[(d)]~~ (4) a valid request for verification of the citizenship or immigration status of any person pursuant to 8 U.S.C. Sec. 1373.

~~[(2)] This section does not implement, authorize, or establish the federal REAL ID Act of 2005, P.L. 109-13, Division B; 119 Stat. 302, except as provided by Section 53-3-104.5, regarding limitations on the state implementation of the federal REAL ID Act.]~~

Section 2. Repealer.

This bill repeals:

**Section 53-3-104.5, Legislative finding --
 Prohibition on implementing REAL ID Act.**

**CHAPTER 3
S. B. 3001**

Passed December 3, 2018
Approved December 6, 2018
Effective February 2, 2019
(Exception clause in Section 3)

PRISON FUNDING APPROPRIATION

Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for construction of the state prison

Money Appropriated in this Bill:

This bill appropriates \$67,000,000 in capital project funds for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$168,000,000 in capital project funds for fiscal year 2020, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

CAPITAL BUDGET

Item 1

To Capital Budget - DFCM Prison Project Fund
From General Fund, One-Time 67,000,000
Schedule of Programs:
 DFCM Prison Project Fund 67,000,000

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for

the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

CAPITAL BUDGET

Item 2

To Capital Budget - DFCM Prison Project Fund
From General Fund 110,000,000
From General Fund, One-Time 58,000,000
Schedule of Programs:
 DFCM Prison Project Fund 168,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

LAWS
of the
STATE OF UTAH, 2019

Passed at the
GENERAL SESSION
of the
SIXTY-THIRD LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 28, 2019
and Adjourned Sine Die on
March 14, 2019

STATE OF UTAH



OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2019 General Session of the Sixty-third Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and that the 2019 General Session of the Sixty-third Legislature of the State of Utah convened at the Capitol in Salt Lake City on January 28, 2019 and adjourned on March 14, 2019.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 7th day of August, 2019.





Spencer J. Cox
Lieutenant Governor

CHAPTER 1
S. B. 96

Passed February 11, 2019
Approved February 11, 2019
Effective February 11, 2019

MEDICAID EXPANSION ADJUSTMENTS

Chief Sponsor: Allen M. Christensen
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to the state Medicaid program and the state sales tax.

Highlighted Provisions:

This bill:

- ▶ makes changes to eligibility for and administration of the state Medicaid program;
- ▶ directs the Department of Health to continue to seek approval from the federal government to implement a Medicaid expansion;
- ▶ directs the Department of Health to seek approval from the federal government to expand eligibility for the Medicaid program to individuals whose income is below 100% of the federal poverty level in a manner that:
 - incorporates a per capita cap on federal reimbursement;
 - limits presumptive eligibility;
 - imposes a lock-out period for individuals who violate certain program requirements;
 - gives enrollees continuous eligibility for a period of up to 12 months;
 - allows Medicaid funds to be used for housing supports for certain enrollees; and
 - permits the state to limit enrollment;
- ▶ if the federal government does not approve an expansion in the manner requested by the department, directs the department to expand eligibility for the Medicaid program to individuals whose income is below 138% of the federal poverty level, with certain cost controls;
- ▶ if the department expands eligibility for the Medicaid program to individuals whose income is below 138% of the federal poverty level and the cost of the expansion exceeds the amounts appropriated:
 - permits the Department of Health to seek additional waivers to control costs of the Medicaid expansion;
 - permits the Department of Health to reduce certain optional Medicaid services; and
 - directs a cut of up to 10% of certain agency appropriations sufficient to cover the costs of the expansion;
- ▶ amends provisions related to various hospital assessments;
- ▶ amends provisions related to the state sales tax; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to Department of Health - Medicaid Services, as a one-time appropriation:

- from the General Fund, One-time, (\$14,900,000).
- ▶ to Department of Health - Medicaid Expansion Fund, as a one-time appropriation:
 - from the General Fund, One-time, \$38,200,000; and
 - from the General Fund Restricted - Medicaid Restricted Account, One-time, \$1,200,000.

This bill appropriates in fiscal year 2020:

- ▶ to Department of Health - Children's Health Insurance Program, as a One-time appropriation:
 - from the General Fund, One-time, (\$18,663,900).
- ▶ to Department of Health - Medicaid Services, as a One-time appropriation:
 - from the General Fund Restricted - Medicaid Restricted Account, One-time, \$16,800,000.
- ▶ to Department of Health - Medicaid Expansion Fund, as an ongoing appropriation:
 - from the General Fund, \$15,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 26-18-3.1, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 26-18-3.9, as enacted by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 26-18-415, as enacted by Laws of Utah 2018, Chapter 468
- 26-36b-103, as last amended by Laws of Utah 2018, Chapters 285, 316, 384, and 468
- 26-36b-208, as last amended by Laws of Utah 2018, Chapters 384 and 468
- 26-36c-102, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-201, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-203, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-204, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-206, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-208, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-209, as enacted by Laws of Utah 2018, Chapter 468
- 59-12-103, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018

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

Section 1. Section 26-18-3.1 is amended to read:

26-18-3.1. Medicaid expansion.

(1) The purpose of this section is to expand the coverage of the Medicaid program to persons who are in categories traditionally not served by that program.

(2) Within appropriations from the Legislature, the department may amend the state plan for

medical assistance to provide for eligibility for Medicaid:

(a) on or after July 1, 1994, for children 12 to 17 years old who live in households below the federal poverty income guideline; and

(b) on or after July 1, 1995, for persons who have incomes below the federal poverty income guideline and who are aged, blind, or have a disability.

(3) (a) Within appropriations from the Legislature, on or after July 1, 1996, the Medicaid program may provide for eligibility for persons who have incomes below the federal poverty income guideline.

(b) In order to meet the provisions of this subsection, the department may seek approval for a demonstration project under 42 U.S.C. [Section] Sec. 1315 from the secretary of the United States Department of Health and Human Services. This demonstration project may also provide for the voluntary participation of private firms that:

- (i) are newly established or marginally profitable;
- (ii) do not provide health insurance to their employees;
- (iii) employ predominantly low wage workers; and
- (iv) are unable to obtain adequate and affordable health care insurance in the private market.

(4) The Medicaid program shall provide for eligibility for persons as required by [Section] Subsection 26-18-3.9(2).

(5) [Subject to the requirements of Section 26-18-3.9(2) and (3), services] Services available for persons described in this section shall include required Medicaid services and may include one or more optional Medicaid services if those services are funded by the Legislature. [Subject to the requirements of Section 26-18-3.9(2), the] The department may also require persons described in [this section] Subsections (1) through (3) to meet an asset test.

Section 2. Section 26-18-3.9 is amended to read:

26-18-3.9. Expanding the Medicaid program.

[~~(1) Findings and purpose.~~]

[~~(a) Findings. The People of the State of Utah find that:~~]

[~~(i) Adequate medical care is crucial to the health and welfare of the residents of Utah;~~]

[~~(ii) It is essential that all Utahns have access to medical care, including preventive care, emergency services, and hospital care;~~]

[~~(iii) Utah's Medicaid program and CHIP provide care to Utahns who are unable to afford private health insurance and are not eligible for other health insurance. Medicaid and CHIP are vital parts of the Utah health care system and it is~~

essential that they continue to provide health care for the most vulnerable citizens of our state;]

[~~(iv) However, over 250,000 Utahns remain uninsured and do not have adequate access to health care. Over 100,000 of the uninsured would be covered by Medicaid if the State of Utah were to expand eligibility to all individuals who are in the federal optional Medicaid expansion population, as defined as of January 1, 2017;~~]

[~~(v) When people don't have access to care they are far more likely to develop chronic conditions, like diabetes or asthma, that often require expensive treatment for a patient's entire life, resulting in unnecessary suffering and driving up the cost of healthcare;~~]

[~~(vi) When medical providers provide care for which patients are not insured, the cost of that care is passed on to others, thus increasing the cost of medical care for all Utah residents;~~]

[~~(vii) It is critical to the survival of the Medicaid program that it remain adequately funded so that it can provide needed medical services to those who otherwise would not have access to care, and can compensate the providers who serve participants. The compensation to providers must be adequate to encourage providers to continue to treat patients on Medicaid; and]~~

[~~(viii) From moral, health and fiscal perspectives, protecting and expanding the Medicaid program in Utah is essential to maintaining the quality of life in our state.~~]

[~~(b) Purpose. The purpose of this measure is to preserve and strengthen medical care in the State of Utah by the following:~~]

[~~(i) Protecting Medicaid and CHIP so that they can continue to provide medical care to those who are currently eligible, and]~~

[~~(ii) Expanding Medicaid eligibility to adults who are in the federal optional Medicaid expansion population, as defined as of January 1, 2017.~~]

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services.

(b) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(2) (a) [Eligibility.] As set forth in Subsections (2)(~~a~~) through [(2)(d)] (5), eligibility criteria for the Medicaid program shall be [maintained as they existed on January 1, 2017 and also] expanded to cover additional low-income individuals.

[~~(a) The standards, methodologies, and procedures for determining eligibility for the~~

~~Medicaid program and CHIP shall be no more restrictive than the eligibility standards, methodologies, and procedures, respectively, that were in effect on January 1, 2017.]~~

~~(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26-18-415.~~

~~(c) The department may implement any provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.~~

~~(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:~~

~~(a) receives approval from CMS to:~~

~~(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;~~

~~(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and~~

~~(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);~~

~~(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:~~

~~(i) the Medicaid Expansion Fund;~~

~~(ii) county contributions to the nonfederal share of Medicaid expenditures; or~~

~~(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and~~

~~(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.~~

~~(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:~~

~~(i) receives approval from CMS to:~~

~~(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;~~

~~(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and~~

~~(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);~~

~~(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:~~

~~(A) the Medicaid Expansion Fund;~~

~~(B) county contributions to the nonfederal share of Medicaid expenditures; or~~

~~(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and~~

~~(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.~~

~~(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:~~

~~(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;~~

~~(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);~~

~~(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;~~

~~(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and~~

~~(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).~~

~~(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.~~

~~(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:~~

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26-18-18 and 63J-5-204, [beginning April 1, 2019,] and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance[, as those statutory and regulatory provisions and guidance existed on January 1, 2017], on the earlier of:

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

[(e) There shall be no caps on enrollment beyond those in place as of January 1, 2017.]

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection [(2)(b)] (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26-18-411.

[(3) Care and Services. For each enrollment group or category in the Medicaid program and CHIP, the categories of care or services and the types of benefits provided in each category shall be no more restrictive than the categories of care or services and the types of benefits provided on January 1, 2017. Such services and benefits shall be provided in sufficient amount, duration, and scope to achieve their purposes.]

[(4) Out-of-Pocket Costs. Any premium, beneficiary enrollment fee, and cost sharing requirement applicable to care and services described in this section, including but not limited

to co-pay, co-insurance, deductible, or out-of-pocket maximum, shall be no greater than those in effect on January 1, 2017.]

[(5) Provider payments.]

[(a) Payments to providers under the Medicaid program and CHIP for covered care and services shall be made at a rate not less than 100% of the payment rate that applied to such care and services on January 1, 2017, and shall increase annually at a rate not less than the region's Consumer Price Index.]

[(b) Managed care.]

[(i) If the department contracts with an accountable care organization or other organization to cover care and services under the Medicaid program or CHIP, a contract with that organization shall provide that the organization shall make payments to providers for items and services that are subject to the contract and that are furnished to individuals eligible for the Medicaid program or CHIP at a rate not less than 100% of the payment rate that at least one accountable care organization that contracted with the department paid for such care and services on January 1, 2017 (regardless of the manner in which such payments are made, including in the form of capitation or partial capitation), and that the minimum payment required by this provision will increase annually at a rate not less than the region's Consumer Price Index.]

[(ii) Payments by the department to accountable care organizations or such other organizations shall be sufficient for the organizations to comply with the provider payment rate requirements of this section.]

[(c) This subsection (5) shall not apply to physician reimbursement for drugs or devices.]

[(6) Nothing in this section shall prevent the people acting through initiative, the Legislature by statute, or the department by promulgating rules from:]

[(a) Expanding eligibility by adopting less restrictive eligibility standards, methodologies, or procedures than those permitted by Subsection (2);]

[(b) Expanding covered care and services by adding to the list, amount, duration, or scope of covered care and services required by Subsection (3);]

[(c) Reducing premiums, beneficiary enrollment fees, or cost sharing requirements below the maximum levels permitted by Subsection (4); or]

[(d) Increasing provider payments above the minimum payments required by Subsection (5).]

[(7) For purposes of this section:]

[(a) The "Medicaid program" means the Medicaid program defined by Section 26-18-2, including any waivers.]

[(b) The "Utah Children's Health Insurance Program" or "CHIP" means the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.]

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

- (i) the Medicaid Expansion Fund;
- (ii) county contributions to the nonfederal share of Medicaid expenditures; or
- (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

- (i) the department may reduce or eliminate optional Medicaid services under this chapter; and
- (ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid Expansion Fund; and
- (iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the Department of Health, Department of Human Services, and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(ii) the Division of Finance shall reduce allotments to the Department of Health, Department of Human Services, and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

[~~(8)~~] (6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

[~~(9)~~] This section and Section 26-18-3.1(4) shall not apply to CHIP in any year for which the State

Children's Health Insurance Program, as described in Subchapter XXI, 42 U.S.C. Sec. 1397aa et seq., is not extended at the federal level.]

[~~(10)~~] (7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under [Subsection (2)(b)] a Medicaid expansion.

[~~(11)~~] Severability. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of this section shall be given effect without the invalid provision or application, and to this end the provisions of this section are severable.]

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

- (a) the number of individuals who enrolled in the Medicaid expansion;
- (b) costs to the state for the Medicaid expansion;
- (c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years; and
- (d) recommendations to control costs of the Medicaid expansion.

**Section 3. Section 26-18-415 is amended to read:
26-18-415. Medicaid waiver expansion.**

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(b) "Expansion population" means individuals:

- (i) whose household income is less than 95% of the federal poverty level; and
- (ii) who are not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network program, on May 8, 2018.

(c) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(d) "Medicaid waiver expansion" means [~~a Medicaid expansion~~] an expansion of the Medicaid program in accordance with this section.

(2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

- (i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;
- (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (1) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section 26-36b-208;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4) (a) In consultation with the department, Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(b) As part of the provision described in Subsection (2)(b)(iv), the department shall apply for a waiver to permit the creation of an integrated delivery system:

(i) for any geographic area that expresses interest in integrating the delivery of services under Subsection (2)(b)(iv); and

(ii) in which the department:

(A) may permit a local mental health authority to integrate the delivery of behavioral health services and physical health services;

(B) may permit a county, local mental health authority, or Medicaid accountable care organization to integrate the delivery of behavioral health services and physical health services to select groups within the population that are newly eligible under the Medicaid waiver expansion; and

(C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate payments for behavioral health services and physical health services to plans or providers.

(5) (a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

(a) the number of individuals who enrolled in the Medicaid waiver program;

(b) costs to the state for the Medicaid waiver program;

(c) estimated costs for the current and following state fiscal year; and

(d) recommendations to control costs of the Medicaid waiver expansion.

Section 4. Section 26-36b-103 is amended to read:

26-36b-103. Definitions.

As used in this chapter:

(1) "Assessment" means the inpatient hospital assessment established by this chapter.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Enhancement waiver program" means the program established by the Primary Care Network enhancement waiver program described in Section 26-18-416.

(6) "Health coverage improvement program" means the health coverage improvement program described in Section 26-18-411.

(7) "Hospital share" means the hospital share described in Section 26-36b-203.

(8) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the

department under the provisions of Section 26-18-405.

(9) "Medicaid waiver expansion" means a Medicaid expansion in accordance with Section 26-18-3.9 or 26-18-415.

(10) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(11) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(12) (a) "Private hospital" means:

(i) a general acute hospital, as defined in Section 26-21-2, that is privately owned and operating in the state; and

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital whose inpatient admissions are predominantly for:

(A) rehabilitation;

(B) psychiatric care;

(C) chemical dependency services; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section 62A-2-101.

(13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

(14) "Upper payment limit gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. Sec. 447.321.

Section 5. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(g) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

(h) revenues collected from the sales tax described in Subsection 59-12-103(14);

~~(h)~~ (i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

~~(i)~~ (j) interest earned on money in the fund; and

~~(j)~~ (k) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) ~~the~~ a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 6. Section 26-36c-102 is amended to read:

26-36c-102. Definitions.

As used in this chapter:

(1) "Assessment" means the Medicaid expansion hospital assessment established by this chapter.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Hospital share" means the hospital share described in Section 26-36c-203.

(6) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(7) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(8) "Medicaid waiver expansion" means the same as that term is defined in Section 26-18-415.

(9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(10) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(11) (a) "Private hospital" means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; or

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital for which inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section 62A-2-101.

(12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in accordance with Subsection 26-18-3.9(5).

~~(12)~~ (13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 7. Section 26-36c-201 is amended to read:

26-36c-201. Assessment.

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of:

~~(a) beginning upon the later of CMS approval of;~~

(i) ~~the waiver for the Medicaid waiver expansion~~ April 1, 2019; and

(ii) CMS approval of the assessment under this chapter;

(b) in the amount designated in Sections 26-36c-204 and 26-36c-205; and

(c) in accordance with Section 26-36c-202.

~~(2) [Subject to Subsection 26-36c-202(4), the] The assessment imposed by this chapter is due and payable [on the last day of each quarter] in accordance with Subsection 26-36c-202(4).~~

~~[(3) The first quarterly payment is not due until at least three months after the effective date of the coverage provided through the Medicaid waiver expansion.]~~

Section 8. Section 26-36c-203 is amended to read:

26-36c-203. Hospital share.

(1) The hospital share is:

(a) for the period from April 1, 2019, through June 30, 2020, \$15,000,000; and

(b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid [waiver] expansion, after deducting appropriate offsets and savings expected as a result of implementing the qualified Medicaid [waiver] expansion, including:

(i) savings from:

~~[(a)]~~ (A) the Primary Care Network program;

~~[(b)]~~ (B) the health coverage improvement program, as defined in Section 26-18-411;

~~[(c)]~~ (C) the state portion of inpatient prison medical coverage;

~~[(d)]~~ (D) behavioral health coverage; and

~~[(e)]~~ (E) county contributions to the non-federal share of Medicaid expenditures[-]; and

(ii) any funds appropriated to the Medicaid Expansion Fund.

(2) (a) ~~[The] Beginning July 1, 2020, the hospital share is capped at no more than [\$25,000,000] \$15,000,000 annually.~~

(b) ~~[The] Beginning July 1, 2020, the division shall prorate the cap specified in Subsection (2)(a) in any year in which the qualified Medicaid [waiver] expansion is not in effect for the full fiscal year.~~

Section 9. Section 26-36c-204 is amended to read:

26-36c-204. Hospital financing.

(1) Private hospitals shall be assessed under this chapter for the portion of the hospital share described in Section 26-36c-209.

(2) The department shall, on or before October 15, ~~[2019] 2020~~, and on or before October 15 of each subsequent year, produce a report that calculates the state's net cost of the qualified Medicaid [waiver] expansion.

(3) If the assessment collected in the previous fiscal year is above or below the hospital share for

private hospitals for the previous fiscal year, the division shall apply the underpayment or overpayment of the assessment by the private hospitals to the fiscal year in which the report is issued.

Section 10. Section 26-36c-206 is amended to read:

26-36c-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of ~~[CMS approval of]~~:

(a) ~~[the waiver for the Medicaid waiver expansion]~~ April 1, 2019; or

(b) CMS approval of the assessment for private hospitals in this chapter.

(3) The intergovernmental transfer is apportioned between the non-state government hospitals as follows:

(a) the state teaching hospital shall pay for the portion of the hospital share described in Section 26-36c-209; and

(b) non-state government hospitals shall pay for the portion of the hospital share described in Section 26-36c-209.

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 11. Section 26-36c-208 is amended to read:

26-36c-208. Hospital reimbursement.

(1) If the qualified Medicaid ~~[waiver]~~ expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include in a contract to provide benefits under the qualified Medicaid ~~[waiver]~~ expansion a requirement that the accountable care organization reimburse hospitals in the accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) If the qualified Medicaid ~~[waiver]~~ expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits the department or a Medicaid accountable care

organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 12. Section 26-36c-209 is amended to read:

26-36c-209. Hospital financing of the hospital share.

(1) For the first two full fiscal years that the assessment is in effect, the department shall:

(a) assess private hospitals under this chapter for 69% of the hospital share ~~[for the Medicaid waiver expansion]~~;

(b) require the state teaching hospital to make an intergovernmental transfer under this chapter for 30% of the hospital share ~~[for the Medicaid waiver expansion]~~; and

(c) require non-state government hospitals to make an intergovernmental transfer under this chapter for 1% of the hospital share ~~[for the Medicaid waiver expansion]~~.

(2) (a) At the beginning of the third full fiscal year that the assessment is in effect, and at the beginning of each subsequent fiscal year, the department may set a different percentage share for private hospitals, the state teaching hospital, and non-state government hospitals by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with input from private hospitals and private teaching hospitals.

(b) If the department does not set a different percentage share under Subsection (2)(a), the percentage shares in Subsection (1) shall apply.

Section 13. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

<p>(i) gas;</p> <p>(ii) electricity;</p> <p>(iii) heat;</p> <p>(iv) coal;</p> <p>(v) fuel oil; or</p> <p>(vi) other fuels;</p> <p>(d) sales of the following for residential use:</p> <p>(i) gas;</p> <p>(ii) electricity;</p> <p>(iii) heat;</p> <p>(iv) coal;</p> <p>(v) fuel oil; or</p> <p>(vi) other fuels;</p> <p>(e) sales of prepared food;</p> <p>(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;</p> <p>(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:</p> <p>(i) the tangible personal property; and</p> <p>(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:</p> <p>(A) any parts are actually used in the repairs or renovations of that tangible personal property; or</p> <p>(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;</p> <p>(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;</p> <p>(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;</p> <p>(j) amounts paid or charged for laundry or dry cleaning services;</p>	<p>(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:</p> <p>(i) stored;</p> <p>(ii) used; or</p> <p>(iii) otherwise consumed;</p> <p>(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:</p> <p>(i) stored;</p> <p>(ii) used; or</p> <p>(iii) consumed; and</p> <p>(m) amounts paid or charged for a sale:</p> <p>(i) (A) of a product transferred electronically; or</p> <p>(B) of a repair or renovation of a product transferred electronically; and</p> <p>(ii) regardless of whether the sale provides:</p> <p>(A) a right of permanent use of the product; or</p> <p>(B) a right to use the product that is less than a permanent use, including a right:</p> <p>(I) for a definite or specified length of time; and</p> <p>(II) that terminates upon the occurrence of a condition.</p> <p>(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:</p> <p>(i) a state tax imposed on the transaction at a tax rate equal to the sum of:</p> <p>(A) (I) through March 31, 2019, 4.70%; and</p> <p>(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a); and</p> <p>(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and</p> <p>(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and</p> <p>(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.</p> <p>(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:</p>
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(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation

under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of

business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

- (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water

Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal

property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be expended or deposited in accordance with Subsections (4) through (12) and (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

(14) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue ~~[generated by a 0.15% tax rate imposed]~~ collected from the rate described in Subsection (14)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) ~~[as dedicated credits to the Division of Health Care Financing]~~ into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after ~~[fiscal year 2019-20]~~ July 1, 2019, annually transfer the amount of revenue ~~[generated by a 0.15% tax rate]~~ collected from the rate described in Subsection (14)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) ~~[as dedicated credits to the Division of Health Care Financing]~~ into the Medicaid Expansion Fund created in Section 26-36b-208.

~~[(c) The revenue described in Subsection (14)(b) that the Division of Finance transfers to the Division of Health Care Financing as dedicated credits shall be expended for the following uses:]~~

~~[(i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and 26-18-3.9(2)(b);]~~

~~[(ii) if revenue remains after the use specified in Subsection (14)(c)(i), other measures required by Section 26-18-3.9; and]~~

~~[(iii) if revenue remains after the uses specified in Subsections (14)(c)(i) and (ii), other measures described in Title 26, Chapter 18, Medical Assistance Act.]~~

Section 14. Fiscal Year 2019 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 12(a). Operating and Capital Budgets.

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

ITEM 1

To Department of Health -- Medicaid Services

From General Fund, One-time \$14,900,000

Schedule of Programs:

Other Services	\$18,000,000
Medicaid Expansion 2017	\$3,100,000

The Legislature intends that the Department of Health use the funding increase provided for the Medicaid Expansion 2017 program for any increase in Medicaid enrollment in the base program resulting from a Medicaid expansion.

Subsection 12(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 2

To Department of Health -- Medicaid Expansion Fund

From General Fund, One-time \$38,200,000

From General Fund Restricted - Medicaid Restricted Account,

One-time	\$1,200,000
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Schedule of Programs:

Medicaid Expansion Fund	\$39,400,000
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Section 13. Fiscal Year 2020 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 13(a). Operating and Capital Budgets.

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

ITEM 3

To Department of Health -- Children's Health Insurance Program

From General Fund, One-time (\$18,663,900)

Schedule of Programs:

Children's Health Insurance Program (\$18,663,900)

ITEM 4

To Department of Health -- Medicaid Services

From General Fund Restricted - Medicaid Restricted Account,

One-time \$16,800,000

Schedule of Programs:

Medicaid Expansion 2017 \$16,800,000

The Legislature intends that the Department of Health use the funding provided for any increase in Medicaid enrollment in the base program resulting from a Medicaid expansion.

Subsection 13(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 5

To Department of Health -- Medicaid Expansion Fund

From General Fund \$15,000,000

Schedule of Programs:

Medicaid Expansion Fund \$15,000,000

Section 15. Effective date.

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

CHAPTER 2

H. B. 1

Passed February 6, 2019
Approved February 19, 2019
Effective July 1, 2019

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Michael K. McKell
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education agencies and institutions;
provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates (\$120,100) in operating and capital budgets for fiscal year 2019, all of which is from the Education Fund.

This bill appropriates \$1,982,510,500 in operating and capital budgets for fiscal year 2020, including:

- \$330,659,400 from the General Fund;
\$766,608,400 from the Education Fund;
\$885,242,700 from various sources as detailed in this bill.

This bill appropriates \$16,500,000 in restricted fund and account transfers for fiscal year 2020, all of which is from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated

for the use and support of the government of the state of Utah.

WEBER STATE UNIVERSITY

Item 1

To Weber State University - Education and General
From Education Fund, One-Time (103,000)
Schedule of Programs:
Operations and Maintenance (103,000)

SOUTHERN UTAH UNIVERSITY

Item 2

To Southern Utah University - Education and General
From Education Fund, One-Time (36,300)
Schedule of Programs:
Operations and Maintenance (36,300)

UTAH VALLEY UNIVERSITY

Item 3

To Utah Valley University - Education and General
From Education Fund, One-Time 19,200
Schedule of Programs:
Operations and Maintenance 19,200

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 4

To University of Utah - Education and General
From General Fund 25,368,200
From Education Fund 239,456,000
From Education Fund, One-Time (473,400)
From Dedicated Credits Revenue . . . 298,502,100
From Education Fund Restricted -
Performance Funding Rest. Acct. 1,872,900
From Beginning Nonlapsing Balances . . 9,020,400
From Closing Nonlapsing Balances . . . (9,020,400)
Schedule of Programs:
Education and General 559,010,700
Operations and Maintenance 5,715,100

Item 5

To University of Utah -
Educationally Disadvantaged
From General Fund 612,100
From Education Fund 103,600
From Revenue Transfers 34,500
From Beginning Nonlapsing Balances . . . 298,800
From Closing Nonlapsing Balances (298,800)
Schedule of Programs:
Educationally Disadvantaged 750,200

Item 6

To University of Utah - School of Medicine

From General Fund 906,100
 From Education Fund 34,914,700
 From Dedicated Credits Revenue 27,000,000
 From General Fund Restricted -
 Cigarette Tax Restricted Account 2,800,000
 From Beginning Nonlapsing Balances . . 9,132,500
 From Closing Nonlapsing Balances . . . (9,132,500)
 Schedule of Programs:
 School of Medicine 65,620,800

Item 7

To University of Utah - Cancer
 Research and Treatment
 From General Fund 8,002,100
 From General Fund Restricted -
 Cigarette Tax Restricted Account 2,000,000
 From Beginning Nonlapsing Balances . . . 188,700
 From Closing Nonlapsing Balances (188,700)
 Schedule of Programs:
 Cancer Research and Treatment . . . 10,002,100

Item 8

To University of Utah - University Hospital
 From General Fund 3,866,400
 From Education Fund 1,387,500
 From Dedicated Credits Revenue 455,800
 From Beginning Nonlapsing Balances . . . 182,100
 From Closing Nonlapsing Balances (182,100)
 Schedule of Programs:
 University Hospital 5,120,800
 Miners' Hospital 588,900

Item 9

To University of Utah - School of Dentistry
 From General Fund 481,000
 From Education Fund 747,500
 From Dedicated Credits Revenue 4,000,000
 From Beginning Nonlapsing Balances . . . 244,700
 From Closing Nonlapsing Balances (244,700)
 Schedule of Programs:
 School of Dentistry 5,228,500

Item 10

To University of Utah - Public Service
 From General Fund 155,800
 From Education Fund 2,079,900
 From Beginning Nonlapsing Balances . . . 271,500
 From Closing Nonlapsing Balances (271,500)
 Schedule of Programs:
 Seismograph Stations 760,500
 Natural History Museum of Utah 1,348,300
 State Arboretum 126,900

Item 11

To University of Utah -
 Statewide TV Administration
 From General Fund 2,095,300
 From Education Fund 576,600
 From Beginning Nonlapsing Balances 60,500
 From Closing Nonlapsing Balances (60,500)
 Schedule of Programs:
 Public Broadcasting 2,671,900

Item 12

To University of Utah - Poison Control Center
 From General Fund 2,843,700
 From Beginning Nonlapsing Balances 1,300
 From Closing Nonlapsing Balances (1,300)
 Schedule of Programs:
 Poison Control Center 2,843,700

Item 13

To University of Utah - Center on Aging
 From General Fund 111,600
 From Beginning Nonlapsing Balances 10,800
 From Closing Nonlapsing Balances (10,800)
 Schedule of Programs:
 Center on Aging 111,600

Item 14

To University of Utah - Rocky Mountain Center for
 Occupational and Environmental Health
 From General Fund Restricted -
 Workplace Safety Account 169,400
 From Beginning Nonlapsing Balances 9,900
 From Closing Nonlapsing Balances (9,900)
 Schedule of Programs:
 Center for Occupational and
 Environmental Health 169,400

UTAH STATE UNIVERSITY

Item 15

To Utah State University - Education and General
 From General Fund 83,193,400
 From Education Fund 68,028,700
 From Education Fund, One-Time (211,700)
 From Dedicated Credits Revenue 123,468,600
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,343,400
 From Revenue Transfers 108,900
 From Beginning Nonlapsing
 Balances 17,740,000
 From Closing Nonlapsing Balances . . . (17,740,000)
 Schedule of Programs:
 Education and General 266,224,600
 USU - School of Veterinary
 Medicine 5,268,400
 Operations and Maintenance 4,438,300

Item 16

To Utah State University - USU -
 Eastern Education and General
 From General Fund 41,000
 From Education Fund 12,215,900
 From Dedicated Credits Revenue 3,150,000
 From Revenue Transfers (46,000)
 From Beginning Nonlapsing Balances . . . 1,030,500
 From Closing Nonlapsing Balances (1,030,500)
 Schedule of Programs:
 USU - Eastern Education and
 General 15,360,900

Item 17

To Utah State University -
 Educationally Disadvantaged
 From General Fund 100,300
 From Revenue Transfers (300)
 Schedule of Programs:
 Educationally Disadvantaged 100,000

Item 18

To Utah State University - USU -
 Eastern Educationally Disadvantaged
 From General Fund 103,100
 From Education Fund 1,900
 From Beginning Nonlapsing Balances 40,500
 From Closing Nonlapsing Balances (40,500)
 Schedule of Programs:
 USU - Eastern Educationally
 Disadvantaged 105,000

Item 19

To Utah State University - USU - Eastern
Career and Technical Education
From General Fund 170,100
From Education Fund 1,273,800
From Revenue Transfers (500)
From Beginning Nonlapsing Balances 89,400
From Closing Nonlapsing Balances (89,400)
Schedule of Programs:
USU - Eastern Career and Technical
Education 1,443,400

Item 20

To Utah State University - Regional Campuses
From General Fund 4,480,000
From Education Fund 10,462,200
From Dedicated Credits Revenue 26,428,000
From General Fund Restricted -
Infrastructure and Economic
Diversification Investment Account 250,000
From Revenue Transfers (681,600)
From Beginning Nonlapsing Balances . 4,072,200
From Closing Nonlapsing Balances ... (4,072,200)
Schedule of Programs:
Administration 5,279,600
Uintah Basin Regional Campus 9,353,200
Brigham City Regional Campus 14,235,100
Tooele Regional Campus 12,070,700

Item 21

To Utah State University - Water
Research Laboratory
From General Fund 1,323,900
From Education Fund 854,300
From General Fund Restricted -
Mineral Lease 1,745,800
From General Fund Restricted -
Land Exchange Distribution Account ... 66,400
From Revenue Transfers (18,600)
From Beginning Nonlapsing Balances . 2,713,200
From Closing Nonlapsing Balances ... (2,713,200)
Schedule of Programs:
Water Research Laboratory 3,971,800

Item 22

To Utah State University - Agriculture
Experiment Station
From General Fund 958,200
From Education Fund 12,492,200
From Federal Funds 1,813,800
From Revenue Transfers 25,600
From Beginning Nonlapsing Balances . 3,243,700
From Closing Nonlapsing Balances ... (3,243,700)
Schedule of Programs:
Agriculture Experiment Station 15,289,800

Item 23

To Utah State University - Cooperative Extension
From General Fund 1,010,000
From Education Fund 14,443,300
From Federal Funds 2,088,500
From Revenue Transfers 625,900
From Beginning Nonlapsing Balances . 7,250,300
From Closing Nonlapsing Balances ... (7,250,300)
Schedule of Programs:
Cooperative Extension 18,167,700

Item 24

To Utah State University - Prehistoric Museum
From General Fund 145,100

From Education Fund 323,300
From Revenue Transfers 1,000
From Beginning Nonlapsing Balances 22,000
From Closing Nonlapsing Balances (22,000)
Schedule of Programs:
Prehistoric Museum 469,400

Item 25

To Utah State University - Blanding Campus
From General Fund 1,635,700
From Education Fund 1,352,900
From Dedicated Credits Revenue 1,330,000
From Revenue Transfers (14,400)
From Beginning Nonlapsing Balances ... 209,900
From Closing Nonlapsing Balances (209,900)
Schedule of Programs:
Blanding Campus 4,304,200

WEBER STATE UNIVERSITY**Item 26**

To Weber State University - Education
and General
From General Fund 63,489,200
From Education Fund 26,654,600
From Education Fund, One-Time (364,000)
From Dedicated Credits Revenue 75,459,100
From Education Fund Restricted -
Performance Funding Rest. Acct. 713,400
From Beginning Nonlapsing Balances . 4,283,000
From Closing Nonlapsing Balances ... (4,283,000)
Schedule of Programs:
Education and General 164,000,700
Operations and Maintenance 1,951,600

Item 27

To Weber State University -
Educationally Disadvantaged
From General Fund 296,700
From Education Fund 91,300
From Beginning Nonlapsing Balances ... 150,300
From Closing Nonlapsing Balances (150,300)
Schedule of Programs:
Educationally Disadvantaged 388,000

SOUTHERN UTAH UNIVERSITY**Item 28**

To Southern Utah University - Education
and General
From General Fund 12,205,800
From Education Fund 29,840,800
From Dedicated Credits Revenue 48,208,000
From Education Fund Restricted -
Performance Funding Rest. Acct. 319,800
From Beginning Nonlapsing Balances . 5,169,200
From Closing Nonlapsing Balances ... (5,169,200)
Schedule of Programs:
Education and General 89,887,200
Operations and Maintenance 687,200

Item 29

To Southern Utah University -
Educationally Disadvantaged
From General Fund 81,400
From Education Fund 14,500
From Beginning Nonlapsing Balances 9,700
From Closing Nonlapsing Balances (9,700)
Schedule of Programs:
Educationally Disadvantaged 95,900

Item 30

To Southern Utah University -
 Shakespeare Festival
 From General Fund 9,100
 From Education Fund 12,500
 Schedule of Programs:
 Shakespeare Festival 21,600

Item 31

To Southern Utah University - Rural Development
 From General Fund 82,700
 From Education Fund 24,700
 From Beginning Nonlapsing Balances 42,000
 From Closing Nonlapsing Balances (42,000)
 Schedule of Programs:
 Rural Development 107,400

UTAH VALLEY UNIVERSITY

Item 32

To Utah Valley University - Education and General
 From General Fund 59,301,600
 From Education Fund 57,256,600
 From Dedicated Credits Revenue ... 136,545,700
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,000,900
 From Beginning Nonlapsing
 Balances 22,339,400
 From Closing Nonlapsing Balances . (22,339,400)
 Schedule of Programs:
 Education and General 249,522,300
 Operations and Maintenance 4,582,500

Item 33

To Utah Valley University -
 Educationally Disadvantaged
 From General Fund 138,900
 From Education Fund 40,400
 From Beginning Nonlapsing Balances 12,800
 From Closing Nonlapsing Balances (12,800)
 Schedule of Programs:
 Educationally Disadvantaged 179,300

SNOW COLLEGE

Item 34

To Snow College - Education and General
 From General Fund 1,771,000
 From Education Fund 24,554,100
 From Dedicated Credits Revenue ... 11,856,100
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 180,900
 From Beginning Nonlapsing Balances . 3,353,600
 From Closing Nonlapsing Balances ... (3,353,600)
 Schedule of Programs:
 Education and General 37,546,400
 Operations and Maintenance 815,700

Item 35

To Snow College - Educationally Disadvantaged
 From General Fund 32,000
 Schedule of Programs:
 Educationally Disadvantaged 32,000

Item 36

To Snow College - Career and Technical Education
 From General Fund 1,256,200
 From Education Fund 166,600
 Schedule of Programs:
 Career and Technical Education 1,422,800

DIXIE STATE UNIVERSITY

Item 37

To Dixie State University - Education and General
 From General Fund 2,860,300
 From Education Fund 37,474,800
 From Dedicated Credits Revenue 32,765,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 289,800
 From Revenue Transfers 150,000
 From Beginning Nonlapsing Balances . 2,915,400
 From Closing Nonlapsing Balances ... (2,915,400)
 Schedule of Programs:
 Education and General 71,908,200
 Operations and Maintenance 1,631,700

Item 38

To Dixie State University -
 Educationally Disadvantaged
 From General Fund 25,500
 Schedule of Programs:
 Educationally Disadvantaged 25,500

Item 39

To Dixie State University -
 Zion Park Amphitheater
 From General Fund 47,000
 From Education Fund 10,200
 From Dedicated Credits Revenue 34,200
 From Beginning Nonlapsing Balances 4,500
 From Closing Nonlapsing Balances (4,500)
 Schedule of Programs:
 Zion Park Amphitheater 91,400

SALT LAKE COMMUNITY COLLEGE

Item 40

To Salt Lake Community College - Education
 and General
 From General Fund 10,737,300
 From Education Fund 83,927,200
 From Dedicated Credits Revenue 59,031,900
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 778,900
 From Beginning Nonlapsing Balances . 4,907,800
 From Closing Nonlapsing Balances ... (4,907,800)
 Schedule of Programs:
 Education and General 152,782,300
 Operations and Maintenance 1,693,000

Item 41

To Salt Lake Community College -
 Educationally Disadvantaged
 From General Fund 178,400
 From Beginning Nonlapsing Balances ... (1,800)
 From Closing Nonlapsing Balances 1,800
 Schedule of Programs:
 Educationally Disadvantaged 178,400

Item 42

To Salt Lake Community College -
 School of Applied Technology
 From General Fund 4,140,200
 From Education Fund 2,706,200
 From Dedicated Credits Revenue 1,028,600
 From Beginning Nonlapsing Balances ... 756,700
 From Closing Nonlapsing Balances (756,700)
 Schedule of Programs:
 School of Applied Technology 7,875,000

STATE BOARD OF REGENTS

Item 43

To State Board of Regents - Administration	
From General Fund	3,067,900
From Education Fund	810,300
From Beginning Nonlapsing Balances	2,149,600
From Closing Nonlapsing Balances	(2,149,600)
Schedule of Programs:	
Administration	3,878,200

Item 44

To State Board of Regents - Student Assistance	
From General Fund	7,584,500
From Education Fund	20,319,700
From Beginning Nonlapsing Balances	115,800
From Closing Nonlapsing Balances	(115,800)
Schedule of Programs:	
Regents' Scholarship	16,062,500
Student Financial Aid	3,252,800
Minority Scholarships	36,200
New Century Scholarships	1,983,900
Success Stipend	1,391,200
Western Interstate Commission for Higher Education	839,900
T.H. Bell Teaching Incentive Loans Program	1,477,700
Veterans Tuition Gap Program	125,000
Public Safety Officer Career Advancement Reimbursement	200,000
Student Prosperity Savings Program	10,000
Talent Development Incentive Loan Program	2,525,000

Item 45

To State Board of Regents - Student Support	
From General Fund	688,200
From Education Fund	877,900
From Beginning Nonlapsing Balances	35,400
From Closing Nonlapsing Balances	(35,400)
Schedule of Programs:	
Services for Hearing Impaired Students	796,300
Concurrent Enrollment	475,400
Articulation Support	294,400

Item 46

To State Board of Regents - Technology	
From General Fund	3,997,200
From Education Fund	3,986,300
From Beginning Nonlapsing Balances	73,400
From Closing Nonlapsing Balances	(73,400)
Schedule of Programs:	
Higher Education Technology Initiative	4,573,500
Utah Academic Library Consortium	3,410,000

Item 47

To State Board of Regents - Economic Development	
From General Fund	352,300
From Education Fund	25,700
From Beginning Nonlapsing Balances	317,600
From Closing Nonlapsing Balances	(317,600)
Schedule of Programs:	
Engineering Loan Repayment	38,400
Economic Development Initiatives	339,600

Item 48

To State Board of Regents - Education Excellence	
From Education Fund	925,900

From Education Fund Restricted - Performance Funding Rest. Acct.	8,350,000
From Beginning Nonlapsing Balances	1,780,700
From Closing Nonlapsing Balances	(1,780,700)
Schedule of Programs:	
Education Excellence	925,900
Performance Funding	8,350,000

Item 49

To State Board of Regents - Math Competency Initiative	
From Education Fund	1,925,800
From Beginning Nonlapsing Balances	1,099,000
From Closing Nonlapsing Balances	(1,099,000)
Schedule of Programs:	
Math Competency Initiative	1,925,800

Item 50

To State Board of Regents - Medical Education Council	
From General Fund	1,821,700
From Dedicated Credits Revenue	500,000
From Beginning Nonlapsing Balances	398,100
From Closing Nonlapsing Balances	(398,100)
Schedule of Programs:	
Medical Education Council	2,321,700

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 51

To Utah System of Technical Colleges - Bridgerland Technical College	
From General Fund	4,217,400
From Education Fund	9,844,600
From Dedicated Credits Revenue	1,370,800
From Beginning Nonlapsing Balances	7,200
From Closing Nonlapsing Balances	(7,200)
Schedule of Programs:	
Bridgerland Tech Equipment	354,500
Bridgerland Technical College	15,078,300

Item 52

To Utah System of Technical Colleges - Davis Technical College	
From General Fund	4,258,100
From Education Fund	12,568,000
From Education Fund, One-Time	(661,300)
From Dedicated Credits Revenue	1,850,400
From Beginning Nonlapsing Balances	249,200
From Closing Nonlapsing Balances	(33,400)
Schedule of Programs:	
Davis Tech Equipment	415,400
Davis Technical College	17,815,600

Item 53

To Utah System of Technical Colleges - Dixie Technical College	
From General Fund	84,200
From Education Fund	7,612,000
From Dedicated Credits Revenue	351,100
Schedule of Programs:	
Dixie Tech Equipment	164,400
Dixie Technical College	7,882,900

Item 54

To Utah System of Technical Colleges - Mountainland Technical College	
From Education Fund	12,931,500
From Education Fund, One-Time	(683,700)
From Dedicated Credits Revenue	1,140,400
Schedule of Programs:	

Mountainland Tech Equipment 281,800
 Mountainland Technical College . . . 13,106,400

Performance Funding Restricted
 Account 16,500,000

Item 55

To Utah System of Technical
 Colleges - Ogden-Weber Technical College
 From General Fund 5,152,300
 From Education Fund 10,492,900
 From Dedicated Credits Revenue 1,695,700
 From Beginning Nonlapsing Balances 16,500
 Schedule of Programs:
 Ogden-Weber Tech Equipment 387,500
 Ogden-Weber Technical College 16,969,900

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

Item 56

To Utah System of Technical Colleges -
 Southwest Technical College
 From General Fund 164,400
 From Education Fund 5,318,900
 From Dedicated Credits Revenue 548,200
 Schedule of Programs:
 Southwest Tech Equipment 147,700
 Southwest Technical College 5,883,800

Item 57

To Utah System of Technical Colleges -
 Tooele Technical College
 From General Fund 861,500
 From Education Fund 3,423,100
 From Dedicated Credits Revenue 248,300
 Schedule of Programs:
 Tooele Tech Equipment 152,200
 Tooele Technical College 4,380,700

Item 58

To Utah System of Technical Colleges -
 Uintah Basin Technical College
 From General Fund 1,302,800
 From Education Fund 6,948,300
 From Dedicated Credits Revenue 434,000
 From Beginning Nonlapsing Balances . . . (10,000)
 Schedule of Programs:
 Uintah Basin Tech Equipment 239,900
 Uintah Basin Technical College 8,435,200

Item 59

To Utah System of Technical Colleges -
 USTC Administration
 From General Fund 2,850,500
 From Education Fund 7,502,800
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,650,000
 Schedule of Programs:
 Administration 4,036,100
 Custom Fit 3,899,800
 Equipment 2,417,400
 Performance Funding 1,650,000

Subsection 2(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 60

To Performance Funding Restricted Account
 From Education Fund 16,500,000
 Schedule of Programs:

CHAPTER 3

H. B. 4

Passed February 6, 2019
Approved February 19, 2019
Effective July 1, 2019

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Val K. Potter
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$26,721,400 in operating and capital budgets for fiscal year 2019.

This bill appropriates \$3,178,200 in expendable funds and accounts for fiscal year 2019.

This bill appropriates (\$265,000) in business-like activities for fiscal year 2019.

This bill appropriates (\$1,764,900) in restricted fund and account transfers for fiscal year 2019.

This bill appropriates (\$31,000) in fiduciary funds for fiscal year 2019.

This bill appropriates \$324,460,500 in operating and capital budgets for fiscal year 2020, including:

- \$90,654,800 from the General Fund;
\$22,155,400 from the Education Fund;
\$211,650,300 from various sources as detailed in this bill.

This bill appropriates \$22,954,000 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$265,000 in business-like activities for fiscal year 2020.

This bill appropriates \$46,051,900 in restricted fund and account transfers for fiscal year 2020, including:

- \$44,176,800 from the General Fund;
\$1,875,100 from various sources as detailed in this bill.

This bill appropriates \$22,374,300 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

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

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 1

To Department of Alcoholic Beverage Control - DABC Operations

Under Section 63J-1-603 of the Utah Code, the Legislature intends that \$500,000 of the appropriation provided to the Department of Alcoholic Beverage Control shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to implementation of D365.

Item 2

To Department of Alcoholic Beverage Control - Parents Empowered

From Beginning Nonlapsing Balances . . . 41,000
Schedule of Programs:
Parents Empowered 41,000

DEPARTMENT OF COMMERCE

Item 3

To Department of Commerce - Building Inspector Training

From Dedicated Credits Revenue, One-Time 72,600
From Beginning Nonlapsing Balances . . . 448,200
From Closing Nonlapsing Balances (520,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes and Land Use Education Funds received by the Division of Occupational and Professional Licensing in Laws of Utah 2018 Chapter 15 Item 27 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds shall be consistent with the statutory guidelines for this line item.

Item 4

To Department of Commerce - Commerce General Regulation

From Beginning Nonlapsing Balances . 1,449,700
From Closing Nonlapsing Balances 200,000
Schedule of Programs:
Administration (213,700)
Consumer Protection (200)
Occupational and Professional Licensing 918,800
Office of Consumer Services 445,000
Public Utilities 502,100

Real Estate (2,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$500,000 of the appropriations provided to the Department of Commerce under Laws of Utah 2018 Chapter 15 Item 28, shall not lapse at the close of Fiscal Year 2020. The use of any nonlapsing funds herein is limited to covering costs associated with opioid litigation undertaken by the state, including that contemplated by House Joint Resolution 12 “Joint Resolution Calling Upon the Attorney General to Sue Prescription Opioid Manufacturers.”

Item 5

To Department of Commerce - Office of Consumer Services Professional and Technical Services
 From Beginning Nonlapsing Balances . 3,242,200
 From Closing Nonlapsing Balances 296,900
 Schedule of Programs:
 Professional and Technical Services . 3,539,100

Item 6

To Department of Commerce - Public Utilities Professional and Technical Services
 From Beginning Nonlapsing Balances . 2,922,800
 From Closing Nonlapsing Balances 700,000
 Schedule of Programs:
 Professional and Technical Services . 3,622,800

**GOVERNOR’S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 7

To Governor’s Office of Economic Development - Administration
 From Beginning Nonlapsing Balances . . . 443,500
 From Closing Nonlapsing Balances 675,000
 Schedule of Programs:
 Administration 1,118,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-Administration in Laws of Utah 2018, Chapter 15, Item 31 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to: \$2,500,000 for: System Management Enhancements, \$350,000; Operations and Contractual Obligations, \$1,800,000; and Business Marketing, \$350,000.

Item 8

To Governor’s Office of Economic Development - Business Development
 From Dedicated Credits Revenue,
 One-Time 126,300
 From Beginning Nonlapsing Balances . (911,400)
 From Closing Nonlapsing Balances 2,332,400
 Schedule of Programs:
 Corporate Recruitment and Business Services (1,250,700)
 Outreach and International Trade . . . 2,798,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-Business Development in

Laws of Utah 2018, Chapter 15, Item 32 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to: Business Resource Centers \$175,000; Technology Commercialization and Innovation Program \$3,000,000; Business Cluster Support \$200,000; Procurement and Technical Assistance Center Contracts \$175,000; System Development \$500,000, Corporate Recruitment, Diplomacy and Compliance Contracts \$500,000; Rural Development Contracts and Support \$100,000.

Item 9

To Governor’s Office of Economic Development - Office of Tourism
 From Dedicated Credits Revenue,
 One-Time 50,000
 From Beginning Nonlapsing Balances . . . 572,000
 From Closing Nonlapsing Balances 4,965,200
 Schedule of Programs:
 Administration 115,300
 Film Commission 1,491,200
 Marketing and Advertising 3,634,400
 Operations and Fulfillment 346,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-Tourism in Laws of Utah 2018, Chapter 15, Item 33 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to Contractual Obligations and Support General Fund, \$1,500,000; Motion Picture Incentive Fund Cash Incentives and/or General Fund, \$1,675,000; Tourism Marketing Performance Fund, \$5,500,000.

Item 10

To Governor’s Office of Economic Development - Pass-Through
 From Beginning Nonlapsing Balances . . . 150,000
 Schedule of Programs:
 Pass-Through 150,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-Pass-Through in Laws of Utah 2018, Chapter 15, Item 34 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 11

To Governor’s Office of Economic Development - Pete Suazo Utah Athletics Commission
 From Beginning Nonlapsing Balances (100)
 From Closing Nonlapsing Balances 125,700
 Schedule of Programs:
 Pete Suazo Utah Athletics Commission 125,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-Pete Suazo Athletic Commission in Laws of Utah 2018, Chapter 15, Item 35 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing

funds is limited to the Pete Suazo Utah Athletic Program: \$150,000 for: Development of Pete Suazo staff and Commission on best practices.

Item 12

To Governor’s Office of Economic Development - STEM Action Center
 From Dedicated Credits Revenue,
 One-Time 1,521,000
 From Beginning Nonlapsing Balances (2,281,700)
 From Closing Nonlapsing Balances 4,435,200
 Schedule of Programs:
 STEM Action Center 195,300
 STEM Action Center - Grades 6-8 . . 1,015,100
 STEM College Ready Math 2,464,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development-STEM Action Center in Laws of Utah 2018, Chapter 15, Item 36 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to contractual obligations and support: \$4,600,000.

Item 13

To Governor’s Office of Economic Development - Utah Broadband Outreach Center
 From Beginning Nonlapsing Balances . . (27,100)
 From Closing Nonlapsing Balances 27,100

Item 14

To Governor’s Office of Economic Development - Utah Office of Outdoor Recreation
 From Beginning Nonlapsing Balances . . . 129,500
 Schedule of Programs:
 Outdoor Recreational Infrastructure
 Grant Program 129,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development - Office of Outdoor Recreation in Laws of Utah 2018, Chapter 15, Item 72 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing appropriated funds within the expendable special revenue fund is limited to contractual obligations and support.

Item 15

To Governor’s Office of Economic Development - Rural Employment Expansion Program
 From Closing Nonlapsing Balances . . . (1,500,000)
 Schedule of Programs:
 Rural Employment Expansion
 Program (1,500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development- Rural Economic Development Initiative in Laws of Utah 2018, Chapter 340 & 343, Item 159 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 16

To Governor’s Office of Economic Development - Talent Ready Utah Center
 From Dedicated Credits Revenue,
 One-Time 20,000
 Schedule of Programs:
 Talent Ready Utah Center 20,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor’s Office of Economic Development- Talent Ready Utah in Laws of Utah 2018, Chapter 423 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to contractual obligations and support.

DEPARTMENT OF HERITAGE AND ARTS

Item 17

To Department of Heritage and Arts - Administration
 From Beginning Nonlapsing Balances . . . 195,000
 From Closing Nonlapsing Balances (197,500)
 Schedule of Programs:
 Administrative Services (2,500)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$537,800 of the General Fund provided by Item 40, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2019. These funds are to be used for digital, IT, and innovation purposes.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$350,000 of the General Fund provided by Item 39, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2019. These funds are to be used for special projects, building maintenance, renovation, security, and planning efforts for a new collections center.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$268,300 of the General Fund provided by Item 39, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2019.

Item 18

To Department of Heritage and Arts - Division of Arts and Museums
 From Beginning Nonlapsing Balances . (948,100)
 From Closing Nonlapsing Balances 448,100
 Schedule of Programs:
 Community Arts Outreach (500,000)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$260,000 of the General Fund provided by Item 40, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2019. These funds are to be used for cultural outreach, community programming, and the purchase of art.

Item 19

To Department of Heritage and Arts - Division of Arts and Museums - Office of Museum Services

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$10,000 of the General Fund provided by Item 41, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Division of Museum Services not lapse at the close of Fiscal Year 2019. These funds are to be used for cultural outreach and community programming.

Item 20

To Department of Heritage and Arts - Historical Society

From Beginning Nonlapsing Balances .. (12,000)
From Closing Nonlapsing Balances 12,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$140,000 of the General Fund provided by Item 43, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Historical Society Division not lapse at the close of Fiscal Year 2019. These funds are to be used for publishing and promoting the Historical Quarterly magazine.

Item 21

To Department of Heritage and Arts - Indian Affairs

From Beginning Nonlapsing Balances ... 100,000
From Closing Nonlapsing Balances (100,000)

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of the General Fund and \$50,000 Dedicated Credits provided by Item 44, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Indian Affairs Division not lapse at the close of Fiscal Year 2019.

Item 22

To Department of Heritage and Arts - Pass-Through

From Beginning Nonlapsing Balances ... 205,000
Schedule of Programs:
Pass-Through 205,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Department of Heritage and Arts - Pass Through line shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 23

To Department of Heritage and Arts - State History

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to \$60,000 of the General Fund provided by Item 46, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - State History Division not lapse at the close of Fiscal Year 2019. These funds are to be used for operations, application maintenance, and community outreach.

Item 24

To Department of Heritage and Arts - State Library
From Beginning Nonlapsing Balances (200)
From Closing Nonlapsing Balances 200

Under section 63J1-1-603 of the Utah Code, the Legislature intends that up to \$230,000 of the General Fund provided by Item 47, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - State Library Division not lapse at the close of Fiscal Year 2019. These funds are to be used for CLEF (Community Library Enhancement Fund) grants, operations, and community outreach.

INSURANCE DEPARTMENT

Item 25

To Insurance Department - Health Insurance Actuary

From Beginning Nonlapsing Balances 38,800
From Closing Nonlapsing Balances (56,600)
Schedule of Programs:

Health Insurance Actuary (17,800)

Item 26

To Insurance Department - Insurance Department Administration

From Federal Funds, One-Time (644,100)
From Beginning Nonlapsing Balances ... 252,400
From Closing Nonlapsing Balances 593,000
Schedule of Programs:

Administration (563,400)
Captive Insurers 156,300
Electronic Commerce Fee 500,000
GAP Waiver Program 30,000
Insurance Fraud Program 23,400
Relative Value Study 55,000

Item 27

To Insurance Department - Title Insurance Program

From Beginning Nonlapsing Balances 34,100
From Closing Nonlapsing Balances (34,800)
Schedule of Programs:

Title Insurance Program (700)

LABOR COMMISSION

Item 28

To Labor Commission

From Federal Funds, One-Time 18,400
Schedule of Programs:

Administration 54,500
Antidiscrimination and Labor (82,000)
Industrial Accidents 57,200
Utah Occupational Safety and Health . (11,300)

PUBLIC SERVICE COMMISSION

Item 29

To Public Service Commission
From Dedicated Credits Revenue,

One-Time 100,000
From Beginning Nonlapsing Balances ... 145,700
From Closing Nonlapsing Balances (145,700)
Schedule of Programs:

Energy Independent Evaluator 100,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations

provided to the Public Service Commission – Administration in Laws of Utah 2018, Chapter 15, Item 53, not lapse at the close of Fiscal Year 2019. The use of non-lapsing funds is limited to administration, support, and maintenance of the Public Service Commission, \$716,600.

UTAH STATE TAX COMMISSION

Item 30

To Utah State Tax Commission – License Plates Production
 From Beginning Nonlapsing Balances ... 312,000
 From Closing Nonlapsing Balances (178,700)
 Schedule of Programs:
 License Plates Production 133,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission – License Plates Production in Laws of Utah 2018, Chapter 15, Item 54, not lapse at the close of Fiscal Year 2019. The use of non-lapsing funds is limited to the purchase and distribution of license plates and decals, \$600,000.

Item 31

To Utah State Tax Commission – Tax Administration
 From Dedicated Credits Revenue,
 One-Time 186,300
 From Closing Nonlapsing Balances ... (1,000,000)
 Schedule of Programs:
 Administration Division (1,000,000)
 Motor Vehicle Enforcement Division 10,000
 Motor Vehicles 16,300
 Tax Processing Division 160,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission – Administration in Laws of Utah 2018, Chapter 15, Item 57, not lapse at the close of Fiscal Year 2019. The use of non-lapsing funds is limited to protecting and enhancing the State’s tax and motor vehicle systems and processes; continuing to protect the State’s revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs, \$1,000,000.

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 32

To Utah Science Technology and Research Governing Authority – Grant Programs
 From Beginning Nonlapsing Balances . 7,016,300
 Schedule of Programs:
 Energy Research Triangle 374,600
 Industry Partnership Program 3,994,800
 Science and Technology Initiation Grants 324,800
 Technology Acceleration Program 839,000
 University Technology Acceleration Grant 1,483,100

Item 33

To Utah Science Technology and Research Governing Authority – Support Programs
 From Beginning Nonlapsing Balances ... 668,900
 Schedule of Programs:
 Incubation Programs 668,900

Item 34

To Utah Science Technology and Research Governing Authority – USTAR Administration
 From Beginning Nonlapsing Balances 7,700
 Schedule of Programs:
 Project Management & Compliance 7,700

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 35

To Department of Commerce – Architecture Education and Enforcement Fund
 From Licenses/Fees, One-Time 600
 From Beginning Fund Balance 29,900
 From Closing Fund Balance (30,500)

Item 36

To Department of Commerce – Consumer Protection Education and Training Fund
 From Closing Fund Balance 100,000
 Schedule of Programs:
 Consumer Protection Education and Training Fund 100,000

Item 37

To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund
 From Dedicated Credits Revenue,
 One-Time 1,000
 From Interest Income, One-Time (1,000)
 From Beginning Fund Balance 46,600
 From Closing Fund Balance (41,800)
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician, Electrologist Fund 4,800

Item 38

To Department of Commerce – Land Surveyor/Engineer Education and Enforcement Fund
 From Licenses/Fees, One-Time (62,500)
 From Closing Fund Balance 1,000
 Schedule of Programs:
 Land Surveyor/Engineer Education and Enforcement Fund (61,500)

Item 39

To Department of Commerce – Landscapes Architects Education and Enforcement Fund

From Licenses/Fees, One-Time 4,100
 From Beginning Fund Balance 2,500
 From Closing Fund Balance (2,200)
 Schedule of Programs:
 Landscapes Architects Education
 and Enforcement Fund 4,400

Item 40

To Department of Commerce -
 Physicians Education Fund
 From Dedicated Credits Revenue,
 One-Time 1,200
 From Interest Income, One-Time (900)
 From Beginning Fund Balance (16,800)
 From Closing Fund Balance 18,600
 Schedule of Programs:
 Physicians Education Fund 2,100

Item 41

To Department of Commerce - Real Estate
 Education, Research, and Recovery Fund
 From Dedicated Credits Revenue,
 One-Time 125,500
 From Licenses/Fees, One-Time (110,500)
 From Beginning Fund Balance 199,800
 From Closing Fund Balance (222,100)
 Schedule of Programs:
 Real Estate Education, Research,
 and Recovery Fund (7,300)

Item 42

To Department of Commerce -
 Residence Lien Recovery Fund
 From Dedicated Credits Revenue,
 One-Time 20,000
 From Licenses/Fees, One-Time (208,000)
 From Beginning Fund Balance 359,200
 From Closing Fund Balance (216,200)
 Schedule of Programs:
 Residence Lien Recovery Fund (45,000)

Item 43

To Department of Commerce - Residential
 Mortgage Loan Education, Research, and
 Recovery Fund
 From Dedicated Credits Revenue,
 One-Time 152,800
 From Licenses/Fees, One-Time (142,800)
 From Interest Income, One-Time (6,000)
 From Beginning Fund Balance 238,200
 From Closing Fund Balance (258,000)
 Schedule of Programs:
 RMLERR Fund (15,800)

Item 44

To Department of Commerce - Securities Investor
 Education/Training/Enforcement Fund
 From Licenses/Fees, One-Time 2,900
 From Beginning Fund Balance (11,100)
 From Closing Fund Balance 22,100
 Schedule of Programs:
 Securities Investor
 Education/Training/Enforcement
 Fund 13,900

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 45

To Governor's Office of Economic Development -
 Industrial Assistance Account
 From Beginning Fund Balance 1,400,000
 Schedule of Programs:
 Industrial Assistance Fund 1,400,000

Item 46

To Governor's Office of Economic Development -
 Outdoor Recreation Infrastructure Account
 From Beginning Fund Balance 1,418,000
 From Closing Fund Balance 1,500,000
 Schedule of Programs:
 Outdoor Recreation Infrastructure
 Account 2,918,000

Item 47

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

Item 48

To Governor's Office of Economic Development -
 Transient Room Tax Fund
 From Revenue Transfers, One-Time . (1,384,900)
 Schedule of Programs:
 Transient Room Tax Fund (1,384,900)

DEPARTMENT OF HERITAGE AND ARTS

Item 49

To Department of Heritage and Arts -
 History Donation Fund
 From Dedicated Credits Revenue,
 One-Time 7,100
 From Beginning Fund Balance 5,900
 From Closing Fund Balance (11,800)
 Schedule of Programs:
 History Donation Fund 1,200

Item 50

To Department of Heritage and Arts -
 State Arts Endowment Fund
 From Dedicated Credits Revenue,
 One-Time 1,500
 From Interest Income, One-Time (1,500)
 From Beginning Fund Balance 4,600
 From Closing Fund Balance 4,100
 Schedule of Programs:
 State Arts Endowment Fund 8,700

Item 51

To Department of Heritage and Arts -
 State Library Donation Fund
 From Beginning Fund Balance 22,000
 From Closing Fund Balance 167,600
 Schedule of Programs:
 State Library Donation Fund 189,600

INSURANCE DEPARTMENT

Item 52

To Insurance Department - Insurance
 Fraud Victim Restitution Fund
 From Licenses/Fees, One-Time (25,000)
 From Beginning Fund Balance 300

From Closing Fund Balance 74,700
 Schedule of Programs:
 Insurance Fraud Victim Restitution
 Fund 50,000

Item 53

To Insurance Department - Title Insurance
 Recovery Education and Research Fund
 From Beginning Fund Balance 26,000
 From Closing Fund Balance (26,000)

PUBLIC SERVICE COMMISSION**Item 54**

To Public Service Commission - Universal Public
 Telecom Service
 From Beginning Fund Balance 8,400
 From Closing Fund Balance (8,400)

Subsection 1(c). Business-like Activities.

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

INSURANCE DEPARTMENT**Item 55**

To Insurance Department - Individual & Small
 Employer Risk Adjustment Enterprise Fund
 From Licenses/Fees, One-Time (265,000)
 Schedule of Programs:
 Individual & Small Employer Risk
 Adjustment Enterprise (265,000)

Subsection 1(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 56

To General Fund Restricted - Industrial Assistance
 Account
 From Interest Income, One-Time 386,000
 From Revenue Transfers, One-Time (3,100)
 From Beginning Fund Balance 3,248,100
 From Closing Fund Balance (5,355,900)
 Schedule of Programs:
 General Fund Restricted - Industrial
 Assistance Account (1,724,900)

Item 57

To General Fund Restricted - Native American
 Repatriation Restricted Account
 From Beginning Fund Balance (40,000)
 Schedule of Programs:
 General Fund Restricted - Native American
 Repatriation Restricted Account (40,000)

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

LABOR COMMISSION**Item 58**

To Labor Commission - Employers
 Reinsurance Fund
 From Dedicated Credits Revenue,
 One-Time (1,652,200)
 From Interest Income, One-Time 1,466,000
 From Premium Tax Collections,
 One-Time 53,000
 From Beginning Fund Balance (17,865,200)
 From Closing Fund Balance 17,998,400

Item 59

To Labor Commission - Uninsured
 Employers Fund
 From Dedicated Credits Revenue,
 One-Time 1,535,700
 From Interest Income, One-Time 1,075,000
 From Premium Tax Collections,
 One-Time 1,953,000
 From Other Financing Sources,
 One-Time (4,564,700)
 From Beginning Fund Balance (981,100)
 From Closing Fund Balance 951,100
 Schedule of Programs:
 Uninsured Employers Fund (31,000)

Item 60

To Labor Commission - Wage Claim Agency Fund
 From Dedicated Credits Revenue,
 One-Time 2,400,000
 From Beginning Fund Balance 2,417,300
 From Closing Fund Balance (4,817,300)

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital

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

**DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL****Item 61**

To Department of Alcoholic Beverage Control -
 DABC Operations
 From Liquor Control Fund 53,698,300
 Schedule of Programs:
 Administration 893,600
 Executive Director 2,903,100
 Operations 2,984,100
 Stores and Agencies 41,838,500
 Warehouse and Distribution 5,079,000

The Legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Department of Alcoholic Beverage Control, whose mission is to

“Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products.” 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 62

To Department of Alcoholic Beverage Control - Parents Empowered
 From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account 2,722,100
 Schedule of Programs:
 Parents Empowered 2,722,100

The Legislature intends that the Department of Alcoholic Beverage Control report on the following performance measures for the Parents Empowered line item, whose mission is to “pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of every one in our communities.” 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =82%); 2) Ad awareness of ”Parents Empowered”(Target =70%); 3) Percentage of students who used alcohol during their lifetime (Target = 17%).

DEPARTMENT OF COMMERCE

Item 63

To Department of Commerce - Building Inspector Training
 From Dedicated Credits Revenue 503,600
 From Beginning Nonlapsing Balances . . . 698,400
 From Closing Nonlapsing Balances (426,500)
 Schedule of Programs:
 Building Inspector Training 775,500

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Uniform Building Code line item whose mission is “to protect the public and to enhance commerce through licensing and regulation”: 1) facilitate and approve vendors to provide building code education to building inspectors and construction trade licensees, with a goal focused on improving (Target = 50% ratio of courses approved for contractors

or inspectors vs. land use courses); 2) Provide an average of at least one hour of CE annually to construction trade licensees through course approvals (Target = 34,000 hours); and 3) Ensure that program administrative expenses for employees are minimized by focusing on disbursements of fund revenue for qualified courses with minimal staff (Target = maximum of 20% of expenses will be employee related).

Item 64

To Department of Commerce - Commerce General Regulation
 From General Fund 69,800
 From Federal Funds 414,800
 From Dedicated Credits Revenue 1,914,300
 From General Fund Restricted - Commerce Service Account 23,359,100
 From General Fund Restricted - Factory Built Housing Fees 103,500
 From General Fund Restricted - Geologist Education and Enforcement . . 20,300
 From Gen. Fund Rest. - Nurse Education & Enforcement Acct. 15,400
 From General Fund Restricted - Pawnbroker Operations 138,600
 From General Fund Restricted - Public Utility Restricted Acct. 5,271,800
 From General Fund Restricted - Utah Housing Opportunity Restricted 20,400
 From Pass-through 132,100
 Schedule of Programs:
 Administration 4,227,600
 Building Operations and Maintenance 298,900
 Consumer Protection 2,163,500
 Corporations and Commercial Code 2,701,800
 Occupational and Professional Licensing 11,362,400
 Office of Consumer Services 1,119,000
 Public Utilities 4,699,200
 Real Estate 2,514,000
 Securities 2,373,700

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Commerce General Regulation Line Item, whose mission is to “to protect the public and to enhance commerce through licensing and regulation” : 1) Increase the percentage of all available licensing renewals to be performed online by licensees in the Division of Occupational and Professional Licensing. (Target = Ratio of potential online renewal licensees who actually complete their license renewal online instead of in person on paper to be greater than 94%) 2) Increase the utility of and overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach. (Target = 5% increase in the number of controlled substance database searches by providers and enforcement through increased outreach) 3) Achieve and maintain corporation annual business online filings vs. paper filings above to or above

(Target = 97% of the total filings managed to mitigate costs to the division and filer in submitting filing information).

Item 65

To Department of Commerce - Office of Consumer Services Professional and Technical Services
 From General Fund Restricted -
 Public Utility Restricted Acct. 503,100
 From Beginning Nonlapsing Balances . . . 503,100
 From Closing Nonlapsing Balances . . . (103,100)
 Schedule of Programs:
 Professional and Technical Services . . . 903,100

The Legislature intends that the Utah Department of Commerce report on the following performance measures for the Office of Consumer Services Professional and Technical Line item, whose mission is to: "Assess the impact of utility regulatory actions and advocate positions advantageous to residential, small commercial, and irrigation consumers of natural gas, electric and telephone public utility service": (see UCA 54-10a-301 (1)(a) and .) 1) Evaluate total "dollars at stake" in the individual rate cases or other utility regulatory actions to ensure that this fund is hiring contract experts in cases that overall have high potential dollar impact on customers. (Target = 10%, i.e. total dollars spent on contract experts will not exceed 10% of the annual potential dollar impact of the utility actions.), 2) The premise of having a state agency advocate for small utility customers is that for each individual customer the impact of a utility action might be small, but in aggregate the impact is large. To ensure that contract experts are used in cases that impact large numbers of small customers, consistent with the vision for this line item, the dollars spent per each instance of customer impact could be measured. (Target = less than ten cents per customer impact.)

Item 66

To Department of Commerce - Public Utilities Professional and Technical Services
 From General Fund Restricted - Public
 Utility Restricted Acct. 150,000
 From Beginning Nonlapsing Balances . . . 100,000
 Schedule of Programs:
 Professional and Technical Services . . . 250,000

The legislature intends that the Utah Department of Commerce report on the following performance measures for the Division of Public Utilities Professional and Technical line item, whose mission is to "retain professional and technical consultants to augment division staff expertise in energy rate cases"; 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise

needed on staff to complete the consultant work target of 40% average savings.)

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 67

To Governor's Office of Economic Development - Administration
 From General Fund 2,597,200
 Schedule of Programs:
 Administration 2,597,200

The Legislature intends that the Governor's Office of Economic Development report on the following performance measures for the Administrative line item, whose mission is to "Enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities". 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 3) Public and Community Relations - Increase development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 10%)

Item 68

To Governor's Office of Economic Development - Business Development
 From General Fund 6,956,100
 From Federal Funds 480,200
 From Dedicated Credits Revenue 103,200
 From General Fund Restricted -
 Industrial Assistance Account 255,600
 Schedule of Programs:
 Corporate Recruitment and Business Services 5,630,500
 Outreach and International Trade . . . 2,164,600

The Legislature intends that Governor's Office of Economic Development report on the following performance measures for the line item CMAA - Corporate Recruitment & Business Services whose mission is to "grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state." 1) Corporate Recruitment: increase year over year average wage by 2%. 2) Business services: increase the total number of businesses served by 4% per year. 3) Compliance: perform assessments on 60% of active contracts with follow up to each.

Item 69

To Governor's Office of Economic Development - Office of Tourism
 From General Fund 4,294,000
 From Transportation Fund 118,000
 From Dedicated Credits Revenue 336,500

From General Fund Rest. -
 Motion Picture Incentive Acct. 1,308,900
 From General Fund Restricted -
 Tourism Marketing Performance ... 24,000,000
 Schedule of Programs:
 Administration 1,268,300
 Film Commission 2,126,100
 Marketing and Advertising 24,000,000
 Operations and Fulfillment 2,663,000

The Legislature intends that the Utah Office of Tourism, Film and Global Branding report on the following performance measures for the line item CLAA - Tourism and Film, whose mission is to “promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utah’s economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program.” 1) Tourism Marketing Performance Account - Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue Growth over 3% or Consumer Price Index - whichever baseline is higher). 2) Tourism SUCCESS Metric - increase number of engaged visitors to VisitUtah.com website (engaged website visitors are those who meet specific thresholds for time on site and page views) (Target = 20% increase annually). 3) Film Commission Metric - Increase film production spending in Utah (Target = 5% annually)

Item 70

To Governor’s Office of Economic Development -
 Pass-Through
 From General Fund 7,258,800
 Schedule of Programs:
 Pass-Through 7,258,800

The Legislature intends that the Governor’s Office of Economic Development report on the following performance measures for the Pass-through line item, whose mission is to “Enhance quality of life by increasing and diversifying Utah’s revenue base and improving employment opportunities”. 1) Contract processing efficiency: all contracts will be drafted within 14 days following proper legislative intent and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 2) Assessment: Completed contracts will be assessed against scope of work, budget, and contract, (Target = 100%) 3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 71

To Governor’s Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 170,000

From Dedicated Credits Revenue 67,500
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 237,500

The Legislature intends that the Pete Suazo Utah Athletic Commission report on the following performance measures for the Pete Suazo Athletic Commission line item, whose mission is “Maintaining the health, safety, and welfare of the participants and the public as they are involved in the professional unarmed combat sports. Promoters, managers, contestants, seconds, referees and judges will be held to the highest standard which will ensure economic growth and the development of athletics in the State of Utah”
 1) High Profile Events - The Pete Suazo Utah Athletic Commission (PSUAC) averages 37 “Combat Sports” events and one “high profile event” per year. PSUAC will target one additional “high profile event” next year. 2) Licensure Efficiency -The PSUAC has averaged 991 licenses issued annually over the last 3 years, with less than 5% of those licenses issued in advance of the events. Implementation of an online registration will improve efficiency (Target = 90%). 3) Increase revenue - Annual average revenue of nearly \$30,000 over the last 3 years. (Target = 12%)

Item 72

To Governor’s Office of Economic Development -
 STEM Action Center
 From General Fund 10,806,400
 From Dedicated Credits Revenue 1,519,600
 Schedule of Programs:
 STEM Action Center 3,071,000
 STEM Action Center - Grades 6-8 .. 4,255,000
 STEM College Ready Math 5,000,000

The Legislature intends that the Utah STEM Action Center report on the following performance measures for the STEM Action Center line item, whose mission is “to promote science, technology, engineering and math through best practices in education to ensure connection with industry and Utah’s long-term economic prosperity.” (1) Complete reimbursements for classroom grants by end of fiscal year June 30 (Target = 90%), (2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 60%), and (3) collect all end of year impact reports for sponsorships by fiscal end, June 30 (Target = 90%).

Item 73

To Governor’s Office of Economic Development -
 Rural Employment Expansion Program
 From General Fund 1,500,000
 From Beginning Nonlapsing
 Balances 1,500,000
 From Closing Nonlapsing Balances ... (1,500,000)
 Schedule of Programs:
 Rural Employment Expansion
 Program 1,500,000

The Legislature intends that the Governor’s Office of Economic Development report on the following performance measures for the Rural Employment Expansion Program line item whose mission is to “partner growing companies statewide with a quality workforce in rural Utah.” (1) Business development: Increase state-wide business participation in program (Target = 5%). (2) Workforce: Increase REDI-qualified position participation (Target = 5%).

Item 74

To Governor’s Office of Economic Development – Talent Ready Utah Center
 From General Fund 250,000
 Schedule of Programs:
 Talent Ready Utah Center 250,000

The Legislature intends that Talent Ready Utah report on the following performance measure for the Talent Ready Utah line item, whose mission is to “focus and optimize the efforts businesses make to enhance education.” (1) Support new industry and education partnership each year (Target = 20%). (2) Expand current pathway programs throughout school districts in the state each year (Target = 5%). (3) Create/Support new pathway programs each year (Target = 10%).

FINANCIAL INSTITUTIONS

Item 75

To Financial Institutions – Financial Institutions Administration
 From General Fund Restricted – Financial Institutions 7,798,800
 Schedule of Programs:
 Administration 7,552,800
 Building Operations and Maintenance 246,000

The Legislature intends that the Department of Financial Institutions continues to report on the following performance measures for the Financial Institutions Administration line item, whose mission is “to charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah”: (1) Depository Institutions not on the Departments “Watched Institutions” list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target = Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = \$3.8 billion), to the Business, Economic Development, and Labor Appropriations Subcommittee.

DEPARTMENT OF HERITAGE AND ARTS

Item 76

To Department of Heritage and Arts – Administration
 From General Fund 3,845,500
 From Dedicated Credits Revenue 148,100

From General Fund Restricted – Humanitarian Service Rest. Acct 2,000
 From General Fund Restricted – Martin Luther King Jr Civil Rights Support Restricted Account 7,500
 From Beginning Nonlapsing Balances ... 762,900
 From Closing Nonlapsing Balances (392,500)
 Schedule of Programs:
 Administrative Services 1,992,400
 Executive Director’s Office 597,900
 Information Technology 1,386,000
 Utah Multicultural Affairs Office 397,200

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Administrative line item, whose mission is to “Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies.”

1) The division measures the percentage of division programs that are engaged in at least one collaborative projects annually (Target = 66% annually); 2) Number of internal performance audits in division programs or evaluations of department process or systems completed annually (Target = 6 annually); 3) Number of students attending events annually and number of schools sending students to division events annually (Target = 1000 students and 53 schools)

Item 77

To Department of Heritage and Arts – Division of Arts and Museums
 From General Fund 3,017,100
 From Federal Funds 733,700
 From Dedicated Credits Revenue 97,600
 From Pass-through 1,600,000
 From Beginning Nonlapsing Balances 3,037,300
 From Closing Nonlapsing Balances ... (2,837,300)
 Schedule of Programs:
 Administration 635,000
 Community Arts Outreach 2,141,800
 Grants to Non-profits 1,571,600
 One Percent for Arts 1,300,000

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Arts and Museums line item, whose mission is to “connect people and communities through arts and museums.” 1) The Division measures the percent of counties served by the Traveling Exhibits program annually (Target = 69% of counties annually); 2) The percent of school districts served by the Arts Education workshops annually (Target = 73% of school districts annually); 3) Ratio of dollars requested to dollars granted (Target = 60%).

Item 78

To Department of Heritage and Arts – Division of Arts and Museums – Office of Museum Services
 From General Fund 263,300
 From Dedicated Credits Revenue 2,000
 Schedule of Programs:

Office of Museum Services 265,300

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Museum Services line item, whose mission is to “advance the value of museums in Utah and to enable the broadest access to museums.”1) Ratio of dollars requested to dollars granted (Target = 76%); 2) The number of museums provided in-person consultation annually (Target = 30 museums annually); 3) The number of museum professionals workshops offered and attendance at each. (Target = 12 workshops and 200 professionals).

Item 79

To Department of Heritage and Arts -
 Commission on Service and Volunteerism
 From General Fund 240,000
 From Federal Funds 4,670,100
 From Dedicated Credits Revenue 7,700
 Schedule of Programs:
 Commission on Service and
 Volunteerism 4,917,800

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Commission on Service and Volunteerism line item, 1) Percentage of organizations trained implementing effective volunteer management practices. (Target = 85%); 2) Percentage of AmeriCorps programs showing improved program management and compliance through training and technical assistance. (Target = 90%); 3) Number of Utahns served through AmeriCorps programs. This service includes: youth tutoring and mentorship, after-school programs, healthcare resources and insurance, bolstering mental healthcare resources, environmental and conservation projects, assisting the homeless, disaster preparation, and more. (Target = 70,000).

Item 80

To Department of Heritage and Arts -
 Historical Society
 From Dedicated Credits Revenue 124,900
 From Beginning Nonlapsing Balances . . . 121,800
 From Closing Nonlapsing Balances (121,800)
 Schedule of Programs:
 State Historical Society 124,900

Item 81

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 334,800
 From Dedicated Credits Revenue 54,200
 From General Fund Restricted - Native
 American Repatriation Restricted 60,400
 From Beginning Nonlapsing Balances . . . 100,000
 From Closing Nonlapsing Balances (99,500)
 Schedule of Programs:
 Indian Affairs 449,900

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the

Division of Indian Affairs line item, whose mission is: “to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah.” 1) Attendees to the Governors Native American Summit, Utah Indigenous Day and American Indian Caucus Day (Target = 1,000 attendees annually); 2) Percentage of mandated state agencies with designated liaisons actively participating to respond to Tribal concerns (Target = 70%); 3) Percentage of ancient human remains repatriated to federally-recognized Tribes annually (Target = 20% successful repatriated annually).

Item 82

To Department of Heritage and
 Arts - Pass-Through
 From General Fund 1,517,000
 From General Fund Restricted -
 National Professional Men’s Soccer
 Team Support of Building
 Communities 100,000
 Schedule of Programs:
 Pass-Through 1,617,000

Item 83

To Department of Heritage and Arts - State History
 From General Fund 2,413,300
 From Federal Funds 1,232,900
 From Dedicated Credits Revenue 86,500
 From Beginning Nonlapsing Balances . . . 60,000
 From Closing Nonlapsing Balances (60,000)
 Schedule of Programs:
 Administration 394,600
 Historic Preservation and
 Antiquities 2,155,700
 History Projects and Grants 25,000
 Library and Collections 562,600
 Public History, Communication
 and Information 594,800

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State History line item, whose mission is: “to preserve and share the past for a better present and future.” 1) The Division of State History measures the percent of Section 106 reviews completed within 20 days annually (Target = 90%); 2) The percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four-year period and successfully completing the grant-funded project (Target = 60% active CLGs); 3) The Percentage of collection digitized and available online, both photo and artifact. (Target = 35%).

Item 84

To Department of Heritage and Arts - State Library
 From General Fund 4,587,600
 From Federal Funds 1,869,300
 From Dedicated Credits Revenue 2,245,000
 From Beginning Nonlapsing Balances . . . 229,800
 From Closing Nonlapsing Balances (229,800)
 Schedule of Programs:
 Administration 1,582,900
 Blind and Disabled 1,942,900

Library Development 2,457,400
 Library Resources 2,718,700

The Legislature intends that the Department of Heritage and Arts report on the following performance measures for the Division of State Library line item, whose mission is: “to develop, advance, promote library services and equal access to resources.” 1) The Division measures the number of online and in-person training hours provided annually and ratio of trainings provided in collaboration with other divisions (Target = 11,700 training hours annually); 2) The total Bookmobile circulation annually. (Target = 413,000 items annually); 3) The total Blind and Disabled circulation annually (Target = 328,900 items annually); 4) Digital downloads from Utah’s Online Library annually (Target = 1.3 million items annually).

INSURANCE DEPARTMENT

Item 85

To Insurance Department - Bail Bond Program
 From General Fund Restricted - Bail Bond Surety Administration 35,900
 Schedule of Programs:
 Bail Bond Program 35,900

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Bail Bond Program line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 86

To Insurance Department - Health Insurance Actuary
 From General Fund Restricted - Health Insurance Actuarial Review 200,000
 From Beginning Nonlapsing Balances . . . 108,300
 From Closing Nonlapsing Balances (87,300)
 Schedule of Programs:
 Health Insurance Actuary 221,000

The Legislature intends that the Insurance Department report on the following performance measures for the Health Insurance Actuary (Risk Adjuster) line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: timeliness of processing rate filings (Target = 95% within 45 days).

Item 87

To Insurance Department - Insurance Department Administration
 From Federal Funds 300,000
 From Dedicated Credits Revenue 8,700
 From General Fund Restricted - Captive Insurance 1,069,400

From General Fund Restricted - Criminal Background Check 165,000
 From General Fund Restricted - Guaranteed Asset Protection Waiver 129,100
 From General Fund Restricted - Insurance Department Acct. 8,407,300
 From General Fund Rest. - Insurance Fraud Investigation Acct. 2,413,000
 From General Fund Restricted - Relative Value Study Account 119,000
 From General Fund Restricted - Technology Development 629,000
 From Beginning Nonlapsing Balances 2,679,100
 From Closing Nonlapsing Balances . . . (2,296,400)
 Schedule of Programs:

Administration 8,657,300
 Captive Insurers 1,351,200
 Criminal Background Checks 165,000
 Electronic Commerce Fee 886,600
 GAP Waiver Program 129,100
 Insurance Fraud Program 2,315,000
 Relative Value Study 119,000

The Legislature intends that the Insurance Department report on the following performance measures for the Insurance Administration line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services.”: 1) timeliness of processing work product (Target = 95% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 88

To Insurance Department - Title Insurance Program
 From General Fund 4,400
 From General Fund Rest. - Title Licensee Enforcement Acct. 124,300
 From Beginning Nonlapsing Balances . . . 113,800
 From Closing Nonlapsing Balances (113,800)
 Schedule of Programs:
 Title Insurance Program 128,700

The Legislature intends that the Insurance Department report on the following performance measures for the Title Insurance Program line item, whose mission is “to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services”: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

LABOR COMMISSION

Item 89

To Labor Commission

From General Fund	6,592,500
From Federal Funds	2,865,800
From Dedicated Credits Revenue	32,600
From Employers' Reinsurance Fund	81,100
From General Fund Restricted - Industrial Accident Account	3,518,200
From General Fund Restricted - Workplace Safety Account	1,651,800
Schedule of Programs:	
Adjudication	1,470,600
Administration	2,080,800
Antidiscrimination and Labor	2,195,100
Boiler, Elevator and Coal Mine Safety Division	1,639,600
Building Operations and Maintenance	174,600
Industrial Accidents	2,130,500
Utah Occupational Safety and Health	3,830,800
Workplace Safety	1,220,000

The Legislature intends that the Utah Labor Commission report by October 15, 2020, on the following performance measures for the Labor Commission line item, whose mission is to achieve safety in Utah's workplaces and fairness in employment and housing: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 90

To Public Service Commission	
From Dedicated Credits Revenue	600
From General Fund Restricted - Public Utility Restricted Acct.	2,573,600
From Revenue Transfers	9,800
From Beginning Nonlapsing Balances . . .	612,200
From Closing Nonlapsing Balances	(499,000)
Schedule of Programs:	
Administration	2,665,900
Building Operations and Maintenance	31,300

The Legislature intends that the Public Service Commission report by October 15, 2020, on the following performance measures for the Public Service Commission line item, whose mission is to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service:

(1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah's public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0); to the Business, Economic Development, and Labor Appropriations Subcommittee.

UTAH STATE TAX COMMISSION

Item 91

To Utah State Tax Commission - License Plates Production	
From Dedicated Credits Revenue	3,409,000
From Beginning Nonlapsing Balances . . .	196,700
From Closing Nonlapsing Balances	(135,700)
Schedule of Programs:	
License Plates Production	3,470,000

Item 92

To Utah State Tax Commission - Liquor Profit Distribution	
From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account	5,856,100
Schedule of Programs:	
Liquor Profit Distribution	5,856,100

Item 93

To Utah State Tax Commission - Rural Health Care Facilities Distribution	
From General Fund Restricted - Rural Healthcare Facilities Acct	218,900
Schedule of Programs:	
Rural Health Care Facilities Distribution	218,900

Item 94

To Utah State Tax Commission - Tax Administration	
From General Fund	28,866,000
From Education Fund	22,155,400
From Transportation Fund	5,857,400
From Federal Funds	595,100
From Dedicated Credits Revenue	7,265,200
From General Fund Restricted - Electronic Payment Fee Rest. Acct . . .	7,109,700
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account	4,148,400
From General Fund Rest. - Sales and Use Tax Admin Fees	11,156,900
From General Fund Restricted - Tobacco Settlement Account	18,500
From Revenue Transfers	167,700
From Uninsured Motorist Identification Restricted Account	139,700
From Beginning Nonlapsing Balances	1,000,000
Schedule of Programs:	
Administration Division	11,024,900
Auditing Division	12,565,500
Motor Vehicle Enforcement Division	4,339,000

Motor Vehicles	24,360,300
Multi-State Tax Compact	282,200
Property Tax Division	5,430,300
Seasonal Employees	165,700
Tax Payer Services	11,905,900
Tax Processing Division	6,952,100
Technology Management	11,454,100

The Legislature intends that the Utah State Tax Commission report by October 15th, 2020, on the following performance measures for the Tax Administration line item, whose mission is to collect revenues for the state and local governments and to equitably administer tax and assigned motor vehicle laws: (1) Tax returns processed electronically (Target = 81%), (2) Closed Delinquent Accounts from assigned inventory (Target 5% improvement), (3) Motor Vehicle Large Office Wait Times (Target: 94% served in 20 minutes or less) to the Business, Labor, and Economic Development Appropriations Subcommittee.

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 95

To Utah Science Technology and Research Governing Authority - Support Programs

From General Fund	3,282,600
From Dedicated Credits Revenue	16,100

Schedule of Programs:

Incubation Programs	2,160,600
Regional Outreach	736,400
SBIR/STTR Assistance Center	401,700

Item 96

To Utah Science Technology and Research Governing Authority - USTAR Administration

From General Fund	1,788,400
From Dedicated Credits Revenue	439,100

Schedule of Programs:

Administration	606,200
Project Management & Compliance	1,621,300

The Legislature intends that The Utah Science Technology Research (USTAR) initiative report on the following performance measures for the USTAR Administration line item, whose mission is to accelerate the commercialization of science and technology ideas generated from the private sector, entrepreneurial and university researchers in order to positively elevate tax revenue, employment and corporate retention in the State of Utah: (1) percent of USTAR appropriation used for administration expenditures (Target=4%), (2) number of unique visitors to website (Target = 4,000), (3) staff professional development participation (Target = 100%), and (4) Confluence (USTAR annual meeting) attendance (Target=150) by October 15, 2020 to the Business, Economic Development, and Labor (BEDL) Appropriations Subcommittee.

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

following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 97

To Department of Commerce -

Architecture Education and Enforcement Fund	
From Licenses/Fees	3,000
From Beginning Fund Balance	54,200
From Closing Fund Balance	(42,200)

Schedule of Programs:

Architecture Education and Enforcement Fund	15,000
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Item 98

To Department of Commerce - Consumer Protection Education and Training Fund

From Licenses/Fees	160,100
From Beginning Fund Balance	400,000
From Closing Fund Balance	(300,000)

Schedule of Programs:

Consumer Protection Education and Training Fund	260,100
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Item 99

To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund

From Licenses/Fees	50,000
From Interest Income	1,000
From Beginning Fund Balance	100,500
From Closing Fund Balance	(74,500)

Schedule of Programs:

Cosmetologist/Barber, Esthetician, Electrologist Fund	77,000
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Item 100

To Department of Commerce - Land Surveyor/Engineer Education and Enforcement Fund

From Licenses/Fees	9,000
From Beginning Fund Balance	99,000
From Closing Fund Balance	(98,000)

Schedule of Programs:

Land Surveyor/Engineer Education and Enforcement Fund	10,000
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Item 101

To Department of Commerce - Landscapes Architects Education and Enforcement Fund

From Licenses/Fees	4,100
From Beginning Fund Balance	10,000
From Closing Fund Balance	(9,100)

Schedule of Programs:

Landscapes Architects Education and Enforcement Fund	5,000
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Item 102

To Department of Commerce - Physicians Education Fund

From Dedicated Credits Revenue	1,200
From Licenses/Fees	22,000
From Beginning Fund Balance	81,400
From Closing Fund Balance	(79,600)

Schedule of Programs:
Physicians Education Fund 25,000

Item 103

To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 125,500
From Beginning Fund Balance 818,300
From Closing Fund Balance (726,800)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 217,000

Item 104

To Department of Commerce - Residence Lien Recovery Fund
From Dedicated Credits Revenue 20,000
From Licenses/Fees 30,000
From Beginning Fund Balance 1,909,900
From Closing Fund Balance (1,709,900)
Schedule of Programs:
Residence Lien Recovery Fund 250,000

Item 105

To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 152,800
From Interest Income 10,000
From Beginning Fund Balance 871,000
From Closing Fund Balance (928,800)
Schedule of Programs:
RMLERR Fund 105,000

Item 106

To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 153,000
From Beginning Fund Balance 203,600
From Closing Fund Balance (202,600)
Schedule of Programs:
Securities Investor Education/ Training/Enforcement Fund 154,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 107

To Governor's Office of Economic Development - Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 4,960,800
Schedule of Programs:
Outdoor Recreation Infrastructure Account 4,960,800

Item 108

To Governor's Office of Economic Development - Transient Room Tax Fund
From Revenue Transfers 1,384,900
Schedule of Programs:
Transient Room Tax Fund 1,384,900

DEPARTMENT OF HERITAGE AND ARTS

Item 109

To Department of Heritage and Arts - History Donation Fund
From Dedicated Credits Revenue 7,100
From Beginning Fund Balance 326,100
From Closing Fund Balance (332,000)

Schedule of Programs:
History Donation Fund 1,200

Item 110

To Department of Heritage and Arts - State Arts Endowment Fund
From Dedicated Credits Revenue 10,500
From Interest Income 1,500
From Beginning Fund Balance 368,200
From Closing Fund Balance (371,500)
Schedule of Programs:
State Arts Endowment Fund 8,700

Item 111

To Department of Heritage and Arts - State Library Donation Fund
From Dedicated Credits Revenue 10,400
From Beginning Fund Balance 967,300
From Closing Fund Balance (777,700)
Schedule of Programs:
State Library Donation Fund 200,000

INSURANCE DEPARTMENT

Item 112

To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees 425,000
From Beginning Fund Balance 179,000
From Closing Fund Balance (204,000)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund 400,000

Item 113

To Insurance Department - Title Insurance Recovery Education and Research Fund
From Dedicated Credits Revenue 48,000
From Beginning Fund Balance 564,800
From Closing Fund Balance (470,200)
Schedule of Programs:
Title Insurance Recovery Education and Research Fund 142,600

PUBLIC SERVICE COMMISSION

Item 114

To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue 15,325,400
From Beginning Fund Balance 7,469,100
From Closing Fund Balance (8,056,800)
Schedule of Programs:
Universal Public Telecommunications Service Support 14,737,700

The Legislature intends that the Public Service Commission report by October 15, 2019 on the following performance measures for the Universal Telecommunications Support Fund line item, whose mission is to provide balanced operation of the fund that is nondiscriminatory and competitively and technologically neutral, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in Utah: (1) Number of months within a fiscal year during which the Fund did not maintain a balance equal to at least three months of fund payments (Target = 0); (2) Number of

times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 50,000); to the Business, Economic Development, and Labor Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

INSURANCE DEPARTMENT

Item 115

To Insurance Department - Individual & Small Employer Risk Adjustment Enterprise Fund
From Licenses/Fees 265,000
Schedule of Programs:
Individual & Small Employer Risk Adjustment Enterprise 265,000

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 116

To General Fund Restricted - Industrial Assistance Account
From General Fund 250,000
From Interest Income 636,000
From Revenue Transfers (256,000)
From Beginning Fund Balance 19,450,000
From Closing Fund Balance (18,054,900)
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 2,025,100

Item 117

To General Fund Restricted - Native American Repatriation Restricted Account
From General Fund 20,000
Schedule of Programs:
General Fund Restricted - Native American Repatriation Restricted Account 20,000

Item 118

To General Fund Restricted - Motion Picture Incentive Fund
From General Fund 1,500,000
Schedule of Programs:
General Fund Restricted - Motion Picture Incentive Fund 1,500,000

Item 119

To General Fund Restricted - National Professional Men's Soccer Team Support of Building Communities
From Dedicated Credits Revenue 100,000
Schedule of Programs:
General Fund Restricted - National Professional Men's Soccer Team Support of Building Communities ... 100,000

Item 120

To General Fund Restricted - Rural Health Care Facilities Fund
From General Fund 218,900
Schedule of Programs:
General Fund Restricted - Rural Health Care Facilities Fund 218,900

Item 121

To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund 27,000,000
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance 27,000,000

Item 122

To General Fund Restricted - Workforce Development Restricted Account
From General Fund 15,187,900
Schedule of Programs:
Workforce Development Restricted Account 15,187,900

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

LABOR COMMISSION

Item 123

To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue 650,000
From Premium Tax Collections 16,593,000
From Beginning Fund Balance 2,000,400
From Closing Fund Balance (2,941,900)
Schedule of Programs:
Employers Reinsurance Fund 16,301,500

Item 124

To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 2,611,000
From Interest Income 1,075,000
From Premium Tax Collections 1,936,800
From Beginning Fund Balance 10,875,900
From Closing Fund Balance (10,875,900)
Schedule of Programs:
Uninsured Employers Fund 5,622,800

Item 125

To Labor Commission - Wage Claim Agency Fund
From Dedicated Credits Revenue 2,400,000
From Beginning Fund Balance 20,872,500
From Closing Fund Balance (22,822,500)
Schedule of Programs:
Wage Claim Agency Fund 450,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes

effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 4

H. B. 5

Passed February 6, 2019
 Approved February 19, 2019
 Effective July 1, 2019

RETIREMENT AND INDEPENDENT ENTITIES BASE BUDGET

Chief Sponsor: Craig Hall
 Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$662,200 in business-like activities for fiscal year 2019.

This bill appropriates \$17,000,000 in fiduciary funds for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$50,272,100 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$1,145,500 from the General Fund;
- ▶ \$27,045,300 from the Education Fund;
- ▶ \$22,081,300 from various sources as detailed in this bill.

This bill appropriates \$15,489,500 in business-like activities for fiscal year 2020.

This bill appropriates \$12,000,000 in fiduciary funds for fiscal year 2020, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to

amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Business-like Activities.

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

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 1

To Department of Human Resource Management - Human Resources Internal Service Fund From Dedicated Credits Revenue,

One-Time	267,500
From Beginning Fund Balance	2,922,100
From Closing Fund Balance	(2,527,400)
Schedule of Programs:	
Administration	(742,700)
Information Technology	(989,700)
ISF - Core HR Services	3,100
ISF - Field Services	2,848,800
ISF - Payroll Field Services	36,300
Policy	(493,600)
Budgeted FTE	(18.5)

Subsection 1(b). Fiduciary Funds. The

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

FUND AND ACCOUNT TRANSFERS

Item 2

To Fund and Account Transfers - Firefighters Retirement Trust & Agency Fund

From General Fund, One-Time	17,000,000
Schedule of Programs:	
Firefighters Retirement Trust & Agency Fund	17,000,000

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of

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

CAREER SERVICE REVIEW OFFICE

Item 3

To Career Service Review Office

From General Fund	280,800
From Beginning Nonlapsing Balances	30,000
From Closing Nonlapsing Balances	(30,000)

Schedule of Programs:
 Career Service Review Office 280,800

**DEPARTMENT OF HUMAN
 RESOURCE MANAGEMENT**

Item 4

To Department of Human Resource Management -
 Human Resource Management
 From General Fund 42,400
 From Dedicated Credits Revenue 240,000
 From Beginning Nonlapsing Balances ... 30,000
 From Closing Nonlapsing Balances (1,600)
 Schedule of Programs:
 ALJ Compliance 23,400
 Statewide Management Liability
 Training 287,400

**UTAH EDUCATION AND
 TELEHEALTH NETWORK**

Item 5

To Utah Education and Telehealth Network -
 Digital Teaching and Learning Program
 From Education Fund 165,200
 From Beginning Nonlapsing Balances ... 200,000
 Schedule of Programs:
 Digital Teaching and Learning
 Program 365,200

Item 6

To Utah Education and Telehealth Network
 From General Fund 822,300
 From Education Fund 26,880,100
 From Federal Funds 3,979,000
 From Dedicated Credits Revenue ... 14,586,400
 From Beginning Nonlapsing
 Balances 4,084,900
 From Closing Nonlapsing Balances ... (1,037,400)
 Schedule of Programs:
 Administration 4,253,100
 Course Management Systems 1,971,600
 Instructional Support 4,087,500
 KUEN Broadcast 459,600
 Operations and Maintenance 458,200
 Public Information 303,100
 Technical Services 35,984,500
 Utah Telehealth Network 1,797,700

Subsection 2(b). Business-like Activities.

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

**DEPARTMENT OF HUMAN
 RESOURCE MANAGEMENT**

Item 7

To Department of Human Resource Management -
 Human Resources Internal Service Fund
 From Dedicated Credits Revenue ... 14,764,600

From Beginning Fund Balance 2,527,400
 From Closing Fund Balance (1,802,500)

Schedule of Programs:

Administration 1,295,500
 Information Technology 1,651,600
 ISF - Core HR Services 243,600
 ISF - Field Services 10,496,600
 ISF - Payroll Field Services 716,100
 Policy 1,086,100
 Budgeted FTE 126.5
 Authorized Capital Outlay 1,500,000

Subsection 2(c). Fiduciary Funds.

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

FUND AND ACCOUNT TRANSFERS

Item 8

To Fund and Account Transfers - Firefighters
 Retirement Trust & Agency Fund
 From General Fund 12,000,000
 Schedule of Programs:
 Firefighters Retirement Trust &
 Agency Fund 12,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 5
H. B. 6

Passed February 6, 2019
Approved February 19, 2019
Effective July 1, 2019

INFRASTRUCTURE AND GENERAL
GOVERNMENT BASE BUDGET

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates (\$35,696,900) in operating and capital budgets for fiscal year 2019, including:

- ▶ \$267,500 from the General Fund;
- ▶ \$267,500 from the Education Fund;
- ▶ (\$36,231,900) from various sources as detailed in this bill.

This bill appropriates \$38,466,300 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$56,383,600 in business-like activities for fiscal year 2019.

This bill appropriates \$176,542,200 in capital project funds for fiscal year 2019.

This bill appropriates \$2,157,254,300 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$124,932,100 from the General Fund;
- ▶ \$72,218,700 from the Education Fund;
- ▶ \$1,960,103,500 from various sources as detailed in this bill.

This bill appropriates \$43,483,000 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$299,933,800 in business-like activities for fiscal year 2020.

This bill appropriates \$93,869,000 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$24,813,300 from the General Fund;
- ▶ \$69,055,700 from the Education Fund.

This bill appropriates \$1,451,304,200 in capital project funds for fiscal year 2020, including:

- ▶ \$40,000,000 from the General Fund;
- ▶ \$47,000,000 from the Education Fund;
- ▶ \$1,364,304,200 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:
ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

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

DEPARTMENT OF
ADMINISTRATIVE SERVICES

Item 1

To Department of Administrative Services -
Administrative Rules
From Beginning Nonlapsing Balances ... 316,100
From Closing Nonlapsing Balances (206,500)
Schedule of Programs:
DAR Administration 109,600

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Administrative Rules in Item 14, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to programming, upgrade, operation, and maintenance of the e-Rules system: \$350,000.

Item 2

To Department of Administrative Services -
Building Board Program
From Beginning Nonlapsing Balances .. (16,800)
From Closing Nonlapsing Balances 24,200
Schedule of Programs:
Building Board Program 7,400

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Building Board Program in Item 15, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to facilities/infrastructure condition assessments and operations and maintenance database program needs: \$100,000.

Item 3

To Department of Administrative Services -
DFCM Administration
From General Fund, One-Time 267,500
From Education Fund, One-Time 267,500
From Beginning Nonlapsing Balances ... 406,100
From Closing Nonlapsing Balances (292,600)
Schedule of Programs:
DFCM Administration 602,200
Energy Program 46,300

Under the terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature

intends that appropriations provided for DFCM Administration in Item 16, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time limited FTEs, and Governor’s Mansion maintenance: \$1,000,000; and, Energy Program operations: \$200,000.

Item 4

To Department of Administrative Services -
 Executive Director
 From Beginning Nonlapsing Balances 12,300
 From Closing Nonlapsing Balances (101,700)
 Schedule of Programs:
 Executive Director (89,400)

Under the terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Executive Director in Item 18, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to the telework pilot, space utilization needs including alternative workplace solutions, leadership training, internal auditing, security improvements, department optimization projects, customer service, and website maintenance: \$450,000.

Item 5

To Department of Administrative Services -
 Finance - Mandated
 From Lapsing Balance (1,013,700)
 Schedule of Programs:
 Development Zone Partial
 Rebates (1,013,700)

Item 6

To Department of Administrative Services -
 Finance - Mandated - Ethics Commissions
 From Beginning Nonlapsing Balances 74,200
 From Closing Nonlapsing Balances (60,200)
 Schedule of Programs:
 Executive Branch Ethics Commission 3,900
 Political Subdivisions Ethics
 Commission 10,100

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Ethics Commission in Item 20, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to Ethics Commission investigations and commission and staff expenses: \$97,000.

Item 7

To Department of Administrative Services -
 Finance - Mandated - Parental Defense
 From Beginning Nonlapsing Balances 19,600
 From Closing Nonlapsing Balances (42,400)
 Schedule of Programs:
 Parental Defense (22,800)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Parental Defense in Item 21, Chapter 17,

Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to child welfare parental defense expenses: \$75,000.

Item 8

To Department of Administrative Services -
 Finance Administration
 From Dedicated Credits Revenue,
 One-Time 11,100
 From Beginning Nonlapsing
 Balances 1,642,700
 From Closing Nonlapsing Balances . . . (2,450,600)
 Schedule of Programs:
 Finance Director’s Office (75,200)
 Financial Information Systems 219,000
 Financial Reporting (190,300)
 Payables/Disbursing (59,500)
 Payroll 576,900
 Technical Services (1,267,700)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Finance Administration in Item 22, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, and information technology support and hardware, as well as costs associated with federal funds accountability: \$3,400,000.

Item 9

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From Beginning Nonlapsing
 Balances (79,800)
 From Closing Nonlapsing Balances 152,700
 Schedule of Programs:
 Inspector General of Medicaid
 Services 72,900

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 23, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent, and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: \$750,000.

Item 10

To Department of Administrative Services -
 Judicial Conduct Commission
 From Beginning Nonlapsing Balances . . . (5,800)
 From Closing Nonlapsing Balances 13,800
 Schedule of Programs:
 Judicial Conduct Commission 8,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 24, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of

these funds are limited to professional services for investigations: \$75,000.

Item 11

To Department of Administrative Services -
 Post Conviction Indigent Defense
 From Beginning Nonlapsing
 Balances (187,500)
 From Closing Nonlapsing Balances 187,500

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 25, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to legal costs for death row inmates: \$133,900.

Item 12

To Department of Administrative Services -
 Purchasing
 From Lapsing Balance 25,400
 Schedule of Programs:
 Purchasing and General Services 25,400

Item 13

To Department of Administrative Services -
 State Archives
 From Beginning Nonlapsing
 Balances (62,700)
 From Closing Nonlapsing Balances 230,400
 Schedule of Programs:

Archives Administration (64,100)
 Open Records (163,000)
 Patron Services 208,500
 Preservation Services 22,200
 Records Analysis 170,300
 Records Services (6,200)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for State Archives in Item 27, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to electronic records management and preservation, records repository security improvements, and transparency and open government initiatives: \$500,000.

CAPITAL BUDGET

Item 14

To Capital Budget - Capital Development -
 Other State Government
 From General Fund Restricted - Prison Devel.
 Restricted Account, One-Time ... (46,000,000)
 Schedule of Programs:
 Prison Relocation (46,000,000)

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

Item 15

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the

Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, onetime proportionally to the reduction in subsidy payment received, thus holding the Debt Service fund harmless.

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 16

To Department of Technology Services -
 Chief Information Officer
 From Beginning Nonlapsing
 Balances 1,775,100
 Schedule of Programs:
 Chief Information Officer 1,775,100

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Chief Information Officer in Item 33, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to costs associated with Department of Technology Services rate study and other IT initiatives and to implement the provisions of Postal Facilities and Government Services (Senate Bill 65, 2017 General Session): \$271,500.

Item 17

To Department of Technology Services -
 Integrated Technology Division
 From Federal Funds, One-Time 415,400
 From Dedicated Credits Revenue,
 One-Time 69,400
 From Beginning Nonlapsing Balances ... 412,900
 Schedule of Programs:
 Automated Geographic Reference
 Center 897,700

Under the terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Integrated Technology Division in Item 34, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to Geographic Reference Center projects, Global Positioning System Reference Network upgrades and maintenance, and Survey Monument Restoration grant obligations to local government: \$600,000.

TRANSPORTATION

Item 18

To Transportation - Aeronautics
 From Dedicated Credits Revenue,
 One-Time 6,300
 From Beginning Nonlapsing
 Balances 2,307,000
 Schedule of Programs:
 Airplane Operations 6,300
 Airport Construction 2,307,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the

one-time appropriation of \$5,000,000 from the Aeronautics Restricted Account to Airport Construction in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to airport construction projects.

Item 19

To Transportation – Engineering Services
From Dedicated Credits Revenue,

One-Time	(1,209,600)
From Beginning Nonlapsing Balances ...	300,000
Schedule of Programs:	
Engineering Services	(294,100)
Materials Lab	(1,209,600)
Preconstruction Admin	755,300
Right-of-Way	(161,200)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Engineering Services in Item 39, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to engineering services special projects: \$300,000.

Item 20

To Transportation – Operations/
Maintenance Management
From Dedicated Credits Revenue,

One-Time	1,463,600
From Beginning Nonlapsing Balances	5,622,400
Schedule of Programs:	
Equipment Purchases	1,650,000
Field Crews	1,835,700
Lands and Buildings	(92,200)
Maintenance Administration	138,500
Region 1	975,500
Region 2	(1,412,500)
Region 3	421,000
Region 4	220,300
Seasonal Pools	(50,300)
Traffic Operations Center	3,400,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Operations/Maintenance Management in Item 41, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to highway maintenance: \$2,000,000; and equipment purchases: \$200,000.

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$6,000,000 from the Transportation Fund to Operations/Maintenance Management in Item 20, Chapter 395, Laws of Utah 2016, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to avalanche control.

Item 21

To Transportation – Region Management
From Dedicated Credits Revenue,

One-Time	(1,219,000)
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From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:

Cedar City	(71,900)
Price	23,600
Region 1	14,500
Region 2	(448,200)
Region 3	(240,100)
Region 4	(458,100)
Richfield	161,200

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Region Management in Item 42, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to region management: \$200,000.

Item 22

To Transportation – Safe Sidewalk Construction
From Beginning Nonlapsing Balances ... 728,800
Schedule of Programs:

Sidewalk Construction	728,800
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Item 23

To Transportation – Support Services
From Beginning Nonlapsing Balances ... 300,000
Schedule of Programs:

Administrative Services	69,000
Data Processing	300,000
Risk Management	(69,000)

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Support Services in Item 45, Chapter 17, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to computer software development projects: \$300,000; and building improvements: \$500,000.

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 24

To Department of Administrative Services –
Child Welfare Parental Defense Fund
From Dedicated Credits Revenue,

One-Time	1,000
From Beginning Fund Balance	11,600
From Closing Fund Balance	(12,600)

Item 25

To Department of Administrative Services –
State Debt Collection Fund
From Dedicated Credits Revenue,

One-Time	280,100
From Trust and Agency Funds, One-Time	(1,600)
From Other Financing Sources, One-Time	(9,400)

From Beginning Fund Balance 760,800
 From Closing Fund Balance (1,989,500)
 Schedule of Programs:
 State Debt Collection Fund (959,600)

Item 26

To Department of Administrative Services -
 Wire Estate Memorial Fund
 From Dedicated Credits Revenue,
 One-Time (1,700)
 From Beginning Fund Balance 1,400
 From Closing Fund Balance (800)
 Schedule of Programs:
 Wire Estate Memorial Fund (1,100)

TRANSPORTATION**Item 27**

To Transportation - County of the First
 Class Highway Projects Fund
 From Dedicated Credits Revenue,
 One-Time (2,000,000)
 From Interest Income, One-Time 527,000
 From Revenue Transfers,
 One-Time 38,900,000
 From Pass-through, One-Time 2,000,000
 From Beginning Fund Balance 41,678,500
 From Closing Fund Balance (41,678,500)
 Schedule of Programs:
 County of the First Class Highway
 Projects Fund 39,427,000

Subsection 1(c). Business-like Activities.

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

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS**Item 28**

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management
 From Dedicated Credits Revenue,
 One-Time (47,000)
 From Beginning Fund Balance 579,100
 From Closing Fund Balance (273,600)
 Schedule of Programs:
 ISF - Facilities Management 258,500

Item 29

To Department of Administrative Services Internal Service Funds - Division of Finance
 From Dedicated Credits Revenue,
 One-Time (598,800)
 From Beginning Fund Balance 585,700

From Closing Fund Balance 41,800
 Schedule of Programs:
 ISF - Consolidated Budget and
 Accounting (963,000)
 ISF - Purchasing Card 991,700

Item 30

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations
 From Dedicated Credits Revenue,
 One-Time 5,432,800
 From Other Financing Sources,
 One-Time 96,100
 From Beginning Fund Balance 40,932,900
 From Closing Fund Balance (40,289,200)
 Schedule of Programs:
 ISF - Fuel Network 2,748,400
 ISF - Motor Pool 3,412,600
 ISF - Travel Office 11,600

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that appropriations provided for Fleet Operations in Item 53, Chapter 17, Laws of Utah 2018, shall not lapse capital outlay authority granted within FY 2019 for vehicles not delivered by the end of FY 2019 in which vehicle purchase orders were issued obligating capital outlay funds.

Item 31

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services
 From Dedicated Credits Revenue,
 One-Time 214,500
 From Other Financing Sources,
 One-Time 6,100
 From Beginning Fund Balance 3,929,800
 From Closing Fund Balance (5,655,500)
 Schedule of Programs:
 ISF - Central Mailing (699,200)
 ISF - Cooperative Contracting (553,300)
 ISF - Federal Surplus Property (900)
 ISF - Print Services (304,900)
 ISF - State Surplus Property 53,200

Item 32

To Department of Administrative Services Internal Service Funds - Risk Management
 From Dedicated Credits Revenue,
 One-Time 332,000
 From Premiums, One-Time 6,128,100
 From Interest Income, One-Time (379,400)
 From Risk Management - Workers
 Compensation Fund, One-Time (7,607,400)
 From Other Financing Sources,
 One-Time 530,700
 From Beginning Fund Balance 13,292,200
 From Closing Fund Balance (2,909,800)
 Schedule of Programs:
 ISF - Risk Management
 Administration 161,500
 ISF - Workers' Compensation 3,048,100
 Risk Management - Auto (240,800)
 Risk Management - Liability 4,933,300
 Risk Management - Property 1,484,300

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 33

To Department of Technology Services Internal Service Funds - Enterprise Technology Division From Dedicated Credits Revenue,
 One-Time 3,144,700
 From Beginning Fund Balance 20,646,000
 From Closing Fund Balance (20,748,200)
 Schedule of Programs:
 ISF - Enterprise Technology
 Division 3,042,500

TRANSPORTATION

Item 34

To Transportation - Transportation Infrastructure Loan Fund
 From Beginning Fund Balance 39,129,000
 From Closing Fund Balance (129,000)
 Schedule of Programs:
 Infrastructure Loan Fund 39,000,000

Subsection 1(d). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 35

To Capital Budget - DFCM Capital Projects Fund From Revenue Transfers,
 One-Time 115,721,100
 From Beginning Fund Balance 58,322,400
 From Closing Fund Balance (58,322,400)
 Schedule of Programs:
 DFCM Capital Projects Fund 115,721,100

Item 36

To Capital Budget - DFCM Prison Project Fund From Interest Income, One-Time 833,300
 From General Fund Restricted - Prison Devel. Restricted Account,
 One-Time 46,000,000
 From Other Financing Sources,
 One-Time (201,515,000)
 From Beginning Fund Balance 112,378,200
 From Closing Fund Balance (79,696,500)
 Schedule of Programs:
 DFCM Prison Project Fund (122,000,000)

Item 37

To Capital Budget - SBOA Capital Projects Fund From Other Financing Sources,
 One-Time 3,206,400
 From Beginning Fund Balance (11,558,600)
 From Closing Fund Balance (11,885,000)
 Schedule of Programs:
 SBOA Capital Projects Fund (20,237,200)

TRANSPORTATION

Item 38

To Transportation - Transportation Investment Fund of 2005
 From Licenses/Fees, One-Time 1,006,800
 From Interest Income, One-Time (596,700)

From Designated Sales Tax,
 One-Time 31,581,800
 From Revenue Transfers, One-Time .. 2,670,700
 From Other Financing Sources,
 One-Time 150,009,700
 From Beginning Fund Balance 369,171,700
 From Closing Fund Balance (350,785,700)
 Schedule of Programs:
 Transportation Investment
 Fund 203,058,300

Notwithstanding the first item of intent language in H.B. 3, Item 322, 2018 General Session, the Legislature intends that, as resources allow, the Department of Transportation may expend no more than \$5,600,000 from the Transportation Investment Fund of 2005 to transfer to the Inland Port Authority to be used for infrastructure within the port.

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital

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

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 39

To Department of Administrative Services - Administrative Rules
 From General Fund 695,700
 From Beginning Nonlapsing Balances ... 258,600
 From Closing Nonlapsing Balances (282,200)
 Schedule of Programs:
 DAR Administration 672,100

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Office of Administrative Rules, whose mission is "to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act": (1) average number of business days to review rule filings (target: six days or less); and (2) average number of days to publish the final version of an administrative rule after the rule becomes effective (target: twenty days or less).

Item 40

To Department of Administrative Services - Building Board Program
 From Capital Projects Fund 1,297,100
 From Beginning Nonlapsing Balances 5,900
 Schedule of Programs:
 Building Board Program 1,303,000

Item 41

To Department of Administrative Services - DFCM Administration	
From General Fund	3,368,000
From Education Fund	668,000
From Dedicated Credits Revenue	902,300
From Capital Projects Fund	2,285,300
From Beginning Nonlapsing Balances ...	322,600
From Closing Nonlapsing Balances	(131,500)
Schedule of Programs:	
DFCM Administration	6,716,200
Energy Program	546,400
Governor's Residence	152,100

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for DFCM Administration, whose mission is to provide professional services to assist State entities in meeting their facility needs for the benefit of the public: (1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and (2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target +/- 5%).

Item 42

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

Item 43

To Department of Administrative Services - Executive Director	
From General Fund	1,101,700
From Beginning Nonlapsing Balances ...	110,000
From Closing Nonlapsing Balances	(21,800)
Schedule of Programs:	
Executive Director	1,189,900

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Executive Director, whose mission is "to deliver support services of the highest quality and best value to government agencies and the public": (1) independent evaluation/audit of divisions/key programs (target: at least four annually); and (2) coordinate with all State agencies in participation of air quality improvement activities through the position of the Coordinator of Resource Stewardship (CRS) and assistance from the Resource Stewardship Liaisons (targets: 3 liaison meetings annually, 25 agencies participating in alternative transportation strategies, 2 air quality grant funding applications by agencies with assistance from CRS).

Item 44

To Department of Administrative Services - Finance - Mandated	
From General Fund	4,500,000
From General Fund Restricted - Economic Incentive Restricted Account	3,255,000
From General Fund Restricted - Land Exchange Distribution Account	611,200
Schedule of Programs:	
Development Zone Partial Rebates ..	3,255,000
Land Exchange Distribution	611,200
State Employee Benefits	4,500,000

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

Item 45

To Department of Administrative Services - Finance - Mandated - Ethics Commissions	
From General Fund	9,000
From Beginning Nonlapsing Balances ...	67,900
From Closing Nonlapsing Balances	(41,000)
Schedule of Programs:	
Executive Branch Ethics Commission ...	19,800
Political Subdivisions Ethics Commission	16,100

Item 46

To Department of Administrative Services - Finance - Mandated - Parental Defense	
From General Fund	95,200
From Dedicated Credits Revenue	45,000
From Revenue Transfers	9,000
From Beginning Nonlapsing Balances ...	59,300
From Closing Nonlapsing Balances	(86,300)
Schedule of Programs:	
Parental Defense	122,200

Item 47

To Department of Administrative Services - Finance Administration	
From General Fund	7,119,100
From Transportation Fund	450,000
From Dedicated Credits Revenue	1,760,700
From General Fund Restricted - Internal Service Fund Overhead	1,291,100
From Beginning Nonlapsing Balances	2,450,600
From Closing Nonlapsing Balances ...	(1,725,800)
Schedule of Programs:	
Finance Director's Office	687,200
Financial Information Systems	4,516,000
Financial Reporting	1,890,400
Payables/Disbursing	2,087,400
Payroll	1,855,300
Technical Services	309,400

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Finance Administration, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems,

processes, and information”: (1) Issue the state’s Comprehensive Annual Financial Report (CAFR) with an unqualified opinion (baseline: 158 days after June 30; target: 120 days after June 30).

Item 48

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From General Fund 1,212,300
 From Medicaid Expansion Fund 35,000
 From Revenue Transfers 2,376,400
 Schedule of Programs:
 Inspector General of Medicaid
 Services 3,623,700

Item 49

To Department of Administrative Services -
 Judicial Conduct Commission
 From General Fund 269,600
 From Beginning Nonlapsing Balances 12,700
 Schedule of Programs:
 Judicial Conduct Commission 282,300

Item 50

To Department of Administrative Services -
 Post Conviction Indigent Defense
 From General Fund 33,900
 Schedule of Programs:
 Post Conviction Indigent Defense
 Fund 33,900

Item 51

To Department of Administrative Services -
 Purchasing
 From General Fund 722,700
 Schedule of Programs:
 Purchasing and General Services 722,700

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Purchasing and General Services, whose mission is to provide its customers best value goods and services: (1) increase the average discount on State of Utah Best Value Cooperative contracts (baseline: 32%, target: 40%); (2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1000); and (3) increase the amount of total spend on State of Utah Best Value Cooperative contracts (baseline: \$550 million, target: \$600 million).

Item 52

To Department of Administrative Services -
 State Archives
 From General Fund 3,106,500
 From Federal Funds 40,900
 From Dedicated Credits Revenue 54,300
 From Beginning Nonlapsing Balances 45,100
 From Closing Nonlapsing Balances (800)
 Schedule of Programs:
 Archives Administration 790,300

Open Records 598,200
 Patron Services 767,700
 Preservation Services 333,800
 Records Analysis 444,000
 Records Services 312,000

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for State Archives, whose mission is “to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information”: (1) historic records, images and metadata, posted online and free to the public, through mass digitization, volume increased per patron research reporting period (target: at least a 10% increase); and (2) government employees trained and certified in records management and GRAMA responsibilities per fiscal year (target: at least a 10% increase).

CAPITAL BUDGET

Item 53

To Capital Budget – Capital Improvements
 From General Fund 66,787,900
 From Education Fund 71,550,700
 Schedule of Programs:
 Capital Improvements 138,338,600

Item 54

To Capital Budget – Pass-Through
 From General Fund 3,000,000
 Schedule of Programs:
 Olympic Park Improvement 3,000,000

The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, and/or Soldier Hollow Nordic Center.

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

Item 55

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund 71,757,600
 From General Fund, One-Time (44,534,600)
 From Transportation Investment
 Fund of 2005 288,711,200
 From Federal Funds 15,812,700
 From Dedicated Credits Revenue 17,356,900
 From County of First Class Highway
 Projects Fund 13,541,500
 From Revenue Transfers (14,245,700)
 From Beginning Nonlapsing Balances ... 931,500
 From Closing Nonlapsing Balances ... (1,179,900)
 Schedule of Programs:
 G.O. Bonds – State Govt 27,000,000
 G.O. Bonds – Transportation 302,252,700
 Revenue Bonds Debt Service 18,898,500

DEPARTMENT OF TECHNOLOGY SERVICES

Item 56

To Department of Technology Services - Chief Information Officer
 From General Fund 800,000
 Schedule of Programs:
 Chief Information Officer 800,000

The Legislature intends that the Department of Technology Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Chief Information Officer, whose mission is “to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah”: (1) data security - ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); (2) application development - satisfaction scores on application development projects from agencies (target: average at least 83%); and (3) procurement and deployment - ensure state employees receive computers in a timely manner (target: at least 75%).

Item 57

To Department of Technology Services - Integrated Technology Division
 From General Fund 999,900
 From Federal Funds 238,100
 From Dedicated Credits Revenue 1,135,800
 From General Fund Restricted - Statewide Unified E-911 Emergency Account 332,600
 Schedule of Programs:
 Automated Geographic Reference Center 2,706,400

The Legislature intends that the Department of Technology Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Automated Geographic Reference Center (AGRC), whose mission is “to encourage and facilitate beneficial uses of geospatial information and technology for Utah”: (1) uptime for AGRC’s portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); (2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah’s class I and II counties); and (3) uptime for AGRC’s TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

TRANSPORTATION

Item 58

To Transportation - Aeronautics
 From Dedicated Credits Revenue 396,900
 From Aeronautics Restricted Account 7,088,300
 Schedule of Programs:
 Administration 571,800
 Aid to Local Airports 2,240,000
 Airplane Operations 1,057,300
 Airport Construction 3,536,100
 Civil Air Patrol 80,000

Item 59

To Transportation - B and C Roads
 From Transportation Fund 181,658,400
 Schedule of Programs:
 B and C Roads 181,658,400

Item 60

To Transportation - Construction Management
 From Transportation Fund 166,127,000
 From Federal Funds 283,527,700
 From Expendable Receipts 1,550,000
 Schedule of Programs:
 Federal Construction - New 377,479,400
 Rehabilitation/Preservation 73,725,300

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 61

To Transportation - Cooperative Agreements
 From Federal Funds 50,323,800
 From Expendable Receipts 19,897,100
 Schedule of Programs:
 Cooperative Agreements 70,220,900

Item 62

To Transportation - Engineering Services
 From Transportation Fund 23,903,100
 From Federal Funds 32,787,400
 Schedule of Programs:
 Civil Rights 263,700
 Construction Management 1,706,400
 Engineer Development Pool 2,107,400
 Engineering Services 2,617,700
 Environmental 2,032,700
 Highway Project Management Team ... 364,100
 Materials Lab 4,069,600
 Preconstruction Admin 2,324,400
 Program Development 30,830,600
 Research 4,369,400

Right-of-Way	2,503,700
Structures	3,500,800

Item 63

To Transportation - Mineral Lease	
From General Fund Restricted -	
Mineral Lease	32,756,400
Schedule of Programs:	
Mineral Lease Payments	29,504,500
Payment in Lieu	3,251,900

The Legislature intends that the funds appropriated from the Federal Mineral Lease Account shall be used for improvement or reconstruction of highways that have been heavily impacted by energy development. The Legislature further intends that if private industries engaged in developing the State's natural resources are willing to participate in the cost of the construction of highways leading to their facilities, that local governments consider that highway as a higher priority as they prioritize the use of Mineral Lease Funds received through 59-21-1(4)(C)(i). The funds appropriated for improvement or reconstruction of energy impacted highways are nonlapsing.

Item 64

To Transportation - Operations/ Maintenance Management	
From Transportation Fund	158,178,500
From Transportation Investment	
Fund of 2005	6,901,400
From Federal Funds	8,887,500
From Dedicated Credits Revenue	1,334,200
From Tollway Special Revenue Fund	36,000
Schedule of Programs:	
Equipment Purchases	7,598,700
Field Crews	15,455,700
Lands and Buildings	2,900,000
Maintenance Administration	11,909,700
Maintenance Planning	1,713,400
Region 1	22,456,700
Region 2	29,626,200
Region 3	20,964,300
Region 4	43,873,600
Seasonal Pools	1,172,500
Shops	223,600
Traffic Operations Center	14,056,100
Traffic Safety/Tramway	3,387,100

The Legislature intends that upon completion of the FY 2019 winter maintenance, unused funds in the Operations/Maintenance Management line item may be used by the Department of Transportation to meet unmet equipment needs.

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Item 65

To Transportation - Region Management	
From Transportation Fund	25,928,400

From Federal Funds	2,995,800
Schedule of Programs:	
Cedar City	378,700
Price	364,300
Region 1	6,100,500
Region 2	10,258,600
Region 3	5,210,000
Region 4	6,368,000
Richfield	244,100

Item 66

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

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 67

To Transportation - Share the Road	
From General Fund Restricted - Share the Road Bicycle Support	25,000
Schedule of Programs:	
Share the Road	25,000

Item 68

To Transportation - Support Services	
From General Fund	2,500,000
From Transportation Fund	35,631,600
From Federal Funds	3,576,300
Schedule of Programs:	
Administrative Services	7,101,300
Building and Grounds	987,500
Community Relations	880,600
Comptroller	2,858,500
Data Processing	11,970,900
Human Resources Management	2,565,200
Internal Auditor	1,162,100
Ports of Entry	9,809,100
Procurement	1,219,300
Risk Management	3,153,400

The Legislature intends that the Department of Transportation report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of reducing crashes, injuries, and fatalities: (1) traffic fatalities (target: at least a 2% reduction from 3-year rolling average); (2) traffic serious injuries (target: at least a 2% reduction from 3-year

rolling average); (3) traffic crashes (target: at least a 2% reduction from 3-year rolling average); (4) internal fatalities (target: zero); (5) internal injuries (target: injury rate below 6.5%); and (6) internal equipment damage (target: equipment damage rate below 7.5%). The department will use the strategies contained in the 2018 UDOT Strategic Direction Document to accomplish these targets including implementing safety infrastructure improvements, partnering with law enforcement and emergency services, improving employee safety, and public outreach and education.

The Legislature intends that the Department of Transportation report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of preserving infrastructure: (1) pavement performance (target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition); (2) maintain the health of structures (target: at least 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: at least 90% in good condition); and (4) maintain the health of signals (target: at least 90% in good condition). The department will use the strategies contained in the 2018 UDOT Strategic Direction Document to accomplish these targets including pavement management, bridge management, and ATMS/Signal system management.

The Legislature intends that the Department of Transportation report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the goal of optimizing mobility: (1) delay along I-15 (target: overall composite annual score above 90); (2) maintain a reliable fast condition on I-15 along the Wasatch Front (target: at least 85% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: at least 92% effectiveness); and (4) support increase of trips by public transit (target: at least 10%). The department will use the strategies contained in the 2018 UDOT Strategic Direction Document to accomplish these targets including; strategic capacity improvements, efficient operations, and facilitating travel choices.

Item 69

To Transportation – Transportation Investment Fund Capacity Program
 From Transportation Investment Fund of 2005 578,001,400
 Schedule of Programs:
 Transportation Investment Fund Capacity Program 578,001,400

There is appropriated to the Department of Transportation from the Transportation

Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 70

To Department of Administrative Services – Child Welfare Parental Defense Fund
 From Dedicated Credits Revenue 1,000
 From Beginning Fund Balance 33,200
 From Closing Fund Balance (22,300)
 Schedule of Programs:
 Child Welfare Parental Defense Fund ... 11,900

Item 71

To Department of Administrative Services – State Archives Fund
 From Beginning Fund Balance 2,600
 From Closing Fund Balance (2,600)

Item 72

To Department of Administrative Services – State Debt Collection Fund
 From Dedicated Credits Revenue 3,387,100
 From Beginning Fund Balance 1,989,500
 From Closing Fund Balance (3,132,500)
 Schedule of Programs:
 State Debt Collection Fund 2,244,100

Item 73

To Department of Administrative Services – Wire Estate Memorial Fund
 From Beginning Fund Balance 164,500
 From Closing Fund Balance (164,500)

TRANSPORTATION

Item 74

To Transportation – County of the First Class Highway Projects Fund
 From Interest Income 527,000
 From Revenue Transfers 40,700,000
 From Beginning Fund Balance 41,678,500
 From Closing Fund Balance (41,678,500)
 Schedule of Programs:
 County of the First Class Highway Projects Fund 41,227,000

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following

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

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 75

To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management

From Dedicated Credits Revenue 35,080,400
 From Beginning Fund Balance 3,659,700
 From Closing Fund Balance (4,704,500)
 Schedule of Programs:

ISF - Facilities Management 34,035,600
 Budgeted FTE 160.0
 Authorized Capital Outlay 141,100

The Legislature intends that the DFCM Internal Service Fund may add up to three FTEs and up to two vehicles beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs or vehicles will be reviewed and may be approved by the Legislature in the next legislative session.

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for ISF - Facilities Management, whose mission is "to provide professional building maintenance services to State facilities, agency customers, and the general public": average maintenance cost per square foot compared to the private sector (target: at most 18%).

Item 76

To Department of Administrative Services Internal Service Funds - Division of Finance

From Dedicated Credits Revenue 1,570,700
 From Beginning Fund Balance 29,200
 From Closing Fund Balance (75,000)
 Schedule of Programs:

ISF - Consolidated Budget and
 Accounting 801,400
 ISF - Purchasing Card 723,500
 Budgeted FTE 20.0

Item 77

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations

From Dedicated Credits Revenue 60,269,200
 From Other Financing Sources 600,000
 From Beginning Fund Balance 55,866,700
 From Closing Fund Balance (55,096,600)
 Schedule of Programs:

ISF - Fuel Network 28,448,100
 ISF - Motor Pool 32,655,400
 ISF - Travel Office 535,800
 Budgeted FTE 26.0
 Authorized Capital Outlay 19,300,000

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Fleet Operations, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options": (1) improve EPA emission standard certification level for the State's light duty fleet (target: reduce average fleet emission level by 5 points annually); (2) maintain the financial solvency of the Division of Fleet Operations (target: 30% or less of the allowable debt); and (3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

Item 78

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services

From Dedicated Credits Revenue 20,236,300
 From Other Financing Sources 34,000
 From Beginning Fund Balance 8,865,800
 From Closing Fund Balance (10,489,900)
 Schedule of Programs:

ISF - Central Mailing 11,884,000
 ISF - Cooperative Contracting 3,542,600
 ISF - Federal Surplus Property 77,900
 ISF - Print Services 2,499,800
 ISF - State Surplus Property 641,900
 Budgeted FTE 93.0
 Authorized Capital Outlay 4,070,000

Item 79

To Department of Administrative Services Internal Service Funds - Risk Management

From Dedicated Credits Revenue 404,900
 From Premiums 53,679,300
 From Interest Income 653,000
 From Restricted Revenue 6,700
 From Other Financing Sources 530,700
 From Beginning Fund Balance (5,300,500)
 From Closing Fund Balance 11,605,800
 Schedule of Programs:

ISF - Risk Management
 Administration 404,900
 ISF - Workers' Compensation 7,170,000
 Risk Management - Auto 2,328,900
 Risk Management - Liability 30,984,100
 Risk Management - Property 20,692,000
 Budgeted FTE 32.0
 Authorized Capital Outlay 230,000

The Legislature intends that the Department of Administrative Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for the Division of Risk Management, whose mission

is “to protect State assets, to promote safety, and to control against property, liability, and auto losses”: (1) follow up on life safety findings on onsite inspections (target: 100%); (2) annual independent claims management audit (target: at least 96%); and (3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary’s recommendation).

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 80

To Department of Technology Services Internal Service Funds – Enterprise Technology Division
 From Dedicated Credits Revenue ... 122,648,700
 From Beginning Fund Balance 20,748,200
 From Closing Fund Balance (20,889,000)
 Schedule of Programs:

ISF – Enterprise Technology
 Division 122,507,900
 Budgeted FTE 733.0
 Authorized Capital Outlay 6,000,000

The Legislature intends that the Department of Technology Services report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures for Enterprise Technology, whose mission is “to enable our partner agencies to securely leverage technology to better serve the residents of the State of Utah”: (1) customer satisfaction – measure customers’ experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); (2) application availability – monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and (3) competitive rates – ensure all DTS rates are market competitive or better (target: 100%).

TRANSPORTATION

Item 81

To Transportation – Transportation Infrastructure Loan Fund
 From Interest Income 522,200
 From Beginning Fund Balance 26,314,200
 From Closing Fund Balance (26,836,400)

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 82

To Education Budget Reserve Account
 From Education Fund, One-Time ... 69,055,700
 Schedule of Programs:
 Education Budget Reserve Account . 69,055,700

Item 83

To General Fund Budget Reserve Account

From General Fund, One-Time 24,813,300
 Schedule of Programs:
 General Fund Budget Reserve Account 24,813,300

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 84

To Capital Budget – Capital Development Fund
 From General Fund 40,000,000
 From Education Fund 47,000,000
 Schedule of Programs:
 Capital Development Fund 87,000,000

Item 85

To Capital Budget – DFCM Capital Projects Fund
 From Revenue Transfers 209,069,400
 From Beginning Fund Balance 162,387,400
 From Closing Fund Balance (162,387,400)
 Schedule of Programs:
 DFCM Capital Projects Fund 209,069,400

Item 86

To Capital Budget – DFCM Prison Project Fund
 From Interest Income 833,000
 From Beginning Fund Balance 253,204,400
 From Closing Fund Balance (222,037,400)
 Schedule of Programs:
 DFCM Prison Project Fund 32,000,000

Item 87

To Capital Budget – SBOA Capital Projects Fund
 From Other Financing Sources 4,000,000
 From Beginning Fund Balance 15,000,000
 Schedule of Programs:
 SBOA Capital Projects Fund 19,000,000

TRANSPORTATION

Item 88

To Transportation – Transportation Investment Fund of 2005
 From Transportation Fund 31,601,600
 From Licenses/Fees 88,048,000
 From County of First Class Highway Projects Fund 4,379,200
 From Designated Sales Tax 622,420,700
 From Revenue Transfers 2,670,600
 From Other Financing Sources 299,989,900
 From Beginning Fund Balance 410,727,300
 From Closing Fund Balance (355,602,500)
 Schedule of Programs:
 Transportation Investment Fund 1,104,234,800

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 6

H. B. 7

Passed February 6, 2019
 Approved February 19, 2019
 Effective July 1, 2019

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

Chief Sponsor: Bradley G. Last
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$1,011,100 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$760,000 from the General Fund;
- ▶ \$251,100 from various sources as detailed in this bill.

This bill appropriates (\$569,500) in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$109,754,800 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$50,717,500 from the General Fund;
- ▶ \$59,037,300 from various sources as detailed in this bill.

This bill appropriates \$42,514,600 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$9,500 in restricted fund and account transfers for fiscal year 2020, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums

of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 1

To Capitol Preservation Board
 From Dedicated Credits Revenue,
 One-Time (33,300)
 Schedule of Programs:
 Capitol Preservation Board (33,300)

LEGISLATURE

Item 2

To Legislature - Senate
 From Beginning Nonlapsing
 Balances (108,400)
 From Closing Nonlapsing Balances 108,400

Item 3

To Legislature - House of Representatives
 From Beginning Nonlapsing Balances . . . 351,600
 From Closing Nonlapsing Balances (351,600)

Item 4

To Legislature - Legislative Printing
 From Beginning Nonlapsing Balances 83,500
 From Closing Nonlapsing Balances (83,500)

Item 5

To Legislature - Office of Legislative Research
 and General Counsel
 From Beginning Nonlapsing
 Balances 1,520,600
 From Closing Nonlapsing Balances . . . (1,870,600)
 Schedule of Programs:
 Administration (350,000)

Item 6

To Legislature - Office of the Legislative
 Fiscal Analyst
 From Beginning Nonlapsing Balances . . (52,600)
 From Closing Nonlapsing Balances 52,600

Item 7

To Legislature - Office of the Legislative
 Auditor General
 From Beginning Nonlapsing Balances . . . 139,700
 From Closing Nonlapsing Balances (139,700)

Item 8

To Legislature - Legislative Support
 From Beginning Nonlapsing
 Balances (1,301,000)
 From Closing Nonlapsing Balances 1,301,000

Item 9

To Legislature - Legislative Services
 From General Fund, One-Time 760,000
 From Beginning Nonlapsing Balances . . . 403,400
 From Closing Nonlapsing Balances (403,400)
 Schedule of Programs:
 Administration 760,000

UTAH NATIONAL GUARD

Item 10

To Utah National Guard
 From Beginning Nonlapsing Balances 63,700
 Schedule of Programs:

Administration	(293,700)
Operations and Maintenance	325,100
Tuition Assistance	32,300

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 11

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From Federal Funds, One-Time	3,600
From Beginning Nonlapsing Balances ...	567,100

Schedule of Programs:

Administration	283,400
Cemetery	183,600
Outreach Services	103,700

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 12

To Capitol Preservation Board - State Capitol Fund From Dedicated Credits Revenue,

One-Time	25,200
From Beginning Fund Balance	354,000
From Closing Fund Balance	(383,700)

Schedule of Programs:

State Capitol Fund	(4,500)
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UTAH NATIONAL GUARD

Item 13

To Utah National Guard - National Guard MWR Fund

From Dedicated Credits Revenue,

One-Time	(308,300)
From Beginning Fund Balance	50,800
From Closing Fund Balance	(82,100)

Schedule of Programs:

National Guard MWR Fund	(339,600)
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DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 14

To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund

From Federal Funds, One-Time	(105,300)
From Dedicated Credits Revenue,	
One-Time	136,400
From Interest Income, One-Time	(31,100)
From Beginning Fund Balance	1,984,900
From Closing Fund Balance	(2,210,300)

Schedule of Programs:

Veterans Nursing Home Fund	(225,400)
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Section 2. FY 2020 Appropriations. The following sums of money are appropriated for

the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets.

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

CAPITOL PRESERVATION BOARD

Item 15

To Capitol Preservation Board

From General Fund	4,617,200
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Schedule of Programs:

Capitol Preservation Board	4,617,200
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The Legislature intends that the Capitol Preservation Board report by October 15, 2019 to the Executive Appropriations Committee on the following performance measures for the Capitol Preservation Board line item: (1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = 100 year life); (2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); (3) Provision of event and scheduling program for all government meetings, free speech activities, and public events (Target = 4,000 annually); and (4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

LEGISLATURE

Item 16

To Legislature - Senate

From General Fund	3,073,500
From Beginning Nonlapsing Balances	2,113,200
From Closing Nonlapsing Balances ...	(2,113,200)

Schedule of Programs:

Administration	3,073,500
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Item 17

To Legislature - House of Representatives

From General Fund	5,196,200
From Beginning Nonlapsing Balances	3,575,100
From Closing Nonlapsing Balances ...	(3,575,100)

Schedule of Programs:

Administration	5,196,200
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Item 18

To Legislature - Legislative Printing

From General Fund	609,600
From Dedicated Credits Revenue	258,700
From Beginning Nonlapsing Balances ...	609,700
From Closing Nonlapsing Balances ...	(609,700)

Schedule of Programs:

Administration	868,300
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Item 19

To Legislature - Office of Legislative Research and General Counsel

From General Fund	11,526,500
From Beginning Nonlapsing Balances	3,579,900
From Closing Nonlapsing Balances	(3,579,900)
Schedule of Programs:	
Administration	11,526,500

The Legislature intends that the Office of Legislative Research and General Counsel report by October 31, 2019 to the Subcommittee on Oversight on performance measures used to gauge accomplishment of office goals, missions, and outcomes.

Item 20

To Legislature - Office of the Legislative Fiscal Analyst

From General Fund	3,538,400
From Beginning Nonlapsing Balances	1,561,400
From Closing Nonlapsing Balances	(1,561,400)
Schedule of Programs:	
Administration and Research	3,538,400

The Legislature intends that the Legislative Fiscal Analyst report by October 31, 2019 to the Subcommittee on Oversight on the following performance measures for the Legislative Fiscal Analyst line item: (1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); (2) Correct appropriations bills (Target = 99%); (3) Unrevised fiscal notes (Target = 99.5%); (4) Timely fiscal notes (Target = 95%); and (5) Timely performance notes (Target = 85%).

Item 21

To Legislature - Office of the Legislative Auditor General

From General Fund	4,470,100
From Beginning Nonlapsing Balances	1,130,200
From Closing Nonlapsing Balances	(1,130,200)
Schedule of Programs:	
Administration	4,470,100

The Legislature intends that the Legislative Auditor General report by October 31, 2019 to the Subcommittee on Oversight on the following performance measures for the Legislative Auditor General line item: (1) Total audits completed each year (Target = 18); (2) Agency recommendations implemented (Target = 98%); and (3) Legislative recommendations implemented (Target = 100%).

Item 22

To Legislature - Legislative Support

From General Fund	411,800
From Beginning Nonlapsing Balances	274,500
From Closing Nonlapsing Balances	(274,500)
Schedule of Programs:	
Administration	411,800

Item 23

To Legislature - Legislative Services

From General Fund	1,274,200
From Beginning Nonlapsing Balances	403,400
From Closing Nonlapsing Balances	(403,400)

Schedule of Programs:

Human Resources	250,000
Administration	1,024,200

UTAH NATIONAL GUARD

Item 24

To Utah National Guard

From General Fund	7,168,500
From General Fund, One-Time	5,464,300
From Federal Funds	57,769,800
From Dedicated Credits Revenue	45,000
Schedule of Programs:	
Administration	1,293,600
Operations and Maintenance	68,154,000
Tuition Assistance	1,000,000

The Legislature intends that the Utah National Guard report by October 15, 2019 to the Executive Appropriations Committee on the following performance measures for the National Guard line item: (1) Personnel readiness (Target = 100% assigned strength); (2) Individual training readiness (Target = 90% Military Occupational Specialty qualification); (3) Collective unit training readiness (Target = 100% fulfillment of every mission assigned by the Commander in Chief and, for units in training years 3 and 4 of the Sustainment Readiness Model, 80% attendance at unit annual training); and (4) Installation readiness (Target = Installation Status Report of category 2 or higher for each facility).

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 25

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From General Fund	3,367,200
From Federal Funds	659,300
From Dedicated Credits Revenue	304,500
Schedule of Programs:	
Administration	640,700
Cemetery	797,300
Military Affairs	800,600
Outreach Services	1,837,800
State Approving Agency	254,600

The Legislature intends that the Department of Veterans' and Military Affairs report by October 15, 2019 to the Executive Appropriations Committee on the following performance measures for the Veterans' and Military Affairs line item: (1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans' Administration (Target = 5% annual growth); (2) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans' unemployment rate no greater than the statewide unemployment rate); (3) Increase the number of current

conflict veterans that are connected to appropriate services (Target = 10% annual increase); (4) Provide veterans with a full range of burial services and related benefits that reflect dignity, compassion, and respect (Target = 95% satisfaction); and (5) Identify, plan, and advise on military mission workload opportunities through engagement with federal and state parties and decision makers (Target = 95%).

The Legislature intends that the Department of Veterans' and Military Affairs be allowed to increase its vehicle fleet for nursing home operations by up to two vehicles with funding from existing appropriations.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 26

To Capitol Preservation Board - State Capitol Fund
 From Dedicated Credits Revenue 494,800
 From Beginning Fund Balance 898,300
 From Closing Fund Balance (751,100)
 Schedule of Programs:
 State Capitol Fund 642,000

UTAH NATIONAL GUARD

Item 27

To Utah National Guard - National
 Guard MWR Fund
 From Dedicated Credits Revenue 1,200,000
 From Beginning Fund Balance 200,000
 From Closing Fund Balance (200,000)
 Schedule of Programs:
 National Guard MWR Fund 1,200,000

The Legislature intends that the Utah National Guard report by October 15, 2019 to the Executive Appropriations Committee on the following performance measures for the Morale, Welfare, and Recreation Fund line item: (1) Sustainability (Target = Income equal to or greater than expenses); and (2) Enhanced morale (Target = 70% positive feedback).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 28

To Department of Veterans and Military Affairs -
 Utah Veterans Nursing Home Fund
 From Federal Funds 40,440,600
 From Dedicated Credits Revenue 232,000
 From Beginning Fund Balance 7,000,000
 From Closing Fund Balance (7,000,000)
 Schedule of Programs:

Veterans Nursing Home Fund 40,672,600

The Legislature intends that the Department of Veterans' and Military Affairs report by October 15, 2019 to the Executive Appropriations Committee on the following performance measures for the Veterans' Nursing Home Fund line item: (1) Occupancy rate (Target = 95% average); (2) Compliance with all state and federal regulations for operations, licensing, and payments (Target = 95%); (3) Best in class rating in all national customer satisfaction surveys (Target = 80%); and (4) Deviations in operations, safety, or payments are addressed within specified times (Target = 95%).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 29

To General Fund Restricted - National
 Guard Death Benefits Account
 From General Fund 9,500
 Schedule of Programs:
 General Fund Restricted - National
 Guard Death Benefits Account 9,500

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 7

S. B. 1

Passed February 6, 2019
 Approved February 19, 2019
 Effective July 1, 2019

**PUBLIC EDUCATION
 BASE BUDGET AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit (WPU) initially at \$3,395 for fiscal year 2020;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Monies Appropriated in this Bill:

This bill appropriates (\$559,200) in operating and capital budgets for fiscal year 2019, all of which is from the Education Fund.

This bill appropriates \$5,161,005,100 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$6,638,100 from the General Fund;
- ▶ \$27,500,000 from the Uniform School Fund;
- ▶ \$3,348,031,000 from the Education Fund; and
- ▶ \$1,778,836,000 from various sources as detailed in this bill.

This bill appropriates \$3,246,900 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$187,417,300 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$3,000,000 from the General Fund;
- ▶ \$182,667,300 from the Education Fund; and
- ▶ \$1,750,000 from various sources as detailed in this bill.

This bill appropriates \$145,700 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Fiscal year 2019 appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets.

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

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-Time 187,600

Schedule of Programs:

Digital Teaching and Learning Program 187,600

State Board of Education

ITEM 2 To State Board of Education - Education Contracts

From Education Fund, One-Time (2,200)

Schedule of Programs:

Corrections Institutions (2,200)

ITEM 3 To State Board of Education - Educator Licensing

From Education Fund, One-Time (59,200)

Schedule of Programs:

Educator Licensing (59,200)

ITEM 4 To State Board of Education - MSP Categorical Program Administration

From Education Fund, One-Time (185,400)

Schedule of Programs:

Adult Education 2,200

Digital Teaching and Learning (187,600)

ITEM 5 To State Board of Education - State Administrative Office

From Education Fund, One-Time (500,000)

Schedule of Programs:

Student Advocacy Services (500,000)

Section 2. Fiscal year 2020 appropriations -- Value of the weighted pupil unit.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020.

(2) The value of the weighted pupil unit for fiscal year 2020 is initially set at \$3,395.

Subsection 2(a). Operating and Capital Budgets.

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

use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

ITEM 6 To State Board of Education - Minimum School Program - Basic School Program

<u>From Education Fund</u>	<u>2,459,066,600</u>
<u>From Uniform School Fund</u>	<u>27,500,000</u>
<u>From Local Revenue</u>	<u>462,841,100</u>
<u>From Beginning Nonlapsing Balances</u>	<u>24,584,200</u>
<u>From Closing Nonlapsing Balances</u>	<u>(24,584,200)</u>

Schedule of Programs:

<u>Kindergarten (26,383 WPU's)</u>	<u>89,570,300</u>
<u>Grades 1 - 12 (593,523 WPU's)</u>	<u>2,015,010,600</u>
<u>Foreign Exchange (328 WPU's)</u>	<u>1,113,600</u>
<u>Necessarily Existent Small Schools (9,588 WPU's)</u>	<u>32,551,300</u>
<u>Professional Staff (55,545 WPU's)</u>	<u>188,575,300</u>
<u>Administrative Costs (1,505 WPU's)</u>	<u>5,109,500</u>
<u>Special Education - Add-on (82,342 WPU's)</u>	<u>279,986,900</u>
<u>Special Education - Preschool (11,052 WPU's)</u>	<u>37,521,500</u>
<u>Special Education - Self-Contained (13,970 WPU's)</u>	<u>47,428,200</u>
<u>Special Education - Extended School Year (447 WPU's)</u>	<u>1,517,600</u>
<u>Special Education - Impact Aid (2,015 WPU's)</u>	<u>6,840,900</u>
<u>Special Education - Intensive Services (778 WPU's)</u>	<u>2,641,300</u>
<u>Special Education - Extended Year for Special Educators (909 WPU's)</u>	<u>3,086,100</u>
<u>Career and Technical Education - Add-on (28,821 WPU's)</u>	<u>97,847,300</u>
<u>Class Size Reduction (41,416 WPU's)</u>	<u>140,607,300</u>

(1) The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Basic School Program line item:

(a) school readiness, as measured by:

(i) the percentage of students who are ready for kindergarten (fiscal year 2019 will establish a baseline, no target determined); and

(ii) the percentage of students who demonstrate proficiency on a kindergarten exit assessment (fiscal year 2019 will establish a baseline, no target determined);

(b) early indicator of academic success, as measured by the percentage of students who are proficient in English language arts and mathematics at the end of grade 3 (target = 67%);

(c) proficiency in core academic subjects, as measured by:

(i) proficiency on a statewide assessment, including:

(A) the percentage of students who are proficient in English language arts, on average, across grades 3 through 8 (target = 64%);

(B) the percentage of students who are proficient in mathematics, on average, across grades 3 through 8 (target = 66%); and

(C) the percentage of students who are proficient in science, on average, across grades 4 through 8 (target = 67%); and

(ii) proficiency on a nationally administered assessment, including:

(A) the percentage of grade 4 students who are proficient in English language arts (target = 41%);

(B) the percentage of grade 4 students who are proficient in mathematics (target = 45%);

(C) the percentage of grade 4 students who are proficient in science (target = 45%);

(D) the percentage of grade 8 students who are proficient in English language arts (target = 38%);

(E) the percentage of grade 8 students who are proficient in mathematics (target = 39%); and

(F) the percentage of grade 8 students who are proficient in science (target = 50%);

(d) postsecondary access, as measured by the percentage of students who score at least 18 on the ACT (target = 77%);

(e) high school completion, as measured by the percentage of students who graduate from high school in four years (target = 90%); and

(f) preparation for college, as measured by the percentage of students who have earned a concentration in or completed a certificate in career and technical education or have earned credit in an Advanced Placement, a concurrent enrollment, or an International Baccalaureate course (target = 82%).

(2) The Legislature further intends that the State Board of Education include in the report described in Subsection (1) any recommended changes to the performance measures.

ITEM 7 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>17,389,900</u>
<u>From Education Fund Restricted - Charter School Levy Account</u>	<u>23,839,600</u>
<u>From Teacher and Student Success Account, One-Time</u>	<u>65,150,000</u>
<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>74,000,000</u>
<u>From Beginning Nonlapsing Balances</u>	<u>18,166,300</u>
<u>From Closing Nonlapsing Balances</u>	<u>(18,166,300)</u>
Schedule of Programs:	
<u>Pupil Transportation To and From School</u>	<u>91,336,200</u>
<u>Guarantee Transportation Program</u>	<u>500,000</u>
<u>Flexible Allocation - WPU Distribution</u>	<u>72,938,000</u>
<u>Enhancement for At-Risk Students</u>	<u>38,074,500</u>
<u>Youth in Custody</u>	<u>24,712,100</u>
<u>Adult Education</u>	<u>13,492,100</u>
<u>Enhancement for Accelerated Students</u>	<u>5,219,100</u>
<u>Centennial Scholarship Program</u>	<u>250,000</u>
<u>Concurrent Enrollment</u>	<u>11,184,400</u>
<u>Title I Schools Paraeducators Program</u>	<u>300,000</u>
<u>School LAND Trust Program</u>	<u>74,000,000</u>
<u>Charter School Local Replacement</u>	<u>178,526,000</u>
<u>Charter School Administration</u>	<u>7,980,600</u>
<u>Early Literacy Program</u>	<u>15,000,000</u>
<u>Educator Salary Adjustments</u>	<u>173,645,500</u>
<u>Teacher Salary Supplement</u>	<u>14,274,900</u>
<u>School Library Books and Electronic Resources</u>	<u>850,000</u>
<u>Matching Fund for School Nurses</u>	<u>1,002,000</u>
<u>Dual Immersion</u>	<u>4,256,000</u>
<u>USTAR Centers (Year-Round Math and Science)</u>	<u>6,200,000</u>
<u>Teacher Supplies and Materials</u>	<u>5,500,000</u>
<u>Beverly Taylor Sorenson Elementary Arts Learning Program</u>	<u>10,880,000</u>
<u>Early Intervention</u>	<u>7,500,000</u>
<u>Digital Teaching and Learning Program</u>	<u>19,852,400</u>
<u>Effective Teachers in High Poverty Schools Incentive Program</u>	<u>250,000</u>

<u>Early Graduation from Competency-Based Education</u>	<u>55,700</u>
<u>Elementary School Counselor Program</u>	<u>2,100,000</u>
<u>Pupil Transportation Rural School Reimbursement</u>	<u>500,000</u>
ITEM 8 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs	
<u>From Education Fund</u>	<u>128,740,500</u>
<u>From Local Levy Growth Account</u>	<u>36,117,300</u>
<u>From Local Revenue</u>	<u>449,289,000</u>
<u>From Education Fund Restricted - Minimum Basic Growth Account</u>	<u>56,250,000</u>
Schedule of Programs:	
<u>Voted Local Levy Program</u>	<u>495,172,900</u>
<u>Board Local Levy Program</u>	<u>160,223,900</u>
<u>Board Local Levy Program - Early Literacy Program</u>	<u>15,000,000</u>
STATE BOARD OF EDUCATION - SCHOOL BUILDING PROGRAMS	
ITEM 9 To State Board of Education - School Building Programs - Capital Outlay Programs	
<u>From Education Fund</u>	<u>14,499,700</u>
<u>From Education Fund Restricted - Minimum Basic Growth Account</u>	<u>18,750,000</u>
Schedule of Programs:	
<u>Foundation Program</u>	<u>27,610,900</u>
<u>Enrollment Growth Program</u>	<u>5,638,800</u>
STATE BOARD OF EDUCATION	
ITEM 10 To State Board of Education - Child Nutrition	
<u>From Education Fund</u>	<u>143,900</u>
<u>From Federal Funds</u>	<u>159,712,900</u>
<u>From Dedicated Credit - Liquor Tax</u>	<u>39,284,000</u>
<u>From Revenue Transfers</u>	<u>(321,600)</u>
Schedule of Programs:	
<u>Child Nutrition</u>	<u>198,819,200</u>
<p>The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Child Nutrition line item:</p>	
(1) school districts and charter schools served (target = maintain 65%);	
(2) administrative reviews completed (target = 33% annually and 100% over three-year cycle); and	
(3) reimbursement claims paid within 30 days of claim submission for payment with an error rate of 1% or less (target = 100%).	

ITEM 11 To State Board of Education - Child Nutrition - Federal Commodities

<u>From Federal Funds</u>	<u>19,159,300</u>
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Schedule of Programs:

<u>Child Nutrition - Federal Commodities</u>	<u>19,159,300</u>
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ITEM 12 To State Board of Education - Educator Licensing

<u>From Education Fund</u>	<u>2,615,800</u>
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<u>From Dedicated Credits Revenue</u>	<u>35,100</u>
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<u>From Revenue Transfers</u>	<u>(317,500)</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>500,000</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(500,000)</u>
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Schedule of Programs:

<u>Educator Licensing</u>	<u>2,333,400</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Educator Licensing line item:

(1) background check response and notification of local education agency within 72 hours (target = 100%);

(2) teachers in a Utah local education agency who hold a license approved by the State Board of Education (target = 95%); and

(3) teachers in a Utah local education agency who have demonstrated preparation in assigned subject area (target = 95%).

ITEM 13 To State Board of Education - Fine Arts Outreach

<u>From Education Fund</u>	<u>4,760,000</u>
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Schedule of Programs:

<u>Professional Outreach Programs in the Schools</u>	<u>4,706,000</u>
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<u>Subsidy Program</u>	<u>54,000</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Fine Arts Outreach line item:

(1) local education agencies served in a three-year period (target = 100% of districts and 90% of charters);

(2) number of students and educators receiving services (target = 500,000 students and 26,000 educators); and

(3) efficacy of education programming as determined by peer review (target = 90%).

ITEM 14 To State Board of Education - Initiative Programs

<u>From General Fund6</u>	<u>413,500</u>
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<u>From Education Fund</u>	<u>36,270,800</u>
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<u>From General Fund Restricted - Autism Awareness Account</u>	<u>50,700</u>
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<u>From Revenue Transfers</u>	<u>2,814,000</u>
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<u>From Beginning Nonlapsing Balances</u>	<u>14,540,200</u>
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<u>From Closing Nonlapsing Balances</u>	<u>(14,540,200)</u>
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Schedule of Programs:

<u>Autism Awareness</u>	<u>50,700</u>
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<u>Carson Smith Scholarships</u>	<u>6,267,900</u>
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<u>Contracts and Grants</u>	<u>375,000</u>
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<u>CTE Online Assessments</u>	<u>341,000</u>
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<u>Early Intervention Reading Software</u>	<u>7,600,000</u>
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<u>Early Warning Pilot Program</u>	<u>250,000</u>
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<u>Electronic Elementary Reading Tool</u>	<u>2,100,000</u>
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<u>ELL Software Licenses</u>	<u>3,000,000</u>
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<u>General Financial Literacy</u>	<u>380,300</u>
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<u>Intergenerational Poverty Interventions</u>	<u>1,000,000</u>
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<u>IT Academy</u>	<u>500,000</u>
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<u>Kindergarten Supplement Enrichment Program</u>	<u>2,902,300</u>
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<u>Paraeducator to Teacher Scholarships</u>	<u>24,500</u>
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<u>Partnerships for Student Success Grant Program</u>	<u>2,985,200</u>
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<u>ProStart Culinary Arts Program</u>	<u>403,100</u>
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<u>School Turnaround and Leadership Development</u>	<u>6,980,100</u>
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<u>UPSTART</u>	<u>9,763,900</u>
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<u>ULEAD</u>	<u>500,000</u>
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<u>Educational Improvement Opportunities Outside of the Regular School Day Grant Program</u>	<u>125,000</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Initiative Programs line item:

(1) Carson Smith Scholarship annual compliance reporting (target = 100%);

(2) number of students served by UPSTART (target = 11,711);

(3) School Turnaround and Leadership Development schools meeting the exit criteria or qualifying for an extension (target = 100%); and

(4) under the Partnerships for Student Success Grant Program, the average number of partners that form a partnership with a lead grant applicant within a school feeder pattern (target = 15 partners).

ITEM 15 To State Board of Education - MSP Categorical Program Administration

<u>From Education Fund</u>	<u>2,590,700</u>
<u>From Revenue Transfers</u>	<u>(260,300)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>1,757,000</u>
<u>From Closing Nonlapsing Balances</u>	<u>(1,757,000)</u>

Schedule of Programs:

<u>Adult Education</u>	<u>273,200</u>
<u>Beverly Taylor Sorenson Elementary Arts Learning Program</u>	<u>97,300</u>
<u>CTE Comprehensive Guidance</u>	<u>161,700</u>
<u>Digital Teaching and Learning</u>	<u>415,200</u>
<u>Dual Immersion</u>	<u>480,900</u>
<u>Enhancement for At-Risk Students</u>	<u>270,500</u>
<u>Special Education State Programs</u>	<u>209,000</u>
<u>Youth-in-Custody</u>	<u>422,600</u>

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the MSP Categorical Program Administration line item:

- (1) number of schools engaged in Digital Teaching and Learning (target = 650);
- (2) professional development for Dual Immersion educators (target = 1,800 educators);
- (3) support for guest Dual Immersion educators (target = 150 educators);
- (4) Beverly Taylor Sorenson Elementary Arts Learning Program fidelity of implementation (target = 50 site visits); and
- (5) Beverly Taylor Sorenson Elementary Arts Learning Program application processing (target = 36 school districts and 26 charter schools).

ITEM 16 To State Board of Education - Regional Service Centers

<u>From Education Fund</u>	<u>2,000,000</u>
<u>Schedule of Programs:</u>	
<u>Regional Service Centers</u>	<u>2,000,000</u>

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Regional Service Centers line item:

(1) professional development services (target = 3,200 educator training hours and 20,000 participation hours);

(2) technical support services (target = 7,500 support hours); and

(3) higher education services (target = 1,500 graduate level credit hours).

ITEM 17 To State Board of Education - Science Outreach

<u>From Education Fund</u>	<u>5,290,000</u>
<u>Schedule of Programs:</u>	
<u>Informal Science Education Enhancement</u>	<u>5,065,000</u>
<u>Provisional Program</u>	<u>225,000</u>

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Science Outreach line item:

- (1) student science experiences (target = 380,000);
- (2) student field trips (target = 375,000); and
- (3) educator professional development (target = 2,000 educators).

ITEM 18 To State Board of Education - State Administrative Office

<u>From General Fund</u>	<u>23,000</u>
<u>From Education Fund</u>	<u>17,125,700</u>
<u>From Federal Funds</u>	<u>299,063,500</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>1,295,100</u>
<u>From General Fund Restricted - Land Exchange Distribution Account</u>	<u>15,900</u>
<u>From General Fund Restricted - School Readiness Account</u>	<u>64,300</u>
<u>From General Fund Restricted - Substance Abuse Prevention</u>	<u>508,400</u>
<u>From Revenue Transfers</u>	<u>3,369,300</u>
<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>511,900</u>
<u>From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account</u>	<u>1,750,000</u>
<u>From Beginning Nonlapsing Balances</u>	<u>11,834,700</u>
<u>From Closing Nonlapsing Balances</u>	<u>(11,834,700)</u>

<u>Schedule of Programs:</u>	
<u>Board and Administration</u>	<u>4,163,800</u>
<u>Data and Statistics</u>	<u>2,241,300</u>
<u>Financial Operations</u>	<u>2,987,800</u>

<u>Indirect Cost Pool</u>	<u>6,445,000</u>
<u>Information Technology</u>	<u>4,118,800</u>
<u>Law and Legislation</u>	<u>192,400</u>
<u>Policy and Communication</u>	<u>1,480,200</u>
<u>School Trust</u>	<u>460,500</u>
<u>Special Education</u>	<u>181,242,900</u>
<u>Statewide Online Education Program</u>	<u>738,200</u>
<u>Student Advocacy Services</u>	<u>119,656,200</u>

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the State Administrative Office line item:

(1) educators participating in trauma-informed practices training (target = 1,500); and

(2) local education agency Individuals with Disabilities Education Act noncompliance correction (target = 100%).

ITEM 19 To State Board of Education - General System Support

<u>From General Fund</u>	<u>201,600</u>
<u>From Education Fund</u>	<u>23,191,800</u>
<u>From Federal Funds</u>	<u>42,287,600</u>
<u>From Dedicated Credits Revenue</u>	<u>5,921,300</u>
<u>From General Fund Restricted - Mineral Lease</u>	<u>403,000</u>
<u>From Revenue Transfers</u>	<u>(1,624,400)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>13,282,600</u>
<u>From Closing Nonlapsing Balances</u>	<u>(13,282,600)</u>

Schedule of Programs:

<u>Student Achievement</u>	<u>256,500</u>
<u>Teaching and Learning</u>	<u>30,860,700</u>
<u>Assessment and Accountability</u>	<u>20,728,200</u>
<u>Career and Technical Education</u>	<u>18,035,500</u>
<u>Pilot Teacher Retention Grant Program</u>	<u>500,000</u>

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the General System Support line item:

(1) local education agencies served by Teaching and Learning (target = 100%);

(2) career and technical education professional development (target = 6,000 educators);

(3) Readiness Improvement Success Empowerment summative assessments delivered to the field on schedule (target = 100%);

(4) Utah Aspire Plus summative assessments delivered to the field on schedule (target = 100%); and

(5) Electronic School Report Card published on schedule (target = 100%).

ITEM 20 To State Board of Education - State Charter School Board

<u>From Education Fund</u>	<u>3,895,300</u>
<u>From Revenue Transfers</u>	<u>(181,600)</u>
<u>From Beginning Nonlapsing Balances</u>	<u>1,570,000</u>
<u>From Closing Nonlapsing Balances</u>	<u>(1,570,000)</u>

Schedule of Programs:

<u>State Charter School Board</u>	<u>3,713,700</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the State Charter School Board line item:

(1) percentage of substantive motions passed by the State Charter School Board that, in the discussion, mention consideration of the impact on students and track that impact where data are available (target = 100%);

(2) percentage of charter schools authorized by the State Charter School Board that, under the annual review and latest comprehensive review, meet the school achievement metrics in the Charter School Accountability Framework developed by the State Charter School Board (target = greater than prior school year until 90% is reached; the 2018-2019 school year will establish a baseline); and

(3) percentage of charter schools authorized by the State Charter School Board that fully implemented all key elements in their charter agreement and have no reported compliance issues (target = greater than prior school year until 90% is reached; the 2018-2019 school year will establish a baseline).

ITEM 21 To State Board of Education - Teaching and Learning

<u>From Education Fund</u>	<u>122,900</u>
<u>From Revenue Transfers</u>	<u>8,977,600</u>

Schedule of Programs:

<u>Student Access to High Quality School Readiness Programs</u>	<u>9,100,500</u>
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The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Teaching and Learning line item:

(1) significant positive outcomes in literacy, mathematics, and social emotional skills;

(2) significant differences in school readiness as measured by the Kindergarten Entry and Exit Profile; and

(3) significant differences in literacy and numeracy achievement as measured by the Kindergarten Entry and Exit Profile and proficiency in a grade 3 assessment as determined by the State Board of Education.

ITEM 22 To State Board of Education - Utah Charter School Finance Authority

From Education Fund Restricted - Charter School Reserve Account 50,000

Schedule of Programs:

Utah Charter School Finance Authority 50,000

ITEM 23 To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund 30,327,400

From Federal Funds 103,300

From Dedicated Credits Revenue 1,642,600

From Revenue Transfers 5,872,600

From Beginning Nonlapsing Balances 2,347,800

From Closing Nonlapsing Balances (900,300)

Schedule of Programs:

Educational Services 19,507,700

Support Services 19,885,700

The Legislature intends that the State Board of Education report on or before September 30, 2019, to the Public Education Appropriations Subcommittee on the following performance measures for the Utah Schools for the Deaf and the Blind line item:

(1) campus educational services - percentage of students who have achieved their individualized education plan (IEP) goals or objectives (target = 80% of Utah Schools for the Deaf and the Blind students will achieve an average of 80% completion of IEP goals or objectives);

(2) outreach educational services - provide contracted outreach services (target = 100%); and

(3) deaf-blind educational services - improve communication matrix scores (target = 2.5%).

School and Institutional Trust Fund Office

ITEM 24 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account 964,500

Schedule of Programs:

School and Institutional Trust Fund Office 964,500

Subsection 2(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

ITEM 25 To State Board of Education - Charter School Revolving Account

From Interest Income 56,200

From Repayments 1,511,400

From Beginning Fund Balance 6,989,300

From Closing Fund Balance (7,045,500)

Schedule of Programs:

Charter School Revolving Account 1,511,400

ITEM 26 To State Board of Education - Hospitality and Tourism Management Education Account

From Dedicated Credits Revenue 269,900

Schedule of Programs:

Hospitality and Tourism Management Education Account 269,900

ITEM 27 To State Board of Education - School Building Revolving Account

From Interest Income 83,900

From Repayments 1,465,600

From Beginning Fund Balance 9,833,600

From Closing Fund Balance (9,917,500)

Schedule of Programs:

School Building Revolving Account 1,465,600

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education

ITEM 28 To Uniform School Fund Restricted - Growth in Student Population Account

From Education Fund 6,400,000

Schedule of Programs:

<u>Growth in Student Population Account</u>	<u>6,400,000</u>
<u>ITEM 29 To General Fund Restricted - School Readiness Account</u>	
<u>From General Fund</u>	<u>3,000,000</u>
<u>Schedule of Programs:</u>	
<u>General Fund Restricted - School Readiness Account</u>	<u>3,000,000</u>
<u>ITEM 30 To Education Fund Restricted - Minimum Basic Growth Account</u>	
<u>From Education Fund</u>	<u>75,000,000</u>
<u>Schedule of Programs:</u>	
<u>Education Fund Restricted - Minimum Basic Growth Account</u>	<u>75,000,000</u>
<u>ITEM 31 To Underage Drinking Prevention Program Restricted Account</u>	
<u>From Liquor Control Fund</u>	<u>1,750,000</u>
<u>Schedule of Programs:</u>	
<u>Underage Drinking Prevention Program Restricted Account</u>	<u>1,750,000</u>
<u>ITEM 32 To Local Levy Growth Account</u>	
<u>From Education Fund</u>	<u>36,117,300</u>
<u>Schedule of Programs:</u>	
<u>Local Levy Growth Account</u>	<u>36,117,300</u>
<u>ITEM 33 To Teacher and Student Success Account</u>	
<u>From Education Fund</u>	<u>65,150,000</u>
<u>Schedule of Programs:</u>	
<u>Teacher and Student Success Account</u>	<u>65,150,000</u>
Subsection 2(d). Fiduciary Funds.	
The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.	
<u>Public Education</u>	
<u>State Board of Education</u>	
<u>ITEM 34 To State Board of Education - Education Tax Check-off Lease Refunding</u>	
<u>From Trust and Agency Funds</u>	<u>27,500</u>
<u>From Beginning Fund Balance</u>	<u>31,300</u>
<u>From Closing Fund Balance</u>	<u>(33,500)</u>
<u>Schedule of Programs:</u>	
<u>Education Tax Check-off Lease Refunding</u>	<u>25,300</u>
<u>ITEM 35 To State Board of Education - Schools for the Deaf and the Blind Donation Fund</u>	
<u>From Dedicated Credits Revenue</u>	<u>115,000</u>
<u>From Interest Income</u>	<u>5,400</u>

<u>From Beginning Fund Balance</u>	<u>687,800</u>
<u>From Closing Fund Balance</u>	<u>(687,800)</u>
<u>Schedule of Programs:</u>	
<u>Schools for the Deaf and the Blind Donation Fund</u>	<u>120,400</u>

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2019.

(2) If approved by two-thirds of all the members elected to each house, Section 1, Fiscal year 2019 appropriations, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**CHAPTER 8
S. B. 5**

Passed February 6, 2019
Approved February 19, 2019
Effective July 1, 2019

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

Chief Sponsor: David P. Hinkins
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$12,091,500 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$17,315,800 from the General Fund;
- ▶ (\$5,224,300) from various sources as detailed in this bill.

This bill appropriates \$2,634,300 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$9,264,300 in business-like activities for fiscal year 2019.

This bill appropriates \$1,726,700 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$1,724,200 from the General Fund;
- ▶ \$2,500 from various sources as detailed in this bill.

This bill appropriates \$377,255,200 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$75,925,500 from the General Fund;
- ▶ \$301,329,700 from various sources as detailed in this bill.

This bill appropriates \$6,033,600 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$63,423,600 in business-like activities for fiscal year 2020.

This bill appropriates \$7,016,300 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$5,909,800 from the General Fund;
- ▶ \$1,106,500 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital

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

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 1

To Department of Agriculture and Food - Administration

From Beginning Nonlapsing Balances . . . (9,000)
From Closing Nonlapsing Balances (439,600)
Schedule of Programs:
General Administration (448,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the General Administration line item in Item 5, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Computer Equipment/Software \$200,000; Employee Training/Incentives \$100,000; Equipment/Supplies \$55,000; Special Projects/Studies \$84,600; \$200,000 to continue development of a department-wide computer system to manage regulatory programs.

Item 2

To Department of Agriculture and Food - Animal Health

From General Fund Restricted - Livestock Brand, One-Time (652,900)
From Beginning Nonlapsing Balances (315,000)
From Closing Nonlapsing Balances (556,200)
Schedule of Programs:
Animal Health (871,200)
Brand Inspection (652,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Animal Health line item in Item 6, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Computer Equipment/Software \$100,000 Employee Training/Incentives \$139,100; Special Projects/Studies \$317,100.

Item 3

To Department of Agriculture and Food - Invasive Species Mitigation

From Beginning Nonlapsing
Balances (787,800)
Schedule of Programs:
Invasive Species Mitigation (787,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Invasive Species Mitigation in Item 8, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to invasive species mitigation projects \$750,000.

Item 4

To Department of Agriculture and Food -
Marketing and Development
From Closing Nonlapsing Balances (67,500)
Schedule of Programs:
Marketing and Development (67,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Marketing and Development line item in Item 9, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Employee Training/Incentives \$13,500; Equipment/Supplies \$16,900; Special Projects/Studies \$37,100.

Item 5

To Department of Agriculture and Food -
Plant Industry
From Beginning Nonlapsing
Balances (52,500)
From Closing Nonlapsing Balances ... (1,000,000)
Schedule of Programs:
Insect Infestation 4,100
Plant Industry (1,056,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Plant Industry line item in Item 10, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Capital Equipment or Improvements \$305,800; Computer Equipment/Software \$352,800; Employee Training/Incentives \$63,300; Equipment/Supplies \$105,500; Special Projects/Studies 172,600; \$500,000 to continue development of a department-wide computer system to manage regulatory programs.

Item 6

To Department of Agriculture and Food -
Predatory Animal Control
From Beginning Nonlapsing
Balances (222,800)
From Closing Nonlapsing Balances (150,000)
Schedule of Programs:
Predatory Animal Control (372,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 11, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY

2019. Expenditures of these funds are limited to: Employee Training/Incentives \$23,300; Equipment/Supplies \$68,100; Special Projects/Studies \$58,600.

Item 7

To Department of Agriculture and Food -
Rangeland Improvement
From Beginning Nonlapsing
Balances (587,400)
Schedule of Programs:
Rangeland Improvement (587,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 12, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to rangeland improvement projects \$500,000.

Item 8

To Department of Agriculture and Food -
Regulatory Services
From Pass-through, One-Time 270,200
From Beginning Nonlapsing
Balances (273,600)
From Closing Nonlapsing Balances (950,000)
Schedule of Programs:
Regulatory Services (953,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Regulatory Services line item in Item 13, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Computer Equipment/Software \$500,000; Employee Training/Incentives \$51,700; Equipment/Supplies \$162,600; Special Projects/Studies \$235,700; \$400,000 to continue development of a department-wide computer system to manage regulatory programs and special projects for the division.

Item 9

To Department of Agriculture and Food -
Resource Conservation
From Closing Nonlapsing Balances (313,800)
Schedule of Programs:
Resource Conservation
Administration (313,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Resource Conservation in Item 14, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Capital Equipment or Improvements \$67,800; Computer Equipment/Software \$112,100; Employee Training/Incentives \$9,700; Equipment/Supplies \$9,700; Special Projects/Studies \$114,500.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 10

To Department of Environmental Quality -
Air Quality
From General Fund, One-Time 950,000

From Dedicated Credits Revenue,
 One-Time (275,200)
 From Revenue Transfers, One-Time (9,000)
 From Beginning Nonlapsing
 Balances (135,000)
 From Closing Nonlapsing Balances (680,000)
 Schedule of Programs:
 Air Quality (149,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Air Quality in Item 16, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to reducing future operating permit fees \$100,000; air monitoring equipment \$200,000; air quality research \$380,000.

Item 11

To Department of Environmental Quality - Clean Air Retrofit, Replacement, and Off-road Technology
 From Beginning Nonlapsing
 Balances (216,200)
 Schedule of Programs:
 Clean Air Retrofit, Replacement,
 and Off-road Technology (216,200)

Item 12

To Department of Environmental Quality - Drinking Water
 From Federal Funds, One-Time (76,800)
 From Revenue Transfers, One-Time 95,600
 From Closing Nonlapsing Balances (440,000)
 Schedule of Programs:
 Drinking Water (421,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Drinking Water in Item 18, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to drinking water use study, \$440,000.

Item 13

To Department of Environmental Quality - Environmental Response and Remediation
 From Dedicated Credits Revenue,
 One-Time 120,300
 From Beginning Nonlapsing
 Balances (25,000)
 From Closing Nonlapsing Balances (25,000)
 Schedule of Programs:
 Environmental Response and
 Remediation 70,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Environmental Response and Remediation, Item 19, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to data processing equipment and software/programming \$25,000.

Item 14

To Department of Environmental Quality - Executive Director's Office
 From General Fund, One-Time (2,674,200)

From Federal Funds, One-Time 15,400
 From Dedicated Credits Revenue,
 One-Time (1,000)
 From General Fund Restricted -
 Environmental Quality, One-Time 265,000
 From Revenue Transfers, One-Time .. (167,200)
 From Beginning Nonlapsing
 Balances (168,500)
 From Closing Nonlapsing Balances (610,000)
 Schedule of Programs:
 Executive Director's Office (3,340,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in Item 20, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to high level nuclear waste opposition \$10,000; capital improvements/maintenance, DP Software, and equipment \$450,000; administrative law judge \$150,000.

Item 15

To Department of Environmental Quality - Waste Management and Radiation Control
 From General Fund Restricted -
 Environmental Quality, One-Time .. 1,330,000
 From Revenue Transfers, One-Time (5,800)
 From Closing Nonlapsing Balances (500,000)
 Schedule of Programs:
 Waste Management and Radiation
 Control 824,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Waste Management and Radiation Control in Item 21, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to public outreach and education, \$100,000; program and database upgrades and improvements \$300,000; maintenance and replacement of radiation detection equipment, \$100,000.

Item 16

To Department of Environmental Quality - Water Quality
 From Federal Funds, One-Time 884,900
 From Dedicated Credits Revenue,
 One-Time 90,200
 From Revenue Transfers, One-Time (7,800)
 From Beginning Nonlapsing
 Balances (75,000)
 From Closing Nonlapsing Balances (772,900)
 Schedule of Programs:
 Water Quality 119,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Water Quality in Item 22, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to environmental monitoring/lab equipment \$100,000; independent scientific reviews \$72,900; Improvements to databases, \$100,000; Utah lake research projects, \$500,000.

GOVERNOR'S OFFICE**Item 17**

To Governor's Office - Office of Energy Development
 From Federal Funds, One-Time (41,700)
 From Beginning Nonlapsing Balances 13,500
 Schedule of Programs:
 Office of Energy Development (28,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Energy Development in Laws of Utah 2018, Chapter 7, Item 23, shall not lapse at the close of FY2019. Expenditures of these funds are limited to OED administration special projects: \$41,500, and State Energy Program projects, \$75,000.

DEPARTMENT OF NATURAL RESOURCES**Item 18**

To Department of Natural Resources - Administration
 From Closing Nonlapsing Balances (225,000)
 Schedule of Programs:
 Administrative Services 4,100
 Executive Director (233,200)
 Law Enforcement 800
 Public Information Office 3,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Administration in Item 24, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to Operating Budget Items: \$225,000.

Item 19

To Department of Natural Resources - DNR Pass Through
 From Beginning Nonlapsing Balances 4,943,800
 From Closing Nonlapsing Balances ... (1,950,000)
 Schedule of Programs:
 DNR Pass Through 2,993,800

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Item 28 Chapter 7 Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to projects that have been obligated by contract but unexpended at the end of FY2019: up to \$1,950,000.

Item 20

To Department of Natural Resources - Forestry, Fire and State Lands
 From General Fund, One-Time 19,800,000
 From Beginning Nonlapsing Balances 14,173,900
 From Closing Nonlapsing Balances ... (5,500,000)
 Schedule of Programs:
 Division Administration (60,200)
 Fire Management (629,800)
 Fire Suppression Emergencies 27,443,500
 Forest Management (865,500)

Lands Management 27,600
 Lone Peak Center 1,983,700
 Program Delivery (698,700)
 Project Management 1,273,300

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 29, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Sovereign Lands Related Projects \$4,978,600; Little Willow Water Line \$21,400.

Item 21

To Department of Natural Resources - Oil, Gas and Mining
 From General Fund Restricted - Oil & Gas Conservation
 Account, One-Time (500,000)
 From Beginning Nonlapsing Balances ... 761,100
 From Closing Nonlapsing Balances ... (3,100,000)
 Schedule of Programs:
 Abandoned Mine 88,500
 Administration (11,500)
 Board (300)
 Coal Program (59,600)
 Minerals Reclamation (6,100)
 OGM Misc. Nonlapsing (2,327,300)
 Oil and Gas Program (522,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Oil, Gas, and Mining in Item 30, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Mining Special Projects/Studies \$250,000; Computer Equipment/Software \$50,000; Employee Training/Incentives \$50,000; Equipment/Supplies \$50,000.

Item 22

To Department of Natural Resources - Parks and Recreation
 From Beginning Nonlapsing Balances ... 568,700
 Schedule of Programs:
 Executive Management 29,300
 Park Management Contracts (80,100)
 Park Operation Management 568,700
 Support Services 50,800

Item 23

To Department of Natural Resources - Parks and Recreation Capital Budget
 From Beginning Nonlapsing Balances 5,906,500
 Schedule of Programs:
 Boat Access Grants 867,100
 Donated Capital Projects 257,100
 Land Acquisition 1,315,400
 Major Renovation 474,900
 Off-highway Vehicle Grants 1,034,200
 Region Renovation 103,600
 Renovation and Development 1,722,100
 Trails Program 132,100

Item 24

To Department of Natural Resources - Species Protection

From Closing Nonlapsing Balances (200,000)
 Schedule of Programs:

Species Protection (200,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 34, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to projects started in FY2019: \$200,000.

Item 25

To Department of Natural Resources -
 Utah Geological Survey

From Beginning Nonlapsing
 Balances (228,400)

From Closing Nonlapsing Balances (600,000)
 Schedule of Programs:

Administration (37,900)
 Energy and Minerals (566,200)
 Geologic Hazards (149,200)
 Geologic Information and Outreach (8,600)
 Geologic Mapping (2,300)
 Ground Water (64,100)
 Technical Services (100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 35, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: \$200,000 from the General Fund to be used for Computer Equipment/Software \$60,000, Equipment/Supplies \$90,000, Employee Training/Incentives \$50,000; and \$400,000 from the Mineral Lease Account to be used for Mineral Lease Projects.

Item 26

To Department of Natural Resources -
 Water Resources

From Beginning Nonlapsing
 Balances 2,681,900

From Closing Nonlapsing Balances . . . (7,600,000)
 Schedule of Programs:

Administration 435,200
 Construction (5,270,300)
 Interstate Streams 15,200
 Planning (98,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 36, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Operating Budget Items \$200,000; Water Conservation Funding \$300,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Chapter 309, Laws of Utah 2016, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: Water infrastructure \$1,000,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that

appropriations provided for the Division of Water Resources in Item 154, Chapter 468, Laws of Utah 2015, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: dam safety construction projects \$7,500,000.

Item 27

To Department of Natural Resources -
 Water Rights

From Closing Nonlapsing Balances (500,000)
 Schedule of Programs:

Administration (200,000)
 Applications and Records (150,000)
 Technical Services (150,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 17, Chapter 37, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to:

Computer Equipment/Software \$40,000;
 Adjudication \$50,000,
 Special Projects/Studies \$150,000;
 Employee Incentive/Training \$30,000,
 Equipment/Supplies \$50,000,
 Current Expense \$30,000.

Item 28

To Department of Natural Resources -
 Watershed

From General Fund, One-Time (760,000)
 From General Fund Restricted - Sovereign

Lands Management, One-Time 760,000
 From Beginning Nonlapsing

Balances (302,900)
 From Closing Nonlapsing Balances (700,000)

Schedule of Programs:
 Watershed (1,002,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 38, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to projects started in FY2019 up to \$700,000.

Item 29

To Department of Natural Resources -
 Wildlife Resources

From Beginning Nonlapsing
 Balances (1,017,700)

From Closing Nonlapsing Balances . . . (1,280,000)
 Schedule of Programs:

Law Enforcement 100
 Wildlife Section (2,297,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources line item in Item 39, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: projects funded from the Mule Deer Protection Restricted Account \$200,000; projects funded from the Predator Control Restricted Account \$200,000.

The Legislature intends that up to \$700,000 of Wildlife Resources budget be used for big

game depredation expenses shall not lapse at the close of FY 2019. The Legislature further intends that half of these funds be from the General Fund Restricted - Wildlife Resources account and the other half from the General Fund.

Item 30

To Department of Natural Resources -
Wildlife Resources Capital Budget
From Beginning Nonlapsing
Balances (649,400)
From Closing Nonlapsing Balances (649,400)
Schedule of Programs:
Fisheries (1,298,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 40, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: \$649,400.

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 31

To Public Lands Policy Coordinating Office -
Public Lands Litigation

Item 32

To Public Lands Policy Coordinating Office
From Beginning Nonlapsing Balances ... 564,800
From Closing Nonlapsing Balances ... (2,710,800)
Schedule of Programs:
Public Lands Policy Coordinating
Office (2,146,000)

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that appropriations provided for the Public Lands Policy Coordinating Office in Laws of Utah 2018, Chapter 411, shall not lapse at the close of FY 2019. The nonlapsing funds will be expended to build and maintain an online database to house each of the 29 County Resource Management Plans and the State of Utah RMP, \$400,000.

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 33

To School and Institutional Trust
Lands Administration
From Land Grant Management Fund,
One-Time (346,300)
Schedule of Programs:
Accounting 2,000
Administration 47,600
Auditing (64,300)
Development - Operating 75,900
Director (239,300)
External Relations (21,000)
Grazing and Forestry 109,000
Information Technology Group 54,200
Legal/Contracts (102,200)

Mining (83,800)
Oil and Gas (28,000)
Surface (96,400)

Subsection 1(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 34

To Department of Agriculture and Food -
Salinity Offset Fund
From Revenue Transfers, One-Time .. 1,000,000
From Beginning Fund Balance (17,300)
From Closing Fund Balance (82,700)
Schedule of Programs:
Salinity Offset Fund 900,000

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 35

To Department of Environmental Quality -
Hazardous Substance Mitigation Fund
From Dedicated Credits Revenue,
One-Time 17,600
From Beginning Fund Balance 455,700
From Closing Fund Balance (1,106,700)
Schedule of Programs:
Hazardous Substance Mitigation
Fund (633,400)

Item 36

To Department of Environmental Quality -
Waste Tire Recycling Fund
From Dedicated Credits Revenue,
One-Time 219,300
From Beginning Fund Balance (422,600)
From Closing Fund Balance 470,000
Schedule of Programs:
Waste Tire Recycling Fund 266,700

Item 37

To Department of Environmental Quality - Waste
Management and Radiation Control Expendable
Special Revenue Fund
From Dedicated Credits Revenue,
One-Time (200,000)
Schedule of Programs:
Waste Management and Radiation
Control Expendable Special
Revenue Fund (200,000)

DEPARTMENT OF NATURAL RESOURCES

Item 38

To Department of Natural Resources -
UGS Sample Library Fund
From Dedicated Credits Revenue,
One-Time 900
From Beginning Fund Balance 600
From Closing Fund Balance (1,500)

Item 39

To Department of Natural Resources -
 Wildland Fire Suppression Fund
 From Interest Income, One-Time (1,000)
 From General Fund Restricted -
 Mineral Bonus, One-Time 615,000
 From Beginning Fund Balance 1,687,000
 Schedule of Programs:
 Wildland Fire Suppression Fund 2,301,000

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2 (1)(e).

Subsection 1(c). Business-like Activities.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 40

To Department of Environmental Quality - Water Development Security Fund - Drinking Water
 From Federal Funds, One-Time 1,200,000
 From Dedicated Credits Revenue,
 One-Time (5,277,000)
 From Designated Sales Tax,
 One-Time 3,886,000
 From Revenue Transfers, One-Time .. 2,221,400
 From Repayments, One-Time (341,500)
 Schedule of Programs:
 Drinking Water 1,688,900

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Drinking Water in Item 18, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to drinking water use study \$440,000.

Item 41

To Department of Environmental Quality - Water Development Security Fund - Water Quality
 From Federal Funds, One-Time 9,686,000
 From Dedicated Credits Revenue,
 One-Time (5,933,900)
 From Designated Sales Tax,
 One-Time 5,203,000
 From Revenue Transfers, One-Time .. 3,120,000
 From Repayments, One-Time (4,499,700)
 Schedule of Programs:
 Water Quality 7,575,400

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

authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 42

To General Fund Restricted -
 Environmental Quality
 From General Fund, One-Time 1,724,200
 Schedule of Programs:
 GFR - Environmental Quality 1,724,200

Item 43

To Conversion to Alternative Fuel Grant Program Fund
 From Dedicated Credits Revenue,
 One-Time 900
 From Beginning Fund Balance (1,500)
 From Closing Fund Balance 3,100
 Schedule of Programs:
 Conversion to Alternative Fuel
 Grant Program Fund 2,500

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 44

To Department of Agriculture and Food - Administration
 From General Fund 3,347,500
 From Federal Funds 495,300
 From Dedicated Credits Revenue 521,600
 From General Fund Restricted -
 Cat and Dog Community Spay and
 Neuter Program Restricted Account 31,300
 From General Fund Restricted -
 Horse Racing 21,700
 From Revenue Transfers 59,000
 From General Fund Rest. - Agriculture
 and Wildlife Damage Prevention 30,000
 Schedule of Programs:
 Chemistry Laboratory 1,102,900
 General Administration 3,249,500
 Sheep Promotion 30,000
 Utah Horse Commission 124,000

The Legislature intends that the Department of Agriculture and Food submits to the Office of the Legislative Fiscal Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the department shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

Item 45

To Department of Agriculture and Food -
Animal Health

From General Fund	3,377,900
From Federal Funds	1,880,100
From Dedicated Credits Revenue	171,000
From General Fund Restricted - Livestock Brand	1,963,900
From Revenue Transfers	3,900
From Beginning Nonlapsing Balances	447,900
From Closing Nonlapsing Balances	(650,100)

Schedule of Programs:

Animal Health	2,020,000
Auction Market Veterinarians	72,700
Brand Inspection	2,702,900
Meat Inspection	2,399,000

Item 46

To Department of Agriculture and Food -
Building Operations

From General Fund	356,600
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Schedule of Programs:

Building Operations	356,600
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Item 47

To Department of Agriculture and Food -
Invasive Species Mitigation

From General Fund Restricted - Invasive Species Mitigation Account	2,008,400
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Schedule of Programs:

Invasive Species Mitigation	2,008,400
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Item 48

To Department of Agriculture and Food -
Marketing and Development

From General Fund	783,900
From Dedicated Credits Revenue	21,700
From Beginning Nonlapsing Balances	67,500
From Closing Nonlapsing Balances	(67,500)

Schedule of Programs:

Marketing and Development	805,600
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Item 49

To Department of Agriculture and Food -
Plant Industry

From General Fund	1,233,600
From Federal Funds	3,893,000
From Dedicated Credits Revenue	3,086,000
From General Fund Restricted - Cannabinoid Product Restricted Account	506,600
From Agriculture Resource Development Fund	200,300
From Revenue Transfers	387,800
From Pass-through	177,400
From Beginning Nonlapsing Balances	1,000,000
From Closing Nonlapsing Balances	(1,445,900)

Schedule of Programs:

Environmental Quality	1,550,900
Grain Inspection	478,400
Grazing Improvement Program	2,500,000
Insect Infestation	558,600
Plant Industry	3,950,900

Item 50

To Department of Agriculture and Food -
Predatory Animal Control

From General Fund	856,100
From Revenue Transfers	725,400

From General Fund Rest. - Agriculture
and Wildlife Damage Prevention 677,000

Schedule of Programs:

Predatory Animal Control	2,258,500
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Item 51

To Department of Agriculture and Food -
Rangeland Improvement

From General Fund Restricted - Rangeland Improvement Account	1,504,800
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Schedule of Programs:

Rangeland Improvement	1,504,800
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Item 52

To Department of Agriculture and Food -
Regulatory Services

From General Fund	2,237,100
From Federal Funds	1,140,200
From Dedicated Credits Revenue	2,400,700
From Revenue Transfers	1,300
From Pass-through	58,500
From Beginning Nonlapsing Balances	165,300
From Closing Nonlapsing Balances	(39,500)

Schedule of Programs:

Regulatory Services	5,963,600
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Item 53

To Department of Agriculture and Food -
Resource Conservation

From General Fund	1,342,500
From Federal Funds	762,500
From Dedicated Credits Revenue	10,000
From Agriculture Resource Development Fund	910,600
From Revenue Transfers	366,200
From Utah Rural Rehabilitation Loan State Fund	136,100
From Beginning Nonlapsing Balances	313,800
From Closing Nonlapsing Balances	(459,800)

Schedule of Programs:

Conservation Commission	8,500
Resource Conservation	2,932,400
Resource Conservation Administration	441,000

Item 54

To Department of Agriculture and Food -
Utah State Fair Corporation

From Dedicated Credits Revenue	3,592,400
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Schedule of Programs:

State Fair Corporation	3,592,400
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**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 55

To Department of Environmental Quality -
Air Quality

From General Fund	7,019,500
From Federal Funds	7,064,700
From Dedicated Credits Revenue	5,427,900
From Clean Fuel Conversion Fund	117,700
From Revenue Transfers	(1,122,900)
From Beginning Nonlapsing Balances	680,000

Schedule of Programs:

Air Quality	19,186,900
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Item 56

To Department of Environmental Quality -
Drinking Water

From General Fund	1,344,200
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From Federal Funds	4,025,900
From Dedicated Credits Revenue	299,000
From Revenue Transfers	(316,800)
From Water Dev. Security Fund - Drinking Water Loan Program	989,800
From Water Dev. Security Fund - Drinking Water Origination Fee	221,900
From Beginning Nonlapsing Balances ...	440,000
Schedule of Programs: Drinking Water	7,004,000

Item 57

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	833,300
From Federal Funds	5,003,500
From Dedicated Credits Revenue	743,700
From General Fund Restricted - Petroleum Storage Tank	51,900
From Petroleum Storage Tank Cleanup Fund	604,900
From Petroleum Storage Tank Trust Fund	1,870,300
From Revenue Transfers	(636,200)
From General Fund Restricted - Voluntary Cleanup	697,300
From Beginning Nonlapsing Balances ...	25,000
Schedule of Programs: Environmental Response and Remediation	9,193,700

Item 58

To Department of Environmental Quality - Executive Director's Office	
From General Fund	2,141,200
From Federal Funds	264,000
From General Fund Restricted - Environmental Quality	837,800
From Revenue Transfers	2,725,500
From Beginning Nonlapsing Balances ...	610,000
Schedule of Programs: Executive Director's Office	6,578,500

The Legislature intends that the Department of Environmental Quality submits to the Office of the Legislative Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the department shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

Item 59

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	757,600
From Federal Funds	1,383,300
From Dedicated Credits Revenue	2,302,300
From General Fund Restricted - Environmental Quality	5,953,900
From Revenue Transfers	(198,800)
From General Fund Restricted - Used Oil Collection Administration ...	819,500
From Waste Tire Recycling Fund	149,300
From Beginning Nonlapsing Balances ...	500,000
Schedule of Programs:	

Waste Management and Radiation Control	11,667,100
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Item 60

To Department of Environmental Quality - Water Quality	
From General Fund	3,300,300
From Federal Funds	5,035,700
From Dedicated Credits Revenue	2,027,400
From Revenue Transfers	326,900
From General Fund Restricted - Underground Wastewater System	78,800
From Water Dev. Security Fund - Utah Wastewater Loan Program	1,587,200
From Water Dev. Security Fund - Water Quality Origination Fee	103,700
From Beginning Nonlapsing Balances ...	772,900
Schedule of Programs: Water Quality	13,232,900

GOVERNOR'S OFFICE

Item 61

To Governor's Office - Office of Energy Development	
From General Fund	1,617,400
From Federal Funds	816,800
From Dedicated Credits Revenue	225,100
From Utah State Energy Program Revolving Loan Fund (ARRA)	216,300
Schedule of Programs: Office of Energy Development	2,875,600

The Legislature intends that the Office of Energy Development submits to the Office of the Legislative Fiscal Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the entity shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

DEPARTMENT OF NATURAL RESOURCES

Item 62

To Department of Natural Resources - Administration	
From General Fund	2,725,400
From General Fund Restricted - Sovereign Lands Management	78,000
From Beginning Nonlapsing Balances ...	225,000
Schedule of Programs: Administrative Services	1,054,500
Executive Director	1,436,500
Lake Commissions	78,700
Law Enforcement	225,100
Public Information Office	233,600

The Legislature intends that the Department of Natural Resources submits to the Office of the Legislative Fiscal Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the department shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

The Legislature intends that the Department of Natural Resources transfer \$50,000 to the Bear Lake Commission to be expended only as a one-to-one match with funds from the State of Idaho.

Item 63

To Department of Natural Resources -
Building Operations
From General Fund 1,788,800
Schedule of Programs:
Building Operations 1,788,800

Item 64

To Department of Natural Resources -
Contributed Research
From Dedicated Credits Revenue 1,508,200
Schedule of Programs:
Contributed Research 1,508,200

Item 65

To Department of Natural Resources -
Cooperative Agreements
From Federal Funds 12,480,800
From Dedicated Credits Revenue 1,115,200
From Revenue Transfers 5,658,000
Schedule of Programs:
Cooperative Agreements 19,254,000

Item 66

To Department of Natural Resources -
DNR Pass Through
From General Fund 608,400
From Beginning Nonlapsing
Balances 1,950,000
Schedule of Programs:
DNR Pass Through 2,558,400

Item 67

To Department of Natural Resources -
Forestry, Fire and State Lands
From General Fund 3,001,300
From Federal Funds 6,574,300
From Dedicated Credits Revenue 6,698,100
From General Fund Restricted -
Sovereign Lands Management 6,915,100
From Beginning Nonlapsing
Balances 5,500,000
Schedule of Programs:
Division Administration 1,118,700
Fire Management 1,227,100
Fire Suppression Emergencies 3,055,700
Forest Management 2,593,900
Lands Management 1,051,600
Lone Peak Center 4,813,300
Program Delivery 7,696,900
Project Management 7,131,600

The Legislature intends that all entities occupying the DNR Cedar City Office Complex and the DNR Richfield Office Complex pay annually their proportionate share of leased space based on the construction costs amortized over a 30-year period and deposit the funds into the Sovereign Lands Management Account.

Item 68

To Department of Natural Resources -
Oil, Gas and Mining
From General Fund 2,713,300

From Federal Funds 7,721,200
From Dedicated Credits Revenue 248,700
From General Fund Restricted -
Oil & Gas Conservation Account 3,585,400
From Beginning Nonlapsing
Balances 3,100,000
Schedule of Programs:
Abandoned Mine 5,256,200
Administration 2,287,600
Board 80,000
Coal Program 2,151,800
Minerals Reclamation 1,083,000
OGM Misc. Nonlapsing 3,100,000
Oil and Gas Program 3,410,000

Item 69

To Department of Natural Resources -
Parks and Recreation
From General Fund 4,579,200
From Federal Funds 1,548,800
From Dedicated Credits Revenue 1,064,600
From General Fund Restricted -
Boating 4,785,000
From General Fund Restricted -
Off-highway Access and Education 18,200
From General Fund Restricted -
Off-highway Vehicle 6,289,100
From General Fund Restricted -
State Park Fees 20,061,000
From Revenue Transfers 36,300
From General Fund Restricted -
Zion National Park Support Programs ... 4,000
Schedule of Programs:
Executive Management 863,700
Park Management Contracts 954,000
Park Operation Management 31,471,100
Planning and Design 900,600
Recreation Services 2,078,300
Support Services 2,118,500

Item 70

To Department of Natural Resources -
Parks and Recreation Capital Budget
From General Fund 39,700
From Federal Funds 3,119,700
From Dedicated Credits Revenue 175,000
From General Fund Restricted -
Boating 575,000
From General Fund Restricted -
Off-highway Vehicle 400,000
From General Fund Restricted -
State Park Fees 433,000
Schedule of Programs:
Boat Access Grants 350,000
Donated Capital Projects 175,000
Land and Water Conservation 447,600
Major Renovation 458,500
Off-highway Vehicle Grants 175,000
Region Renovation 100,000
Renovation and Development 546,700
Trails Program 2,489,600

Item 71

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

Item 72

To Department of Natural Resources -
 Species Protection
 From General Fund 300
 From Dedicated Credits Revenue 2,450,000
 From General Fund Restricted -
 Species Protection 807,100
 From Beginning Nonlapsing Balances ... 200,000
 Schedule of Programs:
 Species Protection 3,457,400

Item 73

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund 4,340,600
 From Federal Funds 680,400
 From Dedicated Credits Revenue 573,600
 From General Fund Restricted -
 Mineral Lease 1,564,700
 From General Fund Restricted -
 Land Exchange Distribution Account ... 21,000
 From Beginning Nonlapsing Balances ... 600,000
 Schedule of Programs:
 Administration 751,600
 Board 3,500
 Energy and Minerals 1,614,600
 Geologic Hazards 1,076,200
 Geologic Information and
 Outreach 1,837,600
 Geologic Mapping 1,328,400
 Ground Water 1,168,400

Item 74

To Department of Natural Resources -
 Water Resources
 From General Fund 3,924,700
 From Federal Funds 1,009,400
 From Dedicated Credits Revenue 150,000
 From Water Resources Conservation
 and Development Fund 3,281,300
 From Beginning Nonlapsing
 Balances 7,600,000
 Schedule of Programs:
 Administration 1,043,500
 Board 34,000
 Cloudseeding 300,000
 Construction 10,246,800
 Interstate Streams 402,100
 Planning 3,934,000
 West Desert Operations 5,000

Item 75

To Department of Natural Resources -
 Water Rights
 From General Fund 8,985,600
 From Federal Funds 121,800
 From Dedicated Credits Revenue 4,242,300
 From Beginning Nonlapsing Balances ... 500,000
 Schedule of Programs:
 Adjudication 3,286,700
 Administration 1,109,700
 Applications and Records 4,812,500
 Canal Safety 142,800
 Dam Safety 1,094,800
 Field Services 1,315,800
 Technical Services 2,087,400

Item 76

To Department of Natural Resources - Watershed

From General Fund 1,709,400
 From Dedicated Credits Revenue 500,000
 From General Fund Restricted -
 Sovereign Lands Management 2,002,300
 From Beginning Nonlapsing Balances ... 700,000
 Schedule of Programs:
 Watershed 4,911,700

Item 77

To Department of Natural Resources -
 Wildlife Resources
 From General Fund 7,582,000
 From Federal Funds 26,801,200
 From Dedicated Credits Revenue 108,400
 From General Fund Restricted -
 Boating 717,400
 From General Fund Restricted -
 Mule Deer Protection Account 508,800
 From General Fund Restricted -
 Predator Control Account 814,600
 From General Fund Restricted -
 Support for State-owned
 Shooting Ranges Restricted Account ... 25,400
 From Revenue Transfers 110,100
 From General Fund Restricted -
 Wildlife Conservation
 Easement Account 15,300
 From General Fund Restricted -
 Wildlife Habitat 2,923,500
 From General Fund Restricted -
 Wildlife Resources 37,493,700
 From Beginning Nonlapsing
 Balances 1,280,000
 Schedule of Programs:
 Administrative Services 8,896,800
 Aquatic Section 19,825,300
 Conservation Outreach 5,826,300
 Director's Office 2,562,400
 Habitat Council 2,923,500
 Habitat Section 8,946,700
 Law Enforcement 9,791,200
 Wildlife Section 19,608,200

Item 78

To Department of Natural Resources -
 Wildlife Resources Capital Budget
 From General Fund 649,400
 From Federal Funds 1,350,000
 From General Fund Restricted -
 State Fish Hatchery Maintenance ... 1,205,000
 From Beginning Nonlapsing Balances ... 649,400
 Schedule of Programs:
 Fisheries 3,853,800

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 79

To Public Lands Policy Coordinating Office
 From General Fund 2,669,100
 From General Fund Restricted -
 Constitutional Defense 1,122,900
 From Beginning Nonlapsing
 Balances 2,710,800
 From Closing Nonlapsing Balances ... (2,340,700)
 Schedule of Programs:
 Public Lands Policy
 Coordinating Office 4,162,100

The Legislature intends that the Public
 Lands Policy Coordinating Office submits to

the Office of the Legislative Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the entity shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

The Legislature intends the Public Lands Policy Coordinating Office to carry out its statutorily defined duties, and to disseminate information regarding and advance the transfer of certain public lands to the state in accordance with 63L-6-101 et. seq. through: (1) Education; (2) Negotiation; (3) Legislation; and (4) Litigation, as applicable. The Public Lands Policy Coordinating Office shall report on its activities related to the foregoing to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and the Natural Resources, Agriculture, and Environment Interim Committee by October 30, 2019.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 80

To School and Institutional Trust Lands Administration
 From Land Grant Management Fund 10,961,500
 Schedule of Programs:
 Accounting 475,000
 Administration 1,036,100
 Auditing 439,100
 Board 97,900
 Development - Operating 1,609,900
 Director 781,800
 External Relations 264,000
 Grazing and Forestry 582,400
 Information Technology Group 1,332,900
 Legal/Contracts 816,800
 Mining 673,300
 Oil and Gas 877,700
 Surface 1,974,600

The Legislature intends that the School and Institutional Trust Lands Administration submits to the Office of the Analyst by April 30, 2019 proposed performance measures for all new funding exceeding \$20,000 appropriated during the 2019 General Session. For the FY 2020 items, the entity shall provide the first report on these performance measures by October 31, 2019 with another report two months after the close of FY 2020.

Item 81

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration
 From Land Grant Management Fund 1,199,200
 Schedule of Programs:

Land Stewardship and Restoration 1,199,200

Item 82

To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
 From Land Grant Management Fund 5,000,000
 Schedule of Programs:
 Capital 5,000,000

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 83

To Department of Agriculture and Food - Salinity Offset Fund
 From Revenue Transfers 1,144,900
 From Beginning Fund Balance 1,714,100
 From Closing Fund Balance (814,100)
 Schedule of Programs:
 Salinity Offset Fund 2,044,900

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 84

To Department of Environmental Quality - Hazardous Substance Mitigation Fund
 From Dedicated Credits Revenue 82,400
 From General Fund Restricted - Environmental Quality 200,000
 From Beginning Fund Balance 5,457,200
 From Closing Fund Balance (5,216,800)
 Schedule of Programs:
 Hazardous Substance Mitigation Fund 522,800

Item 85

To Department of Environmental Quality - Waste Tire Recycling Fund
 From Dedicated Credits Revenue 3,725,000
 From Beginning Fund Balance 5,289,000
 From Closing Fund Balance (5,894,000)
 Schedule of Programs:
 Waste Tire Recycling Fund 3,120,000

DEPARTMENT OF NATURAL RESOURCES

Item 86

To Department of Natural Resources - UGS Sample Library Fund
 From Dedicated Credits Revenue 2,500
 From Beginning Fund Balance 80,300
 From Closing Fund Balance (82,800)

Item 87

To Department of Natural Resources - Wildland Fire Suppression Fund
 From General Fund Restricted - Mineral Bonus 345,900

Schedule of Programs:
 Wildland Fire Suppression Fund 345,900

Subsection 2(c). Business-like Activities.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 88

To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 289,300
 From Utah Rural Rehabilitation Loan State Fund 155,700
 Schedule of Programs:
 Agriculture Loan Program 445,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 89

To Department of Environmental Quality - Water Development Security Fund - Drinking Water
 From Federal Funds 7,000,000
 From Dedicated Credits Revenue 130,000
 From Designated Sales Tax 7,473,500
 From Revenue Transfers 2,221,400
 From Repayments 9,340,500
 Schedule of Programs:
 Drinking Water 26,165,400

Item 90

To Department of Environmental Quality - Water Development Security Fund - Water Quality
 From Federal Funds 7,200,000
 From Dedicated Credits Revenue 5,202,000
 From Designated Sales Tax 3,587,500
 From Repayments 16,200,000
 Schedule of Programs:
 Water Quality 32,189,500

DEPARTMENT OF NATURAL RESOURCES

Item 91

To Department of Natural Resources - Internal Service Fund
 From Dedicated Credits Revenue 823,700
 Schedule of Programs:
 ISF - DNR Warehouse 823,700
 Budgeted FTE 2.0

Item 92

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

Construction Fund 3,800,000

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 93

To General Fund Restricted - Environmental Quality
 From General Fund 1,724,200
 Schedule of Programs:
 GFR - Environmental Quality 1,724,200

Item 94

To Conversion to Alternative Fuel Grant Program Fund
 From Dedicated Credits Revenue 800
 From Beginning Fund Balance 86,900
 From Closing Fund Balance (65,200)
 Schedule of Programs:
 Conversion to Alternative Fuel Grant Program Fund 22,500

Item 95

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

Item 96

To General Fund Restricted - Constitutional Defense Restricted Account
 From General Fund Restricted - Land Exchange Distribution Account 1,084,000
 Schedule of Programs:
 General Fund Restricted - Constitutional Defense Restricted Account 1,084,000

Item 97

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

Item 98

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

Item 99

To General Fund Restricted - Public Lands Litigation Restricted Account
 From Beginning Fund Balance 4,500,000
 From Closing Fund Balance (4,500,000)

Item 100

To General Fund Restricted - Rangeland Improvement Account

From General Fund 1,346,300
Schedule of Programs:
 General Fund Restricted -
 Rangeland Improvement
 Account 1,346,300

Item 101

To General Fund Restricted - Wildlife
Resources
From General Fund 89,300
Schedule of Programs:
 General Fund Restricted - Wildlife
 Resources 89,300

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 9

S. B. 6

Passed February 6, 2019
 Approved February 19, 2019
 Effective July 1, 2019

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE BASE BUDGET**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$41,367,500 in operating and capital budgets for fiscal year 2019.

This bill appropriates \$1,013,400 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$936,100 in business-like activities for fiscal year 2019.

This bill appropriates (\$24,800) in restricted fund and account transfers for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$241,600 in fiduciary funds for fiscal year 2019.

This bill appropriates \$940,032,500 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$713,392,700 from the General Fund;
- ▶ \$49,000 from the Education Fund;
- ▶ \$226,590,800 from various sources as detailed in this bill.

This bill appropriates \$16,311,900 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$49,343,600 in business-like activities for fiscal year 2020, including:

- ▶ \$148,600 from the General Fund;
- ▶ \$49,195,000 from various sources as detailed in this bill.

This bill appropriates \$6,650,400 in restricted fund and account transfers for fiscal year 2020, all of which is from the General Fund.

This bill appropriates \$3,523,200 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
 Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019.

Subsection 1(a). Operating and Capital

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

ATTORNEY GENERAL

Item 1

To Attorney General
 From Federal Funds, One-Time (318,500)
 From Dedicated Credits Revenue,
 One-Time 800,300
 From Beginning Nonlapsing
 Balances 1,880,900
 Schedule of Programs:
 Administration 1,154,900
 Child Protection 201,100
 Civil 66,900
 Criminal Prosecution 939,800

Item 2

To Attorney General - Children's Justice Centers
 From Beginning Nonlapsing Balances . . . 448,400
 Schedule of Programs:
 Children's Justice Centers 448,400

Item 3

To Attorney General - Contract Attorneys
 From Beginning Nonlapsing Balances . . . 12,500
 Schedule of Programs:
 Contract Attorneys 12,500

Item 4

To Attorney General - Prosecution Council
 From Dedicated Credits Revenue,
 One-Time (100)
 From Revenue Transfers, One-Time 100
 From Beginning Nonlapsing Balances . . . 135,700
 Schedule of Programs:
 Prosecution Council 135,700

Item 5

To Attorney General - State
 Settlement Agreements
 From Beginning Nonlapsing Balances . . . 396,100
 Schedule of Programs:
 State Settlement Agreements 396,100

BOARD OF PARDONS AND PAROLE

Item 6

To Board of Pardons and Parole
 From Beginning Nonlapsing Balances . . . 477,500
 Schedule of Programs:
 Board of Pardons and Parole 477,500

UTAH DEPARTMENT OF CORRECTIONS

Item 7

To Utah Department of Corrections -
 Programs and Operations
 From Federal Funds, One-Time 49,400

From Revenue Transfers, One-Time	76,100
From Beginning Nonlapsing Balances	5,098,200
Schedule of Programs:	
Adult Probation and Parole Administration	(182,100)
Adult Probation and Parole Programs	(367,000)
Department Administrative Services	557,400
Department Executive Director	6,108,500
Department Training	139,000
Prison Operations Administration	(1,095,900)
Prison Operations Central	
Utah/Gunnison	36,700
Prison Operations Draper Facility	(493,900)
Prison Operations Inmate Placement	53,000
Programming Administration	161,700
Programming Education	715,600
Programming Skill Enhancement	(140,200)
Programming Treatment	(269,100)

Item 8

To Utah Department of Corrections - Department Medical Services	
From Beginning Nonlapsing Balances	587,600
Schedule of Programs:	
Medical Services	587,600

Item 9

To Utah Department of Corrections - Jail Contracting	
From Beginning Nonlapsing Balances	1,585,400
Schedule of Programs:	
Jail Contracting	1,585,400

**JUDICIAL COUNCIL/STATE
COURT ADMINISTRATOR**

Item 10

To Judicial Council/State Court Administrator - Administration	
From Beginning Nonlapsing Balances	2,845,500
Schedule of Programs:	
Administrative Office	607,000
Court of Appeals	(15,400)
Data Processing	366,900
District Courts	367,000
Judicial Education	54,000
Justice Courts	20,000
Juvenile Courts	1,303,000
Law Library	115,000
Supreme Court	28,000

Item 11

To Judicial Council/State Court Administrator - Contracts and Leases	
From Beginning Nonlapsing Balances	450,000
Schedule of Programs:	
Contracts and Leases	450,000

Item 12

To Judicial Council/State Court Administrator - Guardian ad Litem	
From Dedicated Credits Revenue, One-Time	(10,000)
From Revenue Transfers, One-Time	10,000
From Beginning Nonlapsing Balances	500,000

Schedule of Programs:	
Guardian ad Litem	500,000

Item 13

To Judicial Council/State Court Administrator - Jury and Witness Fees	
From Beginning Nonlapsing Balances	90,500
Schedule of Programs:	
Jury, Witness, and Interpreter	90,500

GOVERNOR'S OFFICE

Item 14

To Governor's Office - CCJJ Factual Innocence Payments	
From Beginning Nonlapsing Balances	100
From Closing Nonlapsing Balances	(100)

Item 15

To Governor's Office - CCJJ Salt Lake County Jail Bed Housing	
From Beginning Nonlapsing Balances	539,700
Schedule of Programs:	
Salt Lake County Jail Bed Housing	539,700

Item 16

To Governor's Office - Character Education	
From Beginning Nonlapsing Balances	45,900
From Closing Nonlapsing Balances	(52,300)
Schedule of Programs:	
Character Education	(6,400)

Item 17

To Governor's Office - Commission on Criminal and Juvenile Justice	
From Federal Funds, One-Time	3,812,400
From Beginning Nonlapsing Balances	3,193,100
From Closing Nonlapsing Balances	(2,679,600)
Schedule of Programs:	
CCJJ Commission	(377,300)
Substance Use and Mental Health Advisory Council	1,200
Utah Office for Victims of Crime	4,702,000

Item 18

To Governor's Office - Constitutional Defense Council	
From Beginning Nonlapsing Balances	13,300
Schedule of Programs:	
Constitutional Defense Council	13,300

Item 19

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

Item 20

To Governor's Office - Employability to Careers	
From Beginning Nonlapsing Balances	998,700
From Closing Nonlapsing Balances	(4,999,300)
Schedule of Programs:	
Employability to Careers Program	(4,000,600)

Item 21

To Governor's Office	
From Dedicated Credits Revenue, One-Time	(5,300)
From Beginning Nonlapsing Balances	1,425,000
From Closing Nonlapsing Balances	(362,900)

Schedule of Programs:
 Administration 260,600
 Literacy Projects 26,400
 Lt. Governor's Office 741,700
 Washington Funding 28,100

Item 22

To Governor's Office - Governor's Office
 of Management and Budget
 From Beginning Nonlapsing
 Balances 1,115,800
 Schedule of Programs:
 Administration 673,500
 Operational Excellence 182,300
 School Readiness Initiative 200,000
 State and Local Planning 60,000

Item 23

To Governor's Office - Indigent
 Defense Commission
 From Beginning Nonlapsing
 Balances 2,763,600
 From Closing Nonlapsing Balances (502,500)
 Schedule of Programs:
 Indigent Defense Commission 2,261,100

Item 24

To Governor's Office - Quality Growth
 Commission - LeRay McAllister Program
 From Beginning Nonlapsing Balances ... 818,300
 From Closing Nonlapsing Balances (274,200)
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 544,100

Item 25

To Governor's Office - School Readiness Initiative
 From Beginning Nonlapsing
 Balances (6,382,400)
 From Closing Nonlapsing Balances 7,536,600
 Schedule of Programs:
 School Readiness Initiative 1,154,200

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

Item 26

To Department of Human Services - Division
 of Juvenile Justice Services -
 Programs and Operations
 From Federal Funds, One-Time (432,200)
 From Dedicated Credits Revenue,
 One-Time 271,900
 From Revenue Transfers,
 One-Time (1,320,600)
 From Beginning Nonlapsing
 Balances 3,833,000
 Schedule of Programs:
 Administration 6,037,900
 Community Programs (6,763,400)
 Correctional Facilities 432,000
 Early Intervention Services (4,208,900)
 Rural Programs (205,000)
 Youth Parole Authority (32,900)
 Case Management 7,092,400

Item 27

To Department of Human Services - Division of
 Juvenile Justice Services - Community Providers

From Dedicated Credits Revenue,
 One-Time (258,300)
 From Revenue Transfers, One-Time 95,600
 Schedule of Programs:
 Provider Payments (162,700)

OFFICE OF THE STATE AUDITOR

Item 28

To Office of the State Auditor - State Auditor
 From Beginning Nonlapsing Balances ... (2,400)
 From Closing Nonlapsing Balances (229,700)
 Schedule of Programs:
 State Auditor (232,100)

DEPARTMENT OF PUBLIC SAFETY

Item 29

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From Beginning Nonlapsing
 Balances (180,200)
 From Closing Nonlapsing Balances 680,200
 Schedule of Programs:
 Emergency and Disaster
 Management 500,000

Item 30

To Department of Public Safety - Driver License
 From Beginning Nonlapsing
 Balances 2,670,500
 From Closing Nonlapsing Balances 1,865,200
 Schedule of Programs:
 Driver License Administration 1,149,200
 Driver Records 2,925,800
 Motorcycle Safety 141,200
 Uninsured Motorist 319,500

Item 31

To Department of Public Safety -
 Emergency Management
 From Beginning Nonlapsing Balances ... 143,800
 Schedule of Programs:
 Emergency Management 143,800

Item 32

To Department of Public Safety - Highway Safety
 From Beginning Nonlapsing Balances ... 738,600
 Schedule of Programs:
 Highway Safety 738,600

Item 33

To Department of Public Safety -
 Peace Officers' Standards and Training
 From Beginning Nonlapsing Balances ... 200,000
 From Lapsing Balance (915,400)
 Schedule of Programs:
 Basic Training (431,600)
 POST Administration (216,200)
 Regional/Inservice Training (67,600)

Item 34

To Department of Public Safety -
 Programs & Operations
 From Federal Funds, One-Time 465,800
 From Revenue Transfers, One-Time .. 6,505,000
 From Beginning Nonlapsing
 Balances 7,162,400
 From Closing Nonlapsing Balances (224,800)
 From Lapsing Balance (1,800,000)

Schedule of Programs:

Aero Bureau	(100)
CITS Communications	718,900
CITS State Crime Labs	(1,300,000)
Department Commissioner's Office	6,587,400
Department Fleet Management	6,300
Department Grants	344,700
Fire Marshall - Fire Operations	289,000
Highway Patrol - Commercial Vehicle ...	6,500
Highway Patrol - Federal/State Projects	205,800
Highway Patrol - Field Operations	(976,200)
Highway Patrol - Special Enforcement	7,575,100
Highway Patrol - Technology Services	(1,349,000)

Item 35

To Department of Public Safety - Bureau of Criminal Identification

From General Fund Restricted -

Firearm Safety Account, One-Time ...	(65,000)
From Beginning Nonlapsing Balances ...	89,600
From Lapsing Balance	(230,000)

Schedule of Programs:

Law Enforcement/Criminal Justice Services	(176,800)
Non-Government/Other Services	(28,600)

STATE TREASURER

Item 36

To State Treasurer

From Beginning Nonlapsing Balances ...	185,000
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Schedule of Programs:

Treasury and Investment	35,000
Unclaimed Property	150,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 37

To Attorney General - Crime and Violence Prevention Fund

From Beginning Fund Balance	(38,000)
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Schedule of Programs:

Crime and Violence Prevention Fund	(38,000)
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Item 38

To Attorney General - Litigation Fund

From Dedicated Credits Revenue, One-Time	(100,000)
From Beginning Fund Balance	234,400
From Closing Fund Balance	(1,239,400)

Schedule of Programs:

Litigation Fund	(1,105,000)
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GOVERNOR'S OFFICE

Item 39

To Governor's Office - Crime Victim Reparations Fund

From Dedicated Credits Revenue, One-Time
 42,000 || From Interest Income, One-Time | (19,700) |
| From Beginning Fund Balance | 66,900 |
| From Closing Fund Balance | (83,700) |

Schedule of Programs:

Crime Victim Reparations Fund	5,500
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Item 40

To Governor's Office - Justice Assistance Grant Fund

From Federal Funds, One-Time	(1,591,000)
From Beginning Fund Balance	2,234,900
From Closing Fund Balance	400

Schedule of Programs:

Justice Assistance Grant Fund	644,300
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Item 41

To Governor's Office - State Elections Grant Fund

From Federal Funds, One-Time	2,055,500
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Schedule of Programs:

State Elections Grant Fund	2,055,500
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DEPARTMENT OF PUBLIC SAFETY

Item 42

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund

From Dedicated Credits Revenue, One-Time
 (348,900) || From Restricted Revenue, One-Time ... | (25,500) |
| From Beginning Fund Balance | 841,600 |
| From Closing Fund Balance | (1,016,100) |

Schedule of Programs:

Alcoholic Beverage Control Act Enforcement Fund	(548,900)
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Subsection 1(c). Business-like Activities.

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

ATTORNEY GENERAL

Item 43

To Attorney General - ISF - Attorney General

From Dedicated Credits Revenue, One-Time
 972,100 || From Beginning Fund Balance | 148,600 |

Schedule of Programs:

ISF - Attorney General	1,120,700
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UTAH DEPARTMENT OF CORRECTIONS

Item 44

To Utah Department of Corrections - Utah Correctional Industries

From Dedicated Credits Revenue,
 One-Time 619,400
 From Beginning Fund Balance (732,100)
 From Closing Fund Balance (71,900)
 Schedule of Programs:
 Utah Correctional Industries (184,600)

DEPARTMENT OF PUBLIC SAFETY

Item 45

To Department of Public Safety - Local
 Government Emergency Response Loan Fund
 From Beginning Fund Balance 133,700
 From Closing Fund Balance (133,700)

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 46

To General Fund Restricted -
 Firearm Safety Account
 From General Fund, One-Time (24,800)
 Schedule of Programs:
 General Fund Restricted - Firearm
 Safety Account (24,800)

Subsection 1(e). Fiduciary Funds.

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

ATTORNEY GENERAL

Item 47

To Attorney General - Financial Crimes
 Trust Fund
 From Trust and Agency Funds,
 One-Time 200,000
 From Beginning Fund Balance (229,200)
 From Closing Fund Balance 452,200
 Schedule of Programs:
 Financial Crimes Trust Fund 423,000

STATE TREASURER

Item 48

To State Treasurer - Utah Navajo
 Royalties Holding Fund
 From Trust and Agency Funds,
 One-Time (3,528,400)
 From Other Financing Sources,
 One-Time 3,318,800
 From Beginning Fund Balance 856,800
 From Closing Fund Balance (828,600)
 Schedule of Programs:
 Navajo Trust Fund (181,400)

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act,

the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 49

To Attorney General
 From General Fund 38,625,600
 From Federal Funds 2,695,500
 From Dedicated Credits Revenue 8,646,800
 From Attorney General Litigation Fund ... 8,500
 From General Fund Restricted -
 Constitutional Defense 676,400
 From General Fund Restricted -
 Tobacco Settlement Account 66,000
 From Revenue Transfers 947,200
 Schedule of Programs:
 Administration 7,583,300
 Child Protection 9,314,000
 Civil 13,620,300
 Criminal Prosecution 21,148,400

The Legislature intends that the Attorney Generals Office, whose mission is “to uphold the constitutions of the United States and of Utah, enforce the law, and protect the interests of Utah, its people, environment and resources” report on the following performance measures: (1) The Attorney Generals Office shall represent, defend and advise the State of Utah, its elected officials and nearly 200 State agencies, boards and committees, as well as, when appropriate, its systems of public- and higher- education, in civil, criminal, appellate and administrative matters; (2) The Attorney Generals Office shall hire and mentor attorneys, investigators and staff to contribute positively to the Office while demonstrating professionalism and integrity in the handling of complex legal issues; (3) The Attorney Generals Office shall adopt productivity tools to track performance, improve communication, provide additional fiscal detail and address other metrics to improve effectiveness and financial efficiency of the Office by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 50

To Attorney General - Children’s Justice Centers
 From General Fund 4,340,100
 From Federal Funds 242,500
 From Dedicated Credits Revenue 443,000
 Schedule of Programs:
 Children’s Justice Centers 5,025,600

The Legislature intends that the Attorney Generals Offices report on the following performance measures for the Childrens Justice Centers line item, whose mission is “to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children’s Justice Center, to facilitate healing for children and caregivers, and to utilize the multidisciplinary approach to foster more collaborative and efficient case

investigations”: (1) Percentage of caregivers that strongly agreed that the CJC provided them with resources to support them and their children (Target = 88.7%); (2) Percentage of caregivers that strongly agreed that if they knew anyone else who was dealing with a situation like the one their family faced, they would tell that person about the CJC (Target = 90.9%); (3) Percentage of multidisciplinary team (MDT) members that strongly believe clients benefit from the collaborative approach of the MDT (Target = 89.1%), by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 51

To Attorney General – Contract Attorneys
From Dedicated Credits Revenue 1,500,000
Schedule of Programs:
Contract Attorneys 1,500,000

The Legislature intends that the Attorney Generals Office, whose mission is “to uphold the constitutions of the United States and of Utah, enforce the law, and protect the interests of Utah, its people, environment and resources” report on the following performance measure: (1) Collaborate and contract, as necessary, with subject matter experts and outside counsel to assist in the performance of its duties by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 52

To Attorney General – Prosecution Council
From General Fund 185,000
From Federal Funds 35,300
From Dedicated Credits Revenue 73,300
From General Fund Restricted -
Public Safety Support 541,200
From Revenue Transfers 281,800
Schedule of Programs:
Prosecution Council 1,116,600

The Legislature intends that the Attorney Generals Office report on the following performance measures for the Utah Prosecution Council (UPC), whose mission is “to provide training and continuing legal education and provide assistance for state and local prosecutors”: (1) UPC will hold conferences/meetings each year as funds allow, including the Spring Legislative and Case Law Update, the Utah Prosecutor Assistant’s Association (UPAA) conference, the Utah Misdemeanor Prosecutor Association (UMPA) conference, the Basic Prosecutor Course, the Fall Prosecutor Conference, the Government Civil Conference, the County Executive Seminar, the Regional Legislative Update Training, as well as quarterly council meetings, training committee meetings, conference planning meetings, advanced trial skills training, domestic violence and child abuse training, mental health training, impaired driving training, sexual assault training and white

collar crime training; (2) UPC will hold New County Attorney Training every four (4) years or as new County Attorneys take office; (3) UPC will provide services to prosecutors statewide that include maintaining UPC’s webpage to include current and future training opportunities, recent case summaries, resource prosecutor information, prosecutor offices contact information, and other prosecutor requested information as well as the Prosecutor Google Forum where prosecutors can pose questions and share information with other prosecutors by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

BOARD OF PARDONS AND PAROLE

Item 53

To Board of Pardons and Parole
From General Fund 5,758,400
From Dedicated Credits Revenue 2,200
Schedule of Programs:
Board of Pardons and Parole 5,760,600

The Legislature intends that the Board of Pardons and Parole report on the following performance measures for their line item, whose mission is “The mission of the Utah Board of Pardons and Parole is to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration.” (1) percent of decisions completed within 7 Days of the Hearing (Target 75%), (2) percent of results completed within 3 Days of decision (Target 90%), (3) percent of mandatory JRI (77-27-5.4) time cuts processed electronically (Target 90%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

UTAH DEPARTMENT OF CORRECTIONS

Item 54

To Utah Department of Corrections -
Programs and Operations
From General Fund 248,447,700
From Education Fund 49,000
From Federal Funds 346,000
From Dedicated Credits Revenue 4,064,500
From G.F.R. - Interstate Compact
for Adult Offender Supervision 29,600
From General Fund Restricted - Prison
Telephone Surcharge Account 1,500,000
Schedule of Programs:
Adult Probation and Parole
Administration 3,320,900
Adult Probation and Parole
Programs 70,372,500
Department Administrative
Services 26,829,700
Department Executive Director 8,865,900
Department Training 1,934,200
Prison Operations Administration 3,464,300
Prison Operations Central
Utah/Gunnison 41,475,800

Prison Operations Draper Facility	74,946,700
Prison Operations Inmate Placement	3,659,200
Programming Administration	612,700
Programming Education	1,998,700
Programming Skill Enhancement ..	11,542,300
Programming Treatment	5,413,900

The Legislature intends that the Department of Corrections report on the following performance measures for the Programs and Operations line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) AP&P: Percentage of offender discharging supervision successfully (2) DPO: Rate of disciplinary events inside the prisons (3) IPD: Percentage of inmates in state prisons actively involved in programs or classes by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 55

To Utah Department of Corrections - Department Medical Services

From General Fund	30,806,200
From Dedicated Credits Revenue	618,900

Schedule of Programs:

Medical Services	31,425,100
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The Legislature intends that the Department of Corrections report on the following performance measures for the Medical Services line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Percentage of Health Care Requests closed out within 3 business days of submittal, (2) Percentage of Dental Requests closed out within 7 days of submittal, (3) Average number of days after intake for an inmate to be assigned a mental health level, by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 56

To Utah Department of Corrections - Jail Contracting

From General Fund	32,732,300
From Federal Funds	50,000

Schedule of Programs:

Jail Contracting	32,782,300
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The Legislature intends that the Department of Corrections report on the following performance measures for the Jail Contracting line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment” (1) Rate of positive urinalysis tests in jails (for state inmates), (2) Rate of disciplinary events inside the jails (for state inmates), (3) Percentage of state inmates in county jails actively involved in programs or classes, by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 57

To Judicial Council/State Court Administrator - Administration

From General Fund	111,439,200
From Federal Funds	770,200
From Dedicated Credits Revenue	3,041,600
From General Fund Restricted - Children’s Legal Defense	480,200
From General Fund Restricted - Court Security Account	11,175,400
From General Fund Restricted - Court Trust Interest	255,500
From General Fund Restricted - Dispute Resolution Account	565,200
From General Fund Restricted - DNA Specimen Account	269,700
From General Fund Rest. - Justice Court Tech., Security & Training	1,218,900
From General Fund Restricted - Nonjudicial Adjustment Account	1,056,400
From General Fund Restricted - Online Court Assistance Account	237,300
From General Fund Restricted - State Court Complex Account	322,100
From General Fund Restricted - Substance Abuse Prevention	571,800
From General Fund Restricted - Tobacco Settlement Account	193,700
From Revenue Transfers	1,095,500

Schedule of Programs:

Administrative Office	5,721,000
Court of Appeals	4,470,600
Courts Security	11,175,400
Data Processing	7,218,000
District Courts	51,615,400
Grants Program	1,486,600
Judicial Education	732,400
Justice Courts	1,410,100
Juvenile Courts	44,373,500
Law Library	1,106,400
Supreme Court	3,383,300

The Legislature intends that the Utah State Courts report on the following performance measures for their

Administration line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Target the recommended time standards in District and Juvenile Courts for all case types, as per the published Utah State Courts Performance Measures, (2) Access and Fairness Survey re satisfaction with my experience in court question, as per the published Utah State Courts Performance Measures (Target 90%), (3) Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 58

To Judicial Council/State Court Administrator - Contracts and Leases
 From General Fund 16,704,900
 From Dedicated Credits Revenue 252,000
 From General Fund Restricted -
 State Court Complex Account 4,318,300
 Schedule of Programs:
 Contracts and Leases 21,275,200

The Legislature intends that the Utah State Courts report on the following performance measure for their Contract and Leases line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 59

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

The Legislature intends that the Utah State Courts report on the following performance measure for their Grand Jury line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Administer called Grand Juries (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 60

To Judicial Council/State Court Administrator - Guardian ad Litem
 From General Fund 7,820,700
 From Dedicated Credits Revenue 68,900
 From General Fund Restricted -
 Children’s Legal Defense 516,500
 From General Fund Restricted -
 Guardian Ad Litem Services 397,500
 From Revenue Transfers 10,000
 Schedule of Programs:
 Guardian ad Litem 8,813,600

The Legislature intends that the Guardian ad Litem report on the seven performance measures for their line item found in the Utah Office of Guardian ad Litem and CASA Annual Report by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 61

To Judicial Council/State Court Administrator - Jury and Witness Fees
 From General Fund 2,616,600
 From Dedicated Credits Revenue 10,000
 Schedule of Programs:
 Jury, Witness, and Interpreter 2,626,600

The Legislature intends that the Utah State Courts report on the following performance measure for their Jury and Witness Fees line item, whose mission is “To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law” (1) Timely pay all required jurors, witnesses and interpreters (Target 100%), by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

GOVERNOR’S OFFICE

Item 62

To Governor’s Office - CCJJ Factual Innocence Payments
 From Beginning Nonlapsing Balances ... 228,300
 From Closing Nonlapsing Balances (182,600)
 Schedule of Programs:
 Factual Innocence Payments 45,700

Item 63

To Governor’s Office - CCJJ Jail Reimbursement
 From General Fund 13,967,100
 Schedule of Programs:
 Jail Reimbursement 13,967,100

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures the for Jail Reimbursement, line item, whose mission is to “reimburse up to 50 percent of the average final daily incarceration rate to house an inmate in county jails for (1) felony offenders placed on probation and given jail time as a condition of probation; and (2) parolees on a 72 hour hold”: (1) Percent of the 50 percent of the average final daily incarceration rate paid to counties (Target equal= 87 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Subcommittee.

Item 64

To Governor’s Office - CCJJ Salt Lake County Jail Bed Housing
 From General Fund 2,420,000
 Schedule of Programs:
 Salt Lake County Jail Bed
 Housing 2,420,000

Item 65

To Governor’s Office - Character Education
 From General Fund 205,100

From Beginning Nonlapsing Balances 52,300
 Schedule of Programs:
 Character Education 257,400

Item 66

To Governor’s Office – Commission on
 Criminal and Juvenile Justice
 From General Fund 3,296,200
 From Federal Funds 26,263,800
 From Dedicated Credits Revenue 104,600
 From Crime Victim Reparations
 Fund 1,930,700
 From General Fund Restricted –
 Criminal Forfeiture Restricted
 Account 2,093,300
 From General Fund Restricted –
 Law Enforcement Operations 1,529,600
 From General Fund Restricted –
 Law Enforcement Services 617,900
 From Beginning Nonlapsing
 Balances 3,770,700
 Schedule of Programs:
 CCJJ Commission 9,269,200
 Extraditions 465,500
 Judicial Performance Evaluation
 Commission 804,900
 Law Enforcement Services Grants 617,900
 Sentencing Commission 219,500
 State Asset Forfeiture Grant
 Program 5,080,300
 State Task Force Grants 1,815,800
 Substance Use and Mental
 Health Advisory Council 167,200
 Utah Office for Victims of Crime 21,166,500

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Commission on Criminal and Juvenile Justice, line item whose mission is to “(a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah; (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives; and (c) coordinate statewide efforts to reduce crime and victimization in Utah”: (1) Percent of victim reparations claims processed within 30 days or less (Target= 75%); (2) number of grants monitored (Target =143 or 55%); (3) Percent of offenders booked into larger county jails (Cache, Salt Lake, Utah, Washington, and Weber) that adequately meet CCJJ JRI guidelines that volunteer to receive a risk and needs screen (Target=65%) by October 15, 2020 to the Executive Offices and Criminal Justice Subcommittee.

Item 67

To Governor’s Office – Emergency Fund
 From Beginning Nonlapsing Balances . . . 100,100
 From Closing Nonlapsing Balances (100,100)

Item 68

To Governor’s Office – Employability to Careers
 From Beginning Nonlapsing
 Balances 4,999,300

Schedule of Programs:
 Employability to Careers Program . . . 4,999,300

The Legislature intends that the Governors Office report on the following performance measure for the Employability to Careers Program: (1) Outcomes for all measures established by the Employability to Careers Program Board (Targets will be set by the board) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 69

To Governor’s Office
 From General Fund 6,563,200
 From Dedicated Credits Revenue 1,462,100
 From Expendable Receipts 15,000
 From Beginning Nonlapsing Balances . . . 562,900
 From Closing Nonlapsing Balances . . . (212,900)
 Schedule of Programs:

 Administration 4,024,300
 Governor’s Residence 339,100
 Literacy Projects 96,300
 Lt. Governor’s Office 3,667,600
 Washington Funding 263,000

The Legislature intends that the Governors Office report on the following performance measure for the Governor’s Office line item: (1) Number of registered voters and the percentage that voted during the November 2019 general election (Target = increased turnout compared to the 2014 mid-term election); (2) Number of constituent affairs responses (A baseline will be established for this new measure at the end of FY 2018) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 70

To Governor’s Office – Governor’s
 Office of Management and Budget
 From General Fund 4,415,600
 From Dedicated Credits Revenue 26,500
 From Beginning Nonlapsing Balances . . . 300,000
 Schedule of Programs:
 Administration 1,285,200
 Operational Excellence 1,114,800
 Planning and Budget Analysis 1,999,200
 State and Local Planning 342,900

The Legislature intends that the Governors Office report on the following performance measure for the Governor’s Office of Management and Budget line item, whose mission is “To create more value for every tax dollar invested”: (1) Establish SUCCESS Plus programs and measures (Target = identify 25 programs and establish baseline measures for these programs) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 71

To Governor’s Office – Indigent
 Defense Commission
 From General Fund Restricted –
 Indigent Defense Resources 2,230,000
 From Beginning Nonlapsing Balances . . . 502,500

Schedule of Programs:

Indigent Defense Commission 2,732,500

The Legislature intends that the Commission on Criminal and Juvenile Justice report on the following performance measures for the Indigent Defense Commission, line item whose mission is to “assist the state in meeting the state’s obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law.”: (1) Percentage of indigent defense systems using Indigent Defense Commission grant money to improve the effective assistance of counsel by improving the organizational capacity of the system, through regionalization (Target=20%); (2) Percentage of total county indigent defense systems improving the effective assistance of counsel through the use of separate indigent defense service providers, to address distinct areas of specialization in indigent defense representation in juvenile and criminal courts. (Target 30%); and (3) Percentage of indigent defense systems operating with Indigent Defense Commission grant money to improve the quality of indigent defense representation through: independently-administered defense resources that allow defense counsel to provide the effective assistance of counsel (Target 40%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 72

To Governor’s Office – Quality Growth Commission
 – LeRay McAllister Program
 From Beginning Nonlapsing Balances . . . 274,200
 Schedule of Programs:
 LeRay McAllister Critical Land
 Conservation Program 274,200

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

Item 73

To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
 From General Fund 74,619,000
 From Federal Funds 1,972,000
 From Dedicated Credits Revenue 260,700
 From Expendable Receipts 63,300
 From Revenue Transfers (652,200)
 Schedule of Programs:
 Administration 6,685,100
 Community Programs 5,317,200
 Correctional Facilities 14,971,500
 Early Intervention Services 19,008,100
 Rural Programs 22,504,800
 Youth Parole Authority 382,100
 Case Management 7,394,000

The Legislature intends that the Department of Human Services, Division of Juvenile Justice Services report on the following performance measures for the DHS Juvenile Justice Services (KJAA) line item, whose mission is “To be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe”: (1) Percent of youth free of new charges while in diversion from detention programming (Target = 95%), (2) Percent of youth without a new felony charge within 360 days of release from community residential programs (Target = 85%), and (3) Percent of youth without a new felony charge within 360 days of release from long-term secure care (Target = 75%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 74

To Department of Human Services – Division of Juvenile Justice Services – Community Providers
 From General Fund 18,048,700
 From Federal Funds 1,438,400
 From Dedicated Credits Revenue 652,000
 From Revenue Transfers (1,204,400)
 Schedule of Programs:
 Administration 3,105,000
 Provider Payments 15,829,700

OFFICE OF THE STATE AUDITOR

Item 75

To Office of the State Auditor – State Auditor
 From General Fund 3,392,300
 From Dedicated Credits Revenue 2,911,000
 From Beginning Nonlapsing Balances . . . 229,700
 Schedule of Programs:
 State Auditor 6,533,000

The Legislature intends that the Office of the State Auditor report on the following performance measures for the Office of the State Auditor line item, whose mission is “to provide Utah taxpayers and government officials with an independent assessment of financial operation, statutory compliance, and performance management for state and local government”: (1) Annual financial statement audits completed in a timely manner (w/in six months) – excluding State CAFR (Target = 65%); (2) State of Utah Comprehensive Annual Financial Report (CAFR) audit completed and released in a timely manner (w/in five months or 153 days) (Target = 153 days or less); (3) State of Utah Single Audit Report (Federal Compliance Report) completed and released in a timely manner (w/in six months or 184 days). Federal requirement is nine months. (Target = 184 days or less); (4) Monitoring of CPA firms performing local government financial audits. (Target = 100% over an ongoing three-year period) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

DEPARTMENT OF PUBLIC SAFETY

Item 76

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

From Beginning Nonlapsing Balances	11,975,600
From Closing Nonlapsing Balances	(11,975,600)

The Legislature intends that the Department of Public Safety report on the following performance measures for their Division of Homeland Security Emergency and Disaster Management line item, (1) distribution of funds for appropriate and approved expenses (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 77

To Department of Public Safety - Driver License
 From Federal Funds 200,000
 From Dedicated Credits Revenue 9,300
 From Department of Public Safety

Restricted Account	30,101,700
From Public Safety Motorcycle Education Fund	337,100
From Uninsured Motorist Identification Restricted Account	2,123,100
From Pass-through	57,000
From Beginning Nonlapsing Balances ...	194,000

Schedule of Programs:

DL Federal Grants	200,000
Driver License Administration	2,279,700
Driver Records	8,907,000
Driver Services	18,979,400
Motorcycle Safety	339,000
Uninsured Motorist	2,317,100

The Legislature intends that the Department of Public Safety report on the following performance measures for their Driver License line item, whose mission is “to license and regulate drivers in Utah and promote public safety” (1) average customer wait time measured in 13 driver license field offices (Target=8 minutes), (2) average customer call wait time (Target=30 seconds), (3) percentage of driver license medical forms processed within 5 days divided by the operating expenses for the process (Target=25 percent improvement) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 78

To Department of Public Safety - Emergency Management

From General Fund	1,446,200
From Federal Funds	20,040,300
From Dedicated Credits Revenue	508,100

Schedule of Programs:

Emergency Management	21,994,600
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The Legislature intends that the Department of Public Safety report on the following performance measures for their

Emergency Management line item, whose mission is “to unite the emergency management community and to coordinate the efforts necessary to mitigate, prepare for, respond to, and recover from emergencies, disasters, and catastrophic events” (1) percentage compliance with standards and elements required to achieve and maintain National Emergency Management Program Accreditation (Target=100 percent), (2) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent), (3) percentage of 98 state agencies that have updated their Continuity of Operation Plans (Target=100 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 79

To Department of Public Safety - Emergency Management - National Guard Response

From Beginning Nonlapsing Balances ...	150,000
From Closing Nonlapsing Balances	(150,000)

The Legislature intends that the Department of Public Safety report on the following performance measures for their Emergency Management - National Guard Response line item, (1) distribution of funds as reimbursement to the National Guard of authorized and approved expenses (Target 100%) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 80

To Department of Public Safety - Highway Safety

From General Fund	57,400
From Federal Funds	6,353,500
From Dedicated Credits Revenue	16,200

From Department of Public Safety

Restricted Account	1,323,800
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Schedule of Programs:

Highway Safety	7,750,900
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The Legislature intends that the Department of Public Safety report on the following performance measures for their Highway Safety line item, whose mission is “to develop, promote and coordinate traffic safety initiatives designed to reduce traffic crashes, injuries and fatalities on Utah’s roadways” (1) percentage of persons wearing a seatbelt, as captures on the Utah Safety Belt Observational Survey (Target=greater than 85 percent), (2) number of motor vehicle crash fatalities (Target=2 percent reduction), (3) number of pedestrian fatalities (Target=3 percent reduction) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 81

To Department of Public Safety - Peace Officers’ Standards and Training

From General Fund	133,300
From Dedicated Credits Revenue	72,500

From General Fund Restricted -

Public Safety Support	4,072,300
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Schedule of Programs:

Basic Training	1,838,000
POST Administration	1,623,100
Regional/Inservice Training	817,000

The Legislature intends that the Department of Public Safety report on the following performance measures for their Peace Officers Standards and Training line item, whose mission is “to provide law enforcement with leadership and innovative training while enhancing the integrity of the profession” (1) percentage of POST investigations completed within specified timeframes divided by the operating expenses for the process (Target=25 percent improvement), (2) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), (3) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 82

To Department of Public Safety -
Programs & Operations

From General Fund	81,689,300
From Transportation Fund	5,495,500
From Federal Funds	1,861,900
From Dedicated Credits Revenue ...	11,800,000
From General Fund Restricted -	
Canine Body Armor	25,000
From Department of Public	
Safety Restricted Account	3,730,900
From General Fund Restricted -	
DNA Specimen Account	1,509,800
From General Fund Restricted -	
Fire Academy Support	7,131,800
From General Fund Restricted - Firefighter	
Support Account	132,000
From General Fund Restricted -	
Motor Vehicle Safety Impact Acct. ...	2,657,900
From General Fund Restricted - Public	
Safety Honoring Heroes Account	200,000
From General Fund Restricted -	
Reduced Cigarette Ignition Propensity	
& Firefighter Protection Account	79,200
From Revenue Transfers	1,025,400
From General Fund Restricted -	
Utah Highway Patrol Aero Bureau ...	213,600
From General Fund Restricted -	
Utah Law Enforcement Memorial	
Support Restricted Account	17,500
From Pass-through	15,000
From Beginning Nonlapsing Balances ...	574,800
Schedule of Programs:	
Aero Bureau	1,014,000
CITS Administration	540,400
CITS Communications	10,514,600
CITS State Bureau of	
Investigation	4,185,700
CITS State Crime Labs	7,838,500
Department Commissioner's	
Office	4,713,100
Department Fleet Management	508,200
Department Grants	2,600,500
Department Intelligence Center ...	1,459,300

Fire Marshall - Fire Fighter	
Training	4,504,400
Fire Marshall - Fire Operations	4,049,900
Highway Patrol - Administration ...	1,312,100
Highway Patrol - Commercial	
Vehicle	4,138,800
Highway Patrol - Federal/State	
Projects	4,075,400
Highway Patrol -	
Field Operations	50,721,400
Highway Patrol -	
Protective Services	8,144,700
Highway Patrol -	
Safety Inspections	553,800
Highway Patrol -	
Special Enforcement	629,500
Highway Patrol -	
Special Services	3,948,900
Highway Patrol -	
Technology Services	1,425,200
Information Management -	
Operations	1,281,200

The Legislature intends that the Department of Public Safety report on the following performance measures for the Utah Highway Patrol in the Public Safety Programs and Operations line item, whose mission is “to provide professional police and traffic services and to protect the constitutional rights of all people in Utah” (1) percentage of DUI reports submitted for administrative action within specified timeframes divided by operating expenses for the process (Target=25 percent improvement) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

The Legislature intends that the Department of Public Safety report on the following performance measures for the Bureau of Forensic Services in the Public Safety Programs and Operations line item, whose mission is “to provide a safe and secure environment for the citizens of Utah through the application of the forensic sciences” (1) median DNA case turnaround time (Target=60 days) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 83

To Department of Public Safety -

Bureau of Criminal Identification	
From General Fund	2,635,300
From Dedicated Credits Revenue	6,036,200
From General Fund Restricted -	
Concealed Weapons Account	3,432,400
From General Fund Restricted -	
Statewide Warrant Operations	596,300
From Revenue Transfers	26,700
From Pass-through	1,600
Schedule of Programs:	
Law Enforcement/Criminal	
Justice Services	3,200,800
Non-Government/Other Services ...	9,527,700

The Legislature intends that the Department of Public Safety report on the

following performance measures for the Bureau of Criminal Identification line item, whose mission is to provide public safety agencies and the general public with technical services, expertise, training, criminal justice information, permits and related resources (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=5 working days) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

STATE TREASURER

Item 84

To State Treasurer

From General Fund	1,026,500
From Dedicated Credits Revenue	799,900
From Unclaimed Property Trust	1,993,300
Schedule of Programs:	
Money Management Council	99,600
Treasury and Investment	1,734,300
Unclaimed Property	1,985,800

The Legislature intends that the State Treasurer's Office report on the following performance measures for the State Treasurer line item, whose mission is "To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property.": (1) Spread Between PTIF Interest Rate and Benchmark Rate (Target = 0.30%) (2) Ratio of Claim Dollars Paid to Claim Dollars Collected (Target = 50%), and (3) Total Value of Unclaimed Property Claims Paid (Target = \$20 Million) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

UTAH COMMUNICATIONS AUTHORITY

Item 85

To Utah Communications Authority -
Administrative Services Division

From General Fund Restricted - Statewide Unified E-911 Emergency Account ..	2,990,600
From General Fund Restricted - Utah Statewide Radio System Acct. . .	7,000,500
Schedule of Programs:	
911 Division	2,990,600
Administrative Services Division	7,000,500

The Legislature intends that the Utah Communications Authority, whose mission is to "(a) provide administrative and financial support for statewide 911 emergency services; and (b) establish and maintain a statewide public safety communications network," report on the following performance measures: 1) the Utah Communications Authority shall maintain

the statewide public safety communications network in a manner that maximizes network availability for its users; 2) monitor best practices and other guidance for PSAPs across Utah; 3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 86

To Attorney General - Litigation Fund

From Dedicated Credits Revenue	1,000,000
From Beginning Fund Balance	1,037,000
From Closing Fund Balance	(737,000)
Schedule of Programs:	
Litigation Fund	1,300,000

GOVERNOR'S OFFICE

Item 87

To Governor's Office - Crime Victim
Reparations Fund

From Federal Funds	3,006,900
From Dedicated Credits Revenue	6,810,800
From Interest Income	5,500
From Beginning Fund Balance	4,787,600
From Closing Fund Balance	(5,351,800)
Schedule of Programs:	
Crime Victim Reparations Fund	9,259,000

Item 88

To Governor's Office - Justice Assistance
Grant Fund

From Federal Funds	1,583,000
From Beginning Fund Balance	1,168,200
From Closing Fund Balance	(1,320,100)
Schedule of Programs:	
Justice Assistance Grant Fund	1,431,100

Item 89

To Governor's Office - State Elections
Grant Fund

From Federal Funds	214,400
From Interest Income	5,500
Schedule of Programs:	
State Elections Grant Fund	219,900

DEPARTMENT OF PUBLIC SAFETY

Item 90

To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund

From Dedicated Credits Revenue	3,951,200
From Beginning Fund Balance	3,924,800
From Closing Fund Balance	(3,774,100)

Schedule of Programs:

Alcoholic Beverage Control Act
 Enforcement Fund 4,101,900

The Legislature intends that the Department of Public Safety report on the following performance measures for their Alcoholic Beverage Control Act Enforcement Fund line item, whose mission is “to enforce the state laws and regulations governing the sale and use of alcoholic beverages in a manner that provides a safe and secure environment” (1) percentage of covert operations initiated by intelligence (Target=80 percent), (2) percentage of licensees that did not sell to minors (Target=90 percent), (3) rate of alcohol-related crash fatalities per 100 million vehicle miles traveled (Target=0.10) by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

ATTORNEY GENERAL

Item 91

To Attorney General - ISF - Attorney General
 From General Fund 148,600
 From Dedicated Credits Revenue 20,985,300
 Schedule of Programs:
 ISF - Attorney General 21,133,900
 Budgeted FTE 185.0

UTAH DEPARTMENT OF CORRECTIONS

Item 92

To Utah Department of Corrections -
 Utah Correctional Industries
 From Dedicated Credits Revenue 28,843,500
 From Beginning Fund Balance 7,363,300
 From Closing Fund Balance (7,997,100)
 Schedule of Programs:
 Utah Correctional Industries 28,209,700

The Legislature intends that the Department of Corrections report on the following performance measures for the Utah Correctional Industries line item, whose mission is “Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and

positive reinforcement within a safe environment” (1) Percentage of UCI graduates who gain employment within the first two quarters post-release (2) Percentage of work-eligible inmates employed by UCI in prison, (3) Percentage of workers leaving UCI who are successfully completing the program by October 15, 2020 to the Executive Offices and Criminal Justice Appropriations Subcommittee.

DEPARTMENT OF PUBLIC SAFETY

Item 93

To Department of Public Safety - Local Government Emergency Response Loan Fund
 From Beginning Fund Balance 237,800
 From Closing Fund Balance (237,800)

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

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 94

To General Fund Restricted - Fire Academy Support Account
 From General Fund 4,200,000
 Schedule of Programs:
 General Fund Restricted - Fire Academy Support Account 4,200,000

Item 95

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

Item 96

To General Fund Restricted - Indigent Defense Resources Account
 From General Fund 2,234,400
 Schedule of Programs:
 General Fund Restricted - Indigent Defense Resources Account 2,234,400

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

ATTORNEY GENERAL

Item 97

To Attorney General - Financial Crimes Trust Fund
 From Trust and Agency Funds 1,225,000
 Schedule of Programs:
 Financial Crimes Trust Fund 1,225,000

STATE TREASURER

Item 98

To State Treasurer - Utah Navajo Royalties Holding Fund
 From Trust and Agency Funds 681,200

From Other Financing Sources	3,318,800
From Beginning Fund Balance	76,605,800
From Closing Fund Balance	(78,307,600)
Schedule of Programs:	
Navajo Trust Fund	2,298,200

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 10

S. B. 7

Passed February 6, 2019
Approved February 19, 2019
Effective July 1, 2019

SOCIAL SERVICES BASE BUDGET

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

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019; and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates \$15,606,900 in operating and capital budgets for fiscal year 2019, including:

- (\$16,980,000) from the General Fund;
\$32,586,900 from various sources as detailed in this bill.

This bill appropriates (\$9,356,400) in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$5,890,000 in restricted fund and account transfers for fiscal year 2019, including:

- (\$520,000) from the General Fund;
\$6,410,000 from various sources as detailed in this bill.

This bill appropriates \$673,900 in fiduciary funds for fiscal year 2019.

This bill appropriates \$5,702,368,900 in operating and capital budgets for fiscal year 2020, including:

- \$1,013,957,400 from the General Fund;
\$4,688,411,500 from various sources as detailed in this bill.

This bill appropriates \$17,302,500 in expendable funds and accounts for fiscal year 2020, including:

- \$2,442,900 from the General Fund;
\$14,859,600 from various sources as detailed in this bill.

This bill appropriates \$175,354,300 in business-like activities for fiscal year 2020.

This bill appropriates \$150,971,500 in restricted fund and account transfers for fiscal year 2020, including:

- \$50,447,900 from the General Fund;
\$100,523,600 from various sources as detailed in this bill.

This bill appropriates \$220,077,400 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets.

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

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Children's

Health Insurance Program

From Federal Funds, One-Time ... (13,688,400)

From Dedicated Credits Revenue,

One-Time ... (646,900)

From Revenue Transfers, One-Time .. (260,200)

From Beginning Nonlapsing Balances ... 310,600

From Lapsing Balance ... (9,400,000)

Schedule of Programs:

Children's Health Insurance

Program ... (23,684,900)

Item 2

To Department of Health - Disease

Control and Prevention

From General Fund Restricted -

Prostate Cancer Support Account,

One-Time ... (26,600)

From Revenue Transfers,

One-Time ... (1,649,100)

From Beginning Nonlapsing

Balances ... 1,737,200

From Lapsing Balance ... (26,600)

Schedule of Programs:

Clinical and Environmental

Laboratory Certification

Programs ... (12,600)

Epidemiology ... (519,500)

General Administration ... 538,500

Health Promotion ... (254,900)

Utah Public Health Laboratory ... 231,800

Office of the Medical Examiner ... 51,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$2,025,000 of Item 26 of Chapter 9, Laws of Utah 2018 for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to: (1) \$500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs, (2) \$500,000 to maintenance or

replacement of computer equipment and software, equipment, building improvements or other purchases or services that improve or expand services provided by the Office of the Medical Examiner, (3) \$500,000 to laboratory equipment, computer equipment, software, and building improvements for the Unified State Laboratory, (4) \$250,000 to replacement, upgrading, maintenance, or purchase of laboratory or computer equipment and software for the Newborn Screening Program, (5) \$175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Bureau of Epidemiology, (6) \$75,000 for use of the Traumatic Brain Injury Fund, and (7) \$25,000 to local health department expenses in responding to a local health emergency.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any balance remaining in the Disease Control and Prevention line item at the close of Fiscal Year 2019, not otherwise designated as nonlapsing, up to \$500,000 in total among all specified Department of Health line items, shall not lapse. The use of any nonlapsing funds is limited to purchase of equipment, installation, configuration, and other related costs associated with a transition to a Voice over Internet Protocol (VoIP) phone system.

Item 3

To Department of Health - Executive Director's Operations
 From Dedicated Credits Revenue,
 One-Time (80,900)
 From Revenue Transfers, One-Time .. 2,013,400
 From Beginning Nonlapsing Balances ... 585,200
 From Lapsing Balance (4,000)
 Schedule of Programs:
 Adoption Records Access 35,000
 Center for Health Data and Informatics 1,669,600
 Executive Director 247,900
 Program Operations 561,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$550,000 of Item 27 of Chapter 9, Laws of Utah 2017 for the Department of Health's Executive Director's Office shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to (1) \$300,000 in programming and information technology (IT) projects, replacement of computers and other IT equipment, and a time-limited deputy to the Department of Technology Services director that helps coordinate IT projects, (2) \$200,000 ongoing development and maintenance of the vital records application portal, and (3) \$50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and IT

equipment in the Center for Health Data and Informatics.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any balance remaining in the Executive Director's line item at the close of Fiscal Year 2019, not otherwise designated as nonlapsing, up to \$500,000 in total among all specified Department of Health line items, shall not lapse. The use of any nonlapsing funds is limited to purchase of equipment, installation, configuration, and other related costs associated with a transition to a Voice over Internet Protocol (VoIP) phone system.

Item 4

To Department of Health - Family Health and Preparedness
 From General Fund, One-Time 520,000
 From Federal Funds, One-Time (2,509,100)
 From General Fund Restricted - Home Visiting Restricted Account,
 One-Time (520,000)
 From Revenue Transfers, One-Time .. 3,053,700
 From Pass-through, One-Time (50,000)
 From Beginning Nonlapsing Balances 2,546,400
 From Closing Nonlapsing Balances ... (1,463,400)
 Schedule of Programs:
 Child Development 2,966,200
 Children with Special Health Care Needs (4,300)
 Director's Office 168,300
 Emergency Medical Services and Preparedness 292,500
 Health Facility Licensing and Certification (637,000)
 Maternal and Child Health (2,520,200)
 Primary Care 787,000
 Public Health and Health Care Preparedness 802,700
 Telehealth Pilot 242,400
 Nurse Home Visiting Pay-for-Success Program (520,000)

The Legislature intends that the Department of Health use the \$520,000 General Fund appropriation provided by this item for evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$520,000 of the General Fund provided to the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$755,000 of Item 28 of Chapter 9, Laws of Utah 2018 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to (1) \$50,000 to the services of eligible clients in the

Assistance for People with Bleeding Disorders Program, (2) \$200,000 to testing, certifications, background screenings, replacement of testing equipment and supplies in the Emergency Medical Services program, (3) \$210,000 to health facility plan review activities in Health Facility Licensing and Certification, (4) \$150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, and (5) \$145,000 to Emergency Medical Services and Health Facility Licensing background screening for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that civil money penalties collected in the Child Care Licensing and Health Care Licensing programs of Item 28 of Chapter 9, Laws of Utah 2018 for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to upgrades to the Child Care Licensing database, or trainings for providers and staff or assistance of individuals during a facility shutdown, respectively.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any balance remaining in the Family Health and Preparedness line item at the close of Fiscal Year 2019, not otherwise designated as nonlapsing, up to \$500,000 in total among all specified Department of Health line items, shall not lapse. The use of any nonlapsing funds is limited to purchase of equipment, installation, configuration, and other related costs associated with a transition to a Voice over Internet Protocol (VoIP) phone system.

Item 5

To Department of Health - Medicaid and Health Financing	
From Federal Funds, One-Time	13,093,400
From Beginning Nonlapsing	
Balances	1,012,500
Schedule of Programs:	
Authorization and Community Based Services	
Based Services	261,300
Contracts	(3,386,000)
Coverage and Reimbursement	
Policy	(28,100)
Department of Workforce Services' Seeded Services	
Director's Office	(422,400)
Eligibility Policy	53,700
Financial Services	10,333,200
Managed Health Care	(295,300)
Medicaid Operations	(3,433,800)
Other Seeded Services	843,500

Under Section 63J-1-603 of the Utah Code Item 30 of Chapter 9, Laws of Utah 2018, the Legislature intends that up to \$975,000 provided for the Department of Health's Medicaid and Health Financing line item

shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to: (1) \$500,000 for providing application level security and redundancy for core Medicaid applications and (2) \$475,000 for compliance with unfunded mandates and the purchase of computer equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any balance remaining in the Medicaid and Health Financing Item at the close of Fiscal Year 2019, not otherwise designated as nonlapsing, up to \$500,000 in total among all specified Department of Health line items, shall not lapse. The use of any nonlapsing funds is limited to purchase of equipment, installation, configuration, and other related costs associated with a transition to a Voice over Internet Protocol (VoIP) phone system.

Item 6

To Department of Health - Medicaid Sanctions From Beginning Nonlapsing

Balances	1,979,000
From Closing Nonlapsing Balances	(1,979,000)

Item 7

To Department of Health - Medicaid Services

From Federal Funds, One-Time	56,765,500
From Pass-through, One-Time	(7,202,200)
From Beginning Nonlapsing	
Balances	7,948,600

Schedule of Programs:

Accountable Care Organizations	(9,061,000)
Dental Services	1,416,000
Expenditure Offsets from	
Collections	(17,062,600)
Home and Community Based	
Waivers	75,833,000
Home Health and Hospice	636,800
Inpatient Hospital	72,822,800
Intermediate Care Facilities for	
the Intellectually Disabled	1,243,700
Medicaid Expansion 2017	(24,200,000)
Medical Transportation	23,835,000
Medicare Buy-In	6,837,000
Medicare Part D Clawback	
Payments	7,813,500
Mental Health and Substance	
Abuse	(49,497,500)
Nursing Home	9,756,300
Other Services	(76,671,000)
Outpatient Hospital	(4,129,100)
Pharmacy	48,865,500
Physician and Osteopath	14,512,800
Provider Reimbursement Information	
System for Medicaid	15,357,800
School Based Skills	
Development	(40,797,100)

Under Section 63J-1-603 of the Utah Code Item 32 of Chapter 9, Laws of Utah 2018, the Legislature intends up to \$7,650,000 provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to (1) \$500,000 for providing application level security and redundancy for core Medicaid applications

and (2) \$7,150,000 for the redesign and replacement of the Medicaid Management Information System.

Item 8

To Department of Health - Primary Care Workforce Financial Assistance
 From Beginning Nonlapsing Balances (54,900)
 From Closing Nonlapsing Balances (43,800)
 Schedule of Programs:
 Primary Care Workforce Financial Assistance (98,700)

Item 9

To Department of Health - Rural Physicians Loan Repayment Assistance
 From Beginning Nonlapsing Balances ... (7,000)
 From Closing Nonlapsing Balances 292,700
 Schedule of Programs:
 Rural Physicians Loan Repayment Program 285,700

DEPARTMENT OF HUMAN SERVICES

Item 10

To Department of Human Services - Division of Aging and Adult Services
 From Federal Funds, One-Time (148,000)
 From Revenue Transfers, One-Time ... (3,300)
 From Beginning Nonlapsing Balances ... 307,800
 Schedule of Programs:
 Administration - DAAS 10,200
 Adult Protective Services 44,400
 Aging Alternatives 72,300
 Aging Waiver Services 255,100
 Local Government Grants -
 Formula Funds (78,200)
 Non-Formula Funds (147,300)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$250,000 of appropriations provided in Item 36, Chapter 9, Laws of Utah 2018 for the Department of Human Services - Division of Aging and Adult Services not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; special projects or studies; and client services for Adult Protective Services and the Aging Waiver.

Item 11

To Department of Human Services - Division of Child and Family Services
 From Federal Funds, One-Time (626,700)
 From Dedicated Credits Revenue, One-Time (157,300)
 From Revenue Transfers, One-Time (2,055,900)
 From Beginning Nonlapsing Balances 1,516,000
 Schedule of Programs:
 Administration - DCFS (592,100)
 Adoption Assistance 90,500
 Child Welfare Management Information System 240,000
 Domestic Violence 300

Facility-Based Services 524,600
 In-Home Services (401,200)
 Minor Grants (20,500)
 Out-of-Home Care (862,900)
 Service Delivery (327,200)
 Special Needs 24,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$4,000,000 of appropriations provided in Item 37, Chapter 9, Laws of Utah 2018 for the Department of Human Services - Division of Child and Family Services not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to facility repair, maintenance, and improvements; Adoption Assistance; Out of Home Care; Service Delivery; In-Home Services; Special Needs; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J-1-603(3)(b); and remaining unspent funding from the \$500,000 one-time General Fund allocated for Children's Service Society in FY 2018.

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Service Delivery, Out of Home Care, or Special Needs to enhance Service Delivery or In-Home Services consistent with the requirements found at UCA 63J-1-603(3)(b). The purpose of this reinvestment of funds is to increase capacity to keep children safely at home and reduce the need for foster care, in accordance with Utah's Child Welfare Demonstration Project authorized under Section 1130 of the Social Security Act (Act) (42 U.S.C. 1320a-9), which grants a waiver for certain foster care funding requirements under Title IV-E of the Act. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Act.

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 12

To Department of Human Services - Executive Director Operations
 From Federal Funds, One-Time (32,600)
 From Dedicated Credits Revenue, One-Time (106,500)
 From Revenue Transfers, One-Time .. 3,870,600
 From Beginning Nonlapsing Balances 68,100

Schedule of Programs:

Executive Director's Office	707,700
Fiscal Operations	(563,900)
Human Resources	3,800
Information Technology	(246,400)
Legal Affairs	(68,300)
Local Discretionary Pass-Through	40,300
Office of Licensing	1,601,500
Office of Quality and Design	2,477,100
Utah Developmental Disabilities Council	(152,200)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$75,000 of appropriations provided in Item 38, Chapter 9, Laws of Utah 2018 for the Department of Human Services - Executive Director Operations not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

Item 13

To Department of Human Services - Office of Public Guardian

From Federal Funds, One-Time	(1,000)
From Revenue Transfers, One-Time	(400)
From Beginning Nonlapsing Balances	20,800

Schedule of Programs:

Office of Public Guardian	19,400
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Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$50,000 of appropriations provided in Item 39, Chapter 9, Laws of Utah 2018 for the Department of Human Services - Office of Public Guardian not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies.

Item 14

To Department of Human Services - Office of Recovery Services

From Federal Funds, One-Time	(2,662,100)
From Revenue Transfers, One-Time	(270,900)

Schedule of Programs:

Administration - ORS	7,900
Attorney General Contract	(300)
Child Support Services	(1,221,100)
Children in Care Collections	27,100
Electronic Technology	(1,571,800)
Financial Services	(13,100)
Medical Collections	(161,700)

Item 15

To Department of Human Services - Division of Services for People with Disabilities

From Federal Funds, One-Time	(41,400)
From Dedicated Credits Revenue, One-Time	(100)

From Revenue Transfers, One-Time	5,493,500
From Beginning Nonlapsing Balances	4,582,900

Schedule of Programs:

Acquired Brain Injury Waiver	663,300
Administration - DSPD	299,400
Community Supports Waiver	8,767,800
Non-waiver Services	402,000
Physical Disabilities Waiver	386,300
Service Delivery	(993,300)
Utah State Developmental Center	509,400

Item 16

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-Time	500,000
From Federal Funds, One-Time	(771,700)
From Dedicated Credits Revenue, One-Time	(900)

From Revenue Transfers, One-Time	512,700
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From Beginning Nonlapsing Balances	894,200
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Schedule of Programs:

Administration - DSAMH	(218,900)
Community Mental Health Services	948,800
Drug Courts	(588,700)
Drug Offender Reform Act (DORA)	(40,400)
Local Substance Abuse Services	4,770,400
Mental Health Centers	(4,572,400)
State Hospital	561,000
State Substance Abuse Services	274,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$3,000,000 of appropriations provided in Item 42, Chapter 9, Laws of Utah 2018 for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; and appropriated one-time projects.

DEPARTMENT OF WORKFORCE SERVICES

Item 17

To Department of Workforce Services - Administration

From Federal Funds, One-Time	(647,300)
From Dedicated Credits Revenue, One-Time	(8,000)

From Revenue Transfers, One-Time	808,200
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Schedule of Programs:

Administrative Support	(671,600)
Communications	(150,100)
Executive Director's Office	122,300
Human Resources	69,700
Internal Audit	782,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of appropriations provided in Item 43 of Chapter 9 Laws of Utah 2018, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time projects, and one-time studies.

Item 18

To Department of Workforce Services -
 General Assistance
 From Dedicated Credits Revenue,
 One-Time (251,400)
 From Revenue Transfers, One-Time ... 250,000
 From Beginning Nonlapsing Balances ... 220,500
 Schedule of Programs:
 General Assistance 219,100

Item 19

To Department of Workforce Services -
 Housing and Community Development
 From Dedicated Credits Revenue,
 One-Time (50,600)
 From Revenue Transfers, One-Time ... 53,600
 From Beginning Nonlapsing
 Balances 8,689,100
 Schedule of Programs:
 Community Development (1,364,700)
 Community Development
 Administration (2,756,400)
 Community Services 410,300
 Emergency Food Network (286,900)
 HEAT (198,100)
 Homeless Committee 27,456,700
 Homeless to Housing Reform
 Program (7,225,800)
 Housing Development (6,710,500)
 Special Housing (174,800)
 Weatherization Assistance (457,700)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$4,755,400 of appropriations provided in Item 46 of Chapter 9 Laws of Utah 2018, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to use by the Housing and Community Development Division and the State Homeless Coordinating Committee to award contracts related to designing, building, creating, renovating, or operating a facility.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$850,000 of appropriations provided in Item 46 of Chapter 9 Laws of Utah 2018, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects or programs, and weatherization projects completed by local government entities.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$500,000 of appropriations provided in Item 65 of Chapter 362 Laws of Utah 2018, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to one-time projects or programs

which provide or address services for homeless individuals and families.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$500,000 of appropriations provided in Item 211 of Chapter 463 Laws of Utah 2018, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to one-time projects or programs which provide health and wellness services for homeless individuals and families.

Item 20

To Department of Workforce Services -
 Nutrition Assistance - SNAP
 From Federal Funds, One-Time ... (21,049,400)
 Schedule of Programs:
 Nutrition Assistance - SNAP (21,049,400)

Item 21

To Department of Workforce Services -
 Office of Child Care
 From Beginning Nonlapsing Balances ... 279,900
 Schedule of Programs:
 Early Childhood Teacher Training 279,900

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$200,000 of appropriations provided in Item 48 of Chapter 9 Laws of Utah 2018 and Item 2 of Chapter 358 Laws of Utah 2018, the Department of Workforce Services' Office of Child Care line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to one-time projects and one-time costs associated with client services.

Item 22

To Department of Workforce Services -
 Operation Rio Grande

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$2,000,000 of appropriations provided in Item 66 of Chapter 397 Laws of Utah 2018, for the Department of Workforce Services' Operation Rio Grande line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to law enforcement, adjudication, corrections, providing and addressing services for homeless individuals and families, and restoring Rio Grande Street to its original condition.

Item 23

To Department of Workforce Services -
 Operations and Policy
 From Federal Funds, One-Time ... (11,344,500)
 From Dedicated Credits Revenue,
 One-Time (389,900)
 From Revenue Transfers, One-Time .. 5,903,100
 From Beginning Nonlapsing Balances ... 512,900
 Schedule of Programs:
 Child Care Assistance (18,211,000)
 Eligibility Services (1,455,500)
 Facilities and Pass-Through (3,038,300)
 Information Technology 3,947,300

Other Assistance	(1,657,900)
Temporary Assistance for Needy Families	(2,253,200)
Utah Data Research Center	913,700
Workforce Development	15,817,000
Workforce Research and Analysis	619,500

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$2,500,000 of appropriations provided in Item 66 of Chapter 362 Laws of Utah 2018 for the Special Administrative Expense Account, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to employment development projects and activities or one-time projects associated with client services.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$3,100,000 of appropriations provided in Item 49 of Chapter 9 Laws of Utah 2018, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects, one-time trainings, data import set-up, and implementation of VoIP.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$1,000,000 of appropriations provided in Section 3 of Chapter 232 Laws of Utah 2018, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to intergenerational poverty plan implementation.

Item 24

To Department of Workforce Services - State Office of Rehabilitation

From Federal Funds, One-Time ...	(10,409,000)
From Dedicated Credits Revenue, One-Time	(11,700)
From General Fund Restricted - Office of Rehabilitation Transition Restricted Account, One-Time	7,492,600
From Revenue Transfers, One-Time ...	(27,000)
From Closing Nonlapsing Balances ...	(7,492,600)
Schedule of Programs:	
Aspire Grant	(2,734,000)
Blind and Visually Impaired	(229,000)
Deaf and Hard of Hearing	111,600
Disability Determination	120,000
Executive Director	(1,009,900)
Rehabilitation Services	(6,706,400)

In accordance with Laws of Utah 2017, Chapter 457, Item 179, the Legislature intends that the current \$7,492,600 balance in the General Fund Restricted - Office of Rehabilitation Transition Restricted Account (Fund 1288) be transferred to the Department of Workforce Services - State Office of Rehabilitation line item, and that

any remaining balances at the time the Office of Rehabilitation Transition Restricted Account is closed be transferred to the same line item. The Legislature further intends that these funds not lapse at the end of FY 2019.

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$7,500,000 of appropriations provided in Item 88 of Chapter 476 Laws of Utah 2017 and Item 179 of Chapter 457 Laws of Utah 2017, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

Item 25

To Department of Workforce Services - Unemployment Insurance

From Federal Funds, One-Time	(2,042,400)
From Dedicated Credits Revenue, One-Time	(51,800)
From Revenue Transfers, One-Time	38,700
Schedule of Programs:	
Adjudication	164,700
Unemployment Insurance Administration	(2,220,200)

Under Section 63J-1-603 of the Utah Code the Legislature intends that up to \$60,000 of appropriations provided in Item 52 of Chapter 9 Laws of Utah 2018, for the Department of Workforce Services' Unemployment Insurance line item, shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the purchase of equipment and software and one-time projects associated with client services.

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH

Item 26

To Department of Health - Organ Donation Contribution Fund

From Dedicated Credits Revenue, One-Time	25,800
From Interest Income, One-Time	(1,400)
From Beginning Fund Balance	(81,600)
From Closing Fund Balance	197,200
Schedule of Programs:	

Organ Donation Contribution Fund 140,000

Item 27

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
 From Dedicated Credits Revenue,
 One-Time 21,900
 From Beginning Fund Balance 253,100
 From Closing Fund Balance (217,300)
 Schedule of Programs:
 Spinal Cord and Brain Injury Rehabilitation Fund 57,700

Item 28

To Department of Health - Traumatic Brain Injury Fund
 From Beginning Fund Balance (795,700)
 From Closing Fund Balance (103,600)
 Schedule of Programs:
 Traumatic Brain Injury Fund (899,300)

DEPARTMENT OF HUMAN SERVICES

Item 29

To Department of Human Services - Out and About Homebound Transportation Assistance Fund
 From Dedicated Credits Revenue,
 One-Time 400
 From Interest Income, One-Time 1,600
 From Beginning Fund Balance 1,900
 From Closing Fund Balance 194,100
 Schedule of Programs:
 Out and About Homebound Transportation Assistance Fund 198,000

Item 30

To Department of Human Services - Utah State Developmental Center Long-Term Sustainability Fund
 From Dedicated Credits Revenue,
 One-Time 28,200
 From Interest Income, One-Time 6,300
 From Revenue Transfers, One-Time 38,700
 From Beginning Fund Balance 550,300
 From Closing Fund Balance (623,500)

Item 31

To Department of Human Services - Utah State Developmental Center Miscellaneous Donation Fund
 From Dedicated Credits Revenue,
 One-Time (100,000)
 From Interest Income, One-Time 3,500
 From Beginning Fund Balance 15,900
 From Closing Fund Balance (15,900)
 Schedule of Programs:
 Utah State Developmental Center Miscellaneous Donation Fund (96,500)

Item 32

To Department of Human Services - Utah State Developmental Center Workshop Fund
 From Dedicated Credits Revenue,
 One-Time (1,100)
 From Beginning Fund Balance 3,000
 From Closing Fund Balance (67,000)
 Schedule of Programs:

Utah State Developmental Center Workshop Fund (65,100)

Item 33

To Department of Human Services - Utah State Hospital Unit Fund
 From Dedicated Credits Revenue,
 One-Time 23,700
 From Interest Income, One-Time (2,100)
 From Beginning Fund Balance (21,200)
 From Closing Fund Balance 21,200
 Schedule of Programs:
 Utah State Hospital Unit Fund 21,600

DEPARTMENT OF WORKFORCE SERVICES

Item 34

To Department of Workforce Services - Child Care Fund
 From Dedicated Credits Revenue,
 One-Time (100)
 From Beginning Fund Balance 2,600
 Schedule of Programs:
 Child Care Fund 2,500

Item 35

To Department of Workforce Services - Individuals with Visual Impairment Fund
 From Dedicated Credits Revenue,
 One-Time 12,400
 From Beginning Fund Balance 156,900
 From Closing Fund Balance (163,800)
 Schedule of Programs:
 Individuals with Visual Impairment Fund 5,500

Item 36

To Department of Workforce Services - Intermountain Weatherization Training Fund
 From Beginning Fund Balance (1,700)
 From Closing Fund Balance 3,400
 Schedule of Programs:
 Intermountain Weatherization Training Fund 1,700

Item 37

To Department of Workforce Services - Navajo Revitalization Fund
 From Interest Income, One-Time 6,800
 From Other Financing Sources,
 One-Time (253,400)
 From Beginning Fund Balance (3,267,700)
 From Closing Fund Balance 6,023,900
 Schedule of Programs:
 Navajo Revitalization Fund 2,509,600

Item 38

To Department of Workforce Services - Olene Walker Housing Loan Fund
 From Dedicated Credits Revenue,
 One-Time (378,800)
 From Interest Income, One-Time 120,300
 From Revenue Transfers,
 One-Time (7,613,600)
 From Beginning Fund Balance 1,753,700
 From Closing Fund Balance (1,854,800)
 Schedule of Programs:
 Olene Walker Housing Loan Fund (7,973,200)

Item 39

To Department of Workforce Services -
 Permanent Community Impact Bonus Fund
 From Interest Income, One-Time 696,800
 From Beginning Fund Balance 5,540,900
 From Closing Fund Balance (6,237,000)
 Schedule of Programs:
 Permanent Community Impact
 Bonus Fund 700

Item 40

To Department of Workforce Services - Permanent
 Community Impact Fund
 From Dedicated Credits Revenue,
 One-Time 4,447,800
 From Interest Income, One-Time 754,500
 From Beginning Fund Balance (25,125,400)
 From Closing Fund Balance 20,068,800
 Schedule of Programs:
 Permanent Community Impact
 Fund 145,700

Item 41

To Department of Workforce Services -
 Qualified Emergency Food Agencies Fund
 From Designated Sales Tax,
 One-Time (375,200)
 From Revenue Transfers, One-Time 375,000
 From Beginning Fund Balance (756,000)
 From Closing Fund Balance 1,047,100
 Schedule of Programs:
 Emergency Food Agencies Fund 290,900

Item 42

To Department of Workforce Services -
 Uintah Basin Revitalization Fund
 From Dedicated Credits Revenue,
 One-Time (49,800)
 From Other Financing Sources,
 One-Time 773,000
 From Beginning Fund Balance 4,595,700
 From Closing Fund Balance (9,018,600)
 Schedule of Programs:
 Uintah Basin Revitalization
 Fund (3,699,700)

Item 43

To Department of Workforce Services -
 Utah Community Center for the Deaf Fund
 From Dedicated Credits Revenue,
 One-Time (1,000)
 From Beginning Fund Balance (9,000)
 From Closing Fund Balance 13,500
 Schedule of Programs:
 Utah Community Center for the
 Deaf Fund 3,500

Subsection 1(c). Business-like Activities.

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

amounts between funds and accounts as indicated.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 44

To Department of Workforce Services - State Small
 Business Credit Initiative Program Fund
 From Interest Income, One-Time 70,000
 From Beginning Fund Balance 65,500
 From Closing Fund Balance (135,500)

Item 45

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds, One-Time (1,230,500)
 From Dedicated Credits Revenue,
 One-Time (1,936,900)
 From Interest Income, One-Time (460,600)
 From Trust and Agency Funds,
 One-Time 193,677,500
 From Other Financing Sources,
 One-Time (212,950,100)
 From Beginning Fund Balance (5,466,700)
 From Closing Fund Balance 28,367,300

Subsection 1(d). Restricted Fund and

Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 46

To Ambulance Service Provider Assessment
 Expendable Revenue Fund
 From Dedicated Credits Revenue,
 One-Time 85,700
 From Beginning Fund Balance 283,900
 Schedule of Programs:
 Ambulance Service Provider
 Assessment Expendable
 Revenue Fund 369,600

Item 47

To Medicaid Expansion Fund
 From Beginning Fund Balance 6,092,100
 From Closing Fund Balance (787,900)
 From Lapsing Balance (9,400,000)
 Schedule of Programs:
 Medicaid Expansion Fund (4,095,800)

Item 48

To Nursing Care Facilities Provider
 Assessment Fund
 From Dedicated Credits Revenue,
 One-Time 2,563,100
 From Beginning Fund Balance 80,500
 Schedule of Programs:
 Nursing Care Facilities Provider
 Assessment Fund 2,643,600

Item 49

To General Fund Restricted - Office
 of Rehabilitation Transition Restricted Account
 From Beginning Fund Balance 7,492,600
 Schedule of Programs:
 General Fund Restricted - Office
 of Rehabilitation Transition
 Restricted Account 7,492,600

In accordance with Laws of Utah 2017, Chapter 457, Item 179, the Legislature intends that the current \$7,492,600 balance in the General Fund Restricted - Office of Rehabilitation Transition Restricted Account (Fund 1288) be transferred to the Department of Workforce Services - State Office of Rehabilitation line item, and that any remaining balances at the time the Office of Rehabilitation Transition Restricted Account is closed be transferred to the same line item. The Legislature further intends that these funds not lapse at the end of FY 2019.

Item 50

To General Fund Restricted - Nurse Home Visiting Restricted Account
 From General Fund, One-Time (520,000)
 Schedule of Programs:
 General Fund Restricted - Nurse Home Visiting Restricted Account (520,000)

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

DEPARTMENT OF HUMAN SERVICES

Item 51

To Department of Human Services - Human Services Client Trust Fund
 From Interest Income, One-Time 14,300
 From Trust and Agency Funds,
 One-Time 310,100
 From Beginning Fund Balance (97,800)
 From Closing Fund Balance 97,800
 Schedule of Programs:
 Human Services Client Trust Fund 324,400

Item 52

To Department of Human Services - Human Services ORS Support Collections
 From Trust and Agency Funds,
 One-Time 354,600
 Schedule of Programs:
 Human Services ORS Support Collections 354,600

Item 53

To Department of Human Services - Maurice N. Warshaw Trust Fund
 From Interest Income, One-Time 2,000
 From Beginning Fund Balance 2,700
 From Closing Fund Balance (2,700)
 Schedule of Programs:
 Maurice N. Warshaw Trust Fund 2,000

Item 54

To Department of Human Services - Utah State Developmental Center Patient Account
 From Interest Income, One-Time 900
 From Trust and Agency Funds,
 One-Time (36,200)
 From Beginning Fund Balance (32,500)
 From Closing Fund Balance 49,400
 Schedule of Programs:
 Utah State Developmental Center Patient Account (18,400)

Item 55

To Department of Human Services - Utah State Hospital Patient Trust Fund
 From Trust and Agency Funds,
 One-Time (13,600)
 From Beginning Fund Balance (40,700)
 From Closing Fund Balance 40,700
 Schedule of Programs:
 Utah State Hospital Patient Trust Fund (13,600)

DEPARTMENT OF WORKFORCE SERVICES

Item 56

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund
 From Trust and Agency Funds,
 One-Time 154,700
 From Other Financing Sources,
 One-Time (139,700)
 From Beginning Fund Balance 5,900
 From Closing Fund Balance 4,000
 Schedule of Programs:
 Individuals with Visual Disabilities Vendor Fund 24,900

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets.

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

DEPARTMENT OF HEALTH

Item 57

To Department of Health - Children's Health Insurance Program
 From General Fund 18,883,000
 From Federal Funds 119,011,800
 From Federal Funds, One-Time 18,663,900
 From Dedicated Credits Revenue 2,175,600
 From Expendable Receipts - Rebates 5,301,900
 From General Fund Restricted - Tobacco Settlement Account 10,452,900
 Schedule of Programs:
 Children's Health Insurance Program 174,489,100

The Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more), (2) (3-17 years of age) who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70% or more), and (3) percent of

adolescents who received one meningococcal vaccine and one TDAP (tetanus, diphtheria, and pertussis) between the members 10th and 13th birthdays (Target = 80%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 58

To Department of Health - Disease Control and Prevention
 From General Fund 15,748,400
 From Federal Funds 41,873,100
 From Dedicated Credits Revenue 10,347,100
 From Expendable Receipts 872,400
 From Expendable Receipts - Rebates 4,761,100
 From General Fund Restricted - Cancer Research Account 20,000
 From General Fund Restricted - Children with Cancer Support Restricted Account 10,500
 From General Fund Restricted - Children with Heart Disease Support Restr Act 10,500
 From General Fund Restricted - Cigarette Tax Restricted Account 3,159,700
 From Department of Public Safety Restricted Account 103,800
 From General Fund Restricted - State Lab Drug Testing Account 720,800
 From General Fund Restricted - Tobacco Settlement Account 3,847,100
 From Revenue Transfers 1,725,200
 Schedule of Programs:
 Clinical and Environmental
 Laboratory Certification Programs ... 639,600
 Epidemiology 29,486,300
 General Administration 2,791,800
 Health Promotion 30,363,700
 Utah Public Health Laboratory 12,948,300
 Office of the Medical Examiner 6,970,000

The Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item, whose mission is to “prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease.”: (1) gonorrhea cases per 100,000 population (Target = 87 people or less), (2) percentage of adults who are current smokers (Target = 7.5% or less), and (3) percentage of toxicology cases completed within 20 day goal (Target = 100%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 59

To Department of Health - Executive Director’s Operations
 From General Fund 6,747,700
 From Federal Funds 5,560,600
 From Dedicated Credits Revenue 2,776,300
 From General Fund Restricted - Children with Cancer Support Restricted Account 2,000

From General Fund Restricted - Children with Heart Disease Support Restr Act 2,000
 From Revenue Transfers 2,880,400
 From Lapsing Balance (4,000)
 Schedule of Programs:
 Adoption Records Access 56,400
 Center for Health Data and Informatics 7,028,500
 Executive Director 3,722,600
 Office of Internal Audit 652,400
 Program Operations 6,505,100

The Legislature intends that the Department of Health report on the following performance measures for the Executive Director’s Operations line item, whose mission is to “protect the public’s health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles.”: (1) percent of restricted applications/systems that have reviewed, planned for, or mitigated identified risks according to procedure (Goal 90%), (2) births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%), (3) percentage of all deaths registered certified using the electronic death registration system (Target = 90% or more), and (4) number of requests for data products produced by the Office of Health Care Statistics (Target = 139) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 60

To Department of Health - Family Health and Preparedness
 From General Fund 23,595,600
 From Federal Funds 73,508,100
 From Dedicated Credits Revenue 5,266,800
 From Expendable Receipts - Rebates 8,900,000
 From General Fund Restricted - Children’s Hearing Aid Pilot Program Account 127,100
 From General Fund Restricted - K. Oscarson Children’s Organ Transplant 105,900
 From Revenue Transfers 7,130,600
 From Beginning Nonlapsing Balances 2,112,200
 From Closing Nonlapsing Balances ... (2,294,300)
 Schedule of Programs:
 Child Development 1,147,500
 Children with Special Health Care Needs 31,286,000
 Director’s Office 2,984,700
 Emergency Medical Services and Preparedness 3,958,800
 Health Facility Licensing and Certification 8,182,400
 Maternal and Child Health 57,944,600
 Primary Care 4,096,000
 Public Health and Health Care Preparedness 8,852,000

The Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item, whose mission is to “Assure care for many of Utah’s most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a disaster, be it man-made or natural.”: (1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 69% or more), (2) annually perform on-site survey inspections of health care facilities (Goal = 75%), and (3) the percent of ambulance providers receiving enough but not more than 10% of gross revenue (Goal = 80%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Health use \$520,000 of the General Fund appropriation provided by this item for evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Item 61

To Department of Health - Local Health Departments
 From General Fund 2,137,500
 Schedule of Programs:
 Local Health Department Funding .. 2,137,500

The Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item, whose mission is to “To prevent sickness and death from infectious diseases and environmental hazards; to monitor diseases to reduce spread; and to monitor and respond to potential bioterrorism threats or events, communicable disease outbreaks, epidemics and other unusual occurrences of illness.”: (1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13 or 100%), (2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%), (3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%), (4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%), (5) reduce the number of cases of pertussis among children

under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth), and (6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 62

To Department of Health - Medicaid and Health Financing
 From General Fund 5,012,200
 From Federal Funds 84,251,000
 From Dedicated Credits Revenue 20,000
 From Expendable Receipts 11,960,500
 From Medicaid Expansion Fund 130,000
 From Nursing Care Facilities Provider Assessment Fund 1,002,900
 From Revenue Transfers 27,090,000
 Schedule of Programs:
 Authorization and Community Based Services 3,496,200
 Contracts 1,222,400
 Coverage and Reimbursement Policy 2,690,300
 Department of Workforce Services’ Seeded Services 42,347,700
 Director’s Office 3,176,300
 Eligibility Policy 2,592,500
 Financial Services 24,146,200
 Managed Health Care 4,758,300
 Medicaid Operations 4,455,000
 Other Seeded Services 40,581,700

The Legislature intends that the \$500,000 in beginning nonlapsing provided to the Department of Health’s Medicaid and Health Financing line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to \$500,000 funds not otherwise designated as nonlapsing to the Department of Health’s Medicaid Services line item or Medicaid and Health Financing line item or a combination from both line items not to exceed \$500,000 being retained as nonlapsing in Fiscal Year 2019.

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) average decision time on pharmacy prior authorizations (Target = 24 hours or less), (2) percent of clean claims adjudicated within 30 days of submission (Target = 98%), and (3) total count of Medicaid and CHIP clients educated on proper benefit use and plan selection (Target = 125,000 or more) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 63

To Department of Health - Medicaid Sanctions From Beginning Nonlapsing
 Balances 1,979,000

From Closing Nonlapsing Balances ... (1,979,000)

The Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans," met federal requirements which constrain its use by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 64

To Department of Health - Medicaid Services

From General Fund	482,757,100
From Federal Funds	2,452,140,100
From Dedicated Credits Revenue	37,961,800
From Expendable Receipts	101,997,700
From Expendable Receipts - Rebates	130,342,000
From Ambulance Service Provider Assess Exp Rev Fund	3,217,400
From Hospital Provider Assessment Fund	48,500,000
From Medicaid Expansion Fund	57,260,000
From Nursing Care Facilities Provider Assessment Fund	33,113,600
From Revenue Transfers	110,022,400
From Pass-through	1,800,000
Schedule of Programs:	
Accountable Care	
Organizations	1,087,262,700
Dental Services	71,731,700
Expenditure Offsets from Collections	(27,469,500)
Home and Community Based	
Waivers	357,385,300
Home Health and Hospice	21,719,200
Inpatient Hospital	226,945,200
Intermediate Care Facilities for the Intellectually Disabled	88,076,900
Medicaid Expansion 2017	593,159,100
Medical Transportation	26,013,400
Medicare Buy-In	64,035,500
Medicare Part D Clawback Payments	43,512,400
Mental Health and Substance	
Abuse	192,955,000
Nursing Home	256,436,400
Other Services	129,137,600
Outpatient Hospital	56,261,200
Pharmacy	138,426,300
Physician and Osteopath	69,198,300
Provider Reimbursement Information System for Medicaid	20,201,800
School Based Skills Development ...	44,123,600

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Services line item, whose mission is to "Provide access to quality, cost-effective health care for eligible Utahans.": (1) percentage of children 3-17 years of age who had an outpatient visit with a primary care practitioner or OB/GYN and who had evidence of BMI percentile documentation (Target = 70%), (2) the percentage of adults 18-85 years of age who had a diagnosis of

hypertension and whose blood pressure was adequately controlled. (Target = 65%), and (3) annual state general funds saved through preferred drug list (Target = 16,000,000) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 65

To Department of Health - Primary

Care Workforce Financial Assistance

From General Fund	5,000
From Beginning Nonlapsing Balances ...	342,900
Schedule of Programs:	

Primary Care Workforce Financial

Assistance	347,900
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The Legislature intends that the Department of Health report on the following performance measures for the Primary Care Workforce Financial Assistance line item, whose mission is to "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations.": (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 20,000), (3) total uninsured individuals served (Target = 5,000), and (4) total underserved individuals served (Target = 7,000) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 66

To Department of Health - Rural Physicians

Loan Repayment Assistance

From General Fund	304,500
From Beginning Nonlapsing Balances ...	150,100
Schedule of Programs:	

Rural Physicians Loan Repayment

Program	454,600
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The Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item, whose mission is to "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations.": (1) percentage of available funding awarded (Target = 100%), (2) total individuals served (Target = 20,000), (3) total uninsured individuals served (Target = 2,500), and (4) total underserved individuals served (Target = 10,000) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 67

To Department of Health - Vaccine Commodities

From Federal Funds	27,277,100
Schedule of Programs:	

Vaccine Commodities	27,277,100
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The Legislature intends that the Department of Health report on the following performance measures for the Vaccine

Commodities line item, “The mission of the Utah Department of Health Immunization Program is to improve the health of Utah’s citizens through vaccinations to reduce illness, disability, and death from vaccine-preventable infections. We seek to promote a healthy lifestyle that emphasizes immunizations across the lifespan by partnering with the 13 local health departments throughout the state and other community partners. From providing educational materials for the general public and healthcare providers to assessing clinic immunization records to collecting immunization data through online reporting systems, the Utah Immunization Program recognizes the importance of immunizations as part of a well-balanced healthcare approach.”: (1) Ensure that Utah children, adolescents and adults can receive vaccine in accordance with state and federal guidelines (Target = done), (2) Validate that Vaccines for Children-enrolled providers comply with Vaccines for Children program requirements as defined by Centers for Disease Control Operations Guide. (Target = 100%), and (3) Continue to improve and sustain immunization coverage levels among children, adolescents and adults (Target = done) by October 1, 2019 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 68

To Department of Human Services - Division of Aging and Adult Services
 From General Fund 14,412,000
 From Federal Funds 11,488,900
 From Dedicated Credits Revenue 100
 From Revenue Transfers (839,700)
 Schedule of Programs:
 Administration - DAAS 1,694,800
 Adult Protective Services 3,337,600
 Aging Alternatives 3,986,700
 Aging Waiver Services 1,052,500
 Local Government Grants -
 Formula Funds 13,802,900
 Non-Formula Funds 1,186,800

The Legislature intends that the Department of Human Services report on the following performance measures for the Aging and Adult Services line item, whose mission is “To provide leadership and advocacy in addressing issues that impact older Utahans, and serve elder and disabled adults needing protection from abuse, neglect or exploitation”: (1) Medicaid Aging Waiver: Average cost of client at 15% or less of nursing home cost (Target = 15%), (2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and (3) Meals on Wheels: Total meals served (Target = 9,200) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 69

To Department of Human Services - Division of Child and Family Services
 From General Fund 120,986,500
 From Federal Funds 60,341,700
 From Dedicated Credits Revenue 1,985,600
 From Expendable Receipts 266,400
 From General Fund Restricted -
 Children’s Account 340,000
 From General Fund Restricted -
 Choose Life Adoption Support Account 100
 From General Fund Restricted - Victims
 of Domestic Violence Services
 Account 730,500
 From General Fund Restricted -
 National Professional Men’s
 Basketball Team Support of
 Women and Children Issues 100,000
 From Revenue Transfers (11,495,900)
 Schedule of Programs:
 Administration - DCFS 4,458,200
 Adoption Assistance 17,297,600
 Child Welfare Management Information
 System 6,050,400
 Children’s Account 340,000
 Domestic Violence 7,049,100
 Facility-Based Services 3,963,300
 In-Home Services 2,599,700
 Minor Grants 5,629,100
 Out-of-Home Care 35,562,300
 Selected Programs 4,113,300
 Service Delivery 83,924,000
 Special Needs 2,267,900

The Legislature intends that the Department of Human Services report on the following performance measures for the Child and Family Services line item, whose mission is “To keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families”: (1) Administrative Performance: Percent satisfactory outcomes on qualitative case reviews/system performance (Target = 85%/85%), (2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and (3) Out of home services: Percent of cases closed to permanency outcome/median months closed to permanency (Target = 90%/12 months) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 70

To Department of Human Services - Executive Director Operations
 From General Fund 9,403,000
 From Federal Funds 8,377,100
 From Dedicated Credits Revenue 369,600
 From Revenue Transfers 5,681,800
 Schedule of Programs:
 Executive Director’s Office 8,290,900
 Fiscal Operations 2,515,300
 Human Resources 34,400
 Information Technology 1,506,200
 Legal Affairs 799,700
 Local Discretionary Pass-Through .. 1,140,700
 Office of Licensing 4,616,600

Office of Quality and Design	4,011,100
Utah Developmental Disabilities Council	616,600
Utah Marriage Commission	300,000

The Legislature intends that the Department of Human Services report on the following performance measures for the Executive Director Operations line item, whose mission is “To strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities”: (1) Corrected department-wide reported fiscal issues -- per reporting process and June 30 quarterly report involving the Bureau of Finance and Bureau of Internal Review and Audit (Target = 80%), (2) Initial foster care homes licensed within 3 months of application completion (Target = 96%), and (3) Double-read (reviewed) Case Process Reviews that are accurate in the Office of Quality and Design (Target = 96%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 71

To Department of Human Services - Office of Public Guardian

From General Fund	488,400
From Federal Funds	40,000
From Revenue Transfers	327,300

Schedule of Programs:

Office of Public Guardian	855,700
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The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Public Guardian (OPG) line item, whose mission is “To ensure quality coordinated services in the least restrictive, most community-based environment to meet the safety and treatment needs of those we serve while maximizing independence and community and family involvement”: (1) Ensure all other available family or associate resources for guardianship are explored before and during involvement with OPG (Target = 10% of cases transferred to a family member or associate), (2) Obtain an annual cumulative score of at least 85% on quarterly case process reviews (Target = 85%), and (3) Eligible staff will obtain and maintain National Guardianship Certification (Target = 100%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 72

To Department of Human Services - Office of Recovery Services

From General Fund	14,090,300
From Federal Funds	24,905,000
From Dedicated Credits Revenue	7,569,800
From Revenue Transfers	3,010,700

Schedule of Programs:

Administration - ORS	1,112,000
Attorney General Contract	4,714,500
Child Support Services	24,391,400
Children in Care Collections	776,600

Electronic Technology	13,020,300
Financial Services	2,556,900
Medical Collections	3,004,100

The Legislature intends that the Department of Human Services report on the following performance measures for the Office of Recovery Services (ORS) line item, whose mission is “To serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary”: (1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), (2) Child Support Services Collections (Target = \$225 million), and (3) Ratio: ORS Collections to Cost (Target = > \$6.25 to \$1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 73

To Department of Human Services - Division of Services for People with Disabilities

From General Fund	107,480,600
From Federal Funds	1,538,300
From Dedicated Credits Revenue	1,786,900
From Expendable Receipts	900,000
From Revenue Transfers	260,614,300

Schedule of Programs:

Acquired Brain Injury Waiver	6,766,200
Administration - DSPD	5,222,100
Community Supports Waiver	307,492,500
Non-waiver Services	2,373,500
Physical Disabilities Waiver	2,758,900
Service Delivery	5,999,400

Utah State Developmental Center

Center	41,707,500
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Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2020 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements. The Legislature further intends DSPD report to the Office of the Legislative Fiscal Analyst by October 15, 2020 on the use of these nonlapsing funds.

The Legislature intends that the Department of Human Services report on the following performance measures for the Services for People with Disabilities line item, whose mission is “To promote opportunities and provide supports for persons with disabilities to lead self-determined lives”: (1) Community Supports, Brain Injury, Physical Disability

Waivers, Non-Waiver Services - Percent of providers meeting fiscal requirements of contract (Target = 100%), (2) Community Supports, Brain Injury, Physical Disability Waivers, Non-Waiver Services - Percent of providers meeting non-fiscal requirements of contract (Target = 100%), and (3) Percent of individuals who report that their supports and services help them lead a good life (National Core Indicators In-Person Survey) (Target=100%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 74

To Department of Human Services - Division of Substance Abuse and Mental Health
 From General Fund 125,087,900
 From Federal Funds 31,716,700
 From Dedicated Credits Revenue 2,577,700
 From Expendable Receipts 183,900
 From General Fund Restricted - Intoxicated Driver Rehabilitation Account 1,500,000
 From General Fund Restricted - Tobacco Settlement Account 1,121,200
 From Revenue Transfers 19,199,000
 Schedule of Programs:
 Administration - DSAMH 2,895,300
 Community Mental Health Services 20,505,900
 Driving Under the Influence (DUI) Fines 1,500,000
 Drug Courts 4,650,400
 Drug Offender Reform Act (DORA) 2,747,100
 Local Substance Abuse Services 24,336,700
 Mental Health Centers 39,999,800
 Residential Mental Health Services 221,900
 State Hospital 71,927,200
 State Substance Abuse Services 12,602,100

The Legislature intends that the Department of Human Services report on the following performance measures for the Substance Abuse and Mental Health line item, whose mission is "To promote hope, health and healing, by reducing the impact of substance abuse and mental illness to Utah citizens, families and communities": (1) Local Substance Abuse Services - Successful completion rate (Target = 60%), (2) Mental Health Centers - Adult Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%), and (3) Mental Health Centers - Youth Outcomes Questionnaire - Percent of clients stable, improved, or in recovery while in current treatment (Target = 84%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF WORKFORCE SERVICES

Item 75

To Department of Workforce Services - Administration
 From General Fund 3,367,400

From Federal Funds 8,893,600
 From Dedicated Credits Revenue 136,700
 From Navajo Revitalization Fund 10,000
 From OWHT-Fed Home Income 7,000
 From OWHT-Low Income Housing-PI 6,000
 From Permanent Community Impact Loan Fund 145,100
 From Qualified Emergency Food Agencies Fund 1,500
 From Revenue Transfers 2,377,700
 From Uintah Basin Revitalization Fund ... 3,500
 Schedule of Programs:
 Administrative Support 9,525,500
 Communications 1,352,300
 Executive Director's Office 1,048,900
 Human Resources 1,654,800
 Internal Audit 1,367,000

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Administration line item, whose mission is to "be the best-managed State Agency in Utah": provide accurate and timely department-wide fiscal administration. Target: manage, account and reconcile all funds within State Finance close out time lines and with zero audit findings by December 1, 2019 to the Social Services Appropriations Subcommittee.

Item 76

To Department of Workforce Services - Community Development Capital Budget
 From Permanent Community Impact Loan Fund 93,060,000
 Schedule of Programs:
 Community Impact Board 93,060,000

Item 77

To Department of Workforce Services - General Assistance
 From General Fund 4,734,700
 From Revenue Transfers 250,000
 Schedule of Programs:
 General Assistance 4,984,700

The Legislature intends that the Department of Workforce Services report on the following performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment": (1) positive closure rate (SSI achievement or closed with earnings) (Target = 58%), (2) General Assistance average monthly customers served (Target = 730), and (3) internal review compliance accuracy (Target = 90%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 78

To Department of Workforce Services - Housing and Community Development
 From General Fund 3,193,000
 From Federal Funds 35,953,200
 From Dedicated Credits Revenue 820,500
 From Expendable Receipts 777,500

From General Fund Restricted - Pamela Atkinson Homeless Account	1,094,400
From General Fund Restricted - Homeless Housing Reform Restricted Account	11,360,900
From Permanent Community Impact Loan Fund	1,295,900
From Revenue Transfers	53,600
From General Fund Restricted - Youth Character Organization	10,000
From General Fund Restricted - Youth Development Organization	10,000
Schedule of Programs:	
Community Development	6,507,700
Community Development Administration	771,700
Community Services	3,990,800
HEAT	16,853,600
Homeless Committee	15,627,500
Housing Development	1,619,800
Weatherization Assistance	9,197,900

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Housing and Community Development line item, whose mission is to “actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) utilities assistance for low-income households - number of eligible households assisted with home energy costs (Target = 28,000 households), (2) Weatherization Assistance - number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 530 homes), and (3) Homelessness Programs - reduce the average length of stay in emergency shelters (Target 10%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 79

To Department of Workforce Services - Nutrition Assistance - SNAP	
From Federal Funds	270,000,000
Schedule of Programs:	
Nutrition Assistance - SNAP	270,000,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Nutrition Assistance line item, whose mission is to “provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families”: (1) Federal SNAP Quality Control Accuracy - Actives (Target= 97%), (2) Food Stamps - Certification Timeliness (Target = 95%), and (3) Food Stamps - Certification Days to Decision (Target = 12 days) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 80

To Department of Workforce Services - Office of Child Care	
From General Fund	202,600
Schedule of Programs:	
Intergenerational Poverty School Readiness Scholarship	77,600
Student Access to High Quality School Readiness Grant	125,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Office of Child Care line item, whose mission is to “increase access to high-quality preschool programs for qualifying children, including children who are low income or experiencing intergenerational poverty”: (1) Child Development Associate Credential (CDA) (Target = 300 people successfully obtaining CDA), (2) High Quality School Readiness expansion (HQSRE) grants (Target = 35 children served through expansion grants annually), and (3) Intergenerational Poverty (IGP) scholarships (Target = (i) 10% of those who are eligible return scholarship application; and (ii) 30% of those who return an application are enrolled in high-quality preschool with the scholarships) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 81

To Department of Workforce Services - Operations and Policy	
From General Fund	49,624,400
From Federal Funds	242,499,400
From Dedicated Credits Revenue	1,375,600
From Expendable Receipts	1,100,000
From Medicaid Expansion Fund	2,200,000
From Navajo Revitalization Fund	2,000
From OWHT-Fed Home Income	13,500
From OWHT-Low Income Housing-PI	12,000
From Permanent Community Impact Loan Fund	500
From Qualified Emergency Food Agencies Fund	2,500
From General Fund Restricted - School Readiness Account	2,935,700
From Revenue Transfers	36,414,100
From Uintah Basin Revitalization Fund	1,000
Schedule of Programs:	
Child Care Assistance	62,000,000
Eligibility Services	58,003,800
Facilities and Pass-Through	9,545,300
Information Technology	37,295,000
Nutrition Assistance	96,000
Other Assistance	294,600
Refugee Assistance	7,400,000
Temporary Assistance for Needy Families	70,088,100
Trade Adjustment Act Assistance	1,500,000
Utah Data Research Center	1,392,500
Workforce Development	80,265,800
Workforce Investment Act Assistance	4,530,000
Workforce Research and Analysis	3,769,600

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Operations and Policy line item, whose mission is to “meet the needs of our customers with responsive, respectful and accurate service”: (1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients - positive closure rate (Target = 72% per calendar month), and (3) Eligibility Services - internal review compliance accuracy (Target = 95%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Operations and Policy line item, whose mission is to “meet the needs of our customers with responsive, respectful, and accurate service”: (1) Utah Data Research Center-provision of statutory reports related to the center’s research priorities for the year, research completed the previous year, and ongoing research priority list by December 1, 2019 to the Social Services Appropriations Subcommittee.

Item 82

To Department of Workforce Services -
 Special Service Districts
 From General Fund Restricted -
 Mineral Lease 3,841,400
 Schedule of Programs:
 Special Service Districts 3,841,400

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Special Service Districts line item, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: the total pass through of funds to qualifying special service districts in counties of the 5th, 6th and 7th class (this is completed quarterly) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 83

To Department of Workforce Services -
 State Office of Rehabilitation
 From General Fund 23,604,200
 From Federal Funds 57,549,700
 From Dedicated Credits Revenue 428,100
 From Expendable Receipts 401,100
 From Navajo Revitalization Fund 500
 From OWHT-Fed Home Income 500
 From OWHT-Low Income Housing-PI 500
 From Qualified Emergency Food
 Agencies Fund 500
 From Revenue Transfers 33,500
 From Uintah Basin Revitalization Fund 500
 From Beginning Nonlapsing
 Balances 7,492,600

From Closing Nonlapsing Balances ... (6,217,600)
 Schedule of Programs:
 Aspire Grant 7,793,000
 Blind and Visually Impaired 3,762,400
 Deaf and Hard of Hearing 3,078,800
 Disability Determination 15,587,500
 Executive Director 1,016,800
 Rehabilitation Services 52,055,600

The Legislature intends that the Department of Workforce Services report on the following performance measures for its Utah State Office of Rehabilitation line item, whose mission is to “empower clients and provide high quality services that promote independence and self-fulfillment through its programs”: (1) Vocational Rehabilitation - Percentage of all vocational rehabilitation clients receiving services who are eligible or potentially eligible youth (ages 14–24 years) (Target >= 39.8%), (2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing - Increase in the number of individuals served by DSDHH programs (Target = 8,000) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 84

To Department of Workforce Services -
 Unemployment Insurance
 From General Fund 755,300
 From Federal Funds 19,372,200
 From Dedicated Credits Revenue 491,600
 From Expendable Receipts 22,000
 From Navajo Revitalization Fund 500
 From OWHT-Fed Home Income 700
 From OWHT-Low Income Housing-PI 700
 From Permanent Community
 Impact Loan Fund 500
 From Qualified Emergency Food
 Agencies Fund 500
 From Revenue Transfers 120,000
 From Uintah Basin Revitalization Fund 500
 Schedule of Programs:
 Adjudication 3,586,700
 Unemployment Insurance
 Administration 17,177,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Insurance line item, whose mission is to “accurately assess eligibility for unemployment benefits and liability for employers in a timely manner”: (1) percentage of new employer status determinations made within 90 days of the last day in the quarter in which the business became liable (Target => 95.5%), (2) percentage of Unemployment Insurance separation determinations with quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 90%), and (3) percentage of Unemployment Insurance benefits payments made within 14 days after the week ending date of the first compensable week in the

benefit year (Target => 95%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Subsection 2(b). Expendable Funds and

Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH

Item 85

To Department of Health - Organ

Donation Contribution Fund

From Dedicated Credits Revenue 116,200
From Beginning Fund Balance 174,600
From Closing Fund Balance (100,800)

Schedule of Programs:

Organ Donation Contribution Fund 190,000

The Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund, "The mission of the Division of Family Health and Preparedness is to assure care for many of Utah's most vulnerable citizens. The division accomplishes this through programs designed to provide direct services, and to be prepared to serve all populations that may suffer the adverse health impacts of a disaster, be it man-made or natural.": (1) increase Division of Motor Vehicles/Drivers License Division donations from a base of \$90,000 (Target = 3%), (2) increase donor registrants from a base of 1.5 million (Target = 2%), and (3) increase donor awareness education by obtaining one new audience (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 86

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund

From Dedicated Credits Revenue 234,300
From Beginning Fund Balance 383,700
From Closing Fund Balance (318,000)

Schedule of Programs:

Spinal Cord and Brain Injury Rehabilitation Fund 300,000

The Legislature intends that the Department of Health report on the following performance measures for the Spinal Cord and Brain Injury Rehabilitation Fund, whose mission is to "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.": (1) number of clients that received an intake assessment (Target = 101), (2) number of physical, speech or occupational

therapy services provided (Target = 1,900), and (3) percent of clients that returned to work and/or school (Target = 50%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 87

To Department of Health - Traumatic Brain Injury Fund

From General Fund 200,000
From Beginning Fund Balance 593,400
From Closing Fund Balance (430,100)

Schedule of Programs:

Traumatic Brain Injury Fund 363,300

The Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund, whose mission is to "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health.": (1) number of individuals with traumatic brain injury that received resource facilitation services through the Traumatic Brain Injury Fund contractors (Target = 300), (2) number of Traumatic Brain Injury Fund clients referred for a neuro-psych exam or MRI (Magnetic Resonance Imaging) that receive an exam (Target = 40), and (3) number of community and professional education presentations and trainings (Target = 60) by October 1, 2019 to the Social Services Appropriations Subcommittee.

DEPARTMENT OF HUMAN SERVICES

Item 88

To Department of Human Services - Out and About Homebound Transportation Assistance Fund

From Dedicated Credits Revenue 38,400
From Interest Income 3,900
From Beginning Fund Balance 107,700
From Closing Fund Balance (150,000)

The Legislature intends that the Department of Human Services report on the following performance measure for the Out and About Homebound Transportation Assistance Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 89

To Department of Human Services - Utah State Developmental Center Long-Term Sustainability Fund

From Dedicated Credits Revenue 28,200
From Interest Income 6,600
From Revenue Transfers 38,700
From Beginning Fund Balance 623,500
From Closing Fund Balance (697,000)

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Long-Term

Sustainability Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 90

To Department of Human Services -
Utah State Developmental Center
Miscellaneous Donation Fund
From Dedicated Credits Revenue 120,000
From Interest Income 10,000
From Beginning Fund Balance 580,700
From Closing Fund Balance (580,700)
Schedule of Programs:
Utah State Developmental Center
Miscellaneous Donation Fund 130,000

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Miscellaneous Donation Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 91

To Department of Human Services - Utah
State Developmental Center Workshop Fund
From Dedicated Credits Revenue 137,000
From Beginning Fund Balance 80,200
From Closing Fund Balance (144,200)
Schedule of Programs:
Utah State Developmental Center
Workshop Fund 73,000

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Workshop Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 92

To Department of Human Services -
Utah State Hospital Unit Fund
From Dedicated Credits Revenue 55,000
From Interest Income 3,300
From Beginning Fund Balance 174,900
From Closing Fund Balance (174,900)
Schedule of Programs:
Utah State Hospital Unit Fund 58,300

The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Unit Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 93

To Department of Workforce Services -
Child Care Fund

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Child Care Fund, whose mission is to “fund child care initiatives that will improve the quality, affordability, or accessibility of child care, including professional development as specified in Utah Code Section 35A-3-206”: report on activities or projects paid for by the fund in the prior fiscal year by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 94

To Department of Workforce Services - Individuals
with Visual Impairment Fund

From Dedicated Credits Revenue 28,500
From Beginning Fund Balance 1,182,100
From Closing Fund Balance (1,185,600)
Schedule of Programs:

Individuals with Visual Impairment
Fund 25,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Fund, whose mission is to “assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities”: (1) the total of funds expended compiled by category of use, (2) the year end fund balance, and (3) the yearly results/profit from the investment of the fund by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 95

To Department of Workforce Services -
Intermountain Weatherization Training Fund
From Dedicated Credits Revenue 9,800
From Beginning Fund Balance 3,500
From Closing Fund Balance (3,500)
Schedule of Programs:
Intermountain Weatherization
Training Fund 9,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Intermountain Weatherization Training Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: number of individuals trained each year (Target => 6) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 96

To Department of Workforce Services - Navajo Revitalization Fund	
From Interest Income	150,000
From Other Financing Sources	1,000,000
From Beginning Fund Balance	5,917,500
From Closing Fund Balance	(3,161,300)
Schedule of Programs:	
Navajo Revitalization Fund	3,906,200

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Navajo Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 97

To Department of Workforce Services - Olene Walker Housing Loan Fund	
From General Fund	2,242,900
From Federal Funds	4,776,400
From Dedicated Credits Revenue	24,800
From Interest Income	2,345,500
From Beginning Fund Balance	153,188,100
From Closing Fund Balance	(158,682,900)
Schedule of Programs:	
Olene Walker Housing Loan Fund ...	3,894,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Olene Walker Housing Loan Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) housing units preserved or created (Target = 882), (2) construction jobs preserved or created (Target = 2,293), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 98

To Department of Workforce Services - Permanent Community Impact Bonus Fund	
From Interest Income	8,032,100
From General Fund Restricted - Land Exchange Distribution Account	100
From General Fund Restricted - Mineral Bonus	2,581,700

From Beginning Fund Balance	386,828,800
From Closing Fund Balance	(397,410,100)
Schedule of Programs:	
Permanent Community Impact Bonus Fund	32,600

Item 99

To Department of Workforce Services - Permanent Community Impact Fund	
From Dedicated Credits Revenue	4,812,600
From Interest Income	2,285,800
From General Fund Restricted - Mineral Lease	33,713,000
From General Fund Restricted - Land Exchange Distribution Account	22,900
From Beginning Fund Balance	316,549,700
From Closing Fund Balance	(356,755,200)
Schedule of Programs:	
Permanent Community Impact Fund	628,800

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Permanent Community Impact Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) new receipts invested in communities annually (Target = 100%), (2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and (3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 100

To Department of Workforce Services - Qualified Emergency Food Agencies Fund	
From Designated Sales Tax	540,000
From Revenue Transfers	375,000
Schedule of Programs:	
Emergency Food Agencies Fund	915,000

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Qualified Emergency Food Agencies Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: (1) The number of households served by QEFAP agencies (Target: 50,000) and (2) Percent of QEFAP program funds obligated to QEFAP agencies (Target: 100%

of funds obligated) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 101

To Department of Workforce Services -
 Uintah Basin Revitalization Fund
 From Dedicated Credits Revenue 200,000
 From Other Financing Sources 4,250,000
 From Beginning Fund Balance 13,481,900
 From Closing Fund Balance (11,162,400)
 Schedule of Programs:
 Uintah Basin Revitalization Fund ... 6,769,500

The Legislature intends that the Department of Workforce Services report on the following performance measure for the Uintah Basin Revitalization Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 102

To Department of Workforce Services -
 Utah Community Center for the Deaf Fund
 From Dedicated Credits Revenue 7,000
 From Beginning Fund Balance 20,900
 From Closing Fund Balance (21,700)
 Schedule of Programs:
 Utah Community Center for the
 Deaf Fund 6,200

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Utah Community Center for the Deaf Fund, whose mission is to “provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential”: (1) The total of funds expended compiled by category of use, (2) The year-end Fund balance, and (3) The yearly results/profit from the investment of the fund by October 1, 2019 to the Social Services Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

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

the State Division of Finance to transfer amounts between funds and accounts as indicated.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 103

To Department of Workforce Services - Economic
 Revitalization and Investment Fund
 From Beginning Fund Balance 2,061,000
 From Closing Fund Balance (2,061,000)

Item 104

To Department of Workforce Services - State Small
 Business Credit Initiative Program Fund
 From Interest Income 70,000
 From Beginning Fund Balance 3,967,900
 From Closing Fund Balance (4,037,900)

The Legislature intends that the Department of Workforce Services report on the following performance measures for the State Small Business Credit Initiative Program Fund, whose mission is “aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs”: Minimize loan losses (Target <3%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 105

To Department of Workforce Services -
 Unemployment Compensation Fund
 From Federal Funds 1,269,500
 From Dedicated Credits Revenue 18,206,200
 From Trust and Agency Funds 193,677,500
 From Beginning Fund Balance 1,186,123,000
 From Closing Fund Balance (1,223,921,900)
 Schedule of Programs:
 Unemployment Compensation
 Fund 175,354,300

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Unemployment Compensation Fund, whose mission is to “monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers”: (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code, (2) the average high cost multiple is the Unemployment Insurance Trust Fund balance as a percentage of total Unemployment Insurance wages divided by the average high cost rate (Target => 1), and (3) contributory employers Unemployment Insurance contributions due paid timely (Target => 95%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 106

To Ambulance Service Provider
 Assessment Expendable Revenue Fund
 From Dedicated Credits Revenue 3,217,400
 Schedule of Programs:
 Ambulance Service Provider
 Assessment Expendable Revenue
 Fund 3,217,400

The Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of providers invoiced (Target = 100%), (2) percentage of providers who have paid by the due date (Target = 80%), and (3) percentage of providers who have paid within 30 days after the due date (Target = 90%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 107

To Hospital Provider Assessment
 Expendable Special Revenue Fund
 From Dedicated Credits Revenue 48,500,000
 From Beginning Fund Balance 4,877,900
 From Closing Fund Balance (4,877,900)
 Schedule of Programs:
 Hospital Provider Assessment
 Expendable Special Revenue
 Fund 48,500,000

The Legislature intends that the Department of Health report on the following performance measures for the Hospital Provider Assessment Expendable Revenue Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 108

To Medicaid Expansion Fund
 From General Fund 38,080,500
 From Dedicated Credits Revenue 13,600,000
 From Beginning Fund Balance 787,900
 Schedule of Programs:
 Medicaid Expansion Fund 52,468,400

The Legislature intends that the Department of Health report on the following performance measures for the Medicaid Expansion Fund, whose mission is to “Provide

access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of hospitals invoiced (Target = 100%), (2) percentage of hospitals who have paid by the due date (Target => 85%), and (3) percentage of hospitals who have paid within 30 days after the due date (Target => 97%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 109

To Nursing Care Facilities Provider
 Assessment Fund
 From Dedicated Credits Revenue 34,418,300
 Schedule of Programs:
 Nursing Care Facilities Provider
 Assessment Fund 34,418,300

The Legislature intends that the Department of Health report on the following performance measures for the Nursing Care Facilities Provider Assessment Fund, whose mission is to “Provide access to quality, cost-effective health care for eligible Utahans.”: (1) percentage of nursing facilities reporting by the due date (Target = 100%), (2) percentage of nursing facilities who have paid by the due date (Target = 80%), and (3) percentage of nursing facilities who have paid within 30 days after the due date (Target = 90%) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 110

To General Fund Restricted - Children’s
 Hearing Aid Program Account
 From General Fund 100,000
 Schedule of Programs:
 General Fund Restricted - Children’s
 Hearing Aid Account 100,000

Item 111

To General Fund Restricted - Homeless
 Account
 From General Fund 917,400
 Schedule of Programs:
 General Fund Restricted - Pamela
 Atkinson Homeless Account 917,400

Item 112

To General Fund Restricted - Homeless
 Housing Reform Account
 From General Fund 11,350,000
 Schedule of Programs:
 General Fund Restricted - Homeless
 Housing Reform Restricted
 Account 11,350,000

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

DEPARTMENT OF HUMAN SERVICES

Item 113

To Department of Human Services -
 Human Services Client Trust Fund
 From Interest Income 27,600
 From Trust and Agency Funds 5,054,900
 From Beginning Fund Balance 1,804,500

From Closing Fund Balance (1,804,500)
 Schedule of Programs:
 Human Services Client Trust
 Fund 5,082,500

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Client Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 114

To Department of Human Services -
 Human Services ORS Support Collections
 From Trust and Agency Funds 212,346,300
 Schedule of Programs:
 Human Services ORS Support
 Collections 212,346,300

The Legislature intends that the Department of Human Services report on the following performance measure for the Human Services Office of Recovery Services (ORS) Support Collections fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 115

To Department of Human Services -
 Maurice N. Warshaw Trust Fund
 From Interest Income 3,700
 From Beginning Fund Balance 150,100
 From Closing Fund Balance (150,100)
 Schedule of Programs:
 Maurice N. Warshaw Trust Fund 3,700

The Legislature intends that the Department of Human Services report on the following performance measure for the Maurice N. Warshaw Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 116

To Department of Human Services - Utah
 State Developmental Center Patient Account
 From Interest Income 3,500
 From Trust and Agency Funds 1,707,700
 From Beginning Fund Balance 615,000
 From Closing Fund Balance (598,100)
 Schedule of Programs:
 Utah State Developmental Center
 Patient Account 1,728,100

The Legislature intends that the Department of Human Services report on the following performance measure for the State Developmental Center Patient Account: Number of internal reviews completed for compliance with statute, federal regulations,

and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Item 117

To Department of Human Services -
 Utah State Hospital Patient Trust Fund
 From Trust and Agency Funds 762,300
 From Beginning Fund Balance 115,800
 From Closing Fund Balance (115,800)
 Schedule of Programs:
 Utah State Hospital Patient
 Trust Fund 762,300

The Legislature intends that the Department of Human Services report on the following performance measure for the State Hospital Patient Trust Fund: Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1) by October 1, 2019 to the Social Services Appropriations Subcommittee.

**DEPARTMENT OF
 WORKFORCE SERVICES**

Item 118

To Department of Workforce Services - Individuals
 with Visual Impairment Vendor Fund
 From Trust and Agency Funds 157,700
 From Beginning Fund Balance 76,200
 From Closing Fund Balance (79,400)
 Schedule of Programs:
 Individuals with Visual Disabilities
 Vendor Fund 154,500

The Legislature intends that the Department of Workforce Services report on the following performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to “assist Blind and Visually Impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities”: (1) Fund will be used to assist different business locations with purchasing upgraded equipment (Target = 12), (2) Fund will be used to assist different business locations with repairing and maintaining of equipment (Target = 28), and (3) Maintain or increase total yearly contributions to the Business Enterprise Program Owner Set Aside Fund (part of the Visual Impairment Vendor fund) (Target = \$70,000 yearly contribution amount) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor’s signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 11**H. B. 49**

Passed February 11, 2019
 Approved February 26, 2019
 Effective February 26, 2019
 (Exception Clause)

**REPATRIATION TRANSITION
 TAX AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies corporate income tax provisions relating to deferred foreign income.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of unadjusted income as the definition relates to deferred foreign income; and
- ▶ modifies the payment schedule for a corporate taxpayer to pay the income tax on deferred foreign income.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-101, as last amended by Laws of Utah 2018, Second Special Session, Chapters 2 and 3
 59-7-118, as last amended by Laws of Utah 2018, Second Special Session, Chapter 2

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

Section 1. Section 59-7-101 is amended to read:

59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) “Controlling entity of a captive real estate investment trust” does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining “established securities market.”

(9) “Corporate return” or “return” includes a combined report.

(10) “Corporation” includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) “Dividend” means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) “Doing business” includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), “doing business” includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

(13) “Domestic corporation” means a corporation that is incorporated or organized under the laws of this state.

(14) (a) “Farmers’ cooperative” means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms “member” and “producer”; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A).

(ii) The rules made under this Subsection (14)(b) shall be consistent with the filing requirements under federal law for a farmers’ cooperative.

(15) “Foreign corporation” means a corporation that is not incorporated or organized under the laws of this state.

(16) (a) “Foreign operating company” means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation’s business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least \$1,000,000 of payroll located outside the United States; and

(B) at least \$2,000,000 of property located outside the United States.

(b) “Foreign operating company” does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(17) (a) “Foreign real estate investment trust” means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity’s total asset value at the close of the business entity’s taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

(18) "Income" includes losses.

(19) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(20) "Nonbusiness income" means the same as that term is defined in Section 59-7-302.

(21) "Real estate investment trust" means the same as that term is defined in Section 856, Internal Revenue Code.

(22) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income that bears the same ratio to the aggregate amount of such interest or other expense,

determined without regard to this Subsection (22), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

(23) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

(24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(25) "State of the United States" includes any of the 50 states or the District of Columbia.

(26) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

(27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

(28) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

(29) (a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(b) ~~[For the last taxable year of a taxpayer beginning on or before December 31, 2017, "unadjusted"]~~ "Unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.

(30) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

- (A) centralized management;
- (B) functional integration; and
- (C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

(31) "United States" includes the 50 states and the District of Columbia.

(32) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

(33) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

(34) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(35) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

(36) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

(37) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-118 is amended to read:

59-7-118. Section 965, Internal Revenue Code -- Installment payments.

(1) Subject to the other provisions of this section, a corporation may pay in installments the tax owed under this chapter on deferred foreign income described in Section 965, Internal Revenue Code.

(2) Subsection (1) applies:

(a) to a corporation that:

(i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

(ii) apportions deferred foreign income described in Section 965, Internal Revenue Code, to this state; and

(b) for a tax year in which a corporation makes an election under Section 965(h), Internal Revenue Code, for purposes of the corporation's federal income tax.

(3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an installment payment made under this section.

(b) A corporation shall make:

(i) the first installment under this section on or before the due date, including any extension, of the [2017] tax return filed under this chapter for the first taxable year in which the corporation reports deferred foreign income described in Section 965, Internal Revenue Code; and

(ii) a subsequent installment on or before the due date, including any extension, of the tax return filed under this chapter in each of the following seven years.

Section 3. Effective date.

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

Section 4. Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation for:

(a) the last taxable year of a taxpayer beginning on or before December 31, 2017; and

(b) a taxable year beginning on or after January 1, 2018.

(2) The amendments to Section 59-7-118 have retrospective operation for a taxable year beginning on or after January 1, 2017.

CHAPTER 12**H. B. 202**

Passed February 22, 2019
 Approved February 28, 2019
 Effective February 28, 2019

**OFF-PREMISE BEER
 RETAILER AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies provisions related to off-premise beer retailers.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “off-premise retail manager”;
- ▶ extends the date by which a person operating as an off-premise beer retailer on July 1, 2018, must submit an application for an off-premise beer retailer state license;
- ▶ enacts an additional fee for an application submitted after the original deadline; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 32B-5-402, as last amended by Laws of Utah 2017, Chapter 455
 32B-7-401, as last amended by Laws of Utah 2018, Chapter 249
 63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

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

Section 1. Section 32B-5-402 is amended to read:**32B-5-402. Definitions.**

As used in this part:

(1) “Off-premise retail manager” means an individual who ~~is~~ ~~(a)~~ manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act ~~;~~ ~~or~~.

~~(b) supervises the sale of beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.~~

(2) (a) “Off-premise retail staff” means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) “Off-premise retail staff” does not include an off-premise retail manager.

(3) “Retail manager” means an individual who:

(a) manages operations at a premises that is licensed under this chapter; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under this chapter.

(4) (a) “Retail staff” means an individual who serves an alcoholic product at a premises licensed under this chapter.

(b) “Retail staff” does not include a retail manager.

Section 2. Section 32B-7-401 is amended to read:**32B-7-401. Commission’s power to issue off-premise beer retailer state license.**

(1) Beginning on July 1, 2018, and except as provided in Subsection (3), before a person may purchase, store, sell, or offer for sale beer for consumption off the person’s premises, the person shall obtain an off-premise beer retailer state license in accordance with this part.

(2) The commission may issue an off-premise beer retailer state license for the retail sale of beer for consumption off the beer retailer’s premises.

(3) (a) ~~[A]~~ Subject to Subsection (3)(b), a person who operates as an off-premise beer retailer on July 1, 2018, shall submit an application for an off-premise beer retailer state license on or before ~~[March 1, 2019]~~ May 31, 2019.

(b) In addition to the fees described in Section 32B-7-402, a person described in Subsection (3)(a) who submits an application for an off-premise beer retailer state license after March 1, 2019, shall submit with the person’s application a fee in the following amount:

(i) \$150, if the person submits the application after March 1, 2019, and on or before April 15, 2019; or

(ii) \$300, if the person submits the application after April 15, 2019, and on or before May 31, 2019.

Section 3. Section 63I-2-232 is amended to read:**63I-2-232. Repeal dates -- Title 32B.**

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

(3) Subsection 32B-1-604(4) is repealed June 1, 2018.

(4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

(5) Section 32B-6-205 is repealed July 1, 2022.

(6) Subsection 32B-6-205.2(15) is repealed July 1, 2022.

(7) Section 32B-6-205.3 is repealed July 1, 2022.

(8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

- (9) Section 32B-6-305 is repealed July 1, 2022.
- (10) Subsection 32B-6-305.2(15) is repealed July 1, 2022.
- (11) Section 32B-6-305.3 is repealed July 1, 2022.
- (12) Section 32B-6-404.1 is repealed July 1, 2022.
- (13) Section 32B-6-409 is repealed July 1, 2022.
- (14) Section 32B-6-605.1 is repealed July 1, 2019.
- (15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.
- (16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.
- (17) Section 32B-6-905 is repealed July 1, 2022.
- (18) Subsection 32B-6-905.1(16) is repealed July 1, 2022.
- (19) Section 32B-6-905.2 is repealed July 1, 2022.
- (20) Section 32B-7-303 is repealed [~~March~~ June 1, 2019].
- (21) Section 32B-7-304 is repealed [~~March~~ June 1, 2019].
- (22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section 4. Effective date.

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

CHAPTER 13**S. B. 94**

Passed March 4, 2019
 Approved March 8, 2019
 Effective March 8, 2019

**TECHNICAL COLLEGE
 SCHOLARSHIP AMENDMENTS**

Chief Sponsor: Keith Grover
 House Sponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill amends provisions related to technical college scholarships.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to a student's eligibility for a technical college scholarship, including provisions related to programs and timing; and
- ▶ requires the Utah System of Technical Colleges Board of Trustees to designate certain programs as high demand programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53B-2a-116, as enacted by Laws of Utah 2018, Chapter 79

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

Section 1. Section 53B-2a-116 is amended to read:

53B-2a-116. Technical college scholarships.

(1) As used in this section:

(a) "High demand program" means a program ~~[that:]~~ designated by the board of trustees in accordance with Subsection (7).

~~[(i) prepares an individual to work in a targeted job; and]~~

~~[(ii) is offered by a technical college.]~~

(b) "Institution of higher education" means an institution within the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(c) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

(d) "Scholarship" means a technical college scholarship described in this section.

~~[(e) "Targeted job" means the same as that term is defined in Section 53B-7-702.]~~

(e) "Technical college service area" means the same as that term is defined in Section 53B-2a-108.

(2) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to the board of trustees to be distributed to technical colleges to award scholarships.

(b) The board of trustees shall annually distribute:

(i) 50% of the appropriation described in Subsection (2)(a) to each technical college in an equal amount; and

(ii) 50% of the appropriation described in Subsection (2)(a) to each technical college based on the technical college's prior year share of secondary student membership hours completed at all technical colleges.

(3) In accordance with the rules described in Subsection (6), a technical college may award a scholarship to an individual who:

(a) graduates or will graduate from high school within the ~~[seven]~~ 12 months prior to the individual receiving a scholarship;

(b) is enrolled in, or intends to enroll in, a high demand program; and

(c) while the individual is enrolled in a secondary school, makes satisfactory progress in a career and technical education pathway offered by:

(i) a technical college;

(ii) an institution of higher education; or

(iii) a school district or charter school.

(4) Subject to Subsection (5), a technical college may award a scholarship for an amount of money up to the total cost of tuition, program fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(5) (a) Except as provided in Subsection (5)(b), a technical college may only apply a scholarship toward a scholarship recipient's costs described in Subsection (4) from the day on which the technical college awards the scholarship until ~~[seven]~~ 12 months after the day on which the scholarship recipient graduates from high school.

(b) (i) A technical college may defer a scholarship for up to three years after the day on which the scholarship recipient graduates from high school.

(ii) A technical college that defers a scholarship may apply the scholarship toward the scholarship recipient's costs described in Subsection (4) for up to a total of ~~[seven]~~ 12 months.

(c) A technical college may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the technical college on at least a half time basis, as determined by the technical college; or

(ii) make satisfactory progress toward the completion of a certificate.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board of trustees shall make rules that establish:

(a) requirements related to a technical college's administration of a scholarship described in this section;

(b) requirements related to eligibility for a scholarship, including requiring technical colleges to prioritize scholarships for underserved populations;

(c) a process for an individual to apply to a technical college to receive a scholarship; and

(d) how to determine satisfactory progress for purposes described in Subsections (3)(c) and (5)(c)(ii).

(7) Every other year, after consulting with the Department of Workforce Services, the board of trustees shall designate, as a high demand program, a technical college program that prepares an individual to work in a job that has, in Utah or in the technical college service area:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 2. Effective date.

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

CHAPTER 14**H. B. 50**

Passed February 15, 2019

Approved March 11, 2019

Effective March 11, 2019

COUNTY CLASSIFICATION CHANGES

Chief Sponsor: Logan Wilde
Senate Sponsor: Ronald Winterton

LONG TITLE**General Description:**

This bill delays action by the lieutenant governor in changing a county's classification.

Highlighted Provisions:

This bill:

- ▶ delays action by the lieutenant governor in changing a county's classification.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

17-50-502, as last amended by Laws of Utah 2018, Chapter 330

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

Section 1. Section 17-50-502 is amended to read:**17-50-502. Change of class of county.**

(1) Each county shall retain its classification under Section 17-50-501 until changed as provided in this section.

(2) The lieutenant governor shall monitor the population figure for each county as shown on:

(a) each official census or census estimate of the United States Bureau of the Census; or

(b) if the population figure for a county is not available from the United States Bureau of the Census, the population estimate from the Utah Population Committee.

(3) ~~If~~ After July 1, 2021, if the applicable population figure under Subsection (2) indicates that a county's population has increased beyond the limit for its current class, the lieutenant governor shall:

(a) prepare a certificate indicating the class in which the county belongs based on the increased population figure; and

(b) within 10 days after preparing the certificate, deliver a copy of the certificate to the county legislative body and, if the county has an executive that is separate from the legislative body, the executive of the county whose class was changed.

(4) A county's change in class is effective on the date of the lieutenant governor's certificate under Subsection (3).

Section 2. Effective date.

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

CHAPTER 15**S. B. 76**

Passed February 13, 2019

Approved March 11, 2019

Effective March 11, 2019

**WORKERS' COMPENSATION
ADJUDICATION AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill enacts provisions related to add-on fees in workers' compensation cases.

Highlighted Provisions:

This bill:

- ▶ repeals provisions authorizing the Labor Commission to award attorney fees;
- ▶ defines terms;
- ▶ in certain workers' compensation cases, authorizes the Labor Commission to award an add-on fee to a claimant to be paid by the workers' compensation insurance carrier; and
- ▶ if the Labor Commission awards an add-on fee, establishes the amount of the add-on fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**REPEALS AND REENACTS:**

34A-1-309, as repealed and reenacted by Laws of Utah 2018, Chapter 273

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

Section 1. Section 34A-1-309 is repealed and reenacted to read:**34A-1-309. Add-on fees.**

(1) As used in this section:

(a) "Carrier" means a workers' compensation insurance carrier, the Uninsured Employers' Fund, an employer that does not carry workers' compensation insurance, or a self-insured employer as defined in Section 34A-2-201.5.

(b) "Indemnity compensation" means a workers' compensation claim for indemnity benefits that arises from or may arise from a denial of a medical claim.

(c) "Medical claim" means a workers' compensation claim for medical expenses or recommended medical care.

(d) "Unconditional denial" means a carrier's denial of a medical claim:

- (i) after the carrier completes an investigation; or
- (ii) 90 days after the day on which the claim was submitted to the carrier.

(2) (a) The commission may award an add-on fee to a claimant to be paid by the carrier if:

- (i) a medical claim is at issue;
- (ii) the carrier issues an unconditional denial of the medical claim;
- (iii) the claimant hires an attorney to represent the claimant during the formal adjudicative process before the commission;
- (iv) after the carrier issues the unconditional denial, the commission orders the carrier or the carrier agrees to pay the medical claim; and
- (v) any award of indemnity compensation in the case is less than \$5,000.

(b) An award of an add-on fee under this section is in addition to:

- (i) the amount awarded for the medical claim or indemnity compensation; and
- (ii) any amount for attorney fees agreed upon between the claimant and the claimant's attorney.
- (c) An award under this section is governed by the law in effect at the time the claimant files an application for hearing with the Division of Adjudication.

(3) If the commission awards an add-on fee under this section, the commission shall award the add-on fee in the following amount:

- (a) the lesser of 25% of the medical expenses the commission awards to the claimant or \$25,000, for a case that is resolved at the commission level;
- (b) the lesser of 30% of the medical expenses the Utah Court of Appeals awards to the claimant or \$30,000, for a case that is resolved on appeal before the Utah Court of Appeals; or
- (c) the lesser of 35% of the medical expenses that the Utah Supreme Court awards to the claimant or \$35,000, for a case that is resolved on appeal before the Utah Supreme Court.

(4) If a court invalidates any portion of this section, the entire section is invalid.

Section 2. Effective date.

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

CHAPTER 16**H. B. 11**

Passed February 20, 2019

Approved March 13, 2019

Effective March 13, 2019

(Retrospective operation to January 1, 2019)

PROPERTY TAX AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies the property tax valuation and appeals processes for county assessed real property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ codifies how a party meets the party's burden of proof when appealing a valuation to the county board of equalization or the commission;
- ▶ modifies the burdens of proof for appeals involving certain real property for which there was a reduction in value as a result of an appeal during the previous taxable year;
- ▶ creates an automatic county review process for certain real property valuations or equalizations that exceed a threshold; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date. This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-2-109, as enacted by Laws of Utah 2016, Chapter 392

59-2-303, as last amended by Laws of Utah 1993, Chapter 245

59-2-311, as last amended by Laws of Utah 2005, Chapter 182

59-2-919.1, as last amended by Laws of Utah 2016, Chapter 98

59-2-1004, as last amended by Laws of Utah 2018, Chapter 277

59-2-1004.5, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

59-2-303.2, Utah Code Annotated 1953

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

Section 1. Section 59-2-109 is amended to read:**59-2-109. Burden of proof.**

(1) As used in this section[, "assessing authority" means:

~~[(a) the commission for property assessed under Part 2, Assessment of Property; and]~~

~~[(b) a county assessor for property assessed under Part 3, County Assessment.]~~

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by a county board of equalization after the appeal;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection 59-2-1004(2)(c).

(c) "Qualified real property" means real property:

(i) that is assessed by a county assessor in accordance with Part 3, County Assessment;

(ii) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;

(B) as a result of the appeal described in Subsection (1)(c)(ii)(A), a county board of equalization or the commission gave a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(iii) that, between January 1 of the previous taxable year and January 1 of the current taxable year, has not been improved or changed beyond the improvements in place on January 1 of the previous taxable year.

(2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:

(a) substantial error in:

(i) for an appeal not involving qualified real property:

(A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;

(B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or

(C) if Subsection (3) applies, the original assessed value; or

(ii) for an appeal involving qualified real property, the inflation adjusted value; and

(b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.

~~[(2) Notwithstanding Section 59-1-604, in an action appealing the value of property assessed by an assessing authority, the assessing authority has the burden of proof before a board of equalization, the commission, or a court of competent jurisdiction, if the assessing authority presents evidence or otherwise asserts that the fair market value of the assessed property is greater than the value originally assessed by the assessing authority for that calendar year.]~~

(3) (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:

(i) that is not qualified real property; and

(ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(b) For purposes of Subsection (3)(a), the following have the burden of proof:

(i) for property assessed under Part 3, County Assessment:

(A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:

(i) the original assessed value shall lose the presumption of correctness;

(ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and

(iii) the county board of equalization or the commission shall be free to consider all evidence

allowed by law in determining fair market value, including the original assessed value.

(4) (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.

(b) For purposes of Subsection (4)(a):

(i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county board of equalization presents evidence of or otherwise asserts a value that is greater than or equal to the inflation adjusted value; or

(ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.

(c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:

(i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or

(ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

Section 2. Section 59-2-303 is amended to read:

59-2-303. General duties of county assessor.

(1) ~~[Prior to]~~ (a) Before May 22 each year, the county assessor shall:

(i) ascertain the names of the owners of all property ~~[which]~~ that is subject to taxation by the county~~], and shall];~~

(ii) except as provided in Subsection (2), assess the property to the owner, claimant of record, or occupant in possession or control at ~~[12 o'clock midnight of January 1 in the tax year, unless a subsequent conveyance of ownership of the real property was recorded in the office of the county recorder more than 14 calendar days before the date of mailing of the tax notice. In that case, any tax notice may be mailed, and the tax assessed, to the new owner. No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.]~~ midnight on January 1 of the taxable year; and

(iii) conduct the review process described in Section 59-2-303.2.

(b) No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.

(2) If a conveyance of ownership of the real property was recorded in the office of a county

recorder after January 1 but more than 14 calendar days before the day on which the county treasurer mails the tax notice, the county assessor shall assess the property to the new owner.

[~~(2)~~] (3) A county assessor shall become fully acquainted with all property in [his] the county assessor's county, as provided in Section 59-2-301.

Section 3. Section 59-2-303.2 is enacted to read:

59-2-303.2. Automatic review of assessed value of review property.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for a review property for which the taxpayer did not appeal the valuation or equalization in accordance with Section 59-2-1004, the assessed value as stated on the valuation notice described in Section 59-2-919.1;

(ii) for a review property for which the taxpayer appealed the valuation or equalization in accordance with Section 59-2-1004, the assessed value given to the review property by a county board of equalization after the appeal;

(iii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or

(iv) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the review property; and

(ii) located within the same county and within the same market area as the review property.

(c) "Property value change" means the percentage change in the fair market value of real property between January 1 of the previous year and January 1 of the current year.

(d) "Review property" means real property located in the county:

(i) that between January 1 of the previous year and January 1 of the current year has not been improved or changed beyond improvements in place on January 1 of the previous taxable year; and

(ii) for which the county assessor did not conduct a detailed review of property characteristics during the current taxable year.

(e) "Threshold increase" means an increase in a review property's assessed value for the current taxable year compared to the final assessed value of the review property for the previous taxable year that is:

(i) the median property value change plus 15%; and

(ii) at least \$10,000.

(2) (a) Before completing and delivering the assessment book to the county auditor in accordance with Section 59-2-311, the county assessor shall review the assessment of a review property for which the assessed value for the current taxable year is equal to or exceeds the threshold increase.

(b) The county assessor shall retain a record of the properties for which the county assessor conducts a review in accordance with this section and the results of that review.

(3) (a) If the county assessor determines that the assessed value of the review property reflects the review property's fair market value, the county assessor shall not adjust the review property's assessed value.

(b) If the county assessor determines that the assessed value of the review property does not reflect the review property's fair market value, the county assessor shall adjust the assessed value of the review property to reflect the fair market value.

(4) The review process described in this section does not supersede or otherwise affect a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of a review property in accordance with:

(a) this part;

(b) Title 59, Chapter 1, Part 6, Judicial Review; or

(c) Title 63G, Chapter 4, Part 4, Judicial Review.

Section 4. Section 59-2-311 is amended to read:

59-2-311. Completion and delivery of assessment book -- Signed statement required -- Contents of signed statement -- Adjustment of assessment in assessment book.

(1) [~~Prior to~~] Before May 22 each year, the county assessor shall complete and deliver the assessment book to the county auditor.

(2) The county assessor shall subscribe and sign a statement in the assessment book substantially as follows:

I, ____, the assessor of ____ County, do swear that before May 22, ____ (year), I made diligent inquiry and examination, and either personally or by deputy, established the value of all of the property within the county subject to assessment by me; that the property has been assessed on the

assessment book equally and uniformly according to the best of my judgment, information, and belief at its fair market value; that I have faithfully complied with all the duties imposed on the assessor under the revenue laws including the requirements of Section 59-2-303.1; and that I have not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through favor or reward, or otherwise.

(3) Before completing and delivering the assessment book under Subsection (1), the county assessor shall adjust the assessment of property in the assessment book to reflect an adjustment in the taxable value of any property if the adjustment in taxable value is made:

(a) by the county board of equalization ~~[under]~~ in accordance with Section 59-2-1004.5~~[-and]~~ on or before May 15; or

~~[(b) on or before May 15.]~~

(b) by the county assessor in accordance with Section 59-2-303.2.

Section 5. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the date the county board of equalization will meet to hear complaints on the valuation;

(iii) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(iv) the tax impact on the property;

(v) the time and place of the required public hearing for each entity;

(vi) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes; and

(C) collection procedures;

(vii) information specifically authorized to be included on the notice under this chapter;

(viii) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(ix) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(v); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4) (a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the

taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004[(2)](3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 6. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by a county board of equalization after the appeal;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection (2)(c).

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property between January 1 of the previous year and January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;

(B) as a result of the appeal described in Subsection (1)(e)(i)(A), a county board of equalization or the commission gave a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, between January 1 of the previous taxable year and January 1 of the current taxable year, has not been improved or changed beyond the improvements in place on January 1 of the previous taxable year.

[(4)] (2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection [(2)] (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection [(2)] (3) if the county legislative body passes a resolution under Subsection [(7)] (8) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) (i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c) (i) The county assessor shall calculate inflation adjusted value by changing the final assessed value for the previous taxable year of the real property that is the subject of the appeal by the median property value change.

(ii) (A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(iii) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

[(2)] (3) (a) Except as provided in Subsection [(2)] (3)(b) and for purposes of Subsection [(1)] (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection [(2)] (3)(a).

[(3)] (4) (a) [The owner] Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection [(1)] (2)(a)(i) the [owner's] taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the [owner's] taxpayer's property is improperly equalized with the assessed valuation of comparable properties.

(b) (i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

[(4)] (5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

[(5)] (6) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection [(5)] (6)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and \$1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection [(5)] (6)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection [(5)] (6)(b) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection [(5)] (6)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection [(5)] (6)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection [(5)] (6)(c); and

(ii) hear the appeal at the meeting described in Subsection [(5)] (6)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection ~~[(5)]~~ (6)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

~~[(6)]~~ (7) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

~~[(7)]~~ (8) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 7. Section 59-2-1004.5 is amended to read:

59-2-1004.5. Valuation adjustment for decrease in taxable value caused by a natural disaster.

(1) For purposes of this section:

(a) [~~“natural”~~] “Natural disaster” means:

- (i) an explosion;
- (ii) fire;
- (iii) a flood;
- (iv) a storm;
- (v) a tornado;
- (vi) winds;
- (vii) an earthquake;
- (viii) lightning;
- (ix) any adverse weather event; or

(x) any event similar to an event described in this Subsection (1), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-and]~~.

(b) [~~“natural”~~] Natural disaster damage” means any physical harm to property caused by a natural disaster.

(2) Except as provided in Subsection (3), if, during a calendar year, property sustains a decrease in taxable value that is caused by natural disaster damage, the owner of the property may apply to the

county board of equalization for an adjustment in the taxable value of the owner’s property as provided in Subsection (4).

(3) [~~Notwithstanding Subsection (2), an~~] An owner may not receive the valuation adjustment described in this section if the decrease in taxable value described in Subsection (2) is:

(a) due to the intentional action or inaction of the owner; or

(b) less than 30% of the taxable value of the property described in Subsection (2) before the decrease in taxable value described in Subsection (2).

(4) (a) To receive the valuation adjustment described in Subsection (2), the owner of the property shall file an application for the valuation adjustment with the county board of equalization on or before the later of:

(i) the deadline described in Subsection 59-2-1004~~[(2)]~~(3); or

(ii) 45 days after the day on which the natural disaster damage described in Subsection (2) occurs.

(b) The county board of equalization shall hold a hearing:

(i) within 30 days ~~[of]~~ after the day on which the county board of equalization receives the application described in Subsection (4)(a) ~~[is received by the board of equalization]~~; and

(ii) following the procedures and requirements of Section 59-2-1001.

(c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of proving, by a preponderance of the evidence:

(i) that the property sustained a decrease in taxable value, that:

(A) was caused by natural disaster damage; and

(B) is at least 30% of the taxable value of the property described in this Subsection (4)(c)(i) before the decrease in taxable value described in this Subsection (4)(c)(i);

(ii) the amount of the decrease in taxable value described in Subsection (4)(c)(i); and

(iii) that the decrease in taxable value described in Subsection (4)(c)(i) is not due to the action or inaction of the applicant.

(d) If the county board of equalization determines that the applicant has met the burden of proof described in Subsection (4)(c), the county board of equalization shall reduce the valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease in taxable value of the property multiplied by the percentage of the calendar year remaining after the natural disaster damage occurred.

(e) The decision of the board of equalization shall be provided to the applicant, in writing, within 30 days ~~[of]~~ after the day on which the county board of

equalization concludes the hearing described in Subsection (4)(b) [~~is concluded~~].

(5) An applicant that is dissatisfied with a decision of the county board of equalization under this section may appeal that decision under Section 59-2-1006.

Section 8. Effective date.

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

Section 9. Retrospective operation.

This bill has retrospective operation to January 1, 2019.

CHAPTER 17**S. B. 49**

Passed February 25, 2019

Approved March 13, 2019

Effective March 13, 2019

(Retrospective operation to January 1, 2019)

**HOMELESS SHELTER
FUNDING AMENDMENTS**Chief Sponsor: Gene Davis
House Sponsor: Steve Eliason**LONG TITLE****General Description:**

This bill modifies provisions relating to the Homeless Shelter Cities Mitigation Restricted Account.

Highlighted Provisions:

This bill:

- ▶ clarifies how the State Tax Commission calculates a county's or municipality's contribution into the Homeless Shelter Cities Mitigation Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

35A-8-608, as enacted by Laws of Utah 2018, Chapter 312

35A-8-609, as enacted by Laws of Utah 2018, Chapter 312

59-12-205, as last amended by Laws of Utah 2018, Chapters 258, 312, and 330

63J-1-801, as enacted by Laws of Utah 2018, Chapter 312

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

Section 1. Section 35A-8-608 is amended to read:**35A-8-608. Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.**

- (1) As used in this section:
 - (a) "Account" means the restricted account created in Section 35A-8-606.
 - (b) "Committee" means the Homeless Coordinating Committee created in this part.
 - (c) "Grant" means an award of funds from the account.
 - (d) "Grant eligible entity" means:
 - (i) the Department of Public Safety; or
 - (ii) a city, town, or metro township that:
 - (A) has a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(B) has increased community, social service, [and] or public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(C) is certified as a grant eligible entity in accordance with Section 35A-8-609.

(e) "Homeless shelter" means a facility that:

- (i) provides temporary shelter to homeless individuals;
- (ii) has the capacity to provide temporary shelter to at least 60 individuals per night; and
- (iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(f) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) Subject to the availability of funds, a grant eligible entity may request a grant to mitigate the impacts of the location of a homeless shelter:

(a) through employment of additional personnel to provide public safety services in and around a homeless shelter; or

(b) for a grant eligible entity that is a city, town, or metro township, through:

(i) development of a community and neighborhood program within the city's, town's, or metro township's boundaries; or

(ii) provision of social services within the city's, town's, or metro township's boundaries.

(3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing:

(i) the process for determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year; and

(ii) the process for notifying grant eligible entities about the availability of grants for the next fiscal year.

(b) (i) If the committee offers a grant program for the next fiscal year, the committee shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on or before November 30 to allow a grant eligible entity to present a request for account funds for the next fiscal year.

(ii) A grant eligible entity may present a request for account funds by:

(A) sending an electronic copy of the request to the committee before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection (3)(b) shall contain:

(i) for a grant request to develop a community and neighborhood program:

(A) a proposal outlining the components of a community and neighborhood program;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(ii) for a grant request to provide social services:

(A) a proposal outlining the need for additional social services;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(iii) for a grant request to employ additional personnel to provide public safety services:

(A) data relating to the grant eligible entity's public safety services for the current fiscal year, including crime statistics and calls for public safety services;

(B) data showing an increase in the grant eligible entity's need for public safety services in the next fiscal year;

(C) a summary of the grant eligible entity's proposed use of any grant awarded; and

(D) the amount requested; ~~and~~ or

(iv) for a grant request to provide some combination of the activities described in Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each activity for which the grant eligible entity requests a grant.

(d) (i) On or before November 30, a grant eligible entity that received a grant during the previous fiscal year shall file electronically with the committee a report that includes:

(A) a summary of the amount of the grant that the grant eligible entity received and the grant eligible entity's specific use of those funds;

(B) an evaluation of the grant eligible entity's effectiveness in using the grant to address the grant eligible entity's increased needs due to the location of a homeless shelter; and

(C) any proposals for improving the grant eligible entity's effectiveness in using a grant that the grant eligible entity may receive in future fiscal years.

(ii) The committee may request additional information as needed to make the evaluation described in Subsection (3)(e).

(e) The committee shall evaluate a grant request made in accordance with this Subsection (3) using the following factors:

(i) the strength of the proposal that the grant eligible entity provides to support the request;

(ii) if the grant eligible entity received a grant during the previous fiscal year, the efficiency with which the grant eligible entity used the grant during the previous fiscal year;

(iii) the availability of alternative funding for the grant eligible entity to address the grant eligible entity's needs due to the location of a homeless shelter; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the committee shall vote to:

(A) prioritize the grant requests; and

(B) recommend a grant amount for each grant eligible entity.

(ii) The committee shall support the prioritization and recommendation described in Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

(g) The committee shall submit a list that prioritizes the grant requests and recommends a grant amount for each grant eligible entity that requested a grant to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the account as a grant to a grant eligible entity:

(i) after making the disbursements required by Section 35A-8-607; and

(ii) subject to the availability of funds in the account:

(A) in the order of priority that the Legislature gives to each eligible grant entity under Section 63J-1-802; and

(B) in the amount that the Legislature approves to a grant eligible entity under Section 63J-1-802.

(b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing the process for the department to determine the timeline within the fiscal year for funding the grants.

(5) On or before October 1, the department, in cooperation with the committee, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the department's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 2. Section 35A-8-609 is amended to read:

35A-8-609. Certification of eligible municipality or grant eligible entity.

(1) The department shall certify each year, on or after July 1 and before the first meeting of the [committee] Homeless Coordinating Committee after July 1, the cities or towns that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

(2) On or before October 1, the department shall provide a list of the cities or towns that the department has certified as meeting the requirements of an eligible municipality or a grant eligible entity for the year to the State Tax Commission.

Section 3. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(i) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) “Eligible county, city, or town” means a county, city, or town that:

(A) for fiscal year 2012–13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59–12–2103 on or before July 1, 2016.

(ii) “Minimum tax revenue distribution” means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004–05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) “Annual local contribution” means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government’s tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) “Participating local government” means a county or municipality, as defined in Section 10–1–104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A–8–609.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government’s tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section ~~[35A–8a–606]~~ 35A–8–606.

(c) ~~[The] For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall [make the calculation and distribution described in] apply the provisions of this Subsection (5) after [making the distributions described in] the commission applies the provisions of Subsections (3) and (4).~~

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 4. Section 63J-1-801 is amended to read:

63J-1-801. Definitions.

As used in this part:

(1) “Committee” means the Homeless Coordinating Committee created in Section 35A–8–601.

(2) “Eligible municipality” means a city of the third, fourth, or fifth class, a town, or a metro township that:

(a) has, or is proposed to have, a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(b) due to the location of a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city’s, town’s, or metro township’s geographic boundaries.

(3) “Grant eligible entity” means:

(a) the Department of Public Safety; or

(b) a city, town, or metro township that has:

(i) a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries that:

(A) provides temporary shelter to homeless individuals;

(B) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(C) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(ii) increased community, social service, ~~[and]~~ or public safety service needs due to the location of a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor’s

signature, or in the case of a veto, the date of veto
override.

Section 6. Retrospective operation.

This bill has retrospective operation to
January 1, 2019.

CHAPTER 18**H. B. 220**

Passed February 22, 2019

(Passed into law without governor's signature)

Effective May 14, 2019

RADIOACTIVE WASTE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill modifies provisions relating to the disposal of radioactive waste.

Highlighted Provisions:

This bill:

- ▶ provides that certain waste classifications are determined at the time of acceptance;
- ▶ allows the director of the Division of Waste Management and Radiation Control to authorize alternate requirements for waste classification and characteristics that would allow an entity to accept certain waste at a specific site;
- ▶ requires notice to a legislative committee;
- ▶ directs the director to require certain actions related to concentrated depleted uranium;
- ▶ imposes tax on certain waste; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-3-103.7, as last amended by Laws of Utah 2005, Chapter 10

ENACTS:

59-24-103.7, Utah Code Annotated 1953

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

Section 1. Section 19-3-103.7 is amended to read:

19-3-103.7. Prohibition of certain radioactive wastes -- Alternative classification -- Concentrated depleted uranium.

[Ne] (1) Except as provided in Subsection (2), an entity may not accept in the state or apply for a license to accept in the state for commercial storage, decay in storage, treatment, incineration, or disposal waste, that at the time of acceptance is:

[1] (a) class B or class C low-level radioactive waste; or

[2] (b) radioactive waste having a higher radionuclide concentration than the highest radionuclide concentration allowed under licenses existing on February 25, 2005, that have met all the requirements of Section 19-3-105.

(2) (a) Subject to the other provisions of this Subsection (2), at the request of a licensee or

applicant, the director may authorize provisions for the classification and characteristics of waste for land disposal within the state on a specific basis, if after evaluation of the specific characteristics of the waste, disposal site, and method of disposal, the director finds that:

(i) when considering the characteristics of the waste and the site-specific applicable method of disposal, there is reasonable assurance of compliance with the performance objectives, dose limits, and other applicable requirements set forth in rules made by the board that govern the type of issues addressed in 10 C.F.R. Part 61, Licensing Requirements for Land Disposal of Radioactive Waste, Subpart C, Performance Objectives; and

(ii) the dose limits of the waste are equal to or less than that of:

(A) class A low-level radioactive waste; and

(B) waste described under Subsection (1)(b).

(b) The prohibition of accepting waste or applying for accepting waste described in Subsection (1) does not apply to waste that is classified in compliance with the requirements of this Subsection (2).

(c) Within five business days of the day on which the director makes findings to authorize the classification and characteristics of waste on a specific basis under Subsection (2)(a), the director shall notify:

(i) the chairs of the Natural Resources, Agriculture, and Environment Interim Committee; or

(ii) if the findings are issued during a general legislative session, the chair of the House Natural Resources, Agriculture, and Environment Standing Committee and the chair of the Senate Natural Resources, Agriculture, and Environment Standing Committee.

(d) The director's authorization for the classification and characteristics of waste on a specific basis under this Subsection (2) does not take effect until 90 days from the day on which the director makes the findings under Subsection (2)(a) to authorize the classification and characteristics of the waste.

(e) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this Subsection (2).

(3) The director shall require as a condition to the disposal by a radioactive waste facility of a total aggregate quantity of more than one metric ton of concentrated depleted uranium:

(a) an approved performance assessment;

(b) designation of a federal cell by the director; and

(c) pursuant to an agreement acceptable to the director, that the United States Department of Energy accepts perpetual management of the federal cell, title to the land on which the federal cell is located, title to the waste in the federal cell, and financial stewardship for the federal cell and waste in the federal cell.

Section 2. Section 59-24-103.7 is enacted to read:

59-24-103.7. Radioactive waste facility disposal tax for concentrated depleted uranium and specific site approved waste.

(1) On and after July 1, 2019, there is imposed a tax on a radioactive waste facility as provided in this section.

(2) The tax is equal to the sum of the following amounts:

(a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of:

(i) concentrated depleted uranium; and

(ii) containerized waste disposed under Subsection 19-3-103.7(2);

(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of processed waste disposed under Subsection 19-3-103.7(2); and

(c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed waste disposed under Subsection 19-3-103.7(2).

CHAPTER 19**H. B. 42**

Passed February 19, 2019

Approved March 19, 2019

Effective March 19, 2019

(Retrospective operation to January 1, 2019)

**UTAH NET LOSS EFFECTIVE
DATE CLARIFICATION**

Chief Sponsor: Travis M. Seegmiller

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies an uncodified effective date.

Highlighted Provisions:

This bill:

- ▶ modifies the uncodified effective date for an income tax provision relating to Utah net loss.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Uncodified Material Affected:

AMENDS UNCODIFIED MATERIAL:
Uncodified Section 6, Laws of Utah 2018,
Second Special Session, Chapter 3.

*Be it enacted by the Legislature of the state of Utah:***Section 1. Uncodified Section 6, Laws of
Utah 2018, Second Special Session,
Chapter 3 is amended to read:**

Section 6. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 59-7-110 (Effective 01/01/19) take effect ~~on~~ for a taxable year beginning on or after January 1, 2019.

Section 2. Effective date.

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

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

CHAPTER 20**H. B. 218**

Passed February 28, 2019

Approved March 19, 2019

Effective July 1, 2019

(Exception clause in Section 30)

CONSTRUCTION CODE MODIFICATIONS

Chief Sponsor: Mike Schultz
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the construction and fire codes.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to building inspections;
- ▶ incorporates statewide amendments as part of the construction code;
- ▶ adopts Appendix Q of the 2018 International Residential Code;
- ▶ adopts, statewide with amendments:
 - the 2018 International Building Code, including Appendix J;
 - the 2018 International Plumbing Code;
 - the 2018 International Mechanical Code;
 - the 2018 International Fuel Gas Code;
 - the commercial provisions of the 2018 International Energy Conservation Code; and
 - the 2018 International Existing Building Code;
- ▶ amends statewide amendments to the International Residential Code; and
- ▶ amends local amendments to the International Building Code for Sandy City.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-5-132, as last amended by Laws of Utah 2018, Chapter 236
- 15A-1-202, as enacted by Laws of Utah 2011, Chapter 14
- 15A-1-203, as enacted by Laws of Utah 2011, Chapter 14
- 15A-2-103, as last amended by Laws of Utah 2018, Chapter 186
- 15A-3-102, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-103, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-104, as last amended by Laws of Utah 2018, Chapter 361
- 15A-3-105, as last amended by Laws of Utah 2018, Chapter 158
- 15A-3-107, as last amended by Laws of Utah 2016, Chapter 249

- 15A-3-110, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-112, as last amended by Laws of Utah 2017, Chapter 257
- 15A-3-113, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-202, as last amended by Laws of Utah 2018, Chapter 361
- 15A-3-203, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-205, as last amended by Laws of Utah 2018, Chapter 186
- 15A-3-302, as last amended by Laws of Utah 2018, Chapter 186
- 15A-3-303, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-304, as last amended by Laws of Utah 2018, Chapter 186
- 15A-3-305, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-306, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-307, as last amended by Laws of Utah 2013, Chapter 297
- 15A-3-310, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-314, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-401, as last amended by Laws of Utah 2017, Chapter 14
- 15A-3-501, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-701, as last amended by Laws of Utah 2016, Chapter 249
- 15A-3-801, as last amended by Laws of Utah 2016, Chapter 249
- 15A-4-107, as last amended by Laws of Utah 2017, Chapter 341
- 17-36-55, as last amended by Laws of Utah 2018, Chapter 236

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

Section 1. Section 10-5-132 is amended to read:**10-5-132. Fees collected for construction approval -- Approval of plans.**

(1) As used in this section:

(a) "Construction project" means the same as that term is defined in Section 38-1a-102.

(b) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

- (i) a bed and breakfast establishment;
- (ii) a boarding house;
- (iii) a dormitory;
- (iv) a hotel;
- (v) an inn;
- (vi) a lodging house;
- (vii) a motel;
- (viii) a resort; or

(ix) a rooming house.

(c) “Planning review” means a review to verify that a town has approved the following elements of a construction project:

- (i) zoning;
- (ii) lot sizes;
- (iii) setbacks;
- (iv) easements;
- (v) curb and gutter elevations;
- (vi) grades and slopes;
- (vii) utilities;
- (viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(d) (i) “Plan review” means all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) “Plan review” does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document’s technical nature or on the request of the applicant, is reviewed by a third party.

(e) “State Construction Code” means the same as that term is defined in Section 15A-1-102.

(f) “State Fire Code” means the same as that term is defined in Section 15A-1-102.

([e]) (g) “Structural review” means:

(i) a review that verifies that a construction project complies with the following:

- (A) footing size and bar placement;
- (B) foundation thickness and bar placement;
- (C) beam and header sizes;
- (D) nailing patterns;
- (E) bearing points;
- (F) structural member size and span; and
- (G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(e)(i), a review that a licensed engineer conducts.

([f]) (h) “Technical nature” means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within a reasonable time, the town shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, on the day on which the inspection occurs, the inspector shall give the permit holder written notification of each violation that:

(i) is delivered in hardcopy or by electronic means; and

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code.

(3) (a) A town shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the town.

(b) A town shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the town's consent, establish an alternative plan review time requirement.

(4) (a) A town may not enforce a requirement to have a plan review if:

(i) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection (4)(b) identifies.

Section 2. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(5) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(6) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code; and

(h) a manufactured housing installation standard code.

(8) "Executive director" means the executive director of the Department of Commerce.

~~[(8)]~~ (9) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

~~[(9)]~~ (10) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

~~[(10)]~~ (11) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance and repair; and

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

~~[(11)]~~ (12) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

~~[(12)]~~ (13) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling,

building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 3. Section 15A-1-203 is amended to read:

15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of 11 members as follows:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction and Management of the Department of Administrative Services.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination. An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years from the date of cessation of service.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) (a) The commission shall annually designate one of its members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) offer an opinion regarding the interpretation of or the application of a code if a person submits a request for an opinion;

(c) act as an appeals board as provided in Section 15A-1-207;

(d) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

(e) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

(11) A person requesting an opinion under Subsection (10)(b) shall submit a formal request clearly stating:

(a) the facts in question;

(b) the specific citation at issue in a code; and

(c) the position taken by the persons involved in the facts in question.

(12) (a) In a manner consistent with Subsection (10)(d), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

Section 4. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, ~~[Part 3,]~~ Statewide Amendments [to International Plumbing] Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the ~~[2015]~~ 2018 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;

~~[(e)]~~ (d) the ~~[2015]~~ 2018 edition of the International Plumbing Code, issued by the International Code Council;

~~[(d)]~~ (e) the ~~[2015]~~ 2018 edition of the International Mechanical Code, issued by the International Code Council;

~~[(e)]~~ (f) the ~~[2015]~~ 2018 edition of the International Fuel Gas Code, issued by the International Code Council;

~~[(f)]~~ (g) the 2017 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

~~[(g)]~~ (i) the ~~[2015]~~ commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;

~~[(h)]~~ (j) the ~~[2015]~~ 2018 edition of the International Existing Building Code, issued by the International Code Council;

~~[(i)]~~ (k) subject to Subsection 15A-2-104(2), the HUD Code;

~~[(j)]~~ (l) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council; and

~~[(k)]~~ (m) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

Section 5. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: "110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section ~~[1403.2]~~ 1404.2, and flashing as required by Section ~~[1405.4]~~ 1404.4 to prevent water from entering the weather-resistive barrier."

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

(5) In IBC, Section 202, the following definition is added for Assisted Living Facility: "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

~~[(5)]~~ (6) In IBC, Section 202, the definition for Foster Care Facilities is modified by ~~[changing]~~ deleting the word "Foster" ~~[(t)]~~ and replacing it with the word "Child."

~~[(6)]~~ (7) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."[-]

~~[(7)]~~ (8) In IBC, Section 202, the following definition is added for Residential

Treatment/Support Assisted Living Facility: “RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. [See Section 308.1.2] A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.”

(8) (9) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: “TYPE I ASSISTED LIVING FACILITY. [See Section 308.1.2] A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

(9) (10) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: “TYPE II ASSISTED LIVING FACILITY. [See Section 308.1.2] A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

(10) (11) In IBC, Section 305.2, [the words “child care centers,” are inserted after the word “supervision,” and the following sentence is added at the end of the paragraph: “See Section 425 for special requirements for Day Care.”] the following changes are made:

(a) delete the words “more than five children older than 2 1/2 years of age” and replace with the words “five or more children 2 years of age or older”;

(b) after the word “supervision” insert the words “child care services”; and

(c) add the following sentence at the end of the paragraph: “See Section 429, Day Care, for special requirements for day care.”

(11) (12) In IBC, Section 305.2.2 and 305.2.3, the word “five” is deleted and replaced with the word “four” in [both] all places.

(12) (13) A new IBC Section 305.2.4 is added as follows: “305.2.4 Child [Day Care -- Residential Certificate or a Family License] day care -- residential child care certificate or a license. Areas used for child day care purposes with a [Residential Certificate] residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a [Family License] residential child care license, as [defined] described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in [Section 310.5 or shall] Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2.”

(13) (14) A new IBC Section 305.2.5 is added as follows: “305.2.5 [Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies.”] Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs.”

(14) (15) In IBC, Table 307.1(1), footnote “d” is added to the row for [Consumer fireworks] Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

(15) In IBC, Section 308.2, the word “FOSTER” is deleted and replaced with “CHILD.”

(16) A new IBC Section 308.2.1 is added as follows: “308.2.1 Assisted living facilities and related occupancies. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein. [TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.] [Occupancies. Limited capacity, type I assisted living facilities with two to five residents shall be classified as R-3 occupancies. Small, type I assisted living facilities with six to sixteen residents shall be classified as R-4 occupancies. Large, type I assisted living facilities with over sixteen residents shall be classified as I-1 occupancies.] [TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides an array of coordinated supportive personal and health care services to residents who

meet the definition of semi-independent. ~~[[Semi-Independent. A person who is:]]~~~~A. Physically disabled but able to direct his or her own care; or~~~~]]~~~~B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.]]~~~~Occupancies. Limited capacity, type II assisted living facilities with two to five residents shall be classified as R-4 occupancies. Small, type II assisted living facilities with six to sixteen residents shall be classified as I-1 occupancies. Large, type II assisted living facilities with over sixteen residents shall be classified as I-2 occupancies.]]~~~~RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.]]~~

~~[(17) In IBC, Section 308.3, the words “(see Section 308.2.1)” are added after the words “assisted living facilities.”]~~

~~(16) In IBC, Section 308.2, in the list of items under “This group shall include,” the words “Type-I Large and Type-II Small, see Section 308.2.5” are added after “Assisted living facilities.”~~

~~[(18)] (17) In IBC, Section [308.3.4] 308.2.4, all of the words after the first International Residential Code are deleted.~~

~~[(19) In IBC, Section 308.4, the following changes are made:]~~

~~[(a) The words “five persons” are deleted and replaced with the words “three persons.”]~~

~~[(b) The words “foster care facilities” are deleted and replaced with “child care facilities.”]~~

~~[(c) The words “(both intermediate care facilities and skilled nursing facilities)” are added after “nursing homes.”]~~

~~[(20) In IBC, Section 308.4.2, the word “five” is deleted and replaced with the word “three” in both places.]~~

~~(18) A new IBC, Section 308.2.5 is added as follows:~~

~~“308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:~~

~~Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.~~

~~Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions.”~~

~~(19) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:~~

~~(a) The words “more than five” are deleted and replaced with “four or more”;~~

~~(b) The group “Assisted living facilities, Type-II Large” is added to the list of groups;~~

~~(c) The words “Foster care facilities” are deleted and replaced with the words “Child care facilities”; and~~

~~(d) The words “(both intermediate care facilities and skilled nursing facilities)” are added after “Nursing homes.”~~

~~(20) In IBC, Section 308.3.2, the number “five” is deleted and replaced with the number “four” in each location.~~

~~(21) A new IBC, Section 308.3.3 is added as follows:~~

~~“308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-2, Condition 1 occupancy. See Section 202 for definitions.”~~

~~[(21)] (22) In IBC, Section [308.6] 308.5, the [word “five” is] words “more than five” are deleted and replaced with the [word “four.”] words “five or more.”~~

~~[(22)] (23) In IBC, Section [308.6.1] 308.5.1, the following changes are made:~~

~~(a) [The word “five” is] The words “more than five” are deleted and replaced with the [word “four.”] words “five or more.”~~

~~(b) The words “2-1/2 years or less of age” are deleted and replaced with “under the age of two.”~~

~~(c) The following sentence is added at the end: “See Section [427] 429 for special requirements for Day Care.”~~

~~[(23)] (24) In IBC, Sections [308.6.3] 308.5.3 and [308.6.4] 308.5.4, the [word “five” is] words “five or fewer” are deleted and replaced with the [word “four.”] words “four or fewer” in both places and the following sentence is added at the end: “See Section [427] 429 for special requirements for Day Care.”~~

~~[(24)] (25) In IBC, Section [310.5.] 310.4, the following changes are made:~~

~~(a) [the] The words “and single family dwellings complying with the IRC” are added after “Residential Group-3 occupancies.”~~

~~(b) The words “Assisted Living Facilities, limited capacity” are added to the list of occupancies.~~

~~[(25)] (26) In IBC, Section [310.5.1.] 310.4.1, the following changes are made:~~

~~(a) [the] The words “other than Child Care” are inserted after the [word “dwelling.”] words “Care facilities” in the first sentence [and].~~

~~(b) All of the words after the first “International Residential Code” are deleted.~~

~~(c) [the] The following sentence is added at the end of the last sentence: “See Section [427] 429 for special requirements for Child Day Care.”~~

~~[(26)]~~ (27) A new IBC Section ~~[310.5.3]~~ 310.4.3 is added as follows: "310.5.3] 310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section ~~[427]~~ 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

~~[(27) In IBC, Section 310.6, the words "(see Section 308.2.1)" are added after "assisted living facilities."]~~

(28) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

(29) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

(30) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 6. Section 15A-3-103 is amended to read:

15A-3-103. Amendments to Chapters 4 through 6 of IBC.

(1) IBC Section 403.5.5 is deleted.

(2) In IBC, Section 407.2.5, the words "and assisted living facility" are added in the title and first sentence after the words "nursing home."

(3) In IBC, Section 407.2.6, the words "and assisted living facility" are added in the title after the words "nursing home."

(4) In IBC, Section 407.11, a new exception is added as follows: "Exception: An essential electrical system is not required in assisted living facilities."

~~[(2) In (5) A new IBC, Section [422.2, a new paragraph] 422.2.1 is added as follows: "[422.2] 422.2.1 Separations: Ambulatory care facilities licensed by the [Utah] Department of Health shall be separated from adjacent tenants with a fire partition having a minimum one hour fire-resistance rating. Any level below the level of exit discharge shall be separated from the level of exit discharge by a horizontal assembly having a minimum one hour fire-resistance rating.~~

Exception: A fire barrier is not required to separate the level of exit discharge when:

1. Such levels are under the control of the Ambulatory Care Facility.

2. Any hazardous spaces are separated by horizontal assembly having a minimum one hour fire-resistance rating."

~~[(3)]~~ (6) A new IBC Section ~~[427]~~ 429, Day Care, is added as follows: "[427.1] 429.1 Detailed Requirements. In addition to the occupancy and construction requirements in this code, the additional provisions of this section shall apply to all Day Care in accordance with Utah Administrative Code R710-8 Day Care Rules.

[427.2] 429.2 Definitions.

[427.2.1] 429.2.1 Authority Having Jurisdiction (AHJ): State Fire Marshal, his duly authorized deputies, or the local fire enforcement authority code official.

[427.2.2] 429.2.2 Day Care Facility: Any building or structure occupied by clients of any age who receive custodial care for less than 24 hours by individuals other than parents, guardians, relatives by blood, marriage or adoption.

[427.2.3] 429.2.3 Day Care Center: Providing care for five or more clients in a place other than the home of the person cared for. This would also include Child Care Centers, Out of School Time or Hourly Child Care Centers licensed by the Department of Health.

[427.2.4] 429.2.4 Family Day Care: Providing care for clients listed in the following two groups:

[427.2.4.1] 429.2.4.1 Type 1: Services provided for five to eight clients in a home. This would also include a home that is certified by the Department of Health as Residential Certificate Child Care or licensed as Family Child Care.

[427.2.4.2] 429.2.4.2 Type 2: Services provided for nine to sixteen clients in a home with sufficient staffing. This would also include a home that is licensed by the Department of Health as Family Child Care.

[427.2.5] 429.2.5 R710-8: Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

[427.3] 429.3 Family Day Care.

[427.3.1] 429.3.1 Family Day Care units shall have on each floor occupied by clients, two separate means of egress, arranged so that if one is blocked the other will be available.

[427.3.2] 429.3.2 Family Day Care units that are located in the basement or on the second story shall be provided with two means of egress, one of which shall discharge directly to the outside.

[427.3.2.1] 429.3.2.1 Residential Certificate Child Care and Licensed Family Child Care with five to eight clients in a home, located on the ground level or in a basement, may use an emergency escape or rescue window as allowed in IFC, Chapter 10, Section 1030.

[427.3.3] 429.3.3 Family Day Care units shall not be located above the second story.

[427.3.4] 429.3.4 In Family Day Care units, clients under the age of two shall not be located above or below the first story.

[427.3.4.1] 429.3.4.1 Clients under the age of two may be housed above or below the first story where there is at least one exit that leads directly to the outside and complies with IFC, Section 1011 or Section 1012 or Section 1027.

[427.3.5] 429.3.5 Family Day Care units located in split entry/split level type homes in which stairs to the lower level and upper level are equal or nearly equal, may have clients housed on both levels when approved by the AHJ.

[427.3.6] 429.3.6 Family Day Care units shall have a portable fire extinguisher on each level occupied by clients, which shall have a classification of not less than 2A:10BC, and shall be serviced in accordance with NFPA, Standard 10, Standard for Portable Fire Extinguishers.

[427.3.7] 429.3.7 Family Day Care units shall have single station smoke detectors in good operating condition on each level occupied by clients. Battery operated smoke detectors shall be permitted if the facility demonstrates testing, maintenance, and battery replacement to insure continued operation of the smoke detectors.

[427.3.8] 429.3.8 Rooms in Family Day Care units that are provided for clients to sleep or nap, shall have at least one window or door approved for emergency escape.

[427.3.9] 429.3.9 Fire drills shall be conducted in Family Day Care units quarterly and shall include the complete evacuation from the building of all clients and staff. At least annually, in Type I Family Day Care units, the fire drill shall include the actual evacuation using the escape or rescue window, if one is used as a substitute for one of the required means of egress.

[427.4] 429.4 Day Care Centers.

[427.4.1] 429.4.1 Day Care Centers shall comply with either I-4 requirements or E requirements of the IBC, whichever is applicable for the type of Day Care Center.

[427.4.2] 429.4.2 Emergency Evacuation Drills shall be completed as required in IFC, Chapter 4, Section 405.

[427.4.3] 429.4.3 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

[427.4.3.1] 429.4.3.1 Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

[427.4.4] 429.4.4 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1030.

[427.4.5] 429.4.5 All Group E Child Day Care Centers shall comply with Utah Administrative Code, R430-100 Child Care Centers, R430-60 Hourly Child Care Centers, and R430-70 Out of School Time.

[427.5] 429.5 Requirements for all Day Care.

[427.5.1] 429.5.1 Heating equipment in spaces occupied by children shall be provided with partitions, screens, or other means to protect children from hot surfaces and open flames.]

427.5.2] 429.5.2 A fire escape plan shall be completed and posted in a conspicuous place. All staff shall be trained on the fire escape plan and procedure.”

[4] (7) In IBC, Section 504.4, a new section is added as follows: “504.4.1 Notwithstanding the exceptions to Section 504.2, Group I-2 Assisted Living Facilities shall be allowed on each level of a two-story building of Type V-A construction when all of the following apply:

1. All secured units are located at the level of exit discharge in compliance with Section 1010.1.9.3 as amended;
2. The total combined area of both stories shall not exceed the total allowable area for a one-story building; and
3. All other provisions that apply in Section 407 have been provided.”

(8) In IBC, Section 504.4, a new section is added as follows: “504.4.2 Group I-2 Assisted Living Facilities. Notwithstanding the allowable number of stories permitted by Table 504.4 Group I-2 Assisted Living Facilities of type VA, construction shall be allowed on each level of a two-story building when all of the following apply:

1. The total combined area of both stories does not exceed the total allowable area for a one-story, above grade plane building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1.
2. All other provisions that apply in Section 407 have been provided.

(9) A new IBC, Section 504.5, is added as follows: “504.5 Group 1-2 Secured areas in Assisted Living Facilities. In Type IIIB, IV, and V construction, all

areas for the use and care of residents required to be secured shall be located on the level of exit discharge with door operations in compliance with Section 1010.1.9.7, as amended.”

Section 7. Section 15A-3-104 is amended to read:

15A-3-104. Amendments to Chapters 7 through 9 of IBC.

(1) In IBC, Section 704.13.2, the following sentence is added to the end of the section: “An individual spraying fire-resistant materials may obtain a certificate that demonstrates that the individual has undergone training on how to spray fire-resistant materials to manufacturer’s specifications.”

(2) IBC, Section (F)~~[901.8]~~ 902.1, is deleted and replaced with the following: “(F)~~[901.8]~~ 902.1 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

~~[901.8.1]~~ 902.1.5 A minimum clear and unobstructed distance of 12-inches shall be provided from the installed equipment to the elements of permanent construction.

~~[901.8.2]~~ 902.1.6 A minimum clear and unobstructed distance of 12-inches shall be provided between all other installed equipment and appliances.

~~[901.8.3]~~ 902.1.7 A clear and unobstructed width of 36-inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

~~[901.8.4]~~ 902.1.8 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36-inches, and openings into the room shall be clear and unobstructed, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 34-inches and a clear height of the door opening shall not be less than 80-inches.

~~[901.8.5]~~ 902.1.9 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72-inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68-inches and a clear height of the door opening shall not be less than 80-inches.”

(3) In IBC, Section (F)903.2.2, the words “the entire floor” are deleted and replaced with “a building” and the last paragraph is deleted.

(4) IBC, Section (F)903.2.4, condition 2, is deleted and replaced with the following: “2. A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(5) IBC, Section (F)903.2.7, condition 2, is deleted and replaced with the following: “2. A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(6) IBC, Sections (F)903.2.8, (F)903.2.8.1, and (F)903.2.8.2, [~~and (F)903.2.8.4,~~] are deleted and replaced with the following: “(F)903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.”

(7) IBC, [~~Sections~~] Section (F)903.2.8.3 [~~and (F)903.2.8.3.1, are~~] is renumbered to (F)903.2.8.1 [~~and (F)903.2.8.1.1.~~] and the following exception is added:

~~[(8) IBC, Section (F)903.2.8.3.2, is renumbered to (F)903.2.8.1.2 and the following exception is added:]~~

“Exception: Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

~~[(9)]~~ (8) IBC, Section (F)903.2.8.4, is deleted.

~~[(10)]~~ (9) IBC, Section (F)903.2.9, condition 2, is deleted and replaced with the following: “2. A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

~~[(11)]~~ (10) IBC, Section (F)904.12, is deleted and replaced with the following: “(F)904.12 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer’s installation instructions.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled, and installed in accordance with Section 304.1 of the International Mechanical Code.”

~~[(42)] (11) IBC, Sections (F)904.12.3, (F)904.12.3.1, (F)904.12.4, and (F)904.12.4.1, are deleted.~~

~~[(43)] (12) In IBC, Section 905, a new subsection, Section (F)905.3.9, is added as follows:~~

~~“Open Parking Garages. Open parking garages shall be equipped with an approved Class 1 manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class 1 manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.”~~

~~[(44)] (13) In IBC, Section (F)905.8, the exception is deleted and replaced with the following:~~

~~“Exception: Where subject to freezing and approved by the fire code official.”~~

~~[(45)] (14) In IBC, Section (F)907.2.3 Group E[, the first sentence] is deleted and rewritten as follows: “A manual fire alarm system that [activates] initiates the occupant notification signal using an emergency voice/alarm communication system [in accordance with] that meets the requirements of Section (F)907.5.2.2, or a manual fire alarm system that initiates an approved audible and visual occupant notification signal that meets the requirements of Sections (F)907.5.2.1, (F)907.5.2.1.1, (F)907.5.2.2, and (F)907.5.2.3, and is installed[,] in accordance with Section (F)907.6 [and administrative rules made by the State Fire Prevention Board in Group E occupancies.”] shall be installed in Group E occupancies. Where automatic sprinkler systems or detectors are installed, the systems or detectors shall be connected to the building fire alarm system.”~~

~~[(46)] (15) IBC, Sections (F)915 through (F)915.6, are deleted and replaced with the following:~~

~~“(F)915 Where required.~~

~~Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer’s instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.~~

~~(F)915.1 Interconnection.~~

~~Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4, or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the~~

alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

(F)915.2 Power source.

In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with a battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions.

1. Carbon monoxide alarms are not required to be equipped with a battery backup where they are connected to an emergency electrical system.

2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available that could provide access for hard wiring without the removal of interior finishes.

(F)915.3 Group E.

A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with IFC, Chapter 9, Section 915. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.

(F)915.3.1 Where required.

In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.

(F)915.3.2 Detection equipment.

Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer’s instructions and be listed as complying with, for single station detectors, UL 2034 and, for system detectors, UL 2075.

(F)915.3.3 Locations.

Each carbon monoxide detection system shall be installed in the locations specified in NFPA 720.

(F)915.3.4 Combination detectors.

A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.

(F)915.3.5 Power source.

Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection.

(F)915.3.6 Maintenance.

Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end of life signals shall be replaced."

Section 8. Section 15A-3-105 is amended to read:**15A-3-105. Amendments to Chapters 10 through 12 of IBC.**

(1) In IBC, Section 1010.1.9, an exception is added as follows: "Exception: Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."

(2) In IBC, Section 1010.1.9.2, "Exception:" is deleted and replaced with "Exceptions: 1."

(3) In IBC, Section 1010.1.9.2, a new exception 2 is added as follows: "2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section 1010.1.9.5 Exception 5."

(4) In IBC, Section ~~[1010.1.9.3]~~ 1010.1.9.4, a new number [6] 7 is added as follows: "[6] 7. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."

(5) In IBC, Section ~~[1010.1.9.4]~~ 1010.1.9.5, a new exception 6 is added as follows: "6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section 1010.1.9.5 Exception 5."

(6) In IBC, Section ~~[1010.1.9.5]~~ 1010.1.9.6, a new exception 5 is added as follows: "5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:

5.1 The application of the lock is approved by the code official.

5.2 The unlatching of any door or leaf does not require more than two operations.

5.3 The lock can be released from the opposite side of the door on which it is installed.

5.4 The lock is only applied during lockdown or during a lockdown drill.

5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq."

(7) In IBC, Section ~~[1010.1.9.6]~~ 1010.1.9.7, a new number 9 is added as follows: "9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type IIIB, IV, and V construction."

(8) In IBC, Section 1011.5.2, exception 3 is deleted and replaced with the following: "3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

(9) In IBC, Section 1011.11, a new exception 5 is added as follows: "5. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers."

(10) In IBC, Section 1013.5, the words "including when the building may not be fully occupied" are added at the end of the sentence.

(11) IBC, Section 1025, is deleted.

(12) In IBC, Section ~~[1029.14]~~ 1029.15, exception 2 is deleted.

~~[(13) In IBC, Section 1109.8, the following words "shall be capable of operation without a key and" are inserted in the second sentence between the words "lift" and "shall".]~~

~~[(14)]~~ (13) In IBC, Section ~~[1208.4]~~ 1207.4, subparagraph 1 is deleted and replaced with the following: "1. The unit shall have a living room of not less than 165 square feet (15.3 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two."

Section 9. Section 15A-3-107 is amended to read:**15A-3-107. Amendments to Chapter 16 of IBC.**

(1) In IBC, Table 1604.5, Risk Category III, in the sentence that begins "Group I-2 Condition 1," a new footnote c is added as follows: "c. Type II Assisted Living Facilities that are I-2 Condition 1 occupancy classifications in accordance with Section 308 shall be Risk Category II in this table."

(2) In IBC, Section 1605.2, in the portion of the definition for the value of f_2 , the words "and 0.2 for other roof configurations" are deleted and replaced with the following: " $f_2 = 0.20 + .025(A-5)$ for other configurations where roof snow load exceeds 30 psf;

$f_2 = 0$ for roof snow loads of 30 psf (1.44kN/m²) or less.

Where A = Elevation above sea level at the location of the structure (ft./1,000).”

(3) In IBC, Sections 1605.3.1 and 1605.3.2, exception 2 in each section is deleted and replaced with the following: “2. Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44 kNm²), the snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. [Ws] S as calculated below, shall be combined with seismic loads.

[Ws] $S = (0.20 + 0.025(A-5))P_f$ is greater than or equal to 0.20 P_f .

Where:

[Ws] S = Weight of snow to be [included] used in combination with seismic [calculations] loads

A = Elevation above sea level at the location of the structure (ft./1,000)

P_f = Design roof snow load, psf.

For the purpose of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_f may be considered 1.0 for use in the formula for W_s ”.

(4) IBC, Section 1608.1, is deleted and replaced with the following: “1608.1 General. Except as modified in Sections 1608.1.1, 1608.1.2, and 1608.1.3, design snow loads shall be determined in accordance with Chapter 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607. Where the minimum live load, in accordance with Section 1607, is greater than the design roof snow load, p_f , the live load shall be used for design, but it may not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads, p_f , less than 20 psf.”

(5) A new IBC, Section 1608.1.1, is added as follows: “1608.1.1 Ice dams and icicles along eaves. Section 7.4.5 of Chapter 7 of ASCE 7 referenced in IBC Section 1608.1 [of the IBC] is deleted and replaced with the following: [Section] 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of $2p_f$ on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice.”

[6] In IBC, Section 1608.1.2, a new section is added as follows: “1608.1.2 Utah Snow Loads. The snow loads specified in Table 1608.1.2(b) shall be used for the jurisdictions identified in that table. Otherwise, the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A - A_o)^2)^{0.5}$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .”

[WHERE:]

[P_g = Ground snow load at a given elevation (psf);]

[P_o = Base ground snow load (psf) from Table No. 1608.1.2(a);]

[S = Change in ground snow load with elevation (psf/100 ft.) From Table No. 1608.1.2(a);][A = Elevation above sea level at the site (ft./1,000);]

[A_o = Base ground snow elevation from Table 1608.1.2(a) (ft./1,000).]

[The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.]

[Where the minimum roof live load in accordance with Section 1607.12 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.”]

(6) A new IBC, Section 1608.1.2, is added as follows: “1608.1.2 Thermal factor. The value for the thermal factor, C_t , used in calculation of p_f shall be determined from Table 7.3-2 in ASCE 7. Exception: Except for unheated structures, the value of C_t need not exceed 1.0 when ground snow load, p_g , is calculated using Section 1608.2.1.”

[7] IBC, Table 1608.1.2(a) and Table 1608.1.2(b), are added as follows:]

["TABLE NO. 1608.1.2(a)
STATE OF UTAH - REGIONAL
SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

TABLE NO. 1608.1.2(B)
 REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	--
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	--	--	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	86	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	--
Wasatch	Heber ⁵	--	--	--
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	--
Wayne	Loa ³	7080	43	30

¹The IBC requires a minimum live load – See 1607.11.2.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e = 1.0$, $C_t = 1.0$ and $I_s = 1.0$ "]

(48) A new IBC, Section 1608.1.3, is added as follows: “1608.1.3 Thermal Factor. The value for the thermal factor, Ct, used in calculation of Pf shall be determined from Table 7.3 in ASCE 7. [Exception: Except for unheated structures, the value of Ct need not exceed 1.0 when ground snow load, Pg, is calculated using Section 1608.1.2 as amended.]”

(49) IBC, Section 1608.2, is deleted and replaced with the following: “1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.”]

(7) A new IBC, Section 1608.1.3 is added as follows: “1608.1.3 Drifts on adjacent structures. Section 7.7.2 of ASCE 7 referenced in IBC, Section 1608.1, is deleted and replaced with the following: 7.7.2 Adjacent structures. At lower adjacent structures, the requirements of Section 7.7.1 shall be used to calculate windward and leeward drifts. The resulting drift is permitted to be truncated.”

(8) A new IBC, Section 1608.2.1 is added as follows: “1608.2.1 Utah ground snow loads. Section 7.2 of ASCE 7 referenced in IBC, Section 1608.1 is modified as follows:

(a) In paragraph 1, 7.2-8 is deleted and replaced with 7.2-9.

(b) On Figure 7.2-1, remove CS and other ground snow load values in the state of Utah. Add red shaded region for the state of Utah with the following note: See note for Utah.

(c) The following is added to the Note on Figure 7.2.1: See Table 7.2-9 for Utah.

(d) Add Table 7-2.9 as follows:

TABLE 7.2-9
GROUND SNOW LOADS FOR SELECTED
LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb/ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531

Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft2 to kN/m2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), “The Utah Snow Load Study,” Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utahsnowload.usu.edu/>, for ground snow load values.

(49) (9) A new IBC, Section 1613.1.1, is added as follows: “1613.1.1 Effective Seismic Weight. In ASCE 12.7.2 and 12.14.8.1 [of Chapter 12 of ASCE 7] as referenced in Section 1613.1, Definition of W, Item 4 is deleted and replaced with the following:

4. Where [the] flat roof snow load, Pr, exceeds 30 psf, the snow load included in the effective seismic [design] weight shall be calculated, in accordance with the following [formula] equation: $W_s = (0.20 + 0.025(A-5))Pr$ [is greater than or equal to] $\geq 0.20 Pr$.

WHERE:

W_s = Weight of snow to be included [in seismic calculations] as effective seismic weight

A = Elevation above sea level at the location of the structure (ft./1,000)

P_f = Design roof snow load, psf.

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_f may be considered 1.0 for use in the formula for W_s .”

(11) A new IBC, Section 1613.7, is added as follows: “1613.7 ASCE 7, Section 13.5.6.2.2 paragraph (e) is modified to read as follows: (e) Penetrations shall have a sleeve or adapter through the ceiling tile to allow for free movement of at least 1-inch (25 mm) in all horizontal directions.]

[Exceptions:]

[1. Where rigid braces are used to limit lateral deflections.]

[2. At fire sprinkler heads in frangible surfaces per NFPA 13.”]

Section 10. Section 15A-3-110 is amended to read:

15A-3-110. Amendments to Chapters 23 through 25 of IBC.

(1) A new IBC, Section 2306.1.5, is added as follows: “2306.1.5 Load duration factors. The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Frequently Used Load Duration Factors, Cd, of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1,524 M).”

~~[(2) In IBC, Section 2308.3.1, a new exception, 3, is added as follows: “3. Where foundation plates or sills are bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors, embedded at least 7 inches (178 mm) into concrete or masonry and spaced not more than 32 inches (816 mm) apart, there shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate.”]~~

~~[(3) IBC, Section 2506.2.1, is deleted and replaced with the following: “2506.2.1 Other materials. Metal suspension systems for acoustical and lay-in panel ceilings shall conform with ASTM C635 listed in Chapter 35 and Section 13.5.6 of ASCE 7, as amended in Section 1613.5, for installation in high seismic areas.”]~~

(2) In IBC, Section 2308.3.1, the words “6 feet (1829 mm)” and “4 feet (1219 mm)” are deleted and each replaced with the words “32 inches.”

Section 11. Section 15A-3-112 is amended to read:

15A-3-112. Amendments to Chapters 29 through 31 of IBC.

(1) In IBC [P] Table 2902.1 the following changes are made:

~~[(a) The title for [P] Table 2902.1 is deleted and replaced with the following: “[P] Table 2902.1, Minimum Number of Required Plumbing Facilities a, h.”]~~

~~[(b) (a) In the row for “E” occupancy in the field for “OTHER” a new footnote i is added.~~

~~[(e) (b) In the row for “I-4” occupancy in the field for “OTHER” a new footnote i is added.~~

~~[(d) (c) A new footnote h is added as follows: “FOOTNOTE: [h] g. When provided, subject to footnote [j] i, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.”]~~

~~[(e) (d) A new footnote [i] h is added to the table as follows: “FOOTNOTE [i] h: Non-residential child care facilities shall comply with additional sink requirements of Utah Administrative Code [R430-100-4], R381-60-9, Hourly Child Care Centers, R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers.”]~~

~~[(f) (e) A new footnote [j] i is added to the table as follows: “FOOTNOTE [j] i: A building owned by a~~

state government entity or by a political subdivision of the state that allows access to the public shall provide diaper changing facilities in accordance with footnote h if:

1. the building is newly constructed; or
2. a bathroom in the building is renovated.”

~~(f) Footnote f is deleted and replaced with the following: “FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302, Design, Construction and Operation of Public Pools.”]~~

(2) A new IBC, Section [P]2902.7, is added as follows: “[P]2902.7 Toilet Facilities for Workers.

Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI Z4.3.”

(3) In IBC, Section 3006.5, a new exception is added as follows: “Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.”

Section 12. Section 15A-3-113 is amended to read:

15A-3-113. Amendments to Chapters 32 through 35 of IBC.

~~[(4) In IBC, Chapter 35, the referenced standard ICCA117.1-09, Section 606.2, Exception 1 is modified to include the following sentence at the end of the exception:~~

~~“The minimum clear floor space shall be centered on the sink assembly.”]~~

~~[(2) The following referenced standard is added under UL in IBC, Chapter 35:]~~

[“Number	Title	Referenced in
[2034-2008]	[Standard of Single and Multiple-station Carbon Monoxide Alarms]	code section number] [907.9”]

Section 13. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: “R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements.”

(2) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: “R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made

of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier.”

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(3) IRC, Section R114.1, is deleted and replaced with the following: “R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner’s agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume.”

(4) In IRC, Section R202, the following definition is added: “CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4).”

~~[(5) In IRC, Section R202, the definition for “CONDITIONED SPACE” is modified by deleting the words at the end of the sentence “being heated or cooled by any equipment or appliance” and replacing them with the following: “enclosed within the building thermal envelope that is directly heated or cooled, or indirectly heated or cooled by any of the following means:]~~

~~[1. Openings directly into an adjacent conditioned space.]~~

~~[2. An un-insulated floor, ceiling or wall adjacent to a conditioned space.]~~

~~[3. Un-insulated duct, piping or other heat or cooling source within the space.”]~~

~~[(6) (5) In IRC, Section R202, the definition of “Cross Connection” is deleted and replaced with the following: “CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow, Water Distribution”).”~~

~~[(7) (6) In IRC, Section 202, in the definition for gray water a comma is inserted after the word~~

“washers”; the word “and” is deleted; and the following is added to the end: “and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility.”

~~[(8) (7) In IRC, Section R202, the definition of “Potable Water” is deleted and replaced with the following: “POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”~~

~~[(9) (8) IRC, Figure R301.2(5), is deleted and replaced with [Table R301.2(5a) and Table R301.2(5b)] R301.2(5) as follows:~~

~~["TABLE NO. R301.2(5a)
STATE OF UTAH - REGIONAL
SNOW LOAD FACTORS~~

COUNTY	P _o	S	A _o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

[“TABLE NO. R301.2(5b)

REQUIRED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS^{1,2}

The following jurisdictions require design snow load values that differ from the Equation in the Utah Snow Load Study.

County	City	Elevation	Ground Snow Load (psf)	Roof Snow Load (psf) ⁶
Carbon	Price ³	5550	43	30
	All other county locations ⁵	--	--	--
Davis	Fruit Heights ³	4500 - 4850	57	40
Emery	Green River ³	4070	36	25
Garfield	Panguitch ³	6600	43	30
Rich	Woodruff ³	6315	57	40
	Laketown ⁴	6000	57	40
	Garden City ⁵	--	--	--
	Randolph ⁴	6300	57	40
San Juan	Monticello ³	6820	50	35
Summit	Coalville ³	5600	86	60
	Kamas ⁴	6500	114	80
Tooele	Tooele ³	5100	43	30
Utah	Orem ³	4650	43	30
	Pleasant Grove ⁴	5000	43	30
	Provo ⁵	--	--	--
Wasatch	Heber ⁵	--	--	--
Washington	Leeds ³	3460	29	20
	Santa Clara ³	2850	21	15
	St. George ³	2750	21	15
	All other county locations ⁵	--	--	--
Wayne	Loa ³	7080	43	30

¹The IRC requires a minimum live load – See R301.6.

²This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation. Otherwise, contact the local Building Official.

³Values adopted from Table VII of the Utah Snow Load Study.

⁴Values based on site-specific study. Contact local Building Official for additional information.

⁵Contact local Building Official.

⁶Based on $C_e=1.0$, $C_t=1.0$ and $I_s=1.0$ ”]

“TABLE NO. R301.2(5)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

<u>City/Town</u>	<u>County</u>	<u>Ground Snow Load (lb.ft²)</u>	<u>Elevation (ft)</u>
<u>Beaver</u>	<u>Beaver</u>	<u>35</u>	<u>5886</u>
<u>Brigham City</u>	<u>Box Elder</u>	<u>42</u>	<u>4423</u>
<u>Castle Dale</u>	<u>Emery</u>	<u>32</u>	<u>5669</u>
<u>Coalville</u>	<u>Summit</u>	<u>57</u>	<u>5581</u>
<u>Duchesne</u>	<u>Duchesne</u>	<u>39</u>	<u>5508</u>
<u>Farmington</u>	<u>Davis</u>	<u>35</u>	<u>4318</u>
<u>Fillmore</u>	<u>Millard</u>	<u>30</u>	<u>5138</u>
<u>Heber City</u>	<u>Wasatch</u>	<u>60</u>	<u>5604</u>
<u>Junction</u>	<u>Piute</u>	<u>27</u>	<u>6030</u>
<u>Kanab</u>	<u>Kane</u>	<u>25</u>	<u>4964</u>
<u>Loa</u>	<u>Wayne</u>	<u>37</u>	<u>7060</u>
<u>Logan</u>	<u>Cache</u>	<u>43</u>	<u>4531</u>
<u>Manila</u>	<u>Daggett</u>	<u>26</u>	<u>6368</u>
<u>Manti</u>	<u>Sanpete</u>	<u>37</u>	<u>5620</u>
<u>Moab</u>	<u>Grand</u>	<u>21</u>	<u>4029</u>
<u>Monticello</u>	<u>San Juan</u>	<u>67</u>	<u>7064</u>
<u>Morgan</u>	<u>Morgan</u>	<u>52</u>	<u>5062</u>
<u>Nephi</u>	<u>Juab</u>	<u>39</u>	<u>5131</u>
<u>Ogden</u>	<u>Weber</u>	<u>37</u>	<u>4334</u>
<u>Panguitch</u>	<u>Garfield</u>	<u>41</u>	<u>6630</u>
<u>Parowan</u>	<u>Iron</u>	<u>32</u>	<u>6007</u>
<u>Price</u>	<u>Carbon</u>	<u>31</u>	<u>5558</u>
<u>Provo</u>	<u>Utah</u>	<u>31</u>	<u>4541</u>
<u>Randolph</u>	<u>Rich</u>	<u>50</u>	<u>6286</u>
<u>Richfield</u>	<u>Sevier</u>	<u>27</u>	<u>5338</u>
<u>St. George</u>	<u>Washington</u>	<u>21</u>	<u>2585</u>
<u>Salt Lake City</u>	<u>Salt Lake</u>	<u>28</u>	<u>4239</u>
<u>Tooele</u>	<u>Tooele</u>	<u>35</u>	<u>5029</u>
<u>Vernal</u>	<u>Uintah</u>	<u>39</u>	<u>5384</u>

Note: To convert lb/ft² to kN/m², multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), “The Utah Snow Load Study,” Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utah-snowload.usu.edu/>, for ground snow load values.

[40] (9) IRC, Section R301.6, is deleted and replaced with the following: “R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, ~~the ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o + S^2(A - A_o)^2)^{0.5}$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o ,~~ for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), “The Utah Snow Load Study,” Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, <http://utahsnowload.usu.edu/>, for ground snow load values.

[WHERE:]

[P_g = Ground snow load at a given elevation (psf);]

[P_o = Base ground snow load (psf) from Table No. R301.2(5a);]

[S = Change in ground snow load with elevation (psf/100 ft.) From Table No. R301.2(5a);]

[A = Elevation above sea level at the site (ft./1,000);][A_o = Base ground snow elevation from Table R301.2(5a) (ft./1,000).]

[The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments.]

[Where the minimum roof live load in accordance with Table R301.6 is greater than the design roof snow load, such roof live load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.]

(10) In IRC, Section R302.2, the following sentence is added after the second sentence: “When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade.”

(11) In IRC, Section R302.5.1, the words “self-closing device” are deleted and replaced with “self-latching hardware[?]”.

(12) IRC, Section R302.13, is deleted.

(13) In IRC, Section R303.4, the number “5” is changed to “3” in the first sentence.

(14) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: “R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread’s leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.”

(15) IRC, Section R312.2, is deleted.

(16) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: “R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D.”

(17) In IRC, Section 315.3, the following words are added to the first sentence after the word “installed”: “on each level of the dwelling unit and[?]”.

(18) In IRC, Section R315.5, a new exception, 3, is added as follows:

“3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes.”

(19) A new IRC, Section R315.7, is added as follows: “R315.7 Interconnection. Where more than

one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.”

(20) In IRC, Section R403.1.6, a new Exception 3 is added as follows: “3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(21) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: “Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls.”

(22) In IRC, Section R404.1, a new exception is added as follows: “Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules.”

(23) In IRC, Section R405.1, a new exception is added as follows: “Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system.”

Section 14. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) In IRC, Section N1101.5 (R103.2), all words after the words “herein governed.” are deleted and replaced with the following: “Construction documents include all documentation required to be submitted in order to issue a building permit.”

(2) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

(3) In IRC, Section N1101.13 (R401.2), add Exception as follows:

“Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, “3 percent better than code”;

(b) on or after January 1, 2019, and before January 1, 2021, “4 percent better than code”; and

(c) after January 1, 2021, “5 percent better than code.””[.]

(4) In IRC, Table N1102.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote j is added as follows:

“j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met.”

(5) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word “and” is deleted and replaced with the word “or[.]”

(6) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: “Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections.”

(7) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the first sentence:

(i) “The building or dwelling unit” is deleted and replaced with “A single-family dwelling”;

[~~(4)~~] (ii) [~~on or~~] after January 1, 2019, [~~and before January 1, 2021,~~] replace the word “five” with “3.5”; and

[~~(ii) after January 1, 2021, replace the word “five” with “three.”]~~

[~~(b) In the first sentence,~~]

(iii) the words “in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8” are deleted.

(b) The following sentence is inserted after the first sentence: “A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour.”

(c) In the third sentence, the word “third” is deleted.

(d) The following sentence is inserted after the third sentence: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training.”

(8) In IRC, Section N1103.3.3 (R403.3.3):

(a) the exception for duct air leakage testing is deleted; and

(b) the exception for duct air leakage is replaced:

(i) on or after January 1, 2017, and before January 1, 2019, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.”;

(ii) on or after January 1, 2019, and before January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope.”; and

(iii) on or after January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope.”

(9) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the exception: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training.”

(10) In IRC, Section N1103.3.4 (R403.3.4):

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

(11) In IRC, Section N1103.3.5 (R403.3.5), the words “or plenums” are deleted.

(12) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

(13) IRC, Section N1103.6.1 (R403.6.1), is deleted and replaced with the following: “N1103.6.1 (R403.6.1) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.1 (R403.6.1).”

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the

air handler shall be powered by an electronically commutated motor.”

(14) In IRC, Section N1103.6.1 (R403.6.1), the table is deleted and replaced with the following:

TABLE N1103.6.1 (R403.6.1)

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE	MINIMUM EFFICACY	AIR FLOW RATE
	(CFM)	(CFM/WATT)	MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any

(15) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:

TABLE N1106.4 (R406.4)

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68

(16) In IRC, Section M1307.2, the words “In Seismic Design Categories D0, D1, and D2, and in townhouses in Seismic Design Category C”, are deleted, and in Subparagraph 1, the last sentence is deleted.

(17) IRC, Section M1411.8, is deleted.

Section 15. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

(1) A new IRC, Section P2602.3, is added as follows: “P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction.”

(2) A new IRC, Section P2602.4, is added as follows: “P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality.”

(3) In IRC, Section P2705, Item 5, the words “lavatory” and “lavatories” are deleted.

(4) In IRC, Section P2705, a new Item 6 is added as follows: “6. Lavatories. A lavatory shall not be set closer than 12 inches from its center to any side wall or partition. A lavatory shall be provided with a clearance of 24 inches in width and 21 inches in depth in front of the lavatory to any side wall, partition, or obstruction.” Remaining item numbers are renumbered accordingly.

{(3)} (5) In IRC, Section P2801.8, all words in the first sentence up to the word “water” are deleted.

{(4)} (6) A new IRC, Section P2902.1.1, is added as follows: “P2902.1.1 Backflow assembly testing. The premise owner or the premise owner’s designee shall have backflow prevention assemblies operation tested in accordance with administrative rules made by the Drinking Water Board at the time of installation, repair, and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly. Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third-party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and rules made by the Drinking Water Board.”

{(5)} (7) In IRC, Section P2902.1, the following subsections are added as follows:

“P2902.1.1 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

P2902.1.2 Specific Installation Criteria.

P2902.1.2.1 Reduced Pressure Principle Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

- a. The assembly may not be installed in a pit.
- b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.
- c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.

e. The assembly shall be installed in a vertical position.”

(8) In IRC, Section 2903.5, at the beginning of the second sentence, insert “If installed.”

{(6)} (9) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: “Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers.”

{(7)} (10) IRC, Section P2910.5, is deleted and replaced with the following:

“P2910.5 Potable water connections.

When a potable water system is connected to a nonpotable water system, the potable water system

shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 2901.”

[~~(8)~~] (11) IRC, Section P2910.9.5, is deleted and replaced with the following:

“P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902.”

[~~(9)~~] (12) In IRC, Section P2911.12.4, the following words are deleted: “and backwater valves[?]”.

[~~(10)~~] (13) In IRC, Section P2912.15.6, the following words are deleted: “and backwater valves[?]”.

[~~(11)~~] (14) In IRC, Section P2913.4.2, the following words are deleted: “and backwater valves[?]”.

[~~(12)~~] (15) IRC, Section P3009, is deleted and replaced with the following:

“P3009 Connected to nonpotable water from on-site water reuse systems.

Nonpotable systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of R317-401, UAC, [~~Gray Water~~] Graywater Systems.”

[~~(13)~~] (16) In IRC, Section P3103.6, the following sentence is added at the end of the paragraph: “Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.”

[~~(14)~~] (17) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: “Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.”

Section 16. Section 15A-3-302 is amended to read:

15A-3-302. Amendments to Chapters 1 and 2 of IPC.

[~~(1)~~] A new IPC, Section 101.2.1, is added as follows: “For clarification, the International Private Sewage Disposal Code is not part of the plumbing code even though it is in the same printed volume.”

[~~(2)~~] (1) In IPC, Section 202, the definition for “Backflow Backpressure, Low Head” is deleted.

[~~(3)~~] (2) In IPC, Section 202, the following definition is added: “Certified Backflow Preventer Assembly Tester. A person who has shown

competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4).”

[~~(4)~~] (3) In IPC, Section 202, the following definition is added: “Contamination (High Hazard). An impairment of the quality of the potable water that creates an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids or waste.”

[~~(5)~~] (4) In IPC, Section 202, the definition for “Cross Connection” is deleted and replaced with the following: “Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see “Backflow”).”

[~~(6)~~] (5) In IPC, Section 202, the following definition is added: “Deep Seal Trap. A manufactured or field fabricated trap with a liquid seal of 4” or larger.”

[~~(7)~~] (6) In IPC, Section 202, the definition for “Essentially Nontoxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY NONTOXIC TRANSFER FLUID. Fluids having a Gosselin rating of 1, including propylene glycol; and mineral oil.”

[~~(8)~~] (7) In IPC, Section 202, the definition for “Essentially Toxic Transfer Fluid” is deleted and replaced with the following:

“ESSENTIALLY TOXIC TRANSFER FLUID. Soil, waste, or gray water; and any fluid that is not an essentially nontoxic transfer fluid under this code.”

[~~(9)~~] (8) In IPC, Section 202, the following definition is added: “High Hazard. See Contamination.”

[~~(10)~~] (9) In IPC, Section 202, the following definition is added: “Low Hazard. See Pollution.”

[~~(11)~~] (10) In IPC, Section 202, the following definition is added: “Motor Vehicle Waste Disposal Well. An injection well that discharges to the subsurface by way of a floor drain, septic system, French drain, dry well, or similar system that receives or has received fluid from a facility engaged in vehicular repair or maintenance activities, including an auto body repair shop, automotive repair shop, new and used car dealership, speciality repair shop, or any other facility that does any vehicular repair work. A motor vehicle waste disposal well is subject to rulemaking under Section 19-5-104 regarding underground injection.”

[~~(12)~~] (11) In IPC, Section 202, the following definition is added: “Pollution (Low Hazard). An impairment of the quality of the potable water to a degree that does not create a hazard to the public health but that does adversely and unreasonably

affect the aesthetic qualities of such potable water for domestic use.”

[413] (12) In IPC, Section 202, the definition for “Potable Water” is deleted and replaced with the following: “Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction.”

Section 17. Section 15A-3-303 is amended to read:

15A-3-303. Amendments to Chapter 3 of IPC.

(1) In IPC, Section 303.4, the following exception is added:

“Exception: Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and Division of Drinking Water Rule, Utah Administrative Code, [R309-305-6] R309-105-12(4).”

(2) IPC, Section 311.1, is deleted.

(3) In IPC, Section 312.3, the following is added at the end of the paragraph:

“Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic drainage and vent pipe may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. No drain and vent system shall be pressurized in excess of 6 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases

should be vented, and test balls and plugs should be removed with caution.”

(4) In IPC, Section 312.5, the following is added at the end of the paragraph:

“Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic water pipes may be permitted to be tested with air. The following procedures shall be followed:

1. Contractor shall recognize that plastic is extremely brittle at lower temperatures and can explode, causing serious injury or death.

2. Contractor assumes all liability for injury or death to persons or damage to property or for claims for labor and/or material arising from any alleged failure of the system during testing with air or compressed gasses.

3. Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

4. Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

5. Water supply systems shall be pressure tested to a minimum of 50 psi but not more than 80 psi as measured by accurate gauges graduated to no more than three times the test pressure.

6. The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

7. At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution.”

(5) A new IPC, Section 312.10.3, is added as follows: “312.10.3 Tester Qualifications. Testing shall be performed by a Utah Certified Backflow Preventer Assembly Tester in accordance with Utah Administrative Code, R309-305.”

Section 18. Section 15A-3-304 is amended to read:

15A-3-304. Amendments to Chapter 4 of IPC.

(1) In IPC, Table 403.1, the following changes are made:

~~[(a) The title for Table 403.1 is deleted and replaced with the following: “Table 403.1, Minimum Number of Required Plumbing Fixtures, h”;~~

~~[(b) (a) In row number “3”, for “[E] occupancy,] in the field for “OTHER”, a new footnote [g] h is added.~~

~~[(e) (b) In row number “5”, for “[I-4] Adult day care and child day care” occupancy, in the field for “OTHER”, a new footnote [g] h is added.~~

(c) Footnote f is deleted and replaced with the following: “FOOTNOTE f: The required number and type of plumbing fixtures for outdoor public swimming pools shall be in accordance with Utah Administrative Code, R392-302 Design, Construction and Operation of Public Pools.”

(d) A new footnote [f] g is added as follows: "FOOTNOTE: [f] g: When provided, in public toilet facilities, there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms. Diaper changing facilities shall meet the requirements of ASTM F2285-04 (2010) Standard Consumer Safety Performance Specifications for Diaper Changing Tables for Commercial Use."

(e) A new footnote [g] h is added to the table as follows: "FOOTNOTE [g] h: Non-residential child care facilities shall comply with the additional sink requirements [for sinks in administrative rule made by the Department of Health] of Utah Administrative Code, R381-60-9, Hourly Child Care Centers, R381-70-9, Out of School Time Child Care Programs, and R381-100-9, Child Care Centers."

(2) A new IPC, Section 406.3, is added as follows: "406.3 Automatic clothes washer safe pans. Safe pans, when installed under automatic clothes washers, shall be installed in accordance with Section 504.7."

(3) A new IPC, Section [412.5] 413.5, is added as follows: "[412.5] 413.5 Public toilet rooms. All public toilet rooms [in A & E occupancies and M occupancies with restrooms having multiple water closets or urinals] shall be equipped with at least one floor drain."

(4) A new IPC, Section 412.6, is added as follows: "Prohibition of motor vehicle waste disposal wells. New and existing motor vehicle waste disposal wells are prohibited. A motor vehicle waste disposal well associated with a single family residence is not subject to this prohibition."

(5) IPC, Section 423.3, is deleted.

Section 19. Section 15A-3-305 is amended to read:

15A-3-305. Amendments to Chapter 5 of IPC.

(1) IPC, Section 502.4, is deleted and replaced with the following: "502.4 Seismic supports. As a minimum requirement, water heaters shall be anchored or strapped to resist horizontal displacement caused by earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions."

(2) In IPC, Section 504.6, a new number 15 is added as follows: "15. Be installed in accordance with the manufacturer's installation instructions, not to exceed 180 degrees in directional change."

[2] (3) In IPC, Section 504.7.2, the following is added at the end of the section: "When permitted by the code official, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044, a

barrier type floor drain trap seal protection device meeting ASSE 1072, or a deep seal p-trap."

[3] (4) A new IPC, Section 504.7.3, is added as follows: "504.7.3 Pan Designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devices, or equipment."

Section 20. Section 15A-3-306 is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets for food service establishments. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

(4) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

(5) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9."

(6) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

(7) In IPC, Section 608.1, the following subsections are added as follows:

"608.1.1 General Installation Criteria.

An assembly shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance and to insure the safety of the backflow technician.

608.1.2 Specific Installation Criteria.

608.1.2.1 Reduced Pressure Principle Backflow Prevention Assembly.

A reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly shall not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, storm drain, or vent.

c. The assembly shall be installed in a horizontal position, unless the assembly is listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of each assembly shall be installed a minimum of 12 inches above the ground or the floor.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

608.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position unless the assembly is listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or the floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance around all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

608.1.2.3 Pressure Vacuum [Break] Breaker Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum [break] breaker assembly and spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground or in a vault or pit.

e. The assembly shall be installed in a vertical position.”

(8) In IPC, Section 608.3, the word “and” [after] before the word “contamination” is deleted and replaced with a comma and the words “[and] or pollution” are added after the word “contamination” in the first sentence.

(9) In IPC, Section [608.5] 608.6, the words “with the potential to create a condition of either contamination or pollution or” are added after the word “substances.”[.]

(10) In IPC, Section [608.6] 608.7, the following sentence is added at the end of the paragraph: “Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section [608.13.1] 608.14.1.”

(11) IPC, Section [608.7] 608.8, is deleted and replaced with the following: “[608.7] 608.8 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted. A stop-and-waste valve shall be installed in accordance with a manufacturer’s recommended installation instructions.”

[12] In IPC, Section 608.11, the following sentence is added at the end of the paragraph: “The coating and installation shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturer’s instructions.”]

[13] (12) IPC, Section [608.13.3] 608.14.3, is deleted and replaced with the following: “[608.13.3] 608.14.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers [only], without chemical treatment, where subject to continuous pressure conditions, and humidifiers in accordance with Section 608.17.10. The relief opening shall discharge by air gap and shall be prevented from being submerged.”

[14] (13) IPC, Section [608.13.4] 608.14.4, is deleted.

[15] IPC, Section 608.13.9, is deleted and replaced with the following: “608.13.9 Chemical dispenser backflow devices. Backflow devices for chemical dispensers shall comply with Section 608.16.7.”]

[16] (14) IPC, Section [608.15.3] 608.16.3, is deleted and replaced with the following: “[608.15.3] 608.16.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, and humidifiers shall be protected by a backflow preventer with an intermediate atmospheric vent.”

[17] (15) IPC, Section [608.15.4] 608.16.4, is deleted and replaced with the following: “[608.15.4] 608.16.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will

contain toxic fumes or vapors. Fill valves shall be set in accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. The atmospheric vacuum breaker shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture or device."

~~[(48)]~~ (16) In IPC, Section ~~[608.15.4.2]~~ 608.16.4.2, the following is added after the first sentence: "Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used."

(17) In IPC, Section 608.17.1.2, the words "or ASSE 1024" are deleted.

~~[(49)]~~ (18) IPC, Section ~~[608.16.2]~~ 608.17.2, is deleted and replaced as follows: "~~[608.16.2]~~ 608.17.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511.

Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA-B64.3."

~~[(20)]~~ (19) In IPC, Section ~~[608.16.4.1]~~ 608.17.4.1, a new exception is added as follows: "Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance."

~~[(21)]~~ (20) IPC, Section ~~[608.16.7]~~ 608.17.7, is deleted and replaced with the following: "~~[608.16.7]~~ 608.17.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section ~~[608.13.1]~~ 608.14.1, Section ~~[608.13.2]~~ 608.14.2, Section ~~[608.13.5]~~ 608.14.5, Section ~~[608.13.6]~~ 608.14.6 or Section ~~[608.13.8]~~ 608.14.8. Installation shall be in accordance with Section 608.1.2. Chemical dispensers shall connect to a separate dedicated water supply line, and not a sink faucet."

~~[(22)]~~ (21) IPC, Section ~~[608.16.8]~~ 608.17.8, is deleted and replaced with the following: "~~[608.16.8]~~ 608.17.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall

be protected against backflow in accordance with Section ~~[608.13.1]~~ 608.14.1 or Section ~~[608.13.2]~~ 608.14.2."

~~[(23)]~~ (22) A new IPC, Section ~~[608.16.11]~~ 608.17.11, is added as follows: "~~[608.16.11]~~ 608.17.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section ~~[608.13.1]~~ 608.14.1 or Section ~~[608.13.2]~~ 608.14.2."

~~[(24)]~~ (23) IPC, Section ~~[608.17]~~ 608.18, is deleted and replaced with the following: "~~[608.17]~~ 608.18 Protection of individual water supplies. See Section 602.3 for requirements."

Section 21. Section 15A-3-307 is amended to read:

15A-3-307. Amendments to Chapter 7 of IPC.

(1) IPC, Section 701.2, is deleted and replaced with the following: "701.2 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Rule R317-4, as administered by the Department of Environmental Quality, Division of Water Quality."

(2) A new IPC Section 701.8 is added as follows: "701.8 Drainage piping in food service areas. Exposed soil or waste piping shall not be installed above any working, storage, or eating surfaces in food service establishments."

~~[(2)]~~ (3) In IPC, Section 712.3.3.1, the following words are added ~~[before]~~ after the word "~~or~~" "PE": "stainless steel, cast iron, galvanized steel, brass."

Section 22. Section 15A-3-310 is amended to read:

15A-3-310. Amendments to Chapter 10 of IPC.

~~[IPC, Chapter 10, is not amended.]~~ In IPC, Section 1003.3.8, the word "gravity" is inserted before the word "grease."

Section 23. Section 15A-3-314 is amended to read:

15A-3-314. Amendments to Chapter 14 of IPC.

IPC, Chapter 14, is deleted and replaced with the following:

"1401. Subsurface Landscape Irrigation Systems.

~~[Gray water]~~ Graywater recycling systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of UAC R317-401, ~~[Gray Water]~~ Graywater Systems. ~~[Gray water]~~ Graywater recycling systems utilized for subsurface irrigation for other occupancies shall comply with UAC R317-3, Design Requirements for Wastewater Collection, Treatment, and

Disposal Systems, and UAC R317-4, Onsite ~~Waterwaste~~ Wastewater Systems.”

Section 24. Section 15A-3-401 is amended to read:

15A-3-401. General provisions.

(1) The amendments in this part are adopted as amendments to the IMC to be applicable statewide.

(2) In IMC, Section 1004.2, the first sentence is deleted and replaced with the following: “In accordance with Title 34A, Chapter 7, Safety, and requirements made by rule by the Labor Commission, boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer’s installation instructions and the state boiler code, whichever is greater.”

(3) In IMC, Section 1004.3.1, the word “unlisted” is inserted before the word “boilers”.

[~~(4) IMC, Section 1101.10, is deleted.~~]

[~~(5)~~ (4) In IMC, Section 1209.3, the following words are added at the end of the section: “or other methods approved for the application.”

Section 25. Section 15A-3-501 is amended to read:

15A-3-501. General provisions.

The following are adopted as an amendment to the IFGC to be applicable statewide:

(1) In IFGC, Section 404.9, a new Section 404.9.1, is added as follows: “404.9.1 Meter protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must still provide access for service and comply with the IBC or the IRC.”

(2) IFGC, Section 409.5.3, is deleted.

(3) In IFGC, Section 502.1, the last sentence is deleted and replaced with “Plastic vents for Category IV appliances shall not be required to be listed and labeled where such vents comply with all of the following:

1. specified by the appliance manufacturer;
2. installed in accordance with the appliance manufacturer’s instructions; and
3. the vent gas temperatures do not exceed 140 degrees Fahrenheit.”

(4) In IFGC, Section 503.4.1, in the last sentence after “appliance manufacturer” insert: “where the appliance vent gas temperatures do not exceed 140 degrees Fahrenheit.”

(5) In IFGC, Section 503.6.11.1, the following exception is added:

“Exception: Existing and replacement Category I appliances may be located in rooms within the occupiable space provided all the following are met:

1. The original installation was compliant with existing codes at the time of installation.

2. The dwelling is equipped with a current, operable carbon monoxide detector, installed in accordance with Section 915 of the International Building Code.

3. The AHJ has approved a replacement based on the extreme difficulty of an installing individual Category I vent system or a direct vent Category IV appliance.

4. The room or space is used for no other purpose.

5. Combustion air is provided in accordance with Section 304. Where outdoor combustion air is provided, the room has a solid weather-stripped door equipped with an approved self-closure device.

6. Common vents terminate with a listed cap.”

[~~(3)~~ (6) In IFGC, Section 631.2, the following sentence is inserted before the first sentence: “In accordance with Title 34A, Chapter 7, Safety, and requirements made by rule by the Labor Commission, boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer’s installation instructions and the state boiler code, whichever is greater.”

Section 26. Section 15A-3-701 is amended to read:

15A-3-701. General provisions.

The following is adopted as an amendment to the IECC to be applicable statewide:

(1) In IECC, Section [~~C403.2.9.1.3~~] C403.11.2.3, the words “by the designer” are deleted.

(2) In IECC, Section R103.2, all words after the words “herein governed.” are deleted and replaced with the following: “Construction documents include all documentation required to be submitted in order to issue a building permit.”

(3) In IECC, Section R303.3, all wording after the first sentence is deleted.

(4) In IECC, Section R401.2, a new number 4 is added as follows:

“4. Compliance may be shown by demonstrating a result, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, “3 percent better than code”;

(b) on or after January 1, 2019, and before January 1, 2021, “4 percent better than code”; and

(c) after January 1, 2021, “5 percent better than code”.

(5) In IECC, Table R402.2, in the column entitled MASS WALL R-VALUE, a new footnote j is added as follows:

“j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is, for gas, 90 AFUE, or, for oil, 84 AFUE, and all other component requirements are met.”

(6) In IECC, Section R402.4.1, in the first sentence, the word “and” is deleted and replaced with the word “or”.

(7) In IECC, Section R402.4.1.1, the last sentence is deleted and replaced with the following: “Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections.”

(8) In IECC, Section R402.4.1.2, the following changes are made:

(a) In the first sentence:

(i) “The building or dwelling unit” is deleted and replaced with “A single-family dwelling”;

[(4)] (ii) [~~on or~~] after January 1, 2019, [~~and before January 1, 2021,~~] replace the word “five” with “3.5”; and

[(ii) after January 1, 2021, replace the word “five” with “three.”]

[(b) In the first sentence,]

[(iii) the words “in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8” are deleted.

(b) The following sentence is inserted after the first sentence: “A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour.”

(c) In the third sentence, the word “third” is deleted.

(d) The following sentence is inserted after the third sentence: “The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training.”

(9) In IECC, Section R403.3.3:

(a) the exception for duct air leakage testing is deleted; and

(b) the exception for duct air leakage is replaced:

(i) on or after January 1, 2017, and before January 1, 2019, with the following: “Exception: The total leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.”;

(ii) on or after January 1, 2019, and before January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope.”; and

(iii) on or after January 1, 2021, with the following: “Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope.”

(10) In IECC, Section R403.3.3, the following is added after the exception:

“The following parties shall be approved to conduct testing:

1. Parties certified by BPI or RESNET.

2. Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training.”

(11) In IECC, Section R403.3.4:

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, and the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

(12) In IECC, Section R403.3.5, the words “or plenums” are deleted.

(13) In IECC, Section R403.5.3, Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

(14) IECC, Section R403.6.1, is deleted and replaced with the following: “R403.6.1 Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table R403.6.1.

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor.”

(15) In IECC, Section R403.6.1, the table is deleted and replaced with the following:

TABLE R403.6.1

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE	MINIMUM EFFICACY	AIR FLOW RATE
	MINIMUM (CFM)	(CFM/WATT)	MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any

[44] (16) In IECC, Section R406.4, the table is deleted and replaced with the following:

TABLE R406.4

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68

Section 27. Section 15A-3-801 is amended to read:

15A-3-801. General provisions.

The following are adopted as amendments to the IEBC and are applicable statewide:

(1) In Section 202, the following definition is added: "BUILDING OFFICIAL. See Code Official."

(2) In Section 202, the definition for "code official" is deleted and replaced with the following:

"CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code."

(3) In Section 202, the definition for existing buildings is deleted and replaced with the following:

"EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official."

(4) In Section [301.1] 301.3, the exception is deleted.

(5) Section [403.5] 503.6 is deleted and replaced with the following:

"[403.5] 503.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall

include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. [For purposes of this section, design seismic forces need not be taken greater than 75% of those that would be required for the design of similar nonstructural components in new buildings of similar purpose and location] Reduced seismic forces are permitted for design purposes."

(6) In Section 705.1, Exception number 3, the following is added at the end of the exception:

"This exception does not apply if the existing facility is undergoing a change of occupancy classification."

(7) Section [707.3.1] 706.3.1 is deleted and replaced with the following:

"[707.3.1] 706.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section [301.1.4.2] 303 of this code unless an evaluation demonstrates compliance of such items."

(8) Section 906.6 is deleted and replaced with the following:

"906.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance with such items. Reduced seismic forces are permitted for design purposes."

[48] (9) (a) Section [1007.3.1] 1006.3 is deleted and replaced with the following:

"[1007.3.1 Compliance with the International Building Code Level Seismic Forces.]

[When a building or portion thereof is subject to a change of occupancy such that a change in the nature of the occupancy results in a higher risk category based on Table 1604.5 of the International Building Code or when such change of occupancy results in a design occupant load increase of 100% or more, the building shall conform to the seismic requirements of the International Building Code for the new risk category.]"

"1006.3 Seismic Loads. Where a change of occupancy results in a building being assigned to a higher risk category, or when a change of occupancy

results in a design occupant load increase of 100% or more, the building shall satisfy the requirements of Section 1613 of the International Building Code using full seismic forces.”

(b) Section [1007.3.1] 1006.3, exceptions 1 through 3 remain unchanged.

(c) In Section [1007.3.1] 1006.3, add a new exception 4 as follows:

“4. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change.”

[49] (10) In Section 1012.7.3, exception 2 is deleted.

[49] (11) In Section 1012.8.2, number 7 is added as follows:

“7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type A dwelling units.”

Section 28. Section 15A-4-107 is amended to read:

15A-4-107. Amendments to IBC applicable to Sandy City.

The following amendments are adopted as amendments to the IBC for Sandy City:

(1) A new IBC, Section (F)903.2.13, is added as follows: “(F)903.2.13 An automatic sprinkler system shall be installed in accordance with NFPA 13 throughout buildings containing all occupancies where fire flow exceeds 2,000 gallons per minute, based on Table B105.1 (2) of the [2015] 2018 International Fire Code. A one- or two-family dwelling or a town home is not required to have a fire sprinkler system except in accordance with Section 15A-5-203.”

(2) A new IBC, Appendix [L] N, is added and adopted as follows: “Appendix [L] N BUILDINGS AND STRUCTURES CONSTRUCTED IN AREAS DESIGNATED AS WILDLAND-URBAN INTERFACE AREAS

AL 101.1 General. Buildings and structures constructed in areas designated as Wildland-Urban Interface Areas by Sandy City shall be constructed using ignition resistant construction as determined by the Fire Marshal. Section 502 of the 2006 International Wildland-Urban Interface Code (IWUIC), as promulgated by the International Code Council, shall be used to determine Fire Hazard Severity. The provisions listed in Chapter 5 of the 2006 International Wildland-Urban Interface Code, as modified herein, shall be used to determine the requirements for Ignition Resistant Construction.”

(3) In Section 504 of the IWUIC Class I IGNITION-RESISTANT CONSTRUCTION a new

Section 504.1.1 is added as follows: “504.1.1 General. Subsections 504.5, 504.6, and 504.7 shall only be required on the exposure side of the structure, as determined by the fire code official, where defensible space is less than 50 feet as defined in Section 603 of the 2006 International Wildland-Urban Interface Code.”

(4) In Section 505 of the IWUIC Class 2 IGNITION-RESISTANT CONSTRUCTION Subsections 505.5 and 505.7 are deleted.

Section 29. Section 17-36-55 is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) “Construction project” means the same as that term is defined in Section 38-1a-102.

(b) “Lodging establishment” means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(c) “Planning review” means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(d) (i) “Plan review” means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review; and

(H) the total square footage for each building level of finished, garage, and unfinished space.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for additional modifications or substantive changes identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(e) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(f) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[(e)] (g) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)~~[(e)]~~(g)(i), a review that a licensed engineer conducts.

[(f)] (h) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days, the county

shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, on the day on which the inspection occurs, the inspector shall give the permit holder written notification of each violation that:

(i) is delivered in hardcopy or by electronic means; and

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code.

(3) (a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the plan is submitted to the county.

(b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the plan is submitted to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) (a) A county may not enforce a requirement to have a plan review if:

(i) the county does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(ii) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(b) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(c) A county may not require an applicant to redraft a plan if the county requests minor changes

to the plan that the list described in Subsection (4)(b) identifies.

(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 30. Effective date.

(1) Notwithstanding Subsection (2), if approved by two-thirds of all the members elected to each house, the actions affecting the following sections take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override:

(a) Section 15A-3-203; and

(b) Section 15A-3-701.

(2) This bill takes effect on July 1, 2019.

CHAPTER 21**S. B. 56**

Passed March 6, 2019

Approved March 19, 2019

Effective May 14, 2019

**COMMUNITY REINVESTMENT
AGENCY REPORT AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill modifies the method by which a community reinvestment agency submits required information.

Highlighted Provisions:

This bill:

- ▶ requires the Governor's Office of Economic Development to create a publicly accessible database to track certain information about each community reinvestment agency located within the state;
- ▶ allows the Governor's Office of Economic Development to contract with a third party to create and administer the state database;
- ▶ requires each community reinvestment agency to annually upload required information to the state database; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-1-603, as last amended by Laws of Utah 2018, Chapter 364

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

Section 1. Section 17C-1-603 is amended to read:**17C-1-603. Reporting requirements --
County to maintain a database.**

~~[(1) Beginning in 2016, on or before November 1 of each year, an agency shall:]~~

~~[(a) prepare an annual report as described in Subsection (2);]~~

~~[(b) submit the annual report electronically to the community in which the agency operates, the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives project area funds;]~~

~~[(c) post the annual report on the agency's website; and]~~

~~[(d) ensure that the community in which the agency operates posts the annual report on the community's website.]~~

~~[(2) The annual report shall, for each active project area whose project area funds collection~~

~~period has not expired, contain the following information:]~~

~~(1) On or before June 30, 2021, the Governor's Office of Economic Development shall:~~

~~(a) create a database to track information for each agency located within the state; and~~

~~(b) make the database publicly accessible from the office's website.~~

~~(2) (a) The Governor's Office of Economic Development may:~~

~~(i) contract with a third party to create and maintain the database described in Subsection (1); and~~

~~(ii) charge a fee for a county, city, or agency to provide information to the database described in Subsection (1).~~

~~(b) The Governor's Office of Economic Development shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee schedule for the fee described in Subsection (2)(a)(ii).~~

~~(3) Beginning in 2021, on or before December 31 of each calendar year, an agency shall, for each active project area for which the project area funds collection period has not expired, provide to the database described in Subsection (1) the following information:~~

~~(a) an assessment of the change in marginal value, including:~~

~~(i) the base year;~~

~~(ii) the base taxable value;~~

~~(iii) the prior year's assessed value;~~

~~(iv) the estimated current assessed value;~~

~~(v) the percentage change in marginal value; and~~

~~(vi) a narrative description of the relative growth in assessed value;~~

~~(b) the amount of project area funds the agency received for each year of the project area funds collection period, including:~~

~~(i) a comparison of the actual project area funds received for each year to the amount of project area funds forecasted for each year when the project area was created, if available;~~

~~(ii) (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or~~

~~(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;~~

~~(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and~~

~~(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;~~

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection [17B-1-409(1)] 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; and

(h) any other relevant information the agency elects to provide.

(4) (a) Until the Governor's Office of Economic Development creates a database as required in Subsection (1), an agency shall, on or before November 1 of each calendar year, electronically submit a report to:

(i) the community in which the agency operates;

(ii) the county auditor;

(iii) the State Tax Commission;

(iv) the State Board of Education; and

(v) each taxing entity from which the agency receives project area funds.

(b) An agency shall ensure that the report described in Subsection (4)(a):

(i) contains the same information described in Subsection (3); and

(ii) is posted on the website of the community in which the agency operates.

[~~(3)~~] (5) [A report prepared] Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

[~~(4)~~] (6) The provisions of this section apply regardless of when the agency or project area is created.

CHAPTER 22**S. B. 104**

Passed March 1, 2019
Approved March 19, 2019
Effective May 14, 2019

**REMOVAL OR DISRUPTION
OF SURVEY MONUMENTS**

Chief Sponsor: David G. Buxton
House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill imposes certain requirements on any work that would disturb certain established survey monuments.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a county to require a permit to disturb certain established survey monuments;
- ▶ requires a person to notify the county surveyor and obtain any required permit before disturbing certain established monuments;
- ▶ prohibits a person from performing certain construction work within a certain distance of certain established survey monuments without a permit;
- ▶ allows a county to charge a partially refundable permit fee and establishes conditions and requirements related to the fee;
- ▶ establishes county and permit holder responsibility in the event an established survey monument is disturbed;
- ▶ imposes requirements for drawings or plans for construction work occurring within a certain distance of certain established survey monuments;
- ▶ allows a county to establish certain civil penalties; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-23-14, as last amended by Laws of Utah 2017, Chapter 181
17-23-15, as last amended by Laws of Utah 2016, Chapter 303

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

Section 1. Section 17-23-14 is amended to read:**17-23-14. Disturbed corners -- County surveyor to be notified -- Coordination with certain state agencies.**

(1) As used in this section:

(a) (i) "Construction" means:

(A) the preparation of an area for a building or structure, including demolition, site clearance, exploration, drilling, boring, and excavation; and

(B) the carrying out of any building, civil engineering, or engineering work for the assembly or maintenance of any building or structure.

(ii) "Construction" does not mean normal maintenance of a roadway and related infrastructure that does not require construction drawings.

(a) (b) "Corner" means the same as that term is defined in Section 17-23-17.5.

(c) "Government survey monument" means a monument that:

(i) a government entity maintains; or

(ii) the county surveyor sets in accordance with Section 17-23-13.

(b) (d) "Monument" means the same as that term is defined in Section 17-23-17.5.

(e) "Public land survey government corner" means:

(i) a corner that the county surveyor establishes or reestablishes under Subsection 17-23-1(4);

(ii) a section corner, quarter section corner, or other corner that a government survey establishes; or

(iii) a public land survey corner as that term is defined in Section 17-23-17.5.

(f) "Structure" means any organization of parts, production, or pieces artificially built up or joined together to preserve or alter any natural feature, including roads, railways, tunnels, bridges, underground or overground pipelines or cables, river works, drainage works, earthworks, retaining walls, walls, dams, tanks, towers, and fences.

(2) A person who finds it necessary to disturb any established government survey monument or public land survey government corner location for any reason, including the improvement of a road, shall notify the county surveyor at least five business days before the day on which the person disturbs the government survey monument or public land survey government corner location.

(3) (a) A county legislative body may enact an ordinance requiring a person to obtain a permit before performing construction work within 30 feet of an established government survey monument or public land survey government corner location.

(b) A county legislative body shall ensure that an ordinance described in Subsection (3)(a) provides for an exemption from the permitting requirement in the event of an emergency situation that poses a threat to public health or safety.

(c) (i) A county may charge a fee for a permit described in Subsection (3)(a), in accordance with this Subsection (3)(c).

(ii) The fee described in Subsection (3)(c)(i) may not exceed \$400 per government survey monument or public land survey government corner location.

(iii) If, after completion of the construction work, the government survey monument or public land survey government corner location is undisturbed, the county shall disperse a partial fee refund of \$250 to the permit holder.

(iv) If the construction work disturbs the government survey monument or public land survey government corner location related to the permit:

(A) the permit holder is responsible for the necessary construction work and installation of the government survey monument or public land survey government corner location; and

(B) the county shall provide to the permit holder the necessary brass monument, ring, and lid for the permit holder's work described in Subsection (3)(c)(iv)(A).

(d) A county shall provide a system allowing a person to apply electronically for and the county to approve or deny electronically a permit described in Subsection (3)(a).

(4) A person may not perform any construction work within 30 feet of a government survey monument or public land survey government corner location unless the person obtains any permit the county requires before beginning construction work within 30 feet of the government survey monument or public land survey government corner location, together with any additional permits that applicable law may require.

(5) A person who produces drawings or plans for construction work to be performed within 30 feet of a government survey monument or public land survey government corner location shall show, on the face of the drawings or plans:

(a) the government survey monument or public land survey government corner location; and

(b) an accompanying note exhibiting compliance with Subsections (2) and (4).

[(3)] (6) A person who finds a monument that needs rehabilitation shall notify the county surveyor within five business days after the day on which the person finds the monument.

[(4)] (7) The county surveyor or the county surveyor's designee shall:

(a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the corner by lowering and witnessing the corner or placing another monument and witness over the existing monument so that the monument:

(i) is left in a physical condition to remain as permanent a monument as is reasonably possible; and

(ii) may be reasonably located at all times in the future; and

(b) file the record of each reconstruction or rehabilitation ~~under~~ in accordance with Subsection [(4)] (7)(a).

(8) (a) The county may, by ordinance, establish a civil penalty for a violation of:

(i) any provision of Subsection (4) or (5); or

(ii) any ordinance that the county adopts under Subsection (3).

(b) It is a defense to the civil penalty described in Subsection (8)(a) that the violation related to an emergency situation that posed a threat to public health or safety.

Section 2. Section 17-23-15 is amended to read:

17-23-15. Removal, destruction, or defacement of monuments or corners as infraction -- Costs.

(1) A person may not willfully or negligently remove, destroy, or deface any government survey monument, corner, or witness corner.

(2) Any person who violates this section is guilty of an infraction and is additionally responsible for:

(a) the costs of any necessary legal action; ~~and~~

(b) the costs of reestablishing the survey monument, corner, or witness corner[-]; and

(c) any civil penalty that the county establishes for a violation of:

(i) any provision of this section; or

(ii) any ordinance that the county adopts under Section 17-23-14.

CHAPTER 23**S. B. 105**

Passed February 27, 2019

Approved March 19, 2019

Effective May 14, 2019

**HEMP AND CANNABINOID
ACT AMENDMENTS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions related to industrial hemp and cannabinoid products.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ repeals provisions related to an agricultural pilot program;
- ▶ amends provisions related to cannabidiol products to address cannabinoid products;
- ▶ requires the Department of Agriculture and Food (“department”) to establish requirements for a license to cultivate, process, or market industrial hemp;
- ▶ amends the information a person seeking to cultivate industrial hemp is required to provide to the department;
- ▶ amends a licensing prohibition related to criminal history;
- ▶ repeals a requirement that the department seek a federal waiver from certain federal law;
- ▶ repeals a provision allowing the department to seize and destroy any cannabidiol product offered for sale that is not registered with the department; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-41-101, as last amended by Laws of Utah 2018, Chapter 452
- 4-41-102, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41-103, as last amended by Laws of Utah 2018, Chapter 227
- 4-41-401, as enacted by Laws of Utah 2018, Chapter 452
- 4-41-402, as enacted by Laws of Utah 2018, Chapter 452
- 4-41-403, as enacted by Laws of Utah 2018, Chapter 452
- 4-41-404, as enacted by Laws of Utah 2018, Chapter 452

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

Section 1. Section 4-41-101 is amended to read:**CHAPTER 41. HEMP AND
CANNABINOID ACT****4-41-101. Title.**

(1) This chapter is known as the “Hemp and [~~Cannabidiol~~] Cannabinoid Act.”

(2) This part is known as “Industrial Hemp Research.”

Section 2. Section 4-41-102 is amended to read:**4-41-102. Definitions.**

As used in this chapter:

~~[(1) “Agricultural pilot program” means a program to study the growth, cultivation, or marketing of industrial hemp.]~~

~~[(2) (1) “[Cannabidiol] Cannabinoid product” means a chemical compound extracted from a hemp product that:~~

(a) is processed into a medicinal dosage form; and

(b) contains less than 0.3% tetrahydrocannabinol by dry weight.

~~[(3) (2) “Industrial hemp” means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.~~

~~[(4) (3) “Industrial hemp certificate” means a certificate [issued by] that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).~~

~~[(5) (4) “Industrial hemp license” means a license [issued by] that the department issues to a person for the purpose of [participating in a research pilot program] growing, cultivating, processing, or marketing industrial hemp or an industrial hemp product.~~

~~[(6) (5) “Industrial hemp product” means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.~~

~~[(7) (6) “Licensee” means an individual or business entity possessing a license [issued by] that the department issues under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.~~

~~[(8) (7) “Medicinal dosage form” means:~~

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a sublingual preparation;

(e) a topical preparation;

(f) a transdermal preparation;

(g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(h) other preparations that the department approves.

~~[(9)]~~ (8) “Person” means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

~~[(10)]~~ (9) “Research pilot program” means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

Section 3. Section 4-41-103 is amended to read:

4-41-103. Industrial hemp -- Agricultural and academic research.

(1) The department and its licensee may grow, cultivate, or process industrial hemp ~~[for the purpose of agricultural, academic, or market research].~~

(2) The department shall certify a higher education institution to grow or cultivate industrial hemp for the purpose of agricultural or academic research if the higher education institution submits to the department:

(a) the location where the higher education institution intends to grow or cultivate industrial hemp;

(b) the higher education institution’s research plan; and

(c) the name of an employee of the higher education institution who will supervise the industrial hemp growth, cultivation, and research.

(3) The department shall maintain a list of each industrial hemp certificate holder and licensee.

(4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) ensure any industrial hemp project or research pilot project meets the standards of an agricultural pilot project, as defined by Section 7606 of the United States Agricultural Act of 2014;

(b) establish requirements for a license to participate in an industrial hemp research pilot program;

(c) establish requirements for a license to grow, cultivate, process, or market industrial hemp;

~~[(e)]~~ (d) set sampling and testing procedures for industrial hemp; and

~~[(d)]~~ (e) define a class or category of an industrial hemp product that is eligible for sale, transfer, or distribution to a member of the public.

(5) A person seeking to cultivate industrial hemp shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating any field or greenhouse ~~[used by]~~ the person uses to grow industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person cultivates, processes, or stores industrial hemp ~~[is cultivated, processed, or stored]~~ for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

~~[(6) The following individuals are not eligible to obtain a license under this chapter:]~~

~~[(a)]~~ (6) ~~[an]~~ An individual who has been convicted of a ~~[felony; and]~~ drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.

~~[(b) an individual who has been convicted of a drug-related misdemeanor within the last 10 years.]~~

(7) The department may set a fee ~~[, pursuant to]~~ in accordance with Subsection 4-2-103(2) ~~[,]~~ for the application ~~[of]~~ for an industrial hemp certificate and the application for an industrial hemp license.

Section 4. Section 4-41-401 is amended to read:

Part 4. Cannabinoid Product Act

4-41-401. Title.

This part is known as ~~[—~~“Cannabidiol”
“Cannabidiol Product Act.”

Section 5. Section 4-41-402 is amended to read:

4-41-402. Cannabidiol sales and use authorized.

(1) The sale or use of a ~~[cannabidiol]~~ cannabinoid product is prohibited:

(a) except as provided in this chapter; or

~~[(b) except as provided in Title 26, Chapter 56, Hemp Extract Registration Act; or]~~

~~[(e)]~~ (b) unless ~~[the product is approved by]~~ the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered ~~[cannabidiol]~~ cannabinoid products that the department has determined, ~~[pursuant to]~~ in accordance with Section 4-41-403, are safe for human consumption.

(3) A person may sell or use a ~~[cannabidiol]~~ cannabinoid product that is in the list of registered cannabidiol products described in Subsection (2).

Section 6. Section 4-41-403 is amended to read:

4-41-403. Standards for registration.

(1) The department shall ~~[determine by rule, made]~~ make rules in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act, to determine standards for a registered ~~[cannabidiol]~~ cannabinoid product, including standards for:

(a) testing to ensure the product is safe for human consumption;

(b) accurate labeling; and

(c) any other issue the department considers necessary.

(2) The department shall set a fee for a registered ~~[cannabidiol]~~ cannabinoid product, in accordance with Section 4-2-103.

(3) ~~(a) [The fee described in Subsection (2) may be paid by a]~~ A producer, manufacturer, or distributor of a ~~[cannabidiol—product, but a cannibidiol]~~ cannabinoid product may pay the fee described in Subsection (2).

(b) A cannabinoid product may not be registered with the department until the fee described in Subsection (2) is paid.

(4) The department shall set an administrative fine, larger than the fee described in Subsection (2), for a person who sells a ~~[cannabidiol]~~ cannabinoid product that is not registered by the department.

Section 7. Section 4-41-404 is amended to read:

4-41-404. Department duties.

~~[(1) The department shall work with the state's federal congressional delegation and relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in whatever form that waiver may take, for a cannabidiol product produced in:]~~

~~[(a) compliance with the rules established pursuant to Subsection 4-41-403(1); or]~~

~~[(b) another state with similarly stringent rules, as determined by the department, to the rules established pursuant to Subsection 4-41-403(1).]~~

~~[(2) The department shall report to the Legislature:]~~

~~[(a) on the rules established pursuant to Subsection 4-41-403(1) by October 31, 2018; and]~~

~~[(b) in the event the department is successful in procuring a federal waiver.]~~

~~[(3) The department may seize and destroy any cannabidiol product offered for sale in this state from a person that is not registered with the department.]~~

[(4)] The department shall assess the fine described in Subsection 4-41-403(4) against any person who offers an unregistered ~~[cannabidiol]~~ cannabinoid product for sale in this state.

CHAPTER 24**S. B. 124**

Passed February 27, 2019

Approved March 19, 2019

Effective May 14, 2019

**LOCAL GOVERNMENT
ADMINISTRATION AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: Eric K. Hutchings**LONG TITLE****General Description:**

This bill amends provisions regarding the governance of metro townships and municipal services districts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends a provision regarding the entry of the election of a metro township mayor in council meeting minutes;
- ▶ amends a requirement that certain county officials fill certain metro township offices or positions to be discretionary and subject to an agreement between the county and the metro township;
- ▶ repeals a provision regarding the initial membership of a municipal services district board of trustees;
- ▶ removes the county executive as the executive of a municipal services district; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3b-503, as last amended by Laws of Utah 2018, Chapter 174

10-3c-203, as last amended by Laws of Utah 2017, Chapter 13

17B-2a-1106, as last amended by Laws of Utah 2018, Chapters 68, 112, and 174

20A-1-306, as last amended by Laws of Utah 2016, Chapter 348

68-3-12.5, as last amended by Laws of Utah 2018, Chapter 68

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

Section 1. Section 10-3b-503 is amended to read:**10-3b-503. Mayor in a metro township included in a municipal services district.**

(1) The mayor in a metro township that is included in a municipal services district:

- (a) is a regular and voting member of the council;
- (b) is elected by the members of the council from among the council members;

(c) is the chair of the council and presides at all council meetings;

(d) exercises ceremonial functions for the municipality;

(e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;

(f) represents the metro township on the board of a municipal services district; and

(g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).

(2) Except as provided in Subsection (3), the mayor in a metro township that is included in a municipal services district:

(a) shall:

(i) keep the peace and enforce the laws of the metro township;

(ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;

(iii) if the mayor remits a fine or forfeiture under Subsection (2)(b)(ii), report the remittance to the council at the council's next meeting after the remittance;

(iv) perform all duties prescribed by statute or metro township ordinance or resolution;

(v) report to the council the condition and needs of the metro township;

(vi) report to the council any release granted under Subsection (2)(b)(iv); and

(b) may:

(i) recommend for council consideration any measure that the mayor considers to be in the best interests of the municipality;

(ii) remit fines and forfeitures;

(iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(iv) release a person imprisoned for a violation of a municipal ordinance;

(v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and

(vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agency of the municipality.

(3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the mayor's powers and duties under Subsection 10-3b-504(2).

(4) (a) If the mayor is absent, unable, or refuses to act, the council may elect a member of the council as mayor pro tempore, to:

- (i) preside at a council meeting; and
- (ii) perform during the mayor's absence, disability, or refusal to act, the duties and functions of mayor.

(b) ~~[In accordance with Section 10-3c-203, the county clerk of the county in which the metro township is located shall enter in the minutes of the council meeting the]~~ The council shall ensure that the election of a council member as mayor under Subsection (1)(b) or mayor pro tempore under Subsection (4)(a) is entered in the minutes of the council meeting.

Section 2. Section 10-3c-203 is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district -- Recording of open meetings.

(1) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township is subsequently annexed into a municipal services district.

(b) This section does not apply to a metro township described in Subsection (7)(a) if the municipal services district is dissolved.

~~[(4)] (2) (a) [The] Any of the following officials elected or appointed, or persons employed by, the county in which a metro township is located [shall] may, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions if the county official and the metro township agree:~~

(i) the county treasurer [shall] may fulfill the duties and hold the powers of treasurer for the metro township;

(ii) the county clerk [shall] may fulfill the duties and hold the powers of recorder and clerk for the metro township;

(iii) the county surveyor [shall] may fulfill, on behalf of the metro township, all surveyor duties imposed by law;

(iv) the county engineer [shall] may fulfill the duties and hold the powers of engineer for the metro township; and

(v) subject to Subsection ~~[(4)]~~ (2)(b), the county auditor [shall] may fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor [shall] may fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's

powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection ~~[(4)]~~ (2)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection ~~[(4)]~~ (2)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, [shall] may be performed by county staff other than the county auditor.

~~[(2)]~~ (3) (a) Nothing in Subsection ~~[(4)]~~ (2) may be construed to relieve an official described in Subsections ~~[(4)]~~ (2)(a)(i) through ~~[(iv)]~~ (v) of a duty to either the county or, if the official and the metro township agree as provided in Subsection (2)(a), the metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection ~~[(2)]~~ (3)(a), an official or the official's deputy or other person described in Subsections ~~[(4)]~~ (2)(a)(i) through ~~[(iv)]~~ (v):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

~~[(3)]~~ (4) The district attorney of the county in which a metro township is located may provide legal counsel to the metro township if the county and the metro township agree.

~~[(4)]~~ (5) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

~~[(5)]~~ (6) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

~~[(6)]~~ (7) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, and Section 10-6-137, if the county clerk and the metro township agree to the county clerk providing recorder and clerk services to the metro township as provided in Subsection 10-3c-203(1)(a)(ii):

(a) the county clerk may choose to not attend an open meeting of the metro township council; and

(b) if the county clerk does not attend an open meeting of the metro township council, the county clerk shall ensure that the chair of the metro township council or a designee of the county clerk, in accordance with Section 52-4-203, makes a recording of the meeting and prepares written minutes of the meeting.

~~[(7) (a) This section applies only to a metro township in which:]~~

~~[(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or]~~

~~[(ii) the metro township subsequently joins a municipal services district.]~~

~~[(b) This section does not apply to a metro township described in Subsection (6)(a) if the municipal services district is dissolved.]~~

Section 3. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) ~~[Except as provided in Subsection (2), and notwithstanding]~~ Notwithstanding any other provision of law regarding the membership of a local district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

~~[(2) (a) Notwithstanding any provision of law regarding the membership of a local district board of trustees or the governance of a local district, and, except as provided in Subsection (3), if a municipal services district is created in a county of the first class with the county executive council form of government, the initial governance of the municipal services district is as follows:]~~

~~[(i) subject to Subsection (2)(b), the county council is the municipal services district board of trustees; and]~~

~~[(ii) subject to Subsection (2)(c), the county executive is the executive of the municipal services district.]~~

~~[(b) Notwithstanding any other provision of law, the board of trustees of a municipal services district described in Subsection (2)(a) shall:]~~

~~[(i) act as the legislative body of the district; and]~~

~~[(ii) exercise legislative branch powers and responsibilities established for county legislative bodies in:]~~

~~[(A) Title 17, Counties; and]~~

~~[(B) an optional plan, as defined in Section 17-52a-102, adopted for a county executive council form of county government as described in Section 17-52a-203.]~~

~~[(c) Notwithstanding any other provision of law, in a municipal services district described in Subsection (2)(a), the executive of the district shall:]~~

~~[(i) act as the executive of the district;]~~

~~[(ii) nominate a general manager of the municipal services district, subject to the advice and consent of the board of trustees; and]~~

~~[(iii) exercise executive branch powers and responsibilities established for a county executive in:]~~

~~[(A) Title 17, Counties; and]~~

~~[(B) an optional plan, as defined in Section 17-52a-102, adopted for a county executive council form of county government as described in Section 17-52a-203.]~~

~~[(3)] (2) (a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:~~

~~(i) subject to Subsection [(3)] (2)(b), a member of that municipality's governing body;~~

~~(ii) one member of the county council of the county in which the municipal services district is located; and~~

~~(iii) the total number of board members is not required to be an odd number.~~

~~(b) A member described in Subsection [(3)] (2)(a)(i) shall be:~~

~~(i) for a municipality other than a metro township, designated by the municipal legislative body; and~~

~~(ii) for a metro township, the mayor of the metro township or, during any period of time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro township council elects in accordance with Subsection 10-3b-503(4).~~

~~[(c) A member of the board of trustees has the powers and duties described in Subsection (2)(b).]~~

~~[(d) The county executive is the executive and has the powers and duties as described in Subsection (2)(c).]~~

~~[(4) The county council member described in Subsection (3)(a)(ii) may not be the county mayor who, as the executive of the district, is not a member of the board of trustees.]~~

~~[(5)] (3) For a board of trustees described in Subsection [(3)] (2), each board member's vote is weighted using the proportion of the municipal services district population that resides:~~

~~(a) for each member described in Subsection [(3)] (2)(a)(i), within that member's municipality; and~~

~~(b) for the member described in Subsection [(3)] (2)(a)(ii), within the unincorporated county.~~

~~[(6)]~~ (4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

~~[(7)–(a)–]~~ (5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

~~[(b) A resolution adopted under Subsection (7)(a) may not alter or impair the board of trustees' duties, powers, or responsibilities described in Subsection (2)(b) or the executive's duties, powers, or responsibilities described in Subsection (2)(e).]~~

~~[(8)]~~ (6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 4. Section 20A-1-306 is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5~~[(27)]~~(28) and ~~[(38)]~~ (40), an electronic signature may not be used to sign a petition to:

(1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 5. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.

(6) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.

~~[(6)]~~ (7) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204.

~~[(7)]~~ (8) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204.

~~[(8)]~~ (9) "Depose" means to make a written statement made under oath or affirmation.

~~[(9)]~~ (10) "Executor" includes "administrator" when the subject matter justifies the use.

~~[(10)]~~ (11) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

~~[(11)]~~ (12) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

~~[(12)]~~ (13) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

[(13)] (14) “Intermediate care facility for people with an intellectual disability” means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

[(14)] (15) “Land” includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

[(15)] (16) “Month” means a calendar month, unless otherwise expressed.

[(16)] (17) “Oath” includes “affirmation.”

[(17)] (18) “Person” means:

- (a) an individual;
- (b) an association;
- (c) an institution;
- (d) a corporation;
- (e) a company;
- (f) a trust;
- (g) a limited liability company;
- (h) a partnership;
- (i) a political subdivision;
- (j) a government office, department, division, bureau, or other body of government; and
- (k) any other organization or entity.

[(18)] (19) “Personal property” includes:

- (a) money;
- (b) goods;
- (c) chattels;
- (d) effects;
- (e) evidences of a right in action;
- (f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- (g) a right or interest in an item described in Subsections [(18)] (19)(a) through (f).

[(19)] (20) “Personal representative,” “executor,” and “administrator” include:

- (a) an executor;
- (b) an administrator;
- (c) a successor personal representative;
- (d) a special administrator; and
- (e) a person who performs substantially the same function as a person described in Subsections [(19)] (20)(a) through (d) under the law governing the person’s status.

[(20)] (21) “Policy board,” “policy commission,” or “policy council” means a board, commission, or council that:

- (a) is authorized to make policy for the benefit of the general public;
- (b) is created by, and whose duties are provided by, the constitution or statute; and
- (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[(21)] (22) “Population” is shown by the most recent state or national census, unless expressly provided otherwise.

[(22)] (23) “Process” means a writ or summons issued in the course of a judicial proceeding.

[(23)] (24) “Property” includes both real and personal property.

[(24)] (25) “Real estate” or “real property” includes:

- (a) land;
- (b) a tenement;
- (c) a hereditament;
- (d) a water right;
- (e) a possessory right; and
- (f) a claim.

[(25)] (26) “Review board,” “review commission,” and “review council” mean a board, commission, committee, or council that:

- (a) is authorized to approve policy made for the benefit of the general public by another body or person;
- (b) is created by, and whose duties are provided by, statute; and
- (c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[(26)] (27) “Road” includes:

- (a) a public bridge;
- (b) a county way;
- (c) a county road;
- (d) a common road; and
- (e) a state road.

[(27)] (28) “Signature” includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

~~[(28)]~~ (29) “State,” when applied to the different parts of the United States, includes a state, district, or territory of the United States.

~~[(29)]~~ (30) “Swear” includes “affirm.”

~~[(30)]~~ (31) “Testify” means to make an oral statement under oath or affirmation.

(32) “Town” includes, depending on population, a metro township as defined in Section 10-3c-102.

~~[(31)]~~ (33) “Uniformed services” means:

- (a) the armed forces;
- (b) the commissioned corps of the National Oceanic and Atmospheric Administration; and
- (c) the commissioned corps of the United States Public Health Service.

~~[(32)]~~ (34) “United States” includes each state, district, and territory of the United States of America.

~~[(33)]~~ (35) “Utah Code” means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection ~~[(33)]~~ (35)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

~~[(34)]~~ (36) “Vessel,” when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

~~[(35)]~~ (37) (a) “Veteran” means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

- (A) on active duty; or
- (B) in a reserve component, to include the National Guard; or
- (ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

~~[(36)]~~ (38) “Will” includes a codicil.

~~[(37)]~~ (39) “Writ” means an order or precept in writing, issued in the name of:

- (a) the state;
- (b) a court; or
- (c) a judicial officer.

~~[(38)]~~ (40) “Writing” includes:

- (a) printing;
- (b) handwriting; and
- (c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

CHAPTER 25**S. B. 165**

Passed March 6, 2019

Approved March 19, 2019

Effective May 14, 2019

QUORUM REQUIREMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends the definition of a quorum for purposes of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- amends the definition of a quorum for purposes of the Open and Public Meetings Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-103, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018

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

Section 1. Section 52-4-103 is amended to read:**52-4-103. Definitions.**

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging, as that term is defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102; and

(iii) the Utah Independent Redistricting Commission.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201;

(v) a taxed interlocal entity, as that term is defined in Section 11-13-602; or

(vi) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken ~~[on a subject over which these elected officials have advisory power]~~.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(vi).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

CHAPTER 26**H. B. 20**

Passed February 7, 2019
 Approved March 21, 2019
 Effective May 14, 2019

HUMAN TRAFFICKING AMENDMENTS

Chief Sponsor: Angela Romero
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill clarifies and amends certain language regarding human trafficking and creates an offense for trafficking a vulnerable adult.

Highlighted Provisions:

This bill:

- ▶ clarifies that human trafficking of a child is an offense for which no statute of limitations applies;
- ▶ clarifies that those who knowingly benefit from human trafficking of a child can be charged as perpetrators;
- ▶ clarifies that victims of human trafficking may pursue civil actions against anyone who knowingly benefitted from the trafficking;
- ▶ replaces references to “children engaged in prostitution” with “children engaged in commercial sex”;
- ▶ directs law enforcement to investigate possible human trafficking of a child when they encounter a child engaged in commercial sex; and
- ▶ creates a first degree felony offense for trafficking a vulnerable adult.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-1-301, as last amended by Laws of Utah 2013, Chapter 196
 76-5-305, as enacted by Laws of Utah 2001, Chapter 301
 76-5-309, as last amended by Laws of Utah 2015, Chapter 160
 76-10-1302, as last amended by Laws of Utah 2017, Chapter 433
 77-38-15, as last amended by Laws of Utah 2017, Chapter 447

ENACTS:

76-5-311, Utah Code Annotated 1953

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

Section 1. Section 76-1-301 is amended to read:**76-1-301. Offenses for which prosecution may be commenced at any time.**

(1) As used in this section:

(a) “Aggravating offense” means any offense incident to which a homicide was committed as

described in Subsection 76-5-202(1)(d) or (e) or Subsection 76-5-202(2).

(b) “Predicate offense” means an offense described in Section 76-5-203(1) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

- (a) capital felony;
- (b) aggravated murder;
- (c) murder;
- (d) manslaughter;
- (e) child abuse homicide;
- (f) aggravated kidnapping;
- (g) child kidnapping;
- (h) rape;
- (i) rape of a child;
- (j) object rape;
- (k) object rape of a child;
- (l) forcible sodomy;
- (m) sodomy on a child;
- (n) sexual abuse of a child;
- (o) aggravated sexual abuse of a child;
- (p) aggravated sexual assault;
- (q) any predicate offense to a murder or aggravating offense to an aggravated murder;
- (r) aggravated human trafficking or aggravated human smuggling in violation of Section 76-5-310; ~~or~~
- (s) aggravated exploitation of prostitution involving a child, under Section 76-10-1306~~[-];~~ or
- (t) human trafficking of a child, under Section 76-5-308.5.

Section 2. Section 76-5-305 is amended to read:**76-5-305. Defenses.**

(1) It is a defense under this part that:

~~[(4)]~~ (a) the actor was acting under a reasonable belief that:

~~[(a)]~~ (i) the conduct was necessary to protect any person from imminent bodily injury or death; or

~~[(b)]~~ (ii) the detention or restraint was authorized by law; or

~~[(2)]~~ (b) the alleged victim is younger than 18 years of age or is mentally incompetent, and the actor was acting under a reasonable belief that the custodian, guardian, legal guardian, custodial

parent, or person acting in loco parentis to the victim would, if present, have consented to the actor's conduct.

(2) Subsection (1)(b) may not be used as a defense to conduct described in Section 76-5-308.5.

Section 3. Section 76-5-309 is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for forced labor and human trafficking for forced sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling under Section 76-5-308 of one or more persons is a third degree felony, except under Section 76-5-310.

(3) Human trafficking for forced labor or for forced sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for forced labor or for forced sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony; ~~and~~

(b) human smuggling is guilty of a third degree felony~~[-]; and~~

(c) human trafficking of a child is guilty of a first degree felony.

(5) A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or trafficked under Section 76-5-308, 76-5-308.5, or 76-5-310.

Section 4. Section 76-5-311 is enacted to read:

76-5-311. Human trafficking of a vulnerable adult -- Penalties.

(1) As used in this section:

(a) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.

(b) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

(2) An actor commits human trafficking of a vulnerable adult if the actor:

(a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or

(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.

(3) (a) Human trafficking of a vulnerable adult for forced labor includes forced labor in:

(i) industrial facilities;

(ii) sweatshops;

(iii) households;

(iv) agricultural enterprises; or

(v) any other workplace.

(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

(i) sexually explicit performances;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in a strip club; or

(v) exotic dancing or display.

(4) Human trafficking of a vulnerable adult in violation of this section is a first degree felony.

Section 5. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An individual is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Child" means the same as that term is defined in Section 76-10-1301.

(ii) "Child engaged in [~~prostitution~~] commercial sex" means a child who engages in conduct described in Subsection (1).

(iii) “Child engaged in sexual solicitation” means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) “Division” means the Division of Child and Family Services created in Section 62A-4a-103.

(v) “Receiving center” means the same as that term is defined in Section 62A-7-101.

(b) Upon encountering a child engaged in [~~prostitution~~] commercial sex or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation regarding possible human trafficking of the child pursuant to Section 76-5-308 and Section 76-5-308.5;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child’s parent or guardian, if practicable.

(c) When law enforcement has referred the child to the division under Subsection (3)(b)(ii):

(i) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services; and

(ii) the child may not be subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Section 6. Section 77-38-15 is amended to read:

77-38-15. Civil action against human traffickers and human smugglers.

(1) A victim of a person that commits the offense of human trafficking or human smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5, [~~or~~] aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action against that person.

(2) (a) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.

(b) The court may award treble damages on proof of actual damages if the court finds that the person’s acts were willful and malicious.

(3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.

(4) An action under this section shall be commenced no later than 10 years after the later of:

(a) the day on which the victim was freed from the human trafficking or human smuggling situation;

(b) the day on which the victim attains 18 years of age; or

(c) if the victim was unable to bring an action due to a disability, the day on which the victim’s disability ends.

(5) The time period described in Subsection (4) is tolled during a period of time when the victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

(6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter 38a, Crime Victims Restitution Act.

(7) A victim may bring an action described in this section in any court of competent jurisdiction where:

(a) a violation described in Subsection (1) occurred;

(b) the victim resides; or

(c) the person that commits the offense resides or has a place of business.

(8) If the victim is deceased or otherwise unable to represent the victim’s own interests in court, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

CHAPTER 27**H. B. 21**

Passed February 8, 2019
Approved March 21, 2019
Effective May 14, 2019

OFFENDER SUPERVISION AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill amends provisions relating to the preparation of a presentence investigation report.

Highlighted Provisions:

This bill:

- ▶ removes provisions requiring a POST certified Department of Corrections employee to provide investigative services;
- ▶ provides that a Department of Corrections employee who is trained to prepare a presentence investigation report may prepare a report for the courts, the department, or the Board of Pardons and Parole; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 64-13-20, as last amended by Laws of Utah 2009, Chapter 81
64-13-21, as last amended by Laws of Utah 2018, Chapter 334

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

Section 1. Section 64-13-20 is amended to read:**64-13-20. Investigative services -- Presentence investigation reports.**

- (1) The department shall:
- (a) provide investigative services and prepare reports to:
- (i) assist the courts in sentencing;
- (ii) assist the Board of Pardons and Parole in its decision-making responsibilities regarding offenders;
- (iii) assist the department in managing offenders; and
- (iv) assure the professional and accountable management of the department;
- (b) establish standards for providing investigative services based on available resources, giving priority to felony cases; and
- (c) employ staff for the purpose of conducting:

(i) thorough presentence investigations of the social, physical, and mental conditions and backgrounds of offenders; and

(ii) examinations when required by the court or the Board of Pardons and Parole.

(2) The department may provide recommendations concerning appropriate measures to be taken regarding offenders.

(3) (a) An employee of the department who is trained to prepare a presentence investigation report may prepare a presentence investigation report for the courts, the department, or the Board of Pardons and Parole.

~~[(a)]~~ (b) The presentence investigation reports prepared by the department are protected as defined in Section 63G-2-305 and after sentencing may not be released except by express court order or by [rules] rule made by the [Department of Corrections] department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(b)]~~ (c) The reports are intended only for use by:

(i) the [court] courts in the sentencing process;

(ii) the Board of Pardons and Parole in its [decisionmaking] decision-making responsibilities; and

(iii) the department in the supervision, confinement, and treatment of the offender.

(4) [Presentence investigation reports] A presentence investigation report shall be made available upon request to [other correctional programs] another correctional program within the state if the offender who is the subject of the report has been committed or is being evaluated for commitment to the facility for treatment as a condition of probation or parole.

(5) (a) The presentence investigation reports shall include a victim impact statement in all felony cases and in misdemeanor cases if the [defendant] offender caused bodily harm or death to the victim.

(b) Victim impact statements shall:

(i) identify the victim of the offense;

(ii) itemize any economic loss suffered by the victim as a result of the offense;

(iii) identify any physical, mental, or emotional injuries suffered by the victim as a result of the offense, and the seriousness and permanence;

(iv) describe any change in the victim's personal welfare or familial relationships as a result of the offense;

(v) identify any request for mental health services initiated by the victim or the victim's family as a result of the offense; and

(vi) contain any other information related to the impact of the offense upon the victim or the victim's family that the court requires.

(6) If the victim is deceased[;], under a mental, physical, or legal disability[;], or otherwise unable

to provide the information required under this section, the information may be obtained from the personal representative, guardian, or family members, as necessary.

(7) The department shall employ staff necessary to pursue investigations of complaints from the public, staff, or offenders regarding the management of corrections programs.

Section 2. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) The department shall establish standards for the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

(2) The department shall apply graduated sanctions established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the

use of the graduated sanctions and incentives, and offenders' outcomes.

(b) The collected information shall be provided to the Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

~~[(c) providing investigative services for the courts, the department, or the Board of Pardons and Parole;]~~

~~[(d) (c) supervising any offender during transportation; or~~

~~[(e) (d) collecting DNA specimens when the specimens are required under Section 53-10-404.~~

(6) (a) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-1 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of

Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

CHAPTER 28**H. B. 22**

Passed February 8, 2019
 Approved March 21, 2019
 Effective May 14, 2019

PRESENTENCE INVESTIGATION AND PROBATION REPORT AMENDMENTS

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

LONG TITLE**General Description:**

This bill amends provisions relating to presentence investigation reports and affidavits reporting a probation violation.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Corrections to provide a copy of a defendant's presentence investigation report to a sex offender treatment provider working with the defendant; and
- ▶ provides that an unsworn declaration may be used to report a probation violation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-18-1, as last amended by Laws of Utah 2018, Chapter 334

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

Section 1. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77, Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

(iii) the demand for services;

(iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant,

continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) (i) The department shall notify the sentencing court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of

probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Section 78B-5-705, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court that authorized probation shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this

section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; [øø]

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household[.]; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

CHAPTER 29**H. B. 25**

Passed February 14, 2019

Approved March 21, 2019

Effective May 14, 2019

TAX COMMISSION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies provisions relating to closed meetings held by the State Tax Commission.

Highlighted Provisions:

This bill:

- ▶ extends the authorization for the State Tax Commission to hold a meeting that is not open to the public to provide guidance to its employees on the interpretation and application of a law administered by the commission;
- ▶ requires the State Tax Commission to provide certain reports to the Revenue and Taxation Interim Committee containing information on all State Tax Commission meetings that were held to provide guidance to commission employees that were not open to the public; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-213.2, as enacted by Laws of Utah 2017, Chapter 201

63I-1-259, as last amended by Laws of Utah 2018, Chapter 281

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

Section 1. Section 59-1-213.2 is amended to read:**59-1-213.2. Annual report on provision of guidance by the commission.**

(1) (a) Subject to Subsection (2), the commission shall provide an electronic report to the Revenue and Taxation Interim Committee on or before September 30, ~~2017~~ 2020, and on or before September 30, ~~2018~~ 2023.

(b) The electronic report described in Subsection (1)(a) shall contain the following:

(i) the number of meetings that the commission held under Subsection 59-1-405(1)(g) during the 12-month period preceding the report;

(ii) the dates of any meetings described in Subsection (1)(b)(i);

(iii) a listing of the tax types discussed during the meetings described in Subsection (1)(b)(i); and

(iv) a summary of the outcome of the meetings described in Subsection (1)(b)(i).

(2) In making the report required by Subsection (1), the commission shall protect the name, address, social security number, or taxpayer identification number of a taxpayer.

Section 2. Section 63I-1-259 is amended to read:**63I-1-259. Repeal dates, Title 59.**

(1) Section 59-1-213.1 is repealed on May 9, ~~2019~~ 2024.

(2) Section 59-1-213.2 is repealed on May 9, ~~2019~~ 2024.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, ~~2019~~ 2024.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, ~~2019~~ 2024.

(5) Section 59-7-618 is repealed July 1, 2020.

(6) Section 59-9-102.5 is repealed December 31, 2020.

(7) Section 59-10-1033 is repealed July 1, 2020.

(8) Subsection 59-12-2219(13) is repealed on June 30, 2020.

(9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

CHAPTER 30**H. B. 26**

Passed February 7, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**POLITICAL SUBDIVISION
 LIEN AMENDMENTS**

Chief Sponsor: Cheryl K. Acton
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill amends a provision regarding the priority of certain political subdivision liens to be consistent with existing code.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the priority of certain political subdivision liens to be consistent with existing code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-60-103, as enacted by Laws of Utah 2018,
 Chapter 197

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

Section 1. Section 11-60-103 is amended to read:

11-60-103. Political subdivision liens -- Status -- Limitations.

(1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:

- (a) a service that the political subdivision renders; or
- (b) a product, an item, or goods that the political subdivision delivers.

(2) A political subdivision lien other than a lien described in Subsection (3):

- (a) (i) is not equivalent to and does not have the same priority as property tax; and
- (ii) is not subject to the same collection and tax sale procedures as a property tax;
- (b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;
- (c) is subordinate in priority to all encumbrances on the property existing on the date on which the [municipality] lienholder records the lien; and
- (d) is invalid and does not attach to the property if:

(i) the lienholder does not record the lien; or

(ii) a subsequent bona fide purchaser purchases the lien property for value before the lienholder records the lien.

(3) (a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:

(i) under Subsection 59-2-1317(3), has the same priority as a property tax and is subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:

(A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or

(B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and

(ii) except as provided in Subsection (3)(b):

(A) attaches to the property; and

(B) is valid against a subsequent bona fide purchaser of the property.

(b) Notwithstanding Subsection (3)(a)(ii), a nonrecurring tax notice charge does not attach to the property and is invalid against a subsequent bona fide purchaser if the recording of a document conveying title to the subsequent bona fide purchaser occurs before the earlier of:

(i) the recording of the lien or a notice of lien in the office of the recorder of the county in which the lien property is located; or

(ii) the mailing of the property tax notice that includes the nonrecurring tax notice charge.

(4) If the holder of a political subdivision lien records the lien or a notice of lien, upon payment of the amount that constitutes the lien:

(a) the lien is released from the property; and

(b) the lienholder shall record a release of the lien or the notice of lien in the same recorder's office in which the lienholder recorded the lien or the notice of the lien.

(5) Unless otherwise expressly stated in statute, a partial payment of an amount constituting a political subdivision lien, including all costs, charges, interest, and amounts accrued since the unpaid amount was certified to the county treasurer, is not a release of any assessment to be paid in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(6) Nothing in this section limits a political subdivision's lien authority, lien rights, or remedies otherwise provided in statute, a contract, a judgment, or another property interest.

CHAPTER 31**H. B. 30**

Passed February 20, 2019

Approved March 21, 2019

Effective July 1, 2019

**UTAH RETIREMENT
SYSTEMS AMENDMENTS**Chief Sponsor: Adam Robertson
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and insurance provisions.

Highlighted Provisions:

This bill:

- ▶ increases the number of members serving on the Membership Council;
- ▶ amends the powers and duties of the Utah Retirement Systems' executive director;
- ▶ modifies provisions allowing the calculation and payment of benefits pending settlement of a dispute;
- ▶ clarifies the availability of certain retirement allowance payment options;
- ▶ amends how the service status of certain justice court judges is established;
- ▶ specifies additional names for the Tier II retirement systems and plans; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-11-102, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 49-11-202, as last amended by Laws of Utah 2010, Chapters 286 and 321
- 49-11-204, as last amended by Laws of Utah 2008, Chapter 252
- 49-11-607, as last amended by Laws of Utah 2013, Chapter 316
- 49-12-406, as last amended by Laws of Utah 2015, Chapter 241
- 49-13-402, as last amended by Laws of Utah 2017, Chapter 141
- 49-13-406, as last amended by Laws of Utah 2015, Chapter 241
- 49-22-103, as enacted by Laws of Utah 2010, Chapter 266
- 49-22-305, as last amended by Laws of Utah 2017, Chapter 141
- 49-22-310, as enacted by Laws of Utah 2011, Chapter 439
- 49-23-103, as enacted by Laws of Utah 2010, Chapter 266
- 49-23-304, as last amended by Laws of Utah 2017, Chapter 141
- 49-23-309, as enacted by Laws of Utah 2011, Chapter 439

ENACTS:

49-11-205, Utah Code Annotated 1953

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

Section 1. Section 49-11-102 is amended to read:**49-11-102. Definitions.**

As used in this title:

(1) (a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, local district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is

designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Board of Regents" or "State Board of Regents" means the State Board of Regents established in Section 53B-1-103.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section ~~49-11-202~~ 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

(a) the State Board of Education and its instrumentalities;

(b) any institution of higher education and its branches;

(c) any school district and its instrumentalities;

(d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24) (a) “Employer” means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

(b) “Employer” may also include an agency financed in whole or in part by public funds.

(25) “Exempt employee” means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) “Final average monthly salary” means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) “Fund” means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28) (a) “Inactive member” means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) “Inactive member” does not include retirees.

(29) (a) “Initially entering” means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) “Initially entering” does not include a person who has any prior service credit on file with the office.

(c) “Initially entering” includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title; and

(iii) moves to a position with a participating employer that is covered by this title.

(30) “Institution of higher education” means an institution described in Section 53B-1-102.

(31) (a) “Member” means a person, except a retiree, with contributions on deposit with a system, the Utah Governors’ and Legislators’ Retirement Plan under Chapter 19, Utah Governors’ and Legislators’ Retirement Act, or with a terminated system.

(b) “Member” also includes leased employees within the meaning of Section 414(n)(2) of the

Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer’s work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, “member” does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(32) “Member contributions” means the sum of the contributions paid to a system or the Utah Governors’ and Legislators’ Retirement Plan, including refund interest if allowed by a system, and which are made by:

(a) the member; and

(b) the participating employer on the member’s behalf under Section 414(h) of the Internal Revenue Code.

(33) “Nonelective contribution” means an amount contributed by a participating employer into a participant’s defined contribution account.

(34) “Normal cost rate”:

(a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and

(b) is determined by the actuary based on the assumed rate of return established by the board.

(35) “Office” means the Utah State Retirement Office.

(36) “Participant” means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

(37) “Participating employer” means a participating employer, as defined by Chapter 12, Public Employees’ Contributory Retirement Act, Chapter 13, Public Employees’ Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters’ Retirement Act, Chapter 17, Judges’ Contributory Retirement Act, and Chapter 18, Judges’ Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) “Part-time appointed board member” means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) “Pension” means monthly payments derived from participating employer contributions.

(40) “Plan” means the Utah Governors’ and Legislators’ Retirement Plan created by Chapter

19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 2. Section 49-11-202 is amended to read:

49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms -- Officers -- Expenses and per diem.

(1) There is established the Utah State Retirement Board composed of seven board members determined as follows:

(a) Four board members, with experience in investments or banking, shall be appointed by the governor from the general public.

(b) One board member shall be a school employee appointed by the governor from at least three nominations submitted by the governing board of the school employees' association that is representative of a majority of the school employees who are members of a system administered by the board.

(c) One board member shall be a public employee appointed by the governor from at least three nominations submitted by the governing board of the public employee association that is representative of a majority of the public employees who are members of a system administered by the board.

(d) One board member shall be the state treasurer.

(2) Four board members constitute a quorum for the transaction of business.

(3) (a) All appointments to the board shall be made on a nonpartisan basis, with the consent of the Senate.

(b) Board members shall serve until their successors are appointed and take the constitutional oath of office.

(c) When a vacancy occurs on the board for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Except as required by Subsection (4)(b), all appointed board members shall serve for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that:

(i) approximately half of the board is appointed every two years; and

(ii) no more than two of the board members appointed under Subsection (1)(a) are appointed every two years.

(c) A board member who is appointed as a school employee or as a public employee who retires or who is no longer employed with a participating employer shall immediately resign from the board.

(5) (a) Each year the board shall elect a president and vice president from its membership.

(b) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

~~[(6) (a) There is established a Membership Council to perform the duties under Subsection (10).]~~

~~[(b) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:]~~

~~[(i) Section 63A-3-106;]~~

~~[(ii) Section 63A-3-107; and]~~

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

~~[(7) The Membership Council shall be composed of 13 council members selected as follows:]~~

~~[(a) Three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board.]~~

~~[(b) One council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees who are members of a system administered by the board.]~~

~~[(c) Two council members shall be public employees selected by the governing board of the association representative of a majority of the public employees who are members of a system administered by the board.]~~

~~[(d) One council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board.]~~

~~[(c) One council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board.]~~

~~[(f) One council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council.]~~

~~[(g) One council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems.]~~

~~[(h) One council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System.]~~

~~[(i) One council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory and Public Employees' Noncontributory Retirement Systems.]~~

~~[(j) One council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees.]~~

~~[(8) (a) Each entity granted authority to select council members under Subsection (7) may also revoke the selection at any time.]~~

~~[(b) Each term on the council shall be for a period of four years, subject to Subsection (8)(a).]~~

~~[(c) Each term begins on July 1 and expires on June 30.]~~

~~[(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.]~~

~~[(9) The council shall annually designate one council member as chair.]~~

~~[(10) The council shall:]~~

~~[(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;]~~

~~[(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;]~~

~~[(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;]~~

~~[(d) submit nominations to the board for the position of executive director if that position is vacant;]~~

~~[(c) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and]~~

~~[(f) perform other duties assigned to it by the board.]~~

Section 3. Section 49-11-204 is amended to read:

49-11-204. Powers and duties of executive director.

The executive director shall:

(1) act as the executive officer of the board and the office;

(2) administer the various systems, plans, programs, and functions assigned to the board or office;

(3) subject to board review, develop and implement internal policies and procedures which administer and govern the day-to-day operations of the systems, plans, and programs;

(4) transmit orders of a hearing officer made under Section 49-11-613 to the board;

(5) provide information concerning the operation of the office to the board, the governor, the Legislature, participating employers, and employer and employee associations, unless otherwise restricted under Section 49-11-618;

(6) inform the Legislature of any recommendations from the board regarding any necessary or desirable changes to this title;

(7) consult with the Legislature on all legislation under this title;

(8) (a) recommend to the board an annual administrative budget covering the operations of the office and, upon approval, submit the budget along with the actuarial status of the funds to the governor and the Legislature for review and comment; and

(b) direct and control the subsequent expenditures of the budget;

(9) employ, within the limitations of the budget, personnel to administer the systems, plans, programs, and funds assigned to the office, including consultants, actuaries, attorneys, medical examiners, investment counselors, and accountants to accomplish the purposes of this title;

(10) establish independent financial records for each of the systems, plans, and programs or combine all financial records using acceptable principles of accounting to identify the assets and vested interests of each system, plan, or program;

(11) maintain individual records necessary to provide benefits under this title;

(12) keep in convenient form all records, accounts, and data necessary for the administration and actuarial valuation of the systems, plans, and programs;

(13) adopt fees, charges, and upon the recommendation of the actuary, interest rates and

tables for the administration of the systems, plans, and programs;

(14) ~~[consolidate into one]~~ make payment of all monthly allowances and any defined contribution distributions, and may consolidate payments at the sole discretion of the executive director;

(15) ensure that ~~[if]~~ the integrity of the various funds is maintained through appropriate accounting records;

~~[(45)]~~ (16) at least every three years:

(a) make an actuarial investigation into the mortality, service, and other experience of the members, participants, beneficiaries, and covered individuals of the systems, plans, and programs;

(b) actuarially value the assets and liabilities of the administered funds and accounts; and

(c) determine the rate of interest being earned by the funds;

~~[(46)]~~ (17) report to the board findings under Subsection ~~[(45)]~~ (16), with recommendations, including proposed changes in the rates of contribution or benefits that are necessary to maintain the actuarial soundness of the systems, plans, or programs;

~~[(47)]~~ (18) regulate participating employers by:

(a) educating them on their duties imposed by this title;

(b) specifying the time, place, and manner in which contributions shall be withheld and paid; and

(c) requiring any reports necessary for the administration of this title; and

~~[(48)]~~ (19) otherwise exercise the powers and perform the duties conferred on the executive director by this title.

Section 4. Section 49-11-205 is enacted to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) There is established a Membership Council to perform the duties under Subsection (5).

(2) The Membership Council shall be composed of 15 council members selected as follows:

(a) three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board;

(b) one council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees who are members of a system administered by the board;

(c) two council members shall be public employees selected by the governing board of the association representative of a majority of the

public employees who are members of a system administered by the board;

(d) one council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board;

(e) one council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board;

(f) one council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council;

(g) one council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems;

(h) one council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the majority of paid professional firefighters who are members of the Firefighters' Retirement System;

(i) one council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public Employees' Tier II Contributory Retirement Systems;

(j) one council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees;

(k) one council member shall be a school business official selected by the governing board of the association representative of a majority of the school business officials from public education employers who participate in a system administered by the board; and

(l) one council member shall be a special district officer or employee selected by the governing board of the association representing the largest number of special service districts and local districts who participate in a system administered by the board.

(3) (a) Each entity granted authority to select council members under Subsection (2) may also revoke the selection at any time.

(b) Each term on the council shall be for a period of four years, subject to Subsection (3)(a).

(c) Each term begins on July 1 and expires on June 30.

(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.

(4) The council shall annually designate one council member as chair.

(5) The council shall:

(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;

(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;

(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;

(d) submit nominations to the board for the position of executive director if that position is vacant;

(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and

(f) perform other duties assigned to it by the board.

(6) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 5. Section 49-11-607 is amended to read:

49-11-607. Determination of benefits -- Errors in records or calculations -- Correction of errors by the office.

(1) After the retirement date, which shall be set by a member in the member's application for retirement, no alteration, addition, or cancellation of a benefit may be made except as provided in Subsections (2), (3), and (4) or other law.

(2) (a) Errors in the records or in the calculations of the office which result in an incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the office if the correction results in a modification of the benefit amount of \$5 or more.

(b) Future payments shall be made to any member, retiree, participant, covered individual, alternate payee, or beneficiary to:

(i) pay the benefit to which the member or beneficiary was entitled; or

(ii) recover any overpayment.

(3) (a) Errors in the records or calculation of a participating employer which result in an incorrect benefit to a member, retiree, participant, covered

individual, alternate payee, or beneficiary shall be corrected by the participating employer.

(b) If insufficient employer contributions have been received by the office, the participating employer shall pay any delinquent employer contributions, plus interest under Section 49-11-503, required by the office to maintain the system, plan, or program affected on an actuarially sound basis.

(c) If excess contributions have been received by the office, the contributions shall be refunded to the participating employer or member which paid the contributions.

(4) If a dispute exists between a participating employer and a member or the office and a member at the time of the member's retirement which will affect the member's benefit calculation, and notice of the dispute is given to the office prior to the calculation of a member's benefit, the benefit may be paid based on the member's retirement date and the records available and then recalculated upon settlement of the dispute.

Section 6. Section 49-12-406 is amended to read:

49-12-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-12-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) (i) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(ii) If there is a dispute between the office and a participating employer or justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the

judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 7. Section 49-13-402 is amended to read:

49-13-402. Service retirement plans -- Calculation of retirement allowance.

(1) (a) Except as provided under Subsection (7) or Section 49-13-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.

(c) (i) Years of service include any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the

retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the State Board of Regents to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in the Public Employees' Contributory Retirement System by July 1, 1967.

(b) Periods of employment which are exempt from this system as permitted under Subsection 49-13-203(1)(b) may be purchased by the member

for the purpose of retirement only if all benefits from a public or private system, organization, or company designated by the State Board of Regents based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (6) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(7) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 8. Section 49-13-406 is amended to read:

49-13-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) (i) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(ii) If there is a dispute between the office and a participating employer or justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of

service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 9. Section 49-22-103 is amended to read:

49-22-103. Creation of system.

(1) There is created for members employed by a participating employer the "New Public Employees' Tier II Contributory Retirement System."

(2) The New Public Employees' Tier II Contributory Retirement System includes:

(a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement System; and

(b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution Plan.

(3) The system may also be known and function as the Public Employees' Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined Contribution Plan.

Section 10. Section 49-22-305 is amended to read:

49-22-305. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social security limitations.

(1) (a) [The] Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 35 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within one-tenth of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(6) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 11. Section 49-22-310 is amended to read:

49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-22-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section ~~[49-11-202]~~ 49-11-205 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or

(b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:

(i) there is a significant likelihood that contribution rates will continue to rise; and

(ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-22-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

(a) the final average salary calculation provided under Section 49-22-102;

(b) the years of service required to be eligible to receive a retirement allowance under Section 49-22-304;

(c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);

(d) the annual cost-of-living adjustment under Section 49-22-308; or

(e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:

(i) cannot reasonably be sustained under its current provisions;

(ii) is critically underfunded; and

(iii) has become unstable and is in risk of collapse.

(b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

(i) conversion to a different type of retirement plan;

(ii) equitable distribution of system assets to retirees and members; and

(iii) a closure of the system.

Section 12. Section 49-23-103 is amended to read:

49-23-103. Creation of system.

(1) There is created for members employed by a participating employer the "New Public Safety and Firefighter Tier II Contributory Retirement System."

(2) The New Public Safety and Firefighter Tier II Contributory Retirement System includes:

(a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement System; and

(b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution Plan.

(3) The system may also be known and function as the Public Safety and Firefighter Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined Contribution Plan.

Section 13. Section 49-23-304 is amended to read:

49-23-304. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social security limitations.

(1) (a) [The] Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 25 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to

the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(6) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 14. Section 49-23-309 is amended to read:

49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-23-301(2)(b) to the certified

contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section [~~49-11-202~~] 49-11-205 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or

(b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:

(i) there is a significant likelihood that contribution rates will continue to rise; and

(ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-23-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

(a) the final average salary calculation provided under Section 49-23-102;

(b) the years of service required to be eligible to receive a retirement allowance under Section 49-23-303;

(c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);

(d) the annual cost-of-living adjustment under Section 49-23-307; or

(e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:

(i) cannot reasonably be sustained under its current provisions;

(ii) is critically underfunded; and

(iii) has become unstable and is in risk of collapse.

(b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

(i) conversion to a different type of retirement plan;

(ii) equitable distribution of system assets to retirees and members; and

(iii) a closure of the system.

Section 15. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 32**H. B. 33**

Passed February 15, 2019

Approved March 21, 2019

Effective May 14, 2019

**UTAH WHOLESOME FOOD ACT
AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends provisions of the Utah Wholesome Food Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ designates “produce” as adulterated if it is in violation of certain provisions of the Federal Food Safety Modernization Act;
- ▶ expands the definition of “food establishment” to include farms;
- ▶ allows an authorized agent of the Department of Agriculture and Food to enter a farm for inspections under certain circumstances;
- ▶ provides that carriers are subject to regulation under the Utah Wholesome Food Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-5-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-5-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-5-105, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-5-501, as last amended by Laws of Utah 2017, Chapter 42 and renumbered and amended by Laws of Utah 2017, Chapter 345 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-5-102 is amended to read:**4-5-102. Definitions.**

As used in this chapter:

(1) “Advertisement” means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) “Color additive”:

(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and

(ii) includes black, white, and intermediate grays.

(b) “Color additive” does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical [which] that imparts color solely because of [its] the chemical’s effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) “Consumer commodity” means a food, as defined by this act, or by the federal act.

(b) “Consumer commodity” does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(4) “Contaminated” means not securely protected from dust, dirt, or foreign or injurious agents.

(5) (a) “Farm” means an agricultural operation, under management by one entity, that grows or harvests crops.

(b) “Farm” does not include an entity that is exempt under 21 C.F.R. 112.4(a), 21 C.F.R. 112.5, or 21 C.F.R. 117.3.

[~~(5)~~] (6) “Farmers market” means a market where [~~producers of food products sell~~] a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food [~~items~~] item directly to the final consumer.

[~~(6)~~] (7) “Federal act” means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

[~~(7)~~] (8) “Food” means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or [~~its~~] chewing gum components; or

(c) a food supplement for special dietary use which is necessitated because of a physical, physiological, pathological, or other condition.

[~~(8)~~] (9) (a) “Food additive” means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

(b) (i) “Food additive” includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(ii) "Food additive" does not include:

(A) a pesticide chemical in or on a raw agricultural commodity;

(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or

(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.

~~[(9)]~~ (10) (a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

(i) a dairy farm, a dairy plant, or a meat establishment, ~~[which]~~ that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.; or

(ii) a farmers market.

~~[(40)]~~ (11) "Label" means a written, printed, or graphic display on the immediate container of an article of food.

~~[(41)]~~ (12) "Labeling" means a label and other written, printed, or graphic display:

(a) on an article of food or ~~[its containers or wrappers]~~ the article of food's container or wrapper; or

(b) accompanying the article of food.

~~[(42)]~~ (13) "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

~~[(43)]~~ (14) (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) a package ~~[liners]~~ liner;

(ii) a shipping ~~[containers]~~ container or wrapping used solely for the transportation of a consumer ~~[commodities]~~ commodity in bulk or in quantity to ~~[manufacturers, packers, processors, or wholesale or retail distributors]~~ a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping ~~[containers]~~ container or outer ~~[wrappings]~~ wrapping used by a ~~[retailers]~~ retailer

to ship or deliver a consumer commodity to a retail ~~[customers]~~ customer, if the ~~[containers and wrappings]~~ container and wrapping bear no printed information relating to the consumer commodity.

~~[(14)]~~ (15) (a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection 4-14-102(20); or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) "Pesticide" does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

~~[(45)]~~ (16) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(17) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

~~[(46)]~~ (18) "Raw agricultural commodity" means a food in ~~[its]~~ the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in ~~[their]~~ the fruit's unpeeled, natural form prior to marketing.

~~[(47)]~~ (19) "Registration" means the commissioner's issuance of a certificate ~~[by the commissioner]~~ to a qualified food establishment.

(20) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Section 2. Section 4-5-103 is amended to read:

4-5-103. Adulterated food specified.

(1) A food is adulterated:

~~[(4)]~~ (a) if ~~[it]~~ the food bears or contains ~~[any]~~ a poisonous or deleterious substance in a quantity that may ordinarily render ~~[it]~~ the food injurious to health; ~~[but in case the substance is not an added substance the food may not be considered adulterated under this Subsection (1)(a) if the quantity of the substance in such food does not ordinarily render it injurious to health;]~~

(b) ~~[(4)]~~ if ~~[it]~~ the food bears or contains ~~[any]~~ an added poisonous or added deleterious substance ~~[other than one that is: (A) a pesticide chemical in or on a raw agricultural commodity; (B) a food additive; or (C) a color additive]~~ that is unsafe within the meaning of Subsection 4-5-204(1); ~~[or]~~

~~[(iii)]~~ (c) except as provided in Subsection (3), if [it] the food:

(i) is a raw agricultural commodity; and

(ii) [it] bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a; [or]

~~[(iii)]~~ (d) if [it is or it] the food is, bears, or contains [any] a food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348; [provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. 346a and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of Section 4-5-204 and this Subsection (1)(b)(iii), not be considered unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity;]

(e) (e) if [it] the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance[; or];

(f) if [it] the food is otherwise unfit for food;

~~[(d)]~~ (g) if [it] the food has been produced, prepared, packed, or held under unsanitary conditions whereby [it] the food may have:

(i) become contaminated with filth[;]; or [whereby it may have]

(ii) been rendered diseased, unwholesome, or injurious to health;

(e) (h) if [it] the food is, in whole or in part, the product of:

(i) a diseased animal [or];

(ii) an animal that has died [otherwise] other than by slaughter[;]; or [or]

(iii) an animal that has [been] fed upon the uncooked offal from a slaughterhouse;

~~[(f)]~~ (i) if [its] the food's container is composed, in whole or in part, of [any] a poisonous or deleterious substance that may render the contents injurious to health;

~~[(g)]~~ (j) if [it] the food has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-204, or 21 U.S.C. Sec. 348; [or]

~~[(h) in]~~

(k) if the food:

(i) is a meat or meat [products are adulterated:] product; and

~~[(i) if such products are in casings, packages, or wrappers]~~

(ii) (A) is in a casing, package, or wrapper:

(I) through which [any] a part of [their] the casing, package, or wrapper's contents can be seen; and

(II) [which, or the markings of which,] that is colored or has markings that are colored [red or any other color], so as to be misleading or deceptive with respect to the color, quality, or kind of [such products] food to which [they are] the color is applied; or

~~[(ii)]~~ (B) [if such products contain or bear any] contains or bears a color additive;

(l) if the food is produce and is in violation of a provision of 21 C.F.R. Part 112;

~~[(2)]~~ (a) if any] (m) if a valuable constituent has been, in whole or in part, omitted or abstracted [therefrom; (b) if any] from a product and a substance has been substituted wholly or in part [therefor];

~~[(e)]~~ (n) if damage or inferiority has been concealed [in any manner; or];

~~[(d)]~~ (o) if [any] a substance has been added [or], mixed, or packed [therewith] with a product so as to:

(i) increase [its] the product's bulk or weight[; or];

(ii) reduce [its] the product's quality or strength; or

(iii) make [it] the product appear better or of greater value [than it is]; or

~~[(3)]~~ (p) if [it] the food:

(i) is confectionery[; and];

~~[(a)]~~ (ii) (A) has partially or completely imbedded [therein any] in the food a nonnutritive object[; provided that this Subsection (3)(a) does not apply in the case of any nonnutritive objective if, in the judgment of the department such object], unless the department determines that the nonnutritive object:

(I) is of practical functional value to the confectionery product; and

(II) would not render the product injurious or hazardous to health;

~~[(b)]~~ (B) bears or contains [any] alcohol, other than alcohol [not in excess of .05% by volume] derived solely from the use of flavoring extracts, that does not exceed .05% by volume; or

~~[(e)]~~ (C) bears or contains [any] a nonnutritive substance[; provided, that this Subsection (3)(e) does not apply to], unless:

(I) the nonnutritive substance is a safe nonnutritive substance that is in or on the confectionery [by reason of its use for some] for a practical functional purpose in the manufacture, packaging, or storing of [such] the confectionery [if]; and

(II) the use of the nonnutritive substance does not promote deception of the consumer or otherwise

result in adulteration or misbranding in violation of this chapter.

(4) (2) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (3)(e) (1)(p)(ii)(C), issue rules allowing or prohibiting the use of a particular nonnutritive ~~substances~~ substance.

(3) Notwithstanding the provisions of Section 4-5-204, the residue of a pesticide chemical remaining in or on a processed food is not considered unsafe if:

(a) the pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. Sec. 346a;

(b) the residue of the pesticide chemical in or on the raw agricultural commodity is removed to the extent possible in good manufacturing practice;

(c) the raw agricultural commodity is subjected to processing such as canning, cooking, freezing, dehydrating, or milling; and

(d) the concentration of the residue in the processed food when ready to eat is no greater than the tolerance prescribed for the raw agricultural commodity.

Section 3. Section 4-5-105 is amended to read:

4-5-105. Inspection of premises and records -- Authority to take samples -- Inspection results reported.

(1) An authorized agent of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(a) enter at reasonable times ~~any~~ a factory, farm, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce or after introduction into commerce;

(b) enter ~~any~~ a vehicle being used to transport or hold food in commerce;

(c) inspect at reasonable times and within reasonable limits and in a reasonable manner ~~any~~ a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling located within ~~it~~ the factory, warehouse, establishment, or vehicle;

(d) obtain samples necessary for the enforcement of this chapter ~~so long as~~ if the department:

(i) pays the posted price for the sample if requested to do so; and

(ii) receives a signed receipt from the person from whom the sample is taken; and

(e) have access to and copy all records of carriers in commerce showing:

(i) the movement in commerce of ~~any~~ food;

(ii) the holding of food during or after movement in commerce; and

(iii) the quantity, shipper, and consignee of food.

(2) Evidence obtained under this section may not be used in a criminal prosecution of the person from whom the evidence was obtained.

(3) ~~Carriers may not be~~ A carrier is subject to the other provisions of this chapter by reason of ~~their~~ the carrier's receipt, carriage, holding, or delivery of food in the usual course of business as ~~carriers~~ a carrier.

(4) ~~Upon completion of~~ After the inspection of a factory, warehouse, consulting laboratory, or other establishment and ~~prior to~~ before leaving the premises, the authorized agent making the inspection shall give ~~to~~ the owner, operator, or agent in charge a written report ~~in writing setting forth~~ describing any conditions or practices observed by ~~him~~ the agent during the inspection which, in ~~his~~ the agent's judgment, indicate that ~~any~~ a food in the establishment:

(a) consists in whole or in part of ~~any~~ a filthy, putrid, or decomposed substance; or

(b) has been prepared, packed, or held under unsanitary conditions whereby ~~it~~ the food may have become contaminated with filth or ~~whereby it may have~~ been rendered injurious to health.

(5) A copy of the report required under Subsection (4) shall be sent promptly to the department.

(6) If the authorized agent making the inspection of a factory, warehouse, or other establishment has obtained ~~any~~ a sample in the course of the inspection, the agent shall give to the owner, operator, or agent in charge:

(a) a receipt describing the samples obtained~~[-]; and~~

~~(7) When in the course of the inspection the officer or employee making the inspection obtains a sample of any food and~~

(b) if an analysis is made of the sample for the purpose of ascertaining whether the food consists in whole or in part of ~~any~~ a filthy, putrid, or decomposed substance or is otherwise unfit for food, a copy of the results of the analysis ~~shall be furnished promptly to the owner, operator, or agent in charge~~.

Section 4. Section 4-5-501 is amended to read:

4-5-501. Cottage food operations.

(1) For purposes of this chapter:

(a) "Cottage food operation" means a person who produces a cottage food product in a home kitchen.

(b) "Cottage food product" means a ~~non-potentially~~ nonpotentially hazardous baked good, jam, jelly, or other ~~non-potentially~~ nonpotentially hazardous food produced in a home kitchen.

(c) "Home kitchen" means a kitchen:

(i) designed and intended for use by the residents of a home; and

(ii) used by a resident of the home for the production of a cottage food product.

(d) "Potentially hazardous food" means:

(i) a food of animal origin;

(ii) raw seed sprouts; or

(iii) a food that requires time or temperature control, or both, for safety to limit pathogenic microorganism growth or toxin formation, as identified by the department in rule.

(2) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food supply.

(3) Rules adopted pursuant to Subsection (2) may not require:

(a) the use of a commercial ~~[surfaces]~~ surface such as a stainless steel ~~[counters or cabinets]~~ counter or cabinet;

(b) the use of a commercial grade:

(i) sink;

(ii) dishwasher; or

(iii) oven;

(c) a separate kitchen for the cottage food ~~[production]~~ operation; or

(d) the submission of plans and specifications before construction of, or remodel of, a cottage food production operation.

(4) The operator of a cottage food ~~[production]~~ operation shall:

(a) register with the department as a cottage food ~~[production]~~ operation before operating as a cottage food ~~[production]~~ operation;

(b) hold a valid food handler's permit; and

(c) package a cottage food product with a label, as specified by the department in rule.

(5) Notwithstanding the provisions of Subsections 4-5-301(1)(a) and (c), the department shall issue a registration to an applicant for a cottage food ~~[production]~~ operation if the applicant for the registration:

(a) pays the fees required by the department; and

(b) meets the requirements of this section.

(6) Notwithstanding the provisions of Section 26A-1-114, a local health department:

(a) does not have jurisdiction to regulate the production of food at a cottage food ~~[production]~~ operation operating in compliance with this section, as long as the products are not offered to the public for consumption on the premises; and

(b) does have jurisdiction to investigate a cottage food ~~[production]~~ operation in ~~[any]~~ an investigation into the cause of a ~~[food-borne]~~ foodborne illness outbreak.

(7) A food service establishment as defined in Section 26-15a-102 may not use a product produced in a cottage food ~~[production]~~ operation as an ingredient in ~~[any]~~ a food that is prepared by the food establishment and offered by the food establishment to the public for consumption.

CHAPTER 33**H. B. 36**

Passed February 25, 2019

Approved March 21, 2019

Effective May 14, 2019

**BUREAU OF CRIMINAL IDENTIFICATION
REPORTING AMENDMENTS**

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill requires reporting of certain information by the courts to the Bureau of Criminal Identification.

Highlighted Provisions:

This bill:

- ▶ requires the clerk of the district court to report information on individuals mentally unfit to purchase firearms to the Bureau of Criminal Identification;
- ▶ requires the Bureau of Criminal Identification to submit information reported by the courts on individuals mentally unfit to purchase firearms to the National Instant Criminal Background Check System;
- ▶ requires the clerk of the district court to report information on individuals subject to a protective order to the Bureau of Criminal Identification; and
- ▶ requires the Bureau of Criminal Identification to submit information reported by the courts on individuals subject to a protective order to the National Crime Information Center.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-10-102, as last amended by Laws of Utah 2010, Chapter 276

53-10-208, as last amended by Laws of Utah 2009, Chapters 292 and 356

53-10-208.1, as last amended by Laws of Utah 2011, Chapter 366

78B-7-106, as last amended by Laws of Utah 2018, Chapters 124 and 255

ENACTS:

53-10-213, Utah Code Annotated 1953

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

Section 1. Section 53-10-102 is amended to read:**53-10-102. Definitions.**

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" is as defined in Section 32B-1-102.

(3) "Alcoholic product" is as defined in Section 32B-1-102.

(4) "Commission" means the Alcoholic Beverage Control Commission.

(5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.

(6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.

(7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

~~[(8) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.]~~

~~[(9)] (8) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.~~

~~(9) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.~~

(10) "Department" means the Department of Public Safety.

(11) "Director" means the division director appointed under Section 53-10-103.

(12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.

(14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(15) "Mental defective" means an individual who, by a district court, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:

(a) to be a danger to himself or herself or others;

(b) to lack the mental capacity to contract or manage the individual's own affairs;

(c) to be incompetent by a court in a criminal case;
or

(d) to be incompetent to stand trial or found not guilty by reason or lack of mental responsibility.

[45] (16) "Missing child" means any person under the age of 18 years who is missing from the person's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the child's care.

[46] (17) "Missing person" is as defined in Section 26-2-27.

[47] (18) "Pathogens" means disease-causing agents.

[48] (19) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

[49] (20) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

- (a) national security interests;
 - (b) care, custody, or control of children;
 - (c) fiduciary trust over money;
 - (d) health care to children or vulnerable adults; or
 - (e) the provision of any of the following to a vulnerable adult:
 - (i) care;
 - (ii) protection;
 - (iii) food, shelter, or clothing;
 - (iv) assistance with the activities of daily living;
- or
- (v) assistance with financial resource management.

Section 2. Section 53-10-208 is amended to read:

53-10-208. Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

- (a) records of criminal warrant information; and
- (b) after notice and hearing, records of protective orders issued pursuant to:
 - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in ~~[Subsection 53-10-208.1(4)]~~ Subsection 53-10-208.1(1)(d) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Section 3. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

~~[(4)]~~ (a) all dispositions of criminal matters, including:

- ~~[(a)]~~ (i) guilty pleas;
- ~~[(b)]~~ (ii) convictions;

~~(e)~~ (iii) dismissals;

~~(d)~~ (iv) acquittals;

(e) (v) pleas held in abeyance;

~~(f)~~ (vi) judgments of not guilty by reason of insanity ~~[for a violation of];~~

~~(i)~~ a felony offense;]

~~(ii)~~ Title 76, Chapter 5, Offenses Against the Person; or]

~~(iii)~~ Title 76, Chapter 10, Part 5, Weapons;]

~~(g)~~ (vii) judgments of guilty with a mental illness;

~~(h)~~ (viii) finding of mental incompetence to stand trial ~~[for a violation of]; and~~

~~(i)~~ a felony offense;]

~~(ii)~~ Title 76, Chapter 5, Offenses Against the Person; or]

~~(iii)~~ Title 76, Chapter 10, Part 5, Weapons; or]

~~(4)~~ (ix) probations granted; ~~and~~

~~(2)~~ (b) orders of civil commitment under the terms of Section 62A-15-631;

~~(3)~~ (c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

~~(4)~~ (d) protective orders issued after notice and hearing, pursuant to:

~~(a)~~ (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

~~(b)~~ (ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 4. Section 53-10-213 is enacted to read:

53-10-213. Reporting Requirements.

(1) The bureau shall submit the record received from the court in accordance with Subsection 78B-7-106(5)(e) to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

(2) The bureau shall submit the record received from the court in accordance with Subsection 53-10-208.1(2) to the National Instant Criminal Background Check System within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Section 5. Section 78B-7-106 is amended to read:

78B-7-106. Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of an order for protection is required, a court may:

(a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue an order for protection or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

(k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in an order for protection or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 77-36-5.3.

(5) Following the protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; ~~and~~

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113[-]; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(i) criminal offenses are those under Subsections (2)(a) through (e), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and

(ii) civil offenses are those under Subsections (2)(f), (h), and (i), and Subsection (3)(a) as it refers to Subsections (2)(f), (h), and (i).

(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.

(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

(7) The protective order shall include:

(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;

(b) information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date of birth, address, telephone number, and physical description; and

(c) a statement advising the petitioner that:

(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;

(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and

(iii) the address provided by the petitioner will not be made available to the respondent.

(8) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(9) (a) The county sheriff that receives the order from the court, pursuant to Subsection (6)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(10) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(11) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

(12) A protective order may be modified without a showing of substantial and material change in circumstances.

(13) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

CHAPTER 34**H. B. 47**

Passed March 8, 2019
Approved March 21, 2019
Effective May 14, 2019

**EARLY CHILDHOOD
COORDINATION AMENDMENTS**

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill creates the Early Childhood Utah Advisory Council and the Governor's Early Childhood Commission.

Highlighted Provisions:

This bill:

- ▶ creates the Early Childhood Utah Advisory Council (council) in the Department of Health;
- ▶ creates the Governor's Early Childhood Commission (commission) in the governor's office; and
- ▶ describes the duties of the council and the membership and duties of the commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-66-101, Utah Code Annotated 1953
26-66-102, Utah Code Annotated 1953
26-66-201, Utah Code Annotated 1953
26-66-202, Utah Code Annotated 1953
26-66-203, Utah Code Annotated 1953
63M-13-101, Utah Code Annotated 1953
63M-13-102, Utah Code Annotated 1953
63M-13-201, Utah Code Annotated 1953
63M-13-202, Utah Code Annotated 1953
63M-13-203, Utah Code Annotated 1953

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

Section 1. Section 26-66-101 is enacted to read:

**CHAPTER 66. EARLY CHILDHOOD UTAH
ADVISORY COUNCIL**

Part 1. General Provisions**26-66-101. Title.**

This chapter is known as the "Early Childhood Utah Advisory Council."

Section 2. Section 26-66-102 is enacted to read:**26-66-102. Definitions.**

As used in this chapter:

(1) "Commission" means the Governor's Early Childhood Commission created in Section 63M-13-201.

(2) "Council" means the Early Childhood Utah Advisory Council created in Section 26-66-201.

Section 3. Section 26-66-201 is enacted to read:**Part 2. Early Childhood Utah Advisory Council****26-66-201. Early Childhood Utah Advisory Council.**

(1) There is created the Early Childhood Utah Advisory Council.

(2) The department shall make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(a) this chapter;

(b) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 26-66-202 is enacted to read:**26-66-202. Early Childhood Utah Advisory Council -- Duties.**

(1) The council shall serve as an entity dedicated to improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b.

(2) The council shall advise the commission and, on or before August 1, annually provide to the commission:

(a) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households; and

(b) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(i) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(ii) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(iii) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(iv) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards.

(3) On or before August 1, 2020, and at least every five years thereafter, the council shall provide to the commission a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Section 5. Section 26-66-203 is enacted to read:

26-66-203. Compensation.

A member of the council may not receive compensation or benefits for the member's service.

Section 6. Section 63M-13-101 is enacted to read:

CHAPTER 13. GOVERNOR'S EARLY CHILDHOOD COMMISSION

Part 1. General Provisions

63M-13-101. Title.

This chapter is known as the "Governor's Early Childhood Commission."

Section 7. Section 63M-13-102 is enacted to read:

63M-13-102. Definitions.

As used in this chapter:

(1) "Commission" means the Governor's Early Childhood Commission created in Section 63M-13-201.

(2) "Early childhood" refers to a child in the state who is six years of age or younger.

Section 8. Section 63M-13-201 is enacted to read:

Part 2. Governor's Early Childhood Commission

63M-13-201. Creation of the Governor's Early Childhood Commission.

(1) There is created within the governor's office the Governor's Early Childhood Commission consisting of the following five members:

(a) the lieutenant governor, who shall serve as chair of the commission;

(b) the executive director of the Department of Workforce Services or the deputy director if designated by the executive director;

(c) the executive director of the Department of Health or the deputy director if designated by the executive director;

(d) the executive director of the Department of Human Services or the deputy director if designated by the executive director; and

(e) the state superintendent of public instruction or a deputy superintendent if designated by the superintendent.

(2) The chair of the commission, with the approval of the commission, shall appoint a vice chair of the commission.

(3) The commission chair:

(a) is responsible for the call and conduct of meetings;

(b) shall call and hold meetings of the commission at least quarterly;

(c) shall call additional meetings upon request by a majority of the commission's members; and

(d) may delegate duties to the vice chair.

(4) A majority of the members of the commission constitutes a quorum of the commission at any meeting and the action of the majority of members present is the action of the commission.

(5) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) The Department of Workforce Services shall provide administrative staff support to the commission.

Section 9. Section 63M-13-202 is enacted to read:

63M-13-202. Duties of the commission.

(1) The responsibilities of the commission include:

(a) supporting Utah parents and families, who have family members that are in early childhood, by providing comprehensive and accurate information regarding the availability of voluntary services that are available to children in early childhood from state agencies and other private and public entities;

(b) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(c) sharing and analyzing information regarding early childhood issues in the state;

(d) developing and coordinating a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(e) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(2) To fulfill the responsibilities described in Subsection (1), the commission shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritage;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend and implement changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend and implement changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services;

(i) develop, recommend, and coordinate a comprehensive delivery system of services for children in early childhood; and

(j) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(3) In fulfilling the duties of the commission, the commission shall collaborate with the Early Childhood Utah Advisory Council created in Section 22-66-201.

(4) In fulfilling the commission's duties, the commission may:

(a) request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics; and

(b) appoint special advisory groups to advise and assist the commission.

(5) Members of a special advisory group described in Subsection (4)(b):

(a) shall be appointed by the commission;

(b) may include:

(i) members of the commission; and

(ii) individuals from the private or public sector; and

(c) may not receive reimbursement or pay for work done in relation to the special advisory group.

(6) A special advisory group created in accordance with Subsection (4)(b) shall report to the commission on the progress of the special advisory group.

Section 10. Section 63M-13-203 is enacted to read:

63M-13-203. Annual report.

(1) On or before October 1 of each year, the commission shall provide a report to the governor and the Economic Development and Workforce Services Interim Committee.

(2) The annual report shall:

(a) describe how the commission fulfilled its statutory duties during the year;

(b) describe the commission's progress in developing and coordinating a comprehensive delivery system of services for children in early childhood; and

(c) include recommendations on how the state should act to address issues related to providing services for children in early childhood.

CHAPTER 35**H. B. 61**

Passed February 13, 2019

Approved March 21, 2019

Effective May 14, 2019

STATE DATABASES AMENDMENTS

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill establishes provisions relating to information to be contained in certain databases maintained by the state.

Highlighted Provisions:

This bill:

- ▶ encourages counties and municipalities to receive a recommendation from the public safety answering point before approving a plat;
- ▶ requires counties and municipalities to submit, to the Automated Geographic Reference Center, information for inclusion in the unified statewide 911 emergency service database;
- ▶ requires the State Geographic Information Database to contain certain information regarding each public highway in the state;
- ▶ requires conformity to the Utah Coordinate System by a specified date; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-9a-603, as last amended by Laws of Utah 2017, Chapters 410 and 428
- 10-9a-604, as last amended by Laws of Utah 2017, Chapter 405
- 17-27a-603, as last amended by Laws of Utah 2017, Chapters 410 and 428
- 17-27a-604, as last amended by Laws of Utah 2017, Chapter 405
- 57-10-11, as last amended by Laws of Utah 2001, Chapter 62
- 63F-1-507, as last amended by Laws of Utah 2009, Chapter 350

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

Section 1. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and ~~[(5)]~~ (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

- (i) is not an employee or agent of the municipality; or
- (ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(e), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection [(4)] (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

- (A) access to the canal;
- (B) maintenance of the canal;
- (C) canal protection; and
- (D) canal safety.

(e) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection [(4)] (5)(c).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

[(4)] (5) (a) A plat may not be submitted to a county recorder for recording unless:

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection [(4)] (5)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection [(4)] (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

[(5)] (6) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 2. Section 10-9a-604 is amended to read:

10-9a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 10-9a-603~~[(4)]~~(5)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable.

Section 3. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and ~~[(5)]~~ (6), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and

the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(e), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection ~~[(4)]~~ (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using

mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection [(4)] (5)(c).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

[(4)] (5) (a) A plat may not be submitted to a county recorder for recording unless, subject to Subsection 17-27a-604[(2)](1):

(i) prior to recordation, each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(ii) the signature of each owner described in Subsection [(4)] (5)(a)(i) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a

representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection [(4)] (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under:

(I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

(II) a recorded easement or right-of-way;

(III) the law applicable to prescriptive rights; or

(IV) any other provision of law.

[(5)] (6) (a) After the plat has been acknowledged, certified, and approved, the owner of the land shall, within the time period designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) An owner's failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 4. Section 17-27a-604 is amended to read:

17-27a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603[(4)](5)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a,

Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable.

Section 5. Section 57-10-11 is amended to read:

57-10-11. Requirement to conform to the Utah Coordinate System.

~~[After January 1, 2002, any]~~ A person, corporation, municipality, county, or state agency ~~[who is not]~~ that is utilizing an existing county coordinate system ~~[and is]~~ or establishing a new countywide coordinate network for surveying or mapping, or both, ~~[must]~~ shall, by January 1, 2021, conform to the current Utah Coordinate System ~~[of 1983]~~, along with the current federal coordinate update.

Section 6. Section 63F-1-507 is amended to read:

63F-1-507. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency; ~~[and]~~

(d) include an accurate representation of all civil subdivision boundaries of the state~~[-];~~ and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

~~[(3)]~~ (4) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

~~[(4)]~~ (5) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

~~[(5)]~~ (6) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

CHAPTER 36**H. B. 62**

Passed February 21, 2019

Approved March 21, 2019

Effective May 14, 2019

**CORRECTIONAL AND PEACE
OFFICER AMENDMENTS**

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill modifies the penalty for assault committed by a prisoner.

Highlighted Provisions:

This bill:

- ▶ increases the penalty for assault committed by a prisoner against an officer, or an employee or volunteer, including a health care provider, when the prisoner propels a substance or object at the officer, employee, or volunteer and causes substantial bodily injury; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-102.6, as last amended by Laws of Utah 2015, Chapter 386

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

Section 1. Section 76-5-102.6 is amended to read:**76-5-102.6. Propelling object or substance at a correctional or peace officer -- Penalties.**

(1) ~~[Any]~~ It is unlawful for a prisoner or ~~[person]~~ individual detained pursuant to Section 77-7-15 ~~[who throws]~~ to throw or otherwise ~~[propels any substance or object]~~ propel any object or substance at a peace officer, a correctional officer, or an employee or volunteer, including a health care provider~~[,] is guilty of a class A misdemeanor, except as provided under Subsection (2)].~~

(2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A misdemeanor.

~~[(2)]~~ (3) A violation of Subsection (1) is a third degree felony if:

(a) ~~the object or substance causes substantial bodily injury to the peace officer, the correctional officer, or the employee or volunteer, including a health care provider; or~~

~~[(a)]~~ (b) (i) the object or substance is:

~~[(i)]~~ (A) blood, urine, or fecal material;

~~[(ii)]~~ (B) an infectious agent as defined in Section 26-6-2 or a material that carries an infectious agent;

~~[(iii)]~~ (C) vomit or a material that carries vomit; or

~~[(iv)]~~ (D) the prisoner's or detained ~~[person's]~~ individual's saliva, and the prisoner or detained ~~[person]~~ individual knows he or she is infected with HIV, hepatitis B, or hepatitis C; and

~~[(b)]~~ (ii) the object or substance comes into contact with any portion of the officer's or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's or health care provider's body.

~~[(3)]~~ (4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

CHAPTER 37**H. B. 63**

Passed February 15, 2019

Approved March 21, 2019

Effective May 14, 2019

**LOCAL GOVERNMENT
FINANCIAL AMENDMENTS**

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions related to a local district's insurance and revenue.

Highlighted Provisions:

This bill:

- ▶ encourages a local district with a certain budget to obtain liability insurance;
- ▶ modifies the balance a local district may accumulate in the district's general fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17B-1-113, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-1-612, as renumbered and amended by Laws of Utah 2007, Chapter 329
- 17B-2a-703, as last amended by Laws of Utah 2014, Chapter 377
- 17B-2a-1109, as last amended by Laws of Utah 2018, Chapter 174

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

Section 1. Section 17B-1-113 is amended to read:**17B-1-113. Liability insurance.**

(1) Each local district with an annual operating budget of \$50,000 or more shall obtain liability insurance as considered appropriate by the local district board.

(2) Each local district with an annual operating budget of less than \$50,000 is not required to obtain liability insurance, but liability insurance is encouraged, as considered appropriate by the local district board.

Section 2. Section 17B-1-612 is amended to read:**17B-1-612. Accumulated fund balances --
Limitations -- Excess balances --
Unanticipated excess of revenues --
Reserves for capital projects.**

(1) (a) A local district may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the general fund only, a local district may only use an accumulated fund balance ~~may be used only~~ to:

(i) ~~to~~ provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) ~~to~~ provide a resource to meet emergency expenditures under Section 17B-1-623; and

(iii) ~~to~~ cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) ~~may not be construed to~~ does not authorize a local district to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) ~~may not be construed to~~ does not authorize a local district to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 17B-1-623.

(2) (a) ~~The~~ Except as provided in Subsection (2)(b), the accumulation of a fund balance in the general fund may not exceed ~~the greater of: (a) the most recently adopted general fund budget, plus 100% of the current year's property tax~~ ~~or~~.

~~(b) (i) 25% of the total general fund revenues for a district with an annual general fund budget greater than \$100,000; or~~

~~(ii) 50% of the total general fund revenues for a district with an annual general fund budget equal to or less than \$100,000.~~

(b) Notwithstanding Subsection (2)(a), a local district may accumulate in the general fund mineral lease revenue that the local district receives from the United States under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., through a distribution under:

(i) Title 35A, Chapter 8, Part 3, Community Impact Alleviation; or

(ii) Title 59, Chapter 21, Mineral Lease Funds.

(3) If the fund balance at the close of any fiscal year exceeds the amount permitted under Subsection (2), the district shall appropriate the excess ~~in the manner provided~~ in accordance with Section 17B-1-613.

(4) ~~Any~~ A local district may utilize any fund balance in excess of 5% of the total revenues of the general fund ~~may be utilized~~ for budget purposes.

(5) (a) Within a capital projects fund, the board of trustees may, in any budget year, appropriate from estimated revenue or fund balance to a reserve for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan ~~adopted by~~ that the board of trustees adopts.

(b) A local district may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) A local district may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation ~~adopted in the manner provided by~~ that the local district adopts in accordance with this part.

(d) ~~[Expenditures]~~ A local district shall ensure that the expenditures from the ~~[above]~~ appropriation budget accounts ~~[shall]~~ described in this Subsection (5) conform to all requirements of this part relating to execution and control of budgets.

Section 3. Section 17B-2a-703 is amended to read:

17B-2a-703. Additional mosquito abatement district powers.

In addition to the powers conferred on a mosquito abatement district under Section 17B-1-103, a mosquito abatement district may:

(1) take all necessary and proper steps for the extermination of mosquitos, flies, crickets, grasshoppers, and other insects:

(a) within the district; or

(b) outside the district, if lands inside the district are benefitted;

(2) abate as nuisances all stagnant pools of water and other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects anywhere inside or outside the state from which mosquitos migrate into the district;

(3) enter upon territory referred to in Subsections (1) and (2) in order to inspect and examine the territory and to remove from the territory, without notice, stagnant water or other breeding places for mosquitos, flies, crickets, grasshoppers, or other insects;

(4) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(5) make a contract to indemnify or compensate an owner of land or other property for injury or damage ~~[necessarily caused by]~~ that the exercise of district powers necessarily causes or arising out of the use, taking, or damage of property for a district purpose; and

(6) in addition to the accumulated fund balance allowed under Section 17B-1-612, establish a reserve fund, not to exceed the greater of 25% of the district's annual operating budget or \$50,000, to pay for extraordinary abatement measures, including a vector-borne public health emergency.

Section 4. Section 17B-2a-1109 is amended to read:

17B-2a-1109. Counties and municipalities authorized to provide funds to a municipal services district.

(1) A county or, subject to Section 17B-2a-1108, a municipality involved in the establishment ~~[and]~~ or operation of a municipal services district may fund the operation and maintenance of the district through the sharing of sales tax and other revenue for district purposes.

(2) A municipal services district may use sales tax or other revenue that the district receives from a county or a municipality under Subsection (1) to fund expenses and activities of a county or municipality that is part of the district.

CHAPTER 38**H. B. 65**

Passed February 22, 2019

Approved March 21, 2019

Effective October 1, 2019

**SPECIAL GROUP LICENSE PLATE FOR
MOTORCYCLE SAFETY AWARENESS**

Chief Sponsor: Mark A. Wheatley

Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill creates a support special group license plate to promote and support motorcycle safety awareness.

Highlighted Provisions:

This bill:

- ▶ creates a support special group license plate to promote and support motorcycle safety awareness;
- ▶ creates the Motorcycle Safety Awareness Support Restricted Account;
- ▶ requires the Department of Transportation to manage and make distributions from the account to a qualifying organization; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2018, Chapters 39, 99, and 260

41-1a-422, as last amended by Laws of Utah 2018, Chapters 39, 260, and 415

ENACTS:

72-2-130, Utah Code Annotated 1953

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual supporting commemoration and recognition of women's suffrage; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness;
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
- (xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
- (xxiv) programs that support children with heart disease;
- (xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;
- (xxvi) programs that provide assistance to children with cancer;
- (xxvii) programs that promote leadership and career development through agricultural education; [ø]
- (xxviii) the Utah State Historical Society[-]; or
- (xxix) programs that promote motorcycle safety awareness.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

- (i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges; [ø]

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society[-]; or

(DD) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130.

(ii) (A) For a veterans special group license plate, “contributor” means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, “contributor” means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, “contributor” means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, “contributor” means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) “Institution” means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the

division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 72-2-130 is enacted to read:

72-2-130. Motorcycle Safety Awareness Support Restricted Account.

(1) There is created in the General Fund the Motorcycle Safety Awareness Support Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) appropriations to the account by the Legislature;

(c) private contributions; and

(d) donations or grants from public or private entities.

(3) The Legislature shall appropriate funds in the account to the department.

(4) The department may expend up to 5% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).

(5) The department shall distribute contributions in the account to one or more charitable organizations that:

(a) are exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

(b) have as part of their primary mission:

(i) the promotion of motorcycle safety and awareness;

(ii) safe motor vehicle operation around motorcycles; and

(iii) assistance to motorcycle riders who have been involved in an accident that resulted in hospitalization; and

(c) contribute to the start-up fee for the production and administrative costs for providing a Motorcycle Safety Awareness Support special group license plate in accordance with Subsection 41-1a-418(2)(a).

(6) (a) An organization described in Subsection (5) may apply to the department to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the department in accordance with Subsection (5) shall expend the distribution only to:

(i) pay the costs of reordering Motorcycle Safety Awareness Support special group license plate decals;

(ii) produce and distribute materials to educate motorcycle riders and motorists about motorcycle safety and awareness and obeying the law in Utah;

(iii) promote education on motorcycle safety;

(iv) assist motorcycle riders and families of motorcycle riders who have been involved in a

motorcycle accident resulting in hospitalization; and

(v) provide other programs that promote motorcycle and related traffic safety.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures and requirements for an organization to apply to the department to receive a distribution under Subsection (5).

Section 4. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 39**H. B. 68**

Passed February 22, 2019

Approved March 21, 2019

Effective May 14, 2019

COURT COMMISSIONER AMENDMENTS

Chief Sponsor: Kelly B. Miles
Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions relating to a court commissioner.

Highlighted Provisions:

This bill:

- ▶ provides that a court commissioner is exempt from certain weapons laws if the court commissioner completes the required training; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53-5-711, as last amended by Laws of Utah 2014, Chapter 146
- 76-10-506, as last amended by Laws of Utah 2014, Chapter 248
- 76-10-508, as last amended by Laws of Utah 2014, Chapter 248
- 76-10-508.1, as last amended by Laws of Utah 2014, Chapter 248
- 76-10-523, as last amended by Laws of Utah 2014, Chapter 248

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

Section 1. Section 53-5-711 is amended to read:

53-5-711. Law enforcement officials, judges, and court commissioners exempt -- Training requirements -- Qualification -- Revocation.

(1) ~~For purposes of~~ As used in this section and Section 76-10-523:

(a) “Court commissioner” means an individual appointed under Section 78A-5-107.

~~(a)~~ (b) (i) “Judge” means a judge or justice of a court of record or a court not of record, ~~but~~.

(ii) “Judge” does not include a judge pro tem or senior judge.

~~(b)~~ (c) “Law enforcement official [of this state]” means:

- (i) a member of the Board of Pardons and Parole;
- (ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;

(iii) the attorney general;

(iv) an assistant attorney general designated as a criminal prosecutor; or

(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for an exemption in Section 76-10-523, a law enforcement official [øø], judge, or court commissioner shall complete the following training requirements:

(a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement ~~and~~, judicial, or court commissioner duties as agents for the state or its political subdivisions.

(3) Annual requalification requirements for law enforcement officials [and], judges, or court commissioners shall be established by the commissioner of public safety. Additional requalification requirements may be established by the:

(a) Board of Pardons and Parole by rule for its members;

(b) Judicial Council by rule for judges and court commissioners; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge [øø], law enforcement official, or court commissioner who has completed the requirements of Subsection (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge [øø], law enforcement official, or court commissioner who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3);

(ii) would be subject to revocation of a concealed firearm permit under Subsection 53-5-704(2)(a); or

(iii) is no longer employed as a judge [øø], law enforcement official, or court commissioner as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

Section 2. Section 76-10-506 is amended to read:

76-10-506. Threatening with or using dangerous weapon in fight or quarrel.

(1) As used in this section:

(a) “Dangerous weapon” means an item that in the manner of its use or intended use is capable of

causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any; and

(iii) the manner in which the instrument, object, or thing was exhibited or used.

(b) "Threatening manner" does not include:

(i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

(ii) informing another of the actor's possession of a deadly weapon ~~in order~~ to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(2)(a).

(2) Except as otherwise provided in Section 76-2-402 and for ~~those persons~~ an individual described in Section 76-10-503, ~~a person~~ an individual who, in the presence of two or more ~~persons~~ individuals, and not amounting to a violation of Section 76-5-103, draws or exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

(3) This section does not apply to ~~a person~~ an individual who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

(a) threatens the use of a dangerous weapon; or

(b) draws or exhibits a dangerous weapon.

(4) This section does not apply to ~~a person~~ an individual listed in Subsections 76-10-523(1)(a) through ~~(e)~~ (f) in performance of the ~~person's~~ individual's duties.

Section 3. Section 76-10-508 is amended to read:

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of specified items -- Penalties.

(1) (a) ~~A person~~ An individual may not discharge ~~any kind of~~ a dangerous weapon or firearm:

(i) from an automobile or other vehicle;

(ii) from, upon, or across ~~any~~ a highway;

(iii) ~~at any road signs~~ at a road sign placed upon ~~any highways~~ a highway of the state;

(iv) at ~~any~~ communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

(v) at railroad equipment or facilities including ~~any~~ a sign or signal;

(vi) within a Utah State Park ~~buildings~~ building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the ~~person~~ individual being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to ~~a person~~ an individual who:

(a) discharges ~~any kind of~~ a firearm when that ~~person~~ individual is in lawful defense of self or others;

(b) is performing official duties as provided in Section 23-20-1.5 and Subsections 76-10-523(1)(a) through ~~(e)~~ (f) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground ~~prior to~~ before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 4. Section 76-10-508.1 is amended to read:

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), ~~a person~~ an individual who discharges a firearm is

guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of ~~[any person or persons]~~ one or more individuals, knowing or having reason to believe that any ~~[person]~~ individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any ~~[person]~~ individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) ~~[which]~~ that causes bodily injury to any ~~[person]~~ individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) ~~[which]~~ that causes serious bodily injury to any ~~[person]~~ individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to ~~[a person]~~ an individual:

(a) who discharges ~~[any kind of]~~ a firearm when that ~~[person]~~ individual is in lawful defense of self or others;

(b) who is performing official duties as provided in Section 23-20-1.5 or Subsections 76-10-523(1)(a) through ~~[(e)]~~ (f) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground ~~[prior to]~~ before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 5. Section 76-10-523 is amended to read:

76-10-523. Individuals exempt from weapons laws.

(1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711; ~~[or]~~

(f) a court commissioner as defined and qualified under Section 53-5-711; or

~~[(f)]~~ (g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) ~~[The provisions of]~~ Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to ~~[any person]~~ an individual to whom a permit to carry a concealed firearm has been issued:

(a) pursuant to Section 53-5-704; or

(b) by another state or county.

(3) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or through the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased as defined in Section 76-10-501.

CHAPTER 40**H. B. 72**

Passed February 13, 2019

Approved March 21, 2019

Effective May 14, 2019

LOCAL DISTRICT BOARD AMENDMENTS

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses the membership of a board of trustees of a local district.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a county legislative body appointing one of the body's own members to the board of trustees of a local district in certain circumstances;
- ▶ establishes the procedure for filling open board member positions when the number of board members increases;
- ▶ addresses when the term begins for a board member who joins a board because the number of board members increases;
- ▶ requires adjusting the lengths of terms of new board members who join a board because the number of board members increases to ensure that term expiration occurs biannually;
- ▶ clarifies a provision related to a county or municipal legislative body that serves as the local district board of trustees;
- ▶ addresses the entity that appoints members to a mosquito abatement board of trustees;
- ▶ requires certain notice in the event of a vacancy on a local district board of trustees; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-302, as last amended by Laws of Utah 2018, Chapter 112

17B-1-303, as last amended by Laws of Utah 2017, Chapter 112

17B-1-308, as enacted by Laws of Utah 2007, Chapter 329

17B-2a-704, as last amended by Laws of Utah 2017, Chapter 112

20A-1-512, as last amended by Laws of Utah 2014, Chapter 377

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

Section 1. Section 17B-1-302 is amended to read:**17B-1-302. Board member qualifications -- Number of board members.**

(1) Each member of a local district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(i) receives service from the district; and

(ii) is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district, or in any other type of local district that is located solely within a county of the fifth or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) [is] may be replaced [with] by the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member

resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, ~~[Subsections 20A-1-512(1)(a) and (b)]~~ Subsection 20A-1-512(1)(a)(ii) or 20A-1-512(2);

(ii) ~~[no]~~ fewer qualified ~~[candidate]~~ candidates timely ~~[files]~~ file to be considered for appointment to the local district board than are necessary to fill the board; ~~[and]~~

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

~~[(iii)]~~ (iv) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(d) If it is necessary to reconstitute the board of trustees of a local district located solely within a county of the fifth or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the local district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 2. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b) ~~[and]~~, (c), (d), and (e), the term of each member of a board of trustees ~~[shall begin]~~ begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district ~~[shall begin]~~ begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member ~~[appointed by]~~ whom the governor ~~[as provided in]~~ appoints in accordance with Subsection 17B-2a-1005(2)(c) ~~[shall]~~:

(i) ~~[begin]~~ begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ~~[end]~~ ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to ~~[Subsection]~~ Subsections (2)(a)(ii) and (ii), the term of each member of a board of trustees ~~[shall be]~~ is four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) ~~[(A)]~~ If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall

be adjusted as necessary, subject to Subsection ~~(2)(a)(ii)(B)~~ (2)(a)(iii), to result in the terms of their successors complying with:

~~(4)~~ (A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

~~(4)~~ (B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

~~(B)~~ (iv) An adjustment under Subsection ~~(2)(a)(ii)(A)~~ (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) ~~[An oath of office may be administered by a]~~ A judge, county clerk, notary public, or the local district clerk may administer an oath of office.

(b) ~~[Each]~~ The member of the board of trustees taking the oath of office shall file the oath of office ~~[shall be filed]~~ with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath ~~[required by]~~ under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member ~~[is not limited in the]~~ may serve any number of terms ~~[the member may serve]~~.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position ~~[shall be filled as provided in]~~ is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees

position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties ~~[prescribed by]~~ that the board of trustees prescribes.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(13).

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section 63F-1-701 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the [day] date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the local district.

Section 3. Section 17B-1-308 is amended to read:

17B-1-308. Boards of trustees composed of county or municipal legislative body members.

(1) If a county or municipal legislative body [by statute] also serves as the board of trustees of a local district:

(a) the board of trustees shall hold district meetings and keep district minutes, accounts, and other records separate from those of the county or municipality;

(b) subject to Subsection (2), the board of trustees may use, respectively, existing county or municipal facilities and personnel for district purposes;

(c) notwithstanding Subsections 17B-1-303(1) and (2), the term of office of each board of trustees member coincides with the member's term as a county or municipal legislative body member;

(d) each board of trustees member represents the district at large; and

(e) board members may not receive compensation for [their] service as board members in addition to compensation [they] the board members receive as members of a county or municipal legislative body.

(2) The county or municipal legislative body, as the case may be, shall charge the local district, and the local district shall pay to the county or municipality, a reasonable amount for:

(a) the county or municipal facilities that the district uses; and

(b) except for services [rendered by] that the county or municipal legislative body members render, the services that the county or municipality renders to the local district.

Section 4. Section 17B-2a-704 is amended to read:

17B-2a-704. Mosquito abatement district board of trustees.

(1) (a) Notwithstanding Subsection 17B-1-302(4):

(i) the board of trustees of a mosquito abatement district [~~shall consist~~] consists of no less than five members appointed in accordance with this section; and

(ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.

(b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:

(i) the board of trustees [~~shall consist~~] consists of five members; and

(ii) the legislative body of that municipality shall appoint all five members of the board.

(2) [The] Except as provided in Subsection (1), the legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:

(a) the county may appoint one member [~~may be appointed~~] if:

(i) (A) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district; and

(B) Subsection (2)(b) does not apply; or

(ii) (A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and

(B) Subsection (1)(b) does not apply; or

(b) subject to Subsection (3), the county may appoint up to and including three members [~~may be appointed~~] if:

(i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and

(ii) a municipality appoints at least four members of the board of trustees [~~are appointed by a municipality~~].

(3) A [~~member appointed~~] county may not appoint a member in accordance with Subsection (2)(b) [~~may not reside~~] who resides within a municipality that may appoint a member to the board of trustees.

(4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.

(5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):

(a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and

(b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, the county legislative body shall appoint all of the members of the board [~~shall be appointed by the county legislative body~~].

(6) Each board of trustees member [~~shall be appointed as provided in~~] is appointed in accordance with Section 17B-1-304.

(7) ~~[Each]~~ The applicable appointing authority shall fill each vacancy on a mosquito abatement district board of trustees ~~[shall be filled by the applicable appointing authority as provided]~~ in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, ~~[as provided]~~ in accordance with Section 20A-1-512.

Section 5. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards.

(1) (a) Whenever a vacancy occurs on any local district board for any reason, the following shall appoint a replacement to serve out the unexpired term ~~[shall be appointed as provided]~~ in accordance with this section ~~[by]~~:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position ~~[was appointed]~~.

(b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy~~;~~ ~~and~~ by:

(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

(B) posting the notice in three public places within the local district; and

(C) posting on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled; ~~and~~

(B) the ~~[person]~~ individual to whom ~~[a person]~~ an individual who is interested in ~~[being appointed]~~ an appointment to fill the vacancy may submit ~~[his]~~ the individual's name for consideration; and

(C) any submission deadline ~~[for submitting it]~~.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of ~~[its]~~ the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(2) If the local district board fails to appoint ~~[a person]~~ an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy ~~[following]~~ in accordance with the procedure ~~[set forth]~~ for a local district described in Subsection (1)(b).

CHAPTER 41**H. B. 81**

Passed February 15, 2019

Approved March 21, 2019

Effective May 14, 2019

SCHOOL COUNSELOR SERVICES

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill directs the State Board of Education to adopt rules regarding school counselors.

Highlighted Provisions:

This bill:

- ▶ directs the State Board of Education to adopt rules:
 - regarding certain services provided by school counselors; and
 - prohibiting school counselors from certain activities; and
- ▶ requires the State Board of Education to report to the Education Interim Committee on the board's efforts to address school counseling services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

ENACTS:

53E-3-518, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53E-1-201, as enacted by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-3-518 is enacted to read:**53E-3-518. School counselor services.**

(1) No later than July 1, 2019, the state board shall make rules specifying:

(a) the recommended direct and indirect services a school counselor may provide;

(b) the recommended amount of time a school counselor may spend on direct and indirect services; and

(c) recommended activities for a school counselor.

(2) No later than November 30, 2019, the state board shall prepare and submit to the Education Interim Committee a report on the state board's strategic efforts to address counseling services in schools.

Section 2. Section 63I-2-253 is amended to read:**63I-2-253. Repeal dates -- Titles 53 through 53G.**

(1) Section 53A-24-602 is repealed July 1, 2018.

(2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(4)(a)(ii), the language that states "Except as provided in Subsection (4)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

(6) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Section 53E-3-518 regarding school counselor services is repealed July 1, 2020.

[~~8~~] (9) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

[~~9~~] (10) Section 53E-5-307 is repealed July 1, 2020.

[~~10~~] (11) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(11)]~~ (12) Subsection 53F-2-301(1) is repealed July 1, 2023.

~~[(12)]~~ (13) Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(13)]~~ (14) Section 53F-4-204 is repealed July 1, 2019.

~~[(14)]~~ (15) Section 53F-6-202 is repealed July 1, 2020.

~~[(15)]~~ (16) Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(16)]~~ (17) Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(17)]~~ (18) Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(18)]~~ (19) Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(19)]~~ (20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

Section 3. Coordinating H.B. 81 with S.B. 14 -- Substantive language.

If this H.B. 81 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) inserting the following language as Subsection 53E-1-201(2)(a):

“(a) the report described in Section 53E-3-518 by the state board regarding counseling services in schools;” and

(2) renumbering remaining subsections accordingly.

CHAPTER 42**H. B. 85**

Passed February 22, 2019

Approved March 21, 2019

Effective May 14, 2019

**POLITICAL SUBDIVISION
BOUNDARY SHIFT AMENDMENTS**

Chief Sponsor: Jeffrey D. Stenquist

Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill requires a county that proposes a minor adjustment to the county's boundaries to provide certain notification to certain political subdivisions.

Highlighted Provisions:

This bill:

- ▶ requires a county that proposes a minor adjustment to the county's boundaries to provide certain notification to certain political subdivisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-2-209, as last amended by Laws of Utah 2010, Chapter 383

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

Section 1. Section 17-2-209 is amended to read:**17-2-209. Minor adjustments to county boundaries authorized -- Public hearing -- Joint resolution of county legislative bodies -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.**

(1) (a) Counties sharing a common boundary may, in accordance with the provisions of Subsection (2) and Article XI, Section 3, of the Utah Constitution and for purposes of real property tax assessment and county record keeping, adjust all or part of the common boundary to move it, subject to Subsection (1)(b), a sufficient distance to reach to, and correspond with, the closest existing property boundary of record.

(b) A boundary adjustment under Subsection (1)(a) may not create a boundary line that divides or splits:

- (i) an existing parcel;
- (ii) an interest in the property; or
- (iii) a claim of record in the office of recorder of either county sharing the common boundary.

(2) The legislative bodies of both counties desiring to adjust a common boundary in accordance with Subsection (1) shall:

(a) hold a joint public hearing on the proposed boundary adjustment;

~~[(b) in addition to the regular notice required for public meetings of the county legislative bodies, mail written notice to all real property owners of record whose property]~~

(b) at least seven days before the public hearing described in Subsection (2)(a), provide written notice of the proposed adjustment to:

(i) each owner of real property whose property, or a portion of whose property, may change counties as the result of the proposed adjustment; and

(ii) any of the following whose territory, or a portion of whose territory, may change counties as the result of the proposed boundary adjustment, or whose boundary is aligned with any portion of the existing county boundary that is being proposed for adjustment:

(A) a city;

(B) a town;

(C) a metro township;

(D) a school district;

(E) a local district governed by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(F) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(G) an interlocal entity governed by Title 11, Chapter 13, Interlocal Cooperation Act;

(H) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(I) a local building authority governed by Title 17D, Chapter 2, Local Building Authority Act; and

(J) a conservation district governed by Title 17D, Chapter 3, Conservation District Act; and

(c) adopt a joint resolution approved by both county legislative bodies approving the proposed boundary adjustment.

(3) The legislative bodies of both counties adopting a joint resolution under Subsection (2)(c) shall:

(a) within 15 days after adopting the joint resolution, jointly send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, jointly submit to the recorder of the county in which the property is located after the boundary adjustment:

(i) the original notice of an impending boundary action;

(ii) the original certificate of boundary adjustment;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the joint resolution approving the boundary adjustment.

(4) (a) As used in this Subsection (4):

(i) "Affected area" means an area that, as a result of a boundary adjustment under this section, is moved from within the boundary of one county to within the boundary of another county.

(ii) "Receiving county" means a county whose boundary includes an affected area as a result of a boundary adjustment under this section.

(b) A boundary adjustment under this section takes effect on the date the lieutenant governor issues a certificate of boundary adjustment under Section 67-1a-6.5.

(c) (i) The effective date of a boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (3)(b) are recorded in the office of the recorder of the county in which the property is located, a receiving county may not:

(A) levy or collect a property tax on property within an affected area;

(B) levy or collect an assessment on property within an affected area; or

(C) charge or collect a fee for service provided to property within an affected area.

(5) Upon the effective date of a boundary adjustment under this section:

(a) all territory designated to be adjusted into another county becomes the territory of the other county; and

(b) the provisions of Sections 17-2-207 and 17-2-208 apply in the same manner as with an annexation under this part.

CHAPTER 43**H. B. 96**

Passed February 25, 2019

Approved March 21, 2019

Effective May 14, 2019

**NIGHTTIME HIGHWAY
CONSTRUCTION NOISE AMENDMENTS**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill modifies the Transportation Code by amending provisions relating to nighttime highway construction.

Highlighted Provisions:

This bill:

- ▶ modifies definitions related to nighttime highway construction;
- ▶ requires a local jurisdiction to permit certain activities related to nighttime highway construction;
- ▶ allows a local jurisdiction to request mitigation for unreasonable noise disturbances caused by nighttime highway construction; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-6-112.5, as enacted by Laws of Utah 2016, Chapter 178

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

Section 1. Section 72-6-112.5 is amended to read:**72-6-112.5. Definitions -- Nighttime highway construction noise -- Exemptions -- Permits.**

(1) As used in this section:

(a) (i) "Front row receptor" means a noise-sensitive residential receptor that is:

(A) immediately adjacent to a transportation facility; or

(B) within 800 feet of a transportation facility that is within a commercial or industrialized area.

(ii) "Front row receptor" includes a residence that is contiguous to a property immediately adjacent to a transportation facility in a residential area.

(b) "Nighttime highway construction" means highway construction occurring between the hours of 10:00 p.m. and 7:00 a.m.

(c) "Nuisance" means the same as that term is defined in Section 78B-6-1101.

(d) (i) "Permitted activities" means activities occurring between the hours of 7:00 p.m. and 7:00 a.m. that are related to and necessary for nighttime highway construction, whether occurring at the construction site or at a gravel pit or other site for production of raw materials, and includes:

(A) loading and unloading of trucks;

(B) asphalt mixing and hauling; and

(C) concrete mixing and hauling.

(ii) "Permitted activities" does not include:

(A) blasting; or

(B) crushing.

(2) A state highway construction project conducted on a road where the normal posted speed limit is 55 miles per hour or greater is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority.

(3) A state highway construction project conducted on a road where the normal posted speed limit is less than 55 miles per hour is exempt from any noise ordinance, regulation, or standard of a local jurisdictional authority if the department:

(a) provides reasonable written notice at least 48 hours in advance of any required nighttime highway construction to each residential dwelling located within front row receptors of the activity;

(b) determines a net community, including traveler community, benefit exists to conduct nighttime highway construction after considering the following:

(i) public health;

(ii) project completion time;

(iii) air quality;

(iv) traffic;

(v) economics;

(vi) safety; and

(vii) local jurisdiction concerns; and

(c) institutes best management noise reduction practices, as determined by the department, for front row receptors, in consultation with local government or the local jurisdictional authority for all nighttime highway construction, which may include:

(i) equipment maintenance;

(ii) noise shielding;

(iii) scheduling the most noise intrusive activities during the day; and

(iv) other noise mitigation methods.

(4) (a) Subject to Subsection (2) or (3), a state highway project shall secure required noise permits from the local jurisdictional authority to conduct nighttime highway construction.

(b) To the extent practical, the department shall coordinate with the local jurisdictional authority

during the pre-construction phase of a project to address noise exemption conditions.

(5) A local jurisdictional authority shall issue a nighttime highway construction permit limited to permitted activities if:

(a) the applicant provides evidence that the permitted activities are directly related to and necessary for a nighttime highway construction project for which the department has obtained a noise permit from a local jurisdictional authority pursuant to Subsection (4); and

(b) the local jurisdictional authority determines that any nuisance that may be caused by the nighttime highway construction may be reasonably mitigated.

~~[(5)]~~ (6) A local jurisdictional authority shall issue a nighttime highway construction noise permit without additional requirements to the department at the request of the department or the department's designated project agent if the requirements of Subsections (2) and (3) are met.

(7) (a) A local jurisdictional authority may request adjustments to a nighttime highway construction permit to mitigate unreasonable noise disturbances caused by nighttime highway construction or permitted activities.

(b) If adjustments are requested as described in Subsection (7)(a), the nighttime highway construction permit holder shall use best management noise reduction practices to mitigate unreasonable noise disturbances.

~~[(6)]~~ (8) (a) For the exemption provided in Subsection (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules establishing procedures:

(i) for a local jurisdictional authority or local government to appeal the decision of the department to conduct nighttime highway construction on roads where the normal posted speed limit is less than 55 miles per hour; and

(ii) for the local jurisdictional authority to request that the department enforce the terms of a noise permit.

(b) After review and upon receiving a written notice from a local jurisdictional authority that the conditions for the noise exemption permit are not met, the department shall take corrective action to ensure nighttime highway construction activities meet requirements of the local permit.

CHAPTER 44**H. B. 105**

Passed February 28, 2019

Approved March 21, 2019

Effective January 1, 2020

**OFF-HIGHWAY VEHICLE
PERMIT AMENDMENTS**

Chief Sponsor: Derrin R. Owens

Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill removes provisions allowing reciprocity of off-highway vehicle permits with other states.

Highlighted Provisions:

This bill:

- ▶ removes provisions allowing reciprocity of off-highway vehicle permits with other states;
- ▶ allows nonresident use of an off-highway vehicle used exclusively as an off-highway implement of husbandry; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-22-35, as last amended by Laws of Utah 2013, Chapter 332

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

Section 1. Section 41-22-35 is amended to read:**41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.**

(1) (a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

- (i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;
- (ii) pay an annual off-highway vehicle user fee; and
- (iii) provide evidence that the owner is a nonresident.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

- (i) ~~registered in another state that offers reciprocal operating privileges to Utah residents under rules made by the board~~ used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the board;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; or

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the board.

(2) The off-highway vehicle user fee is \$30.

(3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the board.

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

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

~~[(c) eligibility requirements for reciprocal operating privileges for nonresident users;]~~

~~[(d) (c) eligibility for scheduled competitive events or other events under Subsection [(1)(b)(ii)] (1)(b)(i); and~~

~~[(e) (d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection [(1)(b)(iv)] (1)(b)(iii).]~~

(5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited in the Off-highway Vehicle Account created in Section 41-22-19.

Section 2. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 45**H. B. 110**

Passed February 19, 2019

Approved March 21, 2019

Effective May 14, 2019

**RURAL ECONOMIC
DEVELOPMENT INCENTIVES**Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill modifies provisions related to the rural employment expansion grant program.

Highlighted Provisions:

This bill:

- ▶ modifies the maximum grant amount that the Governor's Office of Economic Development may award to a business entity in a fiscal year as part of the rural employment expansion grant program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-4-402, as enacted by Laws of Utah 2018, Chapter 340

63N-4-404, as enacted by Laws of Utah 2018, Chapter 340

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

Section 1. Section 63N-4-402 is amended to read:**63N-4-402. Definitions.**

As used in this part:

(1) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

- (i) construction;
- (ii) staffing;
- (iii) retail trade; or
- (iv) public utility activities.

(2) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(3) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within a business entity during the previous taxable year and is filled by an employee working at least 30 hours per week:

- (a) in a county of the fourth, fifth, or sixth class;
 - (b) for a period of at least 12 consecutive months;
 - (c) in a position that does not primarily involve:
 - (i) construction;
 - (ii) retail trade; or
 - (iii) public utility activities;
 - (d) where the annual gross wage of the position at the end of the 12 consecutive months described in Subsection (3)(b), not including healthcare or other paid or unpaid benefits, is at least 125% of the average wage of the county in which the position exists; and
 - (e) who is not an immediate family member of an owner or officer of the business entity.
- (4) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:
- (i) the entity or a portion of the entity; or
 - (ii) an employee, agent, or independent contractor of the entity.
- (b) "Owner or officer" includes:
- (i) a member of a board of directors or other governing body of an entity; or
 - (ii) a partner in any type of partnership.
- (5) "Rural employment expansion grant" means a grant available under this part.

Section 2. Section 63N-4-404 is amended to read:**63N-4-404. Rural employment expansion grant application process.**

(1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a rural employment expansion grant as provided in this part shall provide the office with an application for a rural employment expansion grant in a form approved by the office that includes:

- (a) a certification, by an officer of the business entity, of each signature on the application;
- (b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a rural employment expansion grant; and
- (c) any additional information required by the office.

(2) (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the rural employment expansion grant, the office shall:

- (i) deny the application; or
- (ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.

(b) (i) If the office denies an application, the business entity may appeal the denial to the office.

(ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant under this part.

(3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a rural employment expansion grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:

(a) indicates the maximum rural employment expansion grant amount the business entity is authorized to receive;

(b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and

(d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

(4) (a) Subject to available funds, the office may award a rural employment expansion grant to a business entity as follows:

(i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;

(ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and

(iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.

(b) A business entity may qualify for no more than ~~[\$25,000]~~ \$250,000 in rural employment expansion grants in any fiscal year.

(5) (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:

(i) in a form prescribed by the office under Subsection (3)(c);

(ii) before the deadline described in Subsection (3)(d); and

(iii) that demonstrates that the business applicant has created new full-time employee positions.

(b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a rural employment expansion grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection 63N-2-903(1)(a).

(6) Nothing in this part prevents a business entity that has received a rural employment expansion grant from concurrently applying for or receiving another grant or incentive administered by the office.

CHAPTER 46**H. B. 112**

Passed February 22, 2019

Approved March 21, 2019

Effective May 14, 2019

SURVIVAL CLAIMS AMENDMENTS

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies the statute of limitations for claims that survive an individual's death.

Highlighted Provisions:

This bill:

- ▶ modifies the time period for when the representatives of an individual who dies may bring a cause of action against another person;
- ▶ removes a provision relating to the time period for a person to bring a cause of action against a person who dies; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-2-105, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-2-105 is amended to read:**78B-2-105. Effect of death.**

~~[(1)] If [a person] an individual entitled to bring an action dies before the expiration of the statute of limitations and the cause of action survives, an action may be brought by [his representatives after the expiration of the time and within one year from his death.] the individual's representatives within the later of:~~

- ~~(1) the statute of limitations; or~~
- ~~(2) one year after the day on which the individual died.~~

~~[(2) If a person against whom an action may be brought dies before the expiration of the statute of limitations and the cause of action survives, an action may be commenced against the representatives after the expiration of the time and within one year after the issue of letters testamentary or of administration.]~~

CHAPTER 47**H. B. 116**

Passed February 28, 2019

Approved March 21, 2019

Effective May 14, 2019

**VICTIMS OF COMMUNISM
MEMORIAL DAY**

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill designates Victims of Communism Memorial Day.

Highlighted Provisions:

This bill:

- ▶ designates Victims of Communism Memorial Day;
- ▶ organizes commemorative days and periods chronologically; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2018, Chapter 39

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

~~[(a) Bill of Rights Day, on December 15;]~~

~~[(b) Constitution Day, on September 17;]~~

~~[(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;]~~

~~[(d) POW/MIA Recognition Day, on the third Friday in September;]~~

~~[(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;]~~

~~[(f) Utah State Flag Day, on March 9;]~~

~~[(g) Vietnam Veterans Recognition Day, on March 29;]~~

~~[(h)] (a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; ~~and]~~~~

(b) Utah State Flag Day, on March 9;

(c) Vietnam Veterans Recognition Day, on March 29;

(d) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

~~[(i)] (e) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;~~

~~[(j)] (f) Arthrogryposis Multiplex Congenita Awareness Day, on June 30; ~~and]~~~~

~~[(k)] (g) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:~~

~~(i) encourage individuals to make child safety a priority;~~

~~(ii) remember the importance of continued efforts to reunite missing children with their families; and~~

~~(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited[-];~~

(h) Constitution Day, on September 17;

(i) POW/MIA Recognition Day, on the third Friday in September;

(j) Victims of Communism Memorial Day, on November 7;

(k) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(l) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)~~[(e)](d) and [(e)](i).~~

~~[(3) The month of October shall be commemorated annually as Italian-American Heritage Month.]~~

~~[(4) The month of November shall be commemorated annually as American Indian Heritage Month.]~~

~~[(5)] (3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:~~

~~(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and~~

~~(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.~~

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the

services that animal care and control professionals provide.

(5) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

~~[(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.]~~

~~[(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.]~~

(9) The month of October shall be commemorated annually as Italian-American Heritage Month.

(10) The month of November shall be commemorated annually as American Indian Heritage Month.

CHAPTER 48**H. B. 140**

Passed February 13, 2019

Approved March 21, 2019

Effective May 14, 2019

**CIVIC AND CHARACTER
EDUCATION REPORTS AMENDMENTS**Chief Sponsor: Dan N. Johnson
Senate Sponsor: Lyle W. Hillyard**LONG TITLE****General Description:**

This bill modifies provisions regarding civic and character education.

Highlighted Provisions:

This bill:

- ▶ repeals one report and amends the receiving entity for another report on civics and character education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-10-204, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-10-204 is amended to read:**53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.**

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and

principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

~~(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by December 30 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing~~

~~how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.]~~

~~[(7)] (6) Each year, the [State Board of Education] state board shall report to the Education Interim Committee[, on or before the October meeting,] and the Commission on Civic and Character Education the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.~~

CHAPTER 49**H. B. 149**

Passed March 1, 2019
 Approved March 21, 2019
 Effective May 14, 2019

TRAFFIC CODE AMENDMENTS

Chief Sponsor: Walt Brooks
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions of the Traffic Code to allow lane filtering by a motorcycle.

Highlighted Provisions:

This bill:

- ▶ defines lane filtering;
- ▶ allows lane filtering if a motorcycle is overtaking a vehicle that is stopped in the same lane of travel and there are two or more adjacent traffic lanes in the same direction of travel;
- ▶ provides a sunset of provisions related to lane filtering, subject to review; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-6a-102, as last amended by Laws of Utah 2018, Chapters 166 and 205
- 41-6a-704, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-710, as last amended by Laws of Utah 2015, Chapter 412
- 63I-1-241, as last amended by Laws of Utah 2015, Chapter 109

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

Section 1. Section 41-6a-102 is amended to read:**41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

- (i) roundabouts;
- (ii) rotaries; and
- (iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

- (i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(24) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(25) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(26) "Highway authority" means the same as that term is defined in Section 72-1-102.

(27) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) “Intersection” does not include the junction of an alley with a street or highway.

(28) “Island” means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(29) “Lane filtering” means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[(29)] (30) “Law enforcement agency” means the same as that term is as defined in Section 53-1-102.

[(30)] (31) “Limited access highway” means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[(31)] (32) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[(32)] (33) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

[(33)] (34) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[(34)] (35) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[(35)] (36) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [(35)] (36)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[(36)] (37) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) “Moped” includes a motor assisted scooter.

(d) “Moped” does not include an electric assisted bicycle.

[(37)] (38) (a) “Motor assisted scooter” means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) a gas or electric motor not exceeding 40 cubic centimeters;

(iv) either:

(A) a deck design for a person to stand while operating the device; or

(B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(v) a design for the ability to be propelled by human power alone.

(b) “Motor assisted scooter” does not include an electric assisted bicycle.

~~[(38)]~~ (39) (a) “Motor vehicle” means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) “Motor vehicle” does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assistive mobility device, an electric assisted bicycle, or a personal delivery device, as defined in Section 41-6a-1119.

~~[(39)]~~ (40) “Motorcycle” means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an auticycle.

~~[(40)]~~ (41) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include:

(i) an electric personal assistive mobility device; or

(ii) an electric assisted bicycle.

~~[(41)]~~ (42) “Off-highway implement of husbandry” means the same as that term is defined under Section 41-22-2.

~~[(42)]~~ (43) “Off-highway vehicle” means the same as that term is defined under Section 41-22-2.

~~[(43)]~~ (44) “Operator” means a person who is in actual physical control of a vehicle.

~~[(44)]~~ (45) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

~~[(45)]~~ (46) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

~~[(46)]~~ (47) “Pedestrian” means a person traveling:

(a) on foot; or

(b) in a wheelchair.

~~[(47)]~~ (48) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

~~[(48)]~~ (49) “Person” means every natural person, firm, copartnership, association, or corporation.

~~[(49)]~~ (50) “Pole trailer” means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

~~[(50)]~~ (51) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~[(51)]~~ (52) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

~~[(52)]~~ (53) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

~~[(53)]~~ (54) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

~~[(54)]~~ (55) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

~~[(55)]~~ (56) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

~~[(56)]~~ (57) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

~~[(57)]~~ (58) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[458] (59) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[459] (60) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[460] (61) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[461] (62) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[462] (63) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[463] (64) "Stop" when required means complete cessation from movement.

[464] (65) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[465] (66) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[466] (67) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[467] (68) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[468] (69) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[469] (70) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[470] (71) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[471] (72) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[472] (73) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[473] (74) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[474] (75) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[475] (76) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-704 is amended to read:

41-6a-704. Overtaking and passing vehicles proceeding in same direction.

(1) (a) On any highway:

(i) the operator of a vehicle overtaking another vehicle proceeding in the same direction shall:

(A) except as provided under Section 41-6a-705, promptly pass the overtaken vehicle on the left at a safe distance; and

(B) enter a right-hand lane or the right side of the roadway only when safely clear of the overtaken vehicle;

(ii) the operator of an overtaken vehicle:

(A) shall give way to the right in favor of the overtaking vehicle; and

(B) may not increase the speed of the vehicle until completely passed by the overtaking vehicle.

(b) The exemption from the minimum speed regulations for a vehicle operating on a grade under Section 41-6a-605 does not exempt the vehicle from promptly passing a vehicle as required under Subsection (1)(a)(i)(A).

(2) On a highway having more than one lane in the same direction, the operator of a vehicle traveling in the left general purpose lane:

(a) shall, upon being overtaken by another vehicle in the same lane, yield to the overtaking vehicle by moving safely to a lane to the right; and

(b) may not impede the movement or free flow of traffic in the left general purpose lane.

(3) An operator of a vehicle traveling in the left general purpose lane that has a vehicle following directly behind the operator's vehicle at a distance so that less than two seconds elapse before reaching the location of the operator's vehicle when space is available for the operator to yield to the overtaking vehicle by traveling in the right-hand lane is prima facie evidence that the operator is violating Subsection (2).

(4) The provisions of Subsection (2) do not apply to an operator of a vehicle traveling in the left general purpose lane when:

(a) overtaking and passing another vehicle proceeding in the same direction in accordance with Subsection (1)(a)(i);

(b) preparing to turn left or taking a different highway or an exit on the left;

(c) responding to emergency conditions;

(d) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(e) following the direction of a traffic-control device that directs the use of a designated lane.

(5) An individual may engage in lane filtering only when the following conditions exist:

(a) the individual is operating a motorcycle;

(b) the individual is on a roadway divided into two or more adjacent traffic lanes in the same direction of travel;

(c) the individual is on a roadway with a speed limit of 45 miles per hour or less;

(d) the vehicle being overtaken in the same lane is stopped;

(e) the motorcycle is traveling at a speed of 15 miles per hour or less; and

(f) the movement may be made safely.

~~[(4)]~~ (6) A violation of Subsection ~~[(1) or (2)]~~ (1), (2), or ~~(5)~~ is an infraction.

Section 3. Section 41-6a-710 is amended to read:

41-6a-710. Roadway divided into marked lanes -- Provisions -- Traffic-control devices.

On a roadway divided into two or more clearly marked lanes for traffic the following provisions apply and any violation of this section is an infraction:

(1) (a) ~~[A]~~ Except as provided in Subsection (1)(c), a person operating a vehicle:

(i) shall keep the vehicle as nearly as practical entirely within a single lane; and

(ii) may not move the vehicle from the lane until the operator has reasonably determined the movement can be made safely.

(b) A determination under Subsection (1)(a)(ii) is reasonable if a reasonable person acting under the same conditions and having regard for actual and potential hazards then existing would determine that the movement could be made safely.

(c) Subsection (1)(a) does not apply to an individual operating a motorcycle engaging in lane filtering as described in Section 41-6a-704.

(2) (a) On a roadway divided into three or more lanes and providing for two-way movement of traffic, a person operating a vehicle may not drive in the center lane except:

(i) when overtaking and passing another vehicle traveling in the same direction, and when the center lane is:

(A) clear of traffic within a safe distance; and

(B) not a two-way left turn lane;

(ii) in preparation of making or completing a left turn in compliance with Section 41-6a-801; or

(iii) where the center lane is allocated exclusively to traffic moving in the same direction that the vehicle is proceeding as indicated by traffic-control devices.

(b) Notwithstanding Subsection (2)(a)(i) and in accordance with Subsection (1)(a), a person operating a vehicle may drive in a center lane that is a two-way left turn lane if:

(i) the center lane is:

(A) on a roadway divided into three or more lanes that provides for two-way movement of traffic; and

(B) clear of traffic within a safe distance;

(ii) there is only one lane of travel in the direction the person operating the vehicle is traveling; and

(iii) the person operating the vehicle is overtaking and passing a bicycle or moped that is moving at less than the reasonable speed of traffic that is present.

(3) (a) A highway authority may erect traffic-control devices directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway.

(b) An operator of a vehicle shall obey the directions of a traffic-control device erected under Subsection (3)(a).

Section 4. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

(1) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102(29);

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(2) Subsection 41-12a-806(5) is repealed on July 1, 2020.

CHAPTER 50**H. B. 150**

Passed March 4, 2019
 Approved March 21, 2019
 Effective May 14, 2019

TRAMPOLINE PARK SAFETY STANDARDS

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts licensing and operational standards for trampoline parks.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the operator of a trampoline park to obtain a business license to operate the trampoline park;
- ▶ provides for a local regulating authority to suspend or revoke a trampoline park operator's business license for noncompliance;
- ▶ identifies industry standards with which a trampoline park must comply;
- ▶ describes specific notification, training, supervision, injury reporting, and emergency response standards with which a trampoline park must comply;
- ▶ requires an annual inspection;
- ▶ requires a trampoline park operator to annually provide a local regulating authority certain certificates of compliance;
- ▶ requires a trampoline park to carry certain insurance; and
- ▶ insulates a trampoline park from liability claims due to certain inherent risks related to the use of a trampoline park.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-63-101, Utah Code Annotated 1953
 11-63-102, Utah Code Annotated 1953
 11-63-103, Utah Code Annotated 1953
 11-63-201, Utah Code Annotated 1953
 11-63-202, Utah Code Annotated 1953
 11-63-301, Utah Code Annotated 1953
 11-63-302, Utah Code Annotated 1953
 11-63-303, Utah Code Annotated 1953
 11-63-304, Utah Code Annotated 1953
 11-63-305, Utah Code Annotated 1953
 11-63-401, Utah Code Annotated 1953
 11-63-402, Utah Code Annotated 1953
 11-63-501, Utah Code Annotated 1953
 11-63-502, Utah Code Annotated 1953

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

Section 1. Section 11-63-101 is enacted to read:

CHAPTER 63. TRAMPOLINE PARK SAFETY

Part 1. General Provisions

11-63-101. Title.

This chapter shall be known as "Trampoline Park Safety."

Section 2. Section 11-63-102 is enacted to read:

11-63-102. Definitions.

As used in this chapter:

(1) "Commercial trampoline" means a device that:

- (a) incorporates a trampoline bed; and
- (b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

(2) "Emergency response plan" means a written plan of action for the reasonable and appropriate contact, deployment, and coordination of services, agencies, and personnel to provide the earliest possible response to an injury or emergency.

(3) "Inherent risk" means a danger or condition that is an integral part of an activity occurring at a trampoline park.

(4) "Inspection" means a procedure that an inspector conducts to:

- (a) determine whether a trampoline park facility, including any device or material, is constructed, assembled, maintained, tested, and operated in accordance with this chapter and the manufacturer's recommendations;
- (b) determine the operational safety of a trampoline park facility, including any device or material; and

(c) determine whether the trampoline park's policies and procedures comply with this chapter.

(5) "Inspector" means an individual who:

(a) conducts an inspection of a trampoline park to certify compliance with this chapter and industry safety standards; and

(b) (i) is certified by:

(A) an organization that develops and publishes consensus standards for a wide range of materials, products, systems, and services that are used for trampolines; or

(B) an organization that promotes trampoline park safety and adopts the standards described in Subsection (5)(b)(i)(A);

(ii) represents the insurer of the trampoline park;

(iii) represents or is certified by a department or agency, regardless of whether the agency is located within the state, that:

(A) inspects amusement and recreational facilities and equipment; and

(B) certifies and trains professional private industry inspectors through written testing and continuing education requirements; or

(iv) represents an organization that the United States Olympic Committee designates as the national governing body for gymnastics.

(6) “Local regulating authority” means the business licensing division of:

(a) the city, town, or metro township in which the trampoline park is located; or

(b) if the trampoline park is located in an unincorporated area, the county.

(7) “Operator” means a person who owns, manages, or controls or who has the duty to manage or control the operation of a trampoline park.

(8) “Participant” means an individual that uses trampoline park equipment.

(9) “Trampoline bed” means the flexible surface of a trampoline on which a user jumps or bounces.

(10) “Trampoline court” means an area of a trampoline park comprising:

(a) multiple commercial trampolines; or

(b) at least one commercial trampoline and at least one associated foam or inflatable bag pit.

(11) “Trampoline park” means a place of business that offers the recreational use of a trampoline court for a fee.

Section 3. Section 11-63-103 is enacted to read:

11-63-103. Exemptions.

This chapter does not apply to:

(1) a playground that a school or local government operates, if:

(a) the playground is an incidental amenity; and

(b) the operating entity does not primarily derive revenue from operating the playground for a fee;

(2) a gymnastics, dance, cheer, or tumbling facility where:

(a) the majority of activities are based in training or rehearsal and not recreation;

(b) the facility derives at least 80% of revenues through supervised instruction or classes; and

(c) the student-coach or student-instructor ratio is based on age, skill level, and number of students; or

(3) equipment used exclusively for exercise, an inflatable ride, or an inflatable bounce house.

Section 4. Section 11-63-201 is enacted to read:

Part 2. License Required

11-63-201. Municipal or county business license required.

To operate a trampoline park the operator of a trampoline park shall obtain and maintain, conditioned upon compliance with this chapter:

(1) if the trampoline park is located within an incorporated municipality, a municipal business license authorized under Section 10-1-203; or

(2) if located within the unincorporated area of a county, a county business license authorized under Section 17-53-216.

Section 5. Section 11-63-202 is enacted to read:

11-63-202. Violation -- License suspension or revocation.

(1) Except as provided in this section, a violation of this chapter is grounds for the local regulating authority to suspend or revoke the operator’s business license.

(2) A local regulating authority may not suspend or revoke a license under Subsection (1) unless:

(a) the local regulating authority provides the operator with at least 60 days to cure the violation that is the grounds for the action in accordance with the policy described in Subsection (3); or

(b) regardless of the operator curing a violation as described in Subsection (2)(a), the violation repeats.

(3) A local regulating authority that licenses a trampoline park operator shall define the reasonable opportunity to cure violations described in Subsection (2)(a) by creating a generally applicable policy that identifies a standard timeline and process for curing a violation.

Section 6. Section 11-63-301 is enacted to read:

Part 3. Safety Standards

11-63-301. Compliance with industry standards.

A trampoline park operator shall:

(1) ensure that the trampoline park complies with industry standards regarding:

(a) signage and notification for proper use of the trampoline park, safety procedures, and education of risk;

(b) equipment and facilities, including materials, layout, condition, and maintenance;

(c) staff training, including safety procedures and emergency response;

(d) participant activities and behaviors that should be restricted;

(e) separation of participants within the trampoline park based on age, size, or other necessary factors;

(f) operational issues, including maintenance and injury logs and emergency response plans;

(g) staff supervision and monitoring of activities; and

(h) statistical tracking of injuries in a manner that does not personally identify the injured participant; and

(2) notify the licensing staff of the local regulating authority within 48 hours of any changes in status to any requirement under this section.

Section 7. Section 11-63-302 is enacted to read:

11-63-302. Notification and education of risk -- Signs.

An operator shall prominently display throughout the trampoline park contrasted safety, warning, advisory, and instructional signage reflecting the trampoline park's rules.

Section 8. Section 11-63-303 is enacted to read:

11-63-303. Trampoline park employee training and equipment.

An operator shall ensure that, during all hours of operation:

(1) at least one trampoline park employee is working onsite who is certified in first aid and CPR; and

(2) the trampoline park has an operable automated external defibrillator.

Section 9. Section 11-63-304 is enacted to read:

11-63-304. Trampoline court supervision.

An operator shall:

(1) require that trampoline park employees monitor the trampoline court and participants during all hours of operation; and

(2) ensure that the number of trampoline park employees described in Subsection (1) is adequate to view each area of the trampoline court.

Section 10. Section 11-63-305 is enacted to read:

11-63-305. Reporting of injuries -- Emergency response plan.

(1) An operator shall develop, implement, and follow an in-house injury reporting system and emergency response plan for injuries.

(2) The operator shall retain any records related to the injury reporting system and emergency response plan described in Subsection (1).

(3) The operator shall make available to the Department of Health or the local health department, upon request:

(a) the information contained in the injury reporting system described in Subsection (1); and

(b) the records described in Subsection (2).

Section 11. Section 11-63-401 is enacted to read:

Part 4. Compliance

11-63-401. Annual certification to local regulating authority.

(1) A trampoline park operator shall provide the certifications described in Subsection (2):

(a) at the time a trampoline park operator applies to a local regulating authority to renew a business license to operate a trampoline park; and

(b) if the term of the license described in Subsection (1)(a) exceeds one year, at least once per calendar year.

(2) In accordance with Subsection (1), a trampoline park operator shall certify compliance with this chapter by submitting to the local regulating authority:

(a) an inspection certificate described in Subsection 11-63-402(3); and

(b) the certification of insurance described in Subsection 11-63-501(2).

Section 12. Section 11-63-402 is enacted to read:

11-63-402. Inspection.

A trampoline park operator shall:

(1) ensure that an inspector conducts an inspection of the facilities and records of the trampoline park at least once per calendar year to certify compliance with:

(a) industry safety standards, including each category of standards described in Section 11-63-301; and

(b) this chapter, including safety standards described in Sections 11-63-302, 11-63-303, 11-63-304, and 11-63-305;

(2) during the inspection described in Subsection (1), provide the inspector with:

(a) proof that the trampoline court is maintained in good repair;

(b) an emergency response plan; and

(c) maintenance, inspection, staff member training, and injury logs; and

(3) obtain from the inspector a written report documenting the inspection and a certificate certifying that:

(a) the trampoline park has successfully passed the inspection described in this section; and

(b) the trampoline park is in full compliance with this chapter.

Section 13. Section 11-63-501 is enacted to read:

Part 5. Liability

11-63-501. Insurance.

A trampoline park operator shall:

(1) maintain insurance providing liability coverage of at least \$1,000,000 in the aggregate and \$500,000 per incident to cover injuries to participants arising out of any negligence or misconduct by the trampoline park operator or staff in the construction, maintenance, or operation of the trampoline park;

(2) maintain a certificate of insurance demonstrating compliance with this section; and

(3) notify the licensing staff of the local regulating authority within 24 hours of the lapse, expiration, or cancellation of the insurance described in Subsection (1).

Section 14. Section 11-63-502 is enacted to read:

11-63-502. Claims for inherent risks.

Notwithstanding anything in this chapter to the contrary, if a participant makes a claim against an operator for an injury resulting from an inherent risk:

(1) the operator may raise as a defense the operator's compliance with Sections 11-63-301, 11-63-302, 11-63-303, 11-63-304, and 11-63-305; and

(2) the factfinder shall consider, in accordance with Section 78B-5-818, the operator's compliance described in Subsection (1).

CHAPTER 51**H. B. 155**

Passed February 28, 2019

Approved March 21, 2019

Effective May 14, 2019

FIRE MANAGEMENT PROVISIONS

Chief Sponsor: Casey Snider
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill addresses management of wildland fires.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ imposes requirements for being permitted to conduct large prescribed fires, large prescribed pile fires, or nonfull suppression event.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

19-2-107.6, Utah Code Annotated 1953

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

Section 1. Section 19-2-107.6 is enacted to read:**19-2-107.6. Prescribed fires and nonfull suppression events.**

(1) As used in this section:

(a) “Burn plan” means the plan required for each fire application ignited by a land manager.

(b) “Burn window” means the period of time during which the prescribed fire is scheduled for ignition.

(c) “Land manager” means a person who administers, directs, oversees, or controls the use of public land, including the application of fire to the land.

(d) “Large prescribed fire” means a fire that a land manager ignites to meet a specific objective, including a resource benefit that covers 20 acres or more per burn.

(e) “Large prescribed pile fire” means a fire that a land manager ignites to meet a specific objective, including a resource benefit, that exceeds 30,000 cubic feet per day.

(f) “Nonfull suppression event” means a naturally ignited wildland fire for which a land manager secures less than full suppression to accomplish a specific prestated resource management objective in a predefined geographic area.

(g) “Wildland” means an area in which development is essentially nonexistent other than the existence of a pipeline, power line, road, railroad, or other transportation or conveyance

facility or one or more structures that are widely scattered.

(2) (a) The division may not permit a land manager to conduct a large prescribed fire or large prescribed pile fire if the land manager does not comply with the rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In the rules made by the board under this Subsection (2), the board shall require the land manager to:

(i) describe the use of a state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;

(ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and

(iii) notify the division of a nonfull suppression event once a fire becomes a nonfull suppression event.

CHAPTER 52**H. B. 157**

Passed February 28, 2019

Approved March 21, 2019

Effective May 14, 2019

STATE HIGHWAY SYSTEM AMENDMENTS

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill adds highways to the state highway system and revises portions of highways on the state highway system.

Highlighted Provisions:

This bill:

- ▶ adds SR-194 in Lehi and SR-231 in Fairview to the state highway system;
- ▶ revises portions of SR-85 in Salt Lake County, SR-103 in Clearfield, and SR-193 in Davis County on the state highway system; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-114, as last amended by Laws of Utah 2013, Chapter 146

72-4-116, as last amended by Laws of Utah 2016, Chapter 42

72-4-125, as last amended by Laws of Utah 2015, Chapter 423

72-4-129, as last amended by Laws of Utah 2008, Chapter 57

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

Section 1. Section 72-4-114 is amended to read:**72-4-114. State highways -- SR-81 to SR-90.**

State highways include:

- (1) SR-81. From Route 30 north to Fielding.
- (2) SR-82. From Route 102 north on 300 East Street in Tremonton to Garland; then east approximately 0.8 mile; then north to Route 13.
- (3) SR-83. From Route 13 in Corinne westerly to Lampo Junction; then northerly to Route 84 at Howell Interchange.
- (4) SR-84. From the Utah-Idaho state line near Snowville to a point on Route 15 at the Tremonton Interchange; then from another point on Route 15 near Roy to Route 80 near Echo, traversing the alignment of interstate Route 84.

(5) SR-85. From ~~Route 15 westerly on 2100 North in Lehi to Route 68; then beginning again at~~ Route 68 westerly on Porter Rockwell Boulevard; then northerly on Mountain View Corridor

Highway to ~~Route 173~~ 4100 South in West Valley City.

(6) SR-86. From Route 65 at Henefer westerly to Route 84.

(7) SR-87. From Route 40 in Duchesne northerly; then easterly through Altamont; thence southeasterly through Upalco; then east to Route 40 southwest of Roosevelt.

(8) SR-88. From the south end of the Green River Bridge south of Ouray northerly to Route 40 east of Ft. Duchesne.

(9) SR-89. From the Utah-Arizona state line northwest of Page, Arizona, westerly to Kanab; then northerly to a junction with Route 70 near Sevier Junction; then beginning again at the junction with Route 70 south of Salina, northerly through Salina, Gunnison and Mt. Pleasant to a junction with Route 6 at Thistle Junction; beginning again at junction with Route 6 at Moark Junction northerly through Springville, Provo, Orem, and American Fork to Route 15 north of Lehi; then beginning again at a junction with Route 71 in Draper northerly through Sandy, Midvale, Murray, Salt Lake City, and Bountiful to a junction with Route 15 at the 500 west interchange; then beginning again at a junction with Route 15 at Lagoon northerly through Uintah Junction and Ogden to Route 91 near south city limits of Brigham City; then beginning again at a junction with Route 91 in Logan northeasterly to Route 30 in Garden City; then northerly to the Utah-Idaho state line.

(10) SR-89A. From the Utah-Arizona state line south of Kanab northerly to Route 89 in Kanab.

(11) SR-90. From Route 13 in Brigham easterly on 2nd South Street to Route 91.

Section 2. Section 72-4-116 is amended to read:**72-4-116. State highways -- SR-101 to SR-110.**

State highways include:

(1) SR-101. From Wellsville on Route 23 easterly through Hyrum to the Hardware Ranch with a stub connection to the visitors' center and parking area.

(2) SR-102. From Route 83 east of Lampo Junction northeasterly through Penrose to Thatcher; then easterly through Tremonton and Deweyville to Route 38.

(3) SR-103. From Route 126 in Clearfield easterly on 650 North Street in Clearfield to ~~the Hill Air Force Base main gate~~ the on and off access ramps on the east side of Route 15.

(4) SR-104. From Route 126 easterly on Wilson Lane, Twentieth Street, and Twenty-first Street in Ogden to Route 204.

(5) SR-105. From Route 67 east on Parrish Lane in Centerville to Route 106.

(6) SR-106. From .21 miles west of Route 15 east on 400 North Street in Bountiful; then northerly to Sheppard Lane in Farmington; then west on Sheppard Lane to Route 89.

(7) SR-107. From Route 110 west of West Point easterly on 300 North through West Point to 3000 West.

(8) SR-108. From the I-15 north bound on- and off-ramps at the Hill Field South Gate Interchange in Layton west to Syracuse; then north into Weber County; then northeasterly to Route 126.

(9) SR-109. From Route 126 easterly through Layton to Route 89.

(10) SR-110. From Route 127 west of Syracuse north to Route 37 west of Clinton.

Section 3. Section 72-4-125 is amended to read:

72-4-125. State highways -- SR-191, SR-193, SR-194, SR-196, SR-198 to SR-200.

State highways include:

(1) SR-191. From the Utah-Arizona state line south of Bluff northerly through Blanding, Monticello, and Moab to Route 70 at Crescent Junction; then beginning again from Route 6 north of Helper northerly through Indian Canyon to Route 40 at Duchesne; then beginning again from Route 40 at Vernal northerly through Greendale Junction and Dutch John to the Utah-Wyoming state line.

(2) SR-193. From ~~Route 108 in Clearfield east through~~ 3000 West easterly through Syracuse, Clearfield, and Layton, past the south entrance to Hill Air Force Base to Route 89.

(3) SR-194. From Route 15 westerly on 2100 North Street in Lehi to Route 68.

~~(4)~~ (4) SR-196. From Route 199 near the control gate at Dugway Proving Grounds northerly via the Skull Valley Road to the west bound on and off ramps of Route 80 at the Rowley Junction Interchange.

~~(4)~~ (5) SR-198. From Route 15 northbound ramps of the North Santaquin Interchange northeasterly through Spring Lake, to 100 North in Payson; then easterly and northeasterly through Salem to 300 South in Spanish Fork; then easterly and southeasterly to Route 6 at Moark Junction.

~~(5)~~ (6) SR-199. From Route 196 north of the Dugway Proving Grounds main gate northeasterly through Clover to Route 36.

~~(6)~~ (7) SR-200. From Route 61 in Lewiston, approximately three miles west of Route 91, north to the Utah-Idaho state line.

Section 4. Section 72-4-129 is amended to read:

72-4-129. State highways -- SR-231, SR-232, SR-235, and SR-240.

State highways include:

(1) SR-231. From Route 89 in Fairview northerly via Main Street to Route 31.

~~(4)~~ (2) SR-232. From Route 126 in Layton north to the south entrance to Hill Air Force Base.

~~(2)~~ (3) SR-235. From Route 89 in Ogden north to Route 134 in North Ogden.

~~(3)~~ (4) SR-240. From Route 15 east to Route 38 in Honeyville.

CHAPTER 53**H. B. 203**

Passed March 1, 2019
Approved March 21, 2019
Effective May 14, 2019

**HOMELESS SHELTER
FUNDING REVISIONS**

Chief Sponsor: Scott H. Chew
Senate Sponsor: Ronald Winterton
Cosponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies the homeless shelter requirements for the Homeless to Housing Reform Restricted Account and the Homeless Shelter Cities Mitigation Restricted Account.

Highlighted Provisions:

This bill:

- ▶ modifies definitions of “homeless shelter” by providing a lower bed requirement for counties of the third through sixth class for purposes of:
 - certain distributions from the Homeless to Housing Reform Restricted Account; and
 - contributions to and distributions from the Homeless Shelter Cities Mitigation Restricted Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-604, as last amended by Laws of Utah 2018, Chapter 251
35A-8-608, as enacted by Laws of Utah 2018, Chapter 312

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

Section 1. Section 35A-8-604 is amended to read:

35A-8-604. Uses of Homeless to Housing Reform Restricted Account.

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter; and

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state’s homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults; and

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(7) Subject to the requirements of Subsections (5) and (6), on or before March 30, 2017, the county executive of a county of the first class shall make a recommendation to the Homeless Coordinating Committee identifying a site location for one facility within the county of the first class that will provide

shelter for the homeless in a location other than Salt Lake City.

(8) (a) As used in this Subsection (8) and in Subsection (9), "homeless shelter" means a facility that:

(i) is located within a municipality;

(ii) provides temporary shelter year-round to homeless individuals; and

(iii) has the capacity to provide temporary shelter to:

(A) for a county of the first or second class, at least 50 individuals per night[-]; or

(B) for a county of the third, fourth, fifth, or sixth class, at least 25 individuals per night.

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

(i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and

(ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

(9) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, shall:

(i) give priority to a homeless shelter located in a county of the first class that has the capacity to provide temporary shelter to at least 200 individuals per night; and

(ii) consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(10) The division may expend money from the restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

Section 2. Section 35A-8-608 is amended to read:

35A-8-608. Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section 35A-8-606.

(b) "Committee" means the Homeless Coordinating Committee created in this part.

(c) "Grant" means an award of funds from the account.

- (d) “Grant eligible entity” means:
- (i) the Department of Public Safety; or
 - (ii) a city, town, or metro township that:
 - (A) has a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries;
 - (B) has increased community, social service, and public safety service needs due to the location of a homeless shelter within the city’s, town’s, or metro township’s geographic boundaries; and
 - (C) is certified as a grant eligible entity in accordance with Section 35A-8-609.
 - (e) “Homeless shelter” means a facility that:
 - (i) provides temporary shelter to homeless individuals;
 - (ii) has the capacity to provide temporary shelter to:
 - (A) for a county of the first or second class, at least 60 individuals per night; ~~and~~ or
 - (B) for a county of the third, fourth, fifth, or sixth class, at least 25 individuals per night; and
 - (iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.
 - (f) “Public safety services” means law enforcement, emergency medical services, and fire protection.
 - (2) Subject to the availability of funds, a grant eligible entity may request a grant to mitigate the impacts of the location of a homeless shelter:
 - (a) through employment of additional personnel to provide public safety services in and around a homeless shelter; or
 - (b) for a grant eligible entity that is a city, town, or metro township, through:
 - (i) development of a community and neighborhood program within the city’s, town’s, or metro township’s boundaries; or
 - (ii) provision of social services within the city’s, town’s, or metro township’s boundaries.

(3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing:

 - (i) the process for determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year; and
 - (ii) the process for notifying grant eligible entities about the availability of grants for the next fiscal year.
 - (b) (i) If the committee offers a grant program for the next fiscal year, the committee shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on or before November 30 to allow a grant eligible entity to present a request for account funds for the next fiscal year.
 - (ii) A grant eligible entity may present a request for account funds by:
 - (A) sending an electronic copy of the request to the committee before the meeting; and
 - (B) appearing at the meeting to present the request.
 - (c) The request described in Subsection (3)(b) shall contain:
 - (i) for a grant request to develop a community and neighborhood program:
 - (A) a proposal outlining the components of a community and neighborhood program;
 - (B) a summary of the grant eligible entity’s proposed use of any grant awarded; and
 - (C) the amount requested;
 - (ii) for a grant request to provide social services:
 - (A) a proposal outlining the need for additional social services;
 - (B) a summary of the grant eligible entity’s proposed use of any grant awarded; and
 - (C) the amount requested;
 - (iii) for a grant request to employ additional personnel to provide public safety services:
 - (A) data relating to the grant eligible entity’s public safety services for the current fiscal year, including crime statistics and calls for public safety services;
 - (B) data showing an increase in the grant eligible entity’s need for public safety services in the next fiscal year;
 - (C) a summary of the grant eligible entity’s proposed use of any grant awarded; and
 - (D) the amount requested; ~~and~~ or
 - (iv) for a grant request to provide some combination of the activities described in Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each activity for which the grant eligible entity requests a grant.

(d) (i) On or before November 30, a grant eligible entity that received a grant during the previous fiscal year shall file electronically with the committee a report that includes:

 - (A) a summary of the amount of the grant that the grant eligible entity received and the grant eligible entity’s specific use of those funds;
 - (B) an evaluation of the grant eligible entity’s effectiveness in using the grant to address the grant eligible entity’s increased needs due to the location of a homeless shelter; and
 - (C) any proposals for improving the grant eligible entity’s effectiveness in using a grant that the grant eligible entity may receive in future fiscal years.

(ii) The committee may request additional information as needed to make the evaluation described in Subsection (3)(e).

(e) The committee shall evaluate a grant request made in accordance with this Subsection (3) using the following factors:

(i) the strength of the proposal that the grant eligible entity provides to support the request;

(ii) if the grant eligible entity received a grant during the previous fiscal year, the efficiency with which the grant eligible entity used the grant during the previous fiscal year;

(iii) the availability of alternative funding for the grant eligible entity to address the grant eligible entity's needs due to the location of a homeless shelter; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the committee shall vote to:

(A) prioritize the grant requests; and

(B) recommend a grant amount for each grant eligible entity.

(ii) The committee shall support the prioritization and recommendation described in Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

(g) The committee shall submit a list that prioritizes the grant requests and recommends a grant amount for each grant eligible entity that requested a grant to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the account as a grant to a grant eligible entity:

(i) after making the disbursements required by Section 35A-8-607; and

(ii) subject to the availability of funds in the account:

(A) in the order of priority that the Legislature gives to each eligible grant entity under Section 63J-1-802; and

(B) in the amount that the Legislature approves to a grant eligible entity under Section 63J-1-802.

(b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing the process for the department to determine the timeline within the fiscal year for funding the grants.

(5) On or before October 1, the department, in cooperation with the committee, shall:

(a) submit an annual written report electronically to the Social Services Appropriations

Subcommittee of the Legislature that gives a complete accounting of the department's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

CHAPTER 54**H. B. 215**

Passed March 4, 2019
Approved March 21, 2019
Effective May 14, 2019

SILVER ALERT PROGRAM

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

LONG TITLE**General Description:**

This bill creates a Silver Alert Notification System for missing endangered adults.

Highlighted Provisions:

This bill:

- ▶ defines “endangered adult” as a person 60 years of age or older with dementia;
- ▶ requires the Department of Public Safety to develop an alert system similar to the Amber Alert System for endangered adults;
- ▶ requires that the system utilize highway signage in the geographical area where the person went missing; and
- ▶ allows the department to make rules to set requirements for alerts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-10-701, Utah Code Annotated 1953
53-10-702, Utah Code Annotated 1953
53-10-703, Utah Code Annotated 1953
53-10-704, Utah Code Annotated 1953

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

Section 1. Section 53-10-701 is enacted to read:**Part 7. Utah Silver Alert Act****53-10-701. Title -- Creation.**

(1) This part is known as the “Utah Silver Alert Act.”

(2) There is created the Utah Silver Alert Notification System (Silver Alert) for missing and endangered adults to be administered by the department.

Section 2. Section 53-10-702 is enacted to read:**53-10-702. Definitions.**

As used in this part:

(1) “Dementia” means a person has a form of cognitive decline that significantly affects the person’s ability to make decisions and provide for health, safety, or self care. This term includes Alzheimer’s disease and other forms of dementia marked by the continual loss of memory and awareness of surroundings.

(2) “Endangered adult” means a person 60 years of age or older or a person under 60 years of age who has a form of dementia.

Section 3. Section 53-10-703 is enacted to read:**53-10-703. Silver Alert Notification System -- Law enforcement and department responsibilities.**

(1) The department shall develop a quick response system designed to issue and coordinate alerts following the report of a missing endangered adult. The system shall utilize the same coordination as the Amber Alert System with the following exceptions:

(a) the National Emergency Broadcast System may not be activated; and

(b) notification to the Department of Transportation for the activation of highway signage shall indicate the specific area in which the person was last seen so that signs only in that geographical area will be activated.

(2) Upon receiving a report of a missing adult, the law enforcement officer shall determine whether the missing adult meets the criteria to be designated as an endangered adult.

(3) If it is determined that the missing adult is an endangered adult, the officer investigating the person’s disappearance shall request the department activate the Silver Alert Notification System.

Section 4. Section 53-10-704 is enacted to read:**53-10-704. Rulemaking authority.**

The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies, procedures, and a timeline for the:

(1) request for a Silver Alert by a law enforcement officer or agency;

(2) activation of the Silver Alert Notification System;

(3) duration of the Silver Alert; and

(4) cancellation of a Silver Alert.

CHAPTER 55**H. B. 221**

Passed March 1, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**UNINSURED MOTORIST
 IDENTIFICATION SUNSET AMENDMENTS**

Chief Sponsor: Joel Ferry
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill repeals sunset provisions related to funding for the Uninsured Motorist Identification Database Program and amends an allocation from the Uninsured Motorist Identification Restricted Account.

Highlighted Provisions:

This bill:

- ▶ repeals sunset provisions related to funding for the Uninsured Motorist Identification Database Program; and
- ▶ increases the amount that may be appropriated from the Uninsured Motorist Identification Restricted Account to the Peace Officer Standards and Training Division from \$500,000 to \$1,000,000 annually.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-12a-806, as last amended by Laws of Utah 2015, Chapter 109
 63I-1-241, as last amended by Laws of Utah 2015, Chapter 109
 63I-2-231, as last amended by Laws of Utah 2017, Chapter 292

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

Section 1. Section 41-12a-806 is amended to read:**41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than [~~\$500,000~~] \$1,000,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 2. Section 63I-1-241 is amended to read:**63I-1-241. Repeal dates, Title 41.**

~~[Subsection 41-12a-806(5) is repealed on July 1, 2020.]~~

Section 3. Section 63I-2-231 is amended to read:**63I-2-231. Repeal dates -- Title 31A.**

~~[(1) Section 31A-22-315.5 is repealed July 1, 2019.]~~

~~[(2)] (1) Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements is repealed July 1, 2019.~~

~~[(3)] (2) Title 31A, Chapter 30, Part 3, Individual and Small Employer Risk Adjustment Act is repealed July 1, 2019.~~

~~[(4) Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, is repealed December 31, 2018.]~~

CHAPTER 56**H. B. 240**

Passed March 4, 2019
Approved March 21, 2019
Effective May 14, 2019

**MONEY MANAGEMENT
ACT AMENDMENTS**

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill modifies the Money Management Act by amending provisions relating to the investment of public funds.

Highlighted Provisions:

This bill:

- ▶ authorizes public funds to be invested in negotiable brokered certificates of deposit, subject to rules made by the State Money Management Council; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-7-11, as last amended by Laws of Utah 2018, Chapter 207
51-7-15, as last amended by Laws of Utah 2017, Chapter 338
51-7-17, as last amended by Laws of Utah 2015, Chapter 164

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

Section 1. Section 51-7-11 is amended to read:**51-7-11. Authorized deposits or investments of public funds.**

(1) (a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

(v) other investments authorized by this section;

(d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:

(i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or

(ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);

(e) bankers' acceptances that:

(i) are eligible for discount at a Federal Reserve bank; and

(ii) have a remaining term to maturity of 270 days or fewer;

(f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

(i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(h) obligations other than mortgage pools and other mortgage derivative products that:

(i) are issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

- (A) Federal Farm Credit banks;
- (B) Federal Home Loan banks;
- (C) Federal National Mortgage Association;
- (D) Federal Home Loan Mortgage Corporation;
- (E) Federal Agriculture Mortgage Corporation; and
- (F) Tennessee Valley Authority; and

(ii) unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

- (A) five years or less;

(B) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(C) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(i) fixed rate corporate obligations that:

(i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(iii) are publicly traded; and

(iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

- (i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations described in Subsection (7) that, unless the funds invested are pledged or otherwise deposited in an irrevocable trust escrow account, have a remaining term to final maturity of:

- (i) five years or less;

(ii) if the funds are invested by an institution of higher education as defined in Section 53B-3-102, a city of the first class, or a county of the first class, 10 years or less; or

(iii) if the funds are invested by a public agency insurance mutual, as defined in Subsection 31A-1-103(7)(a), 20 years or less;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; ~~and~~

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and

(p) negotiable brokered certificates of deposit made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(b) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Section 2. Section 51-7-15 is amended to read:

51-7-15. Bonds of state treasurer and other public treasurers -- Reports to council.

(1) (a) The state treasurer, county, city, and town treasurers, the clerk or treasurer of each school district, and other public treasurers that the council designates by rule shall be bonded or may procure crime or theft insurance as [allowed] described in Section 17-16-11 in an amount of not less than that established by the council.

(b) The council shall base the minimum bond amount or crime or theft insurance as [allowed] described in Section 17-16-11 on the amount of public funds normally in the treasurer's possession or control.

(2) (a) When a public treasurer deposits or invests public funds as authorized by this chapter, the public treasurer and the public treasurer's bondsmen or insurers are not liable for any loss of public funds invested or deposited unless the loss is caused by the malfeasance of the public treasurer or a member of the public treasurer's staff.

(b) A public treasurer and the public treasurer's bondsmen or insurers are liable for a loss for any reason from deposits or investments not made in conformity with this chapter and the rules of the council.

(3) (a) A public treasurer shall file a written report with the council on or before January 31 and July 31 of each year.

(b) The report shall contain:

(i) the information about the deposits and investments of that public treasurer during the preceding six months ending December 31 and June 30, respectively, that the council requires by rule; and

(ii) information detailing the nature and extent of interest rate contracts permitted by Subsection 51-7-17(3).

(c) A public treasurer shall make copies of the report available to the public at the public treasurer's office during normal business hours.

Section 3. Section 51-7-17 is amended to read:

51-7-17. Criteria for investments.

(1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

(i) an entity controlled, directly or indirectly, by the provider;

(ii) an entity that controls, directly or indirectly, the provider; or

(iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2) (a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) protection of principal during periods of financial market volatility;

(iii) need for liquidity;

(iv) yield on investments;

(v) recognition of the different investment objectives of operating and permanent funds; and

(vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

(i) Section 51-7-11; or

(ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

(i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or

(ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise

dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to those bonds or notes or the borrowing instrument authorizes the investment as an investment permitted by the State Money Management Act;

(ii) either the provider of the investment agreement or an entity fully, unconditionally, and irrevocably guaranteeing the provider's obligations under the investment agreement has received a rating of:

(A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements having a term of more than one year; or

(B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements having a term of one year or less;

(iii) the investment agreement contains provisions approved by the public treasurer that provide that, in the event of a rating downgrade of the provider or its affiliate guarantor, as applicable, by either S&P or Moody's below the "A" category or its equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or Moody's below the "AA" category or its equivalent, the provider must, within 30 days after receipt of notice of the downgrade:

(A) collateralize the investment agreement with direct obligations of, or obligations guaranteed by, the United States of America having a market value at least equal to 105% of the amount of the money invested, valued at least quarterly, and deposit the collateral with a third-party custodian or trustee selected by the public treasurer; or

(B) terminate the agreement without penalty and repay all of the principal invested and the interest accrued on the investment to the date of termination; and

(iv) the public treasurer receives an enforceability opinion from the legal counsel of the investment agreement provider and, if there is a guarantee, an enforceability opinion from the legal counsel of the guarantor with respect to the guarantee.

(3) (a) As used in this Subsection (3), "interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or other similar contracts authorized by resolution of the governing board or issuing authority, as applicable.

(b) A public treasurer may, with the approval of the state treasurer:

(i) enter into interest rate contracts that the governing board or issuing authority determines are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use its public funds to satisfy its payment obligations under those contracts.

(c) Those contracts:

(i) shall comply with the requirements established by council rules; and

(ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.

(d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.

(4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:

(a) for deposits made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103;

(b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2); ~~or~~

(c) negotiable brokered certificates of deposit, subject to rules made by the council under Subsection 51-7-18(2); or

~~[(e)]~~ (d) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with institutions that meet quality criteria set forth by the rules of the council.

CHAPTER 57**H. B. 356**

Passed March 11, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**ADULT EDUCATION
 ACCESS AMENDMENTS**

Chief Sponsor: Dan N. Johnson
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends age restrictions for a student to enroll in adult education.

Highlighted Provisions:

This bill:

- ▶ amends age restrictions for a student to enroll in adult education; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-10-205, as renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-10-205 is amended to read:

53E-10-205. Eligibility.

(1) Adult education classes are open to ~~every person 18~~ an individual 16 years of age or over and to ~~any person~~ an individual who has completed high school.

(2) Eligible nonresidents of the state shall be charged tuition at least equal to that charged nonresident students for similar classes at a local or nearby state college or university, unless waived in whole or in part by the local school board in an open meeting.

(3) The district superintendent may, upon the recommendation of an authorized representative of the Division of Child and Family Services, exempt an adult domiciled in Utah from the payment of adult education fees.

CHAPTER 58**H. B. 410**

Passed March 14, 2019
Approved March 21, 2019
Effective May 14, 2019

**DRUG PARAPHERNALIA
PENALTY AMENDMENTS**

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill addresses drug paraphernalia.

Highlighted Provisions:

This bill:

- ▶ removes certain enhancements for offenses related to drug paraphernalia; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37-8, as last amended by Laws of Utah 2017, Chapter 330

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

Section 1. Section 58-37-8 is amended to read:**58-37-8. Prohibited acts -- Penalties.**

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for [any] a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in [any] a violation of [any provision of Title 58,] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of [Title 58,] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on

separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) [Any] A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) [Any] A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) [Any] A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection [(2)] (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for [any] a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for [any] an owner, tenant, licensee, or person in control of [any] a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by

persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for [any] a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) [Any] A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) [Any] A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) [Any] A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by [any] a correctional facility as defined in Section 64-13-1 or [any] a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) [Any] A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) [any] a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for [any] a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to [any] a person known to be attempting to acquire or obtain possession of, or to procure the administration of [any] a controlled substance by misrepresentation or failure by the person to disclose receiving [any] a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written

order for a controlled substance, or the use of a false name or address;

(iii) to make [any] a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter [any] a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess [any] a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render [any] a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a)~~[, Section 58-37a-5,]~~ or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within [any] an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of [any] a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to [any] a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; ~~not that~~ or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) [Any] A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) ~~[Any]~~ A penalty imposed for violation of this section is in addition to, and not in lieu of, ~~[any]~~ a civil or administrative penalty or sanction authorized by law.

(b) ~~[Where]~~ When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) ~~[any]~~ a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) ~~[any]~~ a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in ~~[Subsection 58-37-2(1)(v)]~~ Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in ~~[Subsection 58-37-2(1)(w)]~~ Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in ~~[Subsection 58-37-4(2)(a)(iii)(V)]~~ Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) ~~[was]~~ engaged in medical research; and

(ii) ~~[was]~~ a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and

law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

(a) [~~the minor to complete~~] a screening as defined in Section 41-6a-501;

(b) [~~the minor to complete~~] an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) [~~the minor to complete~~] an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

CHAPTER 59**H. B. 449**

Passed March 14, 2019
 Approved March 21, 2019
 Effective May 14, 2019
 (Exception clause in Section 4)

**CONTROLLED
 SUBSTANCES AMENDMENTS**

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

LONG TITLE**General Description:**

This bill amends the Controlled Substances Act and the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ reschedules Tramadol from Schedule V to Schedule IV; and
- ▶ creates a reporting requirement for certain noncontrolled substances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 58-37-4, as last amended by Laws of Utah 2018, Chapter 146
- 58-37f-203 (Superseded 07/01/19), as last amended by Laws of Utah 2018, Chapters 123 and 452
- 58-37f-203 (Effective 07/01/19), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

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

Section 1. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenylethyl)-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoxin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-*o*-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-*c*]thieno[2,3-*e*]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxeridine;

(II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenaclymorphane;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

(PP) Morpheridine;

(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenomorphan;

(BBB) Phenoperidine;

(CCC) Piritramide;

(DDD) Proheptazine;

(EEE) Properidine;

(FFF) Propiram;

(GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

(III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]propanamide);

(JJJ) Tilidine;

(KKK) Trimeperidine;

(LLL) 3-methylfentanyl, including the optical and geometric isomers

(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(MMM) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropionamide];

(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine-N-Oxide;

(F) Cyprenorphine;

(G) Desomorphine;

(H) Dihydromorphine;

(I) Drotebanol;

(J) Etorphine (except hydrochloride salt);

(K) Heroin;

(L) Hydromorphanol;

(M) Methyl-desorphine;

(N) Methylhydromorphine;

(O) Morphine methylbromide;

(P) Morphine methylsulfonate;

(Q) Morphine-N-Oxide;

(R) Myrophine;

(S) Nicocodeine;

(T) Nicomorphine;

(U) Normorphine;

(V) Pholcodine; and

(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)indole; α -ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxy-methamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(α -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis* (*cannabis* plant), as well as synthetic equivalents of the substances contained in the *cannabis* plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (ñ)cis-4-methylaminorex ((ñ)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A)

N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B)

N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thethylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

- (L) Levomethorphan;
- (M) Levorphanol;
- (N) Metazocine;
- (O) Methadone;
- (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;
- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanyl; and
- (AA) Sufentanyl.
- (iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- (C) Phenmetrazine and its salts; and
- (D) Methylphenidate.
- (iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (A) Amobarbital;
- (B) Glutethimide;
- (C) Pentobarbital;
- (D) Phencyclidine;
- (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and
- (F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (ñ)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is

approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: \bar{n} -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylp yrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyzapazon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebolone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary

of Health and Human Services for use, may not be classified as a controlled substance.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;
- (B) Barbitol;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;
- (U) Ethyl loflazepate;
- (V) Fludiazepam;
- (W) Flunitrazepam;
- (X) Flurazepam;
- (Y) Halazepam;
- (Z) Haloxazolam;
- (AA) Ketazolam;
- (BB) Loprazolam;
- (CC) Lorazepam;
- (DD) Lormetazepam;

- (EE) Mebutamate;
- (FF) Medazepam;
- (GG) Meprobamate;
- (HH) Methohexital;
- (II) Methylphenobarbital (mephobarbital);
- (JJ) Midazolam;
- (KK) Nimetazepam;
- (LL) Nitrazepam;
- (MM) Nordiazepam;
- (NN) Oxazepam;
- (OO) Oxazolam;
- (PP) Paraldehyde;
- (QQ) Pentazocine;
- (RR) Petrichloral;
- (SS) Phenobarbital;
- (TT) Pinazepam;
- (UU) Prazepam;
- (VV) Quazepam;
- (WW) Temazepam;
- (XX) Tetrazepam;
- (YY) Tramadol;
- [~~(YY)~~] (ZZ) Triazolam;
- [~~(ZZ)~~] (AAA) Zaleplon; and
- [~~(AAA)~~] (BBB) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;

(H) Pemoline, including organometallic complexes and chelates thereof;

(I) Phentermine;

(J) Pipradrol;

(K) Sibutramine; and

(L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers[; and].

~~[(H) all forms of Tramadol.]~~

(ii) Cannabidiol in a drug product that is approved by the United States Food and Drug Administration.

Section 2. Section 58-37f-203 (Superseded 07/01/19) is amended to read:

58-37f-203 (Superseded 07/01/19).

Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident

pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) ~~The pharmacist-in-charge and the pharmacist described in Subsection (2)(b) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:~~

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

Section 3. Section 58-37f-203 (Effective 07/01/19) is amended to read:

58-37f-203 (Effective 07/01/19). Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the

following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

- (i) the requirements of this section;
- (ii) the procedures established by the division;
- (iii) additional types of information or data fields established by the division; and
- (iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) The pharmacist-in-charge and the pharmacist described in Subsection (2)(b) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6)[.] regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for an inpatient at a health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

- (a) the identification of each individual who requests or receives information from the database;
- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2019.

(2) The actions affecting Section 58-37f-203 (Effective 07/01/19) take effect on July 1, 2019.

CHAPTER 60**S. B. 11**

Passed February 15, 2019

Approved March 21, 2019

Effective May 14, 2019

**MEDICAID DENTAL
COVERAGE AMENDMENTS**

Chief Sponsor: Allen M. Christensen

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill makes changes to the Medicaid adult dental services waiver program.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to apply for a waiver from the federal government to:
 - expand Medicaid dental coverage to elderly Medicaid patients; and
 - provide coverage for porcelain and porcelain-to-metal crowns to certain Medicaid patients; and
- ▶ adds the University of Utah School of Dentistry's associated statewide network to the list of providers for adult dental services in the Medicaid program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-413, as last amended by Laws of Utah 2018, Chapter 78

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

Section 1. Section 26-18-413 is amended to read:**26-18-413. Medicaid waiver for delivery of adult dental services.**

(1) (a) Before June 30, 2016, the department shall ask the United States Secretary of Health and Human Services to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2)(a).

(b) Before June 30, 2018, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b)(i) and (d) through (g), to an individual described in Subsection (2)(b)(i).

(c) Before June 30, 2019, the department shall submit to the Centers for Medicare and Medicaid Services a request for waivers, or an amendment to existing waivers, from federal law necessary for the state to:

(i) provide dental services, in accordance with Subsections (2)(b)(ii) and (d) through (g) to an individual described in Subsection (2)(b)(ii); and

(ii) provide the services described in Subsection (2)(h).

(2) (a) To the extent funded, the department shall provide services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a)[5]:

(i) if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

[4] (A) qualifies for the health coverage improvement program described in Section 26-18-411; and

[4ii] (B) is receiving treatment in a substance abuse treatment program, as defined in Section 62A-2-101, licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities[.]; and

(ii) if a waiver is approved under Subsection (1)(c)(i), the department shall provide dental services to an individual who is an aged individual as defined in 42 U.S.C. Sec. 1382c(a)(1).

(c) To the extent possible, services to individuals described in Subsection (2)(a) [~~within Salt Lake County~~] shall be provided through the University of Utah School of Dentistry and the University of Utah School of Dentistry's associated statewide network.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

(f) Each fiscal year, the University of Utah School of Dentistry shall transfer money to the program in an amount equal to the program's non-federal

share of the cost of providing services under this section through the school during the fiscal year.

(g) During each general session of the Legislature, the department shall report to the Social Services Appropriations Subcommittee whether the University of Utah School of Dentistry will have sufficient funds to make the transfer required by Subsection (2)(f) for the current fiscal year.

(h) If a waiver is approved under Subsection (1)(c)(ii), the department shall provide coverage for porcelain and porcelain-to-metal crowns if the services are provided:

(i) to an individual who qualifies for dental services under Subsection (2)(b); and

(ii) by an entity that covers all state costs of:

(A) providing the coverage described in this Subsection (2)(h); and

(B) applying for the waiver described in Subsection (1)(c)(ii).

~~[(h)]~~ (i) Where possible, the department shall ensure that services described in Subsection (2)(a) that are not provided by the University of Utah School of Dentistry or the University of Utah School of Dentistry's associated network are provided:

(i) through fee for service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

~~[(i)]~~ (j) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.

(3) The reporting requirements of Section 26-18-3 apply to the waivers requested under Subsection (1).

(4) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.

(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.

(c) If the waivers requested under Subsection (1)(c)(i) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b)(ii) within 90 days after the day on which the waivers are granted.

(5) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.

CHAPTER 61**S. B. 16**

Passed February 8, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**PUBLIC UTILITIES
 COMMITTEE REPORTS**

Chief Sponsor: Daniel Hemmert
 House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill addresses statutorily required reports related to public utilities, energy, and technology topics.

Highlighted Provisions:

This bill:

- ▶ repeals reporting requirements for certain reports to the Public Utilities, Energy, and Technology Interim Committee;
- ▶ consolidates reporting requirements for certain reports to the Public Utilities, Energy, and Technology Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-7-13.5, as last amended by Laws of Utah 2016, Chapter 393
 59-1-403, as last amended by Laws of Utah 2018, Chapters 4, 92, and 376
 63B-3-301, as last amended by Laws of Utah 2016, Chapters 13 and 144
 63F-1-104, as last amended by Laws of Utah 2018, Chapter 200
 63F-1-201, as last amended by Laws of Utah 2016, Chapter 13
 63F-1-212, as enacted by Laws of Utah 2017, Chapter 238

REPEALS:

63F-1-901, as enacted by Laws of Utah 2017, Chapter 258
 63F-1-902, as enacted by Laws of Utah 2017, Chapter 258

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

Section 1. Section 54-7-13.5 is amended to read:**54-7-13.5. Energy balancing accounts.**

(1) As used in this section:

(a) "Base rates" means the same as that term is defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:

(i) (A) fuel;
 (B) purchased power; and
 (C) wheeling expenses; and
 (ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale revenues.

(c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

(i) in the public interest;
 (ii) for prudently-incurred costs; and
 (iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

(A) base rates;
 (B) contract rates;
 (C) surcredits; or
 (D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenues incurred by the electrical corporation.

(d) Beginning June 1, 2016, for an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.

(e) An energy balancing account may not alter:

(i) the standard for cost recovery; or
 (ii) the electrical corporation's burden of proof.

(f) The collection method described in Subsection (2)(c)(i) shall:

(i) apply to the appropriate billing components in base rates; and

(ii) be incorporated into base rates in an appropriate commission proceeding.

(g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

(h) Revenues collected in excess of prudently incurred actual costs shall:

(i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and

(ii) include a carrying charge.

(i) Prudently incurred actual costs in excess of revenues collected shall:

(i) be recovered as a bill surcharge over a period to be specified by the commission; and

(ii) include a carrying charge.

(j) The carrying charge applied to the balance in an energy balancing account shall be:

(i) determined by the commission; and

(ii) symmetrical for over or under collections.

(3) (a) The commission may:

(i) establish a gas balancing account for a gas corporation; and

(ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.

(b) A gas balancing account may not alter:

(i) the standard of cost recovery; or

(ii) the gas corporation's burden of proof.

(4) (a) All allowed costs and revenues associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.

(b) The balance of an energy balancing account or gas balancing account may not be:

(i) transferred by the electrical corporation or gas corporation; or

(ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.

(c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

~~[(6) The commission shall report to the Public Utilities and Technology Interim Committee before December 1 in 2017 and 2018 regarding whether allowing an electrical corporation to continue to recover costs under Subsection (2)(d) is reasonable and in the public interest.]~~

Section 2. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information

gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the

commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges, to ~~the board of the Utah Communications Authority created in Section 63H-7a-201; and (ii) the Public Utilities, Energy, and Technology Interim Committee.] the board of the Utah Communications Authority created in Section 63H-7a-201.~~

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the

Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

- (i) is not guilty of a class A misdemeanor; and
- (ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 3. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to [Title 63B,] Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

- (a) the lease purchase obligation; or
- (b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [Title 63B,] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [Title 63B,] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [Title 63B,] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$9,000,000 for the acquisition or construction of up

to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to \$5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Control not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the

executive director of the Governor's Office of Management and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Management and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of

the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Parks and Recreation and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the

Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division

of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to ~~[the Public Utilities, Energy, and Technology Interim Committee,]~~ the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 4. Section 63F-1-104 is amended to read:

63F-1-104. Purposes.

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with Section 63F-1-201 on a semiannual basis regarding the status of information technology projects;

(12) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

(13) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section 5. Section 63F-1-201 is amended to read:

63F-1-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the department shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

- (i) the governor; and
- (ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The report required under Subsection (3)(a) shall:

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan; [and]

(iii) provide a brief description of each state agency's information technology plan[-];

~~[(4) (a) In accordance with this section, the chief information officer shall prepare an interbranch information technology coordination plan that provides for the coordination where possible of the development, acquisition, and maintenance of information technology and information systems of:]~~

~~[(i) the executive branch;]~~

~~[(ii) the judicial branch;]~~

~~[(iii) the legislative branch;]~~

~~[(iv) the Board of Regents; and]~~

~~[(v) the State Board of Education.]~~

~~[(b) In the development of the interbranch coordination plan, the chief information officer shall consult with the entities described in Subsection (4)(a).]~~

~~[(c) The interbranch coordination plan:]~~

~~[(i) is an advisory document; and]~~

~~[(ii) does not bind any entity described in Subsection (4)(a).]~~

~~[(d) (i) The chief information officer shall submit the interbranch coordination plan to the Public Utilities, Energy, and Technology Interim Committee for comment.]~~

~~[(ii) The chief information officer may modify the interbranch coordination plan:]~~

~~[(A) at the request of the Public Utilities, Energy, and Technology Interim Committee; or]~~

~~[(B) to improve the coordination between the entities described in Subsection (4)(a).]~~

~~[(iii) Any amendment to the interbranch coordination plan is subject to this Subsection (4) in the same manner as the interbranch coordination plan is subject to this Subsection (4).]~~

~~[(5) In a manner consistent with the interbranch coordination plan created in accordance with Subsection (4), the chief information officer shall maintain liaisons with:]~~

~~[(a) the judicial branch;]~~

~~[(b) the legislative branch;]~~

~~[(c) the Board of Regents;]~~

~~[(d) the State Board of Education;]~~

~~[(e) local government;]~~

~~[(f) the federal government;]~~

~~[(g) business and industry; and]~~

~~[(h) those members of the public who use information technology or systems of the state.]~~

(iv) include the status of information technology projects described in Subsection 63F-1-104(11);

(v) include the performance report described in Section 63F-1-212; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section 6. Section 63F-1-212 is amended to read:

63F-1-212. Report to the Legislature.

The department shall, in accordance with Section 63F-1-201, before November 1 of each year, report to the Public Utilities, Energy, and Technology Interim Committee on:

(1) performance measures that the department uses to assess the department's effectiveness in performing the department's duties under this chapter; and

(2) the department's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section 7. Repealer.

This bill repeals:

Section 63F-1-901, Title.

Section 63F-1-902, Executive branch agencies -- Data security review -- Report to Legislature.

CHAPTER 62**S. B. 19**

Passed February 6, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**SUNSET REAUTHORIZATION -
USED OIL MANAGEMENT ACT**

Chief Sponsor: Keith Grover
 House Sponsor: Susan Duckworth

LONG TITLE**General Description:**

This bill modifies the repeal date of the Used Oil Management Act.

Highlighted Provisions:

This bill:

- modifies the repeal date of the Used Oil Management Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2018,
 Chapter 31

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

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, ~~2019~~ 2029.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 63**S. B. 20**

Passed February 6, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**SUNSET REAUTHORIZATION -
 SOLID AND HAZARDOUS WASTE ACT**

Chief Sponsor: Keith Grover
 House Sponsor: Marsha Judkins

LONG TITLE**General Description:**

This bill extends the repeal date of the Solid and Hazardous Waste Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Solid and Hazardous Waste Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2018,
 Chapter 31

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

Section 1. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, [2019] 2029.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 64**S. B. 22**

Passed February 6, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**SUNSET REAUTHORIZATION -
SAFE DRINKING WATER ACT**

Chief Sponsor: Keith Grover
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill extends the repeal date of the Safe Drinking Water Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Safe Drinking Water Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2018,
 Chapter 31

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

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, [2019] 2024.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 65**S. B. 23**

Passed February 6, 2019
Approved March 21, 2019
Effective May 14, 2019

**SUNSET REAUTHORIZATION -
WATER QUALITY ACT**

Chief Sponsor: Keith Grover
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill extends the repeal date of the Water Quality Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Water Quality Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2018,
Chapter 31

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

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, ~~2019~~ 2029.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 66**S. B. 29**

Passed February 7, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**HEALTH CARE MALPRACTICE
 ACT SUNSET EXTENSION**

Chief Sponsor: Allen M. Christensen
 House Sponsor: Stewart E. Barlow

LONG TITLE**General Description:**

This bill reauthorizes provisions regarding medical malpractice arbitration agreements.

Highlighted Provisions:

This bill:

- ▶ extends the sunset date for provisions regarding medical malpractice arbitration agreements for 10 years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-278, as last amended by Laws of Utah 2018, Chapter 25

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

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, ~~2019~~ 2029.

(2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(3) Section 78B-6-802.7 is repealed on July 1, 2018.

CHAPTER 67**S. B. 30**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

ANESTHESIA AND SEDATION RELATED PROVISIONS REAUTHORIZATION

Chief Sponsor: Todd Weiler
 House Sponsor: Norman K. Thurston

LONG TITLE**General Description:**

This bill modifies provisions of the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ extends the sunset date of statutory provisions related to the reporting requirements of certain adverse anesthesia events; and
- ▶ extends the sunset date of statutory provisions related to what constitutes unprofessional conduct when administering anesthesia in an outpatient setting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468
 63I-1-258, as last amended by Laws of Utah 2018, Chapter 399

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

Section 1. Section 63I-1-226 is amended to read:**63I-1-226. Repeal dates, Title 26.**

(1) Section 26-1-40 is repealed July 1, [2019] 2022.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

(5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.

(9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.

(10) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 2. Section 63I-1-258 is amended to read:**63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, [2019] 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

CHAPTER 68**S. B. 31**

Passed February 7, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**SUNSET REAUTHORIZATION -
 SPEECH PATHOLOGY
 AND AUDIOLOGY LICENSING ACT**

Chief Sponsor: Todd Weiler
 House Sponsor: Norman K. Thurston

LONG TITLE**General Description:**

This bill modifies provisions of the Legislative Oversight and Sunset Act.

Highlighted Provisions:

This bill:

- ▶ modifies the sunset date of the Speech-Language Pathology and Audiology Licensing Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-258, as last amended by Laws of Utah 2018, Chapter 399

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

Section 1. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, [2019] 2029.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, 2019:

- (a) Section 58-5a-502;
- (b) Section 58-31b-502.5;
- (c) Section 58-67-502.5;
- (d) Section 58-68-502.5; and
- (e) Section 58-69-502.5.

CHAPTER 69**S. B. 36**

Passed February 7, 2019

Approved March 21, 2019

Effective May 14, 2019

**DEPARTMENT OF TRANSPORTATION
PROCUREMENT AUTHORITY**Chief Sponsor: David G. Buxton
House Sponsor: Kay J. Christofferson**LONG TITLE****General Description:**

This bill amends provisions related to the Department of Transportation's procurement authority.

Highlighted Provisions:

This bill:

- ▶ broadens the executive director's procurement authority to include purchases necessary to achieve the statutory functions and responsibilities of the department;
- ▶ describes the executive director's authority to determine whether an item or purchase related to the department's mission is a procurement item; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-1-202, as last amended by Laws of Utah 2018, Chapter 424

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

Section 1. Section 72-1-202 is amended to read:**72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.**

(1) (a) The governor, after consultation with the commission and with the consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business; ~~and~~

(f) purchase all ~~necessary~~ equipment, services, and supplies ~~for the department.~~ necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201; and

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code.

CHAPTER 70**S. B. 46**

Passed February 20, 2019

Approved March 21, 2019

Effective May 14, 2019

TIRE RECYCLING AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Carl R. Albrecht

LONG TITLE**General Description:**

This bill modifies reimbursement provisions of the Waste Tire Recycling Act.

Highlighted Provisions:

This bill:

- ▶ addresses the director of the Division of Waste Management and Radiation Control authority to authorize reimbursement of a waste tire transporter's or recycler's cost; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-811, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-6-811 is amended to read:**19-6-811. Funding for management of certain landfill or abandoned waste tire piles -- Limitations.**

(1) (a) A county or municipality may apply to the director for payment from the fund for costs of a waste tire transporter or recycler to remove waste tires from an abandoned waste tire pile or a landfill waste tire pile operated by a state or local governmental entity and deliver the waste tires to a recycler.

(b) The director may authorize a maximum reimbursement of:

(i) subject to Subsection (1)(d), 100% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if:

(A) ~~no~~ waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001; ~~or~~ and

(B) the county is a county of the third, fourth, fifth, or sixth class, or the municipality is located in a county of the third, fourth, fifth, or sixth class;

(ii) subject to Subsection (1)(d), 60% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an

abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if:

(A) waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001~~[-];~~ and

(B) the county is a county of the first or second class, or the municipality is in a county of the first or second class; or

(iii) subject to Subsection (1)(d), 60% of waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler if the waste tires have been added to the abandoned waste tire pile and landfill waste tire pile on or after July 1, 2001, and the reimbursement is for:

(A) an interlocal cooperative agency;

(B) a special district; or

(C) a waste transfer station.

(c) The director may deny an application for payment of waste tire pile removal and delivery costs, if the director determines that payment of the costs will result in there not being sufficient money in the fund to pay expected reimbursements for recycling or beneficial use under Section 19-6-809 during the next quarter.

(d) In order to be eligible for reimbursement under Subsections (1)(a) and (b), a county or municipality shall receive a minimum of two eligible bids for transportation or recycling, unless it is impossible to receive two eligible bids due to a transporter or recycler:

(i) declining to offer a bid for the project; or

(ii) not being in compliance with state statute or rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The maximum number of miles for which the director may reimburse for transportation costs incurred by a waste tire transporter under this section is the number of miles, one way, between the location of the waste tire pile and the State Capitol Building, in Salt Lake City, Utah, or to the recycler, whichever is less.

(b) This maximum number of miles available for reimbursement applies regardless of the location of the recycler to which the waste tires are transported under this section.

(c) The director shall, upon request, advise any person preparing a bid under this section of the maximum number of miles available for reimbursement under this Subsection (2).

(d) The cost under this Subsection (2) shall be calculated based on the cost to transport one ton of waste tires one mile.

(3) (a) The county or municipality shall through a competitive bidding process make a good faith attempt to obtain a bid for the removal of the landfill or abandoned waste tire pile and transport to a recycler.

(b) The county or municipality shall submit to the director:

(i) (A) (I) a statement from the local health department stating the landfill waste tire pile is operated by a state or local governmental entity and consists solely of waste tires diverted from the landfill waste stream;

(II) a description of the size and location of the landfill waste tire pile; and

(III) landfill records showing the origin of the waste tires; or

(B) a statement from the local health department that the waste tire pile is abandoned; and

(ii) (A) the bid selected by the county or municipality; or

(B) if no bids were received, a statement to that fact.

(4) (a) If a bid is submitted, the director shall determine if the bid is reasonable, taking into consideration:

(i) the location and size of the landfill or abandoned waste tire pile;

(ii) the number and size of any other landfill or abandoned waste tire piles in the area; and

(iii) the current market for waste tires of the type in the landfill or abandoned waste tire pile.

(b) The director shall advise the county or municipality within 30 days of receipt of the bid whether or not the bid is determined to be reasonable.

(5) (a) If the bid is found to be reasonable, the county or municipality may proceed to have the landfill or abandoned waste tire pile removed pursuant to the bid.

(b) The county or municipality shall advise the director that the landfill or abandoned waste tire pile has been removed.

(6) The recycler or waste tire transporter that removed the landfill or abandoned waste tires pursuant to the bid shall submit to the director a copy of the manifest, which shall state:

(a) the number or tons of waste tires transported;

(b) the location from which they were removed;

(c) the recycler to which the waste tires were delivered; and

(d) the amount charged by the transporter or recycler.

(7) Upon receipt of the information required under Subsection (6), and determination that the information is complete, the director shall, within 30 days after receipt authorize the Division of Finance to reimburse the waste tire transporter or recycler the amount established under this section.

CHAPTER 71**S. B. 47**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

PLACEMENT OF MINORS AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Karianne Lisonbee

LONG TITLE**General Description:**

This bill modifies provisions related to placement of a minor.

Highlighted Provisions:

This bill:

- ▶ addresses the weight to be given to the desires of a minor;
- ▶ clarifies application to minors;
- ▶ requires the court and the Division of Child and Family Services to make findings explaining why their opinions differ from a minor's express wishes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-6-305, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-307, as last amended by Laws of Utah 2018, Chapters 235 and 285

78A-6-307.5, as last amended by Laws of Utah 2018, Chapter 235

78A-6-314, as last amended by Laws of Utah 2018, Chapter 359

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

Section 1. Section 78A-6-305 is amended to read:**78A-6-305. Opportunity for a minor to testify or address the court.**

(1) For purposes of this section, "postadjudication hearing" means:

- (a) a [disposition] dispositional hearing;
- (b) a permanency hearing; or
- (c) a review hearing, except a drug court review hearing.

(2) A [child] minor shall be present at any postadjudication hearing in a case relating to the abuse, neglect, or dependency of the [child] minor, unless the court determines that:

(a) requiring the [child] minor to be present at the postadjudication hearing would be detrimental to the [child] minor or impractical; or

(b) the [child] minor is not sufficiently mature to articulate the [child's] minor's wishes in relation to the hearing.

(3) A court may, in the court's discretion, order that a [child] minor described in Subsection (2) be present at a hearing that is not a postadjudication hearing.

(4) (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the abuse, neglect, or dependency of a [child] minor, when the [child] minor is present at the hearing, the court shall:

(i) ask the [child] minor whether the [child] minor desires the opportunity to address the court or testify; and

(ii) if the [child] minor desires an opportunity to address the court or testify, allow the [child] minor to address the court or testify.

(b) Subsection (4)(a) does not apply if the court determines that:

(i) it would be detrimental to the [child] minor to comply with Subsection (4)(a); or

(ii) the [child] minor is not sufficiently mature to articulate the [child's] minor's wishes in relation to the hearing.

(c) Subject to applicable court rules, the court may allow the [child] minor to address the court in camera.

(d) If a minor 14 years of age or older desires an opportunity to address the court or testify, the court shall give the minor's desires added weight, but may not treat the minor's desires as the single controlling factor in a postadjudication hearing or other hearing described in Subsection (3).

(5) Nothing in this section prohibits a [child] minor from being present at a hearing that the [child] minor is not required to be at by this section or by court order, unless the court orders otherwise.

Section 2. Section 78A-6-307 is amended to read:**78A-6-307. Shelter hearing -- Placement -- DCFS custody.**

(1) As used in this section:

(a) "Friend" means an adult the child knows and is comfortable with but who is not a natural parent or relative.

(b) (i) "Natural parent," notwithstanding ~~the provisions of~~ Section 78A-6-105, means:

- (A) a biological or adoptive mother of the child;
- (B) an adoptive father of the child; or
- (C) a biological father of the child who:

(I) was married to the child's biological mother at the time the child was conceived or born; or

(II) has strictly complied with ~~the provisions of~~ Sections 78B-6-120 through 78B-6-122, ~~prior to~~ before removal of the child or voluntary surrender of the child by the custodial parent.

(ii) The definition of “natural parent” described in Subsection (1)(b)(i) applies regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(c) “Relative” means:

(i) an adult who is the child’s grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(ii) a first cousin of the child’s parent;

(iii) an adult who is an adoptive parent of the child’s sibling; or

(iv) in the case of a child defined as an “Indian” under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, “relative” also means an “extended family member” as defined by that statute.

(2) (a) At the shelter hearing, when the court orders that a child be removed from the custody of the child’s parent in accordance with the requirements of Section 78A-6-306, the court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the court’s jurisdiction occurred, who desires to assume custody of the child.

(b) If another natural parent requests custody under Subsection (2)(a), the court shall place the child with that parent unless it finds that the placement would be unsafe or otherwise detrimental to the child.

(c) ~~[The provisions of this]~~ This Subsection (2) ~~[are] is~~ limited by ~~[the provisions of]~~ Subsection (18)(b).

(d) (i) The court shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement.

(ii) The court shall, at a minimum, order the division to visit the parent’s home, comply with the criminal background check provisions described in Section 78A-6-308, and check the division’s management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue.

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report its findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending its determination regarding that placement.

(3) If the court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the court;

(b) the court may order:

(i) that the parent assume custody subject to the supervision of the court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child’s best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed in the custody of a relative, pursuant to Subsections (7) through (12); or

(d) the child should be placed in the custody of the division.

(5) The time limitations described in Section 78A-6-312 with regard to reunification efforts apply to children placed with a previously noncustodial parent in accordance with Subsection (2).

(6) Legal custody of the child is not affected by an order entered under Subsection (2) or (3). ~~[In order to]~~ To affect a previous court order regarding legal custody, the party ~~[must]~~ shall petition that court for modification of the order.

(7) If, at the time of the shelter hearing, a child is removed from the custody of the child’s parent and is not placed in the custody of the child’s other parent, the court:

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child’s wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether, subject to Subsections (18)(c) through (e), there are relatives or friends who are willing and appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to, subject to Subsections (18)(c) through (e), provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the custody of the division pending the determination under Subsection (7)(a).

(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.

(9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if it is in the best interest of the child, and the provisions of this section are satisfied.

(10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with that relative or friend.

(b) ~~[In order to]~~ To be considered a "willing relative or friend" under this section, the relative or friend shall be willing to cooperate with the child's permanency goal.

(11) (a) In making the finding described in Subsection (10)(a), the court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in ~~[Subsection]~~ Section 62A-4a-209~~(1)(b)~~, of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in ~~[Subsection]~~ Section 62A-4a-209~~(1)(b)~~, of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 78A-6-308;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the court; and

(vii) provide sufficient information so that the court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(b) The division may determine to conduct, or the court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement.

(c) The division shall complete and file its assessment regarding placement with a relative or friend as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(12) (a) The court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation pursuant to Subsections (10) and (11), and the court's determination regarding the appropriateness of that placement.

(b) The court shall ultimately base its determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(13) When a court places a child described in Subsection (7) in the custody of the child's relative or friend:

(a) the court:

(i) shall order the relative or friend assume custody, subject to the continuing supervision of the court; and

(ii) may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;

(b) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the court;

(c) the court may enter any order that it considers necessary for the protection and best interest of the child;

(d) the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(14) No later than 12 months after placement with a relative or friend, the court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(15) The time limitations described in Section 78A-6-312, with regard to reunification efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

(16) (a) If the court awards custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and

(ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

(b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a relative, pending the results of the background check described in Subsection (16)(a) on the relative.

(17) When the court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the court shall order that the child be placed in the temporary custody of the ~~Division of Child and Family Services~~ division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or

asserted an interest in a child, may not be granted preferential consideration by the division or the court.

(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time the court shall base its custody decision on the best interest of the child.

(c) ~~Prior to~~ Before the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the ~~person~~ individual with whom a child will be placed, provided that the ~~person~~ individual is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (18)(d), a friend, if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) (i) In determining whether a friend is a willing and appropriate placement for a child, neither the court, nor the division, is required to consider more than one friend designated by each parent of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement.

(ii) The court or the division may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement.

(iii) The court and the division shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 78A-6-306 is sexual abuse of the child.

(e) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

(i) the department shall fully cooperate to expedite the licensing process for the friend; and

(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.

(19) If, following the shelter hearing, the child is placed with ~~a person~~ an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a man and a woman who are

married to each other, unless it is in the best interests of the child to place the child with a single foster parent.

(20) In determining the placement of a child, neither the court, nor the division, may take into account, or discriminate against, the religion of [a person] an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with [a person] an individual or family of the same religion as the child.

(21) If the court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the court shall make findings explaining why the court's decision differs from the child's wishes.

Section 3. Section 78A-6-307.5 is amended to read:

78A-6-307.5. Post-shelter hearing placement of a minor who is in division custody.

(1) If the court awards custody of a [child] minor to the division under Section 78A-6-307, or as otherwise permitted by law, the division shall determine ongoing placement of the [child] minor.

(2) In placing a [child] minor under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (d), shall comply with the applicable background check provisions described in Section 78A-6-307;

(b) is not required to receive approval from the court [~~prior to~~] before making the placement;

(c) shall, within three days, excluding weekends and holidays, after making the placement, give written notice to the court, and [all] the parties to the proceedings, that the placement has been made;

(d) may place the [child] minor with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 62A-4a-209, pending the results of:

(i) the background check described in Subsection 78A-6-307(16)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the [child] minor; and

(e) shall take into consideration the will of the [child] minor, if the [child] minor is of sufficient maturity to articulate the [child's] minor's wishes in relation to the [child's] minor's placement.

(3) If the division's placement decision differs from a minor's express wishes if the minor is of sufficient maturity to state the wishes in relation to the minor's placement, the division shall make findings explaining why the division's decision differs from the minor's wishes in a writing

provided to the court and the minor's guardian ad litem.

Section 4. Section 78A-6-314 is amended to read:

78A-6-314. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) When reunification services have been ordered in accordance with Section 78A-6-312, with regard to a minor who is in the custody of the Division of Child and Family Services, a permanency hearing shall be held by the court no later than 12 months after the day on which the minor was initially removed from the minor's home.

(b) If reunification services were not ordered at the dispositional hearing, a permanency hearing shall be held within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services were ordered by the court in accordance with Section 78A-6-312, the court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the [child's] minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the [child] minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the [child] minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the [child] minor.

(3) In making a determination under Subsection (2)(a), the court shall review and consider:

(a) the report prepared by the Division of Child and Family Services;

(b) any admissible evidence offered by the minor's guardian ad litem;

(c) any report submitted by the division under Subsection 78A-6-315(3)(a)(i);

(d) any evidence regarding the efforts or progress demonstrated by the parent; and

(e) the extent to which the parent cooperated and [utilized] used the services provided.

(4) With regard to a case where reunification services were ordered by the court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the court shall, unless the time for the provision of reunification services is extended under Subsection [(8)] (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the court pursuant to Section 78A-6-312; and

(c) establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The court may order another planned permanent living arrangement for a minor 16 years old or older upon entering the following findings:

(a) the Division of Child and Family Services has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 78A-6-306(6)(e);

(b) the Division of Child and Family Services has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the court may not extend reunification services beyond 12 months after the day on which the minor was initially removed from the minor's home, in accordance with the provisions of Section 78A-6-312.

(7) (a) Subject to Subsection (7)(b), the court may extend reunification services for no more than 90 days if the court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the court may not extend any reunification services beyond 15 months after the day on which the minor was initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the court to extend services for that parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the [child] minor;

(ii) the court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the court specifies the time period in which it is likely that reunification will occur.

(d) A court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a court shall take into consideration the status of the minor siblings of the minor.

(8) The court may, in its discretion:

(a) enter any additional order that it determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor has been terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the permanency hearing.

(b) If the division opposes the plan to terminate parental rights, the court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 78A-6-316(2).

(10) (a) Any party to an action may, at any time, petition the court for an expedited permanency hearing on the basis that continuation of

reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the court so determines, it shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a court's ability to terminate reunification services at any time ~~prior to~~ before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed prior to the date scheduled for a permanency hearing, the court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the court shall first make a finding regarding whether reasonable efforts have been made by the Division of Child and Family Services to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 78A-6-312.

(c) A decision on a petition for termination of parental rights shall be made within 18 months from the day on which the minor is removed from the minor's home.

(13) If a court determines that a ~~child~~ minor will not be returned to a parent of the ~~child~~ minor, the court shall consider appropriate placement options inside and outside of the state.

(14) (a) If a minor 14 years of age or older desires an opportunity to address the court or testify regarding permanency or placement, the court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the court shall make findings explaining why the court's decision differs from the minor's wishes.

CHAPTER 72**S. B. 54**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

BOARD OF PARDONS AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill codifies the Board of Pardons and Parole's authority to rescind the termination or release date of an inmate or offender in state custody.

Highlighted Provisions:

This bill:

- ▶ codifies the board's authority to rescind an inmate's prison release date before an inmate is released from custody; and
- ▶ codifies the board's authority to rescind a parolee's termination date before termination occurs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-27-9, as last amended by Laws of Utah 2018, Chapters 5 and 334

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

Section 1. Section 77-27-9 is amended to read:**77-27-9. Parole proceedings.**

(1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years of age at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection ~~(6)~~ (7).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(3) The board may rescind:

(a) an inmate's prison release date prior to the inmate being released from custody; or

(b) an offender's termination date from parole prior to the offender being terminated from parole.

~~(3)~~ (4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of its members or by a designated hearing examiner in the performance of its duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

~~(4)~~ (5) (a) The board may adopt rules consistent with law for its government, meetings and

hearings, the conduct of proceedings before it, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

~~[(5)]~~ (6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

~~[(6)]~~ (7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

CHAPTER 73**S. B. 61**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

POLL HOURS FOR EARLY VOTING

Chief Sponsor: Jani Iwamoto

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill amends poll hour provisions for early voting.

Highlighted Provisions:

This bill:

- ▶ removes the poll hour closing requirement on the last day of early voting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-3-602, as last amended by Laws of Utah 2013, Chapter 182

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

Section 1. Section 20A-3-602 is amended to read:**20A-3-602. Hours for early voting.**

(1) Except as provided in Section 20A-1-308, the election officer shall determine the times for opening and closing the polls for each day of early voting provided that ~~that~~ voting is open for a minimum of four hours during each day that polls are open during the early voting period ~~and~~.

~~[(b) polls shall close at 5 p.m. on the last day of the early voting period.]~~

(2) Except as provided in Section 20A-1-308, each registered voter who arrives at the polls before the time scheduled for closing of the polls shall be allowed to vote.

CHAPTER 74**S. B. 62**

Passed February 28, 2019

Approved March 21, 2019

Effective May 14, 2019

CAMPAIGN FINANCE REVISIONS

Chief Sponsor: Jani Iwamoto
House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions of law related to campaign finance and financial disclosures by candidates and officeholders.

Highlighted Provisions:

This bill:

- ▶ requires a disqualified municipal, county, or local school board candidate to file a campaign finance statement after disqualification;
- ▶ clarifies which campaign finance and disclosure requirements relate to candidates and which relate to officeholders;
- ▶ modifies certain reporting dates for interim campaign finance reports;
- ▶ permits the lieutenant governor to waive a fine under certain circumstances; and
- ▶ modifies campaign finance reporting requirements for county political parties, political action committees, political issues committees, and corporations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-208, as last amended by Laws of Utah 2016, Chapters 94 and 409
17-16-6.5, as last amended by Laws of Utah 2016, Chapters 16 and 409
20A-11-201, as last amended by Laws of Utah 2018, Chapter 83
20A-11-203, as last amended by Laws of Utah 2016, Chapter 409
20A-11-204, as last amended by Laws of Utah 2016, Chapters 16 and 409
20A-11-206, as last amended by Laws of Utah 2016, Chapter 16
20A-11-301, as last amended by Laws of Utah 2018, Chapter 83
20A-11-302, as last amended by Laws of Utah 2016, Chapter 409
20A-11-303, as last amended by Laws of Utah 2016, Chapters 16 and 409
20A-11-402, as last amended by Laws of Utah 2013, Chapter 320
20A-11-403, as last amended by Laws of Utah 2016, Chapter 28
20A-11-506, as last amended by Laws of Utah 2008, Chapters 14 and 225
20A-11-507, as last amended by Laws of Utah 2015, Chapter 204

20A-11-510, as last amended by Laws of Utah 2018, Chapter 83
20A-11-511, as last amended by Laws of Utah 2018, Chapter 83
20A-11-512, as last amended by Laws of Utah 2018, Chapter 83
20A-11-602, as last amended by Laws of Utah 2018, Chapter 83
20A-11-603, as last amended by Laws of Utah 2015, Chapter 204
20A-11-803, as last amended by Laws of Utah 2018, Chapter 83
20A-11-1301, as last amended by Laws of Utah 2018, Chapter 83
20A-11-1302, as last amended by Laws of Utah 2016, Chapter 409
20A-11-1303, as last amended by Laws of Utah 2016, Chapters 28 and 409

ENACTS:

20A-11-701.1, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

20A-11-701.5, (Renumbered from 20A-11-701, as last amended by Laws of Utah 2017, Chapter 276)

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

Section 1. Section 10-3-208 is amended to read:

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

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

(a) "Agent of a candidate" means:

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

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

(iii) the personal campaign committee of a candidate;

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

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) \$50; or

(ii) an amount less than \$50 that is specified in an ordinance of the municipality.

(c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

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

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

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

(j) "Reporting entity" means:

(i) a candidate;

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

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

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

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

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

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

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

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) ~~and~~, (4), and (5).

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

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) ~~and~~, (4), and (5).

(3) (a) Each candidate:

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

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

(b) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(c) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

(i) no later than seven days before the day on which the municipal general election is held; and

(ii) no later than 30 days after the day on which the municipal general election is held.

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

(4) Each campaign finance statement described in Subsection (3) shall:

(a) except as provided in Subsection (4)(b):

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

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

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

(ii) identify:

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

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

(b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

~~(e)~~ (5) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

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

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

~~(5)~~ (6) (a) A municipality may, by ordinance:

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

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

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

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection ~~(5)~~ (6)(a) if:

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

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection ~~(6)~~ (7).

~~(6)~~ (7) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:

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

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

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

~~(7)~~ (8) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and

copying no later than one business day after the statement is filed; and

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

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

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

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

~~[(8)]~~ (9) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (3), the municipal clerk or recorder shall inform the appropriate election official who:

(i) shall:

(A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(b) Notwithstanding Subsection ~~[(8)]~~ (9)(a), a candidate who timely files each campaign finance statement required under Subsection (3) is not disqualified if:

(i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and

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

(c) A candidate for municipal office who is disqualified under Subsection (9)(a) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

~~[(9)]~~ (10) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

~~[(10)]~~ (11) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection ~~[(10)]~~ (11)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 17-16-6.5 is amended to read:

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

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

(i) candidates for county office; and

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

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

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

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

(iii) a requirement that the financial reports identify:

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

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

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

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

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

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

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

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

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

(B) into which or from which a person who, as a candidate for an office, other than a county office for

which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

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

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

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

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

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

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

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

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

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

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

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

(ii) impose additional penalties.

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

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

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

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

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

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

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

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

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

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

(a) (i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or

(ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

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

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

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

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

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

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

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

(ii) the report is received in the county clerk's office with a United States Postal Service postmark

three days or more before the date that the report was due; or

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

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

(17) (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

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

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

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

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

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

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

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

Section 3. Section 20A-11-201 is amended to read:

20A-11-201. State office -- Separate bank account for campaign funds -- No personal use -- State office candidate reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution [~~and public service assistance~~] received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) Each state officeholder or the state officeholder's personal campaign committee shall deposit each contribution and public service

assistance received in one or more separate campaign accounts in a financial institution.

(d) A state officeholder or a state officeholder's personal campaign committee may not use money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) (a) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(b) A state officeholder or the state officeholder's personal campaign committee may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

- (i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;
- (ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and
- (iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution [~~and public service assistance~~] received by the state office candidate:

- (i) except as provided in Subsection (5)(b)(ii), within 31 days after the day on which the contribution [~~or public service assistance~~] is received; or

(ii) within three business days after the day on which the contribution [~~or public service assistance~~] is received, if:

(A) the state office candidate is contested in a convention and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the general election is held.

(c) [~~For~~] Except as provided in Subsection (5)(d), for each contribution [~~or provision of public service assistance~~] that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) [~~(A)~~] 10% of the amount of the contribution, if the state office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

[~~(B)~~] (ii) 20% of the amount of the contribution, if the state office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

[~~(ii) (A)~~] 10% of the value of the public service assistance, if the state office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

[~~(B)~~] 20% of the amount of the public service assistance, if the state office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.]

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the state office candidate if:

(i) the contribution that the state office candidate fails to report is paid by the state office candidate from the state office candidate's personal funds;

(ii) the state office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the state office candidate from the state office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the state office candidate not understanding that the reporting requirement includes a contribution paid by a state office candidate from the state office candidate's personal funds.

[~~(d)~~] (e) The lieutenant governor shall:

- (i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

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

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

(7) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a state office candidate shall disburse the amount of the contribution to:

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

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

Section 4. Section 20A-11-203 is amended to read:

20A-11-203. State office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each state office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former state office candidate that has not filed the statement of dissolution and final summary report required under Section

20A-11-205 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each contribution [~~and public service assistance~~] received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the state office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(c) A check or negotiable instrument received by a state office candidate or a state office candidate's personal campaign committee on or before December 31 of the previous year shall be included in the summary report.

(3) An authorized member of the state office candidate's personal campaign committee or the state office candidate shall certify in the summary report that, to the best of the person's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 5. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

~~[(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a).]~~

~~[(b)]~~ (1) Except as provided in Subsection ~~[(1)(e)]~~ (2), each state office candidate shall file an interim

report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

~~[(4)-(A)]~~ (a) (i) seven days before the candidate's political convention; or

~~[(4B)]~~ (ii) for an unaffiliated candidate, the fourth Saturday in March;

~~[(4ii)]~~ (b) seven days before the regular primary election date;

~~[(4iii)]~~ (c) September 30; and

~~[(4iv)]~~ (d) seven days before the regular general election date.

~~[(e)]~~ (2) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

~~[(4)]~~ (a) shall file an interim report:

(i) (A) no later than seven days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; ~~[(e)]~~ and

(B) two days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Subsection 20A-1-504(1)(b)(i); or

~~[(4B)]~~ (ii) if a state office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

~~[(4ii)]~~ (b) is not required to file an interim report at the times described in Subsection (1)(4b).

(3) (a) As used in this Subsection (3), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a) or (c).

~~[(4)]~~ (b) Each state officeholder who has a campaign account that has not been dissolved under Section 20A-11-205 shall, in an even year, file an interim report at the following times, regardless of whether an election for the state officeholder's office is held that year:

(i) (A) seven days before the political convention for the political party of the state officeholder; or

(B) for an unaffiliated state officeholder, the fourth Saturday in March;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

~~[(2)]~~ (4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a state office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a state officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

~~[(3)]~~ (5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 6. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(~~(ii)~~) through ~~(iv)~~ (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204(1)(b)(~~(ii)~~) through ~~(iv)~~ (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) (a) If a state office candidate is disqualified under Subsection (3)(a), the election official shall:

(i) remove the state office candidate's name from the ballot; or

(ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204(1)(b)(~~(ii)~~) through ~~(iv)~~ (d) no later than 24 hours after the applicable deadlines for filing the reports;

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

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each state office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection (6)(c)(i).

Section 7. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each legislative office candidate shall deposit each contribution [~~and public service assistance~~] received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution [~~or public service assistance~~] from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not

use money deposited in an account described in Subsection (1)(a)(i) for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(c) (i) Each legislative officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A legislative officeholder or the legislative officeholder's personal campaign committee may not use money deposited in an account described in Subsection (1)(c)(i) for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) (a) A legislative office candidate may not deposit or mingle any contributions [~~or public service assistance~~] received into a personal or business account.

(b) A legislative officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution [~~and public service assistance~~] received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 31 days after the day on which the contribution [~~or public service assistance~~] is received; or

(ii) within three business days after the day on which the contribution [~~or public service assistance~~] is received, if:

(A) the legislative office candidate is contested in a convention and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the general election is held.

(c) [~~For~~] Except as provided in Subsection (5)(d), for each contribution [~~or provision of public service assistance~~] that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) [~~(A)~~] 10% of the amount of the contribution, if the legislative office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

[~~(B)~~] (ii) 20% of the amount of the contribution, if the legislative office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or].

[~~(ii) (A) 10% of the value of the public service assistance, if the legislative office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends; or]~~

[~~(B) 20% of the amount of the public service assistance, if the legislative office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (5)(b) ends.]~~

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the legislative office candidate if:

(i) the contribution that the legislative office candidate fails to report is paid by the legislative office candidate from the legislative office candidate's personal funds;

(ii) the legislative office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the legislative office candidate from the legislative office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the legislative office candidate not understanding that the reporting requirement includes a contribution paid by a legislative office candidate from the legislative office candidate's personal funds.

~~(d)~~ (e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a legislative office candidate shall disburse the amount of the contribution to:

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

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

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 8. Section 20A-11-302 is amended to read:

20A-11-302. Legislative office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each legislative office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former legislative office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-304 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the calendar year in which the summary report is due;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each ~~[receipt, contribution, and public service assistance]~~ contribution received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the legislative office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(c) A check or negotiable instrument received by a legislative office candidate on or before December 31 of the previous year shall be included in the summary report.

(3) The legislative office candidate shall certify in the summary report that to the best of the candidate's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 9. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i) or (c)(i).

(b) Except as provided in Subsection ~~(1)(d)~~ (2), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) (A) seven days before the candidate's political convention; or

(B) for an unaffiliated candidate, the fourth Saturday in March;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(c) Each legislative officeholder who has a campaign account that has not been dissolved under Section 20A-11-304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the legislative officeholder's office is held that year:

(i) (A) seven days before the political convention for the political party of the legislative officeholder; or

(B) for an unaffiliated legislative officeholder, the fourth Saturday in March;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

~~(4)~~ (2) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

~~(4)~~ (a) shall file an interim report:

(i) (A) ~~[no later than]~~ seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; ~~[or]~~ and

(B) two days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

~~(4B)~~ (ii) if ~~[a]~~ the legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, ~~[no later than 5 p.m. on the last day of business]~~ two days before the day on which the party meets; and

~~(4ii)~~ (b) is not required to file an interim report at the times described in Subsection (1)(b).

~~(42)~~ (3) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a legislative office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a legislative officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

[§] (4) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 10. Section 20A-11-402 is amended to read:

20A-11-402. Officeholder financial reporting requirements -- Statement of dissolution.

(1) An officeholder or former officeholder is active and subject to reporting requirements until the officeholder or former officeholder has filed a statement of dissolution with the lieutenant governor stating that:

(a) the officeholder or former officeholder is no longer receiving contributions or public service assistance and is no longer making expenditures;

(b) the ending balance on the last summary report filed is zero and the balance in the separate bank account required by Section 20A-11-201, 20A-11-301, or 20A-11-1301 is zero; and

(c) a final summary report in the form required by Section 20A-11-401 showing a zero balance is attached to the statement of dissolution.

(2) A statement of dissolution and a final summary report may be filed at any time.

(3) (a) Each officeholder shall report to the lieutenant governor each contribution or public service assistance received by the state officeholder within 31 days after the day on which the officeholder receives the contribution or public service assistance.

(b) For each contribution or public service assistance that an officeholder fails to report within the time period described in Subsection (3)(a), the lieutenant governor shall impose a fine against the officeholder in an amount equal to:

(i) 10% of the amount of the contribution or public service assistance if the officeholder reports the contribution or public service assistance within 60

days after the day on which the time period described in Subsection (3)(a) ends; or

(ii) 20% of the amount of the contribution or public service assistance if the officeholder fails to report the contribution or public service assistance within 60 days after the day on which the time period described in Subsection (3)(a) ends.

[§] (c) Each officeholder or former officeholder shall continue to file the year-end summary report required by Section 20A-11-401 until the statement of dissolution and final summary report required by this section are filed with the lieutenant governor.

(4) An officeholder or former officeholder may not use a contribution or public service assistance deposited in an account in accordance with this chapter for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) (a) Except as provided in Subsection (5)(b), a ~~person who is no longer an~~ former officeholder may not expend or transfer the money in a campaign account in a manner that would cause the former officeholder to recognize the money as taxable income under federal tax law.

(b) A ~~person who is no longer an~~ former officeholder may transfer the money in a campaign account in a manner that would cause the former officeholder to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

Section 11. Section 20A-11-403 is amended to read:

20A-11-403. Failure to file -- Penalties.

(1) Within 30 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(a) each officeholder that is required to file a summary report has filed one; and

(b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (3)(a).

(4) Within 30 days after a deadline for the filing of an interim report by an officeholder under Subsection 20A-11-204~~(1)(e)~~(2), 20A-11-303(1)(c), or 20A-11-1303(1)(d), the lieutenant governor shall review each filed interim report to ensure that each interim report contains the information required for the report.

(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days after the day on which the violation is discovered or a written complaint is received, notify the officeholder of the violation or written complaint and direct the officeholder to file an interim report correcting the problem.

(6) (a) It is unlawful for any officeholder to fail to file or amend an interim report within seven days after the day on which the officeholder receives notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (6)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (6)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant governor shall impose a civil fine of \$100 against an officeholder who violates Subsection (6)(a).

Section 12. Section 20A-11-506 is amended to read:

20A-11-506. Political party financial reporting requirements -- Year-end summary report.

(1) The party committee of each registered political party shall file a summary report by January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the previous year;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each contribution ~~and public service assistance~~ received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure; and

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.

(b) (i) For all individual contributions ~~or public service assistance~~ of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The summary report shall contain a paragraph signed by the treasurer of the party committee certifying that, to the best of the treasurer's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 13. Section 20A-11-507 is amended to read:

20A-11-507. Political party financial reporting requirements -- Interim reports.

(1) The party committee of each registered political party shall file an interim report at the following times in any year in which there is a regular general election:

(a) seven days before the registered political party's political convention;

(b) seven days before the regular primary election date;

(c) September 30; and

(d) seven days before the general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last financial statement, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of each contribution [~~and public service assistance~~] received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution, the fair market value of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date.

(3) (a) For all individual contributions [~~or public service assistance~~] of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 14. Section 20A-11-510 is amended to read:

20A-11-510. County political party financial reporting requirements -- Year-end summary report.

(1) A county political party officer of a county political party that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year shall file a summary report by January 10 of the following year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last summary report, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, filed during the previous year;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each contribution [~~and public service assistance~~] received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure; and

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures.

(b) (i) For all individual contributions [~~or public service assistance~~] of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(3) The county political party officer shall certify in the summary report that, to the best of the officer's knowledge, all receipts and all expenditures have been reported as of December 31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 15. Section 20A-11-511 is amended to read:

20A-11-511. County political party financial reporting requirements -- Interim reports.

(1) (a) A county political party officer of a county political party that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year shall file an interim report at the following times in any year in which there is a regular general election:

(i) seven days before the county political party's convention;

(ii) seven days before the regular primary election date;

- (iii) September 30; and
 - (iv) seven days before the general election date.
- (b) A county political party officer need not file an interim report if it received no contributions or made no expenditures during the reporting period.
- (2) Each interim report shall include the following information:
- (a) the net balance of the last financial statement, if any;
 - (b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;
 - (c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;
 - (d) a detailed listing of each contribution [~~and public service assistance~~] received since the last summary report that has not been reported in detail on a prior interim report;
 - (e) for each nonmonetary contribution, the fair market value of the contribution;
 - (f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;
 - (g) for each nonmonetary expenditure, the fair market value of the expenditure;
 - (h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report; and
- (i) a summary page in the form required by the lieutenant governor that identifies:
 - (i) beginning balance;
 - (ii) total contributions during the period since the last statement;
 - (iii) total contributions to date;
 - (iv) total expenditures during the period since the last statement; and
 - (v) total expenditures to date.
- (3) (a) For all individual contributions [~~or public service assistance~~] of \$50 or less, a single aggregate figure may be reported without separate detailed listings.
- (b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.
- (4) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

Section 16. Section 20A-11-512 is amended to read:

20A-11-512. County political party -- Criminal penalties -- Fines.

- (1) A county political party that fails to file an interim report described in Subsections 20A-11-511(1)(a)(i) through (iv) before the deadline is subject to a fine in accordance with Section 20A-11-1005, which the chief election officer shall deposit in the General Fund.
- (2) Within 30 days after a deadline for the filing of the January 10 statement required by Section 20A-11-510, the lieutenant governor shall review each filed statement to ensure that:
- (a) a county political party officer who is required to file a statement has filed one; and
 - (b) each statement contains the information required by Section 20A-11-510.
- (3) If it appears that any county political party officer has failed to file a financial statement before the deadline, if it appears that a filed financial statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any financial statement, the lieutenant governor shall, within five days [~~of discovery of a violation or receipt of a~~] after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the county political party officer of the violation or written complaint and direct the county political party officer to file a financial statement correcting the problem.
- (4) (a) A county political party that fails to file or amend a financial statement within seven days after [~~receiving~~] the day on which the county political party receives notice from the lieutenant governor under this section is subject to a fine of the lesser of:
- (i) 10% of the total contributions received, and the total expenditures made, by the county political party during the reporting period for the financial statement that the county political party failed to file or amend; or
 - (ii) \$1,000.
- (b) The chief election officer shall deposit a fine collected under Subsection (4)(a) into the General Fund.
- Section 17. Section 20A-11-602 is amended to read:**
- 20A-11-602. Political action committees -- Financial reporting.**
- (1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year shall file a verified financial statement with the lieutenant governor's office:
- (i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) on September 30; and

(v) seven days before:

(A) the municipal general election; and

(B) the regular general election date.

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through (iv), all contributions and expenditures as of five days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) A political action committee is not required to report an independent expenditure under Part 17, Independent Expenditures, if, in the financial statement described in this section, the political action committee:

(i) includes the independent expenditure;

(ii) identifies the independent expenditure as an independent expenditure; and

(iii) provides the information, described in Section 20A-11-1704, in relation to the independent expenditure.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within 31 days after the contribution is received.

(5) A political action committee may not expend a contribution for political purposes if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds \$50; and

(c) is from an unknown source.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political action committee shall disburse the amount of the contribution to:

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

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

Section 18. Section 20A-11-603 is amended to read:

20A-11-603. Criminal penalties -- Fines.

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political action committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

~~[(a)]~~ (b) Each political action committee that fails to file a completed financial statement ~~[by]~~ before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b)]~~ (c) Each political action committee that fails to file a completed financial statement described in Subsections 20A-11-602(1)(a)(iii) through (v) is guilty of a class B misdemeanor.

~~[(e)]~~ (d) The lieutenant governor shall report all violations of Subsection (1)~~[(b)]~~(c) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days ~~[of discovery of a violation or receipt of a]~~ after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after ~~[receiving]~~ the day on which the political action committee receives notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political action committee that violates Subsection (4)(a).

Section 19. Section 20A-11-701.1 is enacted to read:

20A-11-701.1. Definitions.

As used in this part, "political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly:

(1) any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election;

(b) judge standing for retention at any election;

(c) ballot proposition; or

(d) incorporation election; or

(2) any person to sign, refrain from signing, remove the person's signature from, or refrain from removing the person's signature from, a petition for a ballot proposition or an incorporation petition.

Section 20. Section 20A-11-701.5, which is renumbered from Section 20A-11-701 is renumbered and amended to read:

~~[20A-11-701]. 20A-11-701.5. Campaign financial reporting by corporations -- Filing requirements -- Statement contents.~~

(1) (a) Each corporation that has made expenditures for political purposes that total at least \$750 during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention for each major political party;

(iii) seven days before the regular primary election date;

(iv) on September 30; and

(v) seven days before the regular general election date.

(b) The corporation shall report:

(i) a detailed listing of all expenditures made since the last financial statement;

(ii) for a financial statement described in Subsections (1)(a)(ii) through (v), all expenditures as of five days before the required filing date of the financial statement; and

(iii) whether the corporation, including an officer of the corporation, director of the corporation, or person with at least 10% ownership in the corporation:

(A) has bid since the last financial statement on a contract, as defined in Section 63G-6a-103, in excess of \$100,000;

(B) is currently bidding on a contract, as defined in Section 63G-6a-103, in excess of \$100,000; or

(C) is a party to a contract, as defined in Section 63G-6a-103, in excess of \$100,000.

(c) The corporation need not file a financial statement under this section if the corporation made no expenditures during the reporting period.

(d) The corporation is not required to report an expenditure made to, or on behalf of, a reporting entity that the reporting entity is required to include in a financial statement described in this chapter ~~[or]~~, Chapter 12, Part 2, Judicial Retention Elections, Section 10-3-208, or Section 17-16-6.5.

(2) The financial statement shall include:

(a) the name and address of each reporting entity that received an expenditure from the corporation, and the amount of each expenditure;

(b) the total amount of expenditures disbursed by the corporation; and

(c) a statement by the corporation's treasurer or chief financial officer certifying the accuracy of the financial statement.

Section 21. Section 20A-11-803 is amended to read:

20A-11-803. Criminal penalties -- Fines.

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political issues committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

~~[(a)]~~ (b) Each political issues committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

~~[(b)]~~ (c) Each political issues committee that fails to file a completed financial statement described in Subsection 20A-11-802(1)(a)(vii) or (viii) is guilty of a class B misdemeanor.

~~[(e)]~~ (d) The lieutenant governor shall report all violations of Subsection (1)~~[(b)]~~(c) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement, the lieutenant governor shall review each filed statement to ensure that:

(a) each political issues committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political issues committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days ~~[of discovery of a violation or receipt of a]~~ after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political issues committee of the violation or written complaint and direct the political issues committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political issues committee to fail to file or amend a statement within seven days after ~~[receiving]~~ the day on which the political issues committee receives notice from the lieutenant governor under this section.

(b) Each political issues committee ~~[who]~~ that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political issues committee that violates Subsection (4)(a).

Section 22. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution ~~[and public service assistance]~~ received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution ~~[or public service assistance]~~ from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) (i) Each school board officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A school board officeholder may not use money deposited in an account described in Subsection (1)(a)(i) or (1)(c)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A school board office candidate may not deposit or mingle any contributions [~~or public service assistance~~] received into a personal or business account.

(b) A school board officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate or school board officeholder may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board office candidate may transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6), "received" means the same as that term is defined in Subsection 20A-11-1303(1)(a).

(b) ~~Each~~ Except as provided in Subsection (6)(d), each school board office candidate shall report to the chief election officer each contribution [~~and public service assistance~~] received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 31 days after the day on which the contribution [~~or public service assistance~~] is received; or

(ii) within three business days after the day on which the contribution [~~or public service assistance~~] is received, if:

(A) the school board office candidate is contested in a convention and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the convention is held;

(B) the school board office candidate is contested in a primary election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the primary election is held; or

(C) the school board office candidate is contested in a general election and the contribution [~~or public service assistance~~] is received within 30 days before the day on which the general election is held.

(c) For each contribution [~~or provision of public service assistance~~] that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) ~~(A)~~ 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

~~(B)~~ (ii) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or,

~~(ii) (A) 10% of the value of the public service assistance, if the school board office candidate reports the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends; or]~~

~~(B) 20% of the amount of the public service assistance, if the school board office candidate fails to report the public service assistance within 60 days after the day on which the time period described in Subsection (6)(b) ends.]~~

(d) The lieutenant governor may waive the fine described in Subsection (6)(c) and issue a warning to the school board office candidate if:

(i) the contribution that the school board office candidate fails to report is paid by the school board office candidate from the school board office candidate's personal funds;

(ii) the school board office candidate has not previously violated Subsection (6)(c) in relation to a contribution paid by the school board office candidate from the school board office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the school board office candidate not understanding

that the reporting requirement includes a contribution paid by a school board office candidate from the school board office candidate's personal funds.

~~(d)~~ (e) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a school board office candidate shall disburse the contribution to:

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

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

(8) (a) As used in this Subsection (8), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

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

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

(ii) an expenditure made from an account:

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

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

Section 23. Section 20A-11-1302 is amended to read:

20A-11-1302. School board office candidate -- Financial reporting requirements -- Year-end summary report.

(1) (a) Each school board office candidate shall file a summary report by January 10 of the year after the regular general election year.

(b) In addition to the requirements of Subsection (1)(a), a former school board office candidate that has not filed the statement of dissolution and final summary report required under Section 20A-11-1304 shall continue to file a summary report on January 10 of each year.

(2) (a) Each summary report shall include the following information as of December 31 of the previous year:

(i) the net balance of the last financial statement, if any;

(ii) a single figure equal to the total amount of receipts reported on all interim reports, if any, during the previous year;

(iii) a single figure equal to the total amount of expenditures reported on all interim reports, if any, filed during the previous year;

(iv) a detailed listing of each ~~[receipt,] contribution[, and public service assistance]~~ received since the last summary report that has not been reported in detail on an interim report;

(v) for each nonmonetary contribution:

(A) the fair market value of the contribution with that information provided by the contributor; and

(B) a specific description of the contribution;

(vi) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on an interim report;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts minus all expenditures; and

(ix) the name of a political action committee for which the school board office candidate is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(b) In preparing the report, all receipts and expenditures shall be reported as of December 31 of the previous year.

(c) A check or negotiable instrument received by a school board office candidate on or before December 31 of the previous year shall be included in the summary report.

(3) The school board office candidate shall certify in the summary report that, to the best of the school board office candidate's knowledge, all receipts and all expenditures have been reported as of December

31 of the previous year and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Section 24. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this section, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the school board office candidate's personal campaign committee;

(ii) for a contribution that is a check or other negotiable instrument, that the check or other negotiable instrument is negotiated; or

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i) or (c)(i).

(c) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

~~(i) (A) seven days before the political convention for the political party of the school board office candidate; or~~

~~(B) May 15, if the school board office candidate does not affiliate with a political party;~~

(i) May 15;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

(d) Each school board officeholder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board officeholder's office is held that year:

~~(i) (A) seven days before the political convention for the political party of the school board officeholder; or~~

~~(B) May 15, if the school board officeholder does not affiliate with a political party;~~

(i) May 15;

(ii) seven days before the regular primary election date for that year;

(iii) September 30; and

(iv) seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a school board office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a school board officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

CHAPTER 75**S. B. 63**

Passed February 15, 2019

Approved March 21, 2019

Effective May 14, 2019

VESSEL AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill modifies provisions related to vessels.

Highlighted Provisions:

This bill:

- ▶ enacts criminal provisions related to registration decals or cards;
- ▶ provides for enforcement of maintenance inspection programs for vessels carrying passengers for hire; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-18-7.2, as enacted by Laws of Utah 1990, Chapter 216

73-18-20, as last amended by Laws of Utah 2018, Chapter 150

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

Section 1. Section 73-18-7.2 is amended to read:**73-18-7.2. Falsified or misused registration or certificate of title.**

(1) It is a third degree felony for [any] a person to:

[4] (a) alter with fraudulent intent [any] a motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title issued by the division or [its] the division's authorized agent;

[2] (b) forge or counterfeit [any] a motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title purporting to have been issued by the division or [its] the division's authorized agent;

[3] (c) alter, falsify, or forge [any] an assignment upon a motorboat, sailboat, or outboard motor certificate of title; or

[4] (d) hold or use [any] a motorboat or sailboat certificate of title, registration card, or registration decal or outboard motor certificate of title knowing it has been altered, forged, or falsified.

(2) It is a class C misdemeanor for a person to use or permit the use or display of a registration decal or registration card on a motorboat or sailboat or in the

operation of a motorboat or sailboat other than the motorboat or sailboat for which the registration decal or registration card is issued.

Section 2. Section 73-18-20 is amended to read:**73-18-20. Enforcement of chapter -- Authority to stop and board vessels -- Disregarding law enforcement signal to stop as misdemeanor -- Procedure for arrest.**

(1) [Any] A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce [the provisions of] this chapter [and], the rules made under this chapter, and the maintenance inspection program for vessels carrying passengers for hire implemented under this chapter.

(2) [Any] A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, has the authority to stop and board [any] a vessel subject to this chapter, whether the vessel is on water or land. If that law enforcement officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the board is not on the vessel, that law enforcement officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to bring the operator's vessel to a stop, operates the vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of [any] a vessel or endanger [any] an individual, or who attempts to flee or elude the law enforcement officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever [any] an individual is arrested for [any] a violation of [the provisions of] this chapter or a rule made under this chapter, the procedure for arrest is the same as described in Sections 77-7-23 and 77-7-24.

CHAPTER 76**S. B. 65**

Passed February 22, 2019

Approved March 21, 2019

Effective May 14, 2019

UTAH NOXIOUS WEED ACT AMENDMENTS

Chief Sponsor: Jani Iwamoto

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions regarding membership on county weed control boards.

Highlighted Provisions:

This bill:

- ▶ under certain conditions, permits a county executive's designee to serve on a county weed control board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-17-105, as renumbered and amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-17-105 is amended to read:**4-17-105. County weed control board -- Appointment -- Composition -- Terms -- Removal -- Compensation.**

(1) A county executive of a county may, with the advice and consent of the county legislative body, appoint a county weed control board comprised of not less than three nor more than five appointed members.

(2) (a) If the county legislative body is the county commission, the chair of the county legislative body shall appoint one member of the county legislative body who shall act as a coordinator between the county and the county weed control board.

(b) If the county legislative body is a county council_;:

(i) for a county of the first class, the county executive or the county executive's designee shall serve on the county weed control board and act as coordinator between the county and the county weed control board[-]; or

(ii) for a county that is not a county of the first class, the county executive shall serve on the county weed control board and act as coordinator between the county and the county weed control board.

(3) Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture.

(4) Members are appointed to four year terms of office and serve with or without compensation as determined by each county legislative body.

(5) Members may be removed for cause and any vacancy that occurs on a county weed control board shall be filled by appointment for the unexpired term of the vacated member.

CHAPTER 77**S. B. 68**

Passed February 21, 2019

Approved March 21, 2019

Effective May 14, 2019

**DRIVER LICENSE AND
IMPLIED CONSENT MODIFICATIONS**Chief Sponsor: Karen Mayne
House Sponsor: Norman K. Thurston**LONG TITLE****General Description:**

This bill amends provisions related to a driver license, implied consent to a chemical test, and driving under the influence.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to procedures involving law enforcement when an individual suspected of driving under the influence refuses to submit to a chemical test;
- ▶ amends provisions related to a temporary driver license and the notice given regarding a temporary driver license and related hearings involving an individual who refuses to submit to a chemical test;
- ▶ extends the time from 30 days to 45 days in which a driver license sanction may be applied; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-6a-520, as last amended by Laws of Utah 2018, Chapter 35
 41-6a-521, as last amended by Laws of Utah 2017, Chapter 181
 53-3-223, as last amended by Laws of Utah 2018, Chapter 417
 53-3-231, as last amended by Laws of Utah 2018, Chapter 417
 53-3-418, as last amended by Laws of Utah 2018, Chapter 35

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

Section 1. Section 41-6a-520 is amended to read:**41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.**

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

- (i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

- (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

- (iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

- (b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

- (c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

- (ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

- (d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

- (ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

- (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

- (i) has been placed under arrest;

- (ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

- (iii) refuses to submit to any chemical test requested.

- (b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

- (ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall: ~~(A) take the Utah license certificate or permit, if any, of the operator; (B) issue a temporary license certificate effective for only 29 days from the date of arrest; and (C)~~ supply to the operator, in a

manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

~~[(c) A citation issued by a peace officer may, if provided in a manner specified by the Driver License Division, also serve as the temporary license certificate.]~~

~~[(d)]~~ (c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

Section 2. Section 41-6a-521 is amended to read:

41-6a-521. Revocation hearing for refusal -- Appeal.

(1) (a) A person who has been notified of the Driver License Division's intention to revoke the person's license under Section 41-6a-520 is entitled to a hearing.

(b) A request for the hearing shall be made in writing within 10 calendar days after the day on which notice is provided.

(c) Upon request in a manner specified by the Driver License Division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(d) If the person does not make a request for a hearing before the Driver License Division under this Subsection (1), the person's privilege to operate

a motor vehicle in the state is revoked beginning on the ~~[30th]~~ 45th day after the date of arrest:

(i) for a person 21 years of age or older on the date of arrest, for a period of:

(A) 18 months, unless Subsection (1)(d)(i)(B) applies; or

(B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a previous:

(I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(ii) for a person under 21 years of age on the date of arrest:

(A) until the person is 21 years of age or for a period of two years, whichever is longer, if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies; or

(B) until the person is 21 years of age or for a period of 36 months, whichever is longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

(I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; or

(iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in effect prior to July 1, 2009.

(2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in:

(i) the county in which the offense occurred; or

(ii) a county which is adjacent to the county in which the offense occurred.

(b) The Driver License Division may hold a hearing in some other county if the Driver License Division and the person both agree.

(3) The hearing shall be documented and shall cover the issues of:

(a) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or 53-3-231; and

(b) whether the person refused to submit to the test or tests under Section 41-6a-520.

(4) (a) In connection with the hearing, the division or its authorized agent:

(i) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and

(ii) shall issue subpoenas for the attendance of necessary peace officers.

(b) The Driver License Division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(5) (a) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke the person's license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held:

(i) for a person 21 years of age or older on the date of arrest, for a period of:

(A) 18 months unless Subsection (5)(a)(i)(B) applies; or

(B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a previous:

(I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(ii) for a person under 21 years of age on the date of arrest:

(A) until the person is 21 years of age or for a period of two years, whichever is longer, for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies; or

(B) until the person is 21 years of age or for a period of 36 months, whichever is longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

(I) license sanction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense that occurred within the previous 10 years from the date of arrest under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502; or

(iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in effect prior to July 1, 2009.

(b) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(c) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under Subsection (2) that the revocation was improper.

(6) (a) Any person whose license has been revoked by the Driver License Division under this section following an administrative hearing may seek judicial review.

(b) Judicial review of an informal adjudicative proceeding is a trial.

(c) Venue is in the district court in the county in which the offense occurred.

Section 3. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) [(a)] When a peace officer gives notice on behalf of the division, the peace officer shall[(i)]

take the Utah license certificate or permit, if any, of the driver; (ii) issue a temporary license certificate effective for only 29 days from the date of arrest; and (iii) supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

~~[(b) A citation issued by a peace officer may, if provided in a manner specified by the division, also serve as the temporary license certificate.]~~

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

~~[(a) the person's license certificate;]~~

~~[(b)]~~ (a) a copy of the citation issued for the offense;

~~[(e)]~~ (b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

~~[(d)]~~ (c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest and the arrest was made on or after July 1, 2009, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the ~~[30th]~~ 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest and the arrest was made on or after May 14, 2013:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the ~~[30th]~~ 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) The division shall deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for an offense that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if:

(A) the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest; and

(B) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for an offense that was committed prior to May 14, 2013.

(c) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the [30th] 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A) or (7)(b), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(c), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

(iv) The driver license reinstatements authorized under this Subsection (7)(c) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) Notwithstanding the provisions in Subsection (7)(b)(iii), the division shall shorten a person's two-year license suspension period that is currently in effect to a six-month suspension period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension under Subsection (7)(b)(iii) was based on the same occurrence upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable written documentation to shorten a person's driver license suspension period under Subsection (8)(a)(iii)(G).

(c) If a person's license sanction is shortened under this Subsection (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

(9) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(10) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (10)(a), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

Section 4. Section 53-3-231 is amended to read:

53-3-231. Person under 21 may not operate a vehicle or motorboat with detectable alcohol in body -- Chemical test procedures -- Temporary license --

Hearing and decision -- Suspension of license or operating privilege -- Fees -- Judicial review -- Referral to local substance abuse authority or program.

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

(i) "Local substance abuse authority" has the same meaning as provided in Section 62A-15-102.

(ii) "Substance abuse program" means any substance abuse program licensed by the Department of Human Services or the Department of Health and approved by the local substance abuse authority.

(b) Calculations of blood, breath, or urine alcohol concentration under this section shall be made in accordance with the procedures in Subsection 41-6a-502(1).

(2) (a) A person younger than 21 years of age may not operate or be in actual physical control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol concentration in the person's body as shown by a chemical test.

(b) A person who violates Subsection (2)(a), in addition to any other applicable penalties arising out of the incident, shall have the person's operator license denied or suspended as provided in Subsection ~~[(8)]~~ (7).

(3) (a) When a peace officer has reasonable grounds to believe that a person may be violating or has violated Subsection (2), the peace officer may, in connection with arresting the person for a violation of Section 32B-4-409, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

(c) If the person submits to a chemical test and the test results indicate a blood, breath, or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the arrest, give notice of the division's intention to deny or suspend the person's license to operate a vehicle or refusal to issue a license under this section.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall ~~[(a) take the Utah license certificate or permit, if any, of the operator; (b) issue a temporary license certificate effective for only 29 days from the date of arrest if the driver had a valid operator's license; and (c)]~~ supply to the operator, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

~~[(5) A citation issued by a peace officer may, if provided in a manner specified by the division, also~~

~~serve as the temporary license certificate under Subsection (4)(b).]~~

~~[(6)]~~ (5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

~~[(a) the person's driver license certificate, if any;]~~

~~[(b)]~~ (a) a copy of the citation issued for the offense;

~~[(c)]~~ (b) a signed report in a manner specified by the Driver License Division indicating the chemical test results, if any; and

~~[(d)]~~ (c) any other basis for a peace officer's determination that the person has violated Subsection (2).

~~[(7)]~~ (6) (a) (i) Upon request in a manner specified by the division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest under Section 32B-4-409.

(ii) The request shall be made within 10 calendar days of the day on which notice is provided.

(b) (i) Except as provided in Subsection ~~[(7)]~~ (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was operating a motor vehicle or motorboat in violation of Subsection (2)(a);

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) In connection with a hearing, the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and records as defined in Section 46-4-102.

(e) One or more members of the division may conduct the hearing.

(f) Any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

~~[(8)]~~ (7) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a), if the person fails to appear before the division as required in the notice, or if the person does not request a hearing under this section, the division shall for a person under 21 years of age on the date of arrest:

(a) deny the person's license until the person complies with Subsection ~~[(42)]~~ (11)(b)(i) but for a period of not less than six months beginning on the ~~[30th]~~ 45th day after the date of arrest for a first offense under Subsection (2)(a) committed on or after May 14, 2013;

(b) suspend the person's license until the person complies with Subsection ~~[(42)]~~ (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the ~~[30th]~~ 45th day after the date of arrest for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension;

(c) deny the person's application for a license or learner's permit until the person complies with Subsection ~~[(42)]~~ (11)(b)(i) but for a period of not less than six months if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a first offense under Subsection (2)(a) committed on or after July 1, 2009;

(d) deny the person's application for a license or learner's permit until the person complies with Subsection ~~[(42)]~~ (11)(b)(i) and until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has not been issued an operator license; and

(ii) the suspension is for a second or subsequent offense under Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

(e) deny or suspend a person's license for the denial and suspension periods in effect:

(i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed prior to July 1, 2009;

(ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of age or older but under 21 years of age at the time of arrest and the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

(iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed prior to May 14, 2013.

~~[(9)]~~ (8) (a) Notwithstanding the provisions in Subsection ~~[(8)]~~ (7)(e)(iii), the division shall shorten a person's one-year license suspension or denial period that is currently in effect to a six-month suspension or denial period if:

(i) the driver was under the age of 19 at the time of arrest;

(ii) the offense was a first offense that was committed prior to May 14, 2013; and

(iii) the suspension or denial under Subsection ~~[(8)]~~ (7)(e)(iii) was based on the same occurrence

upon which the following written verifications are based:

(A) a court order shortening the driver license suspension for a violation of Section 41-6a-502 pursuant to Subsection 41-6a-509(8);

(B) a court order shortening the driver license suspension for a violation of Section 41-6a-517 pursuant to Subsection 41-6a-517(11);

(C) a court order shortening the driver license suspension for a violation of Section 32B-4-409;

(D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409;

(F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section 32B-4-409; or

(G) other written documentation acceptable to the division.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing requirements for acceptable documentation to shorten a person's driver license suspension or denial period under this Subsection ~~[(9)]~~ (8).

(c) If a person's license sanction is shortened under this Subsection ~~[(9)]~~ (8), the person is required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

~~[(40)]~~ (9) (a) (i) Following denial or suspension the division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(ii) This fee shall be canceled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose operator license has been denied, suspended, or postponed by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

~~[(41)]~~ (10) After reinstatement of an operator license for a first offense under this section, a report authorized under Section 53-3-104 may not contain evidence of the denial or suspension of the person's operator license under this section if the person has not been convicted of any other offense for which the denial or suspension may be extended.

~~[(42)]~~ (11) (a) In addition to the penalties in Subsection ~~[(8)]~~ (9), a person who violates Subsection (2)(a) shall:

(i) obtain an assessment and recommendation for appropriate action from a substance abuse

program, but any associated costs shall be the person's responsibility; or

(ii) be referred by the division to the local substance abuse authority for an assessment and recommendation for appropriate action.

(b) (i) Reinstatement of the person's operator license or the right to obtain an operator license within five years of the effective date of the license sanction under Subsection ~~[(8)]~~ (7) is contingent upon successful completion of the action recommended by the local substance abuse authority or the substance abuse program.

(ii) The local substance abuse authority's or the substance abuse program's recommended action shall be determined by an assessment of the person's alcohol abuse and may include:

(A) a targeted education and prevention program;

(B) an early intervention program; or

(C) a substance abuse treatment program.

(iii) Successful completion of the recommended action shall be determined by standards established by the Division of Substance Abuse and Mental Health.

(c) At the conclusion of the penalty period imposed under Subsection (2), the local substance abuse authority or the substance abuse program shall notify the division of the person's status regarding completion of the recommended action.

(d) The local substance abuse authorities and the substance abuse programs shall cooperate with the division in:

(i) conducting the assessments;

(ii) making appropriate recommendations for action; and

(iii) notifying the division about the person's status regarding completion of the recommended action.

(e) (i) The local substance abuse authority is responsible for the cost of the assessment of the person's alcohol abuse, if the assessment is conducted by the local substance abuse authority.

(ii) The local substance abuse authority or a substance abuse program selected by a person is responsible for:

(A) conducting an assessment of the person's alcohol abuse; and

(B) for making a referral to an appropriate program on the basis of the findings of the assessment.

(iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees associated with the recommended program to which the person selected or is referred.

(B) The costs and fees under Subsection ~~[(12)]~~ (11)(e)(iii)(A) shall be based on a sliding scale consistent with the local substance abuse

authority's policies and practices regarding fees for services or determined by the substance abuse program.

Section 5. Section 53-3-418 is amended to read:

53-3-418. Prohibited alcohol level for drivers -- Procedures, including hearing.

(1) A person who holds or is required to hold a CDL may not drive a commercial motor vehicle in this state if the person:

(a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .04 grams or greater at the time of the test after the alleged driving of the commercial motor vehicle;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to degree that renders the person incapable of safely driving a commercial motor vehicle; or

(c) has a blood or breath alcohol concentration of .04 grams or greater at the time of driving the commercial motor vehicle.

(2) A person who holds or is required to hold a CDL and who drives a commercial motor vehicle in this state is considered to have given the person's consent to a test or tests of the person's blood, breath, or urine to determine the concentration of alcohol or the presence of other drugs in the person's physical system.

(3) If a peace officer or port-of-entry agent has reasonable cause to believe that a person may be violating this section, the peace officer or port-of-entry agent may request the person to submit to a chemical test to be administered in compliance with Section 41-6a-515.

(4) When a peace officer or port-of-entry agent requests a person to submit to a test under this section, the peace officer or port-of-entry agent shall advise the person that test results indicating a violation of Subsection (1) or refusal to submit to any test requested will result in the person's disqualification under Section 53-3-414 from driving a commercial motor vehicle.

(5) If test results under this section indicate a violation of Subsection (1) or the person refuses to submit to any test requested under this section, a peace officer or port-of-entry agent shall, on behalf of the division and within 24 hours of the arrest, give the person notice of the division's intention to disqualify the person's privilege to drive a commercial motor vehicle.

(6) When a peace officer or port-of-entry agent gives notice under Subsection (5), the peace officer or port-of-entry agent shall:

~~[(a) take any Utah license certificate or permit held by the driver;]~~

~~[(b) issue to the driver a temporary license certificate effective for 29 days from the date of arrest;]~~

~~[(e)]~~ (a) provide the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division; and

~~[(4)]~~ (b) issue a 24-hour out-of-service order.

~~[(7) A notice of disqualification issued under Subsection (6) may serve also as the temporary license certificate under Subsection (6), if provided in a manner specified by the division.]~~

~~[(8)]~~ (7) As a matter of procedure, a peace officer or port-of-entry agent shall, within 10 calendar days after the day on which notice is provided, send to the division ~~[the person's license certificate,]~~ a copy of the notice, and a report signed by the peace officer or port-of-entry agent that indicates the results of any chemical test administered or that the person refused a test.

~~[(9)]~~ (8) (a) A person disqualified under this section has the right to a hearing regarding the disqualification.

(b) The request for the hearing shall be submitted to the division in a manner specified by the division and shall be made within 10 calendar days of the date the notice was issued. If requested, the hearing shall be conducted within 29 days after the date of arrest.

~~[(10)]~~ (9) (a) (i) Except as provided in Subsection ~~[(10)]~~ (9)(a)(ii), a hearing held under this section shall be held before the division and in:

(A) the county where the notice was issued; or

(B) a county that is adjacent to the county where the notice was issued.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(b) The hearing shall be documented and shall determine:

(i) whether the peace officer or port-of-entry agent had reasonable grounds to believe the person had been driving a motor vehicle in violation of this section;

(ii) whether the person refused to submit to any requested test; and

(iii) any test results obtained.

(c) In connection with a hearing the division or its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and documents.

(d) One or more members of the division may conduct the hearing.

(e) A decision made after a hearing before any number of members of the division is as valid as if the hearing were held before the full membership of the division.

(f) After a hearing under this section the division shall indicate by order if the person's CDL is disqualified.

(g) If the person for whom the hearing is held fails to appear before the division as required in the notice, the division shall indicate by order if the person's CDL is disqualified.

~~[(11)]~~ (10) (a) If the division disqualifies a person under this section following an administrative hearing, the person may petition for a hearing under Section 53-3-224.

(b) The petition shall be filed within 30 days after the division issues the disqualification.

~~[(12)]~~ (11) (a) A person who violates this section shall be punished in accordance with Section 53-3-414.

(b) (i) In accordance with Section 53-3-414, the first disqualification under this section shall be for one year, and a second disqualification shall be for life.

(ii) A disqualification under Section 53-3-414 begins on the ~~[30th]~~ 45th day after the date of arrest.

~~[(13)]~~ (12) (a) In addition to the fees imposed under Section 53-3-205 for reinstatement of a CDL, a fee under Section 53-3-105 to cover administrative costs shall be paid before the driving privilege is reinstated.

(b) The fees under Sections 53-3-105 and 53-3-205 shall be canceled if an unappealed hearing at the division or court level determines the disqualification was not proper.

~~[(14)]~~ (13) Notwithstanding the provisions of this section, a blood test taken under this section is subject to Section 77-23-213.

CHAPTER 78**S. B. 70**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

UNCLAIMED PROPERTY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies the Uniform Unclaimed Property Act by amending unclaimed property provisions.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that an indication of apparent owner interest for determining whether property is presumed abandoned includes any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the account exists;
- ▶ specifies when a company is deemed to have knowledge of the death of an insured or annuitant with respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant;
- ▶ specifies rules for when certain death master file matches occur;
- ▶ provides that a death master file match does not constitute proof of death for the purpose of a beneficiary, annuitant, or owner of an insurance policy or annuity contract submitting a claim to an insurance company;
- ▶ provides that the death master file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of an insurance policy or annuity contract to make a claim to receive proceeds under the terms of the policy or contract;
- ▶ requires an insurance company to make a good faith effort using other available records and information to validate a death and document the effort taken in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-4a-102, as last amended by Laws of Utah 2018, Chapter 459

67-4a-208, as repealed and reenacted by Laws of Utah 2017, Chapter 371

ENACTS:

67-4a-215, Utah Code Annotated 1953

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

Section 1. Section 67-4a-102 is amended to read:**67-4a-102. Definitions.**

As used in this chapter:

(1) "Administrator" means the deputy state treasurer assigned by the state treasurer.

(2) (a) "Administrator's agent" means a person with which the administrator contracts to conduct an examination under Part 10, Verified Report of Property and Examination of Records, on behalf of the administrator.

(b) [~~"Administrator's~~] "Administrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

(3) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.

(4) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or financial organization is directly liable.

(b) "Bank draft" includes:

- (i) a cashier's check; and
- (ii) a certified check.

(c) "Bank draft" does not include:

- (i) a traveler's check; or
- (ii) a money order.

(5) "Banking organization" means:

- (a) a bank;
- (b) an industrial bank;
- (c) a trust company;
- (d) a savings bank; or
- (e) any organization defined by other law as a bank or banking organization.

(6) "Business association" means a corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, banking organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.

(7) "Cashier's check" means a check that:

- (a) is drawn by a banking organization on itself;
- (b) is signed by an officer of the banking organization; and
- (c) authorizes payment of the amount shown on the check's face to the payee.

- (8) “Class action” means a legal action:
- (a) certified by the court as a class action; or
 - (b) treated by the court as a class action without being formally certified as a class action.
- (9) “Confidential information” means records, reports, and information that is confidential under Section 67-4a-1402.
- (10) (a) “Deposit in a financial institution” means a demand, savings, or matured time deposit with a banking or financial organization.
- (b) “Deposit in a financial institution” includes:
 - (i) any interest or dividends on a deposit; and
 - (ii) a deposit that is automatically renewable.
 - (11) “Domicile” means:
 - (a) for a corporation, the state of the corporation’s incorporation;
 - (b) for a business association other than a corporation, whose formation requires a filing with a state, the state of the business association’s filing;
 - (c) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of the entity’s or company’s home office; and
 - (d) for any other holder, the state of the holder’s principal place of business.
 - (12) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 - (13) “Electronic mail” means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.
 - (14) “Financial organization” means:
 - (a) a savings and loan association; or
 - (b) a credit union.
 - (15) (a) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform.
 - (b) “Game-related digital content” includes:
 - (i) game-play currency, including a virtual wallet, even if denominated in United States currency; and
 - (ii) the following, if for use or redemption only within the game or platform or another electronic game or electronic-game platform:
 - (A) points sometimes referred to as gems, tokens, gold, and similar names; and
 - (B) digital codes.
 - (c) “Game-related digital content” does not include an item that the issuer:
 - (i) permits to be redeemed for use outside a game or platform for:
 - (A) money; or
 - (B) goods or services that have more than minimal value; or
 - (ii) otherwise monetizes for use outside a game or platform.
 - (16) (a) “Gift card” means a record that:
 - (i) is usable at:
 - (A) a single merchant; or
 - (B) a specified group of merchants;
 - (ii) is prefunded before the record is used; and
 - (iii) can be used for purchases of goods or services.
 - (b) “Gift card” includes a prepaid commercial mobile radio service as defined in 47 C.F.R. Sec. 20.3.
 - (17) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.
 - (18) “Insurance company” means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including:
 - (a) accident insurance;
 - (b) burial insurance;
 - (c) casualty insurance;
 - (d) credit life insurance;
 - (e) contract performance insurance;
 - (f) dental insurance;
 - (g) disability insurance;
 - (h) fidelity insurance;
 - (i) fire insurance;
 - (j) health insurance;
 - (k) hospitalization insurance;
 - (l) illness insurance;
 - (m) life insurance, including endowments and annuities;
 - (n) malpractice insurance;
 - (o) marine insurance;
 - (p) mortgage insurance;
 - (q) surety insurance;
 - (r) wage protection insurance; and
 - (s) worker compensation insurance.
 - (19) “Last known address” means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
 - (20) (a) “Loyalty card” means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services.

(b) “Loyalty card” does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(21) (a) “Mineral” means any substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the substance is found.

(b) “Mineral” includes:

- (i) building stone;
- (ii) cement material;
- (iii) chemical raw material;
- (iv) coal;
- (v) colloidal and other clay;
- (vi) fissionable and nonfissionable ore;
- (vii) gas;
- (viii) gemstone;
- (ix) gravel;
- (x) lignite;
- (xi) oil;
- (xii) oil shale;
- (xiii) other gaseous liquid or solid hydrocarbon;
- (xiv) road material;
- (xv) sand;
- (xvi) steam and other geothermal resources;
- (xvii) sulphur; and
- (xviii) uranium.

(22) (a) “Mineral proceeds” means an amount payable:

(i) for extraction, production, or sale of minerals; or

(ii) for the abandonment of an interest in minerals.

(b) “Mineral proceeds” includes an amount payable:

(i) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, or delay rental;

(ii) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, or production payment; and

(iii) under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(23) (a) “Money order” means a payment order for a specified amount of money.

(b) “Money order” includes an express money order and a personal money order on which the remitter is the purchaser.

(c) “Money order” does not include a cashier’s check.

(24) “Municipal bond” means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(25) (a) “Nonfreely transferable security” means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer.

(b) “Nonfreely transferable security” includes a worthless security.

(26) (a) “Owner” means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person’s legal representative when acting on behalf of the owner.

(b) “Owner” includes:

(i) a depositor, for a deposit;

(ii) a beneficiary, for a trust other than a deposit in trust;

(iii) a creditor, claimant, or payee, for other property; and

(iv) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(27) “Payroll card” means a record that evidences a payroll card account as defined in 12 C.F.R. Part 1005, Electronic Fund Transfers (Regulation E).

(28) “Person” means:

(a) an individual;

(b) an estate;

(c) a business association;

(d) a public corporation;

(e) a government entity;

(f) an agency;

(g) a trust;

(h) an instrumentality; or

(i) any other legal or commercial entity.

(29) (a) “Property” means tangible property described in Section 67-4a-205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government entity.

(b) “Property” includes:

(i) all income from or increments to the property;

(ii) property referred to as or evidenced by:

(A) money, virtual currency, interest, or a dividend, check, draft, or deposit;

(B) a credit balance, customer’s overpayment, stored-value card, payroll card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to

provide a refund, mineral proceeds, or unidentified remittance; and

(C) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iii) a bond, debenture, note, or other evidence of indebtedness;

(iv) money deposited to redeem a security, make a distribution, or pay a dividend;

(v) an amount due and payable under an annuity contract or insurance policy;

(vi) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(vii) an amount held under a preneed funeral or burial contract, other than a contract for burial rights or opening and closing services, where the contract has not been serviced following the death or the presumed death of the beneficiary.

(c) "Property" does not include:

(i) property held in a plan described in Section 529A, Internal Revenue Code;

(ii) game-related digital content;

(iii) a loyalty card;

(iv) an in-store credit for returned merchandise; [0F]

(v) patronage capital of an electric, telephone, or agricultural cooperative; or

[4V] (vi) a gift card.

(30) "Putative holder" means a person believed by the administrator to be a holder, until:

(a) the person pays or delivers to the administrator property subject to this chapter; or

(b) the administrator or a court makes a final determination that the person is or is not a holder.

(31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(32) "Security" means:

(a) a security as defined in Revised Article 8 of the Uniform Commercial Code; or

(b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial Code, including a customer security account held by a

registered broker-dealer, to the extent the financial assets held in the security account are not:

(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person;

(iii) specifically endorsed to the person; or

(iv) an equity interest in a business association not included in this Subsection (32).

(33) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(35) (a) "Stored-value card" means a reloadable or non-reloadable record:

(i) with a monetary value or amount that can be:

(A) used to purchase or otherwise acquire goods or services;

(B) used to obtain cash; or

(C) redeemed for cash value; and

(ii) of which the issuer or the issuer's agent has a record of the name and last known address of the apparent owner and the address is in the state of Utah.

(b) "Stored-value card" does not include:

(i) a record described in Subsection (35)(a) that is purchased or acquired by an intermediary or other party for resale, for sale on consignment, or as a gift to the card user, when the issuer does not know the name and address of the ultimate buyer or recipient of the record;

(ii) a loyalty card;

(iii) a gift card; or

(iv) game-related digital content.

(36) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for:

(a) the transmission of communications or information;

(b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or

(c) the provision of sewage or septic services, or trash, garbage, or recycling disposal.

(37) (a) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which

does not have legal tender status recognized by the United States.

(b) “Virtual currency” does not include:

(i) the software or protocols governing the transfer of the digital representation of value;

(ii) game-related digital content;

(iii) a loyalty card;

(iv) membership rewards; or

(v) a gift card.

(38) “Worthless security” means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.

Section 2. Section 67-4a-208 is amended to read:

67-4a-208. Indication of apparent owner interest in property.

(1) The period after which property is presumed abandoned is measured from the later of:

(a) the date the property is presumed abandoned under this part; or

(b) the latest indication of interest by the apparent owner in the property.

(2) Under this chapter, an indication of an apparent owner’s interest in property includes:

(a) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(b) an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or the holder’s agent contemporaneously makes and preserves a record of the fact of the apparent owner’s communication;

(c) presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;

(d) activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(e) a deposit into or withdrawal from an account at a banking organization or financial organization, ~~[except for]~~ including an automatic deposit or withdrawal previously authorized by the apparent owner ~~[or]~~ other than an automatic reinvestment of dividends or interest; ~~[and]~~

(f) any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the account exists; and

~~[(f)]~~ (g) subject to Subsection (5), payment of a premium on an insurance policy.

(3) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner’s agent, is presumed to be an action on behalf of the apparent owner.

(4) A communication with an apparent owner by a person other than the holder or the holder’s representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner’s knowledge of a right to the property.

(5) If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic premium loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating.

Section 3. Section 67-4a-215 is enacted to read:

67-4a-215. Knowledge of death of insured or annuitant.

(1) As used in this section:

(a) “Death master file” means:

(i) the United States Social Security Administration death master file; or

(ii) another database or service that is at least as comprehensive as the United States Social Security Administration death master file for determining that an individual has reportedly died.

(b) “Special administrator” means the same as that term is defined in Section 75-1-201.

(2) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company is deemed to have knowledge of the death of an insured or annuitant when:

(a) the company receives a death certificate or court order determining that the insured or annuitant has died;

(b) due diligence, performed as required under Section 31A-22-1903, to maintain contact with the insured or annuitant to determine whether the insured or annuitant has died validates the death of the insured or annuitant;

(c) the company conducts a comparison for any purpose between a death master file and the names of some of the company’s insureds or annuitants and finds a match that provides notice that the insured or annuitant has died, and the company validates the death; or

(d) the company:

(i) receives notice of the death of the insured or annuitant from a special administrator, beneficiary, policy owner, relative of the insured, or trustee or from a personal representative, executor, or other

legal representative of the insured's or annuitant's estate; and

(ii) validates the death of the insured or annuitant.

(3) A death master file match under Subsection (2)(c) occurs if the criteria for an exact or partial match are satisfied as provided by:

(a) a law of this state other than this chapter, including Section 31A-22-1903; or

(b) a rule or policy adopted by the Insurance Department.

(4) A death master file match does not constitute proof of death for the purpose of a beneficiary, annuitant, or owner of an insurance policy or annuitant contract submitting a claim to an insurance company.

(5) The death master file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.

(6) If a provision in Section 31A-22-1903 does not establish a time for validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information, no later than 90 days after the insurance company has notice of the death, to:

(a) validate the death; and

(b) document the effort taken.

(7) This section does not affect the determination of the extent to which an insurance company, before May 14, 2019:

(a) had knowledge of the death of an insured or annuitant; or

(b) was required to conduct a death master file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed or abandoned.

CHAPTER 79**S. B. 81**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

**NATIVE AMERICAN
REMAINS AMENDMENTS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Douglas V. Sagers

LONG TITLE**General Description:**

This bill amends provisions related to Native American remains.

Highlighted Provisions:

This bill:

- ▶ creates definitions for “partner agency” and “tribal consultation”;
- ▶ requires an annual report regarding expenditures made from the Native American Repatriation Restricted Account;
- ▶ provides for certain expenditures to be reimbursed from the Native American Repatriation Restricted Account; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-9-402, as last amended by Laws of Utah 2008, Chapter 114

9-9-405, as last amended by Laws of Utah 2014, Chapter 371

9-9-407, as enacted by Laws of Utah 2017, Chapter 88

63N-2-215, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

Section 1. Section 9-9-402 is amended to read:**9-9-402. Definitions.**

As used in this part:

(1) “Antiquities Section” means the Antiquities Section of the Division of State History.

(2) “Burial site” means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) “Cultural affiliation” means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) “Director” means the director of the Division of Indian Affairs.

(5) “Division” means the Division of Indian Affairs.

(6) “Indian tribe” means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) “Lineal descendant” means the genealogical descendant established by oral or written record.

(8) “Native American” means of or relating to a tribe, people, or culture that is indigenous to the United States.

(9) “Native American remains” means remains that are Native American.

(10) (a) “Nonfederal land” means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) “Nonfederal land” includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe’s members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands as defined in Section 53C-1-103.

(11) “Partner agency” means an agency of the state or a tribal agency that participates in the remains repatriation process.

~~[(11)]~~ (12) “Remains” means all or part of a physical individual and objects on or attached to the physical individual that are placed there as part of the death rite or ceremony of a culture.

~~[(12)]~~ (13) “Review committee” means the Native American Remains Review Committee created by Section 9-9-405.

~~[(13)]~~ (14) (a) “State land” means land owned by the state including the state’s:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) “State land” does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands as defined in Section 53C-1-103.

(15) “Tribal consultation” means the state and the tribes exchanging views and information, in writing

or in person, regarding implementing proposed state action under this part that has or may have substantial implications for tribes including impacts on:

- (a) tribal cultural practices;
- (b) tribal lands;
- (c) tribal resources;
- (d) access to traditional areas of tribal cultural or religious importance; or
- (e) the consideration of the state's responsibilities to Indian tribes.

Section 2. Section 9-9-405 is amended to read:

9-9-405. Review committee.

(1) There is created a Native American Remains Review Committee.

(2) (a) The review committee shall be composed of seven members as follows:

(i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and

(ii) three shall be appointed by the director from nominations submitted by representatives of Utah's repositories.

(b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.

(c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation. Removal of a member who represents an Indian Tribal Nation requires the joint decision of the director and the Indian Tribal Nation.

(ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the Division of State History. Removal of a member who represents a repository requires the joint decision of the director and the Division of State History.

(d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(f) The review committee shall designate one of its members as chair.

(3) The review committee shall:

(a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;

(b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):

(i) the identity or cultural affiliation of Native American remains; or

(ii) the return of Native American remains;

(c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;

(d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;

(e) consult with the division in the development of rules to carry out this part;

(f) perform other related functions as the division may assign to the review committee; and

(g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.

(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.

(5) The appropriate state agency having primary authority over the lands as provided in Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:

(a) Native American remains under review; and

(b) associated scientific and historical documents.

(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.

(7) The department shall include in the annual written report described in Section 9-1-208[7]:

(a) a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year[-]; and

(b) a review of the expenditures made from the Native American Repatriation Restricted Account.

Section 3. Section 9-9-407 is amended to read:

9-9-407. Native American Repatriation Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Native American Repatriation Restricted Account."

(2) (a) The Native American Repatriation Restricted Account shall consist of appropriations from the Legislature.

(b) All interest earned on Native American Repatriation Restricted Account money shall be deposited into the Native American Repatriation Restricted Account.

(3) Subject to appropriation from the Legislature, the division may use the money in the Native American Repatriation Restricted Account as follows:

(a) for a grant issued in accordance with Subsection (6) to an Indian Tribe to pay the following costs of reburial of Native American remains:

- (i) use of equipment;
- (ii) labor for use of the equipment;
- (iii) reseeding and vegetation efforts;
- (iv) compliance with Section 9-8-404; and

(v) caskets; ~~and~~

(b) for tribal consultation, including:

(i) consultation time, drafting reports, taking detailed notes, communicating to the stakeholders, facilitating discussions, and traveling to individual tribal locations;

(ii) travel costs, including per diem and lodging costs, for:

(A) Utah tribal leaders and tribal cultural resource managers; and

(B) regional partner tribes;

(iii) meeting facilities for the division to host tribal consultations when the division determines that a state facility does not meet tribal consultation needs; and

(iv) costs for holding meetings under Subsection (3)(b)(iii); and

~~[(b) no more than 5% of the annual expenditures from the Native American Repatriation Restricted Account may be used for training for tribal elders and councils on the processes under this part, including costs for:]~~

(c) for training tribal representatives, councils, and staff of a partner agency with repatriation responsibilities in the processes under Section 9-8-404 and rules made by the Division of State History in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs for:

(i) lodging and transportation of employees of the department or a partner agency; or

(ii) travel grants issued in accordance with Subsection (6) for tribal representatives.

(4) If the balance in the Native American Repatriation Restricted Account exceeds \$100,000

at the close of any fiscal year, the excess shall be transferred into the General Fund.

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

(6) To issue a grant under this section, the division shall:

(a) require that an Indian Tribe request the grant in writing and specify how the grant money will be expended; and

(b) enter into an agreement with the Indian Tribe to ensure that the grant money is expended in accordance with Subsection (3).

Section 4. Section 63N-2-215 is amended to read:

63N-2-215. Indian tribes -- Application.

(1) For purposes of this section:

(a) "Indian reservation" has the same meaning as defined in Section 9-9-210.

(b) "Indian tribe" has the same meaning as defined in ~~[Subsection]~~ Section 9-9-402[(6)].

(c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).

(2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.

(3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections 63N-2-204(2)(a) and (b).

CHAPTER 80**S. B. 84**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

SAFETY INSPECTION FEE AMENDMENTS

Chief Sponsor: Daniel Hemmert
House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill raises the maximum fee for a motor vehicle safety inspection.

Highlighted Provisions:

This bill:

- ▶ raises the maximum fee for a motor vehicle safety inspection.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-8-206, as last amended by Laws of Utah 2017, Chapter 406

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

Section 1. Section 53-8-206 is amended to read:

53-8-206. Safety inspection -- Station requirements -- Permits not transferable -- Certificate of inspection -- Fees -- Unused certificates -- Suspension or revocation of permits.

(1) The safety inspection required under this part may only be performed:

(a) by a person certified by the division as a safety inspector; and

(b) at a safety inspection station with a valid safety inspection station permit issued by the division.

(2) (a) A safety inspection station permit may not be assigned, or transferred, or used at any location other than a designated location.

(b) The holder of a safety inspection station permit shall post the permit in a conspicuous place at the location designated in the permit.

(3) If required by the division, the safety inspector shall keep a record and file a report of every safety inspection and every safety inspection certificate issued.

(4) A safety inspection station holding a safety inspection station permit issued by the division may charge a reasonable fee for labor in performing safety inspections, not to exceed:

(a) ~~[\$7]~~ \$14 or less for motorcycles and street-legal all-terrain vehicles;

(b) unless Subsection (4)(a) or (c) applies, ~~[\$15]~~ \$30 or less for motor vehicles; or

(c) ~~[\$20]~~ \$40 or less for 4-wheel drive, split axle, and any motor vehicles that necessitate disassembly of front hub or removal of rear axle for inspection.

(5) (a) A safety inspection station may return to the division unused safety inspection certificates in a quantity of 10 or more.

(b) The division shall reimburse the station for the cost of the returned safety inspection certificates.

(6) (a) Upon receiving notice of the suspension or revocation of a safety inspection station permit and after the conclusion of any adjudicative proceedings upholding the suspension or revocation, the safety inspection station permit holder shall:

(i) immediately terminate all safety inspection activities; and

(ii) return all safety inspection certificates and the safety inspection station permit to the division.

(b) The division shall issue a receipt for all unused safety inspection certificates.

CHAPTER 81
S. B. 93

Passed March 6, 2019
Approved March 21, 2019
Effective May 14, 2019

AGRICULTURAL
NUISANCE AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill addresses nuisances.

Highlighted Provisions:

This bill:

- ▶ addresses agricultural operations areas;
- ▶ enacts the Agricultural Operations Nuisances Act, including:
 - defining terms;
 - addressing nuisance actions; and
 - providing for the relationship with other statutes;
- ▶ repeals redundant language; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-41-403, as last amended by Laws of Utah 2009, Chapter 376
23-28-303, as enacted by Laws of Utah 2009, Chapter 273
76-10-803, as last amended by Laws of Utah 2009, Chapter 21
78B-6-1101, as last amended by Laws of Utah 2010, Chapter 193

ENACTS:

4-44-101, Utah Code Annotated 1953
4-44-102, Utah Code Annotated 1953
4-44-201, Utah Code Annotated 1953
4-44-202, Utah Code Annotated 1953

REPEALS:

78B-6-1104, as last amended by Laws of Utah 2009, Chapter 21

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

Section 1. Section 4-44-101 is enacted to read:

CHAPTER 44. AGRICULTURAL OPERATIONS NUISANCES ACT

Part 1. General Provisions

4-44-101. Title.

This chapter is known as "Agricultural Operations Nuisances Act."

Section 2. Section 4-44-102 is enacted to read:

4-44-102. Definitions.

As used in this chapter:

(1) (a) "Agricultural operation" means an activity engaged in the production for commercial purposes of crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Agricultural operation" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture and Industrial Protection Areas.

(2) "Fundamental change to the operation" does not include:

(a) a change in ownership or size;

(b) an interruption of farming for a period of no more than three years;

(c) participation in a government-sponsored agricultural program;

(d) employment of new technology; or

(e) a change in the type of agricultural product produced.

(3) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Section 3. Section 4-44-201 is enacted to read:

Part 2. Nuisance Actions

4-44-201. Defenses in nuisance actions.

(1) It is a defense in a civil action for nuisance against an agricultural operation that:

(a) the plaintiff is not a legal possessor of the real property affected by the conditions alleged to be the nuisance;

(b) the real property affected by the conditions alleged to be the nuisance is located outside one-half mile of the source of the activity or structure alleged to be the nuisance; or

(c) the action is filed more than one year after:

(i) the establishment of the agricultural operation; or

(ii) the agricultural operation undergoes a fundamental change.

(2) This section may not be construed to invalidate any contract made before May 14, 2019.

(3) In a nuisance action against an agricultural operation, the court shall award costs and expenses, including reasonable attorney fees, to:

(a) the agricultural operation when the court finds the agricultural operation is not a nuisance and the nuisance action is frivolous or malicious; or

(b) the plaintiff when the court finds the agricultural operation is a nuisance and the agricultural operation asserts an affirmative defense in the nuisance action that is frivolous and malicious.

(4) A person who knowingly violates a judgment or order abating or otherwise enjoining a nuisance is guilty of a class B misdemeanor.

Section 4. Section 4-44-202 is enacted to read:

4-44-202. Application of other statutes -- Ordinances.

(1) (a) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a defense if the action involves agricultural operations and those agricultural operations are conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural practices.

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(2) If the agricultural operations occur in an agricultural protection area, as defined in Section 17-41-101, Section 17-41-403 governs the action for nuisance.

(3) (a) An ordinance of a political subdivision that would make the operation of an agricultural operation or appurtenances to an agricultural operation a nuisance or that provide for abatement of the agricultural operation as a nuisance does not apply to an agricultural operation that is conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural practices.

(b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

Section 5. Section 17-41-403 is amended to read:

17-41-403. Nuisances.

(1) Each political subdivision shall ensure that any of its laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety; or

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless

that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action involves agricultural activities and:

(a) those agricultural activities were:

~~(a)~~ (i) conducted within an agriculture protection area; and

~~(b)~~ (ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices[-]; or

(b) a defense under Section 4-44-201 applies.

(3) (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section 76-10-803.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4) (a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly

conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities.”

(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities.”

Section 6. Section 23-28-303 is amended to read:

23-28-303. Nuisances.

(1) (a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public nuisance in a county law or ordinance regulating a public nuisance.

(b) An activity or occurrence normally associated with a migratory bird production area is not a nuisance, including:

- (i) hunting;
- (ii) discharging a firearm;
- (iii) improving habitat;
- (iv) trapping;
- (v) eradicating weeds;
- (vi) discing;
- (vii) planting;
- (viii) impounding water;
- (ix) raising a bird or other domestic animal;
- (x) grazing;
- (xi) an activity conducted in the normal course of an agricultural operation as defined in Section [78B-6-1101] 4-44-102; and
- (xii) an odor.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action is:

- (a) normally associated with a migratory bird production area;
- (b) conducted within a migratory bird production area; and
- (c) not in violation of any federal or state law.

(3) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird

production area shall provide the following notice on any plat filed with the county recorder:

“Migratory Bird Production Area

This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area.”

Section 7. Section 76-10-803 is amended to read:

76-10-803. “Public nuisance” defined -- Agricultural operations.

(1) A public nuisance is a crime against the order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

- (a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons;
- (b) offends public decency;
- (c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;
- (d) is a nuisance as defined in Section 78B-6-1107; or
- (e) in any way renders three or more persons insecure in life or the use of property.

(2) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

(3) (a) Activities conducted in the normal and ordinary course of agricultural operations, as defined in [~~Subsection 78B-6-1101(7)~~] Section 4-44-102, and conducted in accordance with sound agricultural practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

Section 8. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything [~~which~~] that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of

life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with two or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses ~~[which]~~ that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into ~~[any]~~ a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental ~~[units]~~ unit available for temporary rental, such as for ~~[vacations]~~ a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel ~~[rooms]~~ room.

(5) Subsection (3) does not apply to ~~[any]~~ a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by ~~[any]~~ a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

~~[(7) "Agricultural operation" means any activity engaged in the commercial production of crops, orchards, aquaculture, livestock, poultry, livestock products, poultry products, and the facilities, equipment, and property used to facilitate the activity.]~~

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Manufacturing facility" means ~~[any]~~ a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other

materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 9. Repealer.

This bill repeals:

Section 78B-6-1104, Agricultural operations -- Nuisance liability.

CHAPTER 82**S. B. 101**

Passed February 27, 2019

Approved March 21, 2019

Effective May 14, 2019

NAVAJO CODE TALKER RECOGNITION

Chief Sponsor: Jani Iwamoto
 House Sponsor: Christine F. Watkins
 Cosponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill designates Navajo Code Talker Day, and designates certain highways as Navajo Code Talker Highway.

Highlighted Provisions:

This bill:

- ▶ designates Navajo Code Talker Day;
- ▶ designates portions of Highways 162, 163, and 191 in San Juan County as the Navajo Code Talker Highway;
- ▶ requires the Department of Transportation to install signs to indicate the designation of the Navajo Code Talker Highway; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Department of Transportation -- Operations/Maintenance Management -- Maintenance Administration, as a one-time appropriation:
 - from the General Fund, One-time, \$9,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2018, Chapter 39

ENACTS:

72-4-218, Utah Code Annotated 1953

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

~~[(a) Bill of Rights Day, on December 15;]~~

~~[(b) Constitution Day, on September 17;]~~

~~[(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;]~~

~~[(d) POW/MIA Recognition Day, on the third Friday in September;]~~

~~[(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;]~~

~~[(f) Utah State Flag Day, on March 9;]~~

~~[(g) Vietnam Veterans Recognition Day, on March 29;]~~

~~[(h)] (a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; [and]~~

~~(b) Utah State Flag Day, on March 9;~~

~~(c) Vietnam Veterans Recognition Day, on March 29;~~

~~(d) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;~~

~~[(i)] (e) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;~~

~~[(j)] (f) Arthrogryposis Multiplex Congenita Awareness Day, on June 30; [and]~~

~~(g) Navajo Code Talker Day, on August 14;~~

~~[(k)] (h) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnapped from a playground in Sunset, Utah, to:~~

~~(i) encourage individuals to make child safety a priority;~~

~~(ii) remember the importance of continued efforts to reunite missing children with their families; and~~

~~(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited[.];~~

~~(i) Constitution Day, on September 17;~~

~~(j) POW/MIA Recognition Day, on the third Friday in September;~~

~~(k) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and~~

~~(1) Bill of Rights Day, on December 15.~~

~~(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections ~~[(1)(e) and (d)]~~ (1)(d) and (j).~~

~~[(3) The month of October shall be commemorated annually as Italian American Heritage Month.]~~

~~[(4) The month of November shall be commemorated annually as American Indian Heritage Month.]~~

~~[(5)] (3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:~~

~~(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper~~

home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

~~[(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.]~~

~~[(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.]~~

(9) The month of October shall be commemorated annually as Italian-American Heritage Month.

(10) The month of November shall be commemorated annually as American Indian Heritage Month.

Section 2. Section 72-4-218 is enacted to read:

72-4-218. Navajo Code Talker Highway.

(1) There is established the Navajo Code Talker Highway composed of the existing Highway 162 in San Juan County from the Utah-Colorado border near Aneth to Bluff, then Highway 191 and Highway 163 southwest through Mexican Hat to the Utah-Arizona border near Monument Valley.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highway identified in Subsection (1) as the Navajo Code Talker Highway on future state highway maps.

(3) As soon as practicable, the Department of Transportation shall install appropriate signs along portions of highway indicating the designation as the Navajo Code Talker Highway as described in Subsection (1).

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Transportation - Operations/Maintenance Management

From General Fund, One-time \$9,000

Schedule of Programs:

Maintenance Administration \$9,000

The Legislature intends that the use of these funds is limited to the costs of procuring and installing road signs for the Navajo Code Talker Highway.

CHAPTER 83**S. B. 112**

Passed March 13, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**PUBLIC EDUCATION INFORMATION
 SYSTEMS UNIFORMITY ACT**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Karianne Lisonbee

LONG TITLE**General Description:**

This bill requires the State Board of Education to have a system for collecting and reporting public education data.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to have in place an information management system by a certain date;
- ▶ establishes requirements for the information management system;
- ▶ establishes requirements for local education agencies related to the information management system;
- ▶ requires the State Board of Education to establish data and reporting standards; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Education - State Administrative Office, as a one-time appropriation:
 - from the Education Fund, One-time, \$17,200,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-3-501, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53G-4-402, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-5-404, as last amended by Laws of Utah 2018, Chapter 256 and renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53E-3-518, Utah Code Annotated 1953

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

Section 1. Section 53E-3-501 is amended to read:

53E-3-501. State Board of Education to establish miscellaneous minimum standards for public schools.

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

including rules and minimum standards governing the following:

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

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

(vi) services to:

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

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

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

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

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs; ~~and~~

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

(ii) federal programs;

(iii) school budget formats; and

(iv) financial, statistical, and student accounting requirements[-]; and

(f) data collection and reporting by LEAs.

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

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

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

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

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

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

Section 2. Section 53E-3-518 is enacted to read:

53E-3-518. Utah school information management system -- Local education agency requirements.

(1) As used in this section:

(a) “LEA data system” or “LEA’s data system” means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) “Utah school information management system” or “information management system” means the state board’s data collection and reporting system described in this section.

(c) “User” means an individual who has authorized access to the information management system.

(2) On or before July 1, 2023, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with an LEA’s data systems that meet the requirements described in Subsection (5);

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with Title 53E, Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user’s role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) The state board shall establish the restrictions on user access described in Subsection (3)(f).

(5) (a) On or before July 1, 2023, an LEA shall ensure that all of the LEA’s data systems:

(i) meet the data standards established by the state board in accordance with Section 53E-3-501; and

(ii) are fully compatible with the state board’s information management system.

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

Section 3. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student’s progress, which shall be submitted to the State Board of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Board of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; ~~and~~

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects[-]; and

(g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53E-3-501.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians before, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

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

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for the board's own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) Board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) A board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide

training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require ~~[inservice training]~~ professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require ~~[inservice training]~~ professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school

may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Section 4. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report[-]; and

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501.

(b) A charter school shall file [its] the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the

charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - State Administrative Office

<u>From Education Fund, One-time</u>	<u>\$17,200,000</u>
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Schedule of Programs:

<u>Information Technology</u>	<u>\$17,200,000</u>
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The Legislature intends that the State Board of Education use the appropriation provided under this item for the Utah school information management system described in Section 53E-3-518.

CHAPTER 84**S. B. 120**

Passed March 12, 2019
Approved March 21, 2019
Effective May 14, 2019

**ACCOUNTS RECEIVABLE
COLLECTION REVISIONS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Val K. Potter

LONG TITLE**General Description:**

This bill modifies accounts receivable collection provisions.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ amends notification procedures for the state or a governmental entity to execute a lien for certain receivables;
- ▶ authorizes the Office of State Debt Collection to send notification of the execution of a lien for a governmental entity in certain circumstances;
- ▶ amends procedures for the state or another governmental entity to levy a tax overpayment or refund for the collection of a delinquent receivable;
- ▶ amends hearing procedures and requirements regarding the collection of a delinquent receivable;
- ▶ amends the types of receivables that constitute a lien against a state tax overpayment or refund;
- ▶ amends procedures for seeking agency and judicial review of a hearing decision regarding the collection of a delinquent receivable;
- ▶ repeals certain bond requirements for seeking judicial review;
- ▶ grants the Division of Finance, rather than the Board of Examiners, rulemaking authority to adopt rules regarding the collection of certain account receivables; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-3-301, as last amended by Laws of Utah 2011, Chapter 79
63A-3-302, as last amended by Laws of Utah 2016, Chapters 129 and 298
63A-3-303, as last amended by Laws of Utah 2011, Chapter 79
63A-3-304, as last amended by Laws of Utah 2011, Chapter 79
63A-3-305, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-3-306, as last amended by Laws of Utah 2008, Chapter 382
63A-3-307, as last amended by Laws of Utah 2011, Chapter 79

63A-3-308, as last amended by Laws of Utah 2011, Chapter 79

63A-3-310, as renumbered and amended by Laws of Utah 1993, Chapter 212

REPEALS:

63A-3-309, as renumbered and amended by Laws of Utah 1993, Chapter 212

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

Section 1. Section 63A-3-301 is amended to read:**63A-3-301. Definitions.**

As used in this part[,]:

(1) [~~“account”~~] “Account receivable” or “receivable” means any amount due the state or any other governmental entity within the state as a result of a [~~court~~] judgment, citation, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) “Debtor” means a party that owes, or is alleged to owe, an account receivable.

(3) “Mail” means United States Postal Service first class mail to the intended recipient’s last known address.

Section 2. Section 63A-3-302 is amended to read:**63A-3-302. Unpaid accounts receivable due the state.**

If any account receivable at any point has been unpaid for [~~more than~~] 90 days or more, any agency or other authority of [~~state government~~] the state, or any political subdivision, as defined in Section 63G-7-102, of the state responsible for collection of the account may proceed under this part to collect the delinquent amount.

Section 3. Section 63A-3-303 is amended to read:**63A-3-303. Notice to debtor -- Contents -- Joint filers.**

(1) [~~Upon default in payment of any account receivable that is not due pursuant to final court or administrative order or judgment, the entity responsible for collecting the account~~] When the state or any governmental entity executes, or intends to execute, on a lien created by Section 63A-3-307, the state or entity to which the receivable is owed shall send a notice by mail to the debtor at the debtor’s last-known address.

(2) The notice required by Subsection (1) shall [state] contain:

- (a) the date and amount of the receivable;
- (b) a demand for immediate payment of the amount;
- (c) a statement of the right of the debtor to file a written response to the notice, to [~~have~~] request a hearing within 21 days of the date of the notice, to be represented at the hearing, and to appeal any decision of the hearing examiner;

(d) the time within which a written response must be ~~filed; and~~ received from the debtor;

(e) a statement notifying the debtor that the state may obtain an order ~~under this part~~ and execute upon income tax overpayments or refunds of the debtor if:

(i) the debtor fails to timely respond to the notice; or

(ii) a hearing is held and the hearing officer decides against the debtor~~[-]; and~~

(f) the address to which the debtor may send a written request for a hearing.

(3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to collect a receivable, the Office of State Debt Collection may send the notice required by Subsection (1) instead of the entity to which the receivable is owed.

(4) Unless otherwise prohibited by law, the notice required by this section shall also be sent to any individuals that are joint filers with a debtor of an affected tax filing, if the state agency or other governmental entity attempting to levy a debtor's tax overpayment or refund is aware of the joint filer.

Section 4. Section 63A-3-304 is amended to read:

63A-3-304. Effect of nonpayment or failure to respond.

If a written ~~response~~ request for a hearing, or payment of delinquent receivable, is not received by the state or other governmental entity within ~~[15]~~ 21 days from the date of ~~receipt of~~ the notice ~~by the debtor~~ required by Section 63A-3-303, the debtor is in default and the state ~~may determine the balance due~~ or other governmental entity may:

(1) levy the debtor's income tax overpayment or refund up to the amount of the receivable, plus interest, penalties, and collection costs allowed by law; and

(2) collect the balance, including as provided in Section 63A-3-307.

Section 5. Section 63A-3-305 is amended to read:

63A-3-305. Hearing requested -- Notice to debtor.

(1) If a written response is received by the state or other governmental entity within 21 days from the date of the notice required by Section 63A-3-303 and a hearing is requested in the written response, the state or other governmental entity shall:

~~[(1)]~~ (a) set a hearing date within ~~[30]~~ 28 days of the receipt of the response; and

~~[(2)]~~ (b) mail written notice of the hearing to the debtor at least ~~[15]~~ 14 days before the date of the hearing.

(2) Notwithstanding Subsection (1), the state or other governmental entity is not required to set a

hearing if the state or governmental entity releases its lien.

Section 6. Section 63A-3-306 is amended to read:

63A-3-306. Hearing examiner -- Procedures -- Adjudicative proceedings.

(1) (a) ~~[The]~~ A hearing requested under this part shall be held before a hearing examiner designated by the state or other governmental entity setting the hearing.

(b) The hearing examiner may not be an officer or employee of the entity in state government responsible for collecting or administering the account.

(2) The state or other governmental entity shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

(3) If a hearing examiner determines a receivable is owed, in whole or in part:

(a) the state or other governmental entity may levy the debtor's income tax overpayment or refund up to the amount of the receivable determined to be owed, plus interest, penalties, and collection costs allowed by law and collect the balance, including as provided in Section 63A-3-307; and

(b) the state or other governmental entity may charge the debtor reasonable, actual collection costs for amounts charged by the hearing examiner for the debtor's hearing.

Section 7. Section 63A-3-307 is amended to read:

63A-3-307. Liens.

(1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax ~~refund or overpayment~~ overpayment or refund due or to become due the debtor:

(a) ~~[an abstract of an]~~ a judgment, citation, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision, as defined in Section 63G-7-102; or

~~[(b) nonpayment or failure to respond as provided under Section 63A-3-304.]~~

(b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment~~[- but no credit of a tax refund or overpayment may be made on account of this lien until 20 days after the date of the administrative order].~~

~~[(3) The lien created by this section shall remain effective for eight years.]~~

Section 8. Section 63A-3-308 is amended to read:

63A-3-308. Judicial review -- Effect on lien.

(1) ~~[A] Agency and judicial review [of a lien created under Section 63A-3-307 may be obtained by any party within one year of the creation of the lien by filing a complaint with the district court] of decisions from hearings conducted under this part are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~

~~[(2) (a) A notice of the filing of a complaint may be filed with the State Tax Commission.]~~

~~[(b) If notice is filed, the tax commission may take no action with respect to the lien created by Section 63A-3-307 until the matter is finally disposed of by the courts, except as provided in this part.]~~

(2) The state or other governmental entity may retain in its possession a debtor's tax overpayment or refund while a decision from a hearing conducted under this part is being reviewed by an agency, court, or other authority of the state pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Section 9. Section 63A-3-310 is amended to read:

63A-3-310. Rules for implementing part.

The ~~[Board of Examiners]~~ Division of Finance may adopt rules for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

Section 10. Repealer.

This bill repeals:

Section 63A-3-309, Bond required -- Terms -- Expenses of debtor.

CHAPTER 85**S. B. 130**

Passed February 20, 2019

Approved March 21, 2019

Effective May 14, 2019

**TELECOM MERGER
REVIEW AMENDMENTS**Chief Sponsor: David G. Buxton
House Sponsor: Calvin R. Musselman**LONG TITLE****General Description:**

This bill exempts certain telecommunication corporations from Public Service Commission approval of certain mergers and acquisitions.

Highlighted Provisions:

This bill:

- ▶ exempts a telecommunication corporation from obtaining Public Service Commission consent and approval of certain mergers and acquisitions if the telecommunication corporation is:
 - a competitive entrant; or
 - an incumbent telecommunications corporation with pricing flexibility;
- ▶ requires a telecommunications corporation to provide notice to the Public Service Commission of a merger or acquisition;
- ▶ limits the applicability of the exemption to exclude a telecommunications corporation that receives certain high cost support from the Universal Public Telecommunications Support Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-8b-3.4, Utah Code Annotated 1953

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

Section 1. Section 54-8b-3.4 is enacted to read:**54-8b-3.4. Exemption from merger and acquisition approval by commission.**

(1) (a) Except as provided in Subsection (2), a telecommunications corporation is exempt from the requirements of Sections 54-4-28, 54-4-29, and 54-4-30 if the telecommunications corporation is:

(i) a competitive entrant pursuant to Section 54-8b-2.1; or

(ii) an incumbent telecommunications corporation that has pricing flexibility pursuant to Section 54-8b-2.3.

(b) A telecommunications corporation that is exempt under Subsection (1) shall notify the commission in writing prior to the conclusion of any transaction that would otherwise be subject to Section 54-4-28, 54-4-29, or 54-4-30.

(2) The exemption described in Subsection (1) does not apply if the telecommunications corporation receives high cost support from the Universal Public Telecommunications Support Fund established in Section 54-8b-15, other than a one-time distribution described in Section 54-8b-15.

CHAPTER 86**S. B. 135**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

PROSECUTION COUNCIL AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill makes changes to the Utah Prosecution Council.

Highlighted Provisions:

This bill:

- ▶ adds two city prosecutors to the council;
- ▶ provides for an approval procedure for certain members;
- ▶ allows for the appointment of resource prosecutors and sets qualifications; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 67-5a-1, as last amended by Laws of Utah 2018, Chapter 200
- 67-5a-2, as last amended by Laws of Utah 2001, Chapter 131
- 67-5a-4, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-5, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-6, as enacted by Laws of Utah 1990, Chapter 136
- 67-5a-7, as last amended by Laws of Utah 1997, Chapter 354

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

Section 1. Section 67-5a-1 is amended to read:**67-5a-1. Utah Prosecution Council -- Duties -- Membership.**

(1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.

(2) The council shall:

(a) (i) provide training and continuing legal education for state and local prosecutors; and

(ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(b) provide assistance to local prosecutors; ~~and~~

(c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual

expenses related to prosecution for violations of state laws~~[-]; and~~

(d) provide training and assistance to law enforcement officers, as required elsewhere within this code.

(3) The council shall be composed of ~~[10]~~ 12 members, selected as follows:

(a) the attorney general or a designated representative;

(b) the commissioner of public safety or a designated representative;

(c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties; [a county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when he is no longer serving as a county attorney or district attorney, whichever occurs first;]

(d) ~~[two]~~ four city prosecutors designated as follows:

(i) two by the Utah Municipal Attorneys Association; ~~[a city prosecutor's term expires when a successor is designated by the association or when he is no longer employed as a city prosecutor, whichever occurs first;]~~ and

(ii) two by the Utah Misdemeanor Prosecutors Association.

(e) the chair of the Board of Directors of the Statewide Association of Prosecutors and Public Attorneys of Utah; and

(f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

(4) Council members designated in Subsections (3)(c) and (3)(d) shall be approved by a majority vote of currently serving council members.

(5) A county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when the county or district attorney is no longer serving as a county attorney or district attorney, whichever occurs first.

(6) A city prosecutor's term expires when a successor is designated by the association or when the city prosecutor is no longer employed as a city prosecutor, whichever occurs first.

Section 2. Section 67-5a-2 is amended to read:**67-5a-2. Terms -- Filling vacancies -- Chair.**

(1) The term of each council member is four years, unless the term is earlier terminated by:

(a) the authority that designated the member; ~~[or]~~

(b) the member ceasing to hold the office that qualified ~~[him]~~ the member for membership; or

(c) voluntary resignation.

(2) A member whose term has expired may continue, for not more than four months, to serve as

a council member until a successor is selected and qualified approved.

(3) Council members may serve for more than one successive term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a full term that commences on the date of appointment council approval. The vacancy shall be filled according to the provisions of Section 67-5a-1.

(5) The council shall elect by a majority vote one of its members as chair at its first meeting and then annually.

Section 3. Section 67-5a-4 is amended to read:

67-5a-4. Holding public employment.

A member of the council may not be disqualified as a member by holding any public office or employment, and [he] does not forfeit any office or employment due to [his] membership on the council. This section takes precedence over any conflicting state law, local ordinance, or city charter.

Section 4. Section 67-5a-5 is amended to read:

67-5a-5. Quorum -- Meetings.

(1) The attendance of [five] six members at any regular or special meeting of the council constitutes a quorum. Any member may designate in writing a representative to attend any meeting. The representative's attendance shall be counted toward the quorum, and [he] the representative may vote on any issue.

(2) A majority vote of the attending members or their representatives constituting a quorum is sufficient to carry any motion unless the council has by prior vote designated a greater percentage than a majority to sustain an action.

(3) (a) The council shall meet at least quarterly at a time and place it designates.

(b) The [~~chairman or~~] chair, a majority of the members of the council, or the council director may call a special meeting at any time or place upon five days notice to all of the members. A quorum of all members may waive notice requirements in writing.

Section 5. Section 67-5a-6 is amended to read:

67-5a-6. Council director -- Qualifications and compensation.

(1) The council shall appoint a director. The director is the chief administrative officer and serves at the pleasure of the council.

(2) The director shall:

(a) be an attorney admitted to practice in the courts of the state;

(b) be selected on the basis of professional ability and experience in the fields of administration, prosecution, and criminal law; and

(c) possess an understanding of court procedures, evidence, and criminal law.

(3) The director shall appoint resource prosecutors, with the consent of the council, and consistent with attorney general personnel policies that are not in conflict with this chapter. Resource prosecutors shall serve at the pleasure of the council. Resource prosecutors shall:

(a) be an attorney admitted to practice in the courts of this state;

(b) be selected on the basis of professional ability and experience in the fields of prosecution and criminal law; and

(c) possess an understanding of court procedures, evidence, and criminal law.

(4) The director shall appoint and supervise administrative staff consistent with attorney general personnel policy.

~~[(3)]~~ (5) The council shall select and establish the compensation of the director, resource prosecutors, and administrative staff[,] consistent with state personnel policies.

Section 6. Section 67-5a-7 is amended to read:

67-5a-7. Responsibilities of the director.

Under the general supervision of the council and within the policies established by the council, the director has the responsibility to:

(1) assign, supervise, and direct the staff of the council;

(2) implement the standards, policies, rules, and guidelines of the council;

(3) prepare and administer the budget of the council and comply with the Utah Budgetary Procedures Act;

~~[(4) conduct studies of prosecution procedures and systems in the state, including reference to the district attorney prosecution system, and prepare reports and recommendations;]~~

~~[(5)]~~ (4) maintain liaison with governmental and other public and private groups having an interest in prosecution;

~~[(6)]~~ (5) organize and administer a program of training and continuing legal education for prosecutors in the state, including establishing training standards for prosecutors;

~~[(7) screen all requests addressed to any specialized investigation and prosecution unit created in the Office of the Attorney General for the investigation and prosecution of any child abuse offenses; and]~~

(6) ensure all statutory required training occurs; and

~~[(8)]~~ (7) perform other duties as assigned by the council.

CHAPTER 87**S. B. 143**

Passed March 6, 2019

Approved March 21, 2019

Effective May 14, 2019

PUBLIC EDUCATION VISION SCREENING

Chief Sponsor: Luz Escamilla

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill modifies provisions regarding public education vision screening.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies existing provisions regarding vision screening in public schools and repeals outdated provisions;
- ▶ gives the Department of Health oversight over public education vision screening;
- ▶ requires local education agencies to conduct certain free vision screening clinics;
- ▶ requires the Department of Health to provide for higher-level individual vision screening within the local education agency framework;
- ▶ modifies provisions regarding volunteers at local education agency free vision screening clinics;
- ▶ makes technical and conforming changes; and
- ▶ gives rulemaking authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-30, as last amended by Laws of Utah 2018, Chapters 35 and 200

35A-13-403, as last amended by Laws of Utah 2018, Chapter 415

53E-9-301, as last amended by Laws of Utah 2018, Chapters 304, 389 and renumbered and amended by Laws of Utah 2018, Chapter 1

REPEALS AND REENACTS:

53G-9-404, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 26-1-30 is amended to read:**26-1-30. Powers and duties of department.**

The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any

laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (a) orphanages;
- (b) boarding homes;
- (c) summer camps for children;
- (d) lodging houses;
- (e) hotels;
- (f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
- (g) tourist and trailer camps;
- (h) service stations;
- (i) public conveyances and stations;

- (j) public and private schools;
 - (k) factories;
 - (l) private sanatoria;
 - (m) barber shops;
 - (n) beauty shops;
 - (o) physician offices;
 - (p) dentist offices;
 - (q) workshops;
 - (r) industrial, labor, or construction camps;
 - (s) recreational resorts and camps;
 - (t) swimming pools, public baths, and bathing beaches;
 - (u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and
 - (v) any other facilities in public buildings or on public grounds;
- (24) conduct health planning for the state;
- (25) monitor the costs of health care in the state and foster price competition in the health care delivery system;
- (26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
- (27) license the provision of child care;
- (28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;
- (29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;
- (30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve;
- (31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and
- (b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia; ~~and~~
- (32) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training

and Certification Requirements, if the training or certification is required:

- (a) under this title;
 - (b) by the department; or
 - (c) by an agency or division within the department; and
- (33) oversee public education vision screening as described in Section 53G-9-404.

Section 2. Section 35A-13-403 is amended to read:

35A-13-403. Services provided by the division.

The division may:

- (1) provide:
 - (a) a business enterprise program;
 - (b) workshops, employment, and training; and
 - (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision lenses, and recreational services;

~~[(2) assist public education officials in the discharge of their duties towards children who are blind or have visual impairments, and perform services related to vision screening under Section 53G-9-404;]~~

~~[(3) maintain a register of individuals who are blind or have visual impairments, including such facts as the office considers necessary for proper planning, administration, and operations, but protecting against unwarranted invasions of privacy;]~~

[(4)] (2) establish and operate community service centers, rehabilitation facilities, and workshops; and

[(5)] (3) perform other duties assigned by the director or the executive director.

Section 3. Section 53E-9-301 is amended to read:

53E-9-301. Definitions.

As used in this part:

- (1) "Adult student" means a student who:
 - (a) is at least 18 years old;
 - (b) is an emancipated student; or
 - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
 - (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
 - (b) do not reveal personally identifiable student data; and

- (c) are collected in accordance with board rule.
- (3) (a) "Biometric identifier" means a:
 - (i) retina or iris scan;
 - (ii) fingerprint;
 - (iii) human biological sample used for valid scientific testing or screening; or
 - (iv) scan of hand or face geometry.
- (b) "Biometric identifier" does not include:
 - (i) a writing sample;
 - (ii) a written signature;
 - (iii) a voiceprint;
 - (iv) a photograph;
 - (v) demographic data; or
 - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:
 - (a) based on an individual's biometric identifier; and
 - (b) used to identify the individual.
- (5) "Board" means the State Board of Education.
- (6) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.
- (7) "Data governance plan" means an education entity's comprehensive plan for managing education data that:
 - (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
 - (b) describes the role, responsibility, and authority of an education entity data governance staff member;
 - (c) provides for necessary technical assistance, training, support, and auditing;
 - (d) describes the process for sharing student data between an education entity and another person;
 - (e) describes the education entity's data expungement process, including how to respond to requests for expungement;
 - (f) describes the data breach response process; and
 - (g) is published annually and available on the education entity's website.
- (8) "Education entity" means:
 - (a) the board;
 - (b) a local school board;
 - (c) a charter school governing board;
 - (d) a school district;

- (e) a charter school;
- (f) the Utah Schools for the Deaf and the Blind; or
- (g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.
- (9) “Expunge” means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.
- (10) “General audience application” means an Internet website, online service, online application, mobile application, or software program that:
- (a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and
- (b) is not subject to a contract between an education entity and a third-party contractor.
- (11) “Higher education outreach student data” means the following student data for a student:
- (a) name;
- (b) parent name;
- (c) grade;
- (d) school and school district; and
- (e) contact information, including:
- (i) primary phone number;
- (ii) email address; and
- (iii) physical address.
- (12) “Individualized education program” or “IEP” means a written statement:
- (a) for a student with a disability; and
- (b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (13) “Local education agency” or “LEA” means:
- (a) a school district;
- (b) a charter school;
- (c) the Utah Schools for the Deaf and the Blind; or
- (d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.
- (14) “Metadata dictionary” means a record that:
- (a) defines and discloses all personally identifiable student data collected and shared by the education entity;
- (b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

- (i) the purpose for sharing the data with the recipient;
- (ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and
- (iii) how sharing the data is permitted under federal or state law; and
- (c) without disclosing personally identifiable student data, is displayed on the education entity’s website.
- (15) “Necessary student data” means data required by state statute or federal law to conduct the regular activities of an education entity, including:
- (a) name;
- (b) date of birth;
- (c) sex;
- (d) parent contact information;
- (e) custodial parent information;
- (f) contact information;
- (g) a student identification number;
- (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
- (i) courses taken and completed, credits earned, and other transcript information;
- (j) course grades and grade point average;
- (k) grade level and expected graduation date or graduation cohort;
- (l) degree, diploma, credential attainment, and other school exit information;
- (m) attendance and mobility;
- (n) drop-out data;
- (o) immunization record or an exception from an immunization record;
- (p) race;
- (q) ethnicity;
- (r) tribal affiliation;
- (s) remediation efforts;
- (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening ~~[required under]~~ described in Section 53G-9-404;
- (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;
- (v) student injury information;
- (w) a disciplinary record created and maintained as described in Section 53E-9-306;
- (x) juvenile delinquency records;
- (y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(16) (a) “Optional student data” means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53E-9-305.

(b) “Optional student data” includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(17) “Parent” means:

(a) a student’s parent;

(b) a student’s legal guardian; or

(c) an individual who has written authorization from a student’s parent or legal guardian to act as a parent or legal guardian on behalf of the student.

(18) (a) “Personally identifiable student data” means student data that identifies or is used by the holder to identify a student.

(b) “Personally identifiable student data” includes:

(i) a student’s first and last name;

(ii) the first and last name of a student’s family member;

(iii) a student’s or a student’s family’s home or physical address;

(iv) a student’s email address or other online contact information;

(v) a student’s telephone number;

(vi) a student’s social security number;

(vii) a student’s biometric identifier;

(viii) a student’s health or disability data;

(ix) a student’s education entity student identification number;

(x) a student’s social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student’s persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student’s last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student’s family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(19) “School official” means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(20) (a) “Student data” means information about a student at the individual student level.

(b) “Student data” does not include aggregate or de-identified data.

(21) “Student data manager” means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

(22) (a) “Targeted advertising” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or student data.

(b) “Targeted advertising” does not include advertising to a student:

(i) at an online location based upon that student’s current visit to that location; or

(ii) in response to that student’s request for information or feedback, without retention of that student’s online activities or requests over time for the purpose of targeting subsequent ads.

(23) “Third-party contractor” means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

(24) “Written consent” means written authorization to collect or share a student’s student data, from:

(a) the student’s parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 4. Section 53G-9-404 is repealed and reenacted to read:

53G-9-404. Public education vision screening.

(1) As used in this section:

(a) "Health care professional" means an individual licensed under:

(i) Title 58, Chapter 16a, Utah Optometry Practice Act;

(ii) Title 58, Chapter 31b, Nurse Practice Act, if the individual is licensed for the practice of advance practice registered nursing, as defined in Section 58-31b-102;

(iii) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(iv) Title 58, Chapter 67, Utah Medical Practice Act;

(v) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(vi) Title 58, Chapter 70a, Physician Assistant Act.

(b) "Qualifying child" means a child who:

(i) attends an LEA;

(ii) is at least three years old; and

(iii) is not yet 16 years old.

(c) "Tier one vision screening" means a lower-level evaluation of an individual's vision, as determined by Department of Health rule.

(d) "Tier two vision screening" means an individual, higher-level evaluation of an individual's vision, as determined by Department of Health rule.

(2) The Department of Health shall oversee public education vision screening, as described in this section.

(3) A child who is less than nine years old and has not yet attended public school in the state shall, before attending a public school in the state, provide:

(a) a completed vision screening form, described in Subsection (5)(a)(i), that is signed by a health care professional; or

(b) a written statement signed by a parent that the child will not be screened before attending public school in the state.

(4) The Department of Health shall prepare and provide:

(a) training for a school nurse who supervises an LEA tier one vision screening clinic; and

(b) an online training module for a potential volunteer for an LEA tier one vision screening clinic.

(5) (a) The Department of Health shall provide a template for:

(i) a form for use by a health care professional under Subsection (3)(a) to certify that a child has received an adequate vision screening; and

(ii) a referral form used for the referral and follow up of a qualifying child after a tier one or tier two vision screening.

(b) A template described in Subsection (5)(a) shall include the following statement: "A screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(6) The Department of Health shall make rules to:

(a) generally provide for and require the administration of tier one vision screening in accordance with this section, including an opt-out process;

(b) describe standards and procedures for tier one vision screening, including referral and follow up protocols and reporting a student's significant vision impairment results to the Utah Schools for the Deaf and the Blind;

(c) outline the qualifications of and parameters for the use of an outside entity to supervise an LEA tier one vision screening clinic when an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic;

(d) determine when a potential volunteer at an LEA tier one vision screening clinic has a conflict of interest, including if the potential volunteer could profit financially from volunteering;

(e) determine the regularity of tier one vision screening in order to ensure that a qualifying child receives tier one vision screening at particular intervals; and

(f) provide for tier two vision screening for a qualifying child, including:

(i) in coordination with the state board, determining mandatory and optional tier two vision screening for a qualifying child;

(ii) identification of and training for an individual who provides tier two vision screening;

(iii) (A) the creation of a symptoms questionnaire that includes questions for a nonprofessionally trained individual to identify an eye focusing or tracking problem as well as convergence insufficiency of a qualifying child; and

(B) protocol on how to administer the symptoms questionnaire in coordination with tier two vision screening;

(iv) general standards, procedures, referral, and follow up protocol; and

(v) aggregate reporting requirements.

(7) (a) In accordance with Department of Health oversight and rule and Subsection (7)(b), an LEA shall conduct free tier one vision screening clinics for all qualifying children who attend the LEA or a school within the LEA.

(b) If the parent of a qualifying child requests that the qualifying child not participate in a tier one or tier two vision screening, an LEA may not require the qualifying child to receive the tier one or tier two vision screening.

(8) (a) Except as provided in Subsection (8)(b), a school nurse shall supervise an LEA tier one vision screening clinic as well as provide referral and followup services.

(b) If an LEA does not have a school nurse to supervise an LEA tier one vision screening clinic, an LEA may, in accordance with Department of Health rule, use an outside entity to supervise an LEA tier one vision screening clinic.

(9) (a) An LEA shall ensure that a volunteer who assists with an LEA tier one vision screening clinic:

(i) (A) is trained by a school nurse; or

(B) demonstrates successful completion of the training module described in Subsection (4)(b);

(ii) complies with the requirements of Subsection (9)(c); and

(iii) is supervised by a school nurse or, in accordance with Subsection (8)(b), an outside entity.

(b) In accordance with Department of Health rule, an LEA may exclude a person from volunteering at an LEA tier one vision screening clinic if the person has a conflict of interest, including if the person could profit financially from volunteering.

(c) A volunteer who assists with an LEA tier one vision screening clinic may not market, advertise, or promote a business in connection with assisting at the LEA tier one vision screening clinic.

(d) A volunteer who assists with an LEA tier one vision screening clinic is not liable for damages that result from an act or omission related to the LEA tier one vision screening clinic, if the act or omission is not willful or grossly negligent.

CHAPTER 88**S. B. 150**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

**ENERGY BALANCING
ACCOUNT AMENDMENTS**

Chief Sponsor: Daniel Hemmert
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions of the Legislative Oversight and Sunset Act and requires a report.

Highlighted Provisions:

This bill:

- ▶ requires an electrical corporation that has established an energy balancing account to report to the Public Utilities, Energy, and Technology Interim Committee;
- ▶ repeals the sunset date for an electrical corporation's energy balancing account, allowing a corporation to permanently recover 100% of its prudently incurred net power costs; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-7-13.5, as last amended by Laws of Utah 2016, Chapter 393

63I-1-254, as last amended by Laws of Utah 2018, Chapter 426

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

Section 1. Section 54-7-13.5 is amended to read:**54-7-13.5. Energy balancing accounts.**

(1) As used in this section:

(a) "Base rates" means the same as that term is defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:

- (i) (A) fuel;
- (B) purchased power; and
- (C) wheeling expenses; and

(ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale revenues.

(c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

- (i) in the public interest;
- (ii) for prudently-incurred costs; and
- (iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

- (A) base rates;
- (B) contract rates;
- (C) surcredits; or
- (D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and revenues incurred by the electrical corporation.

(d) Beginning June 1, 2016, for an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.

(e) An energy balancing account may not alter:

- (i) the standard for cost recovery; or
- (ii) the electrical corporation's burden of proof.

(f) The collection method described in Subsection (2)(c)(i) shall:

- (i) apply to the appropriate billing components in base rates; and
- (ii) be incorporated into base rates in an appropriate commission proceeding.

(g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

(h) Revenues collected in excess of prudently incurred actual costs shall:

(i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and

(ii) include a carrying charge.

(i) Prudently incurred actual costs in excess of revenues collected shall:

(i) be recovered as a bill surcharge over a period to be specified by the commission; and

(ii) include a carrying charge.

(j) The carrying charge applied to the balance in an energy balancing account shall be:

- (i) determined by the commission; and
 - (ii) symmetrical for over or under collections.
- (3) (a) The commission may:
- (i) establish a gas balancing account for a gas corporation; and
 - (ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.
- (b) A gas balancing account may not alter:
- (i) the standard of cost recovery; or
 - (ii) the gas corporation's burden of proof.
- (4) (a) All allowed costs and revenues associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.
- (b) The balance of an energy balancing account or gas balancing account may not be:
- (i) transferred by the electrical corporation or gas corporation; or
 - (ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.
- (c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

~~[(6) The commission shall report to the Public Utilities and Technology Interim Committee before December 1 in 2017 and 2018 regarding whether allowing an electrical corporation to continue to recover costs under Subsection (2)(d) is reasonable and in the public interest.]~~

(6) (a) An electrical corporation that has established an energy balancing account under this section shall report to the Public Utilities, Energy, and Technology Interim Committee before December 1 of each even numbered year, beginning in 2020.

(b) The report required in Subsection (6)(a) shall provide information regarding:

(i) the continued 100% recovery of the electrical corporation's prudently incurred costs related to the energy balancing account; and

(ii) any determination by the Public Service Commission of costs not prudently incurred.

Section 2. Section 63I-1-254 is amended to read:

63I-1-254. Repeal dates, Title 54.

~~[(1) The language of Subsection 54-4-13.4(1)(a)(ii) after "do not exceed \$5,000,000 in any calendar year" is repealed July 1, 2018.]~~

~~[(2) Subsection 54-7-13.5(2)(d) is repealed on December 31, 2019.]~~

~~[(3) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.]~~

CHAPTER 89**S. B. 159**

Passed March 4, 2019

Approved March 21, 2019

Effective May 14, 2019

**DEPARTMENT OF WORKFORCE
SERVICES AMENDMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Mike Winder

LONG TITLE**General Description:**

This bill makes changes related to the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ gives the Office of Child Care rulemaking authority to govern the funds given for subsidy payments on behalf of eligible children and funds given to child care providers;
- ▶ modifies requirements related to the Permanent Community Impact Fund;
- ▶ broadens the rulemaking authority of the Permanent Community Impact Fund Board;
- ▶ eliminates two restricted accounts no longer in use;
- ▶ extends the repeal date of a provision allowing the sharing of certain information with the Wage and Hour Division of the United States Department of Labor; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 35A-3-203, as last amended by Laws of Utah 2015, Chapter 221
- 35A-8-304, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-305, as last amended by Laws of Utah 2012, Chapter 9 and renumbered and amended by Laws of Utah 2012, Chapter 212 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 212
- 35A-8-306, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-13-602, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 35A-13-603, as renumbered and amended by Laws of Utah 2016, Chapter 271
- 59-10-1304, as last amended by Laws of Utah 2018, Chapter 414
- 63I-1-235, as last amended by Laws of Utah 2018, Chapters 232 and 392
- 63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469
- 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

REPEALS:

- 35A-8-1901, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-1902, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-1903, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-1904, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-2001, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-2002, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-2003, as enacted by Laws of Utah 2013, Chapter 338
- 35A-8-2004, as enacted by Laws of Utah 2013, Chapter 338
- 59-10-1316, as enacted by Laws of Utah 2013, Chapter 338
- 59-10-1317, as enacted by Laws of Utah 2013, Chapter 338

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

Section 1. Section 35A-3-203 is amended to read:**35A-3-203. Functions and duties of office -- Annual report.**

The office shall:

- (1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;
- (2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;
- (3) provide information:
 - (a) to employers for the development of options for child care in the work place; and
 - (b) for educating the public in obtaining quality child care;
- (4) coordinate services for quality child care training and child care resource and referral core services;
- (5) apply for, accept, or expend gifts or donations from public or private sources;
- (6) provide administrative support services to the committee;
- (7) work collaboratively with the following for the delivery of quality child care ~~and~~, early childhood programs, and school age programs throughout the state:
 - (a) the State Board of Education; and
 - (b) the Department of Health;
- (8) research child care programs and public policy to improve the quality and accessibility of child care, early childhood programs, and school age programs in the state;
- (9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205; ~~and~~

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah[-]; and

(12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law, establishing the eligibility requirements for a child care provider to receive a grant or subsidy, including for the following:

(a) providing child care for an income-eligible child age 12 or younger;

(b) providing child care for an income-eligible child with disabilities age 18 or younger; and

(c) qualifying for an award from the High Quality School Readiness Grant Program created in Section 53F-6-305.

Section 2. Section 35A-8-304 is amended to read:

35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

(a) the chair of the Board of Water Resources or the chair's designee;

(b) the chair of the Water Quality Board or the chair's designee;

(c) the director of the department or the director's designee;

(d) the state treasurer;

(e) the chair of the Transportation Commission or the chair's designee;

(f) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

(g) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

(h) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

(i) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County; and

(j) a locally elected official from each of the two counties that produced the most mineral lease money during the previous four-year period, prior to the term of appointment, as determined by the department.

(2) (a) The members specified under Subsections (1)(f) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Local Governments,

~~[Central Utah Association of Governments,] the Six County Association of Governments, the Uintah Basin Association of Governments, and [Southwestern Association of Governments] the Five County Association of Governments,~~ respectively, except that a member under Subsection (1)(j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the consent of the Senate.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members of the impact board specified under Subsections (1)(a) through (1)(e) shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

(4) The executive director of the department, or the executive director's designee, is the chair of the impact board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 3. Section 35A-8-305 is amended to read:

35A-8-305. Duties -- Loans -- Interest.

(1) The impact board shall:

(a) make grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially or economically impacted, directly or indirectly, by mineral resource development for:

(i) planning;

(ii) construction and maintenance of public facilities; and

(iii) provision of public services;

(b) establish the criteria by which the loans and grants will be made;

(c) determine the order in which projects will be funded;

(d) in conjunction with other agencies of the state, subdivisions, or interlocal agencies, conduct studies, investigations, and research into the effects of proposed mineral resource development projects upon local communities;

(e) sue and be sued in accordance with applicable law;

(f) qualify for, accept, and administer grants, gifts, loans, or other funds from:

- (i) the federal government; and
- (ii) other sources, public or private; and

(g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.

(2) Money, including all loan repayments and interest, in the impact fund derived from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only be given in the form of interest bearing loans to be paid back into the impact fund by the agency, subdivision, or interlocal agency.

~~[(3) The average annual return to the impact fund on all bonus money may not be less than 1/2 of the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.]~~

[(4)] (3) (a) "Provision of public services" under Subsection (1)(a) includes contracts with public postsecondary institutions to fund research, education, or public service programs that benefit impacted counties or political subdivisions of the counties.

(b) Each contract under Subsection [(4)(a)] (3)(a) shall be:

- (i) based on an application to the impact board from the impacted county; and
- (ii) approved by the county legislative body.

(c) For purposes of this section, a land use plan is a public service program.

Section 4. Section 35A-8-306 is amended to read:

35A-8-306. Powers.

The impact board may:

(1) appoint, where it considers this appropriate, a hearing examiner or administrative law judge with authority to conduct hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the impact board under Sections 11-13-306 and 11-13-307;

(2) appoint additional professional and administrative staff necessary to effectuate Sections 11-13-306 and 11-13-307;

(3) make independent studies regarding matters submitted to it under Sections 11-13-306 and 11-13-307 that the impact board, in its discretion, considers necessary, which studies shall be made a part of the record and may be considered in the impact board's determination; and

(4) make rules ~~[under]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act ~~[it considers necessary]~~, to perform ~~[its]~~ the impact board's responsibilities under ~~[Sections 11-13-306 and 11-13-307]~~ this part.

Section 5. Section 35A-13-602 is amended to read:

35A-13-602. Definitions.

As used in this part:

(1) "Advisory board" or "board" means the ~~[Interpreters]~~ Interpreter Certification Board created in Section 35A-13-603.

(2) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

(3) "Certified interpreter" means an individual who is certified as meeting the certification requirements of this part.

(4) "Interpreter services" means services that facilitate effective communication between a hearing individual and an individual who is deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Section 6. Section 35A-13-603 is amended to read:

35A-13-603. Board.

(1) There is created to assist the director of the office the ~~[Interpreters]~~ Interpreter Certification Board consisting of the following 11 members:

- (a) a designee of the assistant director;
- (b) a designee of the State Board of Regents;
- (c) a designee of the State Board of Education;

(d) four professional interpreters, recommended by the assistant director; and

(e) four individuals who are deaf or hard of hearing, recommended by the assistant director.

(2) (a) The director shall make all appointments to the board.

(b) In making appointments under Subsections (1)(d) and (e), the director shall give consideration to recommendations by certified interpreters and members of the deaf and hard of hearing community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) An individual may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for a reason other than the expiration of a term, the director shall appoint a replacement for the remainder of the term in accordance with Subsections (1) and (2).

(4) The director may remove a board member for cause, which may include misconduct, incompetence, or neglect of duty.

(5) The board shall annually elect a chair and vice chair from among its members.

(6) The board shall meet as often as necessary to accomplish the purposes of this part, but not less than quarterly.

(7) A member of the board may not receive compensation or benefits for the member's service, but may receive travel expenses in accordance with:

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

(b) rules made by the Division of Finance in accordance with Section 63A-3-107.

Section 7. Section 59-10-1304 is amended to read:

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1306;

(ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iii) the contribution provided for in Section 59-10-1308;

(iv) the contribution provided for in Section 59-10-1310;

(v) the contribution provided for in Section 59-10-1315;

~~[(vi) the sum of the contributions provided for in:]~~

~~[(A) Section 59-10-1316; and]~~

~~[(B) Section 59-10-1317;]~~

~~[(vii) (vi) the contribution provided for in Section 59-10-1318;~~

~~[(viii) (vii) the contribution provided for in Section 59-10-1319; or~~

~~[(ix) (viii) the contribution provided for in Section 59-10-1320.~~

(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

(3) (a) Within a 30-day period after making the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.

(b) The list shall:

(i) be published on:

(A) the commission's website; and

(B) the public legal notice website in accordance with Section 45-1-101;

(ii) include a statement that the commission:

(A) is required to remove the contribution from the individual income tax return; and

(B) may not collect the contribution;

(iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Section 8. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, [2019] 2022.

(2) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

(3) Section 35A-9-501 is repealed January 1, 2021.

Section 9. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) (a) Subsection [~~63J-1-602.1(51)~~] 63J-1-602.1(49), relating to the Utah Statewide

Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection [~~63J-1-602.1(51)~~] 63J-1-602.1(49), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(19) Section 63N-2-512 is repealed on July 1, 2021.

(20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

(22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.]~~

Section 10. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

~~[(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.]~~

~~[(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.]~~

[(24)] (22) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[(25)] (23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[(26)] (24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[(27)] (25) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[(28)] (26) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[(29)] (27) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[(30)] (28) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[(31)] (29) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[(32)] (30) The DNA Specimen Restricted Account created in Section 53-10-407.

[(33)] (31) The Canine Body Armor Restricted Account created in Section 53-16-201.

[(34)] (32) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

~~[(35)]~~ (33) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

~~[(36)]~~ (34) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

~~[(37)]~~ (35) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

~~[(38)]~~ (36) The Relative Value Study Restricted Account created in Section 59-9-105.

~~[(39)]~~ (37) The Cigarette Tax Restricted Account created in Section 59-14-204.

~~[(40)]~~ (38) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

~~[(41)]~~ (39) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

~~[(42)]~~ (40) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

~~[(43)]~~ (41) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

~~[(44)]~~ (42) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

~~[(45)]~~ (43) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

~~[(46)]~~ (44) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

~~[(47)]~~ (45) The Immigration Act Restricted Account created in Section 63G-12-103.

~~[(48)]~~ (46) Money received by the military installation development authority, as provided in Section 63H-1-504.

~~[(49)]~~ (47) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

~~[(50)]~~ (48) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

~~[(51)]~~ (49) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

~~[(52)]~~ (50) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

~~[(53)]~~ (51) The Motion Picture Incentive Account created in Section 63N-8-103.

~~[(54)]~~ (52) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

~~[(55)]~~ (53) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

~~[(56)]~~ (54) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

~~[(57)]~~ (55) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

~~[(58)]~~ (56) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

~~[(59)]~~ (57) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

~~[(60)]~~ (58) Fees for certificate of admission created under Section 78A-9-102.

~~[(61)]~~ (59) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(62)]~~ (60) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(63)]~~ (61) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

~~[(64)]~~ (62) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 11. Repealer.

This bill repeals:

Section 35A-8-1901, Title.

Section 35A-8-1902, Definitions.

Section 35A-8-1903, Youth Development Organization Restricted Account -- Creation -- Interest.

Section 35A-8-1904, Division to distribute amounts deposited into Youth Development Organization Restricted Account -- Procedures for distribution.

Section 35A-8-2001, Title.

Section 35A-8-2002, Definitions.

Section 35A-8-2003, Youth Character Organization Restricted Account -- Creation -- Interest.

Section 35A-8-2004, Division to distribute amounts deposited into Youth Character

**Organization Restricted Account --
Procedures for distribution.**

**Section 59-10-1316, Contribution to Youth
Development Organization Restricted
Account.**

**Section 59-10-1317, Contribution to Youth
Character Organization Restricted
Account.**

CHAPTER 90**S. B. 162**

Passed March 6, 2019
 Approved March 21, 2019
 Effective July 1, 2019

**CORRECTIONS OFFICER
 CERTIFICATION AMENDMENTS**

Chief Sponsor: Jani Iwamoto
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill changes the age requirements to be a correctional officer in a jail facility.

Highlighted Provisions:

This bill:

- ▶ allows 19 year olds to be certified as correctional officers and work in a jail facility.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-6-203, as last amended by Laws of Utah 2013, Chapters 115 and 451
 53-13-104, as last amended by Laws of Utah 1999, Chapter 92
 63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

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

Section 1. Section 53-6-203 is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

- (a) be a United States citizen;
- (b) be at least:
 - (i) 21 years [old] of age at the time of certification as a special function officer; or
 - (ii) as of July 1, 2019, 19 years of age at the time of certification as a correctional officer;
- (c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;
- (d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; and

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 2. Section 53-13-104 is amended to read:

53-13-104. Correctional officer.

(1) (a) "Correctional officer" means a sworn and certified officer employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

- (i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;
- (ii) supervising and preventing the escape of persons in state and local incarceration facilities;
- (iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards and Training Division.

(2) (a) Correctional officers have peace officer authority only while on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections has certified the completion of training to the director of the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the completion of training to the director of the division.

(4) (a) The Department of Corrections of the state shall establish and maintain a correctional officer basic course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall:

(i) consist of no fewer than 40 hours per year; and

(ii) be conducted by the agency's own staff or other agencies.

(5) The local law enforcement agencies may establish correctional officer basic, advanced, or in-service training programs as approved by the director of the division with the advice and consent of the council.

(6) (a) Beginning July 1, 2019, an individual shall be 19 years of age or older before being certified or employed as a correctional officer under this section.

(b) A person under the age of 21 years who is certified as a correctional officer may only be employed in a jail facility.

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

~~[(1) Subsection 53-10-202(18) is repealed July 1, 2018.]~~

~~[(2) Section 53-10-202.1 is repealed July 1, 2018.]~~

(1) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2022.

(2) Subsection 53-13-104(6), regarding being 19 years old at certification, is repealed July 1, 2022.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) Section 53F-2-514 is repealed July 1, 2020.

(10) Section 53F-5-203 is repealed July 1, 2019.

(11) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(12) Section 53F-6-201 is repealed July 1, 2019.

(13) Section 53F-9-501 is repealed January 1, 2023.

(14) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 4. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 91**S. B. 175**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

GANG PREVENTION AWARENESS WEEK

Chief Sponsor: Karen Mayne
 House Sponsor: Susan Duckworth

LONG TITLE**General Description:**

This bill designates Gang Prevention Awareness Week.

Highlighted Provisions:

This bill:

- designates Gang Prevention Awareness Week.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2018, Chapter 39

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

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

- (a) Bill of Rights Day, on December 15;
- (b) Constitution Day, on September 17;
- (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;
- (d) POW/MIA Recognition Day, on the third Friday in September;
- (e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;
- (f) Utah State Flag Day, on March 9;
- (g) Vietnam Veterans Recognition Day, on March 29;
- (h) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; and
- (i) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;
- (j) Arthrogyrosis Multiplex Congenita Awareness Day, on June 30; and

(k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

- (i) encourage individuals to make child safety a priority;
- (ii) remember the importance of continued efforts to reunite missing children with their families; and
- (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated annually as American Indian Heritage Month.

(5) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(11) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

CHAPTER 92**S. B. 182**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

INJURIES BY DOGS AMENDMENTS

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Kim F. Coleman

LONG TITLE**General Description:**

This bill amends provisions related to injuries caused by dogs.

Highlighted Provisions:

This bill:

- ▶ codifies case law regarding allocation of fault when a person seeks damages for an injury caused by a dog; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

18-1-1, as last amended by Laws of Utah 2011, Chapter 297

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

Section 2. Section 18-1-1 is amended to read:**18-1-1. Liability and damages for dog injury -- Dogs used in law enforcement.**

~~[(1) Every person owning or keeping a dog is liable in damages for injury committed by the dog, and it is not necessary in the action brought therefor to allege or prove that the dog was of a vicious or mischievous disposition or that the owner or keeper of the dog knew that it was vicious or mischievous.]~~

(1) (a) Except as provided in Subsection (2), a person who owns or keeps a dog is liable for an injury caused by the dog, regardless of whether:

- (i) the dog is vicious or mischievous; or
- (ii) the owner knows the dog is vicious or mischievous.

(b) Damages for an injury described in Subsection (1)(a) shall be determined in accordance with Section 78B-5-818.

(2) [Notwithstanding Subsection (1), neither] Neither the state nor any county, city, metro township, or town in the state nor any peace officer employed by [any of them] the state, a county, a city, a metro township, or a town shall be liable in damages for an injury [committed] caused by a dog, if:

- (a) the dog has been trained to assist in law enforcement; and

(b) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

CHAPTER 93**S. B. 185**

Passed March 12, 2019

Approved March 21, 2019

Effective May 14, 2019

BOOKING PHOTOGRAPHS AMENDMENTS

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill imposes booking photograph removal and destruction requirements on certain publications and websites that publish and post booking photographs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a certain publication or website to remove and destroy a booking photograph when the individual in the booking photograph requests removal and destruction within certain time periods;
- ▶ prohibits a certain publication or website from:
 - conditioning removal and destruction of a booking photograph on the payment of a fee depending on the disposition of the related criminal charge; or
 - conditioning removal and destruction of a booking photograph on the payment of a fee above a certain amount in certain circumstances;
- ▶ for a booking photograph publication or website that does not comply with a requirement to remove and destroy a booking photograph:
 - allows for the imposition of a civil penalty; and
 - provides for liability for certain legal costs; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-22-30, as enacted by Laws of Utah 2013, Chapter 404

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

Section 1. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section[;]:

(a) [~~“booking”~~] “Booking photograph” means a photograph or image of an individual that is generated:

~~[(a)]~~ (i) for identification purposes; and

~~[(b)]~~ (ii) when the individual is booked into a county jail.

(b) “Publish-for-pay publication” or “publish-for-pay website” means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if~~[(a)]~~ the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website~~;~~ and~~].~~

~~[(b) removal of the booking photograph from the publication or website requires the payment of a fee or other consideration.]~~

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website ~~[that requires the payment of a fee or other consideration in order to remove or delete the booking photograph from the publication or website].~~

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than \$50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of \$50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a

request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of \$100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

CHAPTER 94**S. B. 225**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

HOMELESS SERVICE PROVIDER AMENDMENTS

Chief Sponsor: Luz Escamilla
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies provisions related to the potential uses of the Homeless to Housing Reform Restricted Account.

Highlighted Provisions:

This bill:

- ▶ provides that the Homeless Coordinating Committee may award money from the Homeless to Housing Reform Restricted Account for the purpose of providing medical respite care for homeless individuals; and
- ▶ modifies the definition of the term “homeless shelter.”

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-604, as last amended by Laws of Utah 2018, Chapter 251

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

Section 1. Section 35A-8-604 is amended to read:**35A-8-604. Uses of Homeless to Housing Reform Restricted Account.**

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter; and

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults; ~~and~~

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness~~[-];~~ and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(7) Subject to the requirements of Subsections (5) and (6), on or before March 30, 2017, the county executive of a county of the first class shall make a recommendation to the Homeless Coordinating Committee identifying a site location for one facility within the county of the first class that will provide shelter for the homeless in a location other than Salt Lake City.

(8) (a) As used in this Subsection (8) and in Subsection (9), "homeless shelter" means a facility that:

(i) is located within a municipality; and

(ii) provides temporary shelter year-round to homeless individuals~~[-];~~ and, including an emergency shelter or a medical respite facility.

~~[(iii) has the capacity to provide temporary shelter to at least 50 individuals per night.]~~

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

(i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and

(ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

(9) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (9), the Homeless Coordinating Committee, with the concurrence of the division, shall: ~~(i) give priority to a homeless shelter located in a county of the first class that has the capacity to provide temporary shelter to at least 200 individuals per night; and (ii)~~ consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(10) The division may expend money from the restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.

CHAPTER 95**S. B. 238**

Passed March 12, 2019
 Approved March 21, 2019
 Effective May 14, 2019

ASSET PROTECTION TRUST AMENDMENTS

Chief Sponsor: Gene Davis
 House Sponsor: Brian S. King

LONG TITLE**General Description:**

This bill amends the provisions of an asset protection trust.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a security interest is not nullified or impaired by the provisions of this bill;
- ▶ allows a settlor to substitute assets from an asset protection trust;
- ▶ amends the notification requirements for a trustee regarding a distribution;
- ▶ requires a settlor to sign an affidavit at the time of each transfer of assets to an asset protection trust;
- ▶ modifies the requirements included in an affidavit of a settlor;
- ▶ provides that if certain requirements are not met, the property transferred to the asset protection trust is not protected from certain persons;
- ▶ changes the burden of proof for certain requirements;
- ▶ modifies the provisions that are allowed to apply to an asset protection trust, including provisions relating to a settlor;
- ▶ describes the types of causes of action or claims for relief that may be brought;
- ▶ amends the notice requirements that a settlor must give a creditor;
- ▶ provides that failure to give notice to a creditor does not restart the notice period to another creditor; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

25-6-502, as renumbered and amended by Laws of Utah 2017, Chapter 204

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

Section 1. Section 25-6-502 is amended to read:**25-6-502. Asset protection trust.**

- (1) As used in this section:
 - (a) "Creditor" means:

(i) a creditor or other claimant of the settlor existing when the trust is created; or

(ii) a person who subsequently becomes a creditor, including, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured:

(A) one holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority; or

(B) one with a right to payment.

(b) "Domestic support obligation" means:

(i) a child support judgment or order;

(ii) a spousal support judgment or order; or

(iii) an unsatisfied claim arising from a property division in a divorce proceeding.

(c) "Insolvent" means:

(i) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(ii) being unable to pay debts as they become due; or

(iii) being insolvent within the meaning of federal bankruptcy law.

~~[(b)]~~ (d) (i) "Property" means real property, personal property, and interests in real or personal property.

(ii) "Personal property" includes intangible and tangible personal property.

~~[(e)]~~ (e) "Settlor" means a person who transfers property in trust.

~~[(d)]~~ (f) "Transfer" means any form of transfer of property, including gratuitous transfers, whether by deed, conveyance, or assignment.

~~[(e)]~~ (g) "Trust" has the same meaning as in Section 75-1-201.

(2) "Paid and delivered" to the settlor, as beneficiary, does not include the settlor's use or occupancy of real property or ~~[tangible]~~ personal property owned by the trust if the use or occupancy is in accordance with the trustee's discretionary authority under the trust instrument.

(3) If the settlor of an irrevocable trust is also a beneficiary of the trust, and if the requirements of Subsection (5) are satisfied, a creditor of the settlor may not:

(a) satisfy a claim or liability of the settlor in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust;

(b) force or require the trustee to make a distribution to the settlor, as beneficiary; or

(c) require the trustee to pay any distribution directly to the creditor, or otherwise attach the distribution before it has been paid or delivered by the trustee to the settlor, as beneficiary.

(4) Notwithstanding Subsection (3), nothing in this section:

(a) prohibits a creditor from satisfying a claim or liability from the distribution once it has been paid or delivered by the trustee to the settlor, as beneficiary~~[-];~~ or

(b) nullifies or impairs a security interest that was granted by a settlor or a trustee with respect to property that is transferred to the trust.

(5) In order for Subsection (3) to apply, the conditions in this Subsection (5) shall be satisfied. Where this Subsection (5) requires that a provision be included in the trust instrument, no particular language need be used in the trust instrument if the meaning of the trust provision otherwise complies with this Subsection (5).

(a) An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention by the settlor of greater rights or authority than is stated in the trust instrument is void.

~~[(a)]~~ (b) The trust instrument shall provide that the trust is governed by Utah law and is established pursuant to this section.

~~[(b)]~~ (c) The trust instrument shall require that at all times at least one trustee shall be a Utah resident or Utah trust company, as the term "trust company" is defined in Section 7-5-1.

~~[(c)]~~ (d) The trust instrument shall provide that neither the interest of the settlor, as beneficiary, nor the income or principal of the trust may be voluntarily or involuntarily transferred by the settlor, as beneficiary. The provision shall be considered to be a restriction on the transfer of the settlor's beneficial interest in the trust that is enforceable under applicable nonbankruptcy law within the meaning of [Section] 11 U.S.C. Sec. 541(c)(2) ~~[of the Bankruptcy Code].~~

~~[(d)]~~ (e) The settlor may not have the ability under the trust instrument ~~[to revoke, amend, or terminate all or any part of the trust, or to withdraw property from the trust]~~, without the consent of a person who has a substantial beneficial interest in the trust, which interest would be adversely affected by the exercise of the power held by the settlor:

(i) to revoke, amend, or terminate all or any part of the trust; or

(ii) to withdraw any property from the trust, except that the settlor, without the approval or consent of any person, may be given the power, under the trust agreement, to substitute assets of substantially equivalent value.

~~[(e)]~~ (f) The trust instrument may not provide for any mandatory distributions of either income or principal to the settlor, as beneficiary, except as provided in Subsection (7)~~[(f)]~~(g).

~~[(f)]~~ The settlor may not benefit from, direct a distribution of, or use trust property except as stated in the trust instrument. An agreement or

~~understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.]~~

(g) (i) The trust instrument shall require that, at least 30 days before ~~[making]~~ paying and delivering any distribution to the settlor, as beneficiary, the trustee notify in writing every person who has a ~~[child support judgment or order]~~ domestic support obligation against the settlor.

(ii) The trust instrument shall require that the notice state the date the distribution will be ~~[made]~~ paid and delivered and the amount of the distribution.

(h) At the time that the settlor transfers any assets to the trust, the settlor may not be in default of making a payment due under ~~[any child support judgment or order]~~ a domestic support obligation.

(i) A transfer of assets to the trust may not render the settlor insolvent.

(j) At the time the settlor transfers any assets to the trust, the settlor may not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust. A settlor's expressed intention to protect trust assets from the settlor's potential future creditors is not evidence of an intent to hinder, delay, or defraud a known creditor.

~~[(k)]~~ At the time that the settlor transfers any assets to the trust, the settlor may not be contemplating filing for relief under the provisions of the Bankruptcy Code.]

~~[(4)]~~ (k) Assets transferred to the trust may not be derived from unlawful activities.

~~[(m)]~~ At the time the settlor transfers any assets]

(l) With respect to each transfer of assets to the trust, the settlor shall sign a sworn affidavit stating that at the time of the transfer of the assets to the trust:

(i) the settlor has full right, title, and authority to transfer the assets to the trust;

(ii) the transfer of the assets to the trust will not render the settlor insolvent;

(iii) the settlor does not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust;

(iv) there ~~[are]~~ is no pending or threatened court ~~[actions]~~ action against the settlor, except for ~~[those]~~ a court ~~[actions]~~ action identified by the settlor on an attachment to the affidavit;

(v) the settlor is not involved in ~~[any]~~ an administrative ~~[proceedings]~~ proceeding that is reasonably expected to have a material adverse effect on the financial condition of the settlor, except ~~[those]~~ an administrative ~~[proceedings]~~ proceeding identified on an attachment to the affidavit;

(vi) at the time of the transfer of the assets to the trust, the settlor is not in default of a ~~[child]~~ domestic support obligation;

(vii) the settlor does not contemplate filing for relief under the provisions of ~~[the Bankruptcy]~~

Code] United States Code, Title 11, Bankruptcy;
and

(viii) the assets being transferred to the trust were not derived from unlawful activities.

(6) Failure to satisfy the requirements of Subsection (5) shall result in the consequences described in this Subsection (6).

(a) If any requirement of Subsections (5)~~(a)~~(b) through (g) is not satisfied, none of the property held in the trust will at any time have the benefit of the protections described in Subsection (3).

(b) If the trustee does not send the notice required under Subsection (5)(g), the court may authorize any person with a ~~(child)~~ domestic support ~~[judgment or order]~~ obligation against the settlor to whom notice was not sent to attach the distribution or future distributions, but the person may not:

(i) satisfy a claim or liability in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust; or

(ii) force or require the trustee to make a distribution to the settlor, as beneficiary.

(c) If any requirement ~~[set forth]~~ described in Subsections (5)~~(a)~~(i) through ~~(a)~~ (l) is not satisfied, the property transferred to the trust that does not satisfy the requirement may not have the benefit of the protections described in Subsection (3).

(d) If the requirement described in Subsection (5)(h) is not satisfied, the property transferred to the trust that does not satisfy the requirement does not have the benefit of the protections described in Subsection (3) with respect to any person with a domestic support obligation.

(e) A creditor of the settlor has the burden of proving that the requirement in Subsection (5)(i) or (j) is not satisfied by clear and convincing evidence.

(7) The provisions of Subsection (3) may apply to a trust even if:

(a) the settlor serves as a cotrustee or as an advisor to the trustee, ~~[provided]~~ except that the settlor may not ~~[participate in the determination as to]~~ determine whether a discretionary distribution will be made;

(b) the settlor participates in a determination regarding whether a discretionary distribution is made to the settlor by:

(i) requesting a distribution from the trust;

(ii) consulting with the trustees regarding whether a discretionary distribution will be made;

(iii) exercising a right to consent to or veto the distribution under a power described in Subsection (7)(e);

(iv) signing documentation in the settlor's capacity as a cotrustee that implements a distribution when the other trustees use discretionary power to independently authorize a distribution; or

(v) participating in an action authorizing a distribution if the other trustees can authorize the distribution without the settlor's participation.

~~[(b)]~~ (c) the settlor has the authority under the terms of the trust instrument to appoint a nonsubordinate ~~[advisors]~~ advisor or a trust ~~[protectors]~~ protector who can remove and appoint trustees and who can direct, consent to, or disapprove distributions;

~~[(e)]~~ (d) the settlor has the power under the terms of the trust instrument to serve as an investment director or to appoint an investment director under Section 75-7-906;

~~[(d)]~~ (e) the trust instrument gives the settlor the power to consent to or veto a distribution from the trust;

~~[(e)]~~ (f) the trust instrument gives the settlor an inter vivos or a testamentary nongeneral power of appointment or similar power;

~~[(f)]~~ (g) the trust instrument gives the settlor the right to receive the following types of distributions:

(i) income, principal, or both in the discretion of a person, including a trustee, other than the settlor;

(ii) principal, subject to an ascertainable standard set forth in the trust;

(iii) income or principal from a charitable remainder annuity trust or charitable remainder unitrust, as defined in 26 U.S.C. Sec. 664;

(iv) a percentage of the value of the trust each year as determined under the trust instrument, but not exceeding the amount that may be defined as income under 26 U.S.C. Sec. 643(b);

(v) the transferor's potential or actual use of real property held under a qualified personal residence trust, or potential or actual possession of a qualified annuity interest, within the meaning of 26 U.S.C. Sec. 2702 and the accompanying regulations; ~~[and]~~

(vi) income or principal from a grantor retained annuity trust or grantor retained unitrust that is allowed under 26 U.S.C. Sec. 2702; ~~[(e)]~~ and

(vii) income from a trust intended to qualify for the federal estate tax or gift tax marital deduction under 26 U.S.C. Sec. 2056(b)(7) or 2523(f);

~~[(g)]~~ (h) the trust instrument authorizes the settlor to use real or personal property owned by the trust~~[-]~~; or

(i) with respect to the property held in the trust, the settlor may:

(i) give a personal guarantee on a debt or obligation secured by the property;

(ii) make payments, directly or indirectly, on a debt or obligation secured by the property;

(iii) pay property taxes, casualty and liability insurance premiums, homeowner association dues, maintenance expenses, or other similar expenses on the property; or

(iv) pay income tax on income attributable to the portion of property held in the trust, of which the

settlor is considered to be the owner under 26 U.S.C. Secs. 671 through 678, which payments will not be considered additional transfers to the trust for purposes of this section.

(8) If a trust instrument contains the provisions described in Subsections ~~(4)(a)~~ (5)(b) through (g), the transfer restrictions prevent a creditor or other person from asserting any cause of action or claim for relief against a trustee of the trust or against others involved in the counseling, drafting, preparation, execution, or funding of the trust for conspiracy to commit fraudulent conveyance or another voidable transfer, aiding and abetting a fraudulent conveyance or another voidable transfer, participation in the trust transaction, or similar cause of action or claim for relief. For purposes of this subsection, counseling, drafting, preparation, execution, or funding of the trust includes the preparation and funding of a limited partnership, a limited liability company, or other entity if interests in the entity are subsequently transferred to the trust. The creditor and other person prevented from asserting a cause of action or claim for relief may assert a cause of action against, and are limited to recourse against, only:

(a) the trust and the trust assets; and

(b) the settlor, to the extent otherwise allowed in this section.

(9) (a) A cause of action or claim for relief under Subsection (5)(i) or (j) is a cause of action or claim for relief under Section 25-6-202 or 25-6-203.

(b) Except as provided in Subsection (9)(a), a cause of action or claim for relief under this section is not a cause of action or claim for relief under Sections 25-6-101 through 25-6-407.

~~(9) A~~ (c) Notwithstanding Section 25-6-305, a cause of action or claim for relief regarding a fraudulent conveyance or other voidable transfer of a settlor's assets under ~~[Subsection (5)(j)]~~ this section is extinguished unless the action ~~[under Subsection (5)(j)]~~ is brought by a creditor of the settlor who was a creditor of the settlor before the assets ~~[referred to in Subsection (5)(j)]~~ in question were transferred to the trust and the action ~~[under Subsection (5)(j)]~~ is brought within the earlier of:

~~(a)~~ (i) the later of ~~[(i)-] two years after the transfer is made~~; or ~~(ii)-] one year after the transfer is or reasonably could have been discovered by the creditor if the creditor:~~

(A) can demonstrate, by ~~[a preponderance of the evidence]~~ clear and convincing evidence, that the creditor asserted a specific claim against the settlor before the transfer; or

(B) files another action, other than an action ~~[under Subsection (5)(j),]~~ alleging a fraudulent conveyance or other voidable transfer against the settlor that asserts a claim based on an act or omission of the settlor that occurred before the transfer, and the action described in ~~[this]~~ Subsection (9)(c) is filed within two years after the transfer~~[-]; or~~

~~(b)(i)~~ (ii) (A) with respect to a creditor known to the settlor, 120 days after the date on which notice of the transfer is mailed to the creditor, which notice shall state the name and address of the settlor or the settlor's representative, the name and address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets if the assets are other than cash, and which shall inform the creditor that ~~[he]~~ the creditor is required to ~~[present his]~~ bring the creditor's cause of action or claim ~~[to both]~~ for relief against the settlor and the trustee within 120 days from the mailing of the notice or be forever barred; or

~~(ii)~~ (B) with respect to a creditor not known to the settlor, 120 days after the date on which notice of the transfer is first published in a newspaper of general circulation in the county in which the settlor then resides, or is published on a public legal notice website as defined in Section 45-1-101, which notice shall state the name ~~[and]~~ of the settlor or the settlor's representative, the address of the settlor or the settlor's representative, the name ~~[and]~~ of the trustee or the trustee's representative, the address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets ~~[if the assets are other than cash]~~.

(10) (a) The notice required in Subsection ~~(9)(b)~~ (9)(c)(ii)(B) shall be published in accordance with the provisions of Section 45-1-101 for three consecutive weeks and inform creditors that they are required to ~~[present claims]~~ bring a cause of action or claim for relief within 120 days from the first publication of the notice or be forever barred.

(b) Failure to give the notice required in Subsection (9)(c)(ii) to a creditor does not prevent the shortening of the limitations period under Subsection (9)(c)(ii) with respect to another creditor who properly received notice by mail or publication.

(11) (a) A trust is subject to this section if it is governed by Utah law, as provided in Section 75-7-107, and if it otherwise meets the requirements of this section.

(b) A court of this state has exclusive jurisdiction over an action or claim for relief that is based on a transfer of property to a trust that is the subject of this section.

(12) (a) With respect to a trust that is subject to this section, a claim brought by a creditor of a beneficiary who is not the settlor is subject to Section 75-7-501 et. seq.

(b) With respect to an irrevocable trust that is not subject to this section, a claim brought by a creditor of a beneficiary who is the settlor is subject to the provisions of Subsection 75-7-505(2).

(13) If a provision in this section conflicts with a provision in Sections 25-6-101 through 25-6-407, the provision of this section shall supersede the conflicting provision in Sections 25-6-101 through 25-6-407.

(14) Nothing in this section alters rights vested or created under this section before May 14, 2019.

CHAPTER 96**H. B. 12**

Passed February 7, 2019
Approved March 22, 2019
Effective May 14, 2019

**INSTREAM FLOW
WATER RIGHT AMENDMENTS**

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill repeals the repeal date for an instream flow water right for trout habitat.

Highlighted Provisions:

This bill:

- ▶ repeals the repeal date for the instream flow water right for trout habitat established in Subsection 73-3-30(3).

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-273, as last amended by Laws of Utah 2018, Chapters 344 and 418

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

Section 1. Section 63I-1-273 is amended to read:**63I-1-273. Repeal dates, Title 73.**

[The instream flow water right for trout habitat established in Subsection 73-3-30(3) is repealed December 31, 2019.]

CHAPTER 97**H. B. 16**

Passed March 1, 2019
 Approved March 22, 2019
 Effective May 14, 2019

FRAUDULENT DRUG TESTING AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill relates to defrauding an alcohol or drug test.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it a criminal offense to distribute, possess, or sell an adulterant or synthetic urine;
- ▶ makes it a criminal offense to defraud an alcohol or drug test using an adulterant, bodily fluid of another person, or bodily fluid expelled or withdrawn before collection for the test;
- ▶ exempts from criminal liability a person who distributes, possesses, sells, or uses an adulterant or human or synthetic urine for the sole purpose of education or research; and
- ▶ requires the entity that collects specimens for the purpose of testing that becomes aware that an adulterated sample or synthetic urine was submitted for screening report it to the requesting employer and the Department of Public Safety.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-10-2203, Utah Code Annotated 1953

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

Section 1. Section 76-10-2203 is enacted to read:**76-10-2203. Possession, sale, or use of an adulterant or synthetic urine.**

(1) As used in this section, "adulterant" means a substance that may be added to human urine or another human bodily fluid to change, dilute, or interfere with the composition, chemical properties, physical appearance, or physical properties of the urine or other bodily fluid.

(2) Under circumstances not amounting to a violation of Section 76-8-510.5, it is unlawful for a person to:

- (a) distribute, possess, or sell synthetic urine;
- (b) distribute or sell an adulterant with:
 - (i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening test; or

(ii) knowledge that the recipient of the adulterant intends to use the adulterant to defeat or defraud an alcohol or drug screening test;

(c) possess an adulterant with intent to use the adulterant to defeat or defraud an alcohol or drug screening test; or

(d) intentionally use:

(i) an adulterant to defeat or defraud an alcohol or drug screening test;

(ii) the person's urine or bodily fluid to defeat or defraud an alcohol or drug screening test if the urine or bodily fluid was expelled or withdrawn before the time at which the urine or bodily fluid is collected for the test; or

(iii) the urine or bodily fluid of another person to defeat or defraud an alcohol or drug screening test.

(3) A person who violates this section is guilty of an infraction.

(4) A person is not guilty of a violation of this section for engaging in conduct described in this section for the sole purpose of education or medical or scientific research.

(5) This section does not apply to persons currently under:

- (a) court-ordered supervision; or
- (b) the supervision of the Board of Pardons and Parole.

(6) An entity that collects specimens for the purpose of testing and screening, and reports the results back to an employer shall report to the employer and the Department of Public Safety if a report is received that indicates that adulterated or synthetic urine was submitted for an alcohol or drug screening test.

CHAPTER 98**H. B. 18**

Passed February 14, 2019

Approved March 22, 2019

Effective May 14, 2019

**MASSAGE THERAPY
PRACTICE ACT AMENDMENTS**Chief Sponsor: Marc K. Roberts
Senate Sponsor: Wayne A. Harper**LONG TITLE****General Description:**

This bill modifies exemptions from licensure in the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ exempts a bowerwork practitioner from being required to be licensed as a massage therapist;
- ▶ amends provisions related to reflexology and foot zone therapy; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-47b-304, as last amended by Laws of Utah 2014, Chapters 330, 348 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 330

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

Section 1. Section 58-47b-304 is amended to read:**58-47b-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) a physician or surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(c) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(d) a physical therapist assistant licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(e) an osteopathic physician or surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(f) a chiropractic physician licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;

(g) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

(h) an athletic trainer licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act;

(i) a student in training enrolled in a massage therapy school approved by the division;

(j) a naturopathic physician licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act;

(k) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(l) an individual performing gratuitous massage; and

(m) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division^[,] and that represents a profession with established standards and ethics^[,];

~~[(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; or]~~

(A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;

(B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;

~~[(B)]~~ (C) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy; or

(D) who is certified to practice bowerwork and whose practice is limited to the scope of practice of bowerwork;

~~[(iii)]~~ (ii) whose clients remain fully clothed from the shoulders to the knees; and

~~[(iv)]~~ (iii) whose clients do not receive gratuitous massage from the individual.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) require insurance coverage or reimbursement for massage therapy from third party payors; or

(b) prevent an insurance carrier from offering coverage for massage therapy.

CHAPTER 99**H. B. 31**

Passed March 13, 2019
 Approved March 22, 2019
 Effective January 1, 2021

**WATER SUPPLY AND
SURPLUS WATER AMENDMENTS**

Chief Sponsor: Kim F. Coleman
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill regulates municipalities that provide water to customers outside respective political boundaries.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the process by which a municipality may provide water to customers outside the municipality's political boundary;
- ▶ states that a municipality may not sell the municipality's waterworks, in whole or in part, except as provided in statute;
- ▶ creates reporting requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-7-14, Utah Code Annotated 1953
 10-8-14, as last amended by Laws of Utah 2016,
 Chapter 419
 10-8-22, Utah Code Annotated 1953

ENACTS:

73-5-16, Utah Code Annotated 1953

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

Section 1. Section 10-7-14 is amended to read:**10-7-14. Rules and regulations for use of water.**

(1) As used in this section:

(a) "Designated water service area" means the area defined by a municipality in accordance with the Utah Constitution, Article XI, Section 6, Subsection (1)(c).

(b) "Retail customer" means an end user:

(i) who receives culinary water directly from a municipality's waterworks system; and

(ii) whom the municipality described in Subsection (1)(b)(i) bills for water service.

(c) (i) "Waterworks system" means municipally owned collection, treatment, storage, and distribution facilities for culinary or irrigation

water, including any pipe, hydrant, or appurtenance to a pipe or hydrant.

(ii) "Waterworks system" does not include a water right or a source of supply such as a well, spring, stream, or share in a mutual irrigation company.

(2) ~~Every city and town.~~ A municipality may enact ordinances, rules and regulations for the management and conduct of the waterworks system owned or controlled by it.

(3) A municipality that provides water to a retail customer outside of the municipality's boundary shall:

(a) create and maintain a map showing:

(i) the municipality's designated water service area; and

(ii) each area outside the municipality's designated water service area where a retail customer receives water service from the municipality;

(b) transmit a copy of the map described in Subsection (3)(a) to the state engineer;

(c) if the municipality has more than 500 retail customers, post the map described in Subsection (3)(a) on the municipality's website;

(d) define, by ordinance, the area included in the municipality's designated water service area;

(e) adopt, by ordinance, any municipality rule or regulation applicable to the municipality's designated water service area or to a retail customer located outside of the municipality's designated water service area; and

(f) adopt, by ordinance, reasonable water rates for retail customers in the municipality's designated water service area, in accordance with Section 10-8-22.

(4) Within the municipality's designated water service area, a municipality shall:

(a) provide service to all retail customers in a manner consistent with principles of equal protection; and

(b) apply restrictions on water use to all retail customers in times of anticipated or actual water shortages in a manner consistent with principles of equal protection.

(5) Nothing in this section:

(a) prohibits a municipality from enacting a service restriction or other restriction:

(i) affecting:

(A) a localized area; or

(B) the municipality's entire designated water service area; and

(ii) (A) based on an operational or maintenance need;

(B) based on an emergency situation; or

(C) to address a health, safety, or general welfare need;

(b) expands or diminishes the ability of a municipality to enter into a contract to supply water outside of the municipality's designated water service area; or

(c) alters the authorities or definitions described in Title 19, Chapter 4, Safe Drinking Water Act.

(6) A municipality may not sell or convey an interest, in part or in whole, of the municipality's waterworks system, except to a public entity as defined in Section 73-1-4.

Section 2. Section 10-8-14 is amended to read:

10-8-14. Utility and telecommunications services -- Service beyond municipal limits -- Retainage -- Notice of service and agreement.

(1) As used in this section, "public telecommunications service facilities" means the same as that term is defined in Section 10-18-102.

(2) A municipality may:

(a) construct, maintain, and operate waterworks, sewer collection, sewer treatment systems, gas works, electric light works, telecommunications lines, cable television lines, public transportation systems, or public telecommunications service facilities;

(b) authorize the construction, maintenance and operation of the works or systems listed in Subsection (2)(a) by others;

(c) purchase or lease the works or systems listed in Subsection (2)(a) from any person or corporation; and

(d) sell and deliver the surplus product or service capacity of any works or system listed in Subsection (2)(a), not required by the municipality or the municipality's inhabitants, to others beyond the limits of the municipality, except the sale and delivery of:

(i) retail electricity beyond the municipal boundary is governed by Subsections (3) through (8); ~~and~~

(ii) cable television services or public telecommunications services is governed by Subsection (12)~~;~~ and

(iii) water is governed by Sections 10-7-14 and 10-8-22.

(3) If any payment on a contract with a private person, firm, or corporation to construct waterworks, sewer collection, sewer treatment systems, gas works, electric works, telecommunications lines, cable television lines, public transportation systems, or public telecommunications service facilities is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

(4) (a) Except as provided in Subsection (4)(b), (6), or (10), a municipality may not sell or deliver the electricity produced or distributed by its the municipality's electric works constructed,

maintained, or operated in accordance with Subsection (2) to a retail customer located beyond its the municipality's municipal boundary.

(b) A municipality that provides retail electric service to a customer beyond its the municipality's municipal boundary on or before June 15, 2013, may continue to serve that customer if:

(i) on or before December 15, 2013, the municipality provides the electrical corporation, as defined in Section 54-2-1, that is obligated by its the municipality's certificate of public convenience and necessity to serve the customer with an accurate and complete verified written notice described in Subsection (4)(c) that identifies each customer served by the municipality beyond its the municipality's municipal boundary;

(ii) no later than June 15, 2014, the municipality enters into a written filing agreement for the provision of electric service with the electrical corporation; and

(iii) the Public Service Commission approves the written filing agreement in accordance with Section 54-4-40.

(c) The municipality shall include in the written notice required in Subsection (4)(b)(i) for each customer:

(i) the customer's meter number;

(ii) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(iii) the customer's class of service; and

(iv) a representation that the customer was receiving service from the municipality on or before June 15, 2013.

(5) The written filing agreement entered into in accordance with Subsection (4)(b)(ii) shall require the following:

(a) The municipality shall provide electric service to a customer identified in accordance with Subsection (4)(b)(i) unless the municipality and the electrical corporation subsequently agree in writing that the electrical corporation will provide electric service to the customer.

(b) If a customer who is located outside the municipal boundary and who is not identified in accordance with Subsection (4)(b)(i) requests service from the municipality after June 15, 2013, the municipality may not provide that customer electric service unless the municipality submits a request to and enters into a written agreement with the electric corporation in accordance with Subsection (6).

(6) (a) A municipality may submit to the electrical corporation a request to provide electric service to an electric customer described in Subsection (5)(b).

(b) If a municipality submits a request, the electrical corporation shall respond to the request within 60 days.

(c) If the electrical corporation agrees to allow the municipality to provide electric service to the customer:

(i) the electrical corporation and the municipality shall enter into a written agreement;

(ii) the municipality shall agree in the written agreement to subsequently transfer service to the customer described in Subsection (5)(b) if the electrical corporation notifies, in writing, the municipality that the electrical corporation has installed a facility capable of providing electric service to the customer; and

(iii) the municipality may provide the service if:

(A) except as provided in Subsection (6)(c)(iii)(B), the Public Service Commission approves the agreement in accordance with Section 54-4-40; or

(B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.

(d) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the Public Service Commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.

(7) If the municipality and electrical corporation make a transfer described in Subsection (6)(c)(ii):

(a) (i) the municipality shall transfer the electric service customer to the electrical corporation; and

(ii) the electrical corporation shall provide electric service to the customer; and

(b) the municipality shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(8) (a) In accordance with Subsection (8)(b), the municipality shall establish a reasonable mechanism for resolving potential future complaints by an electric customer located outside ~~its~~ the municipality's municipal boundary.

(b) The mechanism shall require:

(i) that the rates and conditions of service for a customer outside the municipality's boundary are at least as favorable as the rates and conditions of service for a similarly situated customer within the municipality's boundary; and

(ii) if the municipality provides a general rebate, refund, or other payment to a customer located within the municipality's boundary, that the municipality also provide the same general rebate, refund, or other payment to a similarly situated customer located outside the municipality's boundary.

(9) The municipality is relieved of any obligation to transfer a customer described in Subsection (5)(b) or facility used to serve the customer in accordance with Subsection (6)(c)(ii) if the municipality annexes the property on which the customer is being served.

(10) (a) A municipality may provide electric service outside of ~~its~~ the municipality's municipal

boundary to a facility that is solely owned and operated by the municipality for municipal service.

(b) A municipality's provision of electric service to a facility that is solely owned and operated by the municipality does not expand the municipality's electric service area.

(11) Nothing in this section expands or diminishes the ability of a municipality to enter into a wholesale electrical sales contract with another municipality that serves electric customers to sell and deliver wholesale electricity to the other municipality.

(12) A municipality's actions under this section related to works or systems involving public telecommunications services or cable television services are subject to the requirements of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

Section 3. Section 10-8-22 is amended to read:

10-8-22. Water rates.

(1) As used in this section:

(a) "Designated water service area" means the area defined by a municipality in accordance with the Utah Constitution, Article XI, Section 6, Subsection (1)(c).

(b) "Large municipal drinking water system" means a municipally owned and operated drinking water system serving a population of 10,000 or more.

(c) "Retail customer" means an end user:

(i) who receives culinary water directly from a municipality's waterworks system; and

(ii) whom the municipality described in Subsection (1)(c)(i) bills for water service.

(2) ~~They may~~ A municipality shall fix the rates to be paid for the use of water furnished by the ~~city~~ municipality.

(3) The setting of municipal water rates is a legislative act.

(4) Within the municipality's designated water service area, a municipality shall:

(a) establish, by ordinance, reasonable rates for the services provided to the municipality's retail customers;

(b) use the same method of providing notice to all retail customers of proposed rate changes; and

(c) allow all retail customers the same opportunity to appear and participate in a public meeting addressing water rates.

(5) (a) A municipality may establish different rates for different classifications of retail customers within the municipality's designated water service area, if the rates and classifications have a reasonable basis.

(b) A reasonable basis for charging different rates for different classifications may include, among other things, a situation in which:

(i) there is a difference in the cost of providing service to a particular classification;

(ii) one classification bears more risk in relation to a system operation or obligation;

(iii) retail customers in one classification invested or contributed to acquire a water source or supply or build or maintain a system differently than retail customers in another classification;

(iv) the needs or conditions of one classification:

(A) are distinguishable from the needs or conditions of another classification; and

(B) based on economic, public policy, or other identifiable elements, support a different rate; or

(v) there is a differential between the classifications based on a cost of service standard or a generally accepted rate setting method, including a standard or method the American Water Works Association establishes.

(c) An adjustment based solely on the fact that a particular classification of retail customers is located either inside or outside of the municipality's corporate boundary is not a reasonable basis.

(6) (a) If more than 10% of the retail customers within a large municipal drinking water system's designated water service area are located outside of the municipality's corporate boundary, the municipality shall:

(i) post on the municipality's website the rates assessed to retail customers within the designated water service area; and

(ii) establish an advisory board to make recommendations to the municipal legislative body regarding water rates, capital projects, and other water service standards.

(b) In establishing an advisory board described in Subsection (6)(a)(ii), a municipality shall:

(i) if more than 10% but no more than 30% of the municipality's retail customers receive service outside the municipality's municipal boundary, ensure that at least 20% of the advisory board's members represent the municipality's retail customers receiving service outside the municipality's municipal boundary;

(ii) if more than 30% of the municipality's retail customers receive service outside of the municipality's municipal boundary, ensure that at least 40% of the advisory board's members represent the municipality's retail customers receiving service outside of the municipality's municipal boundary; and

(iii) in appointing board members who represent retail customers receiving service outside of the municipality's municipal boundary, as required in Subsections (6)(b)(i) and (ii), solicit recommendations from each municipality and county outside of the municipality's municipal boundary whose residents are retail customers

within the municipality's designated water service area.

(7) A municipality that supplies water outside of the municipality's designated water service area shall supply the water only by contract and shall include in the contract the terms and conditions under which the contract can be terminated.

(8) A municipality shall:

(a) notify the director of the Division of Drinking Water of a contract the municipality enters into with a person outside of the municipality's designated water service area, including the name and contact information of the person named in each contract; and

(b) each year, provide any supplementing or new information regarding a contract described in Subsection (8)(a), including whether there is no new information to provide at that time.

Section 4. Section 73-5-16 is enacted to read:

73-5-16. State engineer to publish maps.

The state engineer shall publish conspicuously on the state engineer's website a map a municipality submits in accordance with Subsection 10-7-14(3)(a).

Section 5. Delayed effective date.

This bill takes effect on January 1, 2021, if the amendment to the Utah Constitution proposed by H.J.R. 1, Proposal to Amend Utah Constitution - Municipal Water Resources, 2019 General Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

CHAPTER 100

H. B. 38

Passed February 7, 2019
Approved March 22, 2019
Effective May 14, 2019

ADMINISTRATIVE APPEAL RIGHTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Fair Housing Act.

Highlighted Provisions:

This bill:

- ▶ permits an aggrieved person to appeal a determination, of a director of the Division of Antidiscrimination and Labor, dismissing a complaint alleging housing discrimination under the Fair Housing Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-21-9, as last amended by Laws of Utah 2016, Chapter 244
57-21-10, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 57-21-9 is amended to read:

57-21-9. Procedure for an aggrieved person to file a complaint -- Conciliation -- Investigation -- Determination.

(1) An aggrieved person may file a written verified complaint with the division within 180 days after the day on which an alleged discriminatory housing practice occurs.

(2) (a) The commission shall adopt rules consistent with [the provisions of] 24 C.F.R. Sec. 115.3 (1990), relating to procedures under related federal law, to govern:

- (i) the form of the complaint;
- (ii) the form of any answer to the complaint;
- (iii) procedures for filing or amending a complaint or answer; and
- (iv) the form of notice to [parties] a party accused of the [acts] act or [omissions] omission giving rise to the complaint.

(b) The commission may, by rule, prescribe any other procedure pertaining to the division's processing of the complaint.

(3) During the period beginning with the filing of the complaint and ending with the director's

determination, the division shall, to the extent feasible, engage in conciliation with respect to the complaint.

(4) (a) The division shall commence proceedings to investigate and conciliate a complaint alleging a discriminatory housing practice within 30 days after the [filing of the complaint] day on which the complainant files the complaint.

(b) After the commencement of an investigation, any party may request that the commission review the proceedings to [insure] ensure compliance with the requirements of this chapter.

(5) (a) The division shall complete the investigation within 100 days after the [filing of the complaint] day on which the complainant files the complaint, unless it is impracticable to do so.

(b) If the division is unable to complete the investigation within 100 days after the [filing of the complaint] day on which the complainant files the complaint, the division shall notify the complainant and respondent in writing of the reasons for the delay.

(6) [(a)] If, as a result of the division's investigation, the director determines that there is no reasonable cause to support [the allegations] an allegation in the complaint, the director shall issue a written determination dismissing the complaint.

~~[(b) If the director dismisses the complaint pursuant to Subsection (6)(a), the complainant may request that the director reconsider the dismissal pursuant to Section 63G-4-302.]~~

~~[(c) Notwithstanding the provisions of Title 63G, Chapter 4, Administrative Procedures Act, the director's determination to dismiss a complaint or, in the case of a request for reconsideration, the director's order denying reconsideration is not subject to further agency action or direct judicial review. However, the complainant may commence a private action pursuant to Section 57-21-12.]~~

(7) If, as a result of the division's investigation of a complaint, the director determines that there is reasonable cause to support [the allegations] an allegation in the complaint[, all of the following apply]:

(a) [The] (i) the division shall informally endeavor to eliminate or correct the discriminatory housing practice through a conciliation conference between the parties, presided over by the division[. Nothing]; and

(ii) nothing said or done in the course of [the] a conciliation conference described in Subsection (7)(a)(i) may be made public or admitted as evidence in a subsequent proceeding under this chapter without the written consent of the parties concerned[-]; and

(b) [If] (i) if the conciliation conference described in Subsection (7)(a) results in voluntary compliance with this chapter[-];

(A) the parties shall execute a conciliation agreement, approved by the division, setting forth

the resolution of the issues ~~[shall be executed by the parties. The]; and~~

(B) the parties or the division may enforce the conciliation agreement in an action filed in a court of competent jurisdiction~~[-]; or~~

~~[(e)–(f)]~~ (ii) if the division is unable to obtain a conciliation agreement, the director shall issue a written determination stating the director's findings and ordering ~~[any]~~ appropriate relief under Section 57-21-11.

Section 2. Section 57-21-10 is amended to read:

57-21-10. Judicial election or formal adjudicative hearing.

(1) (a) If, pursuant to Subsection 57-21-9(6) or (7)~~[(e)]~~(b)(ii), the director issues a written determination ~~[finding reasonable cause to believe that a discriminatory housing practice has occurred, or is about to occur, a respondent], a party to the complaint may obtain de novo review of the determination by submitting a written request for a formal adjudicative hearing to be conducted by the commission's Division of Adjudication in accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings, to the director within 30 days [from the date of issuance of] after the day on which the director issues the determination.~~

(b) If the director does not receive a timely request for review, the director's determination becomes the final order of the commission and is not subject to further agency action or direct judicial review.

(2) If a ~~[respondent]~~ party files a timely request for review pursuant to Subsection (1):

(a) any ~~[respondent, complainant, or aggrieved party]~~ party to the complaint may elect to have the de novo review take place in a civil action in the district court rather than in a formal adjudicative hearing with the Division of Adjudication by filing an election with the commission in accordance with rules established by the commission pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and time period for the election;

(b) the complainant shall file a complaint for review in the forum selected pursuant to Subsection (2)(a) within 30 days after the completion of the forum selection process; and

(c) the commission shall determine whether the director's determination is supported by substantial evidence.

(3) (a) ~~[If, pursuant to Subsection (2)(c), the commission determines that the director's determination is supported by substantial evidence, the]~~ The commission shall provide legal representation on behalf of the aggrieved person, including the filing of a complaint for review as required by Subsection (2)(b), to support and

enforce the director's determination in the de novo review proceeding, if:

(i) in accordance with Subsection 57-21-9(7)(b)(ii), the director issued a written determination finding reasonable cause to believe that a discriminatory housing practice had occurred, or was about to occur; and

(ii) under Subsection (2)(c), the commission determines that the director's determination under 57-21-9(7)(b)(ii) is supported by substantial evidence.

(b) Notwithstanding ~~[any provisions of]~~ Title 63G, Chapter 4, Administrative Procedures Act, the commission's determination, under Subsection (2)(c), regarding the existence or nonexistence of substantial evidence to support the director's determination is not subject to further agency action or direct judicial review.

(4) Upon timely application, an aggrieved person may intervene with respect to the issues to be determined in a formal adjudicative hearing or in a civil action brought under this section.

(5) If a formal adjudicative hearing is elected~~[-, all of the following apply]:~~

(a) ~~[The]~~ the presiding officer shall commence the formal adjudicative hearing within 150 days after the ~~[respondent files]~~ day on which a request for review of the director's determination is filed, unless it is impracticable to do so~~[-];~~

(b) ~~[The]~~ the investigator who investigated the matter may not participate;

(i) in the formal adjudicative hearing, except as a witness~~[-, nor may the investigator participate]; or~~

(ii) in the deliberations of the presiding officer~~[-];~~

(c) ~~[Any]~~ any party to the complaint may file a written request to the Division of Adjudication for review of the presiding officer's order in accordance with Section 63G-4-301 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings~~[-]; and~~

(d) ~~[A]~~ a final order of the commission under this section is subject to judicial review as provided in Section 63G-4-403 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.

(6) If a civil action is elected, the commission is barred from continuing or commencing any adjudicative proceeding in connection with the same claims under this chapter.

(7) (a) The commission shall make final administrative disposition of the complaint alleging a discriminatory housing practice within one year after the ~~[filing of]~~ complainant filed the complaint, unless it is impracticable to do so.

(b) If the commission is unable to make final administrative disposition within ~~[one year]~~ the time period described in Subsection (7)(a), the commission shall notify the complainant, respondent, and any other interested party in writing of the reasons for the delay.

CHAPTER 101**H. B. 44**

Passed February 7, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**PHYSICAL THERAPIST
 PRACTICE ACT AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends the Physical Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ permits an individual in the final term of a program of study in physical therapy to take a licensing exam before graduation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-24b-302, as last amended by Laws of Utah 2018, Chapter 318

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

Section 1. Section 58-24b-302 is amended to read:

58-24b-302. Licensure.

(1) An applicant for a license as a physical therapist shall:

- (a) be of good moral character;
- (b) complete the application process, including payment of fees;
- (c) submit proof of graduation from a professional physical therapist education program that is accredited by a recognized accreditation agency;
- (d) ~~[after complying with Subsection (1)(c),]~~ pass a licensing examination~~;~~:
 - (i) after complying with Subsection (1)(c); or
 - (ii) if the applicant is in the final term of a professional physical therapist education program that is accredited by a recognized accreditation agency;
- (e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;
- (f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for a license as a physical therapist assistant shall:

- (a) be of good moral character;
- (b) complete the application process, including payment of fees set by the division, in accordance with Section 63J-1-504, to recover the costs of administering the licensing requirements relating to physical therapist assistants;
- (c) submit proof of graduation from a physical therapist assistant education program that is accredited by a recognized accreditation agency;
- (d) ~~[after complying with Subsection (2)(c),]~~ pass a licensing examination approved by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~;~~:
 - (i) after the applicant complies with Subsection (2)(c); or
 - (ii) if the applicant is in the final term of a physical therapist assistant education program that is accredited by a recognized accreditation agency;

(e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(f) submit to, and pass, a criminal background check, in accordance with Section 58-24b-302.1 and standards established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for a license as a physical therapist who is educated outside of the United States shall:

- (a) be of good moral character;
- (b) complete the application process, including payment of fees;
- (c) (i) provide satisfactory evidence that the applicant graduated from a professional physical therapist education program that is accredited by a recognized accreditation agency; or
 - (ii) (A) provide satisfactory evidence that the applicant graduated from a physical therapist education program that prepares the applicant to engage in the practice of physical therapy, without restriction;
 - (B) provide satisfactory evidence that the education program described in Subsection

(3)(c)(ii)(A) is recognized by the government entity responsible for recognizing a physical therapist education program in the country where the program is located; and

(C) pass a credential evaluation to ensure that the applicant has satisfied uniform educational requirements;

(d) after complying with Subsection (3)(c), pass a licensing examination;

(e) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(f) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(g) meet any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall issue a license to a person who holds a current unrestricted license to practice physical therapy in a state, district, or territory of the United States of America, other than Utah, if the person:

(a) is of good moral character;

(b) completes the application process, including payment of fees;

(c) is able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(d) if the applicant is applying to participate in the Physical Therapy Licensure Compact under Chapter 24c, Physical Therapy Licensure Compact, consents to a criminal background check in accordance with Section 58-24b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) meets any other requirements established by the division, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) Notwithstanding Subsection 58-1-307(1)(c), an individual may not engage in an internship in physical therapy, unless the person is:

(i) certified by the division; or

(ii) exempt from licensure under Section 58-24b-304.

(b) The provisions of Subsection (5)(a) apply, regardless of whether the individual is participating in the supervised clinical training

program for the purpose of becoming a physical therapist or a physical therapist assistant.

CHAPTER 102**H. B. 45**

Passed February 14, 2019

Approved March 22, 2019

Effective May 14, 2019

**HIGHER EDUCATION
CREDIT AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill enacts and amends provisions related to credit in higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to the State Board of Regents' duties regarding articulation, transfers, and course identification;
- ▶ enacts provisions requiring the State Board of Regents to:
 - develop a systemwide plan for advising and communicating about student credit for prior learning; and
 - establish policies related to student credit for prior learning;
- ▶ enacts other provisions related to prior learning;
- ▶ amends other provisions related to student credit; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53B-16-105, as last amended by Laws of Utah 2018, Chapter 435

53B-16-107, as last amended by Laws of Utah 2018, Chapter 39

ENACTS:

53B-16-110, Utah Code Annotated 1953

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

Section 1. Section 53B-16-105 is amended to read:**53B-16-105. Common course numbering -- Transferability of credits -- Agreement with competency-based general education provider -- Policies.**

(1) As used in this section:

(a) "Articulation agreement" means an agreement between the board and a provider that allows a student to transfer credit awarded by the provider for a general education course to any institution of higher education.

(b) "Competency-based" means a system where a student advances to higher levels of learning when

the student demonstrates competency of concepts and skills regardless of time, place, or pace.

(c) "Competency-based general education provider" or "provider" means a private institution that:

(i) offers a postsecondary competency-based general education course online or in person;

(ii) awards academic credit; and

(iii) does not award degrees, including associates degrees or baccalaureate degrees.

(d) "Credit for prior learning" means the same as that term is defined in Section 53B-16-110.

~~[(d)]~~ (e) "Institution of higher education" means an institution within the Utah System of Higher Education.

~~[(e)]~~ (f) "Regionally accredited institution" means an institution that:

(i) offers a competency-based postsecondary general education course online or in person; and

(ii) is accredited by a regional accrediting body recognized by the United States Department of Education.

~~[(f)]~~ (g) "Utah System of Higher Education" means the institutions described in Subsection 53B-1-102(1)(a).

(2) The board shall:

(a) facilitate articulation and the seamless transfer of courses, programs, and credit for prior learning within the Utah System of Higher Education;

(b) provide for the efficient and effective progression and transfer of students within the Utah System of Higher Education;

(c) avoid the unnecessary duplication of courses; ~~and~~

(d) communicate ways in which a student may earn credit for prior learning; and

~~[(d)]~~ (e) allow a student to proceed toward the student's educational objectives as rapidly as the student's circumstances permit.

(3) The board shall develop, coordinate, and maintain a transfer and articulation system within the Utah System of Higher Education that:

(a) maintains a course numbering system that assigns common numbers to specified courses of similar level with similar curricular content, rigor, and standards;

(b) allows a student to ~~transfer~~ track courses that transfer among institutions of higher education to meet requirements for general education and lower division courses that transfer to baccalaureate majors;

(c) allows a student to transfer courses from a provider with which the board has an articulation agreement to any institution of higher education;

(d) allows a student to transfer competency-based general education courses from a regionally accredited institution to an institution of higher education;

(e) improves program planning;

(f) increases communication and coordination between institutions of higher education; ~~and~~

(g) facilitates student acceleration and the transfer of students and credits between institutions of higher education~~[-]; and~~

(h) if the system includes a software or data tool:

(i) provides predictive analysis that models probabilities of student success; and

(ii) develops tailored strategies to best support students.

(4) (a) The board shall identify general education courses in the humanities, social sciences, arts, physical sciences, and life sciences with uniform prefixes and common course numbers.

(b) An institution of higher education shall annually identify institution courses that satisfy requirements of courses described in Subsection (4)(a).

~~[(b)]~~ (c) An institution of higher education shall accept a course described in Subsection (3)(c), (3)(d), or (4)(a) toward filling specific area requirements for general education or lower division courses that transfer to baccalaureate majors.

(5) (a) The board shall identify common prerequisite courses and course substitutions for degree programs across institutions of higher education.

(b) The commissioner shall appoint committees of faculty members from the institutions of higher education to recommend appropriate courses of similar content and numbering that will satisfy requirements for lower division courses that transfer to baccalaureate majors.

(c) An institution of higher education shall annually identify institution courses that satisfy requirements of courses described in Subsection (5)(a).

~~[(c)]~~ (d) An institution of higher education shall accept a course described in Subsection (3)(c), (3)(d), or (5)(a) toward filling graduation requirements.

~~[(6) The board shall identify minimum scores and maximum credit for each.]~~

~~[(a) College Level Examination Program (CLEP) general examination;]~~

~~[(b) College Level Examination Program (CLEP) subject examination;]~~

~~[(c) College Board advanced placement examination; and]~~

~~[(d) other examination for credit.]~~

~~[(7) (a) An institution of higher education shall award credit to a student who demonstrates competency by passing a challenge examination.]~~

~~[(b) An institution of higher education shall award credit for a course for which competency has been demonstrated by successfully passing a challenge examination described in Subsection (6)(a) unless the award of credit duplicates credit already awarded.]~~

~~[(8)]~~ (6) (a) (i) The board shall seek proposals from providers to enter into articulation agreements.

(ii) A proposal described in Subsection ~~[(8)]~~ (6)(a)(i) shall include the general education courses that the provider intends to include in an articulation agreement.

(b) The board shall:

(i) evaluate each general education course included in a proposal described in Subsection ~~[(8)]~~ (6)(a) to determine whether the course is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education; and

(ii) if the board determines that a course included in a provider's proposal is equally rigorous and includes the same subject matter as the equivalent course offered by any institution of higher education, enter into an articulation agreement with the provider.

~~[(9)]~~ (7) The board shall establish policies to administer the policies and requirements described in this section.

~~[(10)]~~ (8) The board shall include information demonstrating that institutions of higher education are complying with the provisions of this section and the policies established in accordance with Subsection ~~[(9)]~~ (7) in the annual report described in Section 53B-1-107.

Section 2. Section 53B-16-107 is amended to read:

53B-16-107. Credit for military service and training -- Notification -- Transferability -- Reporting.

(1) As used in this section, "credit" includes proof of equivalent noncredit course completion awarded by a technical college.

(2) An institution of higher education listed in Section 53B-2-101 shall provide written notification to each student applying for admission that the student is required to meet with a college counselor in order to receive credit for military service and training as recommended by a postsecondary accreditation agency or association designated by the board or the Utah System of Technical Colleges Board of Trustees if:

(a) credit for military service and training is requested by the student; and

(b) the student has met with an advisor at an institution of higher education listed in Section 53B-2-101 at which the student intends to enroll to discuss applicability of credit to program

requirements, possible financial aid implications, and other factors that may impact attainment of the student's educational goals.

(3) Upon transfer within the state system of higher education, a student may present a transcript to the receiving institution of higher education for evaluation and to determine the applicability of credit to the student's program of study, and the receiving institution of higher education shall evaluate the credit to be transferred [pursuant to] in accordance with Subsection (2) and the policies described in Section 53B-16-110.

(4) The board and the Utah System of Technical Colleges Board of Trustees shall annually report the number of credits awarded under this section by each institution of higher education to the Department of Veterans and Military Affairs.

Section 3. Section 53B-16-110 is enacted to read:

53B-16-110. Credit for prior learning -- Board plan and policies -- Reporting.

(1) As used in this section:

(a) "Credit for prior learning" means credit awarded by an institution to a student who demonstrates, through a prior learning assessment, that the student's prior learning meets college-level competencies.

(b) "Institution" means an institution of higher education that is within the Utah System of Higher Education.

(c) "Prior learning" means knowledge, skills, or competencies acquired through formal or informal education outside the traditional postsecondary academic environment.

(d) "Prior learning assessment" means a method of evaluating or assessing an individual's prior learning.

(e) "Utah System of Higher Education" means the institutions described in Subsection 53B-1-102(1)(a).

(2) On or before November 1, 2019, the board shall develop a systemwide plan for advising and communicating with students and the public about credit for prior learning in the Utah System of Higher Education.

(3) (a) On or before November 1, 2019, the board shall establish policies that provide minimum standards for all institutions regarding:

- (i) accepted forms of prior learning assessments;
- (ii) awarding credit for prior learning;
- (iii) transferability of credit for prior learning between institutions;
- (iv) transcription of credit for prior learning;
- (v) institutional procedures for maintaining transparency and consistency in awarding credit for prior learning;

(vi) communication to faculty, advisors, current students, and prospective students regarding standards and cost related to credit for prior learning and prior learning assessments;

(vii) required training of faculty and advisors on prior learning assessment standards and processes; and

(viii) portfolio-specific prior learning assessments.

(b) The board shall ensure that accepted forms of prior learning assessments described in Subsection (3)(a) include at least the following:

(i) program evaluations, completed by an institution, of noncollegiate programs or training courses to recognize proficiencies;

(ii) nationally recognized, standardized examinations, including:

(A) Advanced Placement examinations;

(B) College Level Exam Program general examinations;

(C) College Level Exam Program subject examinations; and

(D) DANTES Subject Standardized Tests;

(iii) customized examinations offered by an institution to verify an individual's learning achievement that may include course final examinations or other examinations that assess general disciplinary knowledge or skill;

(iv) evaluations of corporate or military training; and

(v) assessments of individuals' portfolios.

(4) (a) The board shall establish minimum scores and maximum credit for each standardized examination described in Subsection (3)(b)(ii).

(b) An institution shall award credit to a student who demonstrates competency by passing a standardized examination described in Subsection (3)(b)(ii) unless the award of credit duplicates credit already awarded.

(5) The board shall:

(a) create and maintain a website that provides systemwide and institutional information on prior learning assessments and credit for prior learning; and

(b) identify a software or data tool that will support the board in:

(i) implementing the plan described in Subsection (2); and

(ii) fulfilling the board's requirements described in Section 53B-16-105.

(6) On or before the November 2019 interim meeting, the board shall report to the Education Interim Committee on:

(a) the plan described in Subsection (2);

(b) the policies described in Subsection (3); and

(c) the software or data tool described in Subsection (5).

(7) On or before May 1, 2020, an institution shall report to the board:

(a) steps the institution will take to:

(i) implement the plan described in Subsection (2) and the policies described in Subsection (3); and

(ii) communicate to students about credit for prior learning, including about the policies described in Subsection (3);

(b) a timeline for the steps described in Subsection (7)(a); and

(c) each form of prior learning assessment for which the institution provides credit for prior learning that is not described in Subsection (3)(b).

(8) An institution shall annually report to the board on:

(a) each form of prior learning assessment for which the institution provides credit for prior learning; and

(b) the total amount of credit for prior learning the institution provides to students.

CHAPTER 103**H. B. 54**

Passed February 7, 2019

Approved March 22, 2019

Effective July 1, 2019

FIRE CODE AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the State Fire Code Act.

Highlighted Provisions:

This bill:

- ▶ adopts the 2018 edition of the International Fire Code, with amendments;
- ▶ adopts the 2016 edition of the National Fire Alarm and Signaling Code, with amendments; and
- ▶ adopts the National Fire Protection Association's 2016 edition for the Installation of Sprinkler Systems.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

15A-5-103, as last amended by Laws of Utah 2016, Chapter 216

15A-5-202, as last amended by Laws of Utah 2016, Chapter 216

15A-5-202.5, as last amended by Laws of Utah 2018, Chapter 189

15A-5-203, as last amended by Laws of Utah 2016, Chapters 174, 174, and 216

15A-5-204, as last amended by Laws of Utah 2016, Chapter 216

15A-5-205, as last amended by Laws of Utah 2018, Chapter 158

15A-5-205.5, as last amended by Laws of Utah 2016, Chapter 216

15A-5-206, as last amended by Laws of Utah 2016, Chapter 216

15A-5-302, as last amended by Laws of Utah 2016, Chapter 216

15A-5-304, as enacted by Laws of Utah 2016, Chapter 216

REPEALS:

15A-5-207, as last amended by Laws of Utah 2016, Chapter 216

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

Section 1. Section 15A-5-103 is amended to read:**15A-5-103. Nationally recognized codes incorporated by reference.**

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, [2015] 2018 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, [2011] 2017 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; and

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code.

Section 2. Section 15A-5-202 is amended to read:**15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.**

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

“102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply.”

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

“102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section ~~[408]~~ 109."

(c) IFC, Chapter 1, Section ~~[405.6.17]~~ 105.6.16, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

~~[(d) In IFC, Chapter 1, Section 108, a new Section 108.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."]~~

~~[(e) (d) A new IFC, Chapter 1, Section [408.1.1] 109.1.1, Application of residential code, is added as follows:~~

~~"[408.1.1] 109.1.1 Application of residential code.~~

For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

(e) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(f) IFC, Chapter 1, Section ~~[409.3]~~ 110.3, Notice of violation, is deleted and rewritten as follows:

~~"[409.3] 110.3~~ Notice of violation.

If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the [Utah] Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours.[?] See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

~~[(b) (c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: [the] The word "Foster" is changed to the word "Child."~~

~~[(e) (d) IFC, Chapter 2, Section 202, General Definitions, [Occupancy Classification] OCCUPANCY CLASSIFICATION, Educational Group E, [Day] Group E, day care facilities, is amended as follows:~~

~~(i) On line three delete the word "five" and replace it with the word "four"[-]; and~~

~~(ii) On line four after the word "supervision" add the words "child care centers."~~

~~[(d) (e) IFC, Chapter 2, Section 202, General Definitions, [Occupancy Classification] OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: [On line one the] The word "five" is deleted and replaced with the word "four" in both places.~~

~~[(e) (f) IFC, Chapter 2, Section 202, General Definitions, [Occupancy Classification] OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, [the] is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.~~

~~[(g) (g) IFC, Chapter 2, Section 202, General Definitions, [Occupancy Classification] OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child [Day Care -- Residential Certificate or a Family License] day care -- residential child care certificate or a license. Areas used for child day care~~

purposes with a ~~[Residential—Certificate]~~ residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a ~~[Family License]~~ residential child care license, as ~~[defined]~~ described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2.”

~~[(g)]~~ (h) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification]~~ OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: ~~[“Child Care Centers. Areas used for Hourly Child Care Centers, as defined in Utah Administrative Code, R430-60, Child Care Center as defined in Utah Administrative Code, R430-100, or Out of School Time Programs, as defined in Utah Administrative Code, R430-70, may be classified as accessory occupancies.”]~~ “Child care centers. Each of the following areas may be classified as accessory occupancies:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs.”

~~[(h)]~~ (i) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification, Institutional—Group—I,]~~ OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert “Type I” in front of the words “Assisted living facilities”.

~~[(i)]~~ (j) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification, Institutional—Group—I,]~~ OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after “International Residential Code” the rest of the section is deleted.

~~[(j)]~~ (k) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification, Institutional—Group—I,]~~ OCCUPANCY CLASSIFICATION, Institutional Group I-2, is amended as follows:

(i) On line three delete the word “five” and insert the word “three”[-];

(ii) On line six the word “foster” is deleted and replaced with the word “child”[-]; and

(iii) On line 10, after the words “Psychiatric hospitals”, add the following to the list: “both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living

facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility”.

~~[(k)]~~ (l) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification, Institutional—Group—I,]~~ OCCUPANCY CLASSIFICATION, Institutional Group I-4, ~~[Day]~~ day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word “five” and replace it with the word “four”[-]; and

(ii) On line three delete the words “2 1/2 years or less of age” and replace with the words “under the age of two”.

~~[(l)]~~ (m) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification, Institutional—Group—Care—I,]~~ OCCUPANCY CLASSIFICATION, Institutional Group I-4, ~~[Day]~~ day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and ~~[two]~~ three the word “five” is deleted and replaced with the word “four”.

~~[(m)]~~ (n) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification]~~ OCCUPANCY CLASSIFICATION, Residential Group R-3, the words “and single family dwellings complying with the IRC” are added after the word “Residential Group R-3 occupancies”.

~~[(n)]~~ (o) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification]~~ OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word “dwelling” insert “other than child care”.

~~[(o)]~~ (p) IFC, Chapter 2, Section 202, General Definitions, ~~[Occupancy—Classification]~~ OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: “Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the ~~[Utah]~~ Department of Health under the authority of ~~[the]~~ Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

~~[3.]~~ 1.3 Compliance with all zoning regulations of the local regulator.”

~~[(p)]~~ (q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, ~~[the definition for “RECORD DRAWINGS”]~~ is modified by deleting is amended as follows: Delete the words “a fire

alarm system” and [replacing] replace them with “any fire protection system”.

(r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Residential Treatment/Support Assisted Living Facility. “RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.”

(s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type I Assisted Living Facility. “TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

(t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type II Assisted Living Facility. “TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

Section 3. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: “[the] Utah Administrative Code, [R652-122-200] R652-122-1300, Minimum Standards for County Wildland Fire Ordinance”.

(b) IFC, Chapter 3, Section 310.8, Hazardous [~~and Environmental Conditions~~] environmental conditions, is deleted and rewritten as follows: “1.

When the fire code official determines that existing or historical hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1.1. If the existing or historical hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in:

1.1.1. mountainous, brush-covered, forest-covered, or dry grass-covered areas;

1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

1.1.3. the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; or

1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to facilitate a readily identifiable closed area, in accordance with paragraph 2.

1.2. If the existing or historical hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

1.3. If the existing or historical hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the township.

2. If a municipal legislative body, the state forester, or a metro township legislative body closes an area to the discharge of fireworks under paragraph 1, the legislative body or state forester shall:

2.1. designate the closed area along readily identifiable features like major roadways, waterways, or geographic features;

2.2. ensure that the boundary of the designated closed area is as close as is practical to the defined hazardous area, provided that the closed area may include areas outside of the hazardous area to facilitate a readily identifiable line; and

2.3. identify the closed area through a written description or map that is readily available to the public.

3. A municipal legislative body, the state forester, or a metro township legislative body may close a defined area to the discharge of fireworks due to a historical hazardous environmental condition

under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body, the state forester, or a metro township legislative body may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3.”

(c) IFC, Chapter 3, Section 311.1.1, Abandoned [~~Premises~~] premises, is amended as follows: On line 10 delete the words “International Property Maintenance Code and the”.

(d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

~~[(e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”]~~

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and replaced with the following:

“403.10.2.1 College and university buildings and fraternity and sorority houses.

(a) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(b) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2.”

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second

and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill [~~for fire~~] must [~~by~~] be conducted at least every other [~~evacuation~~] drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Subsection 404.2.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 4. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: “An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, [R652-122-200] R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.["]

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements [~~shall not exceed the fire flows~~] described in Section 501.5."

(e) In IFC, Chapter 5, Section 510.1, Emergency [~~Responder Radio Coverage in New Buildings~~] responder radio coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) ~~Delete the section title "605.11.1.2 Solar photovoltaic systems for Group R-3." and replace with the section title "605.11.1.2 Solar photovoltaic systems for Group R-3 and buildings constructed in accordance with IRC."~~

(b) ~~Section 605.11.1.2, Solar photovoltaic systems for Group R-3, Exception, is deleted and~~

~~rewritten as follows: "Exception: Reduction in pathways and clear access width shall be permitted where shown that a rational approach has been used and that the reductions are warranted, and approved by the fire code official."~~

(c) ~~In IFC, Chapter 6, Section 605.11.1.3.1, Access, is deleted and rewritten as follows: "There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof."~~

(d) ~~In IFC, Chapter 6, Section 605.11.1.3.2, Pathways, is deleted and rewritten as follows: "The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:~~

~~[1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.]~~

~~[2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.]~~

~~[3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) to vents.]~~

~~[4. Access to roof area required by Section 504.3 or 1011.12 of this Code, shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge."~~

(e) ~~In IFC, Chapter 6, Section 605.11.1.3.3, Smoke Ventilation, is deleted and rewritten as follows: "The solar installation shall be designed to meet the following requirements:~~

~~[1. Arrays shall be no greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.]~~

~~[2. Smoke ventilation options between array sections shall be one of the following:]~~

~~[2.1. A pathway six feet (1829 mm) or greater in width.]~~

~~[2.2. A three foot (914 mm) or greater in width pathway and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2 of this Code.]~~

~~[2.3. Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, shall be protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location."~~

(f) (a) In IFC, Chapter 6, Section [607.7] 606.7, Elevator [~~Key Location~~] key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the

fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key.”

(g) (b) In IFC, Chapter 6, Section ~~609.1~~ 607.1, General, is amended as follows: On line three, after the word “Code”, add the words “and NFPA 96”.

(3) For IFC, Chapter 7, [~~Fire-Resistance-Rated Construction~~] Fire and Smoke Protection Features, IFC, Chapter 7, Section ~~703.2~~ 705.2, is amended to add the following: “Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms’ doors with a rating of 20 minutes or less only.”

Section 5. Section 15A-5-204 is amended to read:

15A-5-204. Amendments and additions to IFC related to fire protection and life safety systems.

For IFC, Chapter 9, Fire Protection and Life Safety Systems:

(1) IFC, Chapter 9, Section 901.2, Construction [~~Documents~~] documents, is amended to add the following at the end of the section: “The code official has the authority to request record drawings (“as built”) to verify any modifications to the previously approved construction documents.”

(2) IFC, Chapter 9, Section 901.4.6, Pump and [~~Riser Room Size~~] riser room size, is deleted and replaced with the following: “Pump and Riser Room Size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all installed equipment necessary for the installation and to provide sufficient working space around the stationary equipment. Clearances around equipment shall be in accordance with manufacturer requirements and not less than the following minimum elements:

901.4.6.1 A minimum clear and unobstructed distance of 12 inches shall be provided from the installed equipment to the elements of permanent construction.

901.4.6.2 A minimum clear and unobstructed distance of 12 inches shall be provided between all other installed equipment and appliances.

901.4.6.3 A clear and unobstructed width of 36 inches shall be provided in front of all installed equipment and appliances, to allow for inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly.

901.4.6.4 Automatic sprinkler system riser rooms shall be provided with a clear and unobstructed passageway to the riser room of not less than 36 inches, and openings into the room shall be clear and unobstructed, with doors

swinging in the outward direction from the room and the opening providing a clear width of not less than 34 inches and a clear height of the door opening shall not be less than 80 inches.

901.4.6.5 Fire pump rooms shall be provided with a clear and unobstructed passageway to the fire pump room of not less than 72 inches, and openings into the room shall be clear, unobstructed and large enough to allow for the removal of the largest piece of equipment, with doors swinging in the outward direction from the room and the opening providing a clear width of not less than 68 inches and a clear height of the door opening shall not be less than 80 inches.”

(3) IFC, Chapter 9, Section 903.2.1.2, Group A-2, is amended to add the following subsection: “4. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.”

(4) IFC, Chapter 9, Section 903.2.2, Ambulatory [~~Health Care Facilities~~] care facilities, is amended as follows: On line two delete the words[~~“all fire areas floor”~~] “entire floor” and replace with the word[~~“buildings”~~] “building” and delete the last paragraph.

(5) IFC, Chapter 9, Section 903.2.4, Group F-1, Subsection 2, is deleted and rewritten as follows: “A Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access.”

(6) IFC, Chapter 9, Section 903.2.7, Group M, Subsection 2, is deleted and rewritten as follows: “A Group M fire area is located more than three stories above the lowest level of fire department vehicle access.”

(7) IFC, Chapter 9, Section 903.2.8 Group R, including all subsections, is deleted and rewritten as follows:

“903.2.8 Group R.

An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for One- and Two-Family Dwellings.

2. Single story Group R-1 occupancies with fire areas not more than 2,000 square feet that contain no installed plumbing or heating, where no cooking occurs, and constructed of Type I-A, I-B, II-A, or II-B construction.

3. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.”

[~~903.2.8.1 Group R-4 Condition 2.~~]

~~[An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group R-4 Condition 2 occupancies. Attics shall be protected in accordance with Section 903.2.8.1.1 or 903.2.8.1.2.]~~

~~[903.2.8.1.1 Attics used for living purposes, storage, or fuel-fired equipment.]~~

~~[Attics used for living purposes, storage, or fuel-fired equipment shall be protected throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.2.]~~

~~[903.2.8.1.2 Attics not used for living purposes, storage, or fuel-fired equipment.]~~

~~[Attics not used for living purposes, storage, or fuel-fired equipment shall be protected in accordance with one of the following:]~~

~~[1. Attics protected throughout by a heat detector system arranged to activate the building fire alarm system in accordance with Section 907.2.10.]~~

~~[2. Attics constructed of noncombustible materials.]~~

~~[3. Attics constructed of fire-retardant-treated wood framing complying with Section 2303.2 of the International Building Code.]~~

~~[4. The automatic sprinkler system shall be extended to provide protection throughout the attic space.]~~

(8) IFC, Chapter 9, Section 903.2.9, Group S-1, Subsection 2, is deleted and rewritten as follows: "A Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access."

(9) IFC, Chapter 9, Section 903.3.1.2.3, Attics, is amended by adding the following: "Exception: Sprinkler protection in attics is not required in buildings that are not required to be sprinklered by another section of this code."

~~[(9)] (10) IFC, Chapter 9, Section 903.3.5, Water supplies, is amended as follows: On line six, after the word "Code", add "and as amended in [Utah's] the State Construction Code".~~

~~[(10)] (11) IFC, Chapter 9, Section 903.5, Testing and maintenance, is amended to add the following subsection: "903.5.1 Tag and Information. A tag shall be attached to the riser indicating the date the antifreeze solution was tested. The tag shall also indicate the type and concentration of antifreeze solution by volume with which the system is filled, the name of the contractor that tested the antifreeze solution, the contractor's license number, and a warning to test the concentration of the antifreeze solutions at yearly intervals."~~

~~[(11)] (12) IFC, Chapter 9, Section [904.11] 904.12, Commercial cooking systems, is deleted and rewritten as follows: "The automatic fire extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems. Pre-engineered automatic extinguishing~~

systems shall be tested in accordance with UL300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions." The exception in Section ~~[904.11] 904.12~~ is not deleted and shall remain as currently written in the IFC.^[2]

~~[(12)] (13) IFC, Chapter 9, Section 904.12.3, Carbon dioxide systems, and Section 904.12.3.1, Ventilation system, are deleted and rewritten as follows:~~

~~"904.12.3 existing automatic fire extinguishing systems used for commercial cooking.~~

Existing automatic fire extinguishing systems used for commercial cooking that use dry chemical are prohibited and shall be removed from service.

904.12.3.1 UL300 listed and labeled existing wet chemical fire extinguishing system.

Existing wet chemical fire extinguishing systems used for commercial cooking that are not UL300 listed and labeled are prohibited and shall be either removed or upgraded to a UL300 listed and labeled system."

~~[(13)] (14) IFC, Chapter 9, Section 904.12.4, Special provisions for automatic sprinkler systems, is amended to add the following subsection: "904.12.4.2 Existing automatic fire sprinkler systems protecting commercial cooking equipment, hood, and exhaust systems that generate appreciable depth of cooking oils shall be replaced with a UL300 system that is listed and labeled for the intended application."~~

~~[(14)] (15) IFC, Chapter 9, Section [906.12.6.2] 904.12.5.2, Extinguishing system service, is amended to add the following: "Exception: Automatic fire extinguishing systems located in occupancies where usage is limited and less than six consecutive months may be serviced annually if the annual service is conducted immediately before the period of usage, and approval is received from the AHJ."~~

~~[(15)] (16) IFC, Chapter 9, Section 905.3.9 is a new subsection as follows: "Open Parking Garages. Open parking garages shall be equipped with an approved Class I manual standpipe system when fire department access is not provided for firefighting operations to within 150 feet of all portions of the open parking garage as measured from the approved fire department vehicle access. Class I manual standpipe shall be accessible throughout the parking garage such that all portions of the parking structure are protected within 150 feet of a hose connection.~~

Exception: Open parking garages equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1."

~~[(16)] (17) IFC, Chapter 9, Section 905.8, Dry Standpipes, Exception is deleted and rewritten as follows: "Where subject to freezing conditions and approved by the fire code official."~~

~~[(17)] (18) IFC, Chapter 9, Section [905.11] 905.12, Existing buildings, [and IFC, Chapter 11, Section 1103.6, Standpipes, are] is deleted.~~

~~[(18)] (19) In IFC, Chapter 9, Section 906.1, [Where Required, insert an additional exception as follows: "Exception: In new and existing Group E occupancies equipped with quick response sprinklers, portable fire extinguishers shall be required only in locations specified in items 2 through 6."] Exception 2 is amended as follows: on line three after the word "6," delete the remainder of the paragraph.~~

~~[(19)] (20) IFC, Chapter 9, Section 907.2.3 Group E:~~

~~(a) The first sentence is deleted and rewritten as follows: "A manual fire alarm system that [activates the occupant notification system in accordance with Section 907.5 and installed in accordance with Section 907.6] initiates the occupant notification signal using an emergency voice/alarm communication system that meets the requirements of Section 907.5.2.2, or a manual fire alarm system that initiates an audible and visual occupant notification signal that meets the requirements of Sections 907.4.2.1 and 907.5.2.3, and is installed in accordance with Section 907.6, and with rules made by the Utah Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall be installed in Group E occupancies."~~

~~(b) Exception 2, delete entirely.~~

~~(c) Exception number 4.2, on line five, delete the words, "emergency voice/alarm communication system" and replace with "fire alarm."~~

~~[(20)] (21) IFC, Chapter 9, 907.8, Inspection, testing, and maintenance, is amended to add the following sentences at the end of the section: "Increases in nuisance alarms shall require the fire alarm system to be tested for sensitivity. Fire alarm systems that continue after sensitivity testing with unwarranted nuisance alarms shall be replaced as directed by the AHJ."~~

~~[(21)] (22) IFC, Chapter 9, Section 915, Carbon Monoxide Detection, is deleted and rewritten as follows:~~

~~"915. Carbon Monoxide Detection.~~

~~915.1 Where required.~~

~~Group I-1, I-2, I-4, and R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 or UL 2075 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage, ventilated in accordance with Section 404 of the International Mechanical Code, shall not be considered an attached garage. A minimum of one carbon monoxide alarm shall be installed on each habitable level.~~

~~915.2 Interconnection.~~

~~Where more than one carbon monoxide alarm is required to be installed within Group I-1, I-2, I-4,~~

~~or R occupancies, the carbon monoxide alarm shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.~~

~~915.3 Power source.~~

~~In new construction, required carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Carbon monoxide alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Carbon monoxide alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.~~

~~Exceptions.~~

~~1. Carbon monoxide alarms are not required to be equipped with battery backup where they are connected to an emergency electrical system.~~

~~2. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure. Unless there is an attic, crawl space, or basement available that could provide access for hard wiring, without the removal of interior finishes.~~

~~915.4 Group E.~~

~~A carbon monoxide detection system shall be installed in new buildings that contain Group E occupancies in accordance with this section. A carbon monoxide detection system shall be installed in existing buildings that contain Group E occupancies in accordance with IFC, Chapter 11, Section 1103.9.~~

~~915.4.1 Where required.~~

~~In Group E occupancies, a carbon monoxide detection system shall be provided where a fuel-burning appliance, a fuel-burning fireplace, or a fuel-burning forced air furnace is present.~~

~~915.4.2 Detection equipment.~~

~~Each carbon monoxide detection system shall be installed in accordance with NFPA 720 and the manufacturer's instructions, and be listed, for single station detectors, as complying with UL 2034, and for system detectors, as complying with UL 2075.~~

~~915.4.3 Combination detectors.~~

~~A combination carbon monoxide/smoke detector is an acceptable alternative to a carbon monoxide detection system if the combination carbon monoxide/smoke detector is listed in accordance with UL 2075 and UL 268.~~

915.4.4 Power source.

Each carbon monoxide detection system shall receive primary power from the building wiring if the wiring is served from a commercial source. If primary power is interrupted, each carbon monoxide detection system shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than that required for over-current protection.

915.4.5 Maintenance.

Each carbon monoxide detection system shall be maintained in accordance with NFPA 720. A carbon monoxide detection system that becomes inoperable or begins to produce end-of-life signals shall be replaced."

Section 6. Section 15A-5-205 is amended to read:**15A-5-205. Amendments and additions to IFC related to means of egress and special processes and uses.**

(1) In IFC, Chapter 10, Section 1008.2.1, Illumination level under normal power, delete [exemption] exception.

(2) In IFC, Chapter 10, Section 1010.1.9, Door operations, a new exception is added as follows: "Exception: Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section [1010.1.9.5] 1010.1.9.6 Exception 5."

(3) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, "Exception:" is deleted and replaced with "Exceptions: 1."

(4) In IFC, Chapter 10, Section 1010.1.9.2, Hardware height, Exception 2 is added as follows: "2. Group E occupancies for purposes of a lockdown or a lockdown drill may have one lock below 34 inches in accordance with Section [1010.1.9.5] 1010.1.9.6 Exception 5."

(5) In IFC, Chapter 10, Section [1010.1.9.3] 1010.1.9.4, Locks and latches, Item [6] 7 is added after the existing Item [5] 6 as follows: "[6] 7. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section [1010.1.9.5] 1010.1.9.6 Exception 5."

(6) In IFC, Chapter 10, Section [1010.1.9.4] 1010.1.9.5, Bolt locks, Exception 6 is added after the existing Exception 5 as follows: "6. Group E occupancies for purposes of a lockdown or a lockdown drill in accordance with Section [1010.1.9.5] 1010.1.9.6 Exception 5."

(7) In IFC, Chapter 10, Section [1010.1.9.5] 1010.1.9.6, Unlatching, Exception 5 is added after the existing Exception 4 as follows: "5. Group E occupancies may have a second lock on classrooms for purposes of a lockdown or lockdown drill, if:

5.1 The application of the lock is approved by the code official.

5.2 The unlatching of any door or leaf does not require more than two operations.

5.3 The lock can be released from the opposite side of the door on which it is installed.

5.4 The lock is only applied during lockdown or during a lockdown drill.

5.5 The lock complies with all other state and federal regulations, including the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101 et seq."

(8) IFC, Chapter 10, Section [1010.1.9.6] 1010.1.9.7, Controlled egress doors in [groups] Groups I-1 and I-2, after existing Item 8 add Item 9 as follows: "9. The secure area or unit with special egress locks shall be located at the level of exit discharge in Type V construction."

(9) In IFC, Chapter 10, Section [1010.1.9.7] 1010.1.9.8.1, Delayed egress [locks] locking system, Item 9 is added after the existing Item 8 as follows: "9. The secure area or unit with delayed egress locks shall be located at the level of exit discharge in Type V construction."

(10) In IFC, Chapter 10, Section [BE] 1011.5.2, Riser height and tread depth, Exception 3 is deleted and replaced with the following: "3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

(11) IFC, Chapter 10, Section [BE] 1011.11, Handrails, is amended to add the following exception: "5. In occupancies in Group R-3, as applicable in Section 1014 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 1014, handrails shall be provided on at least one side of stairways consisting of four or more risers."

(12) IFC, Chapter 10, Section 1013.5, Internally illuminated exit signs, delete and rewrite the last sentence to read "Exit signs shall be illuminated at all times, including when the building is not fully occupied."

(13) IFC, Chapter 10, Section 1025, Luminous Egress Path Markings, is deleted.

(14) IFC, Chapter 10, Section [1029.14] 1029.15, Seat stability, delete [Exemption] Exception 2 and renumber [exemptions] exceptions.

(15) IFC, Chapter 10, Section 1031.2.1, Security [~~Devices and Egress Locks~~] devices and egress locks, is amended to add the following: On line three, after the word "fire", add the words "and building."

Section 7. Section 15A-5-205.5 is amended to read:

15A-5-205.5. Amendments to Chapters 11 and 12 of IFC.

(1) For IFC, Chapter 11, Construction Requirements for Existing Buildings:

(a) In IFC, Chapter 11, Section 1103.2 Emergency Responder Radio Coverage in Existing Buildings, is amended as follows: On line two after the title, the following is added: "When required by the fire code official".

(2) (b) IFC, Chapter 11, Section 1103.5.1 Group A-2, is deleted and replaced with the following:

"1103.5.1 Group A-2. An automatic fire sprinkler system shall be provided throughout existing Group A-2 occupancies where indoor pyrotechnics are used."

(3) (c) IFC, Chapter 11, Section 1103.6, Standpipes, is deleted.

(4) (d) In IFC, Chapter 11, 1103.7, Fire Alarm Systems, is deleted and rewritten as follows: "1103.7, Fire Alarm Systems. The following shall have an approved fire alarm system installed in accordance with Utah Administrative Code [Section R710-4], R710-4, Buildings Under the Jurisdiction of the State Fire Prevention Board:

1. a building with an occupant load of 300 or more persons that is owned or operated by the state;

2. a building with an occupant load of 300 or more persons that is owned or operated by an institution of higher education; and

3. a building with an occupant load of 50 or more persons that is owned or operated by a school district, private school, or charter school.

Exception: the requirements of this section do not apply to a building designated as an Institutional Group I (as defined in IFC 202) occupancy."

(5) (e) IFC, Chapter 11, 1103.7.1 Group E, 1103.7.2 Group I-1, 1103.7.3 Group I-2, 1103.7.4 Group I-3, 1103.7.5 Group R-1, 1103.7.5.1 Group R-1 [~~Hotel and Motel Manual Fire Alarm System~~] hotel and motel manual fire alarm system, 1103.7.5.1.1 Group R-1 [~~Hotel and Motel Automatic Smoke Detection System~~] hotel and motel automatic smoke detection system, 1103.7.5.2 Group R-1 [~~Boarding and Rooming Houses Manual Fire Alarm System~~] boarding and rooming houses manual fire alarm system, 1103.7.5.2.1 Group R-1 [~~Boarding and Rooming Houses Automatic Smoke Detection System~~] boarding and rooming houses automatic smoke detection system, 1103.7.6 Group R-2 [~~and 1103.7.7 Group R-4,~~] are deleted.

(6) (f) IFC, Chapter 11, Section 1103.9, Carbon [~~Monoxide Alarms~~] monoxide alarms, is deleted and rewritten as follows:

"1103.9 Carbon Monoxide Detection.

Existing Groups E, I-1, I-2, I-4, and R occupancies shall be equipped with carbon

monoxide detection in accordance with Section 915."

(2) For IFC, Chapter 12, Energy Systems:

(a) Delete the section title "1204.2.1 Solar photovoltaic systems for Group R-3 buildings" and replace with the section title "1204.2.1 Solar photovoltaic systems for Group R-3 and buildings constructed in accordance with IRC."

(b) Section 1204.2.1, Solar photovoltaic systems for Group R-3 buildings, Exception 1 is deleted, Exception 2 is renumbered to 1 and a second exception is added as follows: "2. Reduction in pathways and clear access width are permitted where a rational approach has been used and the reduction is warranted and approved by the Fire Code Official."

(c) Section 1204.3.1 Perimeter pathways, and 1204.3.2 Interior pathways, are deleted and rewritten as follows: "1204.3.1 Perimeter pathways. There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 shall be provided with a clear pathway width of not less than three feet (914 mm) to the vents.

4. Access to roof area required by Section 504.3 or 1011.12 shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

(d) Section 1204.3.3 Smoke ventilation, is deleted and rewritten as follows: "1204.3.2 Smoke ventilation. The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45720 mm) by 150 feet (45720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1 A pathway six feet (1829 mm) or greater in width.

2.2 A pathway three feet (914 mm) or greater in width and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2.

2.3 Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable

means, protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.”

Section 8. Section 15A-5-206 is amended to read:

15A-5-206. Amendments and additions to IFC related to hazardous materials, explosives, fireworks, and flammable and combustible liquids.

(1) For IFC, Hazardous Materials - General Provisions, Chapter 50, Table 5003.1.1(1), Maximum Allowable Quantity per Control Area of Hazardous Materials Posing a Physical Hazard, apply footnote d to [~~Consumer—Fireworks~~] Explosives, Storage, Solid Pounds.

(2) For IFC, Explosives and Fireworks, IFC, Chapter 56, Section [~~5601.3~~] 5601.1.3, Fireworks, Exception 4 is amended to add the following sentence at the end of the exception: “The use of fireworks for display and retail sales is allowed as set forth in Utah Code, Title 53, Chapter 7, Utah Fire Prevention and Safety Act, Sections 53-7-220 through 53-7-225; Utah Code, Title 11, Chapter 3, County and Municipal Fireworks Act; Utah Administrative Code, R710-2; and the State Fire Code.”

(3) For IFC, Chapter 57, Flammable and Combustible Liquids:

(a) IFC, Chapter 57, Section 5701.4, Permits, is amended to add the following at the end of the section: “The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality, and a copy shall be given to the AHJ.”

(b) IFC, Chapter 57, Section 5706.1, General, is amended to add the following special operation: “8. Sites approved by the AHJ”.

(c) IFC, Chapter 57, Section 5706.2, Storage and dispensing of flammable and combustible liquids on farms and construction sites, is amended to add the following: On line five, after the words “borrow pits”, add the words “and sites approved by the AHJ”.

(4) For IFC, Chapter 61, Liquefied Petroleum Gas:

(a) IFC, Chapter 61, Section 6101.2, Permits, is amended as follows: On line two, after the word “105.7”, add “and the adopted LP Gas rules”.

(b) IFC, Chapter 61, Section 6103.1, General, is deleted and rewritten as follows: “General. LP Gas equipment shall be installed in accordance with NFPA 54, NFPA 58, the adopted LP Gas rules, and the International Fuel Gas Code, except as otherwise provided in this chapter.”

(c) Chapter 61, Section 6109.12, Location of storage outside of buildings, is amended as follows: In Table 6109.12, Doorway or opening to a building with two or more means of egress, with regard to

quantities 720 or less and 721 -- 2,500, the currently stated “5” is deleted and replaced with “10”.

(d) IFC, Chapter 61, Section 6109.15.1, Automated [~~Cylinder Exchange Stations~~] cylinder exchange stations, is amended as follows: Item # 4 is deleted.

(e) IFC, Chapter 61, Section 6110.1, Temporarily out of service, is amended as follows: On line two, after the word “discontinued”, add the words “for more than one year or longer as allowed by the AHJ.”.

Section 9. Section 15A-5-302 is amended to read:

15A-5-302. Amendments and additions to NFPA related to National Fire Alarm and Signaling Code.

For NFPA 72, National Fire Alarm and Signaling Code, [~~2013~~] 2016 edition:

(1) NFPA 72, Chapter 2, Section 2.2, NFPA Publications, is amended to add the following NFPA standard: “NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, [~~2013~~] 2016 edition.”

(2) NFPA 72, Chapter 10, Section 10.5.1, System Designer, Subsection [~~10.5.1.1.2(2)~~] 10.5.1.3(2), is deleted and rewritten as follows: “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”

(3) NFPA 72, Chapter 10, Section 10.5.2, System Installer, Subsection [~~10.5.2.2(2)~~] 10.5.2.3(2), is deleted and rewritten as follows: “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”

(4) NFPA 72, Chapter 10, Section 10.5.3, Inspection, Testing, and Maintenance Personnel, Subsection 10.5.3.1, is deleted and rewritten as follows:

“Service personnel shall be qualified and experienced in the inspection, testing, and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in rule made by the State Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”

(5) NFPA 72, Chapter 10, Section [~~10.13~~] 10.12, Fire Alarm Signal Deactivation, Subsection 10.13.2, is amended to add the following sentence: “When approved by the AHJ, the audible notification appliances may be deactivated during the investigation mode to prevent unauthorized reentry into the building.”

(6) In NFPA 72, Chapter 23, Section 23.8.5.9, Signal Initiation -- Fire Pump, Subsection 23.8.5.9.3 is added as follows: “Automatic fire pumps shall be supervised in accordance with NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, and the AHJ.”

(7) NFPA 72, Chapter 26, Section 26.3.4, Indication of Central Station Service, Subsection 26.3.4.7 is amended as follows: On line two, after the word “notified”, insert the words “without delay”^[.] and delete the words, “within 30 calendar days”.

Section 10. Section 15A-5-304 is amended to read:

15A-5-304. Amendments and additions to NFPA related to Automatic Fire Sprinklers Systems.

(1) NFPA 13, Installation of Sprinkler Systems, [2013] 2016 edition.

(a) NFPA 13, Chapter 8, Section 15.22, System Subdivision, is deleted and rewritten as follows:

“8.15.22 System Subdivision – Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet.”

(b) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.1 Single Tenant Occupancies.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of the building, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(c) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.2 Multi-Tenant Occupancies.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of each tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(d) NFPA 13, Chapter 8, Section 8.17.1.1, Local Waterflow Alarms, is amended by adding a new subsection as follows:

“8.17.1.1.3 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

(2) NFPA 13D, Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2013 edition.

(a) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

“7.6.1 Exterior Waterflow Alarm.

When an alarm initiating device is included, an approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

(b) NFPA 13D, Chapter 7, Section 7.6, Alarms, is amended by adding a new subsection as follows:

“7.6.2 Interior Alarm.

When an alarm initiating device is included, an interior fire alarm notification appliance is also required to sound throughout the dwelling. An approved audible sprinkler flow alarm to alert the occupants of the dwelling in a normally occupied location when the flow switch is activated must be provided.”

(3) NFPA, Standard 13R, Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height, 2013 edition.

(a) NFPA 13R, Chapter 6, Section 6.8, Valves, is amended by adding a new subsection as follows:

“6.8.9 Floor/Zone Control Valves.

Individual floor/zone control valves shall be used at the riser at each floor for connections to piping serving floor areas in excess of 5,000 square feet.”

(b) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

“6.16.1.1 Local Waterflow Alarms.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided in the interior of each residential unit/tenant space, in a normally occupied location, to alert the occupants of the fire sprinkler system activation.”

(c) NFPA 13R, Chapter 6, Section 16, Alarms, is amended by adding a new subsection as follows:

“6.16.1.2 Exterior Waterflow Alarm.

An approved audible/visual waterflow alarm (horn/strobe) shall be provided on the exterior of the building in a location approved by the AHJ.”

Section 11. Repealer.

This bill repeals:

Section 15A-5-207, Amendments and additions to IFC related to existing buildings and referenced standards.

Section 12. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 104**H. B. 73**

Passed February 20, 2019

Approved March 22, 2019

Effective May 14, 2019

**MEDICAL PAYMENT
RATES AMENDMENTS**Chief Sponsor: Raymond P. Ward
Senate Sponsor: Kirk A. Cullimore**LONG TITLE****General Description:**

This bill creates certain requirements regarding Medicaid funding.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to report to the Legislature when the department applies, or receives approval, for a change in any Medicaid capitated payment rates; and
- ▶ amends provisions relating to funding for the provision of services by the Division of Services for People with Disabilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-3, as last amended by Laws of Utah 2018, Chapters 114 and 281

62A-5-102, as last amended by Laws of Utah 2013, Chapter 172

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

Section 1. Section 26-18-3 is amended to read:**26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.**

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; [ø]

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

[~~(v)~~] (vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a,

Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

Section 2. Section 62A-5-102 is amended to read:

62A-5-102. Division of Services for People with Disabilities -- Creation -- Authority -- Direction -- Provision of services.

(1) There is created within the department the Division of Services for People with Disabilities, under the administrative direction of the executive director of the department.

(2) In accordance with this chapter, the division has the responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities and their families in this state.

(3) Within appropriations from the Legislature, the division shall provide services to any person with a disability who is eligible to receive division services.

(4) (a) Starting on July 1, 2013, any new appropriations designated to serve eligible persons waiting for services from the division shall be allocated as set forth in this section.

(b) Eighty-five percent of the money appropriated in Subsection (4)(a) shall be allocated, as determined by the division by rule based on the:

(i) severity of the disability;

(ii) urgency of the need for services;

(iii) ability of a parent or guardian to provide the person with appropriate care and supervision; and

(iv) length of time during which the person has not received services from the division.

(c) Fifteen percent of the money appropriated in Subsection (4)(a) shall be allocated for respite services, and the division shall:

(i) establish rules to identify a person whose only need is respite services;

(ii) allocate money under this Subsection (4)(c) to the people described in Subsection (4)(c)(i) based on random selection; and

(iii) if all persons described in Subsection (4)(c)(i) have been served and there is money remaining for respite care under this Subsection (4)(c), the division shall use the remaining money as described in Subsection (4)(b).

(d) Funds from Subsection (4)(b) that are not spent by the division at the end of the fiscal year may be used as set forth in Subsection (7).

(5) The division:

(a) has the functions, powers, duties, rights, and responsibilities described in Section 62A-5-103; and

(b) is authorized to work in cooperation with other state, governmental, and private agencies to carry out the responsibilities described in Subsection (5)(a).

(6) Within appropriations authorized by the Legislature, and to the extent allowed under Title XIX of the Social Security Act, the division shall ensure that the services and support that the division provides to any person with a disability:

(a) are provided in the least restrictive and most enabling environment;

(b) ensure opportunities to access employment; and

(c) enable reasonable personal choice in selecting services and support that:

(i) best meet individual needs; and

(ii) promote:

(A) independence;

(B) productivity; and

(C) integration in community life.

(7) (a) Appropriations to the division are nonlapsing.

(b) After an individual stops receiving services under this section, the division shall use the funds that paid for the individual's services to provide services under this section to another eligible individual in an intermediate care facility transitioning to division services, if the funds were allocated under a program established under Section 26-18-3 to transition individuals with intellectual disabilities from an intermediate care facility.

[~~(b)~~] (c) [If] Except as provided in Subsection (7)(b), an individual receiving services under Subsection (4)(b) or (c) ceases to receive those services, the division shall use the funds that were allocated to that individual to provide services to another eligible individual waiting for services as described in Subsection (4)(b).

[~~(e)~~] (d) Funds unexpended by the division at the end of the fiscal year may be used only for one-time expenditures unless otherwise authorized by the Legislature.

[~~(d)~~] (e) A one-time expenditure under this section:

(i) is not an entitlement;

(ii) may be withdrawn at any time; and

(iii) may provide short-term, limited services, including:

- (A) respite care;
- (B) service brokering;
- (C) family skill building and preservation classes;
- (D) after school group services; and
- (E) other professional services.

CHAPTER 105**H. B. 77**

Passed February 20, 2019

Approved March 22, 2019

Effective May 14, 2019

**HEALTH INFORMATION
EXCHANGE AMENDMENTS**Chief Sponsor: Brad M. Daw
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill amends provisions relating to the electronic exchange of clinical information.

Highlighted Provisions:

This bill:

- ▶ exempts certain persons from civil liability relating to the access or review of certain clinical health information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-1-37, as last amended by Laws of Utah 2013, Chapter 167

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

Section 1. Section 26-1-37 is amended to read:**26-1-37. Duty to establish standards for the electronic exchange of clinical health information -- Immunity.**

(1) For purposes of this section:

(a) "Affiliate" means an organization that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another organization.

(b) "Clinical health information" shall be defined by the department by administrative rule adopted in accordance with Subsection (2).

(c) "Electronic exchange":

(i) includes:

(A) the electronic transmission of clinical health data via Internet or extranet; and

(B) physically moving clinical health information from one location to another using magnetic tape, disk, or compact disc media; and

(ii) does not include exchange of information by telephone or fax.

(d) "Health care provider" means a licensing classification that is either:

(i) licensed under Title 58, Occupations and Professions, to provide health care; or

(ii) licensed under Chapter 21, Health Care Facility Licensing and Inspection Act.

(e) "Health care system" shall include:

(i) affiliated health care providers;

(ii) affiliated third party payers; and

(iii) other arrangement between organizations or providers as described by the department by administrative rule.

(f) "Qualified network" means an entity that:

(i) is a non-profit organization;

(ii) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and

(iii) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.

(g) "Third party payer" means:

(i) all insurers offering health insurance who are subject to Section 31A-22-614.5; and

(ii) the state Medicaid program.

(2) (a) In addition to the duties listed in Section 26-1-30, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) define:

(A) "clinical health information" subject to this section; and

(B) "health system arrangements between providers or organizations" as described in Subsection (1)(e)(iii); and

(ii) adopt standards for the electronic exchange of clinical health information between health care providers and third party payers that are for treatment, payment, health care operations, or public health reporting, as provided for in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards.

(b) The department shall coordinate its rule making authority under the provisions of this section with the rule making authority of the Insurance Department under Section 31A-22-614.5.

(c) The department shall establish procedures for developing the rules adopted under this section, which ensure that the Insurance Department is given the opportunity to comment on proposed rules.

(3) (a) Except as provided in Subsection (3)(e), a health care provider or third party payer in Utah is required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer elects to engage in an electronic exchange of clinical

health information with another health care provider or third party payer.

(b) A health care provider or third party payer may disclose information to the department or a local health department, by electronic exchange of clinical health information, as permitted by Subsection 45 C.F.R. Sec. 164.512(b).

(c) When functioning in its capacity as a health care provider or payer, the department or a local health department may disclose clinical health information by electronic exchange to another health care provider or third party payer.

(d) An electronic exchange of clinical health information by a health care provider, a third party payer, the department, ~~or~~ a local health department, or a qualified network is a disclosure for treatment, payment, or health care operations if it complies with Subsection (3)(a) or (c) and is for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(e) A health care provider or third party payer is not required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer engage in the electronic exchange of clinical health information within a particular health care system.

(4) Nothing in this section shall limit the number of networks eligible to engage in the electronic data interchange of clinical health information using the standards adopted by the department under Subsection (2)(a)(ii).

(5) (a) The department, a local health department, a health care provider, a third party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance ~~with~~ with:

(i) Subsection (3)(a); and ~~with~~

(ii) Subsection (3)(b), ~~[(3)(c), or (3)(d)]~~ (c), or (d).

(b) The department, a local health department, a health care provider, a third party payer, or a qualified network that accesses or reviews clinical health information from or through the electronic exchange in accordance with the requirements in this section is not subject to civil liability for the access or review.

(6) Within a qualified network, information generated or disclosed in the electronic exchange of clinical health information is not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

CHAPTER 106**H. B. 82**

Passed February 25, 2019

Approved March 22, 2019

Effective May 14, 2019

**AGGRAVATED
KIDNAPPING AMENDMENTS**Chief Sponsor: V. Lowry Snow
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill clarifies the relationship between kidnapping and unlawful detention as predicate offenses for aggravated kidnapping.

Highlighted Provisions:

This bill:

- ▶ clarifies the relationship between kidnapping and unlawful detention as lesser included offenses of aggravated kidnapping.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-302, as last amended by Laws of Utah 2013, Chapter 81

76-5-304, as last amended by Laws of Utah 2012, Chapter 39

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

Section 1. Section 76-5-302 is amended to read:**76-5-302. Aggravated kidnapping.**

(1) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) [possesses,] uses[,] or threatens to use a dangerous weapon as defined in Section 76-1-601; or

(b) acts with intent:

(i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) to hinder or delay the discovery of or reporting of a felony;

(iv) to inflict bodily injury on or to terrorize the victim or another;

(v) to interfere with the performance of any governmental or political function; or

(vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(a) Section 76-5-301, kidnapping; or

(b) Section 76-5-304, unlawful detention.

(3) Aggravated kidnapping in the course of committing unlawful detention is a third degree felony.

[~~(3)~~] (4) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection [~~(3)(b)~~, ~~(3)(e)~~, or ~~(4)~~] (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection [~~(3)(e)~~ or ~~(4)~~] (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

[~~(4)~~] (5) If, when imposing a sentence under Subsection [~~(3)~~] (4)(a) or (b), a court finds that a lesser term than the term described in Subsection [~~(3)~~] (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection [~~(3)~~] (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection [~~(3)~~] (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

[~~(5)~~] (6) The provisions of Subsection [~~(4)~~] (5) do not apply when a person is sentenced under Subsection [~~(3)~~] (4)(c).

[~~(6)~~] (7) Subsections [~~(3)(b)~~ and ~~(3)(e)~~] (4)(b) and (c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

[~~(7)~~] (8) Imprisonment under [~~this section~~] Subsection (4) is mandatory in accordance with Section 76-3-406.

Section 2. Section 76-5-304 is amended to read:**76-5-304. Unlawful detention and unlawful detention of a minor.**

(1) An actor commits unlawful detention if the actor intentionally or knowingly, without authority of law, and against the will of the victim, detains or restrains the victim under circumstances not constituting a violation of:

(a) kidnapping, Section 76-5-301; or

(b) child kidnapping, Section 76-5-301.1[~~or~~].

~~[(c) aggravated kidnapping, Section 76-5-302.]~~

(2) An actor commits unlawful detention of a minor if the actor intentionally or knowingly, without authority of law, and against the will of the victim, coerces or exerts influence over the victim with the intent to cause the victim to remain with the actor for an unreasonable period of time under the circumstances, and:

(a) the act is under circumstances not constituting a violation of:

(i) kidnapping, Section 76-5-301; or

(ii) child kidnapping, Section 76-5-301.1; ~~[or]~~
and

~~[(iii) aggravated kidnapping, Section 76-5-302; and]~~

(b) the actor is at least four or more years older than the victim.

(3) As used in this section, acting “against the will of the victim” includes acting without the consent of the legal guardian or custodian of a victim who is:

(a) a mentally incompetent person; or

(b) a minor who is 14 or 15 years of age.

(4) Unlawful detention is a class B misdemeanor.

CHAPTER 107**H. B. 83**

Passed February 26, 2019

Approved March 22, 2019

Effective May 14, 2019

**STATUTE OF
LIMITATIONS MODIFICATIONS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to a statute of limitations.

Highlighted Provisions:

This bill:

- ▶ clarifies the statute of limitations for credit agreements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-2-309, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-2-309 is amended to read:**78B-2-309. Within six years -- Mesne profits of real property -- Instrument in writing -- Fire suppression.**

(1) An action may be brought within six years:

~~[(1)]~~ (a) for the mesne profits of real property;

~~[(2)]~~ (b) subject to Subsection (2), upon any contract, obligation, or liability founded upon an instrument in writing, except those mentioned in Section 78B-2-311; [and] or

~~[(3)]~~ (c) to recover fire suppression costs or other damages caused by wildland fire.

(2) For a credit agreement, as defined in Section 25-5-4, the six-year period described in Subsection (1) begins the later of the day on which:

(a) the debt arose;

(b) the debtor makes a written acknowledgment of the debt or a promise to pay the debt; or

(c) the debtor or a third party makes a payment on the debt.

CHAPTER 108**H. B. 86**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

**SERVICE AREA BOARD
OF TRUSTEES AMENDMENTS**Chief Sponsor: Steve Waldrip
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill addresses the membership of certain service area boards of trustees.

Highlighted Provisions:

This bill:

- ▶ allows a municipal governing body to petition to appoint a member of a service area board of trustees in certain circumstances;
- ▶ provides for the appointment and term of a municipal governing body appointee on a service area board of trustees;
- ▶ allows a service area board of trustees to rescind the board's approval of a municipal petition to appoint a member of the board; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-302, as last amended by Laws of Utah 2018, Chapter 112

17B-2a-905, as last amended by Laws of Utah 2018, Chapter 112

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

Section 1. Section 17B-1-302 is amended to read:**17B-1-302. Board member qualifications -- Number of board members.**

(1) ~~[Each]~~ Except as provided in Section 17B-2a-905, each member of a local district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of

seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(i) receives service from the district; and

(ii) is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land, the requirement under Subsection (1)(b) is replaced with the requirement that the member be an owner of land within the local district that receives service from the district, or an agent or officer of the owner.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, Subsections 20A-1-512(1)(a) and (b);

(ii) no qualified candidate timely files to be considered for appointment to the local district board; and

(iii) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

- (i) violate Subsection (4); or
- (ii) serve to shorten the term of any member of the board.

Section 2. Section 17B-2a-905 is amended to read:

17B-2a-905. Service area board of trustees.

(1) (a) Except as provided in Subsection (2)~~[(a)],~~ (3), or (4):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

- (A) consist of the county legislative body;
- (B) be appointed, as provided in Section 17B-1-304; or
- (C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

- (i) board members shall be elected in conjunction with the bond election;
- (ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

- (i) the service area was created to provide:
 - (A) fire protection, paramedic, and emergency services; or
 - (B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b) (i) Each county with unincorporated area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint up to three members to the board of trustees.

(ii) Each municipality with an area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later service area annexation or municipal incorporation or annexation, shall appoint one member to the board of trustees, unless the area of the municipality is withdrawn from the service area.

(iii) Each member that a county or municipality appoints under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) each municipality with an area that is included within the service area or county with unincorporated area, whether in whole or in part, that is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with all the other municipalities or counties with an area that is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).

(b) (i) Each county with unincorporated area, whether in whole or in part, that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality with an area that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member that a county or municipality appoints under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(4), the number of members of a board of trustees of a service area described in Subsection (3)(a) is the number resulting from the application of Subsection (3)(b).

(4) (a) This Subsection (4) applies to a service area if:

(i) the service area provides a service to a municipality in accordance with an agreement between the service area and the municipality in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) the municipality is not included within the service area's boundary;

(iii) the governing body of the municipality petitions the service area to request authority to appoint one member of the board of trustees of the service area; and

(iv) the service area board of trustees approves the petition.

(b) The governing body of a municipality described in Subsection (4)(a) may appoint a member of a service area board of trustees as follows:

(i) the governing body shall make the appointment in accordance with:

(A) Section 17B-1-304; or

(B) to fill a mid-term vacancy, Subsection 20A-1-512(1);

(ii) the governing body may not appoint an individual who is not a registered voter residing within the municipality;

(iii) the district boundary requirement in Subsection 17B-1-302(1) does not apply to the governing body's appointee;

(iv) the governing body and the service area board of trustees may not shorten the term of office of any member of the board due to the governing body's appointment;

(v) notwithstanding Subsection 17B-1-302(4), the number of members of the board of trustees of a service area described in Subsection (4)(a) may be odd or even; and

(vi) if the number of members of a service area board of trustees is odd before the governing body's appointment, the member that the governing body appoints may replace a member whose term is expiring or who otherwise leaves a vacancy on the board or, if no expiring term or vacancy exists:

(A) the number of board members may temporarily be even, including the member that the governing body appoints, until an expiring term or vacancy exists that restores the board membership to an odd number; and

(B) no appointing authority may fill the expiring term or vacancy that restores the board membership to an odd number.

(c) (i) The service area board of trustees may rescind the approval described in Subsection (4)(a) at any time.

(ii) If the service area board of trustees rescinds the approval described in Subsection (4)(a) during the term of a board member that the governing body appointed, the appointee shall remain on the board for the remainder of the appointee's term.

CHAPTER 109**H. B. 97**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**UNIFORM COMMERCIAL
CODE AMENDMENTS**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends the Uniform Commercial Code in relation to funds transfers.

Highlighted Provisions:

This bill:

- ▶ provides that the regulations governing a funds transfer apply to a remittance transfer under certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

70A-4a-108, as enacted by Laws of Utah 1990, Chapter 294

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

Section 1. Section 70A-4a-108 is amended to read:**70A-4a-108. Relationship to Electronic Fund Transfer Act.**

(1) [This] As used in this section, "Electronic Fund Transfer Act" means the Electronic Fund Transfer Act of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. Sec. 1693 et seq., as amended.

(2) Except as provided in Subsection (3), this chapter does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act [of 1978, Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. Section 1693 et seq., as amended].

(3) This chapter applies to a funds transfer that is a remittance transfer as defined in 15 U.S.C. Sec. 1693o-1, as amended, unless the remittance transfer is an electronic fund transfer as defined in 15 U.S.C. Sec. 1693a, as amended.

(4) In a funds transfer to which this chapter applies, in the event of inconsistency between an applicable provision of this chapter and an applicable provision of the Electronic Fund Transfer Act, the Electronic Fund Transfer Act governs to the extent of the inconsistency.

CHAPTER 110**H. B. 104**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

PRIVATE COUNSELORS AMENDMENTS

Chief Sponsor: Christine F. Watkins

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends certification requirements for private mental health therapists to provide certain public services to certain individuals.

Highlighted Provisions:

This bill:

- ▶ modifies the authority of the Division of Substance Abuse and Mental Health to establish requirements and procedures for certification of a practitioner, provider, or facility that provides mental health treatment to certain individuals;
- ▶ provides that the Division of Substance Abuse and Mental Health may not require additional licensure for a private mental health therapist before the therapist may provide mental health and substance use disorder services to individuals who are incarcerated or who are required to participate in treatment by a court or the Board of Pardons and Parole; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-15-103, as last amended by Laws of Utah 2018, Chapter 322

ENACTS:

62A-15-103.5, Utah Code Annotated 1953

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

Section 1. Section 62A-15-103 is amended to read:**62A-15-103. Division -- Creation -- Responsibilities.**

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance

abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah

State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and

Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is [required to participate in treatment by the court or the Board of Pardons and Parole, or who is incarcerated] incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i); and

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

- (a) use of public funds;
- (b) oversight of public funds; and
- (c) governance of substance use disorder and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 2. Section 62A-15-103.5 is enacted to read:

62A-15-103.5. Provider certification.

The division may not require a licensed mental health therapist, as defined in Section 58-60-102, to also be licensed by the Office of Licensing, with the Department of Human Services, in order to certify the licensed mental health therapist to provide mental health or substance use disorder screening, assessment, treatment, or recovery support services to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole.

CHAPTER 111**H. B. 117**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**CHILD CARE LICENSING
ACT AMENDMENTS**Chief Sponsor: Karen Kwan
Senate Sponsor: Lincoln Fillmore**LONG TITLE****General Description:**

This bill amends the composition of the Child Care Center Licensing Committee.

Highlighted Provisions:

This bill:

- ▶ amends the composition of the Child Care Center Licensing Committee to include licensed health care professionals who specialize in pediatric health under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-39-200, as enacted by Laws of Utah 2014, Chapter 322

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

Section 1. Section 26-39-200 is amended to read:**26-39-200. Child Care Center Licensing Committee.**

(1) (a) The Child Care Center Licensing Committee created in Section 26-1-7 shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

CHAPTER 112**H. B. 122**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**PROPERTY RIGHTS OMBUDSMAN
ADVISORY OPINION AMENDMENTS**

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions regarding issues in question in both litigation and an advisory opinion of the Property Rights Ombudsman.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the award of fees and costs when an issue in an advisory opinion of the Property Rights Ombudsman is subsequently litigated;
- ▶ amends a provision regarding a refund of an impact fee at issue in both litigation and an advisory opinion of the Property Rights Ombudsman; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-43-206, as last amended by Laws of Utah 2014, Chapter 59

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

Section 1. Section 13-43-206 is amended to read:**13-43-206. Advisory opinion -- Process.**

(1) A request for an advisory opinion under Section 13-43-205 shall be:

- (a) filed with the Office of the Property Rights Ombudsman; and
- (b) accompanied by a filing fee of \$150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

- (a) deliver notice of the request to opposing parties indicated in the request;
- (b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10) (a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) (a) Subject to Subsection (12)(d), if a dispute involving land use law results in the issuance of an advisory opinion described in this section, if the same issue that is the subject of ~~an~~ the advisory opinion ~~[is listed as a cause of action in litigation, and that cause of action]~~ is subsequently litigated on the same facts and circumstances at issue in the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion~~[-(4)],~~

the substantially prevailing party on that cause of action[; (A)] may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution[; and].

~~[(B)]~~ (b) In addition to any amounts awarded under Subsection (12)(a), if the dispute described in Subsection (12)(a) in whole or in part concerns an impact fee, and if the result of the litigation requires that the political subdivision or private entity refund the impact fee in accordance with Section 11-36a-603, the political subdivision or private entity shall refund the impact fee in an amount that is ~~[shall be refunded an impact fee held to be in violation of Title 11, Chapter 36a, Impact Fees Act,]~~ based on the difference between the impact fee paid and what the impact fee should have been if the ~~[government]~~ political subdivision or private entity had correctly calculated the impact fee[; and].

~~[(ii) in accordance with Subsection (12)(b), a government entity shall refund an impact fee held to be in violation of Title 11, Chapter 36a, Impact Fees Act, to the person who was in record title of the property on the day on which the impact fee for the property was paid if:]~~

~~[(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and]~~

~~[(B) the person described in Subsection (12)(a)(ii) requests the impact fee refund from the government entity within 30 days after the day on which the court issued the final ruling on the impact fee.]~~

~~[(b) A government entity subject to Subsection (12)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee.]~~

(c) Nothing in this Subsection (12) is intended to create any new cause of action under land use law.

(d) Subsection (12)(a) does not apply unless the resolution described in Subsection (12)(a) is final.

(13) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, the effect of a land use decision, or the condemning entity's occupancy of a property.

CHAPTER 113**H. B. 123**

Passed February 21, 2019

Approved March 22, 2019

Effective May 14, 2019

**JORDAN RIVER RECREATION
AREA AMENDMENTS**

Chief Sponsor: Mike Winder

Senate Sponsor: Wayne A. Harper

Cosponsors: Cheryl K. Acton

Carl R. Albrecht

Joel K. Briscoe

Joel Ferry

Phil Lyman

Derrin R. Owens

Douglas V. Sagers

Keven J. Stratton

Christine F. Watkins

Logan Wilde

LONG TITLE**General Description:**

This bill amends provisions related to the Jordan River recreation area.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ amends powers of Division of Forestry, Fire, and State Lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-2-8, as enacted by Laws of Utah 2018,
Chapter 378

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

Section 1. Section 65A-2-8 is amended to read:**65A-2-8. Jordan River improvement projects.**

(1) As used in this section:

(a) "Commission" means the Jordan River Commission created by interlocal agreement.

(b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and [4430] 4800 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) and (4), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting [an aviary,] Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:

(A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

(i) receive the approval of the commission; and

(ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) The programs described in this section may only be implemented as appropriations from the Legislature allow.

CHAPTER 114**H. B. 126**

Passed March 13, 2019

Approved March 22, 2019

Effective May 14, 2019

TIRE RECYCLING MODIFICATIONS

Chief Sponsor: Lee B. Perry

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to tire recycling.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “crumb rubber”;
- ▶ addresses waste tire transporters complying with this part; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-6-803, as last amended by Laws of Utah 2015, Chapter 451

19-6-806, as last amended by Laws of Utah 2012, Chapter 360

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

Section 1. Section 19-6-803 is amended to read:**19-6-803. Definitions.**

As used in this part:

(1) “Abandoned waste tire pile” means a waste tire pile regarding which the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove ~~it~~ the tire pile.

(2) (a) “Beneficial use” means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(b) “Beneficial use” includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

(c) “Beneficial use” does not include the use of waste tires or material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) “Board” means the Waste Management and Radiation Control Board created under Section 19-1-106.

(4) “Chip” or “chipped tire” means a two inch square or smaller piece of a waste tire.

(5) “Commission” means the Utah State Tax Commission.

(6) (a) “Consumer” means a person who purchases a new tire to satisfy a direct need, rather than for resale.

(b) “Consumer” includes a person who purchases a new tire for a motor vehicle to be rented or leased.

(7) “Crumb rubber” means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to $\frac{3}{8}$ inch in diameter and are 98% wire free by weight.

(8) “Director” means the director of the Division of Waste Management and Radiation Control.

(9) “Disposal” means the deposit, dumping, or permanent placement of ~~any~~ waste tire in or on ~~any~~ land or in ~~any~~ water in the state.

(10) “Dispose of” means to deposit, dump, or permanently place ~~any~~ waste tire in or on ~~any~~ land or in ~~any~~ water in the state.

(11) “Division” means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(12) “Fund” means the Waste Tire Recycling Fund created in Section 19-6-807.

(13) “Landfill waste tire pile” means a waste tire pile:

(a) located within the permitted boundary of a landfill operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

(14) “Local health department” means the local health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

(15) “Materials derived from waste tires” means tire sections, tire chips, tire shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

(16) “Mobile facility” means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

(17) “New motor vehicle” means a motor vehicle ~~which~~ that has never been titled or registered.

(18) “Passenger tire equivalent” means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

(19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

(20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

(b) is registered as a recycler in accordance with Section 19-6-806.

(21) "Recycling fee" means the fee provided for in Section 19-6-805.

(22) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.

(23) (a) "Storage" means the placement of waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Storage" does not include:

(i) the use of waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site;

(ii) the storage for five or fewer days of waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use; or

(iii) the storage of a waste tire before the tire is:

(A) resold wholesale or retail; or

(B) recapped.

(24) (a) "Store" means to place waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Store" does not include:

(i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site; or

(ii) to store for five or fewer days waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use.

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle in which a person or property is or may be transported or drawn upon a highway.

(26) "Tire retailer" means ~~any~~ a person engaged in the business of selling new tires either as replacement tires or as part of a new vehicle sale.

(27) (a) "Ultimate product" means a product that has as a component materials derived from waste tires and that the director finds has a demonstrated market.

(b) "Ultimate product" includes pyrolyzed materials derived from:

(i) waste tires; or

(ii) chipped tires.

(c) "Ultimate product" does not include a product regarding which a waste tire remains after the product is disposed of or disassembled.

(28) "Waste tire" means:

(a) a tire that is no longer suitable for ~~its~~ the tire's original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

(29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

(30) (a) "Waste tire transporter" means a person ~~or entity~~ engaged in picking up or transporting at one time more than 10 whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes ~~any~~ a person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection (30)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

(A) that person's personal vehicles;

(B) a commercial vehicle fleet owned or operated by that person or that person's employer;

(C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or

(D) a retail tire business owned or operated by that person or that person's employer;

(ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63M-5-103, or a local health department;

(iii) a recycler of waste tires;

(iv) a person transporting tires by rail as a common carrier subject to federal regulation; or

(v) a person transporting processed or chipped tires.

Section 2. Section 19-6-806 is amended to read:

19-6-806. Registration of waste tire transporters and recyclers.

(1) (a) The director shall register ~~each~~ an applicant for registration to act as a waste tire transporter if the applicant meets the requirements of this section.

(b) An applicant for registration as a waste tire transporter shall:

(i) submit an application in a form prescribed by the director;

(ii) pay a fee as determined by the board under Section 63J-1-504;

(iii) provide the name and business address of the operator;

(iv) provide proof of liability insurance or other form of financial responsibility in an amount determined by board rule, but not more than \$300,000, for any liability the waste tire transporter may incur in transporting waste tires; and

(v) meet requirements established by board rule.

(c) The holder of a registration under this section shall advise the director in writing of ~~[any changes]~~ a change in application information provided to the director within 20 days of the change.

(d) A waste tire transporter may only deliver tires to a recycler in accordance with this part or rules made under this part. If the director has reason to believe a waste tire transporter has disposed of tires other than as allowed under this part, the director shall conduct an investigation and, after complying with the procedural requirements of Title 63G, Chapter 4, Administrative Procedures Act, may revoke the registration.

(2) (a) The director shall register ~~[each]~~ an applicant for registration to act as a waste tire recycler if the applicant meets the requirements of this section.

(b) An applicant for registration as a waste tire recycler shall:

(i) submit an application in a form prescribed by the director;

(ii) pay a fee as determined by the board under Section 63J-1-504;

(iii) provide the name and business address of the operator of the recycling business;

(iv) provide proof of liability insurance or other form of financial responsibility in an amount determined by board rule, but not more than \$300,000, for any liability the waste tire recycler may incur in storing and recycling waste tires;

(v) engage in activities as described under the definition of recycler in Section 19-6-803; and

(vi) meet requirements established by board rule.

(c) The holder of a registration under this section shall advise the director in writing of ~~[any changes]~~ a change in application information provided to the director within 20 days of the change.

(d) If the director has reason to believe a waste tire recycler has falsified any information provided in an application for partial reimbursement under this section, the director shall, after complying with the procedural requirements of Title 63G, Chapter 4, Administrative Procedures Act, revoke the registration.

(3) The board shall establish a uniform fee for registration ~~[which]~~ that shall be imposed by ~~[any]~~ a unit of local government or local health department that requires a registration fee as part of the registration of waste tire transporters or waste tire recyclers.

CHAPTER 115**H. B. 128**

Passed March 1, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**CONSUMER TICKET
 PROTECTION MODIFICATIONS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts provisions related to the Division of Consumer Protection and the sale of event tickets.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the process related to a request to review a citation issued by the Division of Consumer Protection;
- ▶ requires a person who resells event tickets to provide certain disclosures on the person's website, including a statement that the ticket website is a secondary market and an itemized breakdown of the price of each ticket;
- ▶ prohibits a person who resells event tickets from representing that the person is the primary, rather than a secondary, ticket seller;
- ▶ provides that the provisions of this bill do not apply to a religious organization or an individual consumer; and
- ▶ addresses enforcement of the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

13-2-1, as last amended by Laws of Utah 2018, Chapters 252 and 290

13-2-6, as last amended by Laws of Utah 2018, Chapter 276

ENACTS:

13-54-101, Utah Code Annotated 1953

13-54-102, Utah Code Annotated 1953

13-54-103, Utah Code Annotated 1953

13-54-201, Utah Code Annotated 1953

13-54-202, Utah Code Annotated 1953

13-54-301, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

13-2-1, as last amended by Laws of Utah 2018, Chapters 252 and 290

13-54-101, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 39, Child Protection Registry;
- (p) Chapter 41, Price Controls During Emergencies Act;
- (q) Chapter 42, Uniform Debt-Management Services Act;
- (r) Chapter 49, Immigration Consultants Registration Act;
- (s) Chapter 51, Transportation Network Company Registration Act;
- (t) Chapter 52, Residential Solar Energy Disclosure Act; ~~and~~
- (u) Chapter 53, Residential, Vocational and Life Skills Program Act[-]; and
- (v) Chapter 54, Ticket Website Sales Act.

Section 2. Section 13-2-6 is amended to read:**13-2-6. Enforcement powers.**

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.

(2) Any person who intentionally violates a final cease and desist order entered by the division of

which the person has notice is guilty of a third degree felony.

(3) If the division has reasonable cause to believe that any person has violated or is violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.

(a) Each citation shall be in writing and shall:

(i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision violated;

(ii) state that any request for review of the citation shall be made in writing and be received by the division no more than 20 calendar days following issuance;

(iii) state the consequences of failing to make a timely request for review; and

(iv) state all other information required by Subsection 63G-4-201(2).

(b) In computing any time period prescribed by this section, the following days may not be included:

(i) the day on which the division issues a citation; and

(ii) the day on which the division receives a request for review of a citation.

~~[(c) If the recipient of a citation makes a timely request for review, within 20 calendar days after receiving the request, the division shall initiate an adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.]~~

~~[(d)] (c) (i) If the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1, the citation may not become final, and the division shall immediately vacate the citation and promptly notify the recipient in writing.~~

~~[(d)] (ii) If the presiding officer finds that there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1, the citation shall become final and the division may enter a cease and desist order against the recipient.~~

~~[(e)] (d) A citation issued under this chapter may be personally served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure. A citation also may be served by first-class mail, postage prepaid.~~

~~[(f)] (e) If the recipient fails to make a [timely] request for review within 20 calendar days after the day on which the division issues the citation, the citation shall become the final order of the division. The period to contest the citation may be extended by the director for good cause shown.~~

~~[(g)] (f) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.~~

(4) (a) A person who has violated, is violating, or has attempted to violate a chapter identified in

Section 13-2-1 is subject to the division's jurisdiction if:

(i) the violation or attempted violation is committed wholly or partly within the state;

(ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

(iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.

(b) As used in this section, "transactional resources" means:

(i) any mail drop or mail box, regardless of whether the mail drop or mail box is located on the premises of a United States Post Office;

(ii) any telephone or facsimile transmission device;

(iii) any Internet connection by a resident or inhabitant of this state with a resident- or nonresident-maintained internet site;

(iv) any business office or private residence used for a business-related purpose;

(v) any account with or services of a financial institution;

(vi) the services of a common or private carrier; or

(vii) the use of any city, county, or state asset or facility, including any road or highway.

(5) The director or the director's designee, for the purposes outlined in any chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, or compel the production of papers, books, accounts, documents, or evidence.

(6) (a) An administrative action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation occurs.

(b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than five years after the day on which the alleged violation occurs.

(c) The provisions of this Subsection (6) control over the provisions of Title 78B, Chapter 2, Statutes of Limitations.

Section 3. Section 13-54-101 is enacted to read:

CHAPTER 54. TICKET WEBSITE SALES ACT

Part 1. General Provisions

13-54-101. Title.

This chapter is known as the "Ticket Website Sales Act."

Section 4. Section 13-54-102 is enacted to read:

13-54-102. Definitions.

(1) “Consumer” means a person who purchases a ticket for use by the person or the person’s invitee.

(2) “Division” means the Division of Consumer Protection in the Department of Commerce.

(3) “Domain” means the portion of text in a URL that is to the left of the top-level domain.

(4) “Event” means a single, specific occurrence of one of the following, that takes place at a venue:

(a) a concert;

(b) a game;

(c) a performance;

(d) a show; or

(e) an occasion similar to the occasions described in Subsections (4)(a) through (d).

(5) “Event participant” means any of the following persons who is associated with an event or on behalf of whom a person sells a ticket to an event:

(a) an artist;

(b) a league;

(c) a team;

(d) a tour group;

(e) a venue; or

(f) any person similar to the persons described in Subsections (5)(a) through (e).

(6) “Person” does not include a government entity.

(7) “Primary ticket seller” means the person who first sells a particular ticket.

(8) (a) “Reseller” means a person who sells or offers for sale a ticket after it is sold by a primary ticket seller.

(b) “Reseller” includes a person who engages in conduct described in Subsection (8)(a), regardless of whether the person is also the primary ticket seller of the ticket or the primary ticket seller of another ticket to the same event.

(c) “Reseller” does not include a person who transfers a ticket to another person without reimbursement or consideration.

(9) “Ticket” means evidence of an individual’s right of entry to an event.

(10) “Ticket aggregator” means a person who aggregates the prices for which other persons offer tickets for sale or resale.

(11) “Ticket website” means:

(a) with respect to a reseller, a website on which the reseller sells or offers for sale or resale one or more tickets; or

(b) with respect to a ticket aggregator, a website on which the ticket aggregator aggregates the prices for which other persons offer tickets for sale or resale.

(12) “Top-level domain” includes .com, .net, and .org.

(13) “URL” means the uniform resource locator for a website on the Internet.

(14) (a) “Venue” means real property located in the state where one or more persons host a concert, game, performance, show, or similar occasion.

(b) “Venue” includes an arena, a stadium, a theater, a concert hall, an amphitheater, a fairground, a club, a convention center, a public assembly facility, or a mass gathering location.

Section 5. Section 13-54-103 is enacted to read:

13-54-103. Exemptions.

(1) This chapter does not apply to:

(a) an entity that is owned, controlled, operated, or maintained by a bona fide church or religious organization that is exempt from property taxation under the laws of the state; or

(b) a consumer reselling a ticket that the consumer purchased as a consumer.

(2) A person who claims an exemption under this section has the burden of proving that the person is entitled to the exemption.

Section 6. Section 13-54-201 is enacted to read:

Part 2. Requirements and Prohibited Practices

13-54-201. Disclosure requirements.

(1) A reseller or ticket aggregator shall clearly and conspicuously disclose on each of its ticket websites that:

(a) the website is a secondary market and is not the primary ticket seller; and

(b) the price of a ticket on the website may be higher than face value.

(2) A reseller shall clearly and conspicuously disclose during the checkout process an itemization of the total price for which the reseller is offering the ticket for sale or resale, including taxes and each fee.

Section 7. Section 13-54-202 is enacted to read:

13-54-202. Prohibited practices.

(1) (a) It is unlawful for any person who is not a primary ticket seller to represent, directly or indirectly, that the person is a primary ticket seller.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a person who is not a primary ticket seller establish a presumption that the person is representing that the person is a primary ticket seller in violation of Subsection (1)(a):

(i) using the name of an event in the domain of the person’s ticket website, unless the person has written authorization from an agent of the event;

(ii) using the name of an event participant in the domain of the person's ticket website, unless the person has written authorization from the event participant or an agent of the event participant; or

(iii) using, in paid search results, the name of an event or event participant in a manner described in Subsection (1)(b)(i) or (ii).

(2) It is unlawful for a person to fail to comply with a provision of Section 13-54-201.

(3) Nothing in this section prohibits a person from including the name of an event or an event participant in a URL after the top-level domain.

Section 8. Section 13-54-301 is enacted to read:

Part 3. Enforcement

13-54-301. Enforcement powers.

(1) The division may enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to \$2,500 for each violation of this chapter; and

(ii) the division may bring an action in a court of competent jurisdiction to enforce the provisions of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) find that an act or practice violates a provision of this chapter; and

(ii) award, for each violation of this chapter:

(A) actual damages on behalf of each consumer who complained to the division within a reasonable time after the division initiated the court action; and

(B) a fine of up to \$2,500.

(c) For any judgment in favor of the division under this section, the court may award:

(i) costs, including the costs of investigation; and

(ii) reasonable attorney fees.

(3) Each ticket sold or offered for sale while a person is in violation of a provision of this chapter constitutes a separate violation of this chapter.

(4) Nothing in this chapter affects:

(a) a remedy available to a person independent of this chapter; or

(b) the division's ability or authority to enforce any other law.

Section 9. Coordinating H.B. 128 with S.B. 69 -- Superseding technical and substantive amendments.

If this H.B. 128 and S.B. 69, Consumer Ticket Protection Amendments, both pass and become law,

it is the intent of the Legislature that on July 1, 2019, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication modify:

(1) Subsection 13-2-1(2)(v) in S.B. 69 to read as follows: "Chapter 54, Ticket Transferability Act."; and

(2) Section 13-54-101 in S.B. 69 to read as follows: "This chapter is known as the "Ticket Transferability Act."

CHAPTER 116**H. B. 131**

Passed March 1, 2019

Approved March 22, 2019

Effective May 14, 2019

POLITICAL COMMITTEES AMENDMENTS

Chief Sponsor: Brad M. Daw
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to financial reporting requirements for a political action committee and a political issues committee.

Highlighted Provisions:

This bill:

- ▶ requires a political action committee to file a financial statement before a county political convention under certain circumstances;
- ▶ requires a political issues committee, under certain circumstances, to report the receipt of a contribution within three business days after the contribution's receipt;
- ▶ amends the deadline by which a political issues committee is required to file a financial statement before an initiative or referendum petition is submitted;
- ▶ establishes civil penalties; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-11-602, as last amended by Laws of Utah 2018, Chapter 83
- 20A-11-603, as last amended by Laws of Utah 2015, Chapter 204
- 20A-11-801, as last amended by Laws of Utah 2018, Chapter 83
- 20A-11-802, as last amended by Laws of Utah 2018, Chapter 83

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

Section 1. Section 20A-11-602 is amended to read:**20A-11-602. Political action committees -- Financial reporting.**

(1) (a) Each registered political action committee that has received contributions totaling at least \$750, or disbursed expenditures totaling at least \$750, during a calendar year shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the county political convention of a political party, if the political action committee makes an expenditure on or before the day described in Subsection (1)(b)(ii) in relation to a candidate that the party may nominate at the convention;

~~(iii)~~ (iv) seven days before the regular primary election date;

~~(iv)~~ (v) on September 30; and

~~(v)~~ (vi) seven days before:

(A) the municipal general election; and

(B) the regular general election [date].

(b) The registered political action committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) for a financial statement described in Subsections (1)(a)(ii) through ~~(iv)~~ (v), all contributions and expenditures as of five days before the required filing date of the financial statement.

(c) The registered political action committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) The verified financial statement shall include:

(i) the name and address of any individual who makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(ii) the identification of any publicly identified class of individuals that makes a contribution to the reporting political action committee, if known, and the amount of the contribution;

(iii) the name and address of any political action committee, group, or entity, if known, that makes a contribution to the reporting political action committee, and the amount of the contribution;

(iv) for each nonmonetary contribution, the fair market value of the contribution;

(v) the name and address of each reporting entity that received an expenditure from the reporting political action committee, and the amount of each expenditure;

(vi) for each nonmonetary expenditure, the fair market value of the expenditure;

(vii) the total amount of contributions received and expenditures disbursed by the reporting political action committee;

(viii) a statement by the political action committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial report is accurate; and

(ix) a summary page in the form required by the lieutenant governor that identifies:

- (A) beginning balance;
- (B) total contributions during the period since the last statement;
- (C) total contributions to date;
- (D) total expenditures during the period since the last statement; and
- (E) total expenditures to date.

(b) (i) Contributions received by a political action committee that have a value of \$50 or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(3) A group or entity may not divide or separate into units, sections, or smaller groups for the purpose of avoiding the financial reporting requirements of this chapter, and substance shall prevail over form in determining the scope or size of a political action committee.

(4) (a) As used in this Subsection (4), "received" means:

(i) for a cash contribution, that the cash is given to a political action committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political action committee.

(b) A political action committee shall report each contribution to the lieutenant governor within 31 days after the contribution is received.

(5) A political action committee may not expend a contribution for political purposes if the contribution:

- (a) is cash or a negotiable instrument;
- (b) exceeds \$50; and
- (c) is from an unknown source.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political action committee shall disburse the amount of the contribution to:

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

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

Section 2. Section 20A-11-603 is amended to read:

20A-11-603. Criminal penalties -- Fines.

(1) (a) Each political action committee that fails to file a financial statement by the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(b) Each political action committee that fails to file a financial statement described in Subsections 20A-11-602(1)(a)(iii)(iv) through (v) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (1)(b) to the attorney general.

(2) Within 30 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after receiving notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$1,000 against a political action committee that violates Subsection (4)(a).

Section 3. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political issues committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political issues committee has filed a notice of dissolution under Subsection (4).

(b) If a political issues committee is organized after the January 10 filing date, the political issues committee shall file an initial statement of organization no later than seven days after:

- (i) receiving political issues contributions totaling at least \$750; or

(ii) disbursing political issues expenditures totaling at least \$750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(3) The statement of organization shall include:

(a) the name and street address of the political issues committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, street address, occupation, and title of all other officers of the political issues committee;

(d) the name and street address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, street address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) Any registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) Notice of a change of a primary officer described in Subsection (2) shall:

(i) be filed within 10 days of the date of the change; and

(ii) contain the name and title of the officer being replaced and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

(7) (a) As used in this Subsection (7), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) Each political issues committee shall report to the lieutenant governor each contribution received by the political issues committee within three business days after the day on which the contribution is received if the contribution is received within 30 days before the last day on which the sponsors of the initiative or referendum described in Subsection 20A-11-801(3)(h) may submit signatures to qualify the initiative or referendum for the ballot.

(c) For each contribution that a political issues committee fails to report within the period described in Subsection (7)(b), the lieutenant governor shall impose a fine against the political issues committee in an amount equal to:

(i) 10% of the amount of the contribution, if the political issues committee reports the contribution within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b); or

(ii) 20% of the amount of the contribution, if the political issues committee fails to report the contribution within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b).

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (7)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each political issues committee are available for public access:

(A) each fine imposed by the lieutenant governor against the political issues committee;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

Section 4. Section 20A-11-802 is amended to read:

20A-11-802. Political issues committees -- Financial reporting.

(1) (a) Each registered political issues committee that has received political issues contributions totaling at least \$750, or disbursed political issues expenditures totaling at least \$750, during a calendar year, shall file a verified financial statement with the lieutenant governor's office:

(i) on January 10, reporting contributions and expenditures as of December 31 of the previous year;

(ii) seven days before the state political convention of each major political party;

(iii) seven days before the regular primary election date;

(iv) seven days before the date of an incorporation election, if the political issues committee has received ~~[donations or made disbursements]~~ or expended funds to affect an incorporation;

(v) at least three days before the first public hearing held as required by Section 20A-7-204.1;

(vi) if the political issues committee has received or expended funds in relation to an initiative or referendum, ~~[at the time the]~~ five days before the deadline for the initiative or referendum sponsors to submit:

(A) the verified and certified initiative packets ~~[as required by]~~ under Section 20A-7-206; or

(B) the signed and verified referendum packets ~~[as required by]~~ under Section 20A-7-306;

(vii) on September 30; and

(viii) seven days before:

(A) the municipal general election; and

(B) the regular general election.

(b) The political issues committee shall report:

(i) a detailed listing of all contributions received and expenditures made since the last statement; and

(ii) all contributions and expenditures as of five days before the required filing date of the financial statement, except for a financial statement filed on January 10.

(c) The political issues committee need not file a statement under this section if it received no contributions and made no expenditures during the reporting period.

(2) (a) That statement shall include:

(i) the name and address, if known, of any individual who makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(ii) the identification of any publicly identified class of individuals that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iii) the name and address, if known, of any political issues committee, group, or entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(iv) the name and address of each reporting entity that makes a political issues contribution to the reporting political issues committee, and the amount of the political issues contribution;

(v) for each nonmonetary contribution, the fair market value of the contribution;

(vi) except as provided in Subsection (2)(c), the name and address of each individual, entity, or group of individuals or entities that received a political issues expenditure of more than \$50 from the reporting political issues committee, and the amount of each political issues expenditure;

(vii) for each nonmonetary expenditure, the fair market value of the expenditure;

(viii) the total amount of political issues contributions received and political issues expenditures disbursed by the reporting political issues committee;

(ix) a statement by the political issues committee's treasurer or chief financial officer certifying that, to the best of the person's knowledge, the financial statement is accurate; and

(x) a summary page in the form required by the lieutenant governor that identifies:

(A) beginning balance;

(B) total contributions during the period since the last statement;

(C) total contributions to date;

(D) total expenditures during the period since the last statement; and

(E) total expenditures to date.

(b) (i) Political issues contributions received by a political issues committee that have a value of \$50

or less need not be reported individually, but shall be listed on the report as an aggregate total.

(ii) Two or more political issues contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(c) When reporting political issue expenditures made to circulators of initiative petitions, the political issues committee:

(i) need only report the amount paid to each initiative petition circulator; and

(ii) need not report the name or address of the circulator.

(3) (a) As used in this Subsection (3), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) A political issues committee shall report each contribution to the lieutenant governor within 31 days after the contribution is received.

(4) A political issues committee may not expend a contribution for a political issues expenditure if the contribution:

(a) is cash or a negotiable instrument;

(b) exceeds \$50; and

(c) is from an unknown source.

(5) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from an unknown source, a political issues committee shall disburse the amount of the contribution to:

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

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

CHAPTER 117**H. B. 132**

Passed February 13, 2019

Approved March 22, 2019

Effective May 14, 2019

**OCCUPATIONAL AND PROFESSIONAL
LICENSING AMENDMENTS**

Chief Sponsor: Karen Kwan

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies provisions related to the Division of Occupational and Professional Licensing (DOPL).

Highlighted Provisions:

This bill:

- ▶ allows DOPL to offer required examinations in languages in addition to English.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-1-310, Utah Code Annotated 1953

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

Section 1. Section 58-1-310 is enacted to read:**58-1-310. Required examinations in languages in addition to English.**

In order to encourage economic development in the state in accordance with Subsection 63G-1-201(4)(e), the department may offer any required examination under this title, which is prepared by a national testing organization, in languages in addition to English.

CHAPTER 118**H. B. 135**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

**WILDFIRE
PREPAREDNESS AMENDMENTS**

Chief Sponsor: Derrin R. Owens

Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill establishes the Wildland Fire Preparedness Grants Fund.

Highlighted Provisions:

This bill:

- ▶ creates the Wildland Fire Preparedness Grants Fund, including sources of money;
- ▶ directs the state forester to make one or more grants to fire departments or volunteer fire departments to assist in the suppression of wildland fire;
- ▶ requires the Division of Forestry, Fire, and State Lands to make rules establishing criteria for receiving a grant from the Wildland Fire Preparedness Grants Fund; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

65A-8-204, as last amended by Laws of Utah 2017, Chapter 210

ENACTS:

65A-8-213, Utah Code Annotated 1953

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

Section 1. Section 65A-8-213 is enacted to read:**65A-8-213. Creation of the Wildland Fire Preparedness Grants Fund -- Awarding of grants -- Rulemaking.**

(1) (a) There is created an expendable special revenue fund known as the "Wildland Fire Preparedness Grants Fund."

(b) The Wildland Fire Preparedness Grants Fund shall consist of:

- (i) voluntary contributions received;
- (ii) appropriations the Legislature makes to the Wildland Fire Preparedness Grants Fund;
- (iii) 10% of the costs recovered annually related to wildfire suppression described in Subsections 65A-8-204(3)(g) and (h); and
- (iv) interest or other earnings accrued in accordance with Subsection (1)(c)(ii).

(c) The state treasurer shall:

(i) invest the money in the Wildland Fire Preparedness Grants Fund described in Subsection (1)(a) following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from each investment described in Subsection (1)(c)(i) into the Wildland Fire Preparedness Grants Fund.

(2) (a) The state forester shall make one or more grants from the Wildland Fire Preparedness Grants Fund to one or more local fire departments or volunteer fire departments to assist in building capacity for the suppression of wildland fire.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing criteria for receiving a grant under this section.

Section 2. Section 65A-8-204 is amended to read:**65A-8-204. Wildland Fire Suppression Fund created.**

(1) There is created an expendable special revenue fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay wildfire suppression costs on eligible lands, including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(3) [The] Subject to Section 65A-8-213, the contents of the fund shall include:

- (a) interest and earnings from the investment of fund money;
 - (b) money appropriated by the Legislature;
 - (c) costs recovered from successful investigations;
 - (d) federal funds received by the division for wildfire management costs;
 - (e) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;
 - (f) suppression costs paid to the division by another state agency;
 - (g) costs recovered from settlements and civil actions related to wildfire suppression;
 - (h) restitution payments ordered by a court following a criminal adjudication;
 - (i) the balance of the fund as of July 1, 2016;
 - (j) money deposited by the Division of Finance, pursuant to Section 59-21-2; and
 - (k) money transferred by the Division of Finance, pursuant to Section 63J-1-314.
- (4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

CHAPTER 119**H. B. 142**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**BUILDING CONSTRUCTION
AMENDMENTS**Chief Sponsor: Casey Snider
Senate Sponsor: David P. Hinkins**LONG TITLE****General Description:**

This bill requires the reporting of recommendations regarding mass timber products for building construction.

Highlighted Provisions:

This bill:

- ▶ defines “mass timber products”;
- ▶ requires the Uniform Building Code Commission to recommend building standards for the use of mass timber products;
- ▶ provides a repeal date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-1-203, as enacted by Laws of Utah 2011, Chapter 14

ENACTS:

63I-2-215, Utah Code Annotated 1953

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

Section 1. Section 15A-1-203 is amended to read:**15A-1-203. Uniform Building Code
Commission -- Unified Code Analysis
Council.**

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division’s responsibilities in administering the codes.

(2) The commission shall consist of 11 members as follows:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction Management of the Department of Administrative Services.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination. An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years ~~[from the date of cessation of service]~~ after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member’s service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) (a) The commission shall annually designate one of ~~[its]~~ the commission’s members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission’s actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) offer an opinion regarding the interpretation of or the application of a code if a person submits a request for an opinion;

(c) act as an appeals board as provided in Section 15A-1-207;

(d) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

(e) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

(11) A person requesting an opinion under Subsection (10)(b) shall submit a formal request clearly stating:

(a) the facts in question;

(b) the specific citation at issue in a code; and

(c) the position taken by the persons involved in the facts in question.

(12) (a) In a manner consistent with Subsection (10)(d), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

(13) (a) As used in this Subsection (13), "mass timber products" means a type of building component or system that uses large panelized wood construction, including:

(i) cross laminated timber;

(ii) nail laminated timber;

(iii) glue laminated timber;

(iv) laminated strand timber;

(v) dowel laminated timber;

(vi) laminated veneer lumber;

(vii) structural composite lumber; and

(viii) wood concrete composites.

(b) On or before October 1, 2019, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending building standards for the use of mass timber

products for residential and commercial building construction.

(c) In making the recommendations described in Subsection (13)(b), the commission shall consider applicable national and international standards.

Section 2. Section 63I-2-215 is enacted to read:

63I-2-215. Repeal dates -- Title 15A.

Subsection 15A-1-203(13), which addresses mass timber products, is repealed December 31, 2019.

CHAPTER 120**H. B. 146**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**CONCURRENT ENROLLMENT
AMENDMENTS**Chief Sponsor: Susan Pulsipher
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill amends requirements for a student to be eligible to participate in concurrent enrollment.

Highlighted Provisions:

This bill:

- ▶ amends requirements for a student to be eligible to participate in concurrent enrollment;
- ▶ amends cross-references related to eligible instructors; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-10-301, as last amended by Laws of Utah 2018, Chapters 22, 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-302, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-305, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-307, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-10-301 is amended to read:**53E-10-301. Definitions.**

As used in this part:

(1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(2) "Educator" means the same as that term is defined in Section 53E-6-102.

(3) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(5).

(4) "Eligible student" means a student who:

(a) is enrolled in, and counted in average daily membership in, a [high] public school within the state;

(b) has on file a plan for college and career readiness[,] as described in Section 53E-2-304[, on file at a high school within the state]; and

(c) [(4)] is [a grade 11 or grade 12 student; or] in grade 9, 10, 11, or 12.

[(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53E-10-302.]

(5) "Institution of higher education" means an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(6) "License" means the same as that term is defined in Section 53E-6-102.

(7) "Local education agency" or "LEA" means a school district or charter school.

(8) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-10-302 is amended to read:**53E-10-302. Concurrent enrollment program.**

(1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
- (ii) at an institution of higher education;
- (b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

- (A) a general education course;
- (B) a career and technical education course;
- (C) a pre-major college level course; or
- (D) a foreign language concurrent enrollment course described in Section 53E-10-307;

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The State Board of Education and the State Board of Regents shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the State Board of Education; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before January 1, 2019, establish a policy that:

(i) describes the qualifications for an LEA employee to be an eligible instructor; and

(ii) ensures that the qualifications described in Subsection (3)(b)(i):

(A) maximize concurrent enrollment opportunities for eligible students while maintaining quality; and

(B) allow for an individual who teaches a concurrent enrollment course in the 2017-18 or 2018-19 school year to continue to teach the concurrent enrollment course in subsequent years.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) meets the qualifications described in the policy established under Subsection (3)(b); or

(B) has an upper level mathematics credential issued by the State Board of Education.

(c) Notwithstanding Subsection (5)(b)(iii), an LEA employee is an eligible instructor if:

(i) the State Board of Regents has not established the policy described in Subsection (3)(b); and

(ii) the LEA employee:

(A) meets the requirements described in Subsections (5)(b)(i) and (ii); and

(B) is approved as adjunct faculty by an institution of higher education.

~~[(6) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section 53E-10-307.]~~

[(7)] (6) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

Section 3. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a

concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(~~e~~)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Section 4. Section 53E-10-307 is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) “Accelerated foreign language student” means ~~a student who: (i) an eligible student who has passed a world language advanced placement exam; and (ii) is in grade 10, grade 11, or grade 12].~~

(b) “Blended learning delivery model” means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) “State university” means an institution of higher education that offers courses leading to a bachelor’s degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students ~~[who are eligible students];~~

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection 53E-10-302(5)(~~b~~)(a).

CHAPTER 121**H. B. 154**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**MENTAL HEALTH PROTECTIONS
FOR FIRST RESPONDERS**

Chief Sponsor: Karen Kwan
 Senate Sponsor: Karen Mayne
 Cosponsors: Sandra Hollins
 Eric K. Hutchings
 Kelly B. Miles
 Lee B. Perry
 Val K. Potter
 Paul Ray
 Angela Romero
 Casey Snider
 Andrew Stoddard
 Mark A. Strong
 Mike Winder

LONG TITLE**General Description:**

This bill establishes a working group to study a first responder's workers' compensation claim due to mental stress.

Highlighted Provisions:

This bill:

- ▶ defines "first responder";
- ▶ establishes a temporary working group to study a first responder's workers' compensation claim due to mental stress; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-102, as last amended by Laws of Utah 2017, Chapter 363

63I-2-234, as last amended by Laws of Utah 2018, Chapter 281

ENACTS:

34A-2-107.2, Utah Code Annotated 1953

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

Section 1. Section 34A-2-102 is amended to read:**34A-2-102. Definition of terms.**

(1) As used in this chapter:

(a) "Average weekly wages" means the average weekly wages as determined under Section 34A-2-409.

(b) "Award" means a final order of the commission as to the amount of compensation due:

- (i) an injured employee; or
- (ii) a dependent of a deceased employee.

(c) "Compensation" means the payments and benefits provided for in this chapter or Chapter 3, Utah Occupational Disease Act.

(d) (i) "Decision" means a ruling of:

- (A) an administrative law judge; or
- (B) in accordance with Section 34A-2-801:
- (I) the commissioner; or
- (II) the Appeals Board.

(ii) "Decision" includes:

(A) an award or denial of a medical, disability, death, or other related benefit under this chapter or Chapter 3, Utah Occupational Disease Act; or

(B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah Occupational Disease Act.

(e) "Director" means the director of the division, unless the context requires otherwise.

(f) "Disability" means an administrative determination that may result in an entitlement to compensation as a consequence of becoming medically impaired as to function. Disability can be total or partial, temporary or permanent, industrial or nonindustrial.

(g) "Division" means the Division of Industrial Accidents.

(h) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 26-8c-102;

(iii) an advanced emergency medical technician, as defined in Section 26-8c-102;

(iv) a paramedic, as defined in Section 26-8c-102;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102; or

(vii) a correctional officer, as defined in Section 53-13-104.

~~(h)~~ (i) "Impairment" is a purely medical condition reflecting an anatomical or functional abnormality or loss. Impairment may be either temporary or permanent, industrial or nonindustrial.

~~(i)~~ (j) "Order" means an action of the commission that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

~~(j)~~ (k) (i) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of the employee's employment.

(ii) "Personal injury by accident arising out of and in the course of employment" does not include a

disease, except as the disease results from the injury.

~~(4c)~~ (1) “Safe” and “safety,” as applied to employment or a place of employment, means the freedom from danger to the life or health of employees reasonably permitted by the nature of the employment.

(2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

(a) “Brother or sister” includes a half brother or sister.

(b) “Child” includes:

(i) a posthumous child; or

(ii) a child legally adopted prior to an injury.

Section 2. Section 34A-2-107.2 is enacted to read:

34A-2-107.2. Mental Health Protections for First Responders Workgroup.

(1) There is created the Mental Health Protections for First Responders Workgroup within the commission consisting of the following members:

(a) the commissioner or the commissioner’s designee;

(b) one member of the Senate, appointed by the president of the Senate, and one member of the House, appointed by the speaker of the House;

(c) three representatives of the workers’ compensation insurance industry appointed by the chair, one of whom is a voting member of the employer side of the Workers’ Compensation Advisory Council, as follows:

(i) one member representing the insurance carrier designated to write coverage for the residual market;

(ii) one member representing an insurance carrier other than the carrier described in Subsection (1)(c)(i); and

(iii) one member representing self-insured employers;

(d) one member representing the Division of Risk Management;

(e) four representatives of first responders appointed by the chair, one of whom is a voting member of the employee side of the Workers’ Compensation Advisory Council;

(f) one representative from the Utah League of Cities and Towns;

(g) one representative from the Utah Association of Counties;

(h) one representative from the Utah Association of Special Districts;

(i) the director of the Division of Substance Abuse and Mental Health, or the director’s designee; and

(j) as appointed by the chair, one or more individuals with expertise in mental stress or occupational medicine to serve as ex officio, nonvoting members of the workgroup.

(2) The commissioner or the commissioner’s designee is the chair of the workgroup.

(3) (a) A majority of the members of the workgroup constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the workgroup.

(4) (a) The salary and expenses of each member of the workgroup who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A member of the workgroup who is not a legislator may not receive compensation, benefits, per diem, or travel expenses for the member’s service on the workgroup.

(5) The commission shall provide staff support to the workgroup.

(6) The workgroup shall review and make recommendations on the following issues:

(a) the alleviation of barriers, including financial barriers, to mental health treatment for first responders inside and outside of the workers’ compensation system;

(b) statutory requirements for compensability of mental stress claims from first responders under Chapter 2, Workers’ Compensation Act, and Chapter 3, Utah Occupational Disease Act;

(c) improving a first responder’s accessibility to mental health treatment; and

(d) any additional issue that the workgroup:

(i) determines is an important issue related to workers’ compensation for first responders; and

(ii) decides to review.

(7) The workgroup shall present a final report on the items described in Subsection (6), including any legislative recommendations, to the Business and Labor Interim Committee on or before September 30, 2020.

Section 3. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates -- Title 34A.

Section 34A-2-107.2 is repealed January 1, 2021.

CHAPTER 122**H. B. 159**

Passed February 14, 2019

Approved March 22, 2019

Effective May 14, 2019

**CERTIFIED PUBLIC ACCOUNTANT
EXAM AMENDMENTS**Chief Sponsor: Jon Hawkins
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions of the Certified Public Accountant Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to education hours required by an applicant prior to taking qualifying examinations as part of qualifying for a license under the Certified Public Accountant Licensing Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**58-26a-306, as last amended by Laws of Utah 2013,
Chapter 440

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 58-26a-306 is amended to read:****58-26a-306. Examination requirements.**

(1) Before taking the qualifying examinations, an applicant shall:

(a) submit an application in a form approved by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate completion of at least [~~135~~] 120 semester hours or [~~200~~] 180 quarter hours of the education requirement described in Subsection 58-26a-302(1)(d); and

(d) be approved by the board, or an organization designated by the board, to take the qualifying examinations.

(2) A person must sit for and meet the conditioning requirements of the AICPA Uniform CPA Examination as established by the AICPA.

CHAPTER 123**H. B. 165**

Passed February 20, 2019

Approved March 22, 2019

Effective May 14, 2019

**DANDY-WALKER SYNDROME
AWARENESS DAY**Chief Sponsor: Kim F. Coleman
Senate Sponsor: Daniel W. Thatcher**LONG TITLE****General Description:**

This bill modifies the state commemorative days.

Highlighted Provisions:

This bill:

- ▶ designates May 11 as Dandy-Walker Syndrome Awareness Day.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**63G-1-401, as last amended by Laws of Utah 2018,
Chapter 39*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 63G-1-401 is amended to read:****63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

- (a) Bill of Rights Day, on December 15;
- (b) Constitution Day, on September 17;
- (c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;
- (d) POW/MIA Recognition Day, on the third Friday in September;
- (e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;
- (f) Utah State Flag Day, on March 9;
- (g) Vietnam Veterans Recognition Day, on March 29;
- (h) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; and
- (i) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;
- (j) Arthrogyrosis Multiplex Congenita Awareness Day, on June 30; ~~and~~

(k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

- (i) encourage individuals to make child safety a priority;
- (ii) remember the importance of continued efforts to reunite missing children with their families; and
- (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited~~[-]~~; and

(1) Dandy-Walker Syndrome Awareness Day, on May 11.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(c) and (d).

(3) The month of October shall be commemorated annually as Italian-American Heritage Month.

(4) The month of November shall be commemorated annually as American Indian Heritage Month.

(5) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of June shall be commemorated annually as Workplace Safety

Week to heighten public awareness regarding the importance of safety in the workplace.

(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

CHAPTER 124**H. B. 166**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

(Exception clause in Section 9)

**DOWN SYNDROME
NONDISCRIMINATION ABORTION ACT**

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill concerns an unborn child with Down syndrome.

Highlighted Provisions:

This bill:

- ▶ defines “Down syndrome”;
- ▶ requires the Department of Health to create a Down syndrome informational support sheet and publish the same information on the department’s website;
- ▶ requires that a pregnant woman be provided certain information before receiving an abortion when a prenatal screening or diagnostic test indicates that the pregnant woman’s unborn child has or may have Down syndrome;
- ▶ after expressly permitted by a court of binding authority, prohibits a person from performing, inducing, or attempting to perform or induce an abortion on a pregnant woman who is seeking the abortion solely because an unborn child has or may have Down syndrome;
- ▶ requires an abortion pathology report to provide information about whether an aborted child had or may have had Down syndrome;
- ▶ requires a physician who performed an abortion to state whether the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-10-1, as last amended by Laws of Utah 2011, Chapters 147, 366 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 366
- 631-2-276, as last amended by Laws of Utah 2018, Chapter 38
- 76-7-301, as last amended by Laws of Utah 2018, Chapter 282
- 76-7-305, as last amended by Laws of Utah 2018, Chapter 282
- 76-7-309, as enacted by Laws of Utah 1974, Chapter 33
- 76-7-313, as last amended by Laws of Utah 2018, Chapter 282

ENACTS:

26-10-14, Utah Code Annotated 1953

76-7-302.4, Utah Code Annotated 1953

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

Section 1. Section 26-10-1 is amended to read:**26-10-1. Definitions.**

As used in this chapter:

(1) “Down syndrome” means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

~~[(1)]~~ (2) “Maternal and child health services” means:

(a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this Subsection ~~[(1)]~~ (2) shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;

(b) the development, strengthening, and improvement of standards and techniques relating to the services and care;

(c) the training of personnel engaged in the provision, development, strengthening, or improvement of the services and care; and

(d) necessary administrative services connected with Subsections ~~[(1)]~~ (2)(a), (b), and (c).

~~[(2)]~~ (3) “Minor” means a person under the age of 18.

~~[(3)]~~ (4) “Services to children with disabilities” means:

(a) the early location of children with a disability, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn child will not be used for screening, but rather will be utilized only when there are medical or genetic indications that warrant diagnosis;

(b) the provision for children described in Subsection ~~[(3)]~~ (4)(a), of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of those children or toward the restoration of the children to maximum physical and mental health;

(c) the development, strengthening, and improvement of standards and techniques relating to services and care described in this Subsection ~~[(3)]~~ (4);

(d) the training of personnel engaged in the provision, development, strengthening, or

improvement of services and care described in this Subsection ~~[(3)]~~ (4); and

(e) necessary administrative services connected with Subsections ~~[(3)]~~ (4)(a), (b), and (c).

Section 2. Section 26-10-14 is enacted to read:

26-10-14. Down syndrome diagnosis -- Information and support.

(1) The department shall provide contact information for state and national Down syndrome organizations that are nonprofit and that provide information and support services for parents, including first-call programs and information hotlines specific to Down syndrome, resource centers or clearinghouses, and other education and support programs for Down syndrome.

(2) The department shall:

(a) post the information described in Subsection (1) on the department's website; and

(b) create an informational support sheet with the information described in Subsection (1) and the web address described in Subsection (2)(a).

(3) A Down syndrome organization may request that the department include the organization's informational material and contact information on the website. The department may add the information to the website, if the information meets the description under Subsection (1).

(4) Upon request, the department shall provide a health care facility or health care provider a copy of the informational support sheet described in Subsection (2)(b) to give to a pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn child has or may have Down syndrome.

Section 3. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates -- Title 76.

(1) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is repealed January 1, 2029.

(2) Section 76-7-305.7 is repealed January 1, 2023.

Section 4. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure

carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.

(3) "Abuse" means the same as that term is defined in Section 78A-6-105.

(4) "Department" means the Department of Health.

(5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

~~[(5)]~~ (6) "Hospital" means:

(a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.

~~[(6)]~~ (7) "Information module" means the pregnancy termination information module prepared by the department.

~~[(7)]~~ (8) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

~~[(8)]~~ (9) "Minor" means an individual who is:

(a) under 18 years of age;

(b) unmarried; and

(c) not emancipated.

[49] (10) (a) “Partial birth abortion” means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) “Partial birth abortion” does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

[40] (11) “Physician” means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to a person described in Subsection [40] (11)(a) or (b).

Section 5. Section 76-7-302.4 is enacted to read:

76-7-302.4. Abortion restriction of an unborn child with Down syndrome.

Notwithstanding any other provision of this part, an abortion may not be performed if the pregnant mother’s sole reason for the abortion is that the unborn child has or may have Down syndrome, unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b).

Section 6. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent [~~from the woman on whom the abortion is performed,~~] that is consistent with:

(a) Section 8.08 of the American Medical Association’s Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician’s assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician’s assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term; ~~and~~

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of Health website containing the information described in Section 26-10-14, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website; and

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3); and

(ii) obtain a copy of the statement described in Subsection (2)(c)(i).

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection ~~[(4)]~~ (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 7. Section 76-7-309 is amended to read:

76-7-309. Pathologist's report.

Any human tissue removed during an abortion shall be submitted to a pathologist who shall make a report, including ~~[-, but not limited to whether there was a pregnancy, and if possible,] whether:~~

(1) the pregnancy was aborted by evacuating the uterus ~~[-]; and~~

(2) a medical record indicates that, through a prenatal screening or other diagnostic test, the aborted fetus had or may have had Down syndrome.

Section 8. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given menstrual age of the unborn child;

(vii) the measurements of the unborn child, if possible to ascertain; and

(viii) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) ~~[that]~~ indicating whether the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5; ~~[and]~~

(ii) described in Subsection (3), if applicable; and

(iii) indicating whether at the time the physician performed the abortion, the physician had any knowledge that the pregnant woman sought the abortion solely because the unborn child had or may have had Down syndrome; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion; and

(ii) if the unborn child was viable, as defined in Subsection 76-7-302(1), at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section 9. Contingent effective date.

(1) As used in this section, "a court of binding authority" means:

(a) the United States Supreme Court; or

(b) after the right to appeal has been exhausted:

(i) the United States Court of Appeals for the Tenth Circuit;

(ii) the Utah Supreme Court; or

(iii) the Utah Court of Appeals.

(2) Except as provided in Subsection (3), this bill takes effect on May 14, 2019.

(3) Section 76-7-302.4 takes effect on the date that the legislative general counsel certifies to the Legislative Management Committee that a court of binding authority holds that a state may prohibit the abortion of an unborn child before the unborn child is viable outside of the mother if the sole reason for the abortion is that the unborn child has or may have Down syndrome.

CHAPTER 125**H. B. 167**

Passed February 22, 2019

Approved March 22, 2019

Effective May 14, 2019

**WILDLIFE DOCUMENTATION
AMENDMENTS**Chief Sponsor: Joel Ferry
Senate Sponsor: Allen M. Christensen**LONG TITLE****General Description:**

This bill modifies provisions related to registrations, license, permits, and tags related to wildlife.

Highlighted Provisions:

This bill:

- ▶ allows certain documents and signatures to be in paper-form or electronic;
- ▶ addresses the Wildlife Board making rules; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-13-2, as last amended by Laws of Utah 2017, Chapter 412

23-19-2, as last amended by Laws of Utah 1999, Chapter 128

23-19-8, as last amended by Laws of Utah 2000, Chapter 195

23-20-10, as enacted by Laws of Utah 1971, Chapter 46

23-20-30, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 23-13-2 is amended to read:**23-13-2. Definitions.**

As used in this title:

(1) "Activity regulated under this title" means ~~[any] an act, attempted act, or activity prohibited or regulated under [any provision of Title 23, Wildlife Resources Code of Utah,]~~ this title or the rules, and proclamations promulgated ~~[thereunder]~~ under this title pertaining to protected wildlife including:

- (a) fishing;
- (b) hunting;
- (c) trapping;
- (d) taking;
- (e) permitting any dog, falcon, or other domesticated animal to take;
- (f) transporting;
- (g) possessing;

- (h) selling;
- (i) wasting;
- (j) importing;
- (k) exporting;
- (l) rearing;
- (m) keeping;
- (n) ~~[utilizing]~~ using as a commercial venture; and
- (o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or its parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or any rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Conservation officer" means a full-time, permanent employee of the Division of Wildlife Resources who is POST certified as a peace or a special function officer.

(11) "Dedicated hunter program" means a program that provides:

- (a) expanded hunting opportunities;
- (b) opportunities to participate in projects that are beneficial to wildlife; and
- (c) education in hunter ethics and wildlife management principles.

(12) "Division" means the Division of Wildlife Resources.

(13) (a) "Domicile" means the place:

- (i) where an individual has a fixed permanent home and principal establishment;
- (ii) to which the individual if absent, intends to return; and

(iii) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) To create a new domicile an individual shall:

- (i) abandon the old domicile; and
- (ii) be able to prove that a new domicile has been established.
- (14) “Endangered” means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.
- (15) “Fee fishing facility” means the same as that term is defined in Section 4-37-103.
- (16) “Feral” means an animal that is normally domesticated but has reverted to the wild.
- (17) “Fishing” means to take fish or crayfish by any means.
- (18) “Furbearer” means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.
- (19) “Game” means wildlife normally pursued, caught, or taken by sporting means for human use.
- (20) “Guide” means a person who receives compensation or advertises services for assisting another person to take protected wildlife, including the provision of food, shelter, or transportation, or any combination of these.
- (21) “Guide’s agent” means a person who is employed by a guide to assist another person to take protected wildlife.
- (22) “Hunting” means to take or pursue a reptile, amphibian, bird, or mammal by any means.
- (23) “Intimidate or harass” means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer’s duty.
- (24) (a) “Natural flowing stream” means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.
- (b) “Natural flowing stream” includes perennial or intermittent water flows in a:
- (i) realigned or modified channel that replaces the historic, natural flowing stream channel; and
- (ii) dredged natural flowing stream channel.
- (c) “Natural flowing stream” does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.
- (25) (a) “Natural lake” means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.
- (b) “Natural lake” does not mean a lake where all surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.
- (26) “Nonresident” means a person who does not qualify as a resident.
- (27) “Open season” means the period of time during which protected wildlife may be legally taken.
- (28) “Pecuniary gain” means the acquisition of money or something of monetary value.
- (29) “Permit” means a paper-based or electronic document, including a stamp, that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.
- (30) “Person” means an individual, association, partnership, government agency, corporation, or an agent of the foregoing.
- (31) “Possession” means actual or constructive possession.
- (32) “Possession limit” means the number of bag limits one individual may legally possess.
- (33) (a) “Private fish pond” means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:
- (i) are propagated or kept for a private noncommercial purpose; and
- (ii) may be taken without a fishing license.
- (b) “Private fish pond” does not include an aquaculture facility, fee fishing facility, short-term fishing event, or private stocking.
- (34) (a) “Private stocking” means an authorized release of privately owned, live fish in the waters of the state not eligible as a private fish pond under Section 23-15-10 or aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.
- (b) Fish released under private stocking become the property of the state and subject to the fishing regulations set forth in this title and the rules and proclamations of the Wildlife Board.
- (35) “Private wildlife farm” means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:
- (a) commingling with wild birds or furbearers; and
- (b) escaping into the wild.
- (36) “Proclamation” means the publication used to convey a statute, rule, policy, or pertinent information as it relates to wildlife.
- (37) (a) “Protected aquatic wildlife” means aquatic wildlife as defined in Subsection (3), except as provided in Subsection (37)(b).
- (b) “Protected aquatic wildlife” does not include aquatic insects.
- (38) (a) “Protected wildlife” means wildlife as defined in Subsection (54), except as provided in Subsection (38)(b).

(b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel, jack rabbit, muskrat, and raccoon.

(39) "Released to the wild" means to be turned loose from confinement.

(40) (a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

(41) (a) "Resident" means a person who:

(i) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(ii) does not claim residency for hunting, fishing, or trapping in any other state or country.

(b) A Utah resident retains Utah residency if that person leaves this state:

(i) to serve in the armed forces of the United States or for religious or educational purposes; and

(ii) the person complies with Subsection (41)(a)(ii).

(c) (i) A member of the armed forces of the United States and dependents are residents for the purposes of this chapter as of the date the member reports for duty under assigned orders in the state if the member:

(A) is not on temporary duty in this state; and

(B) complies with Subsection (41)(a)(ii).

(ii) A copy of the assignment orders shall be presented to a wildlife division office to verify the member's qualification as a resident.

(d) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:

(i) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and

(ii) complies with Subsection (41)(a)(ii).

(e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.

(f) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

(42) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

(43) (a) "Short-term fishing event" means ~~any~~ an event ~~where~~ when privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity and where no fee is charged as a requirement to fish.

(b) A fishing license is not required to take fish at a short-term fishing event.

(44) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes; ~~and~~

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

(45) "Spoiled" means impairment of the flesh of wildlife ~~which~~ that renders ~~it~~ the flesh unfit for human consumption.

(46) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

(47) "Tag" means a card, label, or other paper-based or electronic means of identification [device issued for attachment to the carcass] used to document harvest of protected wildlife.

(48) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected wildlife; or

(b) attempt any action referred to in Subsection (48)(a).

(49) "Threatened" means wildlife designated as such pursuant to Section 3 of the federal Endangered Species Act of 1973.

(50) "Trapping" means taking protected wildlife with a trapping device.

(51) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

(52) "Waste" means to abandon protected wildlife or to allow protected wildlife to spoil or to be used in a manner not normally associated with ~~its~~ the protected wildlife's beneficial use.

(53) "Water pollution" means the introduction of matter or thermal energy to waters within this state that:

- (a) exceeds state water quality standards; or
- (b) could be harmful to protected wildlife.

(54) "Wildlife" means:

- (a) crustaceans, including brine shrimp and crayfish;
- (b) mollusks; and
- (c) vertebrate animals living in nature, except feral animals.

Section 2. Section 23-19-2 is amended to read:

23-19-2. License, permit, and certificate forms prescribed by Wildlife Board.

(1) The Wildlife Board shall prescribe the form of license, permit, or certificate of registration to be used for hunting, fishing, trapping, seining, and dealing in furs.

(2) A license, permit, or certificate of registration may be paper-based or in electronic format pursuant to the rules established by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(2)]~~ (3) ~~[Any]~~ A license issued pursuant to Section 23-19-36 shall be designated as such by a code number and ~~[shall contain no]~~ may not contain a reference to the licensee's disability.

Section 3. Section 23-19-8 is amended to read:

23-19-8. Signature on documents -- Considered under oath -- Prohibition on use of unsigned documents.

(1) A person's signature on a license, permit, tag, or certificate of registration is certification of that person's eligibility to use the license, permit, tag, or certificate of registration for the purpose intended by this title.

(2) The signature need not be notarized but shall be considered to be made under oath. A signature may be an electronic signature if allowed by rule made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) A person may not use an unsigned license, permit, tag, or certificate of registration.

Section 4. Section 23-20-10 is amended to read:

23-20-10. Butcher, locker or storage plant to require proper tag or donation slip.

It is unlawful for ~~[any]~~ a butcher or owner or employee of a locker plant or storage plant to receive for processing or storage the carcass of any protected wildlife ~~[which]~~ that by law or regulation is required to be tagged, unless the carcass ~~[has~~

~~attached to it the required tag or proper]~~ is properly tagged or is accompanied with a valid donation slip.

Section 5. Section 23-20-30 is amended to read:

23-20-30. Tagging requirements.

(1) The Wildlife Board may make rules that require the carcass of certain species of protected wildlife to be tagged.

(2) The carcass of any species of protected wildlife required to be tagged shall be tagged before the carcass is moved from or the hunter leaves the site of kill.

(3) To tag a carcass, a person shall:

(a) (i) completely detach the tag from the license or permit;

~~[(b)]~~ (ii) completely remove the appropriate notches to correspond with:

~~[(+)]~~ (A) the date the animal was taken; and

~~[(+)]~~ (B) the sex of the animal; and

~~[(e)]~~ (iii) attach the tag to the carcass so that the tag remains securely fastened and visible~~[-];~~ or

(b) complete an electronic tagging certification according to standards approved by the Wildlife Board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

CHAPTER 126**H. B. 173**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

**EMERGENCY SERVICES VOLUNTEER
EMPLOYMENT PROTECTION ACT**Chief Sponsor: Casey Snider
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill creates the Emergency Services Volunteer Employment Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an employer from terminating an employee for being an emergency services volunteer;
- ▶ permits an employer to request written verification that an employee missed work to respond to an emergency as an emergency services volunteer; and
- ▶ creates a civil cause of action for violation of the Emergency Services Volunteer Employment Protection Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34-54-101, Utah Code Annotated 1953

34-54-102, Utah Code Annotated 1953

34-54-201, Utah Code Annotated 1953

34-54-202, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 34-54-101 is enacted to read:****CHAPTER 54. EMERGENCY SERVICES
VOLUNTEER EMPLOYMENT
PROTECTION ACT****Part 1. General Provisions****34-54-101. Title.**

This chapter is known as "Emergency Services Volunteer Employment Protection Act."

Section 2. Section 34-54-102 is enacted to read:**34-54-102. Definitions.**

(1) "Emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(2) "Emergency services volunteer" means:

(a) a volunteer firefighter as defined in Section 49-16-102;

(b) an individual licensed under Section 26-8a-302; or

(c) an individual mobilized as part of a posse comitatus.

(3) "Employer" means a person, including the state or a political subdivision of the state, that has one or more workers employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(4) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or other emergency services.

Section 3. Section 34-54-201 is enacted to read:**Part 2. Employment Protection for
Emergency Services Volunteers****34-54-201. Prohibition on termination --****Loss of compensation -- Permitted request
for statement.**

(1) (a) An employer may not terminate the employment of an employee solely for being an emergency services volunteer.

(b) An employer may not terminate the employment of an employee who is an emergency services volunteer for being absent from or late to work, if at the time the employee is absent from or late to work the employee is responding to an emergency as an emergency services volunteer.

(2) An employer may reduce the regular pay of an employee who is an emergency services volunteer for time the employee misses work because the employee is responding to an emergency as an emergency services volunteer.

(3) An employer may request that an employee who is an emergency services volunteer and misses time from work to respond to an emergency provide the employer with a written statement that:

(a) is from the supervisor or acting supervisor of the employee when the employee is in the course of performing duties as an emergency services volunteer;

(b) states that the employee responded to an emergency; and

(c) states the time and date of the employee's service as an emergency services volunteer.

(4) (a) Except as provided in Subsection (4)(b), if an employee who is an emergency services volunteer responds to an emergency as an emergency services volunteer, the employee shall make a reasonable effort to notify the employee's employer of any absence from or tardiness to work because of that response.

(b) If an employee is an emergency services volunteer and is a full-time employee of a public safety agency, the employee shall, before

responding to an emergency, obtain permission from the employee's public safety agency employer to respond to the emergency.

Section 4. Section 34-54-202 is enacted to read:

34-54-202. Civil action for violation of chapter.

(1) If an employer terminates an employee in violation of this chapter, the employee may bring a civil action against the employer within one year after the day on which the employer terminates the employee.

(2) In a civil action described in Subsection (1), the court may order the employer to:

(a) reinstate the employee in the employee's former position, including any fringe benefits or seniority rights; or

(b) pay the employee back wages.

CHAPTER 127**H. B. 184**

Passed March 1, 2019

Approved March 22, 2019

Effective October 1, 2019

CIVIL AIR PATROL LICENSE PLATE

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill creates a recognition special group license plate for the Civil Air Patrol.

Highlighted Provisions:

This bill:

- ▶ creates a recognition special group license plate for the Utah Wing of the Civil Air Patrol; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2018, Chapters 39, 99, and 260

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

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; [œ]

(ix) an individual supporting commemoration and recognition of women's suffrage; or

(x) an individual supporting the Utah Wing of the Civil Air Patrol; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that create or support civil rights education and awareness;

(xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiv) programs that support children with heart disease;

(xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxvi) programs that provide assistance to children with cancer;

(xxvii) programs that promote leadership and career development through agricultural education; or

(xxviii) the Utah State Historical Society.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold

applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 128**H. B. 186**

Passed March 4, 2019

Approved March 22, 2019

Effective May 14, 2019

**OPIOID PRESCRIPTION
REGULATION AMENDMENTS**Chief Sponsor: Raymond P. Ward
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill amends the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- ▶ permits the Division of Occupational and Professional Licensing to consult with prescribers and health care systems on best practices with respect to prescribing controlled substances;
- ▶ amends provisions relating to steps that the division must take after it receives a report from a medical examiner relating to an overdose involving a controlled substance; and
- ▶ makes certain records protected under the Government Records Access and Management Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-37f-304, as last amended by Laws of Utah 2018, Chapters 281 and 327

58-37f-702, as last amended by Laws of Utah 2016, Chapters 99 and 104

63G-2-305, as last amended by Laws of Utah 2018, Chapters 81, 159, 285, 315, 316, 319, 352, 409, and 425

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

Section 1. Section 58-37f-304 is amended to read:**58-37f-304. Database utilization.**

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2) (a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

(b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

(c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

(d) (i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

(A) is connected to the database through a connection that has been approved by the division; and

(B) displays the information from the database in a prominent manner for the prescriber.

(ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

(e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

(i) is necessary due to an emergency situation;

(ii) is caused by a suspension or disruption in the operation of the database; or

(iii) is caused by a failure in the operation or availability of the Internet.

(f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

(i) December 31, 2018; or

(ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results

of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

(5) (a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

(i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;

(ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health; or

(iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Physicians Licensing Board.

(b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

(c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

(d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

(e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

(6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

Section 2. Section 58-37f-702 is amended to read:

58-37f-702. Reporting prescribed controlled substance poisoning or overdose to a practitioner.

(1) (a) The division shall take the actions described in Subsection [(2)] (1)(b) if the division receives a report from [:(a) a medical examiner under Section 26-4-10.5 regarding a death caused by poisoning or overdose involving a prescribed controlled substance; or (b)] a general acute hospital under Section 26-21-26 regarding admission to a general acute hospital for poisoning or overdose involving a prescribed controlled substance.

[(2)] (b) The division shall, within three business days after the day on which a report in Subsection (1)(a) is received:

[(a)] (i) attempt to identify, through the database, each practitioner who may have prescribed the controlled substance to the patient; and

[(b)] (ii) provide each practitioner identified under Subsection [(2)] (1)(a) with:

[(4)] (A) a copy of the report provided by [the medical examiner under Section 26-4-10.5 or] the general acute hospital under Section 26-21-26; and

[(ii)] (B) the information obtained from the database that led the division to determine that the practitioner receiving the information may have prescribed the controlled substance to the person named in the report.

(2) (a) When the division receives a report from the medical examiner under Section 26-4-10.5 regarding a death caused by poisoning or overdose involving a prescribed controlled substance, for each practitioner identified by the medical examiner under Subsection 26-4-10.5(1)(c), the division:

(i) shall, within five business days after the day on which the division receives the report, provide the practitioner with a copy of the report; and

(ii) may offer the practitioner an educational visit to review the report.

(b) A practitioner may decline an educational visit described in Subsection (2)(a)(ii).

(c) The division may not use, in a licensing investigation or action by the division:

(i) information from an educational visit described in Subsection (2)(a)(ii); or

(ii) a practitioner's decision to decline an educational visit described in Subsection (2)(a)(ii).

(3) It is the intent of the Legislature that the information provided under Subsection [(2)](b)] (1) or (2) is provided for the purpose of assisting the practitioner in:

(a) discussing with the patient or others issues relating to the poisoning or overdose;

(b) advising the patient or others of measures that may be taken to avoid a future poisoning or overdose; and

(c) making decisions regarding future prescriptions written for the patient or others.

(4) Any record created by the division as a result of an educational visit described in Subsection (2)(a)(ii) is a protected record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

[44] (5) Beginning on July 1, 2010, the division shall, in accordance with Section 63J-1-504, increase the licensing fee described in Subsection 58-37-6(1)(b) to pay the startup and ongoing costs of the division for complying with the requirements of this section.

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and

methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and

Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

- (v) scholarly correspondence; and
- (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
- (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;
- (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
- (a) a production facility; or
- (b) a magazine;
- (43) information:
- (a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or
- (b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;
- (44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;
- (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
- (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
- (48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
- (a) the safety of the general public; or
- (b) the security of:
- (i) governmental property;
- (ii) governmental programs; or
- (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26-39-501:
- (a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
- (b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;
- (51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
- (a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
- (b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
- (i) the nature of the law, ordinance, rule, or order; and
- (ii) the individual complying with the law, ordinance, rule, or order;
- (52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
- (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
- (b) conducted using animals;
- (53) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);
- (54) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial

Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(55) records contained in the Management Information System created in Section 62A-4a-1003;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and

Professional Licensing under Subsection 58-68-304(3) or (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for

treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204; ~~and~~

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206~~[-]~~; and

(71) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii).

CHAPTER 129**H. B. 188**

Passed March 12, 2019
Approved March 22, 2019
Effective July 1, 2019

T.H. BELL PROGRAM AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions related to the Terrel H. Bell Teaching Incentive Loans Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the Terrel H. Bell Teaching Incentive Loans Program from a loan program to a scholarship program;
- ▶ enacts provisions regarding the scholarship program, including provisions related to:
 - eligibility for a scholarship;
 - prioritization of a scholarship; and
 - the amount and duration of a scholarship;
- ▶ requires the State Board of Regents to make rules related to the scholarship program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53B-10-101, as last amended by Laws of Utah 2018, Chapter 415

63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

ENACTS:

53B-8-114, Utah Code Annotated 1953

REPEALS:

53B-10-102, as last amended by Laws of Utah 2006, Chapter 88

53B-10-103, as last amended by Laws of Utah 2009, Chapter 370

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

Section 1. Section 53B-8-114 is enacted to read:**53B-8-114. Terrel H. Bell Education Scholarship Program -- Scholarship requirements -- Rulemaking.**

(1) As used in this section:

(a) "Approved program" means a program that:

(i) is a teacher preparation program that:

(A) meets the standards described in Section 53E-6-302; and

(B) provides enhanced clinical experiences; or

(ii) prepares an individual to become:

(A) a speech-language pathologist; or

(B) another licensed professional providing services in a public school to students with disabilities.

(b) "Eligible institution" means a public or private institution of higher education in Utah that offers an approved program.

(c) "High needs area" means a subject area or field in public education that has a high need for teachers or other employees, as determined in accordance with Subsections (6) and (7).

(d) "Scholarship" means a scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board for the Terrel H. Bell Education Scholarship Program to be distributed to eligible institutions to award scholarships to incentivize students to work in public education in Utah.

(3) (a) Subject to the prioritization described in Subsection (3)(b), an eligible institution may award a scholarship to an individual who:

(i) meets the academic standards described in Subsection (6);

(ii) is enrolled in at least six credit hours at the eligible institution; and

(iii) declares an intent to:

(A) apply to and complete an approved program at the eligible institution; and

(B) work in a Utah public school.

(b) An eligible institution shall prioritize awarding of scholarships:

(i) first, to first generation students who intend to work in any area in a Utah public school;

(ii) second, to students who:

(A) are not first generation students; and

(B) intend to work in a high needs area in a Utah public school; and

(iii) last, to other students who meet the requirements described in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), an eligible institution may award a scholarship to an individual for an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the individual is enrolled each semester.

(b) An eligible institution that is a private institution may not award a scholarship for an amount of money that exceeds the average scholarship amount granted by a public institution of higher education.

(5) (a) Except as provided in Subsection (5)(b), an eligible institution may award a scholarship to an individual for up to four consecutive years.

(b) An eligible institution may grant a scholarship recipient a leave of absence.

(c) An eligible institution may cancel a scholarship if:

(i) the scholarship recipient fails to make reasonable progress toward completion of the approved program, as determined by the eligible institution; or

(ii) the eligible institution determines with reasonable certainty that the scholarship recipient does not intend to work in a Utah public school.

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

(a) requirements related to an eligible institution's administration of a scholarship;

(b) a process for an individual to apply to an eligible institution to receive a scholarship;

(c) in accordance with Subsection (3)(a), requirements related to eligibility for a scholarship, including required academic standards;

(d) in accordance with Subsection (3)(b), requirements related to prioritization of scholarships, including determination of:

(i) whether a student is a first generation student; and

(ii) high needs areas; and

(e) criteria to determine whether an individual intends to work in a Utah public school.

(7) The board shall consult with the State Board of Education to determine:

(a) whether a teacher preparation program provides enhanced clinical experiences; and

(b) which subject areas and fields are high needs areas.

(8) The board may use up to 5% of money appropriated for the purposes described in this section to promote the scholarships described in this section.

Section 2. Section 53B-10-101 is amended to read:

53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans.

(1) (a) Notwithstanding the provisions of this section, the board may not award an incentive loan described in this section on or after July 1, 2019.

(b) The provisions of this section apply to an incentive loan described in this section that was awarded before July 1, 2019.

[4] (2) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and train superior candidates for teaching in Utah's public

school system as a component of the teacher quality continuum referred to in Subsections 53E-2-302(7) and 53E-6-103(2)(a).

(b) Under the program, the incentive loans may be used in any of Utah's state-operated institutions of higher education or at a private institution of higher education in Utah that offers a state-approved teacher education program.

[2] (3) (a) The [State Board of Regents] board shall award the incentive loans to college students who have been admitted to, or have made application to and are prepared to enter into, a program preparing students for licensure and who declare an intent to complete the prescribed course of instruction and to teach in this state in accordance with the priorities described under Subsection [5] (6)(c).

(b) The incentive loan may be canceled at any time by the institution of attendance if:

(i) the student fails to make reasonable progress [towards] toward completion of licensing requirements; or

(ii) it appears to be a reasonable certainty that the student does not intend to teach in Utah.

(c) The [State Board of Regents] board may grant leaves of absence to incentive loan holders.

[3] (4) The [State Board of Regents] board may require an incentive loan recipient who fails to complete the requirements for licensing without good cause to repay all tuition and fees provided by the loan, together with appropriate interest.

[4] (5) (a) The [State Board of Regents] board may require an incentive loan recipient who does not work in the state's public school system or a private school within the state within two years after graduation to repay all tuition and fees provided by the loan, together with appropriate interest, unless waived for good cause.

(b) (i) A recipient who does not teach for a term equal to the number of years of the incentive loan within a reasonable period of time after graduation shall repay a graduated portion of the tuition and fees based upon the uncompleted term.

(ii) One year of teaching is credit for one year's tuition and fees.

(c) All repayments made under this Subsection [4] (5) are for use in the Terrel H. Bell [Teaching Incentive Loans program] Education Scholarship Program described in Section 53B-8-114.

[5] (6) (a) Each incentive loan is valid for up to four years of full-time equivalent enrollment, or until requirements for licensing or advanced licensing have been met, whichever is less.

(b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to conditions approved by the [State Board of Regents] board, based upon criteria developed to [insure] ensure that all recipients of the loans will pursue an education career within the state.

(ii) An incentive loan for tuition and fees at a private institution may not exceed the average

scholarship amounts granted for tuition and fees at public institutions of higher education within the state.

(c) Incentive loans shall be awarded in accordance with prioritized critical areas of need for teaching expertise within the state, as determined by the State Board of Education's criticality index and school district priorities based upon data provided by the school district, and may include preparing persons as:

- (i) a special education teacher;
- (ii) a speech or language pathologist; or
- (iii) another licensed professional providing services in the public schools to pupils with disabilities.

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

- (1) Section 53A-24-602 is repealed July 1, 2018.
- (2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.
 - (b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.
- (3) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.
 - (b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.
- (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.
 - (b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.
- (5) (a) Subsection 53B-7-707(4)(a)(ii), the language that states "Except as provided in Subsection (4)(b)," is repealed July 1, 2021.
 - (b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

(6) (a) The following sections are repealed on July 1, 2023:

- (i) Section 53B-8-202;
- (ii) Section 53B-8-203;
- (iii) Section 53B-8-204; and
- (iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(7) Section 53B-10-101 is repealed on July 1, 2027.

~~(7)~~ (8) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~(8)~~ (9) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

~~(9)~~ (10) Section 53E-5-307 is repealed July 1, 2020.

~~(10)~~ (11) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(11)~~ (12) Subsection 53F-2-301(1) is repealed July 1, 2023.

~~(12)~~ (13) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(13)~~ (14) Section 53F-4-204 is repealed July 1, 2019.

~~(14)~~ (15) Section 53F-6-202 is repealed July 1, 2020.

~~(15)~~ (16) Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(16)~~ (17) Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(17)~~ (18) Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(18)~~ (19) Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(19)~~ (20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 4. Repealer.

This bill repeals:

Section 53B-10-102, Number of incentive loans -- Criteria for awarding.

Section 53B-10-103, Incentive loan appropriation -- Administration of incentive loan program.

Section 5. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 130**H. B. 191**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

**CONTROLLED SUBSTANCE
ABUSE AMENDMENTS**Chief Sponsor: Steve Eliason
Senate Sponsor: Evan J. Vickers**LONG TITLE****General Description:**

This bill amends the Utah Controlled Substances Act.

Highlighted Provisions:

This bill:

- ▶ requires a prescriber to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

58-37-19, Utah Code Annotated 1953

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

Section 1. Section 58-37-19 is enacted to read:**58-37-19. Opiate prescription consultation.**

(1) As used in this section:

(a) "Hospice" means the same as that term is defined in Section 26-21-2.

(b) "Initial opiate prescription" means a prescription for an opiate to a patient who:

(i) has never previously been issued a prescription for an opiate; or

(ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under this chapter.

(2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor:

(a) the risks of addiction and overdose associated with opiate drugs;

(b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

(c) the reasons why the prescription is necessary;

(d) alternative treatments that may be available; and

(e) other risks associated with the use of the drugs being prescribed.

(3) This section does not apply to a prescription for:

(a) a patient who is currently in active treatment for cancer;

(b) a patient who is receiving hospice care from a licensed hospice; or

(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

CHAPTER 131**H. B. 194**

Passed March 1, 2019
 Approved March 22, 2019
 Effective May 14, 2019

UNINSURED MOTORIST AMENDMENTS

Chief Sponsor: Kelly B. Miles
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill specifies the statute of limitations for an action under a contract for uninsured motorist coverage.

Highlighted Provisions:

This bill:

- ▶ specifies the statute of limitations for an action under a contract for uninsured motorist coverage.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-305, as last amended by Laws of Utah 2018, Chapter 434

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

Section 1. Section 31A-22-305 is amended to read:**31A-22-305. Uninsured motorist coverage.**

(1) As used in this section, "covered persons" includes:

- (a) the named insured;
- (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;
- (c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;
- (d) any person occupying or using a motor vehicle:
 - (i) referred to in the policy; or
 - (ii) owned by a self-insured; and
- (e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

- (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

- (i) is filed with the department;
- (ii) is provided by the insurer;
- (iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an

insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), “new policy” means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured’s motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), “additional motor vehicle” means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured’s motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity’s coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured’s motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured’s motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured’s motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that

accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier;

(iii) may not be reduced by any benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years of age who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b)(ii).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the

total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

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

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

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

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in

good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

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

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

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

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of

the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up

to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

CHAPTER 132**H. B. 199**

Passed March 11, 2019
 Approved March 22, 2019
 Effective May 14, 2019

CONTRACT AMENDMENTS

Chief Sponsor: Mike Schultz
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions related to the enforceability of certain agreements.

Highlighted Provisions:

This bill:

- ▶ modifies the permissible duration of an employment contract that contains a post-employment restrictive covenant for a broadcasting employee; and
- ▶ limits the enforcement of an agreement or stipulation to confess judgment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-51-201, as last amended by Laws of Utah 2018, Chapter 465

ENACTS:

78B-22-101, Utah Code Annotated 1953
 78B-22-102, Utah Code Annotated 1953

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

Section 1. Section 34-51-201 is amended to read:**34-51-201. Post-employment restrictive covenants.**

(1) Except as provided in Subsection (2) and in addition to any requirements imposed under common law, for a post-employment restrictive covenant entered into on or after May 10, 2016, an employer and an employee may not enter into a post-employment restrictive covenant for a period of more than one year from the day on which the employee is no longer employed by the employer. A post-employment restrictive covenant that violates this subsection is void.

(2) (a) Subject to Subsection (2)(b), a post-employment restrictive covenant between a broadcasting company and a broadcasting employee is valid only if:

(i) the broadcasting employee is an exempt broadcasting employee;

(ii) the post-employment restrictive covenant is part of a written employment contract ~~[with a term of no more than four years]~~ of reasonable duration, based on industry standards, the position, the

broadcasting employee's experience, geography, and the parties' unique circumstances; and

(iii) (A) the broadcasting company terminates the broadcasting employee for cause; or

(B) the broadcasting employee breaches the employment contract in a manner that results in the broadcasting employee no longer being employed by the broadcasting company.

(b) A post-employment restrictive covenant described in Subsection (2)(a) is enforceable for no longer than the earlier of:

(i) one year after the day on which the broadcasting employee is no longer employed by the broadcasting company; or

(ii) the day on which the original term of the employment contract containing the post-employment restrictive covenant ends.

(c) A post-employment restrictive covenant between a broadcasting company and a broadcasting employee that does not comply with this subsection is void.

Section 2. Section 78B-22-101 is enacted to read:**Part 22. Agreements to Confess Judgment****78B-22-101. Definitions.**

Reserved

Section 3. Section 78B-22-102 is enacted to read:**78B-22-102. Certain agreements to confess judgment void.**

An agreement or stipulation to confess judgment is void if the agreement or stipulation is executed:

(1) on or after May 14, 2019; and

(2) before a default giving rise to an action in which the judgment under the agreement or stipulation is to be confessed.

CHAPTER 133

H. B. 226

Passed March 7, 2019

Approved March 22, 2019

Effective May 14, 2019

OCCUPATIONAL LICENSING REVISIONS

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the Division of Occupational and Professional Licensing (DOPL) Act.

Highlighted Provisions:

This bill:

- ▶ defines terms, including “competency-based licensing requirement”;
- ▶ allows the director of DOPL to implement competency-based licensing requirements under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301, as last amended by Laws of Utah 2013, Chapter 426

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

Section 1. Section 58-1-301 is amended to read:

58-1-301. License application -- Licensing procedure.

(1) (a) Each license applicant shall apply to the division in writing upon forms available from the division.

(b) Each completed application shall:

(i) contain documentation of the particular qualifications required of the applicant~~[-, shall];~~

(ii) include the applicant's social security number~~[-, shall];~~

(iii) be verified by the applicant~~[-, and shall]; and~~

(iv) be accompanied by the appropriate fees.

~~(b)~~ (c) An applicant's social security number is a private record under Subsection 63G-2-302(1)(i).

(2) (a) ~~[A license shall be issued]~~ The division shall issue a license to an applicant who submits a complete application if the division determines that the applicant meets the qualifications of licensure.

(b) ~~[A written notice of additional proceedings shall be provided]~~ The division shall provide a written notice of additional proceedings to an applicant who submits a complete application, but who has been, is, or will be placed under investigation by the division for conduct directly

bearing upon the applicant's qualifications for licensure, if the outcome of additional proceedings is required to determine the division's response to the application.

(c) ~~[A written notice of denial of licensure shall be provided]~~ The division shall provide a written notice of denial of licensure to an applicant who submits a complete application if the division determines that the applicant does not meet the qualifications of licensure.

(d) ~~[A written notice of incomplete application and conditional denial of licensure shall be provided]~~ The division shall provide a written notice of incomplete application and conditional denial of licensure to an applicant who submits an incomplete application~~[-, This]~~, which notice shall advise the applicant that the application is incomplete and that the application is denied, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all qualifications for licensure.

(3) ~~[Before any person is issued a license under this title, all requirements for that license as established under this title and by rule shall be met]~~ The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an applicant meets all requirements ~~[are met for the]~~ for a specific license, the division shall issue the license to the applicant.

(5) (a) As used in this Subsection (5):

(i) (A) “Competency-based licensing requirement” means a practical assessment of knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation or profession regulated by this title, and which the director determines is at least as effective as a time-based licensing requirement at demonstrating proficiency and protecting the health and safety of the public.

(B) “Competency-based licensing requirement” may include any combination of training, experience, testing, or observation.

(ii) (A) “Time-based licensing requirement” means a specific number of hours, weeks, months, or years of education, training, supervised training, or other experience that an applicant for licensure under this title is required to complete before receiving a license under this title.

(B) “Time-based licensing requirement” does not include an associate degree, a bachelor's degree, or a graduate degree from an accredited institution of higher education.

(b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title that has a time-based licensing requirement, the director, after consultation with the appropriate board, may by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement.

(c) If a time-based licensing requirement involves a program that must be approved or accredited by a specific entity or board, the director may only allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement under Subsection (5)(b) if the competency-based requirement is approved or accredited by the specific entity or board as a replacement or alternative to the time-based licensing requirement.

(d) By October 1 of each year, the director shall provide a written report to the Occupational and Professional Licensure Review Committee describing any competency-based licensing requirements implemented under this Subsection (5).

CHAPTER 134**H. B. 236**

Passed March 12, 2019
Approved March 22, 2019
Effective July 1, 2019

**TEACHER SALARY
SUPPLEMENT AMENDMENTS**

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions related to the Teacher Salary Supplement Program.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to an individual's eligibility for a teacher salary supplement; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53F-2-504, as last amended by Laws of Utah 2018, Chapter 212 and renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program.

- (1) As used in this section:
- (a) "Board" means the State Board of Education.
- (b) "Certificate teacher" means a teacher who holds a National Board certification.
- ~~[(c) "Eligible teacher" means a teacher who:]~~
- ~~[(i) has an assignment to teach:]~~
- ~~[(A) a secondary school level mathematics course;]~~
- ~~[(B) integrated science in grade 7 or 8;]~~
- ~~[(C) chemistry;]~~
- ~~[(D) physics;]~~
- ~~[(E) computer science; or]~~
- ~~[(F) special education;]~~
- ~~[(ii) holds the appropriate endorsement for the assigned course;]~~
- ~~[(iii) has qualifying educational background; and]~~
- ~~[(iv) (A) is a new employee; or]~~

~~[(B) received a satisfactory rating or above on the teacher's most recent evaluation.]~~

(c) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.

(d) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(e) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(f) "License" means the same as that term is defined in Section 53E-6-102.

(g) "National Board certification" means the same as that term is defined in Section 53E-6-102.

(h) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a [degree described in Subsection (1)(h)(ii)(A)] bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a ~~[degree described in Subsection (1)(h)(iii)(A)]~~ bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(i) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

(j) "Qualifying teaching background" means the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years.

(k) "Supplement-approved assignment" means an assignment to teach:

- (i) a secondary school level mathematics course;
- (ii) integrated science in grade 7 or 8;
- (iii) chemistry;
- (iv) physics;
- (v) computer science; or
- (vi) special education.

(j) (l) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) workers' compensation;
- (iii) Social Security; and
- (iv) Medicare.

(3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full-time to ~~teach one or more courses listed in Subsections (1)(e)(i)(A) through (F)]~~ a supplement-approved assignment is \$4,100 and funded through an appropriation described in Subsection (2).

(ii) An eligible teacher who ~~has a part-time assignment to teach one or more courses listed in Subsections (1)(e)(i)(A) through (F)]~~ is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the ~~course~~ supplement-approved assignment.

(b) The annual salary supplement for a certificate teacher is \$750.

(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is:

(i) ~~[(A) is]~~ an eligible teacher; ~~[and]~~

~~[(B) has a course assignment as listed in Subsections (1)(e)(i)(A) through (F);]~~

(ii) ~~[is]~~ a certificate teacher; or

(iii) ~~[is]~~ a Title I school certificate teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers, certificate teachers, and Title I school certificate teachers.

(5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher shall apply with the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may apply with the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to ~~[the course requirements for a degree described in:]~~ the qualifying educational background associated with the teacher's supplement-approved assignment.

~~[(A) Subsection (1)(h)(i)(A);]~~

~~[(B) Subsection (1)(h)(ii)(A);]~~

~~[(C) Subsection (1)(h)(iii)(A); or]~~

~~[(D) Subsection (1)(h)(iv).]~~

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to ~~the course requirements for a degree listed in:~~ the qualifying educational background associated with the teacher's supplement-approved assignment.

~~[(A) Subsection (1)(h)(i)(A);]~~

~~[(B) Subsection (1)(h)(ii)(A);]~~

~~[(C) Subsection (1)(h)(iii)(A); or]~~

~~[(D) Subsection (1)(h)(iv).]~~

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.

(ii) A teacher shall provide to the board a certificate or other related documentation in order for the board to determine if the teacher holds a current certificate.

(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

(A) holds a current certificate; and

(B) is assigned to teach at a Title I school.

(ii) A teacher shall provide to the board:

(A) information described in Subsection (6)(c)(ii); and

(B) verification that the teacher is assigned to teach at a Title I school.

(e) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary

supplement equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or Title I school certificate teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 2. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 135**H. B. 246**

Passed February 28, 2019

Approved March 22, 2019

Effective May 14, 2019

**HUNTING AND FISHING
LICENSE AMENDMENTS**

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill provides for discounted hunting, fishing, or combination licenses for disabled veterans.

Highlighted Provisions:

This bill:

- ▶ provides for discounted hunting, fishing, or combination licenses for disabled veterans; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-19-38.3, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section 23-19-38.3 is amended to read:**23-19-38.3. Licenses for disabled veterans
-- Free or reduced price.**

(1) The division ~~may~~ shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under which a veteran with a disability may receive a hunting, fishing, or combination license free or at a reduced price.

(2) In making rules under this section, the division shall ~~utilize~~:

(a) use the same guidelines for disability as the United States Department of Veterans Affairs~~[-]~~; and

(b) provide at a minimum a reduction under this section of 25% of the full fee.

CHAPTER 136**H. B. 249**

Passed February 14, 2019

Approved March 22, 2019

Effective May 14, 2019

**REVISOR'S TECHNICAL
CORRECTIONS TO UTAH CODE**

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-11-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-41a-103, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41a-301, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 7-25-205, as enacted by Laws of Utah 2015, Chapter 284
- 10-6-106, as last amended by Laws of Utah 2014, Chapters 176, 253, 377 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 253
- 10-9a-401, as last amended by Laws of Utah 2018, Chapter 218
- 11-54-102, as enacted by Laws of Utah 2016, Chapter 180
- 17-31-2, as last amended by Laws of Utah 2018, Chapter 240
- 17-36-4, as last amended by Laws of Utah 2013, Chapter 413
- 17-52a-403, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17-52a-406, as renumbered and amended by Laws of Utah 2018, Chapter 68
- 17B-2a-823, as last amended by Laws of Utah 2011, Chapter 366
- 20A-2-204, as last amended by Laws of Utah 2018, Chapter 206
- 20A-7-101, as last amended by Laws of Utah 2017, Chapter 291

- 26-18-416, as enacted by Laws of Utah 2018, Chapter 384
- 26-18-503, as last amended by Laws of Utah 2017, Chapter 443
- 26-36c-205, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-210, as enacted by Laws of Utah 2018, Chapter 468
- 26-61a-103, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-104, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-106, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-301, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-401, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-504, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-507, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-601, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-602, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-606, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-611, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-63-102, as enacted by Laws of Utah 2018, Chapter 430
- 26-63-301, as enacted by Laws of Utah 2018, Chapter 430
- 26-63-401, as enacted by Laws of Utah 2018, Chapter 430
- 26-63-402, as enacted by Laws of Utah 2018, Chapter 430
- 30-3-10, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 31A-22-618, as last amended by Laws of Utah 2017, Chapter 292
- 34A-2-407, as last amended by Laws of Utah 2018, Chapter 268
- 34A-2-704, as last amended by Laws of Utah 2018, Chapter 207
- 34A-3-108, as last amended by Laws of Utah 2016, Chapter 242
- 35A-8-608, as enacted by Laws of Utah 2018, Chapter 312
- 35A-8-609, as enacted by Laws of Utah 2018, Chapter 312
- 35A-8-1601, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-1604, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-1701, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 35A-8-1702, as renumbered and amended by Laws of Utah 2012, Chapter 212

35A-8-1703, as renumbered and amended by Laws of Utah 2012, Chapter 212	58-31b-308, as last amended by Laws of Utah 2005, Chapters 50 and 134
35A-8-1704, as last amended by Laws of Utah 2013, Chapter 400	58-31b-401, as last amended by Laws of Utah 2013, Chapter 364
35A-8-1707, as renumbered and amended by Laws of Utah 2012, Chapter 212	58-55-305, as last amended by Laws of Utah 2018, Chapter 318
41-3-110, as enacted by Laws of Utah 2015, Chapter 93	58-61-714, as enacted by Laws of Utah 2015, Chapter 367
41-6a-505, as last amended by Laws of Utah 2018, Chapter 334	58-67-304, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
46-5-108, as enacted by Laws of Utah 2018, Chapter 100	58-68-304, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
48-4-102, as enacted by Laws of Utah 2018, Chapter 201	58-80a-102, as last amended by Laws of Utah 2017, Chapter 305
48-4-301, as enacted by Laws of Utah 2018, Chapter 201	59-1-306, as last amended by Laws of Utah 2018, Chapter 442
51-9-203, as last amended by Laws of Utah 2012, Chapter 242	59-1-1409, as enacted by Laws of Utah 2009, Chapter 212
51-9-408, as last amended by Laws of Utah 2014, Chapter 267	59-2-1004, as last amended by Laws of Utah 2018, Chapter 277
53-2a-203, as renumbered and amended by Laws of Utah 2013, Chapter 295	59-12-103, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
53-3-219, as last amended by Laws of Utah 2014, Chapter 314	59-12-104, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
53-5c-201, as last amended by Laws of Utah 2017, Chapter 334	59-12-205, as last amended by Laws of Utah 2018, Chapters 258, 312, and 330
53-9-122, as enacted by Laws of Utah 2018, Chapter 462	59-13-402, as last amended by Laws of Utah 2009, Chapters 222 and 358
53-10-108, as last amended by Laws of Utah 2018, Chapters 417 and 427	59-13-403, as last amended by Laws of Utah 2006, Chapter 322
53-10-202.3, as enacted by Laws of Utah 2017, Chapter 296	59-14-802, as enacted by Laws of Utah 2015, Chapter 132
53B-26-102, as last amended by Laws of Utah 2018, Chapter 421	61-1-11, as last amended by Laws of Utah 2009, Chapter 351
53D-1-102, as last amended by Laws of Utah 2018, Chapters 415 and 448	62A-2-101, as last amended by Laws of Utah 2018, Chapters 252 and 316
53E-9-305, as last amended by Laws of Utah 2018, Chapter 304 and renumbered and amended by Laws of Utah 2018, Chapter 1	62A-4a-201, as last amended by Laws of Utah 2017, Chapter 330
53F-2-203, as last amended by Laws of Utah 2018, Chapters 448, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2	62A-15-1101, as last amended by Laws of Utah 2018, Chapters 38, 414, and 415
53F-2-409, as renumbered and amended by Laws of Utah 2018, Chapter 2	63A-14-405, as enacted by Laws of Utah 2018, Chapter 461
53F-2-414, as enacted by Laws of Utah 2018, Chapter 464	63A-15-303, as enacted by Laws of Utah 2018, Chapter 461
53F-2-704, as enacted by Laws of Utah 2018, Chapter 2 and last amended by Laws of Utah 2018, Chapters 211, 300, 383, and 456	63G-6a-103, as last amended by Laws of Utah 2018, Second Special Session, Chapter 4
53F-6-301, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2	63H-1-205, as enacted by Laws of Utah 2018, Chapter 442
53G-5-413, as enacted by Laws of Utah 2018, Chapter 3	63I-1-226, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
53G-8-508, as renumbered and amended by Laws of Utah 2018, Chapter 3	63I-1-231, as last amended by Laws of Utah 2018, Chapter 183
53G-11-509, as renumbered and amended by Laws of Utah 2018, Chapter 3	63I-1-234, as last amended by Laws of Utah 2018, Chapter 416
54-17-807, as enacted by Laws of Utah 2018, Chapter 219	63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453
58-1-307, as last amended by Laws of Utah 2017, Chapter 326	63I-1-257, as last amended by Laws of Utah 2018, Chapter 281
	63I-1-276, as enacted by Laws of Utah 2014, Chapter 226
	63I-1-278, as last amended by Laws of Utah 2018, Chapter 25
	63I-2-210, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

63I-2-220, as last amended by Laws of Utah 2018, Chapters 187 and 458

63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

63I-2-262, as last amended by Laws of Utah 2018, Chapter 38

63I-2-272, as last amended by Laws of Utah 2017, Chapter 427

63J-1-201, as last amended by Laws of Utah 2017, Chapter 466

63J-1-220, as last amended by Laws of Utah 2018, Chapters 415 and 456

63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469

63J-1-801, as enacted by Laws of Utah 2018, Chapter 312

63M-7-210, as enacted by Laws of Utah 2018, Chapter 54

63N-2-503, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-2-504, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283

63N-4-404, as enacted by Laws of Utah 2018, Chapter 340

63N-6-202, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-7-301, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and amended by Laws of Utah 2015, Chapter 283

75-6-401, as enacted by Laws of Utah 2018, Chapter 26

75-6-402, as enacted by Laws of Utah 2018, Chapter 26

75-6-403, as enacted by Laws of Utah 2018, Chapter 26

75-6-404, as enacted by Laws of Utah 2018, Chapter 26

75-6-416, as enacted by Laws of Utah 2018, Chapter 26

75-6-417, as enacted by Laws of Utah 2018, Chapter 26

75-6-419, as enacted by Laws of Utah 2018, Chapter 26

76-5-110, as last amended by Laws of Utah 2011, Chapter 366

76-6-412, as last amended by Laws of Utah 2018, Chapter 265

77-41-102, as last amended by Laws of Utah 2017, Chapter 434

78A-6-302, as last amended by Laws of Utah 2018, Chapter 91

78A-6-306, as last amended by Laws of Utah 2018, Chapter 91

78A-6-312, as last amended by Laws of Utah 2018, Chapter 91

78A-6-1103, as last amended by Laws of Utah 2014, Chapter 265

78A-6-1302, as last amended by Laws of Utah 2017, Chapter 330

78A-7-106, as last amended by Laws of Utah 2017, Chapter 330

78B-6-112, as last amended by Laws of Utah 2018, Chapter 359

78B-6-812, as last amended by Laws of Utah 2018, Chapter 291

78B-7-107, as last amended by Laws of Utah 2018, Chapter 255

78B-12-402, as last amended by Laws of Utah 2018, Chapter 21

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

Section 1. Section 4-11-102 is amended to read:

4-11-102. Definitions.

As used in this chapter:

(1) "Abandoned apiary" means any apiary to which the owner or operator fails to give reasonable and adequate attention during a given year as determined by the department.

(2) "Apiary" means any place where one or more colonies of bees are located.

(3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment used to handle or manipulate bees, honey, wax, or hives.

(4) "Appliance" means any apparatus, tool, machine, or other device used to handle or manipulate bees, wax, honey, or hives.

(5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

(6) (a) "Beekeeper" means a person who keeps bees.

(b) "Beekeeper" includes an apiarist.

(7) "Colony" means an aggregation of bees in any type of hive that includes queens, workers, drones, or brood.

(8) "Disease" means any infectious or contagious disease affecting bees, as specified by the department, including American foulbrood.

(9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial or natural receptacle that may be used to house bees.

(10) "Package" means any number of bees in a bee-tight container, with or without a queen, and without comb.

(11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

(12) "Pest" means an organism that:

(a) inflicts damage to a bee or bee colony directly or indirectly; or

(b) may damage apiary equipment in a manner that is likely to have an adverse [affect] effect on the health of the colony or an adjacent colony.

(13) "Raise" means:

(a) to hold a colony of bees in a hive for the purpose of pollination, honey production, or study, or a similar purpose; and

(b) when the person holding a colony holds the colony or a package of bees in the state for a period of time exceeding 30 days.

(14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant colony or subsequent colony on the same equipment.

Section 2. Section 4-41a-103 is amended to read:

4-41a-103. Inventory control system.

(1) Each cannabis production establishment, each medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

(3) A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall allow the department or the Department of Health access to the cannabis production establishment's, medical cannabis pharmacy's, or state central fill medical cannabis pharmacy's inventory control system at any time.

(4) The department may establish compatibility standards for an inventory control system by rule

made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Section 3. Section 4-41a-301 is amended to read:

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a third-party certification standard that the department designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) The department shall ensure that the certification standard described in Subsection (6) includes training:

(a) in Utah medical cannabis law;

(b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(c) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

(d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 4. Section 7-25-205 is amended to read:

7-25-205. Issuance of license.

(1) Upon the filing of a complete application, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the applicant. The commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which is to be borne by the applicant in accordance with Subsection 7-1-401~~(7)~~(6).

(2) The commissioner shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this state if the commissioner finds that:

(a) the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community;

(b) the applicant has fulfilled the requirements imposed by this chapter; and

(c) the applicant has paid the required original license fee under Section 7-1-401.

Section 5. Section 10-6-106 is amended to read:

10-6-106. Definitions.

As used in this chapter:

(1) "Account group" is defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(2) "Appropriation" means an allocation of money by the governing body for a specific purpose.

(3) (a) "Budget" means a plan of financial operations for a fiscal period which embodies estimates of proposed expenditures for given purposes and the proposed means of financing them.

(b) "Budget" may refer to the budget of a particular fund for which a budget is required by law or it may refer collectively to the budgets for all such funds.

~~[(4) "Budgetary fund" means a fund for which a budget is required.]~~

~~[(5)]~~ (4) "Budget officer" means the city auditor in a city of the first and second class, the mayor or some person appointed by the mayor with the approval of the city council in a city of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government, or the person designated by the charter in a charter city.

~~[(6)]~~ (5) "Budget period" means the fiscal period for which a budget is prepared.

(6) "Budgetary fund" means a fund for which a budget is required.

(7) "Check" means an order in a specific amount drawn upon a depository by an authorized officer of a city.

(8) "City general fund" means the general fund used by a city.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted, i.e., the fiscal period next preceding the budget period.

(10) "Department" means any functional unit within a fund that carries on a specific activity, such as a fire or police department within a city general fund.

(11) "Encumbrance system" means a method of budgetary control in which part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account at their time of origin. Such obligations cease to be encumbrances when paid or when the actual liability is entered on the city's books of account.

(12) "Enterprise fund" means a fund as defined by the Governmental Accounting Standards Board that is used by a municipality to report an activity for which a fee is charged to users for goods or services.

(13) "Estimated revenue" means the amount of revenue estimated to be received from all sources during the budget period in each fund for which a budget is being prepared.

(14) "Financial officer" means the mayor in the council-mayor optional form of government or the city official as authorized by Section 10-6-158.

(15) "Fiscal period" means the annual or biennial period for accounting for fiscal operations in each city.

(16) "Fund" is as defined by generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(17) "Fund balance," "retained earnings," and "deficit" have the meanings commonly accorded such terms under generally accepted accounting principles as reflected in the Uniform Accounting Manual for Utah Cities.

(18) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(19) "Governing body" means a city council, or city commission, as the case may be, but the authority to make any appointment to any position created by this chapter is vested in the mayor in the council-mayor optional form of government.

(20) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

(21) "Last completed fiscal period" means the fiscal period next preceding the current period.

(22) (a) "Public funds" means any money or payment collected or received by an officer or employee of the city acting in an official capacity and includes money or payment to the officer or employee for services or goods provided by the city,

or the officer or employee while acting within the scope of employment or duty.

(b) “Public funds” does not include money or payments collected or received by an officer or employee of a city for charitable purposes if the mayor or city council has consented to the officer’s or employee’s participation in soliciting contributions for a charity.

(23) “Special fund” means any fund other than the city general fund.

(24) “Utility” means a utility owned by a city, in whole or in part, that provides electricity, gas, water, or sewer, or any combination of them.

(25) “Warrant” means an order drawn upon the city treasurer, in the absence of sufficient money in the city’s depository, by an authorized officer of a city for the purpose of paying a specified amount out of the city treasury to the person named or to the bearer as money becomes available.

Section 6. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of

services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before July 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class;

(iii) a metro township with a population of 5,000 or more; and

(iv) a metro township with a population of less than 5,000, if the metro township is located within a county of the first, second, or third class.

(c) The population figures described in Subsections (3)(b)(ii), (iii), and (iv) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population [Estimates] Committee.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 7. Section 11-54-102 is amended to read:

11-54-102. Definitions.

As used in this chapter:

(1) “Buyback purchaser” means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.

(2) “Excess repurchase amount” means the difference between:

(a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and

(b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.

(3) “Local government entity” means a county, city, town, metro township, local district, special service district, community [development and renewal] reinvestment agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.

(4) “Procurement item” means the same as that term is defined in Section 63G-6a-103.

Section 8. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenues -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) Any county legislative body may impose the transient room tax provided for in Section 59-12-301 for the purposes of:

(a) establishing and promoting recreation, tourism, film production, and conventions;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas; and

(vi) related facilities;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection (1)(b); and

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105.

(2) Except as provided in Subsection (4), a county may not expend more than 1/3 of the revenues generated by the transient room tax provided in Section 59-12-301 for any combination of the following purposes:

(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums;

(E) sports and recreation facilities including practice fields, stadiums, and arenas; and

(F) related facilities; and

(ii) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes described in Subsection (2)(a)(i);

(b) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, to pay for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; or

(c) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds authorized under Subsection (3).

(3) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsection (2)(a) or (b) that are permitted to be paid from bond proceeds.

(b) Except as provided in Subsection (4), if the revenues generated by the transient room tax provided in Section 59-12-301 are not needed for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(c), the county legislative body shall expend those revenues as provided in Subsection (1), subject to the limitation of Subsection (2).

(4) If, on or after October 1, 2006, a county legislative body imposes a tax or increases the rate of a tax in accordance with Section 59-12-301 at a rate that exceeds 3%, the county legislative body:

(a) may expend revenues generated by the portion of the rate that exceeds 3% for any purpose described in Subsections (1) through (3); and

(b) is not subject to any limits on the amount of revenues that may be expended for a purpose described in Subsection (2).

Section 9. Section 17-36-4 is amended to read:

17-36-4. State auditor -- Duties.

(1) The state auditor shall:

(a) prescribe a uniform system of fiscal procedures for the several counties;

(b) conduct a constant review and modification of such procedures to improve them;

(c) prepare and supply each county budget officer with suitable budget forms; and

(d) prepare instructional materials, conduct training programs, and render other services

deemed necessary to assist counties in implementing the uniform system.

(2) The uniform system of procedure may include reasonable exceptions and modifications applicable to counties with a population of 25,000 or less, such population to be determined by the Utah Population [Work] Committee. Counties may expand the uniform system to serve better their needs. Deviations from or alterations to the basic prescribed classification system for the identity of funds and accounts should not be made.

Section 10. Section 17-52a-403 is amended to read:

17-52a-403. Study committee -- Members -- Powers and duties -- Report -- Services provided by county.

(1) (a) A study committee consists of seven members.

(b) A member of a study committee may not receive compensation for service on the committee.

(c) The county legislative body shall reimburse each member of a study committee for necessary expenses incurred in performing the member's duties on the study committee.

(2) A study committee may:

(a) adopt rules for the study committee's own organization and procedure and to fill a vacancy in its membership;

(b) establish advisory boards or committees and include on the advisory boards or committees persons who are not members of the study committee; and

(c) request the assistance and advice of any officers or employees of any agency of state or local government.

(3) (a) A study committee shall:

(i) study the form of government within the county and compare it with other forms available under this chapter;

(ii) determine whether the administration of local government in the county could be strengthened, made more clearly responsive or accountable to the people, or significantly improved in the interest of economy and efficiency by a change in the form of county government;

(iii) hold public hearings and community forums and other means the committee considers appropriate to disseminate information and stimulate public discussion of the committee's purposes, progress, and conclusions; and

(iv) file a written report of the study committee's findings and recommendations with the county executive, the county legislative body, and the county clerk no later than one year after the convening of the study committee's first meeting under Section 17-52a-402.

(b) Within 10 days after the day on which the study committee submits the study committee's report under Subsection (3)(a)(iv) to the county legislative body, if the report recommends a change in the form of county government, the county clerk shall send to the county attorney or, if the county does not have a county attorney, to the district attorney, a copy of each optional plan recommended in the report for review in accordance with Section 17-52a-406.

(4) Each study committee report under Subsection (3)(~~(4)~~)(a)(iv) shall include:

(a) the study committee's recommendation as to whether the form of county government should be changed to another form authorized under this chapter;

(b) if the study committee recommends changing the form of government, a complete detailed draft of a proposed plan to change the form of county government, including all necessary implementing provisions; and

(c) any additional recommendations the study committee considers appropriate to improve the efficiency and economy of the administration of local government within the county.

(5) (a) If the study committee's report recommends a change in the form of county government, the study committee may conduct additional public hearings after filing the report under Subsection (3)(~~(4)~~)(a)(iv) and, following the hearings and subject to Subsection (5)(b), alter the report.

(b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration to the report:

(i) that would recommend the adoption of an optional form different from that recommended in the original report; or

(ii) within the 120-day period before the election under Section 17-52a-501.

(6) Each meeting that the study committee holds shall be open to the public.

(7) If the study committee's report does not recommend a change in the form of county government, the report is final, the study committee is dissolved, and the process to change the county's form of government is concluded.

(8) The county legislative body shall provide for the study committee:

(a) suitable meeting facilities;

(b) necessary secretarial services;

(c) necessary printing and photocopying services;

(d) necessary clerical and staff assistance; and

(e) adequate funds for the employment of independent legal counsel and professional consultants that the study committee reasonably determines to be necessary to help the study committee fulfill its duties.

Section 11. Section 17-52a-406 is amended to read:

17-52a-406. County or district attorney review of proposed optional plan -- Conflict with statutory or constitutional provisions -- Processing of optional plan after attorney review.

(1) Within 45 days after the day on which the county or district attorney receives the recommended optional plan from the county clerk under Subsection (3)(d), 17-52a-303(3)(c), or 17-52a-403(3)(b) or from the county legislative body under Subsection (3)(c) or 17-52a-302(3), the county or district attorney shall send a written report to the county clerk containing the information described in Subsection (2).

(2) A report from the county or district attorney under Subsection (1) shall:

(a) state the attorney's opinion as to whether implementation of the optional plan described in Subsection (1) would result in a violation of any applicable statutory or constitutional provision;

(b) if the attorney concludes that a violation would result:

(i) identify specifically each statutory or constitutional provision that implementation of the optional plan would violate;

(ii) identify specifically each provision or feature of the proposed optional plan that would result in a statutory or constitutional violation if the plan is implemented; and

(iii) recommend how the proposed optional plan may be modified to avoid the statutory or constitutional violation.

(3) (a) Except as provided in Subsection (3)(b), (c), or (d), if the attorney determines under Subsection (2) that a violation would occur, the proposed optional plan may not be the subject of an election under Section 17-52a-501.

(b) The study committee may:

(i) modify an optional plan that the study committee recommends in accordance with Section 17-52a-403 to avoid a violation that a county or district attorney's report describes under Subsection (2); and

(ii) file a new report under Subsection 17-52a-403(3)(d)(a)(iv).

(c) A county legislative body may:

(i) modify an optional plan that the county legislative body proposes in accordance with Subsection 17-52a-302(1)(b) to avoid a violation that a county or district attorney's report describes under Subsection (2); and

(ii) within 10 days of modifying the optional plan, send the modified optional plan to:

(A) the county clerk; and

(B) the county or district attorney for review in accordance with this section.

(d) (i) The petition sponsors may:

(A) modify an optional plan that the petition proposes in accordance with Subsection 17-52a-303(1)(a)(ii) to avoid a violation that a county or district attorney's report describes under Subsection (2); and

(B) submit the modified optional plan to the county clerk.

(ii) Upon receipt of a modified optional plan described in Subsection (3)(d)(i), the county clerk shall send the modified optional plan to the county or district attorney for review in accordance with this section.

(4) The county executive, county legislative body, county or district attorney, and county clerk shall treat the following as an original:

(a) a new report that a study committee files under Subsection 17-52a-403(3)(d)(a)(iv);

(b) a modified optional plan that a county legislative body sends under Subsection (3)(c); and

(c) a modified optional plan that petition sponsors submit to the county clerk and that the county clerk sends under Subsection (3)(d).

(5) If the attorney's report under Subsection (2) does not identify any provisions or features of the proposed optional plan that, if implemented, would violate a statutory or constitutional provision, the proposed optional plan is subject to the provisions described in Section 17-52a-501.

Section 12. Section 17B-2a-823 is amended to read:

17B-2a-823. Public transit district special services.

(1) As used in this section, "bureau" means a recreational, tourist, or convention bureau ~~established under Section 17-31-2~~ under Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus.

(2) (a) A public transit district may lease its buses to private certified public carriers or operate transit services requested by a public entity if a bureau certifies that privately owned carriers furnishing like services or operating like equipment within the area served by the bureau:

(i) have declined to provide the service; or

(ii) do not have the equipment necessary to provide the service.

(b) A public transit district may lease its buses or operate services as authorized under Subsection (2)(a) outside of the area served by the district.

(3) If part or all of the transportation services are paid for by public funds, a public transit district may:

(a) provide school bus services for transportation of pupils and supervisory personnel between homes and school and other related school activities within the area served by the district; or

(b) provide the transportation of passengers covered by a program within the district for people who are elderly or who have a disability.

(4) Notwithstanding the provisions in Subsection (3), a municipality or county is not prohibited from providing the transportation services identified in Subsection (3).

Section 13. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, “voter registration form” means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers “yes” to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) A citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering “yes” to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual’s Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual’s voter registration record be classified as a private record under Subsection 20A-2-108(2)(c).

(4) Upon receipt of an individual’s voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual’s voter registration form that the individual’s voter registration record be classified as a private record,

classify the individual’s voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection [(7)] (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 14. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106[(5)](4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(9) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been certified and verified as provided in this chapter.

(10) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(11) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(12) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(13) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a master plan;

(iv) a comprehensive zoning regulation adopted by ordinance or resolution; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include an individual property zoning decision.

(14) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(15) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(16) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(17) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(18) "Referendum" means a process by which a law passed by the Legislature or by a local

legislative body is submitted or referred to the voters for their approval or rejection.

(19) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(20) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(21) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(22) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(23) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

(24) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(25) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(26) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 15. Section 26-18-416 is amended to read:

26-18-416. Primary Care Network enhancement waiver program.

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.

(c) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

(d) "Health coverage improvement program" means the same as that term is defined in Section 26-18-411.

(e) "Income eligibility ceiling" means the percentage of federal poverty level:

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

(f) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.

(g) "PPACA" means the same as that term is defined in Section 31A-1-301.

(h) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.

(2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.

(3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

(b) diagnostic testing and procedures;

(c) medical specialty care;

(d) inpatient hospital services;

(e) outpatient hospital services;

(f) outpatient behavioral health care, including outpatient substance abuse care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(e); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6) (a) Based on available funding and approval from CMS and subject to Subsection (6)(d), the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section 26-18-411, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26-18-411(3);

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid Expansion Fund created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

(d) The money deposited into the Medicaid Expansion Fund under Subsections 26-36b-208(2)(g) and (2)(h) may only be used to pay the cost of enrolling individuals who qualify for the enhancement waiver program under Subsections (6)(a)(iii) and (iv).

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections 26-18-411(11) and (12), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement

waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

Section 16. Section 26-18-503 is amended to read:

26-18-503. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26-18-505, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26-18-504[(4)](3).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) As provided in Subsection 26-18-502(2)(b), the director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients; and

(v) (A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9).

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) Notwithstanding Subsection 26-18-504~~(4)~~(3), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by the Center for Medicare and Medicaid Services; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9) (a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

Section 17. Section 26-36c-205 is amended to read:

26-36c-205. Calculation of assessment.

(1) (a) Except as provided in Subsection (1)(b), each private hospital shall pay an annual assessment due on the last day of each quarter in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and more than 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, as described in Subsection 26-36c-204(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this chapter.

(e) The division shall apply any quarterly changes to the uniform assessment rate uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as follows:

(a) for state fiscal year 2019, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2015, and June 30, 2016; and

(b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3) (a) If a hospital's fiscal year Medicare cost report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(~~e~~)(b)(i); and

(iii) if the hospital fails to submit discharge information, the division shall audit the hospital's records and may impose a penalty equal to 5% of the calculated assessment.

(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the division shall calculate the assessment for each hospital separately; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 18. Section 26-36c-210 is amended to read:

26-36c-210. Suspension of assessment.

(1) The department shall suspend the assessment imposed by this chapter when the executive director certifies that:

(a) action by Congress is in effect that disqualifies the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(b) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this chapter; or

(c) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015.

(2) If the assessment is suspended under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this chapter;

(b) the division shall disburse money in the Medicaid Expansion Fund that was derived from assessments imposed by this chapter in accordance with the requirements in Subsection 26-36b-208(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment; and

(c) the division shall refund any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this chapter to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years.

Section 19. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who meets the requirements contained in the request for proposals issued under Subsection (1)(b).

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual, with the individual's qualified medical provider in the qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy and the state central fill medical cannabis pharmacy use to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or the state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

(f) provides access to and interaction with the state central fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process;

(g) provides access to state or local law enforcement:

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is in compliance with state medical cannabis law; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) The department may release de-identified data that the system collects for the purpose of:

- (a) conducting medical research; and
- (b) providing the report required by Section 26-61a-703.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

- (i) a third degree felony; and
- (ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

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

(iii) discussing or sharing that information [ø] about the patient with the patient.

Section 20. Section 26-61a-104 is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a doctorate-level degree;

(C) a licensed clinical social worker with a doctorate-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions; and

(p) a condition that the compassionate use board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section 21. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.

(1) An individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider or a state central fill medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment or a medical cannabis pharmacy.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the

Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) Except as provided in Subsection (4)(c), a qualified medical provider may recommend a medical cannabis treatment to up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a \$100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not advertise that the qualified medical provider recommends medical cannabis treatment.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 22. Section 26-61a-301 is amended to read:

26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a medical cannabis pharmacy to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304; and

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507;

(v) if the municipality or county where the proposed medical cannabis pharmacy would be located requires a local land use permit, a copy of the person's approved application for the local land use permit; and

(vi) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an area that the relevant municipality or county has zoned as primarily residential.

(ii) An applicant for a license under this section shall provide evidence of compliance with the proximity requirement described in Subsection (2)(c)(i).

(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis pharmacy makes the same violation of this chapter three times; or

(c) an individual described in Subsection (2)(a)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise [Account] Fund.

(8) The department shall begin accepting applications under this part on or before March 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 23. Section 26-61a-401 is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) Except as provided in Section 26-61a-403, the following individuals, regardless of the individual's status as a qualified medical provider, may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

- (a) Utah medical cannabis law; and
- (b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

- (i) is eligible for a medical cannabis pharmacy agent registration card under this section;
- (ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and
- (iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 24. Section 26-61a-504 is amended to read:

26-61a-504. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records

in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department may inspect the records and facility of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, ~~and~~ or other physical or electronic information, or any combination of the above;

(b) questioning of any relevant individual; or

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 25. Section 26-61a-507 is amended to read:

26-61a-507. Local control.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:

(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel;

(B) 200 feet from the patron entrance to the community location's property boundary; and

(C) 600 feet from an area zoned primarily residential.

(ii) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).

(b) (i) A municipality or county may not deny or revoke a land use permit to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.

(i) A municipality or county may not deny or revoke a business license to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.

(2) A municipality or county may enact an ordinance that:

(a) is not in conflict with this chapter; and

(b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

Section 26. Section 26-61a-601 is amended to read:

26-61a-601. Department to establish state central fill medical cannabis pharmacy -- Duties -- Pharmacy medical provider registration -- Continuing education.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central fill medical cannabis pharmacy as described in this section.

(2) The state central fill medical cannabis pharmacy shall:

(a) procure cannabis that a cannabis processing facility processes into a medicinal dosage form;

(b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device for shipment to a medical cannabis cardholder under a qualified medical provider's recommendation to address a qualifying condition;

(c) transport a state central fill shipment, in accordance with Section 26-61a-605, to the relevant local health department for distribution, in accordance with Section 26-61a-607; and

(d) (i) (A) if the state establishes the state central fill medical cannabis pharmacy, process and accept payment for a transaction involving a state central fill shipment; or

(B) if the state establishes the state central fill medical cannabis pharmacy by contract, process prepaid requests for a state central fill shipment from the department; and

(ii) deposit funds that the state central fill medical cannabis pharmacy collects under Subsection (2)(d)(i) into the Qualified Distribution Enterprise Fund created in Section 26-61a-110.

(3) (a) An individual may not enter a state central fill medical cannabis pharmacy location unless:

(i) the individual is a state central fill agent or an employee of the state central fill medical cannabis pharmacy;

(ii) the individual is an employee of the department; or

(iii) a state central fill agent escorts the individual at all times.

(b) An individual who violates Subsection (3)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (3)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(b).

(4) (a) The state central fill medical cannabis pharmacy:

(i) shall employ at least one pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a state central fill medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a state central fill medical provider;

(iii) shall ensure that a state central fill medical provider described in Subsection (4)(a)(i) works onsite at each location during all business hours;

(iv) shall designate one state central fill medical provider described in Subsection (4)(a)(i) as the pharmacist-in-charge, as that term is defined in Section 58-17b-102, to oversee the operation of and generally supervise the state central fill medical cannabis pharmacy; and

(v) may establish more than one location in which the state central fill medical cannabis pharmacy operates if the department determines, after an analysis of the current and anticipated market for cannabis in a medicinal dosage form and cannabis products in a medicinal dosage form, including costs and logistical issues in transportation of state central fill shipments, that multiple central fill locations are necessary to provide an adequate supply of state central fill shipments to local health departments for distribution to recipient medical cannabis cardholders.

(b) An individual may not serve as a state central fill medical provider unless the department registers the individual as a state central fill medical provider.

(5) (a) The department shall, within 15 days after the day on which the department receives an application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill medical provider, register and issue a state central fill medical provider registration card to the prospective state central fill medical provider if the state central fill medical cannabis pharmacy provides to the department:

(i) the prospective state central fill medical provider's name and address; and

(ii) evidence that the prospective state central fill medical provider is:

(A) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(B) a physician who has the authority to write a prescription and is licensed under Title 58, Chapter

67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The department may not register a qualified medical provider or a pharmacy medical provider as a state central fill medical provider.

(6) (a) A state central fill medical provider shall complete the continuing education described in this Subsection (6) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (6)(a), the state central fill medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (6)(d); and

(B) offered by the department under Subsection (6)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a state central fill medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a state central fill medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a state central fill medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (6).

(d) The continuing education described in this Subsection (6) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying the medical cannabis recommendation.

(7) (a) A state central fill medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A state central fill medical provider may renew the provider's registration card if the provider:

(i) is eligible for a state central fill medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (5) is accurate or updates the information; and

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (6).

Section 27. Section 26-61a-602 is amended to read:

26-61a-602. State central fill agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a state central fill agent unless:

(a) the individual is an employee of the state central fill medical cannabis pharmacy; and

(b) the department registers the individual as a state central fill agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill agent, register and issue a state central fill agent registration card to the prospective agent if the state central fill medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address; and

(B) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(b), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

Generation Identification System's Rap Back Service; and

- (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
- (c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) (a) A state central fill agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (3)(a) includes continuing education in:

- (i) Utah medical cannabis law;
- (ii) the state central fill medical cannabis pharmacy shipment process; and
- (iii) state central fill agent best practices.

(4) The department may revoke or refuse to issue the state central fill agent registration card of an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.

(5) (a) A state central fill agent registration card expires two years after the day on which the department issues or renews the card.

(b) A state central fill agent may renew the agent's registration card if the agent:

(i) is eligible for a state central fill registration card under this section; and

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information.

(6) A state central fill agent who the department registers under this section shall carry the individual's state central fill agent registration card with the individual at all times when:

(a) the individual is on the premises of the state central fill medical cannabis pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and the state central fill medical cannabis pharmacy.

(7) If an individual handling cannabis, a cannabis product, or a medical cannabis device handles the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (6):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the individual's handling of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, that the individual is engaging in illegal activity.

(8) (a) An individual who violates Subsection (6) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 28. Section 26-61a-606 is amended to read:

26-61a-606. Local health department distribution agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a local health department distribution agent unless:

(a) the individual is an employee of a local health department; and

(b) the department registers the individual as a local health department distribution agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a local health department on behalf of a prospective local health department distribution agent, register and issue a local health department distribution agent registration card to the prospective agent if the local health department:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the local health department where the prospective agent seeks to act as a local health department distribution agent; and

(C) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's local health department distribution agent registration card the name of the local health department where the individual is registered as an agent.

(4) (a) A local health department distribution agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the state central fill medical cannabis pharmacy shipment process; and

(iii) local health department distribution agent best practices.

(5) The department may revoke or refuse to issue or renew the local health department distribution agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(6) A local health department distribution agent who the department has registered under this section shall carry the agent's local health department distribution agent registration card with the agent at all times when:

(a) the agent is on the premises of the local health department; and

(b) the agent is handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy.

(7) If a local health department distribution agent handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy possesses the shipment in compliance with Subsection (6):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the shipment containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device, that the agent is engaging in illegal activity.

(8) (a) A local health department distribution agent who violates Subsection (6) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 29. Section 26-61a-611 is amended to read:

26-61a-611. Advertising.

(1) Except as provided in Subsection (2), the state central fill medical cannabis pharmacy may not advertise in any medium.

(2) The state central fill medical cannabis pharmacy may maintain a website that includes information about:

(a) the contact information for the state central fill medical cannabis pharmacy;

(b) a product or service available through shipment from the state central fill medical cannabis pharmacy;

(c) a description of the state central fill medical cannabis pharmacy shipment process;

(d) information about retrieving a state central fill shipment at a local health department; ~~or~~ and

(e) educational material related to the medical use of cannabis.

Section 30. Section 26-63-102 is amended to read:

26-63-102. Definitions.

As used in this chapter:

(1) "At-risk individual" means an individual who qualifies for coverage under:

(a) the Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act;

(b) the Medicaid program, as defined in Section 26-18-2;

(c) the Special Supplemental Nutrition Program for Women, Infants, and Children, established in 42 U.S.C. Sec. 1786; or

(d) Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

(2) "Eligible participant" means an individual who:

(a) is referred to the program as an at-risk individual; and

(b) is appropriate for participation in the program as determined by a service provider.

(3) "Fiscal intermediary entity" means an organization that has the necessary experience to coordinate the funding and management of a pay-for-success contract.

(4) "Independent evaluator" means a person that is contracted to conduct an annual evaluation of the performance outcome measures specified in the pay-for-success contract.

(5) "Investor" means a private person that:

(a) provides an up-front cash payment to fund the program; and

(b) receives a success payment if the performance outcome measures are satisfied.

(6) "Pay-for-success contract" means a contract entered into by the department in accordance with Section 26-63-301.

(7) "Performance outcome measure" means a measurable outcome established by the department under Section 26-63-302.

(8) "Program" means the Nurse Home Visiting Pay-for-Success Program created in Section 26-63-201.

(9) "Programmatic intermediary entity" means a private, not-for-profit organization that enters into a pay-for-success contract with the department to operate the program.

(10) "Qualified nurse" means an individual who is licensed to practice as a registered nurse in the state.

(11) "Restricted account" means the Nurse Home Visiting Restricted Account created in Section 26-63-601.

(12) "Service provider" means a person that receives a contract from the programmatic intermediary entity to provide the services described in Section 26-63-203.

(13) "Success payment" means the amount paid by the department to an investor from the restricted ~~fund~~ account in accordance with the terms of a pay-for-success contract.

Section 31. Section 26-63-301 is amended to read:

26-63-301. Pay-for-success contract -- Success payments -- Outcome measures.

The department shall implement a program under this chapter through a pay-for-success contract, which:

(1) shall include at least all of the following as parties to the contract:

- (a) the department;
- (b) an independent evaluator;
- (c) [an] a programmatic intermediary [agency] entity; and
- (d) an investor;

(2) shall include clear performance outcome measures that trigger a success payment;

(3) shall establish a payment schedule for investors if the performance outcome measures are achieved;

(4) shall only allow repayment with funds appropriated from the restricted account;

(5) shall prohibit civil action by investors against the state if a success payment is not made because performance outcome measures are not achieved; and

(6) may not, under any circumstance, cause the total outstanding obligations under this chapter to exceed \$25,000,000.

Section 32. Section 26-63-401 is amended to read:

26-63-401. Pilot phase.

(1) Before July 1, 2019, the department shall:

(a) identify whether there is a targetable, high-need population for the implementation of the home visiting program;

(b) identify service providers that are able to reach the targeted population with the program; and

(c) gather data needed to make the evaluation in Subsection (3).

(2) The department may:

(a) contract with a third party with the necessary expertise to act as a programmatic intermediary [agency] entity to administer the pilot phase described in Subsection (1);

(b) contract with a fiscal intermediary entity to administer the pilot phase described in Subsection (1); and

(c) execute a single contract with the programmatic intermediary [agency] entity to administer the pilot phase described in this section and the implementation phase described in Section 26-63-402.

(3) The department shall begin the implementation phase described in Section 26-63-203 if the department determines that:

(a) there is at least one identifiable high-need population that would benefit from the program;

(b) there are sufficient service providers to provide services under the program to the population described in Subsection (3)(a);

(c) there is evidence that the program would produce positive outcomes for the state; and

(d) there are persons that are qualified and have expressed an interest in serving as:

- (i) [an] a programmatic intermediary entity;
- (ii) an independent evaluator; and
- (iii) an investor.

Section 33. Section 26-63-402 is amended to read:

26-63-402. Implementation phase.

(1) If all of the conditions described in Subsection 26-63-401(3) are satisfied, and after the department has made the report described in Subsection 26-63-302(2), the department shall enter into a pay-for-success contract with a programmatic intermediary entity, an independent evaluator, and investors to provide the services required under Section 26-63-203.

(2) The department shall make success payments from the restricted [fund] account to investors in accordance with the terms of the pay-for-success contract.

(3) The program shall operate for six years.

Section 34. Section 30-3-10 is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;

(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and

(v) those factors outlined in Section 30-3-10.2.

(b) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) (i) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(ii) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(e) (i) The court may inquire of the child's and take into consideration ~~the~~ the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the ~~children's~~ child's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) (i) If an interview with a child is conducted by the court pursuant to Subsection (1)(e), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(6) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(7) In considering the past conduct and demonstrated moral standards of each party under Subsection (1)(a)(i) or any other factor a court finds relevant, the court may not discriminate against a parent because of or otherwise consider the parent's:

(a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, except as it relates to that parent's ability to care for a child; or

(b) status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) state central fill agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 35. Section 31A-22-618 is amended to read:

31A-22-618. Nondiscrimination among health care professionals.

(1) Except as provided under Section 31A-45-303 and Subsection (2), and except as to insurers licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans, no insurer may unfairly discriminate against any licensed class of health care providers by structuring contract exclusions which exclude payment of benefits for the treatment of any illness, injury, or condition by any licensed class of health care providers when the treatment is within the scope of the licensee's practice and the illness, injury, or condition falls within the coverage of the contract. Upon the written request of an insured alleging an insurer has violated this section, the commissioner shall hold a hearing to determine if the violation exists. The commissioner may consolidate two or more related alleged violations into a single hearing.

(2) Coverage for licensed providers for behavioral analysis may be limited by [a] an insurer in accordance with Section 58-61-714. Nothing in this section prohibits an insurer from electing to provide coverage for other licensed professionals whose scope of practice includes behavior analysis.

Section 36. Section 34A-2-407 is amended to read:

34A-2-407. Reporting of industrial injuries -- Regulation of health care providers.

(1) As used in this section, "physician" is as defined in Section 34A-2-111.

(2) (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.

(b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:

- (i) the employee's next of kin; or
- (ii) the employee's attorney.

(c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.

(3) (a) An employee is barred for any claim of benefits arising from an injury if the employee fails to notify within the time period described in Subsection (3)(b):

(i) the employee's employer in accordance with Subsection (2); or

(ii) the division.

(b) The notice required by Subsection (3)(a) shall be made within:

(i) 180 days of the day on which the injury occurs; or

(ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.

(4) The following constitute notification of injury required by Subsection (2):

(a) an employer's report filed with:

(i) the division; or

(ii) the employer's workers' compensation insurance carrier;

(b) a physician's injury report filed with:

(i) the division;

(ii) the employer; or

(iii) the employer's workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report filed with the division; or

(d) the payment of any medical or disability benefits by:

(i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(5) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

(i) work-related fatality; or

(ii) work-related injury resulting in:

(A) medical treatment;

(B) loss of consciousness;

(C) loss of work;

(D) restriction of work; or

(E) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection (5)(b) shall:

(i) be reasonable; and

(ii) take into consideration the practicality and cost of complying with the rule.

(c) A report is not required to be filed under this Subsection (5) for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:

(i) a treating physician files a report with the division in accordance with Subsection (9); or

(ii) a treating physician is required to file a report with the division in accordance with Subsection (9).

(6) An employer and its workers' compensation insurance carrier, if any, required to file a report

under Subsection (5) shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.

(7) An employer shall maintain a record in a manner prescribed by the commission by rule of all:

(a) work-related fatalities; or

(b) work-related injuries resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(8) (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:

(i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) that may not exceed \$500.

(b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:

(i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and

(ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.

(c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704.

(ii) The administrator of the Uninsured Employers' Fund shall collect money required to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.

(9) (a) A physician attending an injured employee shall comply with rules established by the commission regarding:

(i) fees for physician's services;

(ii) disclosure of medical records of the employee medically relevant to the employee's industrial accident or occupational disease claim;

(iii) reports to the division regarding:

(A) the condition and treatment of an injured employee; or

(B) any other matter concerning industrial cases that the physician is treating; and

(iv) rules made under Section 34A-2-407.5.

(b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).

(c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

(i) the severity of the employee's condition;

(ii) the nature of the treatment necessary; and

(iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (9) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

(a) the division;

(b) the employee; and

(c) (i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 8, 2018, and ending on July 1, 2021, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital for covered medical services shall reimburse the hospital:

(i) in accordance with a contract described in Subsection (11)(b); or

(ii) (A) if the hospital is located in a county of the first, second, or third class, as classified in Section 17-50-501, at 75% of the billed hospital fees for the covered medical services; or

(B) if the hospital is located in a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501, at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with [Sections] Section 31A-22-619.6 [and 34A-2-213].

(12) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (12)(a)(i); and

(iii) collection issues related to a good or service described in Subsection (12)(a)(i).

(b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in Subsection (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Section 37. Section 34A-2-704 is amended to read:

34A-2-704. Uninsured Employers' Fund.

(1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers' Fund has the purpose of assisting in the payment of workers' compensation benefits to a person entitled to the benefits, if:

(i) that person's employer:

(A) is individually, jointly, or severally liable to pay the benefits; and

(B) (I) becomes or is insolvent;

(II) appoints or has appointed a receiver; or

(III) otherwise does not have sufficient funds, insurance, sureties, or other security to cover workers' compensation liabilities; and

(ii) the employment relationship between that person and the person's employer is localized within the state as provided in Subsection (20).

(b) The Uninsured Employers' Fund succeeds to money previously held in the Default Indemnity Fund.

(c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational Disease Act, with the exception of a penalty on those obligations.

(2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured Employers' Fund in accordance with this chapter[,] and Subsection 59-9-101(2)[, — and — Subsection 34A-2-213(3)].

(b) The commissioner shall appoint an administrator of the Uninsured Employers' Fund.

(c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

(ii) The administrator shall make provisions for and direct distribution from the Uninsured Employers' Fund.

(3) Reasonable costs of administering the Uninsured Employers' Fund or other fees required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured Employers' Fund.

(4) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Uninsured Employers' Fund to ensure maximum investment return for both long and short term investments in accordance with Section 34A-2-706.

(5) (a) The administrator may employ, retain, or appoint counsel to represent the Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of the Uninsured Employers' Fund.

(b) If requested by the commission, the following shall aid in the representation of the Uninsured Employers' Fund:

(i) the attorney general; or

(ii) the city attorney, or county attorney of the locality in which:

(A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah Occupational Disease Act, is pending;

(B) the employee resides; or

(C) an employer:

(I) resides; or

(II) is doing business.

(c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection, the administrator shall provide for the collection of money required to be deposited in the Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

(ii) To comply with Subsection (5)(c)(i), the administrator may:

(A) take appropriate action, including docketing an award in a manner consistent with Section 34A-2-212; and

(B) employ counsel and other personnel necessary to collect the money described in Subsection (5)(c)(i).

(6) To the extent of the compensation and other benefits paid or payable to or on behalf of an employee or the employee's dependents from the Uninsured Employers' Fund, the Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the employee or the employee's dependents against the employer failing to make the compensation payments.

(7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the Uninsured Employers' Fund.

(b) A court with jurisdiction shall grant a payment made under this section a priority equal to that to which the claimant would have been entitled in the absence of this section against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

(c) The expenses of the Uninsured Employers' Fund in handling a claim shall be accorded the same priority as the liquidator's expenses.

(8) (a) The administrator shall periodically file the information described in Subsection (8)(b) with the receiver, trustee, or liquidator of:

(i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

(ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a condition listed in Subsection (1)(a)(i)(B); or

(iii) an insolvent insurance carrier.

(b) The information required to be filed under Subsection (8)(a) is:

(i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

(ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

(c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers' Fund for claims against the assets of the employer that meets a condition listed in Subsection (1)(a)(i)(B).

(9) When an injury or death for which compensation is payable from the Uninsured Employers' Fund has been caused by the wrongful act or neglect of another person not in the same employment, the Uninsured Employers' Fund has the same rights as allowed under Section 34A-2-106.

(10) The Uninsured Employers' Fund, subject to approval of the administrator, shall discharge its obligations by:

(a) adjusting its own claims; or

(b) contracting with an adjusting company, risk management company, insurance company, or other company that has expertise and capabilities in adjusting and paying workers' compensation claims.

(11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an administrative law judge, upon rendering a decision with respect to a claim for workers' compensation benefits in which an employer that meets a condition listed in Subsection (1)(a)(i)(B) is duly joined as a party, shall:

(i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

(ii) impose a penalty against the employer that meets a condition listed in Subsection (1)(a)(i)(B):

(A) of 15% of the value of the total award in connection with the claim; and

(B) that shall be deposited into the Uninsured Employers' Fund.

(b) An award under this Subsection (11) shall be collected by the administrator in accordance with Subsection (5)(c).

(12) The state, the commission, and the state treasurer, with respect to payment of compensation benefits, expenses, fees, or disbursement properly chargeable against the Uninsured Employers' Fund:

(a) are liable only to the assets in the Uninsured Employers' Fund; and

(b) are not otherwise in any way liable for the making of a payment.

(13) The commission may make reasonable rules for the processing and payment of a claim for compensation from the Uninsured Employers' Fund.

(14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers' Fund may assess all other self-insured employers amounts necessary to pay:

(A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(B) the expenses of handling covered a claim subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(C) the cost of an examination under Subsection (15); and

(D) other expenses authorized by this section.

(ii) This Subsection (14) applies to benefits paid to an employee of:

(A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition listed in Subsection (1)(a)(i)(B); or

(B) if the self-insured employer that meets a condition described in Subsection (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) The assessments of a self-insured employer shall be in the proportion that the manual premium of the self-insured employer for the preceding calendar year bears to the manual premium of all self-insured employers for the preceding calendar year.

(c) A self-insured employer shall be notified of the self-insured employer's assessment not later than 30 days before the day on which the assessment is due.

(d) (i) A self-insured employer may not be assessed in any year an amount greater than 2% of that self-insured employer's manual premium for the preceding calendar year.

(ii) If the maximum assessment does not provide in a year an amount sufficient to make all necessary payments from the Uninsured Employers' Fund for one or more self-insured employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be paid as soon as money becomes available.

(e) A self-insured employer is liable under this section for a period not to exceed three years after the day on which the Uninsured Employers' Fund first pays benefits to an employee described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B).

(f) This Subsection (14) does not apply to a claim made against a self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection (1)(a)(i)(B) occurred before July 1, 1986.

(15) (a) The following shall notify the division of any information indicating that any of the following may be insolvent or in a financial condition hazardous to its employees or the public:

(i) a self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) Upon receipt of the notification described in Subsection (15)(a) and with good cause appearing, the division may order an examination of:

(i) that self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency mutual.

(c) The cost of the examination ordered under Subsection (15)(b) shall be assessed against all self-insured employers as provided in Subsection (14).

(d) The results of the examination ordered under Subsection (15)(b) shall be kept confidential.

(16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on behalf of the employee to whom or to whose dependents compensation and other benefits are paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or other party in interest objecting to the claim.

(b) A claim described in Subsection (16)(a) is presumed to be valid up to the full amount of workers' compensation benefits claimed by the employee or the employee's dependents.

(c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative proceeding under the authority of the commission.

(17) A partner in a partnership or an owner of a sole proprietorship may not recover compensation or other benefits from the Uninsured Employers' Fund if:

(a) the person is not included as an employee under Subsection 34A-2-104(3); or

(b) the person is included as an employee under Subsection 34A-2-104(3), but:

(i) the person's employer fails to insure or otherwise provide adequate payment of direct compensation; and

(ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission over which the person had or shared control or responsibility.

(18) A director or officer of a corporation may not recover compensation or other benefits from the Uninsured Employers' Fund if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(19) The Uninsured Employers' Fund:

(a) shall be:

(i) used in accordance with this section only for:

(A) the purpose of assisting in the payment of workers' compensation benefits in accordance with Subsection (1); and

(B) in accordance with Subsection (3), payment of:

(I) reasonable costs of administering the Uninsured Employers' Fund; or

(II) fees required to be paid by the Uninsured Employers' Fund; and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used for:

(i) administrative costs unrelated to the Uninsured Employers' Fund; or

(ii) an activity of the commission other than an activity described in Subsection (19)(a).

(20) (a) For purposes of Subsection (1), an employment relationship is localized in the state if:

(i) (A) the employer who is liable for the benefits has a business premise in the state; and

(B) (I) the contract for hire is entered into in the state; or

(II) the employee regularly performs work duties in the state for the employer who is liable for the benefits; or

(ii) the employee is:

(A) a resident of the state; and

(B) regularly performs work duties in the state for the employer who is liable for the benefits.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define what constitutes regularly performing work duties in the state.

Section 38. Section 34A-3-108 is amended to read:

34A-3-108. Reporting of occupational diseases -- Regulation of health care providers.

(1) An employee sustaining an occupational disease, as defined in this chapter, arising out of and in the course of employment shall provide notification to the employee's employer promptly of the occupational disease. If the employee is unable to provide notification, the employee's next of kin or attorney may provide notification of the occupational disease to the employee's employer.

(2) (a) An employee who fails to notify the employee's employer or the division within 180 days after the cause of action arises is barred from a claim of benefits arising from the occupational disease.

(b) The cause of action is considered to arise on the date the employee first:

(i) suffers disability from the occupational disease; and

(ii) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment.

(3) The following constitute notification of an occupational disease:

(a) an employer's report filed with the:

(i) division; or

(ii) workers' compensation insurance carrier;

(b) a physician's injury report filed with the:

(i) division;

(ii) employer; or

(iii) workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report to the division; or

(d) the payment of any medical or disability benefit by the employer or the employer's workers' compensation insurance carrier.

(4) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules described in Subsection (4)(b) of any occupational disease resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required under Subsection (4)(a) and any subsequent reports of a previously reported occupational disease as may be required by the commission within the time limits and in the manner established by rule by the commission made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Subsection 34A-2-407(5).

(c) A report is not required:

(i) for a minor injury that requires first aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the division;

(ii) for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred; or

(iii) when the employer is not aware of an exposure occasioned by the employment that results in an occupational disease as defined by Section 34A-3-103.

(5) An employer or its workers' compensation insurance carrier, if any, shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the occupational disease.

(6) An employer shall maintain a record in a manner prescribed by the division of occupational diseases resulting in:

(a) medical treatment;

(b) loss of consciousness;

- (c) loss of work;
- (d) restriction of work; or
- (e) transfer to another job.

(7) An employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report with the division as required by this section is subject to citation and civil assessment in accordance with Subsection 34A-2-407(8).

(8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health care provider attending an occupationally diseased employee shall:

(i) comply with the rules, including the schedule of fees, for services as adopted by the commission;

(ii) make reports to the division at any and all times as required as to the condition and treatment of an occupationally diseased employee or as to any other matter concerning industrial cases being treated; and

(iii) comply with rules made under Section 34A-2-407.5.

(b) A physician, as defined in Section 34A-2-111, who is associated with, employed by, or bills through a hospital is subject to Subsection (8)(a).

(c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital is subject to rules made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

- (i) the severity of the employee's condition;
- (ii) the nature of the treatment necessary; and
- (iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (8) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(9) A copy of the physician's initial report shall be furnished to the:

- (a) division;
- (b) employee; and

(c) employer or its workers' compensation insurance carrier.

(10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is subject to a civil assessment in accordance with Subsection 34A-2-407(8).

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 2, Workers' Compensation Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 2, Workers' Compensation Act.

(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.

(iv) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b), shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with [Sections] Section 31A-22-619.6 [and 34A-2-213].

(12) (a) An application for a hearing to resolve a dispute regarding an occupational disease claim shall be filed with the Division of Adjudication.

(b) After the filing, a copy shall be forwarded by mail to:

- (i) (A) the employer; or
- (B) the employer's workers' compensation insurance carrier;
- (ii) the applicant; and
- (iii) the attorneys for the parties.

(13) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee is compensable pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

- (A) medical, nurse, or hospital services;
- (B) medicines; and
- (C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (13)(a)(i); and

(iii) collection issues related to a good or service described in Subsection (13)(a)(i).

(b) Except as provided in Subsection (13)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment of goods or services described in Subsection (13)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.

Section 39. Section 35A-8-608 is amended to read:

35A-8-608. Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section 35A-8-606.

(b) "Committee" means the Homeless Coordinating Committee created in this part.

(c) "Grant" means an award of funds from the account.

(d) "Grant eligible entity" means:

(i) the Department of Public Safety; or

(ii) a city, town, or metro township that:

(A) has a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(B) has increased community, social service, ~~and~~ or public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(C) is certified as a grant eligible entity in accordance with Section 35A-8-609.

(e) "Homeless shelter" means a facility that:

(i) provides temporary shelter to homeless individuals;

(ii) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(f) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) Subject to the availability of funds, a grant eligible entity may request a grant to mitigate the impacts of the location of a homeless shelter:

(a) through employment of additional personnel to provide public safety services in and around a homeless shelter; or

(b) for a grant eligible entity that is a city, town, or metro township, through:

(i) development of a community and neighborhood program within the city's, town's, or metro township's boundaries; or

(ii) provision of social services within the city's, town's, or metro township's boundaries.

(3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing:

(i) the process for determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year; and

(ii) the process for notifying grant eligible entities about the availability of grants for the next fiscal year.

(b) (i) If the committee offers a grant program for the next fiscal year, the committee shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on or before November 30 to allow a grant eligible entity to present a request for account funds for the next fiscal year.

(ii) A grant eligible entity may present a request for account funds by:

(A) sending an electronic copy of the request to the committee before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection (3)(b) shall contain:

(i) for a grant request to develop a community and neighborhood program:

(A) a proposal outlining the components of a community and neighborhood program;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(ii) for a grant request to provide social services:

(A) a proposal outlining the need for additional social services;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(iii) for a grant request to employ additional personnel to provide public safety services:

(A) data relating to the grant eligible entity's public safety services for the current fiscal year, including crime statistics and calls for public safety services;

(B) data showing an increase in the grant eligible entity's need for public safety services in the next fiscal year;

(C) a summary of the grant eligible entity's proposed use of any grant awarded; and

(D) the amount requested; ~~and~~ or

(iv) for a grant request to provide some combination of the activities described in Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each activity for which the grant eligible entity requests a grant.

(d) (i) On or before November 30, a grant eligible entity that received a grant during the previous fiscal year shall file electronically with the committee a report that includes:

(A) a summary of the amount of the grant that the grant eligible entity received and the grant eligible entity's specific use of those funds;

(B) an evaluation of the grant eligible entity's effectiveness in using the grant to address the grant eligible entity's increased needs due to the location of a homeless shelter; and

(C) any proposals for improving the grant eligible entity's effectiveness in using a grant that the grant eligible entity may receive in future fiscal years.

(ii) The committee may request additional information as needed to make the evaluation described in Subsection (3)(e).

(e) The committee shall evaluate a grant request made in accordance with this Subsection (3) using the following factors:

(i) the strength of the proposal that the grant eligible entity provides to support the request;

(ii) if the grant eligible entity received a grant during the previous fiscal year, the efficiency with which the grant eligible entity used the grant during the previous fiscal year;

(iii) the availability of alternative funding for the grant eligible entity to address the grant eligible entity's needs due to the location of a homeless shelter; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the committee shall vote to:

(A) prioritize the grant requests; and

(B) recommend a grant amount for each grant eligible entity.

(ii) The committee shall support the prioritization and recommendation described in Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

(g) The committee shall submit a list that prioritizes the grant requests and recommends a grant amount for each grant eligible entity that requested a grant to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the account as a grant to a grant eligible entity:

(i) after making the disbursements required by Section 35A-8-607; and

(ii) subject to the availability of funds in the account:

(A) in the order of priority that the Legislature gives to each eligible grant entity under Section 63J-1-802; and

(B) in the amount that the Legislature approves to a grant eligible entity under Section 63J-1-802.

(b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department shall make rules governing the process for the department to determine the timeline within the fiscal year for funding the grants.

(5) On or before October 1, the department, in cooperation with the committee, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the department's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 40. Section 35A-8-609 is amended to read:

35A-8-609. Certification of eligible municipality or grant eligible entity.

(1) The department shall certify each year, on or after July 1 and before the first meeting of the [~~committee~~] Homeless Coordinating Committee after July 1, the cities or towns that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

(2) On or before October 1, the department shall provide a list of the cities, [~~or~~] towns, or metro townships that the department has certified as meeting the requirements of an eligible municipality or a grant eligible entity for the year to the State Tax Commission.

Section 41. Section 35A-8-1601 is amended to read:

35A-8-1601. Definitions.

As used in this [~~chapter~~] part:

(1) "Board" means the Uintah Basin Revitalization Fund Board.

(2) "Capital projects" means expenditures for land, improvements on the land, and equipment intended to have long-term beneficial use.

(3) “County” means:

- (a) Duchesne County; or
- (b) Uintah County.

(4) “Division” means the Housing and Community Development Division.

(5) “Revitalization Fund” means the Uintah Basin Revitalization Fund.

(6) “Tribe” means the Ute Indian Tribe of the Uintah and Ouray Reservation.

Section 42. Section 35A-8-1604 is amended to read:

35A-8-1604. Duties -- Loans -- Interest.

(1) The board shall:

(a) subject to the other provisions of this ~~chapter~~ part and an agreement entered into under Title 11, Chapter 13, Interlocal Cooperation Act, among the state, the counties, and the Tribe, make recommendations to the division for grants and loans from the revitalization fund to county agencies and the Tribe that are or may be socially or economically impacted, directly or indirectly, by mineral resource development;

(b) establish procedures for application for and award of grants and loans including:

(i) eligibility criteria;

(ii) subject to Subsection 35A-8-1606(2)(b), a preference that capital projects, including subsidized and low-income housing, and other one-time need projects and programs have priority over other projects;

(iii) a preference for projects and programs that are associated with the geographic area where the oil and gas were produced; and

(iv) coordination of projects and programs with other projects and programs funded by federal, state, and local governmental entities;

(c) determine the order in which projects will be funded;

(d) allocate the amount to be distributed from the revitalization fund for grants or loans to each county and the Tribe during a fiscal year as follows:

(i) up to and including the first \$3,000,000 that is approved for distribution by the board during a fiscal year, the board may allocate the amount in accordance with the interlocal agreement described by Subsection (1)(a), except that the board may not allocate less than 75% of the amount under the interlocal agreement to the Tribe unless the interlocal agreement is further modified by statute; and

(ii) beginning with fiscal year 2007-08, any amount approved for distribution by the board during that fiscal year in excess of \$3,000,000 shall be allocated equally amongst each county and the Tribe so that each receives 1/3 of the amount

approved for distribution by the board in excess of \$3,000,000;

(e) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and

(f) perform other duties assigned to it under the interlocal agreement described in Subsection (1)(a) that are not prohibited by law or otherwise modified by this ~~chapter~~ part.

(2) The board shall ensure that loan repayments and interest are deposited into the revitalization fund.

(3) The interlocal agreement described in Subsection (1)(a) shall be consistent with the following statutes, including any subsequent amendments to those statutes:

(a) this ~~chapter~~ part;

(b) Title 11, Chapter 13, Interlocal Cooperation Act;

(c) Section 59-5-116; and

(d) any other applicable provision of this Utah Code.

Section 43. Section 35A-8-1701 is amended to read:

35A-8-1701. Title.

This ~~chapter~~ part is known as the “Navajo Revitalization Fund Act.”

Section 44. Section 35A-8-1702 is amended to read:

35A-8-1702. Definitions.

As used in this ~~chapter~~ part:

(1) “Board” means the Navajo Revitalization Fund Board.

(2) “Capital project” means an expenditure for land, improvements on the land, or equipment intended to have long-term beneficial use.

(3) “Division” means the Housing and Community Development Division.

(4) “Eligible entity” means:

(a) the Navajo Nation;

(b) a department or division of the Navajo Nation;

(c) a Utah Navajo Chapter;

(d) the Navajo Utah Commission;

(e) an agency of the state or a political subdivision of the state; or

(f) a nonprofit corporation.

(5) “Navajo Utah Commission” means the commission created by Resolution IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.

(6) “Revitalization fund” means the Navajo Revitalization Fund.

(7) "Utah Navajo Chapter" means any of the following chapters of the Navajo Nation:

- (a) Aneth Chapter;
- (b) Dennehotso Chapter;
- (c) Mexican Water Chapter;
- (d) Navajo Mountain Chapter;
- (e) Oljato Chapter;
- (f) Red Mesa Chapter; and
- (g) Teec Nos Pos Chapter.

Section 45. Section 35A-8-1703 is amended to read:

35A-8-1703. Legislative intent.

(1) The purpose of this [chapter] part is to:

(a) maximize the long-term benefit of state severance taxes derived from lands in Utah held in trust by the United States for the Navajo Nation and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of San Juan County; and

(b) promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) Notwithstanding Subsection (1), the fund:

(a) consists of state severance tax money to be spent at the discretion of the state; and

(b) does not constitute a trust fund.

Section 46. Section 35A-8-1704 is amended to read:

35A-8-1704. Navajo Revitalization Fund.

(1) (a) There is created an expendable special revenue fund called the "Navajo Revitalization Fund."

(b) The revitalization fund shall consist of:

(i) money deposited to the revitalization fund under this [chapter] part;

(ii) money deposited to the revitalization fund under Section 59-5-119; and

(iii) any loan repayment or interest on a loan issued under this [chapter] part.

(2) (a) The revitalization fund shall earn interest.

(b) The interest earned on revitalization fund money shall be deposited into the fund.

(3) Beginning for fiscal year 2010-11, the division may use revitalization fund money for the administration of the revitalization fund, but this amount may not exceed 4% of the annual receipts to the revitalization fund.

Section 47. Section 35A-8-1707 is amended to read:

35A-8-1707. Revitalization fund administered by board -- Eligibility for assistance -- Review by board -- Restrictions on loans and grants -- Division to distribute money.

(1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible entity shall file an application with the board that contains the information required by the board.

(b) The board shall review an application for a loan or grant filed under Subsection (1)(a) before approving the loan or grant.

(c) The board may approve a loan or grant application subject to the applicant's compliance with the one or more conditions established by the board.

(2) In determining whether an eligible entity may receive a loan or grant, the board shall give priority to:

(a) a capital project or infrastructure, including:

(i) electrical power;

(ii) water; and

(iii) a one time need project;

(b) a housing project that consists of:

(i) the purchase of new housing;

(ii) the construction of new housing; or

(iii) a significant remodeling of existing housing; or

(c) a matching educational endowment that:

(i) promotes economic development within the Utah portion of the Navajo Reservation;

(ii) promotes the preservation of Navajo culture, history, and language; or

(iii) supports a postsecondary educational opportunity for a Navajo student enrolled in a course or program taught within the Utah portion of the Navajo Reservation.

(3) A loan or grant issued under this [chapter] part may not fund:

(a) a start-up or operational cost of a private business venture;

(b) a general operating budget of an eligible entity; or

(c) a project that will operate or be located outside of the Navajo Reservation in San Juan County, Utah, except for an educational endowment approved by the board under Subsection (2)(c).

(4) (a) The board may not approve a loan unless the loan:

(i) specifies the terms for repayment; and

(ii) is secured by proceeds from a general obligation, special assessment, or revenue bond, note, or other obligation.

(b) The division shall deposit a loan repayment or interest on a loan issued under this ~~[chapter]~~ part into the revitalization fund.

(5) The board shall give a priority to a loan or grant if the loan or grant includes matching money or in-kind services from:

- (a) the Navajo Nation;
- (b) San Juan County;
- (c) the state;
- (d) the federal government;
- (e) a Utah Navajo Chapter; or
- (f) other private or public organization.

(6) The division shall distribute loan and grant money:

- (a) if the loan or grant is approved by the board;
- (b) in accordance with the instructions of the board, except that the board may not instruct that money be distributed in a manner:
 - (i) inconsistent with this ~~[chapter]~~ part; or
 - (ii) in violation of a rule or procedure of the department; and
- (c) in the case of a loan, in accordance with Section 63A-3-205.

Section 48. Section 41-3-110 is amended to read:

41-3-110. Motor Vehicle Enforcement Division Temporary Permit Restricted Account.

(1) As used in this section, "account" means the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by this section.

(2) There is created within the General Fund a restricted account known as the Motor Vehicle Enforcement Division Temporary Permit Restricted Account.

(3) (a) The account shall be funded from the fees deposited into the account in accordance with Section 41-3-601.

(b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them into the account.

(4) The Legislature may appropriate the funds in the account to the commission to cover the costs of the division.

(5) In accordance with Section ~~[63J-1-602.2]~~ 63J-1-602.1, appropriations made to the commission from the account are nonlapsing.

Section 49. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than \$700;

(vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer

than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3)[(a)] or Subsection 41-6a-503(2)(b), the court:

(a) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(b) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined

in Section 41-6a-515.5 if the individual is 21 years of age or older.

(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

(6) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 50. Section 46-5-108 is amended to read:

46-5-108. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under Section [48-5-107] 46-5-107 shall ensure that the material is reasonably available for use by the public on a permanent basis.

Section 51. Section 48-4-102 is amended to read:

48-4-102. Application and effect of chapter.

(1) This chapter applies to a benefit company organized under this chapter.

(2) (a) The existence of a provision in this chapter does not itself create an implication that a contrary or different rule of law is applicable to a limited liability company that is not a benefit company.

(b) This chapter does not affect a statute or rule of law that is applicable to a limited liability company that is not a benefit [~~limited liability~~] company.

(3) (a) Except as otherwise provided in this chapter, Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, applies to a benefit company.

(b) The provisions of this chapter control over any inconsistent provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act.

(4) The operating agreement of a benefit company may not limit, be inconsistent with, or supersede a provision of this chapter.

Section 52. Section 48-4-301 is amended to read:

48-4-301. Standard of conduct for members.

(1) When discharging a duty under this chapter, each member of a member-managed benefit company:

(a) shall consider the effect of any action or inaction on:

- (i) the members of the benefit company;
- (ii) the employees and workforce of the benefit company;
- (iii) the interests of customers as beneficiaries of the benefit company's general public benefit purpose or specific public benefit purpose [~~of the benefit company~~];
- (iv) community and societal considerations, including those of each community in which offices or facilities of the benefit company or the benefit company's subsidiaries or suppliers are located;
- (v) the local and global environment;
- (vi) the short-term and long-term interests of the benefit company, including benefits that may accrue to the benefit company from the benefit company's long-term plans and the possibility that the interests may be best served by the continued independence of the benefit company; and
- (vii) the ability of the benefit company to accomplish the benefit company's general public benefit purpose and any specific public benefit purpose; and

(b) may consider other pertinent factors or the interests of any other group that the member considers appropriate.

(2) A member is not required to prioritize the interests of a person or factor described in Subsection (1)(a) or (b) over the interests of any other person or factor, unless the benefit company's certificate of organization states an intention to give priority to certain interests related to the benefit company's accomplishment of the benefit company's general public benefit purpose or a specific public benefit purpose identified in the benefit company's certificate of organization.

(3) A member's consideration of interests and factors in accordance with Subsections (1) and (2) does not constitute a violation of Section 48-3a-409.

(4) A member of a member-managed limited liability company that is a benefit company does not have a duty to a person who is a beneficiary of the benefit company's general public benefit purpose or a specific public benefit purpose arising from the person's status as a beneficiary.

Section 53. Section 51-9-203 is amended to read:

51-9-203. Requirements for tobacco programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 19;

(b) agree, by contract, to file an annual written report with the Department of Health. The report shall contain the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(C) ~~[Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons]~~ Title 26, Chapter 62, Part 3, Enforcement; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) The Department of Health shall annually report to the Social Services Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

(4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 54. Section 51-9-408 is amended to read:

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, ~~[and 30-3-15.3,]~~ and the Mediation Program - Child Custody or Parent-time;

(b) implementing the use of guardians ad litem as provided in Sections 78A-2-703, 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902;

(c) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

(d) implementing and administering the Divorce Education for Children Program.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (d):

(a) the additional \$10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 55. Section 53-2a-203 is amended to read:

53-2a-203. Definitions.

As used in this part:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor for a municipality operating under all forms of municipal government except the council-manager form of government; or

(ii) the city manager for a municipality operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government;

(ii) the county executive officer for a county operating under the county-executive council form of government; or

(iii) the county manager for a county operating under the council-manager form of government; or

(c) for a special service district:

(i) the chief executive officer of the county or municipality that created the special service district if authority has not been delegated to an administrative control board as provided in Section 17D-1-301;

(ii) the chair of the administrative control board to which authority has been delegated as provided in Section 17D-1-301; or

(iii) the general manager or other officer or employee to whom authority has been delegated by the governing body of the special service district as provided in Section 17D-1-301; or

(d) for a local district:

(i) the chair of the board of trustees selected as provided in Section 17B-1-309; or

(ii) the general manager or other officer or employee to whom authority has been delegated by the board of trustees.

(2) "Local emergency" means a condition in any municipality or county of the state which requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce the threat of a disaster.

(3) "Political subdivision" means a municipality, county, special service district, or local district.

Section 56. Section 53-3-219 is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606.

(2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall:

(A) impose a suspension for a period of one year;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the

court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or 78A-6-606[(3)](4)(b).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 78A-6-606, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 78A-6-606[(3)](4)(c).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 57. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm.

(1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate threat to:

(i) himself or herself;

(ii) the owner cohabitant; or

(iii) any other person.

(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's office.

(2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency

that receives a firearm in accordance with this chapter shall:

- (a) record:
 - (i) the owner cohabitant's name, address, and phone number;
 - (ii) the firearm serial number; and
 - (iii) the date that the firearm was voluntarily committed;
- (b) require the owner cohabitant to sign a document attesting that the owner cohabitant has an ownership interest in the firearm;
- (c) hold the firearm in safe custody for 60 days after the day on which the firearm is voluntarily committed; and
- (d) upon proof of identification, return the firearm to:
 - (i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or
 - (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- (3) The law enforcement agency shall hold the firearm for an additional 60 days:
 - (a) if the initial 60-day period expires; and
 - (b) the owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.
- (4) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.
- (5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (2), Subsection 53-5c-202[(4)](3)(b)(iii), or any other record created in the application of this chapter no later than five days after:
 - (a) returning a firearm in accordance with Subsection (2)(d); or
 - (b) disposing of the firearm in accordance with Section 53-5c-202.
- (6) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.
- (7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Section 58. Section 53-9-122 is amended to read:

53-9-122. Exemptions from licensure.

Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this [title] chapter, subject to the stated circumstances and limitations, without being licensed under this title:

- (1) an individual licensed under the laws of this state, other than under this [title] chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;
- (2) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
- (3) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:
 - (a) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and
 - (b) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 59. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

- (1) As used in this section:
 - (a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.
 - (b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
 - (c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.
- (2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:
 - (a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;
 - (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to

provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

- (i) employees;
- (ii) applicants for employment;
- (iii) volunteers; and
- (iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

- (i) cabinet members;
- (ii) judicial applicants; and
- (iii) members of boards, committees, and commissions appointed by the governor;

(j) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(k) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(j) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) shall obtain a signed

waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

- (i) that a criminal history background check will be conducted;
- (ii) who will see the information; and
- (iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

- (i) personal identifying information for the subject of the background check; and
- (ii) the fee required by Subsection (15)(a)(ii).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check to the bureau shall provide to the bureau:

- (i) personal identifying information for the subject of the background check;
- (ii) a fingerprint card for the subject of the background check; and
- (iii) the fee required by Subsection (15)(a)(i).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) may only be:

- (i) available to individuals involved in the hiring or background investigation of the job applicant or employee;
- (ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision; and
- (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (i) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) that obtains background check information shall provide the subject of the background check an opportunity to:

- (i) review the information received as provided under Subsection (9); and
- (ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (i).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

- (a) that have been declined for prosecution;
- (b) that have been dismissed; or
- (c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to

the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h) or (2)(i), the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

Section 60. Section 53-10-202.3 is amended to read:

53-10-202.3. Suicide Prevention Education Program -- Definitions -- Grant requirements.

(1) As used in this section:

(a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(b) "Coordinator" means the state suicide prevention coordinator designated in Section 62A-15-1101.

~~[(c) "Course" means the suicide prevention education course created in Subsection 53-10-202(18)(a)(iv).]~~

(2) There is created a Suicide Prevention Education Program to fund suicide prevention education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.

(3) The bureau shall provide a grant to an employer in Subsection (2) following the criteria provided in accordance with Subsection 62A-15-1101~~(8)(b)~~(6).

(4) An employer may apply for a grant of up to \$2,500 under the program.

Section 61. Section 53B-26-102 is amended to read:

53B-26-102. Definitions.

As used in this ~~chapter~~ part:

(1) "CTE" means career and technical education.

(2) "CTE region" means an economic service area created in Section 35A-2-101.

(3) "Eligible partnership" means:

(a) a regional partnership; or

(b) a statewide partnership.

(4) "Employer" means a private employer, public employer, industry association, the military, or a union.

(5) "Industry advisory group" means:

(a) a group of at least five employers that represent the workforce needs to which a proposal submitted under Section 53B-26-103 responds; and

(b) a representative of the Governor's Office of Economic Development, appointed by the executive director of the Governor's Office of Economic Development.

(6) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(7) "Regional partnership" means a partnership that:

(a) provides educational services within one CTE region; and

(b) is between at least two of the following located in the CTE region:

(i) a technical college;

(ii) a school district or charter school; or

(iii) an institution of higher education.

(8) "Stackable sequence of credentials" means a sequence of credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) is part of a career pathway system;

(c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitates multiple exit and entry points; and

(e) recognizes sub-goals or momentum points.

(9) "Statewide partnership" means a partnership between at least two regional partnerships.

(10) "Technical college" means:

(a) a college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;

(c) Utah State University Eastern established under Section 53B-18-1201; or

(d) the Snow College Richfield campus established under Section 53B-16-205.

Section 62. Section 53D-1-102 is amended to read:

53D-1-102. Definitions.

As used in this chapter:

(1) “Account” means the School and Institutional Trust Fund Management Account, created in Section 53D-1-203.

(2) “Advocacy office director” means the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203.

(3) “Beneficiaries”:

(a) means those for whose benefit the trust fund is managed and preserved, consistent with the enabling act, the Utah Constitution, and state law; and

(b) does not include other government institutions or agencies, the public at large, or the general welfare of the state.

(4) “Board” means the board of trustees established in Section 53D-1-301.

(5) “Director” means the director of the office.

(6) “Enabling act” means the act of Congress, dated July 16, 1894, enabling the people of Utah to form a constitution and state government and to be admitted into the Union.

(7) “Land Trusts Protection and Advocacy Office” or “advocacy office” means the Land Trusts Protection and Advocacy Office created in Section 53D-2-201.

[~~(7)~~] (8) “Nominating committee” means the committee established under Section 53D-1-501.

[~~(8)~~] (9) “Office” means the School and Institutional Trust Fund Office, created in Section 53D-1-201.

[~~(9)~~] “Land Trusts Protection and Advocacy Office” or “advocacy office” means the Land Trusts Protection and Advocacy Office created in Section 53D-2-201.

(10) “Trust fund” means money derived from:

(a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the enabling act;

(b) proceeds referred to in Section 9 of the enabling act from the sale of public land; and

(c) revenue and assets referred to in Utah Constitution, Article X, Section 5, Subsections (1)(c), (e), and (f).

Section 63. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student’s:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

(2) An education entity that collects student data shall, in accordance with this section, prepare and

distribute, except as provided in Subsection (3), to parents and students a student data collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity’s website;

(c) states the student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

“The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.”;

(g) describes in general terms how the education entity stores and protects student data;

(h) states a student’s rights under this part; and

(i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests written consent to share student data with the State Board of Regents as described in Section 53E-9-308.

(3) The board may publicly post the board’s collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student’s parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student’s biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an ~~[alternative evidence-based]~~ evidence-based alternative intervention described in Subsection 53G-8-211(3) without written consent.

Section 64. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of local education board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the State Board of Education, after consultation with each local education board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), a local education board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) A local education board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) USTAR centers provided in Section 53F-2-505;

(e) the School LAND Trust Program described in Sections 53F-2-404 and ~~[53F-7-1206]~~ 53G-7-1206; or

(f) a special education program within the basic school program.

(6) A local education board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) A local education board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the State Board of Education as part of the school district or charter school's Annual Financial and Program report.

Section 65. Section 53F-2-409 is amended to read:

53F-2-409. Concurrent enrollment funding.

(1) The terms defined in Section ~~[53F-10-301]~~ 53E-10-301 apply to this section.

(2) The State Board of Education shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The State Board of Education shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the State Board of Education shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (3)(a)(ii), the State Board of Education shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The State Board of Education shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The State Board of Regents shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for

concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

Section 66. Section 53F-2-414 is amended to read:

53F-2-414. Review of related to basic school programs.

(1) No later than November 30, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations on each program in the related to basic school programs described in Subsection (3);

(b) adopt a review schedule going forward for each program described in Subsection (3), placing a program on a schedule to review annually or every four years; and

(c) review annually or every four years each program according to the schedule adopted under Subsection (1)(b).

(2) For a related to basic school program that is not listed in Subsection (3) and is adopted by the Legislature after January 1, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations for the program in the program's initial year of implementation;

(b) adopt a review schedule going forward for the program, placing the program on a schedule to review annually or every four years; and

(c) review annually or every four years the program according to the schedule adopted under Subsection (2)(b).

(3) The programs subject to review under Subsection (1) are the following:

(a) the state-supported transportation program described in Section 53F-2-403;

(b) the state contribution guarantee program for transportation described in Section 53F-2-403;

(c) the weighted pupil unit flexibility allocations described in Section 53F-2-205;

(d) the Enhancement for At-Risk Students Program described in Section 53F-2-410;

(e) the youth in custody program described in Section 53E-3-503;

(f) the adult education program described in Title 53E, Chapter 10, Part 2, Adult Education;

(g) the Enhancement for Accelerated Students Program described in Section 53F-2-408;

(h) the Centennial Scholarship Program described in Section 53F-2-501;

(i) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(j) the Title I Schools Paraeducators Program described in Section 53F-2-411;

(k) the School LAND Trust Program described in Section 53F-2-404;

(l) the charter school local replacement funding program described in Section 53F-2-702;

(m) the charter school administration allocations described in Section 53F-2-306;

(n) the ~~[K-3 Reading Improvement]~~ Early Literacy Program described in Section 53F-2-503;

(o) the educator salary adjustments described in Section 53F-2-405;

(p) the Teacher Salary Supplement Program described in Section 53F-2-504;

(q) the school library books and electronic resources appropriation described in Section 53F-2-407;

(r) the matching appropriation for school nurses described in Section 53F-2-519;

~~[(s) the Critical Languages Program described in Section 53F-2-516;]~~

~~[(t)]~~ (s) the Dual Language Immersion Program described in Section 53F-2-502;

~~[(u)]~~ (t) the Utah Science Technology and Research (USTAR) Initiative Centers Program described in Section 53F-2-505;

~~[(v)]~~ (u) the Beverley Taylor Sorenson Elementary Arts Learning Program described in Section 53F-2-506;

~~[(w)]~~ (v) the early intervention program described in Section 53F-2-507; and

~~[(x)]~~ (w) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.

Section 67. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(b)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) “District local property tax revenues” means the sum of a school district’s revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district’s board local levy; and

(B) the Early Literacy Program described in Section 53F-2-503, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district’s board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-3-202, or 53F-3-203.

(d) “District per pupil local revenues” means, using data from the most recently published school district annual financial reports and state superintendent’s annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district’s average daily membership; and

(ii) the average daily membership of a school district’s resident students who attend charter schools.

(e) “Resident student” means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) “Statewide average debt service revenues” means the amount determined as follows, using data from the most recently published state superintendent’s annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(2)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students’ average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the State Board of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(2).

(d) (i) If the legislative appropriation described in Subsection (2)(a) is insufficient to provide an amount described in Subsection (2)(b) for each charter school student, the State Board of Education shall make an adjustment to Minimum School Program allocations as described in Section 53F-2-205.

(ii) Following an adjustment described in Subsection (2)(d)(i), if legislative appropriations remain insufficient to provide an amount described in Subsection (2)(b) for each student enrolled in a charter school, the State Board of Education shall:

(A) distribute to a charter school an amount described in Subsection (2)(b) for each student enrolled in the charter school under or equal to the maximum number of students the charter school serves, as described in the charter school’s charter school agreement described in Section 53G-5-303; and

(B) distribute money remaining after the distributions described in Subsection (2)(d)(ii)(A) to a charter school based on the charter school’s share of all students enrolled in charter schools who exceed the number of maximum students served by charter schools, as described in charter school agreements entered into under Section 53G-5-303.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(2), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 68. Section 53F-6-301 is amended to read:

53F-6-301. Definitions.

As used in this part:

(1) “Board” means the School Readiness Board, created in Section 35A-3-209.

(2) “Economically disadvantaged” means to be eligible to receive free or reduced price lunch.

(3) “Eligible home-based educational technology provider” means a provider that intends to offer a home-based educational technology program.

(4) “Eligible LEA” means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(5) (a) “Eligible private provider” means a child care program that:

(i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.

(b) “Eligible private provider” does not include residential child care, as defined in Section 26-39-102.

(6) “Eligible student” means a student:

(a) who is economically disadvantaged; and

(b) whose parent or legal guardian reports that the student has experienced at least one risk factor.

(7) “Evaluator” means an independent evaluator selected in accordance with Section ~~53F-3-309~~ 53F-6-309.

(8) “High quality school readiness program” means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 53F-6-304.

(9) “Investor” means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 53F-6-309 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) “Local Education Agency” or “LEA” means a school district or charter school.

(11) “Pay for success program” means a program funded through a model in which the program is initially funded through private funding and the entity providing the private funding receives repayment through public funding if the program achieves certain outcomes.

(12) “Performance outcome measure” means a cost avoidance in special education use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based contract.

(13) “Program intermediary” means an entity selected by the board under Section 35A-3-209 to coordinate with the Department of Workforce Services to provide program support to the board.

(14) “Results-based contract” means a contract that:

(a) is entered into in accordance with Section ~~53F-3-309~~ 53F-6-309;

(b) includes a performance outcome measure; and

(c) is between:

(i) the board, a provider of a high quality school readiness program, and an investor; or

(ii) the board and a provider of a high quality school readiness program.

(15) “Risk factor” means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child’s household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child’s home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child’s home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) “Student at-risk for later special education placement” means an eligible student who, at preschool entry, scores at least two standard deviations below the mean on the assessment selected by the board under Section 53F-6-309.

Section 69. Section 53G-5-413 is amended to read:

53G-5-413. Charter school governing board meetings -- Rules of order and procedure.

(1) As used in this section, “rules of order and procedure” means a set of rules that governs and prescribes in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(2) ~~[Subject to Subsection (4), a]~~ A charter school governing board shall:

(a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

(i) at each public meeting of the charter school governing board; and

(ii) on the charter school governing board's public website, if available.

(3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 70. Section 53G-8-508 is amended to read:

53G-8-508. Admissibility of evidence in civil and criminal actions.

(1) Evidence relating to a violation of Section 53G-8-505, 53G-8-506, 53G-8-507, or 53G-8-509, [~~or 53G-9-507,~~] which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

Section 71. Section 53G-11-509 is amended to read:

53G-11-509. Mentor for provisional educator.

(1) In accordance with Subsections 53E-2-302(7) and [~~53F-6-103~~] 53E-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.

(2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.

(3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.

(4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Section 72. Section 54-17-807 is amended to read:

54-17-807. Solar photovoltaic or thermal solar energy facilities.

(1) As used in this section, "acquire" means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource.

(2) (a) In accordance with this section, a qualified utility may file an application with the commission for approval to acquire a photovoltaic or thermal solar energy resource using rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

(b) A qualified utility may not, under this section, acquire a photovoltaic or thermal solar energy resource with a generating capacity that is two megawatts or less per meter if that resource is located on the customer's side of the meter.

(3) The energy resource acquired pursuant to this section may be owned solely or jointly by a qualified utility or another entity:

(a) to provide renewable energy to a contract customer as provided in Section 54-17-803;

(b) to serve energy to a qualified utility customer as provided in Section 54-17-806;

(c) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity does not exceed 300 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary Request for Resource Decision Review; or

(d) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long as the qualified utility complies with this chapter.

(4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an application submitted under Subsection (2):

(a) Part 1, General Provisions;

(b) Part 2, Solicitation Process;

(c) Part 3, Resource Plans and Significant Energy Resource Approval;

(d) Part 4, Voluntary Request for Resource Decision Review; and

(e) Section 54-17-502.

(5) The application described in Subsection (2) shall include:

(a) a proposed solicitation process for the energy resource;

(b) the criteria proposed to be used to evaluate the responses to the solicitation:

(i) as determined by the customer, if the energy resource is sought to serve a customer pursuant to Subsection (3)(a) or (b); or

(ii) as proposed by the qualified utility, if the energy resource is sought to serve the customers of the qualified utility pursuant to Subsection (3)(c) or (d); and

(c) any other information the commission may require.

(6) (a) Before approving a solicitation process under this section for an energy resource to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission shall:

- (i) hold a public hearing; and
- (ii) provide an opportunity for public comment.

(b) The commission may approve a solicitation process under this section only if the commission determines that the solicitation and evaluation processes to be used will create a level playing field in which the qualified utility and other bidders can compete fairly, including with respect to interconnection and transmission requirements imposed on bidders by the solicitation within the control of the commission and the qualified utility, excluding its federally regulated transmission function, and will otherwise serve the public interest.

(7) (a) Upon completion of the solicitation process approved under Subsection (6), the qualified utility may seek approval from the commission to acquire the energy resource identified through the solicitation process as the winning bid.

(b) Before approving acquisition of an energy resource acquired pursuant to this section, the commission shall:

- (i) hold a public hearing;
- (ii) provide an opportunity for public comment;
- (iii) determine whether the solicitation and evaluation processes complied with this section, commission rules, and the commission's order approving the solicitation process; and
- (iv) determine whether the acquisition of the energy resource is just and reasonable, and in the public interest.

(c) The commission may approve a qualified utility's ownership of an energy resource or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d) with rate recovery based on a competitive market price only if the commission determines that the qualified utility's bid is the lowest cost ownership option for the qualified utility.

(d) If the commission approves a qualified utility's acquisition of an energy resource under Subsection (3), including entering into a power purchase agreement containing a purchase option, using rate recovery based on a competitive market price:

- (i) the prices approved by the commission shall constitute competitive market prices for purposes of this section; and
- (ii) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.

(8) If upon completion of a solicitation process approved under Subsection (6) the qualified utility proposes not to acquire an energy resource, the qualified utility shall file with the commission a

report explaining its reasons for not acquiring the lowest cost resource bid into the solicitation, along with any other information the commission requires.

(9) Within six months after a competitive market price for a solar energy resource acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such longer period as the commission may determine to be in the public interest, a qualified utility may file an application with the commission seeking approval to acquire another energy resource similar to the energy resource for which a competitive market price was established without going through a new solicitation process. The commission may approve the application if the qualified utility demonstrates a need to acquire the energy resource, that the competitive market price remains reasonable, and that the acquisition is in the public interest.

(10) No later than 180 days before the end of the term approved by the commission for an energy resource acquired under this section and owned by the [qualifying] qualified utility, the qualified utility shall file with the commission a request for determination of an appropriate disposition of the energy resource asset, except that the qualified utility is permitted to retain the benefits or proceeds and shall be required to assume the costs and risks of ownership of the energy resource.

(11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (a) addressing the content and filing of an application under this section;
- (b) to establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and
- (c) addressing other factors determined by the commission to be relevant to protect the public interest and to implement this section.

Section 73. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are

supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter ~~31e~~ 31e, Nurse Licensure Compact - Revised;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section 26-8a-302;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; and

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 74. Section 58-31b-308 is amended to read:

58-31b-308. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts included within the definition of the practice of nursing, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) friends, family members, foster parents, or legal guardians of a patient performing gratuitous nursing care for the patient;

(b) persons providing care in a medical emergency;

(c) persons engaged in the practice of religious tenets of a church or religious denomination; and

(d) after July 1, 2000, a person licensed to practice nursing by a jurisdiction that has joined the Nurse Licensure Compact - Revised to the extent permitted by Section ~~[58-31e-102]~~ 58-31e-102.

(2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section ~~[58-31e-102]~~ 58-31e-102, limit or revoke practice privileges in this state of a person licensed to practice nursing by a jurisdiction that has joined the Nurse Licensing Compact.

Section 75. Section 58-31b-401 is amended to read:

58-31b-401. Grounds for denial of licensure or certification and disciplinary proceedings.

(1) Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

(2) If a court of competent jurisdiction determines a nurse is incapacitated as defined in Section 75-1-201 or that the nurse has a mental illness, as defined in Section 62A-15-602, and unable to safely engage in the practice of nursing, the director shall immediately suspend the license of the nurse upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending. The director shall promptly notify the nurse in writing of the suspension.

(3) (a) If the division and the majority of the board find reasonable cause to believe a nurse who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing nursing with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the nurse with a notice of hearing on the sole issue of the capacity of the nurse to competently, safely engage in the practice of nursing.

(b) The hearing shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act, except as provided in Subsection (4).

(4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting to an immediate mental or physical examination, at the nurse's expense and by a division-approved practitioner selected by the

nurse when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the nurse has a mental illness, is incapacitated, or otherwise unable to practice nursing with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the nurse's patients or the general public.

(c) (i) Failure of a nurse to submit to the examination ordered under this section is a ground for the division's immediate suspension of the nurse's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the nurse and was not related directly to the illness or incapacity of the nurse.

(5) (a) A nurse whose license is suspended under Subsection (2), (3), or (4)(c) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the nurse's patients or the general public.

(6) A nurse whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the nurse, under procedures established by division rule, regarding any change in the nurse's condition, to determine whether:

(a) the nurse is or is not able to safely and competently engage in the practice of nursing; and

(b) the nurse is qualified to have the nurse's license to practice under this chapter restored completely or in part.

(7) Nothing in Section 63G-2-206 may be construed as limiting the authority of the division to report current significant investigative information to the coordinated licensure information system for transmission to party states as required of the division by Article VII of the Nurse Licensure Compact - Revised in Section ~~[58-31e-102]~~ 58-31e-102.

(8) For purposes of this section:

(a) “licensed” or “license” includes “certified” or “certification” under this chapter; and

(b) any terms or conditions applied to the word “nurse” in this section also apply to a medication aide certified.

Section 76. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person’s trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) sole owners of property engaged in building:

(i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), “token compensation” means compensation paid by a sole owner of property exempted from licensure under

Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in ~~Subsection~~ Section 58-55-102~~(14)~~, if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section 77. Section 58-61-714 is amended to read:

58-61-714. Third party payment for licensed behavior analyst.

Notwithstanding the provisions of Section 31A-22-618, payment from third party payers for behavior analysis may be limited to:

(1) a licensed behavior analyst as defined in [58-61-701] Section 58-61-702; and

(2) the following, working within the scope of their practice:

(a) a physician licensed under Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act;

(b) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;

(c) a psychologist licensed under this chapter;

(d) a clinical social worker licensed under Chapter 60, Part 2, Social Worker Licensing Act;

(e) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and Family Therapist Licensing Act; and

(f) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act.

Section 78. Section 58-67-304 is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the

immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) [and] any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 79. Section 58-68-304 is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: “Do you perform elective abortions in Utah in a location other than a hospital?”; and

(b) immediately following the question, contain the following statement: “For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest.”

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician’s license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) ~~and~~ any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 80. Section 58-80a-102 is amended to read:

58-80a-102. Definitions.

As used in this chapter:

(1) “Certified medical language interpreter” means a medical language interpreter who has received a certificate from the division under this chapter.

(2) “Health care provider” means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter ~~31e~~ 31e, Nurse Licensure Compact - Revised;

(g) Title 58, Chapter 31d, Advanced Practice Registered Nurse Compact;

(h) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) Title 58, Chapter 57, Respiratory Care Practices Act;

(j) Title 58, Chapter 60, Mental Health Professional Practice Act;

(k) Title 58, Chapter 61, Psychologist Licensing Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Physician Assistant Act;

(p) Title 58, Chapter 71, Naturopathic Physician Practice Act;

(q) Title 58, Chapter 73, Chiropractic Physician Practice Act; or

(r) Title 58, Chapter 77, Direct-Entry Midwife Act.

(3) “Medical language interpreter” means a person who, for compensation, performs verbal language interpretation services between a health care provider who speaks English and another person for the purpose of assisting the person in seeking or obtaining medical advice, diagnoses, or treatment.

(4) “National certification organization” means one of the following national organizations that certifies medical interpreters:

(a) the National Board of Certification for Medical Interpreters; or

(b) the Certification Commission for Healthcare Interpreters.

(5) “National standards of practice” means the National Standards of Practice, published by the National Council on Interpreting in Health Care.

Section 81. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, “qualifying tax, fee, or charge” means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Section 63H-1-205; or

~~[(g)]~~ (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges~~[-or]~~.

~~[(h) Section 63H-1-205.]~~

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 82. Section 59-1-1409 is amended to read:

59-1-1409. Definition -- Recomputation of amounts due -- Refunds allowed.

(1) As used in this section, "overpayment" means the amount by which a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes.

(2) If the commission determines that the correct amount of a tax, fee, or charge a person is required to remit is greater or less than the amount shown to be due on a return, the commission shall:

(a) recompute the tax, fee, or charge; and

(b) mail notice to the person:

(i) that the commission recomputed the tax, fee, or charge; and

(ii) in accordance with Section 59-1-1404.

(3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes, the commission shall:

(a) credit the overpayment against any liability the person owes; and

(b) refund any balance to:

(i) the person; or

(ii) (A) the person's [assign] assignee;

(B) the person's personal representative;

(C) the person's successor; or

(D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The commission may not credit or refund interest on an overpayment to a person if the commission determines that the overpayment was made for the purpose of investment.

(5) If the commission erroneously determines an amount of tax, fee, or charge to be due from a person, the commission shall:

(a) authorize the amount to be cancelled upon the commission's records; and

(b) mail notice to the person:

(i) that the commission cancelled the amount upon the commission's records; and

(ii) in accordance with Section 59-1-1404.

Section 83. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (2) if the county legislative body passes a resolution under Subsection (7) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) The county board of equalization shall make a rule describing the contents of the application.

(2) (a) Except as provided in Subsection (2)(b) and for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the owner's property is improperly equalized with the assessed valuation of comparable properties.

(4) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection (5)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and \$1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (5)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (5)(~~4~~)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (5)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (5)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (5)(c); and

(ii) hear the appeal at the meeting described in Subsection (5)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (5)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(6) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(7) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 84. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax [is] are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax [is] are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax [is] are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the

portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

- (B) for the fiscal year; or
- (ii) \$17,500,000.
- (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:
- (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or
- (B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- (ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- (iii) At the end of each fiscal year:
- (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
- (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.
- (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.
- (ii) At the end of each fiscal year:
- (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
- (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
- (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
- (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in

Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in

Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be expended or deposited in accordance with Subsections (4) through (12) and (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

(14) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue generated by a 0.15% tax rate imposed beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing; and

(ii) for a fiscal year beginning on or after fiscal year 2019-20, annually transfer the amount of revenue generated by a 0.15% tax rate on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing.

(c) The revenue described in Subsection (14)(b) that the Division of Finance transfers to the Division of Health Care Financing as dedicated credits shall be expended for the following uses:

(i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and 26-18-3.9(2)(b);

(ii) if revenue remains after the use specified in Subsection (14)(c)(i), other measures required by Section 26-18-3.9; and

(iii) if revenue remains after the uses specified in Subsections (14)(c)(i) and (ii), other measures described in Title 26, Chapter 18, Medical Assistance Act.

Section 85. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

- (ii) food and food ingredients; or
- (iii) prepared food;
- (b) sales of tangible personal property or a product transferred electronically:
 - (i) to a passenger;
 - (ii) by a commercial airline carrier; and
 - (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
 - (c) services related to Subsection (4)(a) or (b);
 - (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:
 - (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
 - (II) for:
 - (Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;
 - (Bb) renovation of an aircraft; or
 - (Cc) repair of an aircraft; or
 - (B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or
 - (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and
 - (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:
 - (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
 - (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
 - (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;
 - (iv) for sales and use taxes paid under this chapter on the sale;
 - (v) in accordance with Section 59-1-1410; and
 - (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;
 - (6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;
 - (7) (a) except as provided in Subsection ~~[(48)]~~ (85) and subject to Subsection (7)(b), sales of cleaning or

washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

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

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

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

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

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

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

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

<p>(A) “syringe”; or</p> <p>(B) “stoma supply”;</p> <p>(11) purchases or leases exempt under Section 19-12-201;</p> <p>(12) (a) sales of an item described in Subsection (12)(c) served by:</p> <p>(i) the following if the item described in Subsection (12)(c) is not available to the general public:</p> <p>(A) a church; or</p> <p>(B) a charitable institution; or</p> <p>(ii) an institution of higher education if:</p> <p>(A) the item described in Subsection (12)(c) is not available to the general public; or</p> <p>(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or</p> <p>(b) sales of an item described in Subsection (12)(c) provided for a patient by:</p> <p>(i) a medical facility; or</p> <p>(ii) a nursing facility; and</p> <p>(c) Subsections (12)(a) and (b) apply to:</p> <p>(i) food and food ingredients;</p> <p>(ii) prepared food; or</p> <p>(iii) alcoholic beverages;</p> <p>(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:</p> <p>(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and</p> <p>(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(b) this Subsection (13) does not apply if:</p> <p>(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;</p> <p>(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or</p> <p>(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:</p>	<p>(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or</p> <p>(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and</p> <p>(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:</p> <p>(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;</p> <p>(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or</p> <p>(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;</p> <p>(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:</p> <p>(a) a manufacturing facility that:</p> <p>(i) is located in the state; and</p> <p>(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:</p> <p>(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or</p> <p>(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;</p> <p>(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:</p> <p>(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;</p> <p>(ii) is located in the state; and</p> <p>(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:</p> <p>(A) the production process to produce an item sold as tangible personal property, as the commission</p>
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may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred

electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

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

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

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

- (I) office equipment and supplies; or
- (II) equipment and supplies used in:
 - (Aa) the sale or distribution of farm products;
 - (Bb) research; or
 - (Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

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

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

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

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

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

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

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

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product

for a purpose for which the product is designed occurs outside of this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) not registered in this state; and

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

- (ii) used in this state:
- (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:
- (I) 30 days in any calendar year; or
- (II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or
- (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;
- (31) sales of aircraft manufactured in Utah;
- (32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;
- (33) sales, leases, or uses of the following:
- (a) a vehicle by an authorized carrier; or
- (b) tangible personal property that is installed on a vehicle:
- (i) sold or leased to or used by an authorized carrier; and
- (ii) before the vehicle is placed in service for the first time;
- (34) (a) 45% of the sales price of any new manufactured home; and
- (b) 100% of the sales price of any used manufactured home;
- (35) sales relating to schools and fundraising sales;
- (36) sales or rentals of durable medical equipment if:
- (a) a person presents a prescription for the durable medical equipment; and
- (b) the durable medical equipment is used for home use only;
- (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and
- (b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- (38) sales to a ski resort of:
- (a) snowmaking equipment;
- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or
- (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);
- (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
- (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;
- (41) (a) sales of photocopies by:
- (i) a governmental entity; or
- (ii) an entity within the state system of public education, including:
- (A) a school; or
- (B) the State Board of Education; or
- (b) sales of publications by a governmental entity;
- (42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- (43) (a) sales made to or by:
- (i) an area agency on aging; or
- (ii) a senior citizen center owned by a county, city, or town; or
- (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:
- (a) actually come into contact with a semiconductor; or
- (b) ultimately become incorporated into real property;
- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or
- (ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

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

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

- (ii) define:
 - (A) "commercial distribution";
 - (B) "live musical performance";
 - (C) "live news program"; or
 - (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

- (A) is an alternative energy electricity production facility;
- (B) is located in the state; and
- (C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of

interconnection with an existing transmission grid including:

- (A) a wind turbine;
 - (B) generating equipment;
 - (C) a control and monitoring system;
 - (D) a power line;
 - (E) substation equipment;
 - (F) lighting;
 - (G) fencing;
 - (H) pipes; or
 - (I) other equipment used for locating a power line or pole; and
- (b) this Subsection (55) does not apply to:
- (i) tangible personal property used in construction of:
 - (A) a new alternative energy electricity production facility; or
 - (B) the increase in the capacity of an alternative energy electricity production facility;
 - (ii) contracted services required for construction and routine maintenance activities; and
 - (iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:
 - (A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - (B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);
- (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
 - (A) is a waste energy production facility;
 - (B) is located in the state; and
 - (C) (I) becomes operational on or after July 1, 2004; or
 - (II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
 - (ii) has an economic life of five or more years; and
 - (iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
 - (A) generating equipment;

- (B) a control and monitoring system;
 - (C) a power line;
 - (D) substation equipment;
 - (E) lighting;
 - (F) fencing;
 - (G) pipes; or
 - (H) other equipment used for locating a power line or pole; and
- (b) this Subsection (56) does not apply to:
- (i) tangible personal property used in construction of:
 - (A) a new waste energy facility; or
 - (B) the increase in the capacity of a waste energy facility;
 - (ii) contracted services required for construction and routine maintenance activities; and
 - (iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - (A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or
 - (B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);
- (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
- (i) is leased or purchased for or by a facility that:
 - (A) is located in the state;
 - (B) produces fuel from alternative energy, including:
 - (I) methanol; or
 - (II) ethanol; and
 - (C) (I) becomes operational on or after July 1, 2004; or
 - (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;
 - (ii) has an economic life of five or more years; and
 - (iii) is installed on the facility described in Subsection (57)(a)(i);
- (b) this Subsection (57) does not apply to:
- (i) tangible personal property used in construction of:
 - (A) a new facility described in Subsection (57)(a)(i); or
 - (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

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

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

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

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

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

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

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

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

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

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

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

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

- (i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

- (B) in the state; and

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

- (b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

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

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

- (a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

- (b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

- (76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

- (ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

- (B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

- (ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

- (b) not including amounts paid or charged for a:

- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

- (a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

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

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

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

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

- (a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to

the MIDA accommodations tax imposed under Section 63H-1-205; and

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment.

Section 86. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-8-609.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section ~~[35A-8a-606]~~ 35A-8-606.

(c) The commission shall make the calculation and distribution described in this Subsection (5) after making the distributions described in Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 87. Section 59-13-402 is amended to read:

59-13-402. Revenue from taxes deposited with treasurer -- Credit to Aeronautics Restricted Account -- Purposes for which funds may be used -- Allocation of funds -- Reports -- Returns required.

(1) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the aviation fuel tax.

(c) Refunds to which taxpayers are entitled under this part shall be paid from the Transportation Fund.

(2) The state treasurer shall place an amount equal to the total amount received from the sale or use of aviation fuel in the Aeronautics Restricted Account created by Section 72-2-126.

(3) The tax imposed on each gallon of aviation fuel under Section 59-13-401 shall be allocated to the airport where the aviation fuel was sold and to aeronautical operations of the Department of Transportation as follows:

Total Tax Allocated	Allocation to Airport	Allocation to Aeronautical Operations
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(a) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Federally Certificated Air Carrier Other than at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises

\$.04	\$.03	\$.01
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(b) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Federally Certificated Air Carrier at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises

\$.025	\$.015	\$.01
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(c) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Person Other than a

Federally Certificated Air Carrier at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises

\$.09	\$.00	\$.09
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(d) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Person Other than a Federally Certificated Air Carrier Other than at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises

\$.09	\$.03	\$.06
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(e) The allocation to the publicly used airport may be used at the discretion of the airport's governing authority for the:

(i) construction, improvements, operation, and maintenance of publicly used airports in the state; and

(ii) payment of principal and interest on indebtedness incurred for the purposes described in Subsection (3)(e)(i).

(f) Upon appropriation by the Legislature, the allocation to aeronautical operations of the Department of Transportation shall be used as provided in the Aeronautics Restricted Account created by Section 72-2-126.

(4) (a) The commission shall require reports and returns from distributors, retail dealers, and users in order to enable the commission and the Department of Transportation to allocate the revenue to be credited to:

(i) the Aeronautics Restricted Account created by Section 72-2-126; and

(ii) the separate accounts of individual airports.

(b) (i) Except as provided by Subsection (4)(b)(ii), any unexpended amount remaining in the account of any publicly used airport on the first day of January, April, July, and October shall be paid to the authority operating the airport.

(ii) Aviation fuel tax allocated to any airport owned and operated by a city of the first class shall be paid to the city treasurer on the first day of each month.

(c) The state treasurer shall place aviation fuel tax collected on fuel sold at places other than publicly used airports in the Aeronautics Restricted Account created by Section 72-2-126.

Section 88. Section 59-13-403 is amended to read:

59-13-403. Administration and penalties -- Bond requirements.

(1) All administrative and penalty provisions of Part 2, Motor Fuel, apply to the administration of Part 4, Aviation Fuel.

(2) Notwithstanding Subsection (1), a distributor is not required to furnish a bond if the distributor:

(a) meets the definition of distributor under Subsection 59-13-102~~(5)~~(7)(d); and

(b) has an average tax liability of \$500 or less per month.

Section 89. Section 59-14-802 is amended to read:

59-14-802. Definitions.

As used in this part:

(1) "Cigarette" means the same as that term is defined in Section 59-14-102.

(2) (a) "Electronic cigarette" means:

(i) an electronic device used to deliver or capable of delivering vapor containing nicotine to an individual's respiratory system;

(ii) a component of the device described in Subsection (2)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (2)(a)(i).

(b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.

(3) "Electronic cigarette product" means an electronic cigarette or an electronic cigarette substance.

(4) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

~~[(5) "Enforcing agency" means the Department of Health, a county health department, or a local health department, when enforcing;]~~

~~[(a) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or]~~

~~[(b) Title 26, Chapter 57, Electronic Cigarette Regulation Act.]~~

~~[(6)] (5) "Licensee" means a person that holds a valid license to sell electronic cigarette products.~~

~~[(7)] (6) "License to sell an electronic cigarette product" means a license issued by the commission under Subsection 59-14-803(3).~~

Section 90. Section 61-1-11 is amended to read:

61-1-11. Provisions applicable to registration generally.

(1) A registration statement may be filed by the issuer, another person on whose behalf the offering is to be made, or a licensed broker-dealer.

(2) A person filing a registration statement shall pay a filing fee as determined under Section 61-1-18.4.

(3) A registration statement shall specify:

(a) the amount of securities to be offered in this state;

(b) the states in which a registration statement or similar document in connection with the offering is or is to be filed; and

(c) an adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by a court or the Securities and Exchange Commission.

(4) A document filed under this chapter or a predecessor act within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(5) The division may permit the omission of an item of information or document from a registration statement.

(6) In the case of a nonissuer distribution, information may not be required under Subsection (9) or Section 61-1-10 unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(7) (a) The division may require as a condition of registration by qualification or coordination:

(i) that security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to a person for a consideration other than cash, be deposited in escrow; and

(ii) that the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere.

(b) The division may determine the conditions of an escrow or impounding required by this Subsection (7), but it may not reject a depository solely because of location in another state.

(8) (a) A registration statement is effective for one year from its effective date.

(b) All outstanding securities of the same class as a registered security are considered to be registered for the purpose of a nonissuer transaction:

(i) so long as the registration statement is effective; and

(ii) between the 30th day after the entry of a stop order suspending or revoking the effectiveness of the registration statement under Section 61-1-12, if the registration statement did not relate in whole or in part to a nonissuer distribution, and one year from the effective date of the registration statement.

(c) A registration statement may not be withdrawn for one year from its effective date if a security of the same class is outstanding.

(d) A registration statement may be withdrawn otherwise only in the discretion of the division.

(9) So long as a registration statement is effective and the offering is not completely sold, the division

may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.

(10) (a) A registration statement may be amended after its effective date so as to increase the securities specified to be offered and sold, if the public offering price and underwriters' discounts and commissions are not changed from the respective amounts of which the division was informed.

(b) The amendment becomes effective when the division so orders.

(c) A person filing an amendment shall pay a registration fee as determined under Section 61-1-18.4 with respect to the additional securities proposed to be offered.

(d) The amendment relates back to the date of the sale of the additional security being registered, provided that within six months of the date of the sale the amendment is filed and the additional registration fee is paid.

(11) (a) A security that is ~~offered or sold under Section 4(5) of the Securities Act of 1933 or that is~~ a "mortgage related security" as defined in Section 3(a)(41) of the Securities Exchange Act of 1934 may not be exempt under Subsection 61-1-14(1)(a) to the same extent as an obligation issued by or guaranteed as to principal and interest by the United States or an agency or instrumentality of the United States. Accordingly, any such security shall comply with the applicable registration and qualification requirements set forth in this chapter.

(b) This Subsection (11) specifically overrides the preemption of state law contained in Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law Number 98-440.

Section 91. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent,

provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (33)(a); or

(B) provides the treatment or services described in Subsection (33)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (33)(a) on a limited basis if:

(A) the treatment or services described in Subsection (33)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (33)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (33)(a).

(c) "Boarding school" does not include a therapeutic school.

- (5) “Child” means a person under 18 years of age.
- (6) “Child placing” means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:
- finding a person to adopt the child;
 - placing the child in a home for adoption; or
 - foster home placement.
- (7) “Child-placing agency” means a person that engages in child placing.
- (8) “Client” means an individual who receives or has received services from a licensee.
- (9) “Day treatment” means specialized treatment that is provided to:
- a client less than 24 hours a day; and
 - four or more persons who:
 - are unrelated to the owner or provider; and
 - have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.
- (10) “Department” means the Department of Human Services.
- (11) “Department contractor” means an individual who:
- provides services under a contract with the department; and
 - due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.
- (12) “Direct access” means that an individual has, or likely will have:
- contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or
 - an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child’s parents or legal guardians, or the vulnerable adult.
- (13) “Directly supervised” means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.
- (14) “Director” means the director of the Office of Licensing.
- (15) “Domestic violence” means the same as that term is defined in Section 77-36-1.
- (16) “Domestic violence treatment program” means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.
- (17) “Elder adult” means a person 65 years of age or older.
- (18) “Executive director” means the executive director of the department.
- (19) “Foster home” means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.
- (20) (a) “Health benefit plan” means the same as that term is defined in Section ~~31A-22-619.6~~ 31A-1-301.
- (b) “Health benefit plan” includes:
- a health maintenance organization;
 - a third party administrator that offers, sells, manages, or administers a health benefit plan; and
 - the Public Employees’ Benefit and Insurance Program created in Section 49-20-103.
- (c) “Health benefit plan” does not include a health benefit plan offered by an insurer that has a market share in the state’s fully insured market that is less than 2%, as determined in the annual Market Share Report published by the Insurance Department.
- (21) “Health care provider” means the same as that term is defined in Section 78B-3-403.
- (22) “Health insurer” means the same as that term is defined in Section 31A-22-615.5.
- (23) (a) “Human services program” means a:
- foster home;
 - therapeutic school;
 - youth program;
 - resource family home;
 - recovery residence; or
 - facility or program that provides:
 - secure treatment;
 - inpatient treatment;
 - residential treatment;
 - residential support;
 - adult day care;
 - day treatment;
 - outpatient treatment;
 - domestic violence treatment;
 - child-placing services;
 - social detoxification; or
 - any other human services that are required by contract with the department to be licensed with the department.
- (b) “Human services program” does not include:
- a boarding school; or
 - a residential, vocational and life skills program, as defined in Section 13-53-102.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Licensee" means an individual or a human services program licensed by the office.

(28) "Local government" means a city, town, metro township, or county.

(29) "Minor" has the same meaning as "child."

(30) "Office" means the Office of Licensing within the Department of Human Services.

(31) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(32) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(33) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(34) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(35) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(36) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(37) "Residential treatment program" means a human services program that provides:

- (a) residential treatment; or
- (b) secure treatment.

(38) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

(39) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

- (a) room and board for persons who are unrelated to the owner or manager of the facility;
- (b) specialized rehabilitation to acquire sobriety; and
- (c) aftercare services.

(40) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

(41) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

- (a) designed to provide:
 - (i) specialized drug or alcohol treatment;
 - (ii) rehabilitation; or
 - (iii) habilitation services; and
- (b) that provides the treatment or services described in Subsection (40)(a) to persons with:
 - (i) a diagnosed substance use disorder; or
 - (ii) chemical dependency disorder.

(42) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals that are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:

- (i) room and board; and
- (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:
 - (I) a disability;
 - (II) emotional development;
 - (III) behavioral development;
 - (IV) familial development; or
 - (V) social development.

(43) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(44) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult's own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(45) (a) "Youth program" means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
 - (ii) charges a fee for its services;
 - (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
 - (iv) may or may not provide all or part of its services in the outdoors;
 - (v) may or may not limit or censor access to parents or guardians; and
 - (vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.
- (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 92. Section 62A-4a-201 is amended to read:

62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A

fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and

punishing abuse and neglect, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court Act. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship

placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of “reasonable efforts,” as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent’s conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent’s rights should be terminated.

(8) The state’s right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections 78A-6-105[(35)(d)](36)(b)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5.

Section 93. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(2) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual’s crisis;

(f) evidence-based intervention training;

(g) intervention skills training; and

(h) postvention training.

(4) The coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

(c) the Department of Health;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(5) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (1) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

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

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall include~~[(4)]~~ attendance at a suicide prevention education course~~[-and]~~.

~~[(ii) display of posters and distribution of the firearm safety brochures or packets created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.]~~

(7) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

(8) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each

year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 94. Section 63A-14-405 is amended to read:

63A-14-405. Motion to disqualify commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this section.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this section, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Section 95. Section 63A-15-303 is amended to read:

63A-15-303. Motion to disqualify commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from

participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this section.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this section, or a when commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Section 96. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Applicable rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(g) for the State Board of Education, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

(k) for any other procurement unit, the board.

(2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section 63A-5-101.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under

Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

- (a) implementing the contract;
- (b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;
- (c) executing change orders;
- (d) processing contract amendments;
- (e) resolving, to the extent practicable, contract disputes;
- (f) curing contract errors and deficiencies;
- (g) terminating a contract;
- (h) measuring or evaluating completed work and contractor performance;
- (i) computing payments under the contract; and
- (j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

- (a) more than one procurement unit; or
- (b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount

of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

- (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or
- (b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

~~[(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.]~~

~~[(29)]~~ (28) "Design professional services" means:

- (a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;
- (b) professional engineering as defined in Section 58-22-102; or
- (c) master planning and programming services.

(29) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(30) "Director" means the director of the division.

(31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) "Educational procurement unit" means:

- (a) a school district;
- (b) a public school, including a local school board or a charter school;
- (c) the Utah Schools for the Deaf and the Blind;
- (d) the Utah Education and Telehealth Network;
- (e) an institution of higher education of the state described in Section 53B-1-102; or
- (f) the State Board of Education.

(33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

- (a) is regularly maintained by a manufacturer or contractor;
- (b) is published or otherwise available for inspection by customers; and
- (c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) "Head of a procurement unit" means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees;

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other

documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) “Solicitation” means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) “Subcontractor”:

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person’s contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

(92) “Tie bid” means that the lowest responsive bids of responsible bidders are identical in price.

(93) “Time and materials contract” means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is

not based on a percentage of the cost to the contractor.

(94) “Transitional costs”:

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) “Trial use contract” means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) “Vendor”:

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 97. Section 63H-1-205 is amended to read:

63H-1-205. MIDA accommodations tax.

(1) As used in this section:

(a) “Accommodations and services” means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) “Accommodations and services” does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located on authority-owned or other government-owned property within the project area.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8) (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through ~~(7)~~ (5).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.

(10) (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 98. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

(5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.

~~[(9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.]~~

[(40)] (9) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 99. Section 63I-1-231 is amended to read:

63I-1-231. Repeal dates, Title 31A.

(1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.

(2) Section 31A-22-615.5 is repealed July 1, 2022.

~~[(3) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim - Health insurer's duty to pay, is repealed on July 1, 2018.]~~

Section 100. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates, Titles 34 and 34A.

~~[(1)] Section 34A-2-202.5 is repealed December 31, 2020.~~

~~[(2) Section 34A-2-213, Coordination of benefits with health benefit plan - Timely payment of claims, is repealed July 1, 2018.]~~

Section 101. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

~~[(1) Subsection 53-10-202(18) is repealed July 1, 2018.]~~

~~[(2) Section 53-10-202.1 is repealed July 1, 2018.]~~

~~[(3)] (1) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.~~

[(4)] (2) Section 53B-18-1501 is repealed July 1, 2021.

~~[(5)] (3) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.~~

[(6)] (4) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

[(7)] (5) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

[(8)] (6) Section 53E-3-515 is repealed January 1, 2023.

[(9)] (7) Section 53F-2-514 is repealed July 1, 2020.

[(40)] (8) Section 53F-5-203 is repealed July 1, 2019.

[(41)] (9) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

[(42)] (10) Section 53F-6-201 is repealed July 1, 2019.

[(43)] (11) Section 53F-9-501 is repealed January 1, 2023.

[(44)] (12) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 102. Section 63I-1-257 is amended to read:

63I-1-257. Repeal dates, Title 57.

~~[Section 57-1-25.5 is repealed on July 1, 2018.]~~

Section 103. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates, Title 76.

~~[Subsection 76-10-526(15) is repealed July 1, 2018.]~~

Section 104. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2019.

(2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

~~[(3) Section 78B-6-802.7 is repealed on July 1, 2018.]~~

Section 105. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) On July 1, 2018, the following are repealed:

(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";

(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";

~~[(d) Section 10-2a-302;]~~

~~[(e) (d) Subsection 10-2a-302.5(2)(a);]~~

~~[(f) (e) in Subsection 10-2a-303(1), the language that states "10-2a-302 or"; and]~~

~~[(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";]~~

~~[(h) (f) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"[-; and].]~~

~~[(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5) or".]~~

(2) Subsection 10-9a-304(2) is repealed June 1, 2020.

(3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 106. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2020.

(2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

(b) Subsection 17-27a-103(37) is repealed June 1, 2020.

(3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2020.

(4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2020.

(5) ~~[Subsection] Section 17-27a-302[(4)],~~ the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2020.

(6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2020.

(7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-401(6) is repealed June 1, 2020.

(8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2020.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2020.

(9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.

(10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.

(11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2020.

(12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.

(13) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, 2020.

(14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2020.

(15) On June 1, 2020, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(16) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104(2),” is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.

(17) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section 107. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

(3) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.

(4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states “, 10-2a-302,” is repealed.

(5) On January 1, 2026:

(a) In Subsection 20A-1-102(~~23~~)(22)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(~~4~~)(3) is repealed and replaced with the following:

“~~(4)~~ (3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”.

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(x) Section 20A-6-203.5 is repealed.

(y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(z) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(aa) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

Section 108. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

~~[(3) Subsection 32B-1-604(4) is repealed June 1, 2018.]~~

[(4)] (3) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

[(5)] (4) Section 32B-6-205 is repealed July 1, 2022.

[(6)] (5) Subsection 32B-6-205.2(15) is repealed July 1, 2022.

[(7)] (6) Section 32B-6-205.3 is repealed July 1, 2022.

[(8)] (7) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

[(9)] (8) Section 32B-6-305 is repealed July 1, 2022.

[(10)] (9) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

[(11)] (10) Section 32B-6-305.3 is repealed July 1, 2022.

[(12)] (11) Section 32B-6-404.1 is repealed July 1, 2022.

[(13)] (12) Section 32B-6-409 is repealed July 1, 2022.

[(14)] (13) Section 32B-6-605.1 is repealed July 1, 2019.

[(15)] (14) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

[(16)] (15) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

[(17)] (16) Section 32B-6-905 is repealed July 1, 2022.

[(18)] (17) Subsection 32B-6-905.1(16) is repealed July 1, 2022.

[(19)] (18) Section 32B-6-905.2 is repealed July 1, 2022.

[(20)] (19) Section 32B-7-303 is repealed March 1, 2019.

[(21)] (20) Section 32B-7-304 is repealed March 1, 2019.

[(22)] (21) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section 109. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

~~[(1) Section 53A-24-602 is repealed July 1, 2018.]~~

[(2)] (1) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[(3)] (2) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[(4)] (3) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

[(5)] (4) (a) Subsection 53B-7-707(4)(a)(ii), the language that states “Except as provided in Subsection (4)(b),” is repealed July 1, 2021.

(b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

[(6)] (5) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(7)]~~ (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~[(8)]~~ (7) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

~~[(9)]~~ (8) Section 53E-5-307 is repealed July 1, 2020.

~~[(10)]~~ (9) In Subsections 53F-2-205(4) and (5), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(11)]~~ (10) Subsection 53F-2-301(1) is repealed July 1, 2023.

~~[(12)]~~ (11) In Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(13)]~~ (12) Section 53F-4-204 is repealed July 1, 2019.

~~[(14)]~~ (13) Section 53F-6-202 is repealed July 1, 2020.

~~[(15)]~~ (14) In Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(16)]~~ (15) In Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(17)]~~ (16) In Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(18)]~~ (17) In Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

~~[(19)]~~ (18) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

Section 110. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

~~[(1)]~~ Section 62A-1-111.5 is repealed July 1, 2018.]

~~[(2)]~~ Subsection 62A-5-103.1(6) is repealed January 1, 2023.

~~[(3)]~~ Subsection 62A-15-1101(6) is repealed January 1, 2019.]

~~[(4)]~~ Section 62A-15-1102 is repealed January 1, 2019.]

Section 111. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) On July 1, 2018:

(a) in Subsection 72-2-108(2), the language that states “and except as provided in Subsection (10)” is repealed; and

(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states “, excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10),” is repealed; and].

~~[(c)]~~ Subsection 72-2-108(10) is repealed.]

(2) Section 72-3-113 is repealed January 1, 2020.

~~[(3)]~~ Section 72-15-101 is repealed on March 31, 2018.]

Section 112. Section 63J-1-201 is amended to read:

63J-1-201. Governor’s proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor’s proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

- (iii) changes to debt service;
 - (iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;
 - (v) an itemized estimate of the proposed changes to appropriations for:
 - (A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;
 - (B) the Executive Department;
 - (C) the Judicial Department as certified to the governor by the state court administrator;
 - (D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and
 - (E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;
 - (vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;
 - (vii) deficits or anticipated deficits;
 - (viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103~~(3)~~(5);
 - (ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:
 - (A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and
 - (B) a final written itemized report when all the state money is spent;
 - (x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and
 - (xi) information detailing certain fee increases as required by Section 63J-1-504.
- (3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or

supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of agency and program objectives, effectiveness measures, and program size indicators; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient

number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 113. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

- (A) local government entities;
- (B) private organizations, including not-for-profit organizations; or
- (C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

- (A) general funds, dedicated credits, or any combination of state funding sources; and
- (B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

- (a) under a competitive award process;
- (b) in accordance with a formula enacted in statute;
- (c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the minimum school program, as defined in [Subsection 53F-2-102(7)(e)] Section 53F-2-102.

Section 114. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

~~[(6)]~~ (7) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

~~[(7)]~~ (8) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

~~[(8)]~~ (9) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

~~[(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.]~~

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section ~~[26-62-601]~~ 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(37) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(38) The Relative Value Study Restricted Account created in Section 59-9-105.

(39) The Cigarette Tax Restricted Account created in Section 59-14-204.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(41) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(42) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(43) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(44) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(45) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(46) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(47) The Immigration Act Restricted Account created in Section 63G-12-103.

(48) Money received by the military installation development authority, as provided in Section 63H-1-504.

(49) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(50) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(51) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(52) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(53) The Motion Picture Incentive Account created in Section 63N-8-103.

(54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(57) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(58) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(59) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(60) Fees for certificate of admission created under Section 78A-9-102.

(61) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(62) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(63) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(64) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 115. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) The primary care grant program created in Section 26-10b-102.

(7) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(8) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(11) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(~~iii~~) or (b).

(12) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(13) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(14) The Utah National Guard, created in Title 39, Militia and Armories.

(15) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(16) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(17) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(18) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(19) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(20) The State Board of Education, as provided in Section 53F-2-205.

(21) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(22) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(23) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(24) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(25) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(26) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

~~[(30) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.]~~

~~[(31)]~~ (30) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

~~[(32)]~~ (31) The Traffic Noise Abatement Program created in Section 72-6-112.

~~[(33)]~~ (32) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

~~[(34)]~~ (33) A state rehabilitative employment program, as provided in Section 78A-6-210.

~~[(35)]~~ (34) The Utah Geological Survey, as provided in Section 79-3-401.

~~[(36)]~~ (35) The Bonneville Shoreline Trail Program created under Section 79-5-503.

~~[(37)]~~ (36) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(38)]~~ (37) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 116. Section 63J-1-801 is amended to read:

63J-1-801. Definitions.

As used in this part:

(1) "Committee" means the Homeless Coordinating Committee created in Section 35A-8-601.

(2) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:

(a) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(b) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries.

(3) "Grant eligible entity" means:

(a) the Department of Public Safety; or

(b) a city, town, or metro township that has:

(i) a homeless shelter within the city's, town's, or metro township's geographic boundaries that:

(A) provides temporary shelter to homeless individuals;

(B) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(C) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(ii) increased community, social service, ~~and~~ or public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries.

Section 117. Section 63M-7-210 is amended to read:

63M-7-210. Pilot program of competency-based career and technical education grants.

(1) As used in this section:

(a) "Certificate program provider" means a technical college that provides competency-based career and technical education.

(b) "Commission" means the State Commission on Criminal and Juvenile Justice.

(c) (i) "Competency-based career and technical education" means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.

(ii) “Competency-based career and technical education” includes services provided under Section 53B-2a-106.

(d) “Qualifying education program” means a program overseen by a city or county prosecutor office to provide for an individual obtaining:

(i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) competency-based career and technical education.

~~[(e) “Service area” means the area listed in Section 53B-2a-105 for a technical college.]~~

~~[(f)] (e) “Technical college” means the same as that term is defined in Section 53B-1-101.5.~~

(2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:

(a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and

(b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:

(i) as an alternative to incarceration;

(ii) for a reduction of fines or court fees;

(iii) for a two-step conviction reduction under Section 76-3-402; or

(iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).

(3) As a condition of participating in a qualifying education program under this section, an individual shall:

(a) comply with the requirements of the plea agreement entered into by the individual, the prosecutor, and the court; and

(b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.

(4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.

(5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the Law Enforcement and Criminal Justice Interim

Committee, and the related appropriations subcommittee.

Section 118. Section 63N-2-503 is amended to read:

63N-2-503. Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.

(1) The office, with the board’s advice, may enter into an agreement with a qualified hotel owner or a host local government:

(a) for the development of a qualified hotel; and

(b) to authorize a convention incentive:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;

(iv) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(v) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement under Subsection (1) shall:

(a) specify the requirements for the qualified hotel owner or host local government to qualify for a convention incentive;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;

(d) with respect to the state portion of the convention incentive:

(i) specify the maximum dollar amount that the qualified hotel owner or host local government may receive, subject to a maximum of:

(A) for any calendar year, the amount of the state portion in that calendar year; and

(B) \$75,000,000 in the aggregate for the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion that may be used in calculating the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each calendar year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection 63N-2-502~~(5)~~(10)(a) during which the qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the qualified hotel owner to retain books and records supporting a claim for the convention incentive as required by Section 63N-1-1406;

(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;

(h) limit the expenditure of funds received under the convention incentive as provided in Section 63N-2-512; and

(i) require the qualified hotel owner or host local government to submit to any audit and to provide any audit level attestation or other level of review the office considers appropriate for verification of any claim.

(3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63N-2-508(3)(a).

Section 119. Section 63N-2-504 is amended to read:

63N-2-504. Independent review committee.

(1) In accordance with rules adopted by the office under Section 63N-2-509, the board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.

(2) The review committee shall consist of:

(a) one member appointed by the executive director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 120. Section 63N-4-404 is amended to read:

63N-4-404. Rural employment expansion grant application process.

(1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a rural employment expansion grant as provided in this part shall provide the office with an application for a rural employment expansion grant in a form approved by the office that includes:

(a) a certification, by an officer of the business entity, of each signature on the application;

(b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a rural employment expansion grant; and

(c) any additional information required by the office.

(2) (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the rural employment expansion grant, the office shall:

(i) deny the application; or

(ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.

(b) (i) If the office denies an application, the business entity may appeal the denial to the office.

(ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant under this part.

(3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a rural

employment expansion grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:

(a) indicates the maximum rural employment expansion grant amount the business entity is authorized to receive;

(b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and

(d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

(4) (a) Subject to available funds, the office may award a rural employment expansion grant to a business entity as follows:

(i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;

(ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and

(iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.

(b) A business entity may qualify for no more than \$25,000 in rural employment expansion grants in any fiscal year.

(5) (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:

(i) in a form prescribed by the office under Subsection (3)(c);

(ii) before the deadline described in Subsection (3)(d); and

(iii) that demonstrates that the business applicant has created new full-time employee positions.

(b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a rural employment expansion grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection [63N-2-903] (1)[(a)].

Section 121. Section 63N-6-202 is amended to read:

63N-6-202. Board members -- Meetings -- Expenses.

(1) (a) The board shall consist of the following five members:

(i) the state treasurer;

(ii) the executive director or the executive director's designee; and

(iii) three members appointed by the governor and confirmed by the Senate.

(b) The three members appointed by the governor shall serve four-year staggered terms with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.

(c) The governor shall appoint members of the board based on demonstrated expertise and competence in:

(i) the supervision of investment managers;

(ii) the fiduciary management of investment funds; or

(iii) the management and administration of tax credit allocation programs.

(2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:

(a) filled in the same manner as the appointment of the original member; and

(b) for the unexpired term of the board member being replaced.

(3) Appointed members of the board may not serve more than two full consecutive terms except when the governor determines that an additional term is in the best interest of the state.

(4) (a) Four members of the board constitute a quorum for conducting business and exercising board power.

(b) If a quorum is present, the action of a majority of members present is the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(6) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) Meetings of the board, except to the extent necessary to protect the information identified in Subsection 63N-6-412(3), are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 122. Section 63N-7-301 is amended to read:

63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by GOED for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The executive director shall use account money appropriated to GOED to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by GOED.

(6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually allocate 10% of the account money appropriated to GOED to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to GOED that gives an accounting of the use of money the sports organization receives under this Subsection (6); and

(ii) partner with GOED to promote the state and to encourage economic growth in the state.

(c) For purposes of this Subsection (6), "sports organization" means an organization that is:

(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; and

(ii) created to foster national and international sports competitions in the state, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting Utah for the purpose of attracting, expanding, and retaining sporting events in the state.

(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of

Finance, which shall set aside the certified amount for appropriation to the account.

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) 80% of the sales from each business under NAICS Codes:

- (A) 532111 Passenger Car Rental;
- (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;
- (C) 5615 Travel Arrangement and Reservation Services;
- (D) 7211 Traveler Accommodation; and
- (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

- (A) 51213 Motion Picture and Video Exhibition;
- (B) 532292 Recreational Goods Rental;
- (C) 711 Performing Arts, Spectator Sports, and Related Industries;
- (D) 712 Museums, Historical Sites, and Similar Institutions; and
- (E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

- (A) 447 Gasoline Stations; and
- (B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

- (A) 445 Food and Beverage Stores;
- (B) 446 Health and Personal Care Stores;
- (C) 448 Clothing and Clothing Accessories Stores;
- (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
- (E) 452 General Merchandise Stores; and
- (F) 453 Miscellaneous Store Retailers.

**Section 123. Section 75-6-401 is amended to read:
Part 4. Uniform Real Property Transfer on Death Act**

75-6-401. Title.

This [chapter] part is known as the “Uniform Real Property Transfer on Death Act.”

Section 124. Section 75-6-402 is amended to read:

75-6-402. Definitions.

As used in this [chapter] part:

(1) “Beneficiary” means a person who receives property under a transfer on death deed.

(2) “Class gift” means a transfer to a group of persons who are classified by their relationship to one another or the transferor, and who are not individually named in the transferring document.

(3) “Designated beneficiary” means a person designated to receive property in a transfer on death deed.

(4) “Individual” means a natural person.

(5) (a) “Joint owner” means an individual who owns property concurrently with one or more other individuals with a right of survivorship.

(b) “Joint owner” includes a joint tenant, owner of community property with a right of survivorship, and tenant by the entirety.

(c) “Joint owner” does not include a tenant in common or owner of community property without a right of survivorship.

(6) “Natural person” means a human being.

(7) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) “Property” means an interest in real property located in this state that is transferable on the death of the owner.

(9) “Transfer on death deed” means a deed authorized under this [chapter] part.

(10) “Transferor” means an individual, in their individual capacity, who makes a transfer on death deed.

Section 125. Section 75-6-403 is amended to read:

75-6-403. Applicability.

This [chapter] part applies to a transfer on death deed made before, on, or after May 8, 2018, by a transferor dying on or after May 8, 2018.

Section 126. Section 75-6-404 is amended to read:

75-6-404. Nonexclusivity.

This [chapter] part does not affect any method of transferring property otherwise permitted under the law of this state.

Section 127. Section 75-6-416 is amended to read:

75-6-416. Form of transfer on death deed.

The following form may be used to create a transfer on death deed. The other sections of this [chapter] part govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

REVOCABLE TRANSFER ON DEATH DEED FORM NOTICE TO OWNER

You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.

This form must be recorded before your death, or it will not be effective. The beneficiary must be a named person.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name Mailing address

Printed name Mailing address

Legal description of the property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

Printed name Mailing address, if available

ALTERNATE BENEFICIARY Optional

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

Printed name Mailing address, if available

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

Signature [(SEAL)] Date

Signature [(SEAL)] Date

ACKNOWLEDGMENT

(insert acknowledgment for deed here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

Q. What does the Transfer on Death (TOD) deed do?

A. When you die, this deed transfers the described property, subject to any liens or mortgages (or other

encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

Q. How do I make a TOD deed?

A. Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

Q. Is the "legal description" of the property necessary?

A. Yes.

Q. How do I find the "legal description" of the property?

A. This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Q. Can I change my mind before I record the TOD deed?

A. Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

Q. How do I "record" the TOD deed?

A. Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.

Q. Can I later revoke the TOD deed if I change my mind?

A. Yes. The TOD deed is revocable. No one, including the beneficiaries, can prevent you from revoking the deed.

Q. How do I revoke the TOD deed after it is recorded?

A. There are three ways to revoke a recorded TOD deed: (1) Complete and acknowledge a revocation form, and record it in each county where the property is located. (2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located. (3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

Q. I am being pressured to complete this form. What should I do?

A. Do not complete this form under pressure. Seek help from a trusted family member, a friend, or a lawyer.

Q. Do I need to tell the beneficiaries about the TOD deed?

A. No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

Q. If I sign a TOD deed and designate my two children as beneficiaries, and one of them dies before me, does the interest of my child that dies before me pass to his or her children?

A. No. Everything will go to your surviving child unless you record a new transfer on death deed to state otherwise. If you have questions regarding how to word a new transfer on death deed, you are encouraged to consult a lawyer.

Q. I have other questions about this form. What should I do?

A. This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.

Section 128. Section 75-6-417 is amended to read:

75-6-417. Optional form of revocation.

The following form may be used to create an instrument of revocation under this [chapter] part. The other sections of this [chapter] part govern the effect of this or any other instrument used to revoke a transfer on death deed.

(front of form)

FULL REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

Printed name Mailing address

Printed name Mailing address

Legal description of the property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

Signature Date

[(SEAL)]

Signature Date

ACKNOWLEDGMENT

(insert acknowledgment here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

Q. How do I use this form to revoke a Transfer on Death (TOD) deed?

A. Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the office of the county recorder of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

Q. How do I find the "legal description" of the property?

A. This information may be on the TOD deed. It may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Q. How do I "record" the form?

A. Take the completed and acknowledged form to the office of the county recorder of the county where the property is located. Follow the instructions given by the county recorder to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties.

Q. I am being pressured to complete this form. What should I do?

A. Do not complete this form under pressure. Seek help from a trusted family member, a friend, or a lawyer.

Q. Can this form be used for a partial revocation of a previously filed TOD deed?

A. No. This form is to be used for full revocation of a deed. In the case of a partial revocation, a new TOD deed must be filed.

Q. I have other questions about this form. What should I do?

A. This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.

Section 129. Section 75-6-419 is amended to read:

75-6-419. Relation to Electronic Signatures in Global and National Commerce Act.

This [chapter] part modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of

the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 130. Section 76-5-110 is amended to read:

76-5-110. Abuse or neglect of a child with a disability.

(1) As used in this section:

(a) "Abuse" means:

(i) inflicting physical injury, as that term is defined in Section 76-5-109;

(ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or

(iii) unreasonable confinement.

(b) "Caretaker" means:

(i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

(ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

(c) "Child with a disability" means any person under 18 years of age who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

(d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

(2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.

(3) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.

(b) Subject to Subsection 78A-6-117(2)(~~m~~)(m)(iii), the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable

caretaker would believe to be in the best interest of the child with a disability.

Section 131. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the value of the property or services is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; ~~or~~

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or Subsection 76-6-413(1), or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 132. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property

under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any person other than a natural parent of the victim who:

(a) has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

(v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) is required to register as a kidnap offender in any other jurisdiction of original conviction, who is required to register as a kidnap offender by any state, federal, or military court, or who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the person's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

- (12) "Online identifier" or "Internet identifier":
- (a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and
- (b) does not include date of birth, social security number, PIN number, or Internet passwords.
- (13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.
- (14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.
- (15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.
- (16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.
- (17) "Sex offender" means any person:
- (a) convicted in this state of:
- (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;
- (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;
- (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;
- (iv) Section 76-5-401.1, sexual abuse of a minor, except under Subsection 76-5-401.1(3)(a);
- (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- (vi) Section 76-5-402, rape;
- (vii) Section 76-5-402.1, rape of a child;
- (viii) Section 76-5-402.2, object rape;
- (ix) Section 76-5-402.3, object rape of a child;
- (x) a felony violation of Section 76-5-403, forcible sodomy;
- (xi) Section 76-5-403.1, sodomy on a child;
- (xii) Section 76-5-404, forcible sexual abuse;
- (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- (xiv) Section 76-5-405, aggravated sexual assault;
- (xv) Section 76-5-412, custodial sexual relations, when the person in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;
- (xvi) Section 76-5b-201, sexual exploitation of a minor;
- (xvii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- (xviii) Section 76-7-102, incest;
- (xix) Section 76-9-702, lewdness, if the person has been convicted of the offense four or more times;
- (xx) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense four or more times;
- (xxi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;
- (xxii) Section 76-9-702.5, lewdness involving a child;
- (xxiii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- (xxiv) Section 76-10-1306, aggravated exploitation of prostitution; or
- (xxv) attempting, soliciting, or conspiring to commit any felony offense listed in Subsection (17)(a);
- (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a) and who is:
- (i) a Utah resident; or
- (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- (c) (i) who is required to register as a sex offender in any other jurisdiction of original conviction, who is required to register as a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and
- (ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;
- (d) who is a nonresident regularly employed or working in this state or who is a student in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the person's jurisdiction of residence;
- (e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or
- (f) who is adjudicated delinquent based on one or more offenses listed in Subsection (17)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the person's 21st birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 133. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsections 78A-6-105[(35)(e)](36)(b)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) (a) For purposes of Subsection (1), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and

risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

(4) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(5) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(6) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 134. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, one will be provided in accordance with the provisions of Section 78A-6-1111; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105(~~35~~)(e)](36)(b)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's

parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105[(35)](36)(b), truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 135. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105[(35)(e)](36)(b)(i) through (iii), and

78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

- (iv) sibling visitation; or
- (v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

- (a) protect the physical safety of the minor;
- (b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

- (a) prove that the parent has not used legal or illegal substances; or
- (b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.

(10) (a) The court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

- (i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or
- (ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of

reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

- (A) murder or manslaughter of a child; or
- (B) child abuse homicide;
- (iii) committed sexual abuse against the child;
- (iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the

circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a

permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 136. Section 78A-6-1103 is amended to read:

78A-6-1103. Modification or termination of custody order or decree -- Grounds -- Procedure.

(1) A parent or guardian of any child whose legal custody has been transferred by the court to an individual, agency, or institution, except a secure youth corrections facility, may petition the court for restoration of custody or other modification or revocation of the court's order, on the ground that a change of circumstances has occurred which requires such modification or revocation in the best interest of the child or the public.

(2) The court shall make a preliminary investigation. If the court finds that the alleged change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If the court finds that a further examination of the facts is needed, or if the court on its own motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall be given to all persons concerned. At the hearing, the court may enter an order continuing, modifying, or terminating the decree.

(3) (a) A parent may not file a petition under this section after the parent's parental rights have been terminated in accordance with Part 5, Termination of Parental Rights Act.

(b) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 78A-6-117(2)(~~y~~)(x).

(4) An individual, agency, or institution vested with legal custody of a child may petition the court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest. The court shall proceed upon the petition in accordance with Subsections (1) and (2).

Section 137. Section 78A-6-1302 is amended to read:

78A-6-1302. Procedure -- Standard.

(1) When a motion is filed pursuant to Section 78A-6-1301 raising the issue of a minor's competency to proceed, or when the court raises the issue of a minor's competency to proceed, the juvenile court in which proceedings are pending shall stay all delinquency proceedings.

(2) If a motion for inquiry is opposed by either party, the court shall, prior to granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion. If the court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and prior to a full competency hearing, the court may order the Department of Human Services to evaluate the minor and to report to the court concerning the minor's mental condition.

(4) The minor shall be evaluated by a mental health examiner with experience in juvenile forensic evaluations and juvenile brain development, who is not involved in the current treatment of the minor. If it becomes apparent that the minor may be not competent due to an intellectual disability or related condition, the examiner shall be experienced in intellectual disability or related condition evaluations of minors.

(5) The petitioner or other party, as directed by the court, shall provide all information and materials to the examiners relevant to a determination of the minor's competency including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) known prior mental health evaluations and treatments; and

(e) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad litem, shall cooperate in providing the relevant information and materials to the examiners.

(7) In conducting the evaluation and in the report determining if a minor is not competent to proceed as defined in [Subsection] Section 78A-6-105[~~(38)~~], the examiner shall consider the impact of a mental disorder, intellectual disability, or related condition on a minor's present capacity to:

(a) comprehend and appreciate the charges or allegations;

(b) disclose to counsel pertinent facts, events, or states of mind;

(c) comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the minor;

(d) engage in reasoned choice of legal strategies and options;

(e) understand the adversarial nature of the proceedings;

(f) manifest appropriate courtroom behavior; and

(g) testify relevantly, if applicable.

(8) In addition to the requirements of Subsection (7), the examiner's written report shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the evaluation and the purpose or purposes for each;

(c) state the examiner's clinical observations, findings, and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the examiner could not give an opinion;

(d) state the likelihood that the minor will attain competency and the amount of time estimated to achieve it; and

(e) identify the sources of information used by the examiner and present the basis for the examiner's clinical findings and opinions.

(9) The examiner shall provide an initial report to the court, the prosecuting and defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the court's order. If the examiner informs the court that additional time is needed, the court may grant, taking into consideration the custody status of the minor, up to an additional 30 days to provide the report to the court and counsel. The examiner must provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the evaluation and provide the report. The report shall inform the court of the examiner's opinion concerning the competency and the likelihood of the minor to attain competency within a year. In the alternative, the examiner may inform the court in writing that additional time is needed to complete the report.

(10) Any statement made by the minor in the course of any competency evaluation, whether the evaluation is with or without the consent of the minor, any testimony by the examiner based upon any statement, and any other fruits of the statement may not be admitted in evidence against the minor in any delinquency or criminal proceeding except on an issue respecting the mental condition on which the minor has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the minor's competency.

(11) Before evaluating the minor, examiners shall specifically advise the minor and the parents or guardian of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received the court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the court enlarges the time for good cause.

(13) A minor shall be presumed competent unless the court, by a preponderance of the evidence, finds the minor not competent to proceed. The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall proceed with the delinquency proceedings.

(c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall proceed consistent with Section 78A-6-1303.

(d) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings shall be initiated within seven days after the court's order, unless the court enlarges the time for good cause shown. The minor may be ordered to remain in custody until the commitment proceedings have been concluded.

(15) If the court finds the minor not competent to proceed, its order shall contain findings addressing each of the factors in Subsection (7).

Section 138. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1) Justice courts have jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within their territorial jurisdiction by a person 18 years of age or older.

(2) Except those offenses over which the juvenile court has exclusive jurisdiction, justice courts have jurisdiction over the following offenses committed within their territorial jurisdiction by a person who is 16 or 17 years of age:

(a) class A misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) As used in this section, “the court’s jurisdiction” means the territorial jurisdiction of a justice court.

(4) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court’s jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either a person committing an offense or a victim of an offense is located within the court’s jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court’s jurisdiction or the injury occurs within the court’s jurisdiction;

(d) a person commits any act constituting an element of an inchoate offense within the court’s jurisdiction, including an agreement in a conspiracy;

(e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in the planning or commission of an offense within the court’s jurisdiction;

(f) the investigation of the offense does not readily indicate in which court’s jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court’s jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection [(5)](4)(f)(ii)(A), “body of water” includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) a person who commits theft exercises control over the affected property within the court’s jurisdiction; or

(iv) the offense is committed on or near the boundary of the court’s jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court’s jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(5) A justice court judge may transfer a criminal matter in which the defendant is a child to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the minor would be served by the continuing jurisdiction of the juvenile court, subject to Section 78A-6-602.

(6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 139. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction to terminate parental rights in a child if the party who filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual’s parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual’s parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights

Act, if terminating the [person's] individual's parental rights is in the best interests of the child.

(6) The court shall appoint counsel designated by the county where the petition is filed to represent a party who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to termination under this section, if:

(a) the court determines that the party is indigent under Section 77-32-202; and

(b) the party does not, after being fully advised of the right to counsel, knowingly, intelligently and voluntarily waive the right to counsel.

(7) If a county incurs expenses in providing defense services to indigent individuals facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under this section, the county may apply for a grant for reimbursement from the Utah Indigent Defense Commission under Section 77-32-806.

Section 140. Section 78B-6-812 is amended to read:

78B-6-812. Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant of the time limit set by the court for the defendant to vacate the premises, which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances; and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of its enforcement.

(2) (a) A copy of the order of restitution and a form for the defendant to request a hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302[(1)](2).

(b) A request for hearing or other pleading filed by the defendant may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The date of service, the name, title, signature, and telephone number of the person serving the order and the form shall be legibly endorsed on the

copy of the order and the form served on the defendant.

(d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

(3) (a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.

(b) Personal property remaining in the leased property may be removed from the premises by the sheriff or constable and transported to a suitable location for safe storage. The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.

(c) A tenant may not access the property until the removal and storage costs have been paid in full, except that the tenant shall be provided reasonable access within five business days to retrieve:

(i) clothing;

(ii) identification;

(iii) financial documents, including all those related to the tenant's immigration status or employment status;

(iv) documents pertaining to receipt of public services; and

(v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.

(d) The personal property removed and stored is considered abandoned property and subject to Section 78B-6-816.

(4) In the event of a dispute concerning the manner of enforcement of the restitution order, the defendant may file a request for a hearing. The court shall set the matter for hearing within 10 calendar days from the filing of the request, or as soon thereafter as practicable, and shall mail notice of the hearing to the parties.

(5) The Judicial Council shall draft the forms necessary to implement this section.

Section 141. Section 78B-7-107 is amended to read:

78B-7-107. Hearings on ex parte orders.

(1) (a) When a court issues an ex parte protective order the court shall set a date for a hearing on the petition to be held within 20 days after the ex parte order is issued.

(b) If at that hearing the court does not issue a protective order, the ex parte protective order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day period may not ~~be~~ granted unless:

(i) the petitioner is unable to be present at the hearing;

- (ii) the respondent has not been served;
 - (iii) the respondent has had the opportunity to present a defense at the hearing;
 - (iv) the respondent requests that the ex parte order be extended; or
 - (v) exigent circumstances exist.
- (c) Under no circumstances may an ex parte order be extended beyond 180 days from the date of initial issuance.
- (d) If at that hearing the court issues a protective order, the ex parte protective order remains in effect until service of process of the protective order is completed.
- (e) A protective order issued after notice and a hearing is effective until further order of the court.
- (f) If the hearing on the petition is heard by a commissioner, either the petitioner or respondent may file an objection within 10 days of the entry of the recommended order and the assigned judge shall hold a hearing within 20 days of the filing of the objection.
- (2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-106.
- (3) When a court denies a petition for an ex parte protective order or a petition to modify an order for protection ex parte, upon the request of the petitioner, the court shall set the matter for hearing and notify the petitioner and serve the respondent.
- (4) A respondent who has been served with an ex parte protective order may seek to vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a) by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice of hearing on that motion shall be personally served on the petitioner at least two days prior to the hearing on the motion to vacate.

Section 142. Section 78B-12-402 is amended to read:

78B-12-402. Duties -- Report -- Staff.

- (1) The advisory committee shall review the child support guidelines to ensure the application of the guidelines results in the determination of appropriate child support award amounts.
- (2) The advisory committee shall submit, in accordance with Section ~~[63-3-14]~~ 68-3-14, a written report to the legislative Judiciary Interim Committee on or before October 1, 2021, and then on or before October 1 of every fourth year subsequently.
- (3) The advisory committee's report shall include recommendations of the majority of the advisory committee, as well as specific recommendations of individual members of the advisory committee.
- (4) Staff for the advisory committee shall be provided from the existing budget of the Department of Human Services.

CHAPTER 137**H. B. 254**

Passed March 5, 2019

Approved March 22, 2019

Effective May 14, 2019

**UNLAWFUL OUTDOOR
ADVERTISING AMENDMENTS**

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the calculation of penalties for unlawful outdoor advertising.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Transportation to issue a citation and levy a fine for a person guilty of unlawful outdoor advertising;
- ▶ amends provisions related to the calculation of penalties for unlawful outdoor advertising, including:
 - when to begin counting days on which a violation exists; and
 - what days are omitted from a calculation based on changes in the sign found to be in violation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-7-508, as last amended by Laws of Utah 2017, Chapter 260

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

Section 1. Section 72-7-508 is amended to read:**72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial review -- Costs of removal -- Civil and criminal liability for damaging regulated signs -- Immunity for Department of Transportation.**

(1) Outdoor advertising is unlawful when:

- (a) erected after May 9, 1967, contrary to the provisions of this chapter;
- (b) a permit is not obtained as required by this part;
- (c) a false or misleading statement has been made in the application for a permit that was material to obtaining the permit;
- (d) the sign for which a permit was issued is not in a reasonable state of repair, is unsafe, or is otherwise in violation of this part; or

(e) a sign in the outdoor advertising corridor is permitted by the local zoning authority as an on-premise sign and the sign, from time to time or continuously, advertises an activity, service, event, person, or product located on property other than the property on which the sign is located.

(2) The establishment, operation, repair, maintenance, or alteration of any sign contrary to this chapter is also a public nuisance.

(3) Except as provided in Subsections (4) and (10), in its enforcement of this section, the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(4) (a) The district courts shall have jurisdiction to review by trial de novo all final orders of the department under this part resulting from formal and informal adjudicative proceedings.

(b) Venue for judicial review of final orders of the department shall be in the county in which the sign is located.

(5) If the department is granted a judgment in an action brought under Subsection (4), the department is entitled to have any nuisance abated and recover from the responsible person, firm, or corporation, jointly and severally:

(a) the costs and expenses incurred in removing the sign; and

(b) (i) \$500 for each day the sign was maintained following the expiration of 10 days after notice of agency action was filed and served under Section 63G-4-201;

(ii) \$750 for each day the sign was maintained following the expiration of 40 days after notice of agency action was filed and served under Section 63G-4-201;

(iii) \$1,000 for each day the sign was maintained following the expiration of 70 days after notice of agency action was filed and served under Section 63G-4-201; and

(iv) \$1,500 for each day the sign was maintained following the expiration of 100 days after notice of agency action was filed and served under Section 63G-4-201.

(6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces, destroys, or uses any sign controlled under this chapter without the owner's permission is liable to the owner of the sign for treble the amount of damage sustained and all costs of court, including a reasonable attorney's fee, and is guilty of a class C misdemeanor.

(b) This Subsection (6) does not apply to the department, its agents, or employees if acting to enforce this part.

(7) The following criteria shall be used for determining whether an existing sign within an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor advertising:

(a) whether the sign complies with this part;

(b) whether the premise includes an area:

(i) from which the general public is serviced according to normal industry practices for organizations of that type; or

(ii) that is directly connected to or is involved in carrying out the activities and normal industry practices of the advertised activities, services, events, persons, or products;

(c) whether the sign generates revenue:

(i) arising from the advertisement of activities, services, events, or products not available on the premise according to normal industry practices for organizations of that type;

(ii) arising from the advertisement of activities, services, events, persons, or products that are incidental to the principal activities, services, events, or products available on the premise; and

(iii) including the following:

(A) money;

(B) securities;

(C) real property interest;

(D) personal property interest;

(E) barter of goods or services;

(F) promise of future payment or compensation;

or

(G) forbearance of debt;

(d) whether the purveyor of the activities, services, events, persons, or products being advertised:

(i) carries on hours of operation on the premise comparable to the normal industry practice for a business, service, or operation of that type, or posts the hours of operation on the premise in public view;

(ii) has available utilities comparable to the normal industry practice for an entity of that type; and

(iii) has a current valid business license or permit under applicable local ordinances, state law, and federal law to conduct business on the premise upon which the sign is located;

(e) whether the advertisement is located on the site of any auxiliary facility that is not essential to, or customarily used in, the ordinary course of business for the activities, services, events, persons, or products being advertised; or

(f) whether the sign or advertisement is located on property that is not contiguous to a property that is essential and customarily used for conducting the business of the activities, services, events, persons, or products being advertised.

(8) The following do not qualify as a business under Subsection (7):

(a) public or private utility corridors or easements;

(b) railroad tracks;

(c) outdoor advertising signs or structures;

(d) vacant lots;

(e) transient or temporary activities; or

(f) storage of accessory products.

(9) The sign owner has the burden of proving, by a preponderance of the evidence, that the advertised activity is conducted on the premise.

(10) (a) (i) After issuing a written warning for a first offense of Subsection (1)(b) or (e), the department may issue a citation to a person who has violated Subsection (1)(b) or (e).

(ii) If the department issues a citation as described in Subsection (10)(a)(i), the department may impose a fine not to exceed \$500.

(iii) A fine imposed under Subsection (10)(a)(ii) shall be deposited in the Transportation Fund.

~~[(a)]~~ (b) If the department has issued two or more notices of violation of or a citation for a violation of Subsection ~~[(1)(e)]~~ (1)(b) or (e) for an existing sign within the last three years, the department may bring an action to enforce in any state court of competent jurisdiction against a person, firm, or corporation that satisfies one or more of the following prerequisites:

(i) has a present ownership interest in the sign;

(ii) had an ownership interest in the sign on one or more of the days the sign was in violation of Subsection ~~[(1)(e)]~~ (1)(b) or (e);

(iii) has a present ownership interest in the property upon which the sign is located, or in a unified commercial development as defined in Section 72-7-504.6;

(iv) had an ownership interest in the property upon which the sign is located, or in a unified commercial development as defined in Section 72-7-504.6, on one or more of the days the sign was in violation of Subsection ~~[(1)(e)]~~ (1)(b) or (e);

(v) received or became entitled to receive compensation in any form for the unlawful outdoor advertising; or

(vi) solicited the advertising.

~~[(b)]~~ (c) In an action under Subsection (10)~~[(a)]~~(b):

(i) the provisions of Subsections (7) and (8) apply; and

(ii) the defendants have the burden of proving, by a preponderance of the evidence, that the advertising in question is lawful under this part.

~~[(e)]~~ (d) If the department is granted judgment in an action under this Subsection (10), the department is entitled to recover from the defendants, jointly and severally, \$1,500 for each day on which the sign was used for unlawful off-premises outdoor advertising.

(e) (i) Subject to Subsection (10)(e)(ii), for purposes of calculating the number of days on which

the sign was used for unlawful off-premises outdoor advertising as described in Subsection (10)(d), the department shall count each day that the sign was maintained after the first notice of agency action was filed and served under Section 63G-4-201.

(ii) For purposes of calculating the number of days on which the sign was used for unlawful off-premises outdoor advertising as described in Subsection (10)(d), if a sign was modified, removed, disabled, or relocated after the receipt of notice of violation, and thereafter, prior to judgment, was reinstalled, relocated, substituted, or reactivated in an unlawful manner, the department shall count each day that the sign was maintained after the first notice of agency action was filed and served under Section 63G-4-201.

(iii) The calculations described in Subsections (10)(e)(i) and (ii) are only applicable for actions taken for violations of this Subsection (10) for which:

(A) the owner of the sign was never issued an off-premise outdoor advertising permit; and

(B) at least one condition described in Subsection (7) exists.

CHAPTER 138**H. B. 256**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**REGULATION OF
 SHELL EGG PRODUCERS**

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Ronald Winterton

LONG TITLE**General Description:**

This bill modifies provisions related to eggs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides an exemption from state regulation for small producers;
- ▶ addresses exceptions;
- ▶ addresses packaging; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-4-103, as renumbered and amended by Laws of Utah 2017, Chapter 345

ENACTS:

4-4-107, Utah Code Annotated 1953
 4-4-108, Utah Code Annotated 1953

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

Section 1. Section 4-4-103 is amended to read:**4-4-103. Definitions.**

As used in this chapter:

- (1) "Addled" or "white rot" means putrid or rotten.
- (2) "Adherent yolk" means the yolk has settled to one side and become fastened to the shell.
- (3) "Albumen" means the white of an egg.
- (4) "Black rot" means the egg has deteriorated to such an extent that the whole interior presents a blackened appearance.
- (5) "Black spot" means mold or bacteria have developed in isolated areas inside the shell.
- (6) "Blood ring" means bacteria have developed to such an extent that blood is formed.
- (7) "Candling" means the act of determining the condition of an egg by holding it before a strong light in such a way that the light shines through the egg and reveals the egg's contents.
- (8) "Moldy" means mold spores have formed within the shell.

(9) "Shell egg" means an egg in the shell as distinguished from a dried or powdered egg.

(10) "Small producer" means a producer of shell eggs:

- (a) having less than 3,000 layers;
- (b) selling only to an ultimate consumer; and
- (c) who is exempt from 21 C.F.R. Chapter 1, Part 118, Production, Storage, and Transportation of Shell Eggs.

(11) "Ultimate consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.

Section 2. Section 4-4-107 is enacted to read:**4-4-107. Exemptions from regulation.**

(1) Except as provided in this section, a small producer and the shell eggs produced by a small producer is exempt from regulation by the department.

(2) The Department of Health has the authority to investigate foodborne illness.

(3) The department may assist, consult, or inspect shell eggs when requested by a small producer.

(4) Nothing in this section affects the authority of the Department of Health or the department to certify, license, regulate, or inspect food or food products that are not exempt from certification, licensing regulation, or inspection under this section.

(5) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the temperature, cleaning, and sanitization of shell eggs under this chapter that are sold by a small producer to a restaurant.

(6) Eggs sold by a small producer pursuant to this chapter are exempt from the restricted egg tolerances for United States Consumer Grade B as specified in the United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of United States Agriculture Department.

Section 3. Section 4-4-108 is enacted to read:**4-4-108. Packaging for small producer.**

(1) A small producer shall package the small producer's eggs in clean packaging that bears a label with the following information:

- (a) the common name of the food, "eggs";
- (b) the quantity or number of eggs;
- (c) the name and address of the small producer;
- (d) the statement "Keep Refrigerated"; and
- (e) the statement "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria:

Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.

(2) A small producer may state a “pull date” or “best by” date. The date may be hand written on the end of the packaging or in a conspicuous location that is clearly discernible. A “pull date” shall first show the month then the day of the month. A recommended date is 30 days after production, but the date may not exceed 45 days after production.

(3) If the eggs of a small producer are ungraded and not weighed, the packaging for the eggs may not be labeled with a grade or size.

CHAPTER 139**H. B. 261**

Passed March 8, 2019
Approved March 22, 2019
Effective May 14, 2019

OFFICE OF QUALITY AND DESIGN

Chief Sponsor: Jon Hawkins
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill creates the Office of Quality and Design within the Department of Human Services.

Highlighted Provisions:

This bill:

- ▶ creates the Office of Quality and Design within the Department of Human Services;
- ▶ establishes the powers and duties of the Office of Quality and Design;
- ▶ deletes provisions relating to the Office of Services Review; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 62A-1-105, as last amended by Laws of Utah 2016, Chapter 300
62A-4a-202.6, as last amended by Laws of Utah 2018, Chapter 415
62A-16-102, as enacted by Laws of Utah 2010, Chapter 239
62A-16-201, as last amended by Laws of Utah 2011, Chapter 343
62A-16-204, as last amended by Laws of Utah 2013, Chapter 445
62A-16-301, as last amended by Laws of Utah 2011, Chapter 343

ENACTS:

- 62A-18-101, Utah Code Annotated 1953
62A-18-102, Utah Code Annotated 1953
62A-18-103, Utah Code Annotated 1953
62A-18-104, Utah Code Annotated 1953
62A-18-105, Utah Code Annotated 1953

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

Section 1. Section 62A-1-105 is amended to read:**62A-1-105. Creation of boards, divisions, and offices.**

(1) The following policymaking boards are created within the Department of Human Services:

- (a) the Board of Aging and Adult Services;
- (b) the Board of Juvenile Justice Services; and
- (c) the Utah State Developmental Center Board.

(2) The following divisions are created within the Department of Human Services:

- (a) the Division of Aging and Adult Services;
- (b) the Division of Child and Family Services;
- (c) the Division of Services for People with Disabilities;
- (d) the Division of Substance Abuse and Mental Health; and
- (e) the Division of Juvenile Justice Services.

(3) The following offices are created within the Department of Human Services:

- (a) the Office of Licensing;
- (b) the Office of Public Guardian; ~~and~~
- (c) the Office of Recovery Services~~[-]; and~~
- (d) the Office of Quality and Design.

Section 2. Section 62A-4a-202.6 is amended to read:**62A-4a-202.6. Conflict child protective services investigations -- Authority of investigators.**

(1) (a) The ~~[division]~~ department, through the Office of Quality and Design, shall ~~[contract with]~~ conduct an independent child protective service ~~[investigator from the private sector]~~ investigation to investigate reports of abuse or neglect of a child that occur while the child is in the custody of the division.

~~[(b) The executive director shall designate an entity within the department, other than the division, to monitor the contract for the investigators described in Subsection (1)(a).]~~

~~[(c) Subject to Subsection (4), when]~~

(b) When a report is made that a child is abused or neglected while in the custody of the division:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the division, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the division, conduct a conflict investigation of the report.

~~[(d)]~~ (c) Subsection ~~[(1)(e)(ii)]~~ (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the division, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) The investigators described in Subsections ~~[(1)(e) and (d)]~~ (1)(b) and (c) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) The investigators described in Subsection (1), if not peace officers, shall have the same rights, duties, and authority of a child protective services investigator employed by the division to:

- (a) make a thorough investigation upon receiving either an oral or written report of alleged abuse or

neglect of a child, with the primary purpose of that investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of their investigation, including determination regarding whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and forward a copy of that report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 when a report is based upon or includes an allegation of educational neglect.

~~[(4) If there is a lapse in the contract with a private child protective service investigator and no other investigator is available under Subsection (1)(a) or (c), the department may conduct an independent investigation.]~~

Section 3. Section 62A-16-102 is amended to read:

62A-16-102. Definitions.

(1) "Committee" means a fatality review committee, formed under Section 62A-16-202 or 62A-16-203.

(2) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b) (i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year immediately preceding the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year immediately preceding the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year immediately preceding the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the Office of ~~[Services Review]~~ Quality and Design determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death; or

(h) is designated as a qualified individual by the executive director.

Section 4. Section 62A-16-201 is amended to read:

62A-16-201. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died, a person designated by the department shall:

(a) complete a deceased client report form, created by the department; and

(b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.

(2) The director of the office or division described in Subsection (1) shall, upon receipt of a deceased client report form, immediately provide a copy of the form to:

(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

(3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the deceased client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the deceased client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the Office of ~~[Services Review]~~ Quality and Design regarding whether a formal fatality review should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the Office of ~~[Services Review]~~ Quality and Design or the director's designee shall determine whether to order that a formal fatality review be conducted.

(b) The director of the Office of ~~[Services Review]~~ Quality and Design or the director's designee shall order that a formal fatality review be conducted if:

(i) at the time of death, the qualified individual is:

(A) an individual described in Subsection 62A-16-102(2)(a) or (b), unless:

(I) the death is due to a natural cause; or

(II) the director of the Office of ~~[Services Review]~~ Quality and Design or the director's designee determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the Office of ~~[Services Review]~~ Quality and Design or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the deceased individual or the deceased individual's family may not have been complied with;

(B) the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii) the death is caused by suicide; or

(iv) the director of the Office of ~~[Services Review]~~ Quality and Design or the director's designee determines that another reason exists to order that a formal fatality review be conducted.

Section 5. Section 62A-16-204 is amended to read:

62A-16-204. Fatality Review Committee proceedings.

(1) A majority vote of committee members present constitutes the action of the committee.

(2) The department shall give the committee access to all reports, records, and other documents that are relevant to the fatality under investigation, including:

(a) narrative reports;

(b) case files;

(c) autopsy reports; and

(d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).

(3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.

(4) A committee shall convene its first meeting within 14 days after the day on which a formal fatality review is ordered under Subsection 62A-16-201(6), unless this time is extended, for good cause, by the director of the Office of ~~[Services Review]~~ Quality and Design.

(5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the fatality review.

(6) A committee shall render an advisory opinion regarding:

(a) whether the provisions of law, rule, policy, and procedure relating to the deceased individual and the deceased individual's family were complied with;

(b) whether the fatality was responded to properly;

(c) whether to recommend that a law, rule, policy, or procedure be changed; and

(d) whether additional training is needed.

Section 6. Section 62A-16-301 is amended to read:

62A-16-301. Fatality review committee report -- Response to report.

(1) Within 20 days after the day on which the committee proceedings described in Section 62A-16-204 end, the committee shall submit:

(a) a written report to the executive director that includes:

(i) the advisory opinions made under Subsection 62A-16-204(6); and

(ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department;

(b) a copy of the report described in Subsection (1)(a) to:

(i) the director, or the director's designee, of the office or division to which the fatality relates; and

(ii) the regional director, or the regional director's designee, of the region to which the fatality relates; and

(c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.

(2) Within 20 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the director of the Office of ~~Services Review~~ Quality and Design and a copy of the response, with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:

(a) indicates that a law, rule, policy, or procedure was not complied with;

(b) indicates that the fatality was not responded to properly;

(c) recommends that a law, rule, policy, or procedure be changed; or

(d) indicates that additional training is needed.

(3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.

(4) Within 30 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:

(a) review the plan of action described in Subsection (3);

(b) make any written response that the executive director or the executive director's designee determines is necessary;

(c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and

(d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the Office of ~~Services Review~~ Quality and Design.

(5) A report described in Subsection (1) and each response described in this section is a protected record.

(6) (a) As used in this Subsection (6), "fatality review document" means any document created in connection with, or as a result of, a fatality review or a decision whether to conduct a fatality review, including:

(i) a report described in Subsection (1);

(ii) a response described in this section;

(iii) a recommendation regarding whether a fatality review should be conducted;

(iv) a decision to conduct a fatality review;

(v) notes of a person who participates in a fatality review;

(vi) notes of a person who reviews a fatality review report;

(vii) minutes of a fatality review;

(viii) minutes of a meeting where a fatality review report is reviewed; and

(ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a fatality review report or a document described in this Subsection (6)(a) is reviewed or discussed.

(b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in this section.

(c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:

(i) a fatality review document; and

(ii) an executive summary described in Subsection 62A-16-302(4).

Section 7. Section 62A-18-101 is enacted to read:

CHAPTER 18. OFFICE OF QUALITY AND DESIGN

62A-18-101. Title.

This chapter is known as the "Office of Quality and Design."

Section 8. Section 62A-18-102 is enacted to read:

62A-18-102. Definitions.

As used in this chapter:

(1) "Director" means the director of the office.

(2) "Office" means the Office of Quality and Design.

Section 9. Section 62A-18-103 is enacted to read:

62A-18-103. Office of Quality and Design -- Creation.

(1) There is created within the department the Office of Quality and Design.

(2) The office is under the administrative and general supervision of the executive director.

Section 10. Section 62A-18-104 is enacted to read:

62A-18-104. Director of the office -- Appointment -- Qualifications.

(1) The executive director shall appoint a director of the office.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable about human services programs.

(3) The director is the administrative head of the office.

Section 11. Section 62A-18-105 is enacted to read:

62A-18-105. Powers and duties of the office.

The office shall:

(1) monitor and evaluate the quality of services provided by the department including:

(a) in accordance with Title 62A, Chapter 16, Fatality Review Act, monitoring, reviewing, and making recommendations relating to a fatality review;

(b) overseeing the duties of the child protection ombudsman appointed under Section 62A-4a-208; and

(c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;

(2) conduct investigations described in Section 62A-4a-202.6; and

(3) assist the department in developing an integrated human services system and implementing a system of care by:

(a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;

(b) establishing and maintaining department contracts with public and private service providers;

(c) establishing standards for the use of service providers who contract with the department;

(d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;

(e) centralizing the department's administrative operations; and

(f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department.

CHAPTER 140**H. B. 263**

Passed March 5, 2019

Approved March 22, 2019

Effective May 14, 2019

EMISSIONS TESTING REVISIONS

Chief Sponsor: Patrice M. Arent
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends a provision to clarify the model years of certain vehicles required to have certain emissions tests.

Highlighted Provisions:

This bill:

- ▶ clarifies that a visual inspection of emissions equipment on certain diesel-powered motor vehicles is required for model years 1998 and newer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1642, as last amended by Laws of Utah 2018, Chapter 323

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

Section 1. Section 41-6a-1642 is amended to read:**41-6a-1642. Emissions inspection -- County program.**

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

- (ii) test procedures;
- (iii) inspections stations;
- (iv) repair requirements and dollar limits for correction of deficiencies; and
- (v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) a motor vehicle powered solely by electric power; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) (a) The legislative body of a county described in Subsection (1) that does not require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017, shall implement a three-year pilot program as described in Subsection (7)(b).

(b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative body of a county described in Subsection (7)(a) shall require:

(i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(A) a model year of 2007 or newer;

(B) a gross vehicle weight rating of 14,000 pounds or less; and

(C) a model year that is five years old or older; and

(ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(A) with a gross vehicle weight rating of 14,000 pounds or less;

(B) that has a model year of ~~1997~~ 1998 or newer; and

(C) that has a model year that is five years old or older.

(c) (i) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall prepare a report including:

(A) the total number of diesel-powered vehicles inspected as part of the pilot program using computerized technology;

(B) the passage and failure rates of the diesel-powered motor vehicles inspected as part of the pilot program using computerized technology, shown by model year;

(C) the total number of diesel-powered vehicles visually inspected as part of the pilot program;

(D) the passage and failure rates of the diesel-powered motor vehicles visually inspected as part of the pilot program, shown by model year;

(E) the total number of diesel-powered vehicles visually inspected as part of the pilot program where tampering with emissions equipment was found, shown by model year; and

(F) any other information the executive body or individual considers relevant.

(ii) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural Resources, Agriculture, and Environment Interim Committee:

(A) one time after January 1, 2020, but before August 31, 2020; and

(B) one time after January 1, 2021, but before August 31, 2021.

(d) After each report described in Subsection (7)(c), the Division of Air Quality created in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment Interim Committee and the legislative body of a county participating in the pilot program an estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor vehicles in the pilot program.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county

legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection(9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by \$2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

(13) (a) A county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

CHAPTER 141**H. B. 265**

Passed March 5, 2019

Approved March 22, 2019

Effective May 14, 2019

**WILDLIFE MANAGEMENT
AREA AMENDMENTS**

Chief Sponsor: Casey Snider
 Senate Sponsor: Allen M. Christensen
 Cosponsor: Joel Ferry

LONG TITLE**General Description:**

This bill creates and provides for the use of the Willard Spur Waterfowl Management Area.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ creates the management area and describes the land included in the management area;
- ▶ requires a memorandum of understanding with the Division of Forestry, Fire, and State Lands;
- ▶ provides for management of the management area by the Division of Wildlife Resources in accordance with specified purposes and a management plan;
- ▶ permits the division to restrict public access or recreational opportunity under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

23-21-.5, as enacted by Laws of Utah 1998, Chapter 218

23-21-5, as last amended by Laws of Utah 1975, Chapter 60

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

Section 1. Section 23-21-5 is amended to read:**23-21-.5. Definitions.**

As used in this chapter:

(1) "General plan" means a document that a municipality or county adopts that sets forth general guidelines for proposed future development of the land within the municipality or county and includes what is commonly referred to as a "master plan."

(2) "Management plan" means a document prepared in accordance with this chapter that describes how one or more tracts of land owned or managed by the Division of Wildlife Resources are to be used.

(3) "Regional advisory council" means a council created pursuant to Section 23-14-2.6.

(4) "Wildlife management area" means:

(a) a single tract of land owned or managed by the division; or

(b) two or more tracts of land owned or managed by the division that are within close proximity of each other and managed as a single unit.

Section 2. Section 23-21-5 is amended to read:**23-21-5. State-owned lands authorized for use as wildlife management areas, fishing waters and for other recreational activities.**

(1) The Wildlife Board is authorized to use any and all unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake within the following townships for the creation, operation, maintenance and management of wildlife management areas, fishing waters and other recreational activities[-]:

Township 2 South, Range 5 West, S.L.B. and M.;
 Township 2 South, Range 4 West, S.L.B. and M.;
 Township 1 South, Range 5 West, S.L.B. and M.;
 Township 1 South, Range 4 West, S.L.B. and M.;
 Township 1 South, Range 3 West, S.L.B. and M.;
 Township 1 North, Range 3 West, S.L.B. and M.;
 Township 1 North, Range 2 West, S.L.B. and M.;
 Township 2 North, Range 3 West, S.L.B. and M.;
 Township 2 North, Range 2 West, S.L.B. and M.;
 Township 2 North, Range 1 West, S.L.B. and M.;
 Township 3 North, Range 3 West, S.L.B. and M.;
 Township 3 North, Range 2 West, S.L.B. and M.;
 Township 3 North, Range 1 West, S.L.B. and M.;
 Township 4 North, Range 3 West, S.L.B. and M.;
 Township 4 North, Range 2 West, S.L.B. and M.;
 Sections 1, 2, 11, 12, 13, 14, 23, and 24, Township 4 North, Range 4 West, S.L.B. and M.; Township 5 North, Range 3 West, S.L.B. and M.; Township 5 North, Range 4 West, S.L.B. and M.; Sections 1, 2, 3, 4, 11, and 12, Township 5 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 5 West, S.L.B. and M.; Township 6 North, Range 4 West, S.L.B. and M.; Township 6 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 5 West, S.L.B. and M.; Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Township 7 North, Range 2 West, S.L.B. and M.; Township 8 North, Range 5 West, S.L.B. and M.; Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Township 8 North, Range 2 West, S.L.B. and M.; Township 9 North, Range 5 West, S.L.B. and M.; Township 9 North, Range 4 West, S.L.B. and M.; Township 11 North, Range 11 West, S.L.B. and M.; Township 11 North, Range 10 West, S.L.B. and M.; Township 11 North, Range 9 West, S.L.B. and M.; Township 11 North, Range 8 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 10 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 9 West, S.L.B. and M.; North 1/2 of Township 10 North, Range 8 West, S.L.B. and M.

(2) (a) The Wildlife Board shall establish a wildlife management area known as the "Willard Spur Waterfowl Management Area" on the unsurveyed state-owned lands below the 1855 meander line of the Great Salt Lake in Sections 26,

35, 36 of Township 8 North, Range 4 West, S.L.B. and M.; Township 8 North, Range 3 West, S.L.B. and M.; Sections 1, 2, 11, 12 of Township 7 North, Range 4 West, S.L.B. and M.; Township 7 North, Range 3 West, S.L.B. and M.; Sections 20, 21, 29, 30, 31 of Township 8 North, Range 2 West, S.L.B. and M.; excepting the following:

(i) lands within the May 14, 2019, boundaries of the Bear River Migratory Bird Refuge;

(ii) lands within the May 14, 2019, boundaries of Harold Crane Waterfowl Management Area;

(iii) lands within the May 14, 2019, boundaries of Willard Bay Reservoir; and

(iv) lands within the May 14, 2019, boundaries of state mineral leases.

(b) The division shall execute a memorandum of understanding with the Division of Forestry, Fire, and State Lands recognizing the division's use of the state-owned lands described in Subsection (2)(a) as a wildlife management area.

(c) The division shall manage the state-owned lands described in Subsection (2)(a) as a wildlife management area and consistent with:

(i) the beneficial purposes identified in Subsection (2)(d); and

(ii) a management plan created consistent with the procedures in this chapter for a management plan.

(d) The division shall manage the Willard Spur Waterfowl Management Area for the following beneficial purposes:

(i) propagating and sustaining waterfowl, upland gamebirds, desirable mammals, shorebirds, and other migratory and nonmigratory birds that use the Great Salt Lake ecosystem and the Great Salt Lake ecosystem's surrounding wetlands;

(ii) preserving and enhancing the natural function, vegetation, and water flows under existing or acquired water rights to provide productive habitat for the species listed in Subsection (2)(d)(i);

(iii) providing recreational opportunity for traditional marsh-related activities, including hunting, fishing, trapping, and wildlife viewing; and

(iv) providing public access in the management area for purposes of hunting, fishing, trapping, and wildlife viewing, including access with airboats and other small watercraft.

(e) The division shall provide the habitat, recreational opportunities, and public access described in Subsection (2)(d) without construction or use of an impounding dike, impounding levee, or other impounding structure.

(f) Notwithstanding the purposes identified in Subsection (2)(d), the division may not prohibit year-round public airboat and small watercraft access in the management area except in selected

areas during limited periods of time to protect habitat, nesting birds, or vulnerable wildlife.

CHAPTER 142**H. B. 272**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

ELECTION LAW AMENDMENTS

Chief Sponsor: Merrill F. Nelson
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends provisions in the Election Code.

Highlighted Provisions:

This bill:

- ▶ prohibits a voter from using a sticker or label to cast a vote on a paper ballot for a write-in candidate;
- ▶ changes the deadline for filing a declaration of candidacy as a write-in candidate;
- ▶ amends provisions related to municipal candidate nomination processes;
- ▶ establishes a filing fee for a write-in candidate; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

20A-3-105, as last amended by Laws of Utah 2018, Chapter 187

20A-3-106, as last amended by Laws of Utah 2015, Chapter 296

20A-9-203, as last amended by Laws of Utah 2018, Chapters 11 and 365

20A-9-404, as last amended by Laws of Utah 2018, Chapters 187 and 274

20A-9-601, as last amended by Laws of Utah 2018, Chapters 11 and 80

Utah Code Sections Affected by Coordination Clause:

20A-9-404, as last amended by Laws of Utah 2018, Chapters 187 and 274

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

Section 1. Section 20A-3-105 is amended to read:**20A-3-105. Marking and depositing ballots.**

(1) (a) Except as provided in Subsection (5), if a paper ballot is used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) Except as provided in Subsections (5) and (6), a mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate

square with a mark opposite the answer the voter intends to make.

(d) Before leaving the booth, the voter shall:

(i) fold the ballot so that its contents are concealed and the stub can be removed; and

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope and complete the information printed on the envelope.

(2) (a) (i) Subject to Subsection (5), if a punch card ballot is used, the voter shall insert the ballot sheet into the voting device and mark the ballot sheet according to the instructions provided on the device.

(ii) If the voter is issued a ballot sheet with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot sheet with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot sheet, the voter shall either:

(i) place the ballot sheet inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot sheet to maintain the secrecy of the vote if the voter is issued a ballot sheet with a long stub without a secrecy envelope.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(3) (a) Subject to Subsection (5), if a ballot sheet other than a punch card is used, the voter shall mark the ballot sheet according to the instructions provided on the voting device or ballot sheet.

(b) Except as provided in Subsections (5) and (6), the voter shall record a write-in vote by:

(i) marking the position opposite the area for entering a write-in candidate; and

(ii) entering the name of the valid write-in candidate for whom the voter wishes to vote [~~for by means of: (A) writing; (B) a label; or (C)-~~] by writing the name of the candidate in the blank write-in section of the ballot or entering the name using the voting device.

(c) If the ballot is a provisional ballot, the voter shall place the ballot sheet in the provisional ballot envelope and complete the information printed on the envelope.

(4) (a) Subject to Subsection (5), if an electronic ballot is used, the voter shall:

(i) insert the ballot access card into the voting device; and

(ii) make the selections according to the instructions provided on the device.

(b) Except as provided in Subsections (5) and (6), the voter shall record a write-in vote by:

(i) marking the appropriate position opposite the area for entering a write-in candidate; and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

(5) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:

(a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

(6) After preparation of the ballot:

(a) if a paper ballot or punch card ballot is used:

(i) the voter shall:

(A) leave the voting booth; and

(B) announce the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot;

(B) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, remove the stub from the ballot; and

(C) return the ballot to the voter;

(iii) the voter shall, in full view of the poll workers, cast the voter's vote by depositing the ballot in the ballot box; and

(iv) if the stub has been detached from the ballot:

(A) the poll worker may not accept the ballot; and

(B) the poll worker shall:

(I) treat the ballot as a spoiled ballot;

(II) provide the voter with a new ballot; and

(III) dispose of the spoiled ballot as provided in Section 20A-3-107;

(b) if a ballot sheet other than a punch card is used:

(i) the voter shall:

(A) leave the voting booth; and

(B) announce the voter's name to the poll worker in charge of the ballot box;

(ii) the poll worker in charge of the ballot box shall:

(A) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot; and

(B) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the poll worker, return the ballot to the voter; and

(iii) the voter shall, in full view of the poll workers, cast [his] the voter's vote by depositing the ballot in the ballot box; and

(c) if an electronic ballot is used, the voter shall:

(i) cast the voter's ballot;

(ii) remove the ballot access card from the voting device; and

(iii) return the ballot access card to a designated poll worker.

(7) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:

(a) (i) if the ballot is designed so that the names of all candidates for all political parties are on the same ballot, detach the part of the paper ballot containing the names of the candidates of the party the voter has voted from the remainder of the paper ballot;

(ii) fold that portion of the paper ballot so that its face is concealed; and

(iii) deposit it in the ballot box; and

(b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and

(ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.

(8) (a) Each voter shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting.

(b) A voter may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

(9) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(10) The poll workers may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

Section 2. Section 20A-3-106 is amended to read:

20A-3-106. Voting straight ticket -- Splitting ballot -- Writing in names -- Effect of unnecessary marking of cross.

(1) When voting a paper ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(a) mark in the circle or position above that political party;

(b) mark in the squares or position opposite the names of all candidates for that party ticket; or

(c) make both markings.

(2) (a) When voting a ballot sheet, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(i) mark the selected party on the straight party page or section; or

(ii) mark the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) mark in the squares or positions opposite the names of the candidates for whom the voter wishes to vote without marking in any circle; or

(ii) indicate the voter's choice by:

(A) marking in the circle or position above one political party; and

(B) marking in the squares or positions opposite the names of desired candidates who are members of any party, are unaffiliated, or are listed without party name.

(3) (a) When voting an electronic ballot, any voter desiring to vote for all the candidates who are listed on the ballot as being from any one registered political party may:

(i) select that party on the straight party selection area; or

(ii) select the name of each candidate from that party.

(b) To vote for candidates from two or more political parties, the voter may:

(i) select the names of the candidates for whom the voter wishes to vote without selecting a political party in the straight party selection area; or

(ii) (A) select a political party in the straight party selection area; and

(B) select the names of the candidates for whom the voter wishes to vote who are members of any party, are unaffiliated, or are listed without party name.

(4) In any election other than a primary election, if a voter voting a ballot has selected or placed a

mark next to a party name in order to vote a straight party ticket and wishes to vote for a person on another party ticket for an office, or for an unaffiliated candidate, the voter shall select or mark the ballot next to the name of the candidate for whom the voter wishes to vote.

(5) (a) The voter may cast a write-in vote on a paper ballot or ballot sheet ~~:(i) by entering the name of a valid write-in candidate:(A)] by writing the name of a valid write-in candidate in the blank write-in section of the ballot[; or]~~.

~~[(B) by affixing a sticker with the office and name of the valid write-in name printed on it in the blank write-in part of the ballot; and]~~

~~[(ii) by placing a mark opposite the name of the write-in candidate to indicate the voter's vote.]~~

~~[(b) On a paper ballot or ballot sheet, a voter is considered to have voted for the person whose name is written or whose sticker appears in the blank write-in part of the ballot, if a mark is made opposite that name.]~~

~~[(c) On a paper ballot or ballot sheet, the unnecessary marking of a mark in a square on the ticket below the marked circle does not affect the validity of the vote.]~~

(b) A voter may not cast a write-in vote on a paper ballot or ballot sheet by affixing a sticker or label with the name of a write-in candidate in the blank write-in section of the ballot.

(6) The voter may cast a write-in vote on an electronic ballot by:

(a) marking the appropriate position opposite the area for entering a write-in candidate for the office sought by the candidate for whom the voter wishes to vote; and

(b) entering the name of a valid write-in candidate in the write-in selection area.

Section 3. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b), and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.
(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month \ day \ year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 4. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section or [Title 20A,] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) Except as otherwise provided in [Title 20A,] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a [political] municipal party convention or committee.

(ii) The municipal party convention or committee described in Subsection (3)(b)(i) shall be held on or before May 30 of an odd-numbered year.

~~[(ii)]~~ (iii) Any primary election exemption ordinance adopted under ~~[the authority of]~~ this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not ~~nominate~~ ~~[(A) an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or (B) more than one group of candidates, or have placed on the ballot more than one group of candidates, for]~~ more than one candidate for each of the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may not nominate an individual who has ~~been nominated by]~~ accepted the nomination of a different convention or committee.

(iii) A [political] municipal party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) ~~[The]~~ On or before May 31 of an odd-numbered year, a convention or committee shall prepare and submit to the filing officer a

certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the [political] party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

~~[(iii) Certificates of nomination shall be filed with the clerk not later than 80 days before the municipal general election.]~~

[(iii) A candidate nominated by a municipal party convention or committee shall file a declaration with the filing officer in accordance with Subsection 20A-9-203(3) that includes:

(A) the name of the municipal party or convention that nominated the candidate; and

(B) the office for which the convention or committee nominated the candidate.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention[-] if the committee makes the nomination before the deadline for a write-in candidate to file a declaration of candidacy under Section 20A-9-601.

(f) The election ballot shall substantially comply with the form prescribed in Title 20A, Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4) (a) Any third, fourth, or fifth class city or a town may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city or town from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a municipal partisan [primary election] convention method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder [by May 31 of any odd-numbered year] or town clerk before the municipal party holds a convention to nominate a candidate under this Subsection (4);

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no [partisan] primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a [partisan] municipal primary election.

(d) The clerk shall ensure that[~~-(i)~~] the partisan municipal primary ballot is similar to the ballot forms required by [Sections] Section 20A-6-401 and, as applicable, Section 20A-6-401.1[~~;~~].

~~[(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;]~~

~~[(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation; and]~~

~~[(iv) every ballot separates the candidates of one party from those of the other parties.]~~

(e) After marking a municipal primary ballot, the voter shall deposit the ballot in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 5. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer

not later than [60] 65 days before the regular general election or a municipal general election in which the individual intends to be a write-in candidate.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) The form of the declaration of candidacy for a write-in candidate for all offices, except president or vice president of the United States, is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ for the _____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month \day \year).

Notary Public (or other officer qualified to administer oath).”

(b) The form of the declaration of candidacy for a write-in candidate for president of the United States is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____.

_____. I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____(month \day \year).

Notary Public (or other officer qualified to administer oath).”

(c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(7).

(d) An agent described in Subsection (1)(a) or (b) may not sign the form described in Subsection (2)(a) or (b).

(3) (a) The filing officer shall:

(i) read to the candidate the constitutional and statutory requirements for the office; and

(ii) ask the candidate whether [~~or not~~] the candidate meets the requirements.

(b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate’s declaration of candidacy.

(4) (a) Except as provided in Subsection (4)(b), a write-in candidate is subject to Subsection 20A-9-201(8).

(b) A write-in candidate for president of the United States is subject to Subsection 20A-9-201(9)(a)(iv) or 20A-9-803(1)(d), as applicable.

[4] (5) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

Section 6. Coordinating H.B. 272 with S.B. 33 -- Substantive and technical amendments.

If this H.B. 272 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, by amending Subsection 20A-9-404(4)(b)(ii)(B) to read:

“(B) is filed with the city recorder [~~by May 31 of any odd-numbered year~~] or town clerk before 5 p.m. no later than the day before the day on which the municipal party holds a convention to nominate a candidate under this Subsection (4);”.

CHAPTER 143**H. B. 283**

Passed March 12, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**STATE GOVERNMENT CLOUD
COMPUTING SERVICES ACT**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill requires the Department of Technology Services to consider cloud computing service options under certain circumstances.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Technology Services to consider cloud computing service options under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63F-1-104, as last amended by Laws of Utah 2018, Chapter 200

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

Section 1. Section 63F-1-104 is amended to read:**63F-1-104. Purposes.**

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) consider, when making a purchase for an information system, cloud computing service options, including any security benefits, privacy, data retention risks, and cost savings associated with purchasing a cloud computing service option;

~~[(11)]~~ (12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee on a semiannual basis regarding the status of information technology projects;

~~[(12)]~~ (13) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

~~[(13)]~~ (14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

CHAPTER 144**H. B. 284**

Passed March 12, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**STATE AGENCY WEB
DESIGN GUIDELINES**

Chief Sponsor: Jon Hawkins
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill modifies the Department of Technology Services code related to purposes of the Department of Technology Services.

Highlighted Provisions:

This bill:

- ▶ enacts a provision that authorizes the Department of Technology Services to coordinate with executive branch agencies to provide basic agency website standards that address common website design and navigation standards; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63F-1-104, as last amended by Laws of Utah 2018, Chapter 200

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

Section 1. Section 63F-1-104 is amended to read:**63F-1-104. Purposes.**

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63F-1-210;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

[(11)] (12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee on a semiannual basis regarding the status of information technology projects;

[(12)] (13) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

[(13)] (14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

CHAPTER 145**H. B. 285**

Passed March 6, 2019

Approved March 22, 2019

Effective May 14, 2019

**ALCOHOL WORK
REQUIREMENT AMENDMENTS**

Chief Sponsor: Walt Brooks

Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill modifies provisions of the Alcoholic Beverage Control Act related to employment and licensure requirements.

Highlighted Provisions:

This bill:

- ▶ establishes a period of time for which certain criminal convictions disqualify an individual from obtaining employment with the Department of Alcoholic Beverage Control or a license under the Alcoholic Beverage Control Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

32B-1-303, as enacted by Laws of Utah 2010, Chapter 276

32B-1-304, as enacted by Laws of Utah 2010, Chapter 276

32B-1-306, as last amended by Laws of Utah 2011, Chapter 307

32B-1-307, as last amended by Laws of Utah 2015, Chapter 351

32B-8-501, as enacted by Laws of Utah 2010, Chapter 276

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

Section 1. Section 32B-1-303 is amended to read:**32B-1-303. Qualifications related to employment with the department.**

(1) The department may not employ a person if that person has been convicted of:

(a) within seven years before the day on which the department employs the person, a felony under a federal law or state law;

(b) within four years before the day on which the department employs the person:

~~(b)~~ (i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

~~(e)~~ (ii) a crime involving moral turpitude; or

~~(d)~~ (c) on two or more occasions within the five years before the day on which the department employs the person, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(2) The director may terminate a department employee or take other disciplinary action consistent with Title 67, Chapter 19, Utah State Personnel Management Act, if:

(a) after the day on which the department employs the department employee, the department employee is found to have been convicted of an offense described in Subsection (1) before being employed by the department; or

(b) on or after the day on which the department employs the department employee, the department employee:

(i) is convicted of an offense described in Subsection (1)(a)~~[(b), or (e)]~~ or (b); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may immediately suspend a department employee for the period during which a criminal matter is being adjudicated if the department employee:

(a) is arrested on a charge for an offense described in Subsection (1)(a)~~[(b), or (e)]~~ or (b); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

Section 2. Section 32B-1-304 is amended to read:**32B-1-304. Qualifications for a package agency, license, or permit -- Minors.**

(1) (a) The commission may not issue a package agency, license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

~~(ii)~~ (A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

~~(iii)~~ (B) a crime involving moral turpitude; or

~~(iv)~~ (iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

- (i) a partner;
- (ii) a managing agent;
- (iii) a manager;
- (iv) an officer;
- (v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) The proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) The commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i)~~, (ii), or (iii)~~ or (ii); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i)~~, (ii), or (iii)~~ or (ii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any

type of agency, license, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(6) If a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

Section 3. Section 32B-1-306 is amended to read:

32B-1-306. Use of information from a criminal background check.

The commission or department may use information obtained pursuant to Section 32B-1-305 only for one or more of the following purposes:

(1) enforcing this title;

(2) determining whether an individual is convicted of any of the following offenses that disqualify the individual under this title from acting in a capacity described in Subsection 32B-1-305(2):

(a) within the previous seven years, a felony under federal law or state law;

(b) within the previous four years:

~~[(b)]~~ (i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

~~[(e)]~~ (ii) a crime involving moral turpitude; or

~~[(d)]~~ (c) on two or more occasions within the previous five years, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs;

(3) determining whether an individual fails to accurately disclose the individual's criminal history on an application or document filed with the department or commission;

(4) approving or denying an application for employment with the department;

(5) taking disciplinary action against a department employee, including possible termination of employment;

(6) issuing or denying an application to operate a package agency;

(7) issuing or denying an application for a license;

(8) issuing or denying the renewal of a package agency agreement;

(9) issuing or denying the renewal of a license;

(10) suspending the operation of a package agency;

(11) terminating a package agency contract; or

(12) suspending or revoking a license.

Section 4. Section 32B-1-307 is amended to read:

32B-1-307. Background check procedure.

(1) (a) An individual described in Subsections 32B-1-305(2)(b) through (e) shall submit to a background check in a form acceptable to the department, including submitting fingerprints, at the expense of the individual.

(b) The department shall pay the expense of obtaining a background check, including obtaining fingerprints, required of:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(2) (a) The department shall establish a procedure for obtaining and evaluating relevant information from a criminal history record maintained by the Utah Bureau of Criminal Identification pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for a purpose outlined in Section 32B-1-306.

(b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (2)(a).

(c) The department shall pay the expense of obtaining the criminal history record required for:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(3) (a) The department shall submit fingerprints obtained under Subsection (1) of an individual to the Utah Bureau of Criminal Identification to be forwarded to the Federal Bureau of Investigation for a nationwide criminal history record check.

(b) An individual described in Subsections 32B-1-305(2)(b) through (e) shall pay to the department the expense of obtaining the criminal history record described in Subsection (3)(a).

(c) The department shall pay the expense of obtaining the criminal history record required for:

(i) an individual applying for employment with the department; or

(ii) a department employee.

(4) (a) The Utah Bureau of Criminal Identification:

(i) shall check the fingerprints submitted under Subsection (1) against the applicable state and regional criminal records databases and submit the fingerprints to national criminal records databases;

(ii) shall maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the state and regional records databases, including latent prints, and notify the department when a new entry is made against a person whose fingerprints are held in the separate file;

(iii) shall release to the department all information received in response to the department's request; and

(iv) may request that the fingerprints be retained in the Federal Bureau of Investigation Rap Back system for search by future submissions to national criminal records databases, including latent prints.

(b) The department shall establish a privacy risk mitigation strategy to ensure that the department only receives notifications for individuals with whom the department maintains a regulatory or employment relationship.

(5) The department shall pay the Utah Bureau of Criminal Identification the costs incurred in providing the department criminal background information.

(6) (a) The following may not disseminate a criminal history record obtained under this part to any person except for a purpose described in Section 32B-1-306:

- (i) the commission;
- (ii) a commissioner;
- (iii) the director;
- (iv) the department; or
- (v) a department employee.

(b) (i) Notwithstanding Subsection (6)(a), a criminal history record obtained under this part may be provided by the department to the individual who is the subject of the criminal history record.

(ii) The department shall provide an individual who is the subject of a criminal history record and who requests the criminal history record an opportunity to:

(A) review the criminal history record; and

(B) respond to information in the criminal history record.

(7) If an individual described in Subsection 32B-1-305(2) is determined to be disqualified under Subsection 32B-1-306(2)(~~b~~), the department shall provide the individual with:

(a) notice of the reason for the disqualification; and

(b) an opportunity to respond to the disqualification.

Section 5. Section 32B-8-501 is amended to read:

32B-8-501. Enforcement of qualifications for resort license or sublicense.

(1) The commission or department may not take an action described in Subsection (2) with regard to a resort license unless the person who is found not to meet the qualifications of Section 32B-8-203 is one of the following who is engaged in the management of the resort:

- (a) a partner;
- (b) a managing agent;
- (c) a manager;
- (d) an officer;
- (e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation;

(g) a member who owns at least 20% of the limited liability company; or

(h) a person employed to act in a supervisory or managerial capacity for the resort licensee.

(2) Subsection (1) applies to:

(a) the commission immediately suspending or revoking a resort license, if after the day on which the resort license is issued, a person described in Subsection 32B-8-203(1):

(i) is found to have been convicted of an offense described in Subsection 32B-1-304(1)(a) before the resort license is issued; or

(ii) on or after the day on which the resort license is issued:

(A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i) ~~[(ii), or (iii)]~~ or (ii); or

(B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(II) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A);

(b) the director taking an emergency action by immediately suspending the operation of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection 32B-8-203(1):

(i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i) ~~[(ii), or (iii)]~~ or (ii); or

(ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(B) was convicted of driving under the influence of alcohol, a drug, or the combined influence of

alcohol and a drug within five years before the day on which the person is arrested on a charge described in Subsection (2)(b)(ii)(A); and

(c) the commission suspending or revoking a resort license because a person to whom a resort license is issued under this chapter no longer possesses the qualifications required by this title for obtaining the resort license.

(3) This section does not prevent the commission from suspending or revoking a sublicense that is part of a resort license if a person employed to act in a supervisory or managerial capacity for a sublicense no longer meets the qualification requirements in the provisions applicable to the sublicense.

CHAPTER 146**H. B. 287**

Passed March 13, 2019
Approved March 22, 2019
Effective May 14, 2019

SEX OFFENSE AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill adds to the definition of position of special trust.

Highlighted Provisions:

This bill:

- ▶ expands the definition of “position of special trust” to a professor, instructor, or teaching assistant at an institution of higher education; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-404.1, as last amended by Laws of Utah 2018, Chapter 192
76-5-406, as last amended by Laws of Utah 2018, Chapter 176

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

Section 1. Section 76-5-404.1 is amended to read:**76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.**

- (1) As used in this section:
- (a) “Adult” means an individual 18 years of age or older.
- (b) “Child” means an individual under the age of 14.
- (c) “Position of special trust” means:
- (i) an adoptive parent;
 - (ii) an athletic manager who is an adult;
 - (iii) an aunt;
 - (iv) a babysitter;
 - (v) a coach;
 - (vi) a cohabitant of a parent if the cohabitant is an adult;
 - (vii) a counselor;
 - (viii) a doctor or physician;
 - (ix) an employer;
 - (x) a foster parent;

- (xi) a grandparent;
- (xii) a legal guardian;
- (xiii) a natural parent;
- (xiv) a recreational leader who is an adult;
- (xv) a religious leader;
- (xvi) a sibling or a stepsibling who is an adult;
- (xvii) a scout leader who is an adult;
- (xviii) a stepparent;
- (xix) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years of age or older;

(xx) an instructor, professor, or teaching assistant at a public or private institution of higher education;

~~[(xxx)]~~ (xxi) an uncle;

~~[(xxi)]~~ (xxii) a youth leader who is an adult; or

~~[(xxii)]~~ (xxiii) any individual in a position of authority, other than those individuals listed in Subsections (1)(c)(i) through ~~[(xxx)]~~ (xxiii), which enables the individual to exercise undue influence over the child.

(2) An individual commits sexual abuse of a child if, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses, the actor touches the anus, buttocks, pubic area, or genitalia of any child, the breast of a female child, or otherwise takes indecent liberties with a child, with intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant.

(3) Sexual abuse of a child is a second degree felony.

(4) An individual commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;

(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;

(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;

(e) the accused, prior to sentencing for this offense, was previously convicted of any sexual offense;

(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;

(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(h) the offense was committed by an individual who occupied a position of special trust in relation to the victim;

(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;

(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (5)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(7) The provisions of Subsection (6) do not apply when an individual is sentenced under Subsection (5)(c).

(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.

(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 2. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;

(5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:

(a) appraise the nature of the act;

(b) resist the act;

(c) understand the possible consequences to the victim's health or safety; or

(d) appraise the nature of the relationship between the actor and the victim.

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's

parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested[; ~~for~~]. For purposes of this Subsection (12):

(a) “health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

CHAPTER 147**H. B. 291**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**CONCURRENT
ENROLLMENT MODIFICATIONS**

Chief Sponsor: Mike Winder
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to instructors for concurrent enrollment courses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends qualifications for a local education agency employee to be an eligible instructor for a concurrent enrollment course;
- ▶ requires the State Board of Regents to establish policies related to eligible instructors;
- ▶ amends cross-references related to eligible instructors; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-10-301, as last amended by Laws of Utah 2018, Chapters 22, 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-302, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-305, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-307, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-10-301 is amended to read:**53E-10-301. Definitions.**

(1) “Career and technical education course” means a concurrent enrollment course in career and technical education, as determined by the policy established by the State Board of Regents under Section 53E-10-302.

(4) (2) “Concurrent enrollment” means enrollment in a course offered through the

concurrent enrollment program described in Section 53E-10-302.

(2) (3) “Educator” means the same as that term is defined in Section 53E-6-102.

(3) (4) “Eligible instructor” means an instructor who meets the requirements described in Subsection 53E-10-302(5).

(4) (5) “Eligible student” means a student who:

(a) is enrolled in, and counted in average daily membership in, a high school within the state;

(b) has a plan for college and career readiness, as described in Section 53E-2-304, on file at a high school within the state; and

(c) (i) is a grade 11 or grade 12 student; or

(ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53E-10-302.

(5) (6) “Institution of higher education” means an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).

(6) (7) “License” means the same as that term is defined in Section 53E-6-102.

(7) (8) “Local education agency” or “LEA” means a school district or charter school.

(9) “Qualifying experience” means an LEA employee’s experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee’s:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field;
or

(vi) professional work experience or certifications in the academic field.

(8) (10) “Value of the weighted pupil unit” means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-10-302 is amended to read:**53E-10-302. Concurrent enrollment program.**

(1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
- (ii) at an institution of higher education;

(b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

- (A) a general education course;
- (B) a career and technical education course;
- (C) a pre-major college level course; or

(D) a foreign language concurrent enrollment course described in Section 53E-10-307;

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The State Board of Education and the State Board of Regents shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the State Board of Education; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before ~~January~~ July 1, 2019, establish a policy that:

~~[(i) describes the qualifications for an LEA employee to be an eligible instructor; and]~~

~~[(ii) ensures that the qualifications described in Subsection (3)(b)(i);]~~

~~[(A) maximize concurrent enrollment opportunities for eligible students while maintaining quality; and]~~

~~[(B) allow for an individual who teaches a concurrent enrollment course in the 2017-18 or 2018-19 school year to continue to teach the concurrent enrollment course in subsequent years.]~~

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an institution of higher education's decision under Subsection (6) if the institution of higher education does not approve an LEA employee as an eligible instructor; and

(B) an LEA or institution of higher education to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

~~[(iii) (A) meets the qualifications described in the policy established under Subsection (3)(b); or]~~

~~[(B) has an upper level mathematics credential issued by the State Board of Education.]~~

~~[(c) Notwithstanding Subsection (5)(b)(iii), an LEA employee is an eligible instructor if:]~~

~~[(i) the State Board of Regents has not established the policy described in Subsection (3)(b); and]~~

~~[(ii) the LEA employee;]~~

~~[(A) meets the requirements described in Subsections (5)(b)(i) and (ii); and]~~

~~[(B) is approved as adjunct faculty by an institution of higher education.]~~

(iii) (A) as described in Subsection (6), is approved as an eligible instructor by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the State Board of Education;

(C) is approved as adjunct faculty by the institution of higher education that provides the concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018-19 or 2019-20 school year.

(6) An institution of higher education shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the institution of higher education; or

(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii) (A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience, as determined by the institution of higher education.

~~[(6)] (7) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section 53E-10-307.~~

~~[(7)] (8) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.~~

Section 3. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(e)(b); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Section 4. Section 53E-10-307 is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) "Accelerated foreign language student" means a student who:

(i) has passed a world language advanced placement exam; and

(ii) is in grade 10, grade 11, or grade 12.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the

concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students who are eligible students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection 53E-10-302(5)(~~b~~)(a).

CHAPTER 148**H. B. 301**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**BOARD OF PARDONS
 AND PAROLE AMENDMENTS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill makes changes to the Board of Pardons and Parole hearing notification procedures.

Highlighted Provisions:

This bill:

- ▶ provides that timely notice of hearings be given to the offender;
- ▶ requires that the victim or victim's representative who requests to be notified of hearings provide current contact information to the board; and
- ▶ allows notification of hearings to county or district attorneys and law enforcement to be through the board's website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-27-5, as last amended by Laws of Utah 2018, Chapters 5 and 334

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

Section 1. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions any convictions, except for treason or impeachment, may be pardoned or commuted, subject to this chapter and other laws of the state.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, individuals committed to serve sentences at penal or correctional facilities that are under the jurisdiction of the Department of Corrections, except treason or impeachment convictions or as otherwise limited by law, may be released upon parole, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences terminated.

(c) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may participate on any

panel and when doing so is chair of the panel. The chair of the board may designate the chair for any other panel.

(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

(e) A commutation or pardon may be granted only after a full hearing before the board.

(f) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).

(2) (a) In the case of ~~[original parole grant hearings, rehearings, and parole revocation]~~ any hearings, timely prior notice of the time and location of the hearing shall be given to the ~~[defendant,]~~ offender.

(b) ~~[the]~~ The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

~~(c)[, and whenever]~~ Whenever possible, the victim or the victim's ~~[family]~~ representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

~~(b)~~ (d) Notice to the victim~~[,]~~ or the victim's representative~~[, or the victim's family]~~ shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions an offender serving a sentence may be

paroled, pardoned, have restitution ordered, or have the offender's fines or forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

(a) consider whether the offender has made or is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and

(b) develop and use a list of criteria for making determinations under this Subsection (5).

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

(7) For offenders placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

CHAPTER 149**H. B. 302**

Passed March 1, 2019

Approved March 22, 2019

Effective May 14, 2019

TRAFFIC CODE MODIFICATIONS

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

LONG TITLE**General Description:**

This bill amends provisions related to the safe operation of a vehicle.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the safe operation of a vehicle to leave the roadway if a collision occurs;
- ▶ amends provisions related to safe operation of a vehicle, speed, and surrounding circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-401, as last amended by Laws of Utah 2018, Chapter 272

41-6a-601, as last amended by Laws of Utah 2016, Chapter 303

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

Section 1. Section 41-6a-401 is amended to read:

41-6a-401. Accident involving property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) As used in this section:

(a) "Knowledge" or "with knowledge" means, with respect to an individual's own conduct or to circumstances surrounding an individual's conduct, that the individual is aware of the nature of the conduct or the existing circumstances.

(b) "Reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vehicle with knowledge that the operator was involved in, or who has reason to believe that the operator may have been involved in, an accident resulting only in damage to another vehicle or other property:

(i) may move the vehicle as soon as possible;

(A) out of the travel lanes on any roadway to an adjacent shoulder, the nearest suitable cross street,

or other suitable location that does not obstruct traffic; or

(B) off the [roadway-or] freeway main lines, shoulders, medians, or adjacent areas to the nearest safe location on an exit ramp shoulder, a frontage road, the nearest suitable cross street, or other suitable location that does not obstruct traffic; and

(ii) shall remain at the scene of the accident or the location described in Subsection (2)(a)(i) until the operator has fulfilled the requirements of this section.

(b) Moving a vehicle as required under Subsection (2)(a)(i) does not affect the determination of fault for an accident.

(c) If the operator has knowledge that the operator was involved in, or reason to believe that the operator may have been involved in, an accident resulting in damage to another vehicle or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of this section.

(3) Except as provided under Subsection (6), if the vehicle or other property is operated, occupied, or attended by any person or if the owner of the vehicle or property is present, the operator of the vehicle involved in the accident shall:

(a) give to the persons involved:

(i) the operator's name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider; and

(b) upon request and if available, exhibit the operator's license to:

(i) any investigating peace officer present;

(ii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iii) the owner of property damaged in the accident, if present.

(4) The operator of a vehicle involved in an accident shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency if the accident resulted in property damage to an apparent extent of [~~\$1,500~~] \$2,500 or more.

(5) Except as provided under Subsection (6), if the vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(6) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the accident is exempt from providing the information to other persons required under this section.

(7) (a) An operator of a vehicle that has reason to believe that the operator may have been involved in an accident and fails to comply with the provisions of this section is guilty of a class C misdemeanor.

(b) An operator of a vehicle that has knowledge that the operator was involved in an accident and fails to comply with the provisions of this section is guilty of a class B misdemeanor.

Section 2. Section 41-6a-601 is amended to read:

41-6a-601. Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits -- Emergency power of the governor.

(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing, including when:

(a) approaching and crossing an intersection or railroad grade crossing;

(b) approaching and going around a curve;

(c) approaching a hill crest;

(d) traveling upon any narrow or winding roadway; ~~and~~

(e) traveling in, through, or approaching other hazards that exist due to pedestrians, other traffic, weather, or highway conditions[.]; and

(f) the speed causes the person to fail to maintain control of the vehicle or stay within a single lane of travel.

(2) Subject to Subsections (1) and (4) and Sections 41-6a-602 and 41-6a-603, the following speeds are lawful:

(a) 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303;

(b) 25 miles per hour in any urban district; and

(c) 55 miles per hour in other locations.

(3) Except as provided in Section 41-6a-604, any speed in excess of the limits provided in this section or established under Sections 41-6a-602 and 41-6a-603 is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(4) A violation of Subsection (1) is an infraction.

(5) The governor by proclamation in time of war or emergency may change the speed limits on the highways of the state.

CHAPTER 150**H. B. 303**

Passed March 14, 2019

Approved March 22, 2019

Effective May 14, 2019

**SCHOOL COMMUNITY
COUNCIL AMENDMENTS**Chief Sponsor: Keven J. Stratton
Senate Sponsor: Deidre M. Henderson**LONG TITLE****General Description:**

This bill modifies provisions related to school community council and charter trust land council requirements.

Highlighted Provisions:

This bill:

- ▶ requires a school community council or charter trust land council to develop and incorporate certain safety principles, including coordination regarding the safety principles with administrators; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-7-1202, as last amended by Laws of Utah 2018, Chapters 107 and 448

53G-7-1205, as enacted by Laws of Utah 2018, Chapter 448

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

Section 1. Section 53G-7-1202 is amended to read:**53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.**

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "Safety principles" means safety principles that, when incorporated into programs and resources, impact academic achievement by strengthening a safe and wholesome learning environment, including continual efforts for safe technology utilization and digital citizenship.

~~(e)~~ (f) "School community council" means a council established at a district school in accordance with this section.

~~(f)~~ (g) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

~~(g)~~ (h) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section 53G-7-1206;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; ~~and~~

(v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3)~~[-]~~; and

(vi) in accordance with state board rule regarding school community council expenditures and funding limits:

(A) work with students, families, and educators to develop and incorporate safety principles at the school; and

(B) hold at least an annual discussion with the school's principal and district administrators regarding safety principles at the school and district level in order to coordinate the school community council's effort to develop and incorporate safety principles at the school.

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the

opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or

guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on this part.

Section 2. Section 53G-7-1205 is amended to read:

53G-7-1205. Charter trust land councils.

(1) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).

(2) (a) The membership of the council shall include parents or guardians of students enrolled at the school and may include other members.

(b) The number of council members who are parents or guardians of students enrolled at the school shall exceed all other members combined by at least two.

(3) A charter school governing board may serve as the charter trust land council that prepares a plan for the use of School LAND Trust Program money if

the membership of the charter school governing board meets the requirements of Subsection (2)(b).

(4) (a) Except as provided in Subsection (4)(b), council members who are parents or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection (4)(a) does not apply to a charter school governing board that serves as the charter trust land council that prepares a plan for the use of School LAND Trust Program money.

(5) A parent or guardian of a student enrolled at the school shall serve as chair or co-chair of a charter trust land council that prepares a plan for the use of School LAND Trust Program money.

(6) In accordance with state board rule regarding charter trust land council expenditures and funding limits, a charter trust land council shall:

(a) work with students, families, and educators to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school; and

(b) hold at least an annual discussion with charter school administrators to coordinate efforts to develop and incorporate safety principles, as defined in Section 53G-7-1202, at the school level.

CHAPTER 151**H. B. 306**

Passed March 14, 2019
Approved March 22, 2019
Effective May 14, 2019

**ENROLLMENT PREFERENCE
FOR MILITARY CHILDREN**

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill enacts provisions creating a charter school enrollment preference for children of military servicemembers.

Highlighted Provisions:

This bill:

- ▶ amends charter school enrollment provisions to establish a preference for a child of a military servicemember.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-502, as last amended by Laws of Utah 2018, Chapter 380 and renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

- (1) As used in this section:
 - (a) "At capacity" means operating above the school's open enrollment threshold.
 - (b) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
 - (c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.
 - (d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.
 - (e) "School of residence" means the same as that term is defined in Section 53G-6-401.
- (2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.
- (3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

- (a) a child or grandchild of an individual who has actively participated in the development of the charter school;
- (b) a child or grandchild of a member of the charter school governing board;
- (c) a sibling of an individual who was previously or is presently enrolled in the charter school;
- (d) a child of an employee of the charter school;
- (e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;
- (f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; [øø]
- (g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity[-]; or
- (h) a child of a military servicemember as defined in Section 53B-8-102.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

- (a) low-income students;

- (b) students with disabilities;
- (c) English language learners;
- (d) migrant students;
- (e) neglected or delinquent students; and
- (f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

CHAPTER 152**H. B. 310**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**SOLID AND HAZARDOUS
WASTE AMENDMENTS**

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions related to solid and hazardous waste.

Highlighted Provisions:

This bill:

- ▶ modifies the definitions;
- ▶ clarifies role of board or director;
- ▶ addresses waste generated and disposed of on site; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 19-6-102, as last amended by Laws of Utah 2017, Chapter 281
 19-6-104, as last amended by Laws of Utah 2015, Chapter 451
 19-6-108, as last amended by Laws of Utah 2017, Chapter 281
 19-6-202, as last amended by Laws of Utah 2015, Chapter 451
 19-6-502, as last amended by Laws of Utah 2017, Chapter 281

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

Section 1. Section 19-6-102 is amended to read:**19-6-102. Definitions.**

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a facility that:

- (i) receives waste for recycling;
- (ii) receives waste to be used as fuel, in compliance with federal and state requirements; or
- (iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include:

- (i) asbestos;
- (ii) contaminated soils or tanks resulting from remediation or cleanup at ~~any~~ a release or spill;
- (iii) waste paints;
- (iv) solvents;
- (v) sealers;
- (vi) adhesives; or ~~similar~~
- (vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

~~[(5) "Demolition waste" has the same meaning as the definition of construction waste in this section.]~~

~~[(6)]~~ (5) "Director" means the director of the Division of Waste Management and Radiation Control.

~~[(7)]~~ (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on ~~any~~ land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

~~[(8)]~~ (7) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

~~[(9)]~~ (8) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

~~[(10)]~~ (9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste ~~which~~ that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly

treated, stored, transported, disposed of, or otherwise managed.

(b) “Hazardous waste” does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

~~(41)~~ (10) “Health facility” means ~~[hospitals,] a~~:

(a) hospital;

(b) psychiatric ~~[hospitals,] hospital~~;

(c) home health ~~[agencies, hospices,] agency~~;

(d) hospice;

(e) skilled nursing ~~[facilities,] facility~~;

(f) intermediate care ~~[facilities,] facility~~;

(g) intermediate care ~~[facilities] facility~~ for people with an intellectual disability~~[,];~~

(h) residential health care ~~[facilities,] facility~~;

(i) maternity ~~[homes] home~~ or birthing ~~[centers,] center~~;

(j) free standing ambulatory surgical ~~[centers, facilities] center~~;

(k) facility owned or operated by a health maintenance ~~[organizations, and] organization~~;

(l) state renal disease treatment ~~[centers] center~~, including a free standing hemodialysis ~~[units,] unit~~;

(m) the ~~[offices of private physicians and dentists] office~~ of a private physician or dentist whether for individual or private practice~~[,];~~

(n) veterinary ~~[clinics, and mortuaries] clinic~~; or

(o) mortuary.

(42) (11) “Household waste” means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

~~(43)~~ (12) “Infectious waste” means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(44) (13) “Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(45) (14) “Mixed waste” means ~~[any] material~~ that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(46) (15) “Modification plan” means a plan under Section 19-6-108 to modify a facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

~~(47)~~ (16) “Operation plan” or “nonhazardous solid or hazardous waste operation plan” means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification plan; or

(d) an approval that the director is authorized to issue.

(48) (17) “Permittee” means a person who is obligated under an operation plan.

(49) (18) (a) “Solid waste” means any garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(b) “Solid waste” does not include ~~[any of the following wastes unless the waste causes a public nuisance or public health hazard or is otherwise determined to be a hazardous waste]~~ metal that is:

~~(i) certain large volume wastes, such as inert construction debris used as fill material;~~

~~(ii) drilling muds, produced waters, and other wastes associated with the exploration, development, or production of oil, gas, or geothermal energy;~~

~~(iii) solid wastes from the extraction, beneficiation, and processing of ores and minerals;~~

~~(iv) cement kiln dust; or~~

~~(v) metal that is;~~

~~(A)~~ (i) purchased as a valuable commercial commodity; and

~~(B)~~ (ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(20) (19) “Solid waste management facility” means the same as that term is defined in Section 19-6-502.

(21) (20) “Storage” means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(22) (21) (a) “Transfer” means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a

vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.

(b) "Transfer" does not mean:

(i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or

(ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement off that site.

[23] (22) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

[24] (23) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

[25] (24) "Underground storage tank" means a tank ~~which~~ that is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

Section 2. Section 19-6-104 is amended to read:

19-6-104. Powers of board -- Creation of statewide solid waste management plan.

(1) The board may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

(b) recommend that the director:

(i) issue orders necessary to enforce the provisions of the Radiation Control Act;

(ii) enforce the orders by appropriate administrative and judicial proceedings; or

(iii) institute judicial proceedings to secure compliance with this part;

(c) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

(d) accept, receive, and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of the Radiation Control Act; or

(e) order the director to impound radioactive material in accordance with Section 19-3-111.

(2) (a) The board shall promote the planning and application of pollution prevention and radioactive

waste minimization measures to prevent the unnecessary waste and depletion of natural resources; and

(b) review the qualifications of, and issue certificates of approval to, individuals who:

(i) survey mammography equipment; or

(ii) oversee quality assurance practices at mammography facilities.

(3) The board shall:

(a) survey solid and hazardous waste generation and management practices within this state and, after public hearing and after providing opportunities for comment by local governmental entities, industry, and other interested persons, prepare and revise, as necessary, a waste management plan for the state;

(b) order the director to:

(i) issue orders necessary to effectuate the provisions of this part and rules made under this part;

(ii) enforce the orders by administrative and judicial proceedings; or

(iii) initiate judicial proceedings to secure compliance with this part;

(c) promote the planning and application of resource recovery systems to prevent the unnecessary waste and depletion of natural resources;

(d) meet the requirements of federal law related to solid and hazardous wastes to insure that the solid and hazardous wastes program provided for in this part is qualified to assume primacy from the federal government in control over solid and hazardous waste;

(e) (i) require any facility, including those listed in Subsection (3)(e)(ii), ~~[that is intended for disposing of nonhazardous solid waste or wastes listed in Subsection (3)(e)(ii)(B)]~~ to submit plans, specifications, and other information required by the board to the ~~[board]~~ director prior to construction, modification, installation, or establishment of a facility to allow the ~~[board]~~ director to determine whether the proposed construction, modification, installation, or establishment of the facility will be in accordance with rules made under this part;

(ii) facilities referred to in Subsection (3)(e)(i) include~~[-(A)]~~ any incinerator that is intended for disposing of nonhazardous solid waste; and

~~[(B) except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, and with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; and]~~

(iii) a facility referred to in Subsection (3)(e)(i) does not include a commercial facility that is solely for the purpose of recycling, reuse, or reprocessing the following waste:

(A) fly ash waste;

(B) bottom ash waste;

(C) slag waste; or

(D) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(iv) a facility referred to in Subsection (3)(e)(i) does not include a facility when the following waste is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste:

(A) waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. 261.4(b)(7)(ii); or

(B) cement kiln dust;

(f) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement.

(4) The board may:

(a) (i) hold a hearing that is not an adjudicative proceeding; or

(ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding; or

(b) advise, consult, cooperate with, or provide technical assistance to other agencies of the state or federal government, other states, interstate agencies, or affected groups, political subdivisions, industries, or other persons in carrying out the purposes of this part.

(5) (a) The board shall establish a comprehensive statewide waste management plan ~~by January 1, 1994~~.

(b) The plan shall:

(i) incorporate the solid waste management plans submitted by the counties;

(ii) provide an estimate of solid waste capacity needed in the state for the next 20 years;

(iii) assess the state's ability to minimize waste and recycle;

(iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste needs and existing capacity;

(v) evaluate facility siting, design, and operation;

(vi) review funding alternatives for solid waste management; and

(vii) address other solid waste management concerns that the board finds appropriate for the

preservation of the public health and the environment.

(c) The board shall consider the economic viability of solid waste management strategies prior to incorporating them into the plan and shall consider the needs of population centers.

(d) The board shall review and modify the comprehensive statewide solid waste management plan no less frequently than every five years.

(6) (a) The board shall determine the type of solid waste generated in the state and tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid waste management plan.

(b) The board shall review and modify the inventory no less frequently than once every five years.

(7) Subject to the limitations contained in Subsection 19-6-102 ~~[(19)]~~ (18)(b), the board shall establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

(8) The board may not issue, amend, renew, modify, revoke, or terminate any of the following that are subject to the authority granted to the director under Section 19-6-107:

(a) a permit;

(b) a license;

(c) a registration;

(d) a certification; or

(e) another administrative authorization made by the director.

(9) A board member may not speak or act for the board unless the board member is authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

Section 3. Section 19-6-108 is amended to read:

19-6-108. New nonhazardous solid or hazardous waste operation plans for facility or site -- Administrative and legislative approval required -- Exemptions from legislative and gubernatorial approval -- Time periods for review -- Information required -- Other conditions -- Automatic revocation of approval -- Periodic review.

(1) For purposes of this section, the following items shall be treated as submission of a new operation plan:

(a) the submission of a revised operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the

operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990;

(c) an application for modification of a commercial nonhazardous solid waste incinerator if the construction of the modification would cost 50% or more of the cost of construction of the original incinerator or the modification would result in an increase in the capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity or throughput that was approved in the operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990;

(d) an application for modification of a commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or

(e) a submission of an operation plan to construct a facility, if previous approvals of the operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iii).

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) (i) ~~[No]~~ Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate any facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

(ii) (A) A permittee who is the current owner of a facility or site that is subject to an operation plan may submit to the director information, a report, a plan, or other request for approval for a proposed activity under an operation plan:

(I) after obtaining the consent of any other permittee who is a current owner of the facility or site; and

(II) without obtaining the consent of any other permittee who is not a current owner of the facility or site.

(B) The director may not:

(I) withhold an approval of an operation plan requested by a permittee who is a current owner of the facility or site on the grounds that another permittee who is not a current owner of the facility or site has not consented to the request; or

(II) give an approval of an operation plan requested by a permittee who is not a current owner

before receiving consent of the current owner of the facility or site.

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste.

(b) (i) Except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, ~~[no]~~ a person may not own, construct, modify, or operate any commercial facility that accepts for treatment or disposal, with the intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving the approval of the director for an operation plan for that facility site.

(ii) Wastes referred to in Subsection (3)(b)(i) are:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(c) (i) ~~[No]~~ A person may not construct a facility listed under Subsection (3)(c)(ii) until the person receives:

(A) local government approval and the approval described in Subsection (3)(a);

(B) approval from the Legislature; and

(C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.

(ii) A facility referred to in Subsection (3)(c)(i) is:

(A) a commercial nonhazardous solid waste disposal facility;

(B) except for facilities that receive the following wastes solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, with the intent to make a profit: fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; wastes from the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust wastes; or

(C) a commercial hazardous waste treatment, storage, or disposal facility.

(iii) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

(A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or

(B) the governor's approval is received before May 10, 2011, and the facility is not operational on or before May 10, 2016.

(iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d) ~~[N]~~ A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

(e) ~~[N]~~ A person need not obtain gubernatorial and legislative approval for the construction of a commercial nonhazardous solid waste disposal facility for which an operation plan has been approved by or submitted for approval to the executive secretary of the board under this section on or before January 1, 1990, and which, on or before December 31, 1990, the executive secretary of the board determines to be complete, in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(f) Any person owning or operating a facility or site on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6921, et seq., and who has submitted a proposed hazardous waste plan under this section for that facility or site, may continue to operate that facility or site without violating this section until the plan is approved or disapproved under this section.

(g) (i) The director shall suspend acceptance of further applications for a commercial nonhazardous solid or hazardous waste facility upon a finding that the director cannot adequately oversee existing and additional facilities for permit compliance, monitoring, and enforcement.

(ii) The director shall report any suspension to the Natural Resources, Agriculture, and Environment Interim Committee.

(4) The director shall review each proposed nonhazardous solid or hazardous waste operation plan to determine whether that plan complies with the provisions of this part and the applicable rules of the board.

(5) (a) If the facility is a class I or class II facility, the director shall approve or disapprove that plan within 270 days from the date it is submitted.

(b) Within 60 days after receipt of the plans, specifications, or other information required by this section for a class I or II facility, the director shall determine whether the plan is complete and contains all information necessary to process the plan for approval.

(c) (i) If the plan for a class I or II facility is determined to be complete, the director shall issue a notice of completeness.

(ii) If the plan is determined by the director to be incomplete, the director shall issue a notice of deficiency, listing the additional information to be provided by the owner or operator to complete the plan.

(d) The director shall review information submitted in response to a notice of deficiency within 30 days after receipt.

(e) The following time periods may not be included in the 270 day plan review period for a class I or II facility:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(6) (a) If the facility is a class III or class IV facility, the director shall approve or disapprove that plan within 365 days from the date it is submitted.

(b) The following time periods may not be included in the 365 day review period:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(7) If, within 365 days after receipt of a modification plan or closure plan for any facility, the director determines that the proposed plan, or any part of it, will not comply with applicable rules, the director shall issue an order prohibiting any action under the proposed plan for modification or closure in whole or in part.

(8) Any person who owns or operates a facility or site required to have an approved hazardous waste operation plan under this section and who has pending a permit application before the United States Environmental Protection Agency shall be treated as having an approved plan until final administrative disposition of the permit application is made under this section, unless the director determines that final administrative disposition of the application has not been made because of the failure of the owner or operator to furnish any information requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6925 (e).

(9) The director may not approve a proposed nonhazardous solid or hazardous waste operation plan unless the plan contains the information that the board requires, including:

(a) estimates of the composition, quantities, and concentrations of any hazardous waste identified under this part and the proposed treatment, storage, or disposal of it;

(b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment;

(c) consistent with the degree and duration of risks associated with the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of specified hazardous waste, evidence of financial responsibility in whatever form and amount that the director determines is necessary to insure continuity of operation and that upon abandonment, cessation, or interruption of the operation of the facility or site, all reasonable measures consistent with the available knowledge will be taken to insure that the waste subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard to the public or the environment;

(d) evidence that the personnel employed at the facility or site have education and training for the safe and adequate handling of nonhazardous solid or hazardous waste;

(e) plans, specifications, and other information that the director considers relevant to determine whether the proposed nonhazardous solid or hazardous waste operation plan will comply with this part and the rules of the board;

(f) compliance schedules, where applicable, including schedules for corrective action or other response measures for releases from any solid waste management unit at the facility, regardless of the time the waste was placed in the unit;

(g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or hazardous waste facility other than a water treatment facility that treats, stores, or disposes site-generated solid or hazardous waste onsite, a traffic impact study that:

(i) takes into consideration the safety, operation, and condition of roadways serving the proposed facility; and

(ii) is reviewed and approved by the Department of Transportation or a local highway authority, whichever has jurisdiction over each road serving the proposed facility, with the cost of the review paid by the person who submits the proposed operation plan; and

(h) for a proposed operation plan submitted on or after July 1, 2013, for a new nonhazardous solid waste facility owned or operated by a local government, financial information that discloses all costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) using other operations that are not contiguous to the proposed facility but are necessary to support the facility's construction and operation.

(10) The director may not approve a commercial nonhazardous solid or hazardous waste operation plan that meets the requirements of Subsection (9) unless it contains the information required by the board, including:

(a) evidence that the proposed commercial facility has a proven market of nonhazardous solid or hazardous waste, including:

(i) information on the source, quantity, and price charged for treating, storing, and disposing of potential nonhazardous solid or hazardous waste in the state and regionally;

(ii) a market analysis of the need for a commercial facility given existing and potential generation of nonhazardous solid or hazardous waste in the state and regionally; and

(iii) a review of other existing and proposed commercial nonhazardous solid or hazardous waste facilities regionally and nationally that would compete for the treatment, storage, or disposal of the nonhazardous solid or hazardous waste;

(b) a description of the public benefits of the proposed facility, including:

(i) the need in the state for the additional capacity for the management of nonhazardous solid or hazardous waste;

(ii) the energy and resources recoverable by the proposed facility;

(iii) the reduction of nonhazardous solid or hazardous waste management methods, which are less suitable for the environment, that would be made possible by the proposed facility; and

(iv) whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment; and

(c) compliance history of an owner or operator of a proposed commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, which may be applied by the director in a nonhazardous solid or hazardous waste operation plan decision, including any plan conditions.

(11) The director may not approve a commercial nonhazardous solid or hazardous waste facility operation plan unless based on the application, and in addition to the determination required in

Subsections (9) and (10), the director determines that:

(a) the probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and

(b) there is a need for the facility to serve industry within the state.

(12) Approval of a nonhazardous solid or hazardous waste operation plan may be revoked, in whole or in part, if the person to whom approval of the plan has been given fails to comply with that plan.

(13) The director shall review all approved nonhazardous solid and hazardous waste operation plans at least once every five years.

(14) The provisions of Subsections (10) and (11) do not apply to hazardous waste facilities in existence or to applications filed or pending in the department prior to April 24, 1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.

(15) The provisions of Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste facility in existence or to an application filed or pending in the department prior to January 1, 1990, that is determined by the director, on or before December 31, 1990, to be complete in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(16) Nonhazardous solid waste generated outside of this state that is defined as hazardous waste in the state where it is generated and which is received for disposal in this state may not be disposed of at a nonhazardous waste disposal facility owned and operated by local government or a facility under contract with a local government solely for disposal of nonhazardous solid waste generated within the boundaries of the local government, unless disposal is approved by the director.

(17) This section may not be construed to exempt any facility from applicable regulation under the federal Atomic Energy Act, 42 U.S.C. Sections 2014 and 2021 through 2114.

Section 4. Section 19-6-202 is amended to read:

19-6-202. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Disposal" means the final disposition of hazardous wastes into or onto the lands, waters, and air of this state.

(3) "Hazardous wastes" means [wastes] hazardous waste as defined in Section 19-6-102.

(4) "Hazardous waste treatment, disposal, and storage facility" means a facility or site used or intended to be used for the treatment, storage, or disposal of hazardous waste materials, including physical, chemical, or thermal processing systems, incinerators, and secure landfills.

(5) "Site" means land used for the treatment, disposal, or storage of hazardous wastes.

(6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the board pursuant to Sections 19-6-204 and 19-6-205.

(7) "Storage" means the containment of hazardous wastes for a period of more than 90 days.

(8) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste to neutralize or render it nonhazardous, safer for transport, amenable to recovery or storage, convertible to another usable material, or reduced in volume and suitable for ultimate disposal.

Section 5. Section 19-6-502 is amended to read:

19-6-502. Definitions.

As used in this part:

(1) "Governing body" means the governing board, commission, or council of a public entity.

(2) "Jurisdiction" means the area within the incorporated limits of:

(a) a municipality;

(b) a special service district;

(c) a municipal-type service district;

(d) a service area; or

(e) the territorial area of a county not lying within a municipality.

(3) "Long-term agreement" means an agreement or contract having a term of more than five years but less than 50 years.

(4) "Municipal residential waste" means solid waste that is:

(a) discarded or rejected at a residence within the public entity's jurisdiction; and

(b) collected at or near the residence by:

(i) a public entity; or

(ii) a person with whom the public entity has an agreement to provide solid waste management.

(5) "Public entity" means:

(a) a county;

(b) a municipality;

(c) a special service district under Title 17D, Chapter 1, Special Service District Act;

(d) a service area under Title 17B, Chapter 2a, Part 9, Service Area Act; or

(e) a municipal-type service district created under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas.

(6) “Requirement” means an ordinance, policy, rule, mandate, or other directive that imposes a legal duty on a person.

(7) “Residence” means an improvement to real property used or occupied as a primary or secondary detached single-family dwelling.

(8) “Resource recovery” means the separation, extraction, recycling, or recovery of usable material, energy, fuel, or heat from solid waste and the disposition of it.

(9) “Short-term agreement” means a contract or agreement having a term of five years or less.

(10) (a) “Solid waste” means a putrescible or nonputrescible material or substance discarded or rejected as being spent, useless, worthless, or in excess of the owner’s needs at the time of discard or rejection, including:

- (i) garbage;
- (ii) refuse;
- (iii) industrial and commercial waste;
- (iv) sludge from an air or water control facility;
- (v) rubbish;
- (vi) ash;
- (vii) contained gaseous material;
- (viii) incinerator residue;
- (ix) demolition and construction debris;
- (x) a discarded automobile; and
- (xi) offal.

(b) “Solid waste” does not include sewage or another highly diluted water carried material or substance and those in gaseous form.

(11) “Solid waste management” means the purposeful and systematic collection, transportation, storage, processing, recovery, or disposal of solid waste.

(12) (a) “Solid waste management facility” means a facility employed for solid waste management, including:

- (i) a transfer station;
- (ii) a transport system;
- (iii) a baling facility;
- (iv) a landfill; and
- (v) a processing system, including:
 - (A) a resource recovery facility;
 - (B) a facility for reducing solid waste volume;

(C) a plant or facility for compacting, or composting, of solid waste;

(D) an incinerator;

(E) a solid waste disposal, reduction, pyrolyzation, or conversion facility;

(F) a facility for resource recovery of energy consisting of:

(I) a facility for the production, transmission, distribution, and sale of heat and steam;

(II) a facility for the generation and sale of electric energy to a public utility, municipality, or other public entity that owns and operates an electric power system on March 15, 1982; and

(III) a facility for the generation, sale, and transmission of electric energy on an emergency basis only to a military installation of the United States; and

(G) an auxiliary energy facility that is connected to a facility for resource recovery of energy as described in Subsection (12)(a)(v)(F), that:

(I) is fueled by natural gas, landfill gas, or both;

(II) consists of a facility for the production, transmission, distribution, and sale of supplemental heat and steam to meet all or a portion of the heat and steam requirements of a military installation of the United States; and

(III) consists of a facility for the generation, transmission, distribution, and sale of electric energy to a public utility, a municipality described in Subsection (12)(a)(v)(F)(II), or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) “Solid waste management facility” does not mean a facility that:

(i) accepts and processes metal, as [defined] described in Subsection 19-6-102[(19)](18)(b), by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product of prepared scrap metal for sale or use for remelting purposes provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility; or

(ii) accepts and processes paper, plastic, rubber, glass, or textiles that:

(A) have been source-separated or otherwise diverted from the solid waste stream before acceptance at the facility and that are not otherwise hazardous waste or subject to conditions of federal hazardous waste regulations; and

(B) are reused or recycled as a valuable commercial commodity by separating, shearing, sorting, shredding, compacting, baling, cutting, or sizing to produce a principle commodity grade product, provided that any byproduct or residual that would qualify as solid waste is managed at a solid waste management facility.

CHAPTER 153**H. B. 314**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

TRUST PROVISIONS AMENDMENTS

Chief Sponsor: Kelly B. Miles
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions related to the power of appointment and enacts the Uniform Directed Trust Act.

Highlighted Provisions:

This bill:

- ▶ addresses compliance to the provisions of the Uniform Directed Trust Act;
- ▶ enacts the Uniform Directed Trust Act, including definitions, general provisions, and governing law;
- ▶ describes the principal place of administration;
- ▶ describes a trust director's powers and limitations;
- ▶ describes the duty and liability of a trust director and directed trustee;
- ▶ describes the duty of a trust director and trustee;
- ▶ describes the application of a directed trust to a cotrustee;
- ▶ describes the limitations and defenses of an action against a trust director;
- ▶ describes jurisdiction over a trust director;
- ▶ describes the office of a trust director;
- ▶ modifies the power of appointment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 75-7-103, as enacted by Laws of Utah 2004, Chapter 89
 75-7-105, as last amended by Laws of Utah 2017, Chapter 204
 75-7-606, as enacted by Laws of Utah 2004, Chapter 89
 75-7-703, as enacted by Laws of Utah 2004, Chapter 89
 75-10-305, as enacted by Laws of Utah 2017, Chapter 125

ENACTS:

- 75-12-101, Utah Code Annotated 1953
 75-12-102, Utah Code Annotated 1953
 75-12-103, Utah Code Annotated 1953
 75-12-104, Utah Code Annotated 1953
 75-12-105, Utah Code Annotated 1953
 75-12-106, Utah Code Annotated 1953
 75-12-107, Utah Code Annotated 1953
 75-12-108, Utah Code Annotated 1953
 75-12-109, Utah Code Annotated 1953
 75-12-110, Utah Code Annotated 1953
 75-12-111, Utah Code Annotated 1953

- 75-12-112, Utah Code Annotated 1953
 75-12-113, Utah Code Annotated 1953
 75-12-114, Utah Code Annotated 1953
 75-12-115, Utah Code Annotated 1953
 75-12-116, Utah Code Annotated 1953
 75-12-117, Utah Code Annotated 1953
 75-12-118, Utah Code Annotated 1953

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

Section 1. Section 75-7-103 is amended to read:**75-7-103. Definitions.**

- (1) In this chapter:
- (a) "Action," with respect to an act of a trustee, includes a failure to act.
 - (b) "Beneficiary" means a person that:
 - (i) has a present or future beneficial interest in a trust, vested or contingent; or
 - (ii) in a capacity other than that of trustee, holds a power of appointment over trust property.
 - (c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).
 - (d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.
 - (e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
 - (f) "Jurisdiction," with respect to a geographic area, includes a state or country.
 - (g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.
 - (h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:
 - (i) is a current distributee or permissible distributee of trust income or principal; or
 - (ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.
 - (i) "Resident estate" or "resident trust" means:
 - (i) an estate of a decedent who at death was domiciled in this state;
 - (ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or
 - (iii) a trust administered in this state.
 - (j) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.
 - (k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes

property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(l) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

(m) "Terms of a trust" means:

(i) subject to Subsection (1)(m)(ii), the manifestation of the settlor's intent regarding a trust's provisions as:

(A) expressed in the trust instrument; or [as may be]

(B) established by other evidence that would be admissible in a judicial proceeding[-]; or

(ii) the trust's provisions, as established, determined, or amended by:

(A) a trustee or other person in accordance with applicable law;

(B) a court order; or

(C) a nonjudicial settlement agreement under Section 75-7-110.

(n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

Section 2. Section 75-7-105 is amended to read:

75-7-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and [its terms] the terms of the trust be for the benefit of [its] the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;

(e) the effect of a spendthrift provision, Section 25-6-502, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;

(f) the power of the court under Section 75-7-702 to require, dispense with, or modify or terminate a bond;

(g) the effect of an exculpatory term under Section 75-7-1008;

(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in Sections 75-7-203 and 75-7-205.

Section 3. Section 75-7-606 is amended to read:

75-7-606. Settlor's powers -- Powers of withdrawal.

(1) (a) To the extent a trust is revocable by a settlor, a trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(b) To the extent a trust is revocable by a settlor in conjunction with a person other than a trustee or a person holding an adverse interest, the trustee may follow a direction from the settlor and the other person holding the power to revoke even if the direction is contrary to the terms of the trust.

~~(1)~~ (2) ~~[While]~~ To the extent a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

~~(2)~~ (3) If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.

~~(3)~~ (4) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

Section 4. Section 75-7-703 is amended to read:

75-7-703. Cotrustees.

(1) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(2) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(3) [A] Subject to Section 75-12-112, a cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity, or the cotrustee has properly delegated the performance of the function to another trustee.

(4) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, or if a cotrustee fails or refuses to act after reasonable

notice, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(5) A trustee may not delegate to a cotrustee the performance of a function the settlor intended the trustees to perform jointly as determined from the terms of the trust. If one of the cotrustees is a regulated financial service institution qualified to do trust business in this state and the remaining cotrustees are individuals, a delegation by the individual cotrustees to the regulated financial service institution of the performance of trust investment functions shall be presumed to be in accordance with the settlor's intent unless the terms of the trust specifically provide otherwise. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

(6) Except as otherwise provided in Subsection (7), a trustee who does not join in an action of another trustee is not liable for the action.

(7) [Each] Subject to Section 75-12-112, each trustee shall exercise reasonable care to:

(a) prevent a cotrustee from committing a serious breach of trust; and

(b) compel a cotrustee to redress a serious breach of trust.

(8) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

Section 5. Section 75-10-305 is amended to read:

75-10-305. Permissible appointment.

(1) A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

(2) A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

(3) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(a) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(b) create a general power in a permissible appointee; ~~or~~

(c) create a nongeneral power in any person to appoint one or more of the permissible appointees of the original nongeneral power~~;~~ or

(d) create a nongeneral power in a permissible appointee to appoint one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power.

Section 6. Section 75-12-101 is enacted to read:

CHAPTER 12. UNIFORM DIRECTED TRUST ACT

75-12-101. Title.

This chapter is known as the "Uniform Directed Trust Act."

Section 7. Section 75-12-102 is enacted to read:

75-12-102. Definitions.

As used in this chapter:

(1) "Breach of trust" includes a violation by a trust director or trustee of a duty imposed on the director or trustee by the terms of the trust, this chapter, or the law of this state other than this chapter pertaining to trusts.

(2) "Directed trust" means a trust for which the terms of the trust grant a power of direction.

(3) "Directed trustee" means a trustee that is subject to a trust director's power of direction.

(4) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

(5) (a) "Power of direction" means a power over a trust granted to a person by the terms of the trust to the extent the power is exercisable while the person is not serving as a trustee.

(b) "Power of direction" includes a power over the investment, management, or distribution of trust property or other matters of trust administration.

(c) "Power of direction" does not include the powers described in Subsection 75-12-105(2).

(6) "Settlor" means the same as that term is defined in Section 75-7-103.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(8) "Terms of a trust" means:

(a) subject to Subsection (8)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding; or

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under Section 75-7-110.

(9) “Trust director” means a person that is granted a power of direction by the terms of a trust to the extent the power is exercisable while the person is not serving as a trustee, regardless of whether:

(a) the terms of the trust refer to the person as a trust director; or

(b) the person is a beneficiary or settlor of the trust.

(10) “Trustee” includes an original, additional, and successor trustee, and a cotrustee.

Section 8. Section 75-12-103 is enacted to read:

75-12-103. Application -- Principal place of administration.

(1) This chapter applies to a trust, whenever created, that has the trust’s principal place of administration in this state, subject to the following rules:

(a) if the trust was created before May 14, 2019, this chapter applies only to a decision or action occurring on or after May 14, 2019; and

(b) if the principal place of administration of the trust is changed to this state on or after May 14, 2019, this chapter applies only to a decision or action occurring on or after the date of the change.

(2) Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, the terms of the trust that designate the principal place of administration of the trust are valid and controlling if:

(a) a trustee’s principal place of business is located in, or a trustee is a resident of, the designated jurisdiction;

(b) a trust director’s principal place of business is located in, or a trust director is a resident of, the designated jurisdiction; or

(c) all or part of the administration occurs in the designated jurisdiction.

Section 9. Section 75-12-104 is enacted to read:

75-12-104. Common law and principles of equity.

The common law and principles of equity supplement this chapter, except to the extent modified by this chapter or the law of this state other than this chapter.

Section 10. Section 75-12-105 is enacted to read:

75-12-105. Exclusions.

(1) As used in this section, “power of appointment” means a power that enables a person acting in a nonfiduciary capacity to designate a recipient of an ownership interest in, or another power of appointment over, trust property.

(2) This chapter does not apply to:

(a) a power of appointment;

(b) a power to appoint or remove a trustee or trust director;

(c) a power of a settlor over a trust to the extent the settlor has a power to revoke the trust;

(d) a power of a beneficiary over a trust to the extent the exercise or nonexercise of the power affects the beneficial interest of:

(i) the beneficiary; or

(ii) another beneficiary represented by the beneficiary under Sections 75-7-301 through 75-7-305 with respect to the exercise or nonexercise of the power; or

(e) power over a trust if:

(i) the terms of the trust provide that the power is held in a nonfiduciary capacity; and

(ii) the power must be held in a nonfiduciary capacity to achieve the settlor’s tax objectives under the Internal Revenue Code of 1986, as amended, and any related Internal Revenue Service regulations.

(3) Unless the terms of a trust provide otherwise, a power granted to a person to designate a recipient of an ownership interest in, or power of appointment over, trust property that is exercisable while the person is not serving as trustee is a power of appointment and not a power of direction.

Section 11. Section 75-12-106 is enacted to read:

75-12-106. Powers of trust director.

(1) Subject to Section 75-12-107, the terms of a trust may grant a power of direction to a trust director.

(2) Unless the terms of a trust provide otherwise:

(a) a trust director may exercise any further power appropriate to the exercise or nonexercise of a power of direction granted to the director under Subsection (1); and

(b) trust directors with joint powers shall act by majority decision.

Section 12. Section 75-12-107 is enacted to read:

75-12-107. Limitations on trust director.

A trust director is subject to the same rules as a trustee in a like position and under similar circumstances in the exercise or nonexercise of a

power of direction or further power under Subsection 75-12-106(2)(a) regarding:

(1) a payback provision in the terms of a trust necessary to comply with the Medicaid reimbursement requirements in Section 1917 of the Social Security Act, 42 U.S.C. Sec. 1396p(d)(4)(A), as amended, and any related regulations; and

(2) a charitable interest in the trust, including notice regarding the interest to the attorney general.

Section 13. Section 75-12-108 is enacted to read:

75-12-108. Duty and liability of trust director.

(1) Subject to Subsection (2), with respect to a power of direction or further power under Subsection 75-12-106(2)(a):

(a) a trust director has the same fiduciary duty and liability in the exercise or nonexercise of the power:

(i) if the power is held individually, as a sole trustee in a like position and under similar circumstances; or

(ii) if the power is held jointly with a trustee or another trust director, as a cotrustee in a like position and under similar circumstances; and

(b) the terms of the trust may vary the director's duty or liability to the same extent the terms of the trust could vary the duty or liability of a trustee in a like position and under similar circumstances.

(2) Unless the terms of a trust provide otherwise, if a trust director is licensed, certified, or otherwise authorized or permitted by law other than this chapter to provide health care in the ordinary course of the director's business or practice of a profession, to the extent the director acts in that capacity, the director has no duty or liability under this chapter.

(3) The terms of a trust may impose a duty or liability on a trust director in addition to the duties and liability described in this section.

Section 14. Section 75-12-109 is enacted to read:

75-12-109. Duty and liability of directed trustee.

(1) Subject to Subsection (2), a directed trustee shall take reasonable action to comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection 75-12-106(2)(a), and the trustee is not liable for the action.

(2) A directed trustee may not comply with a trust director's exercise or nonexercise of a power of direction or further power under Subsection 75-12-106(2)(a) to the extent that by complying the trustee would engage in willful misconduct.

(3) An exercise of a power of direction under which a trust director may release a trustee or another trust director from liability for breach of trust is not effective if:

(a) the breach involved the trustee's or other director's willful misconduct;

(b) the release was induced by improper conduct of the trustee or other director in procuring the release; or

(c) at the time of the release, the director did not know the material facts relating to the breach.

(4) A directed trustee that has reasonable doubt about the directed trustee's duty under this section may petition the court for instructions.

(5) The terms of a trust may impose a duty or liability on a directed trustee in addition to the duties and liabilities under this section.

Section 15. Section 75-12-110 is enacted to read:

75-12-110. Duty to provide information to trust director or trustee.

(1) Subject to Section 75-12-111, a trustee shall provide information to a trust director to the extent the information is reasonably related both to:

(a) the powers or duties of the trustee; and

(b) the powers or duties of the director.

(2) Subject to Section 75-12-111, a trust director shall provide information to a trustee or another trust director to the extent the information is reasonably related both to:

(a) the powers or duties of the director; and

(b) the powers or duties of the trustee or other director.

(3) A trustee that acts in reliance on information provided by a trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trustee engages in willful misconduct.

(4) A trust director that acts in reliance on information provided by a trustee or another trust director is not liable for a breach of trust to the extent the breach resulted from the reliance, unless, by acting, the trust director engages in willful misconduct.

Section 16. Section 75-12-111 is enacted to read:

75-12-111. No duty to monitor, inform, or advise.

(1) Unless the terms of a trust provide otherwise:

(a) a trustee does not have a duty to:

(i) monitor a trust director; or

(ii) inform or give advice to a settlor, beneficiary, trustee, or trust director concerning an instance in which the trustee might have acted differently than the director; and

(b) by taking an action described in Subsection (1)(a), a trustee does not assume the duty excluded under Subsection (1)(a).

(2) Unless the terms of a trust provide otherwise:

(a) a trust director does not have a duty to:

(i) monitor a trustee or another trust director; or

(ii) inform or give advice to a settlor, beneficiary, trustee, or another trust director concerning an instance in which the director might have acted differently than a trustee or another trust director; and

(b) by taking an action described in Subsection (1)(a), a trust director does not assume the duty excluded under Subsection (1)(a).

Section 17. Section 75-12-112 is enacted to read:

75-12-112. Application to cotrustee.

The terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power of the other cotrustee to the same extent that, in a directed trust, a directed trustee is relieved from duty and liability with respect to a trust director's power of direction under Sections 75-12-109 through 75-12-111.

Section 18. Section 75-12-113 is enacted to read:

75-12-113. Limitation of action against trust director.

(1) An action against a trust director for a breach of trust must be commenced within the same limitation period as described in Section 75-7-1005 for an action for a breach of trust against a trustee in a like position and under similar circumstances.

(2) A report or accounting has the same effect on the limitation period for an action against a trust director for breach of trust that the report or accounting would have as described in Section 75-7-1005 in an action for a breach of trust against a trustee in a like position and under similar circumstances.

Section 19. Section 75-12-114 is enacted to read:

75-12-114. Defenses in action against trust director.

In an action against a trust director for a breach of trust, the director may assert the same defenses a trustee in a like position and under similar circumstances could assert in an action for a breach of trust against the trustee.

Section 20. Section 75-12-115 is enacted to read:

75-12-115. Jurisdiction over trust director.

(1) By accepting appointment as a trust director of a trust subject to this chapter, the director submits to personal jurisdiction of the courts of this

state regarding any matter related to a power or duty of the director.

(2) This section does not preclude other methods of obtaining jurisdiction over a trust director.

Section 21. Section 75-12-116 is enacted to read:

75-12-116. Office of trust director.

Unless the terms of a trust provide otherwise, the rules applicable to a trustee apply to a trust director regarding the following matters:

(1) acceptance under Section 75-7-701;

(2) giving of bond to secure performance under Section 75-7-702;

(3) reasonable compensation under Section 75-7-708;

(4) resignation under Section 75-7-705;

(5) removal under Section 75-7-706; and

(6) vacancy and appointment of successor under Section 75-7-704.

Section 22. Section 75-12-117 is enacted to read:

75-12-117. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 23. Section 75-12-118 is enacted to read:

75-12-118. Electronic records and signatures.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

CHAPTER 154**H. B. 319**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

POLITICAL ADVERTISING AMENDMENTS

Chief Sponsor: A. Cory Maloy
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill requires a person that makes an expenditure for certain advertisements relating to a ballot proposition to disclose the person's identity in the advertisement.

Highlighted Provisions:

This bill:

- ▶ requires a person that makes an expenditure for certain advertisements relating to a ballot proposition to disclose the person's identity in the advertisement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-901, as last amended by Laws of Utah 2012, Chapter 230

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

Section 1. Section 20A-11-901 is amended to read:

20A-11-901. Political advertisements -- Requirement that ads designate responsibility and authorization -- Report to lieutenant governor -- Unauthorized use of endorsements.

(1) (a) Whenever any person makes an expenditure for the purpose of financing an advertisement expressly advocating for the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, the advertisement:

(i) if paid for and authorized by a candidate or the candidate's campaign committee, shall clearly state that the advertisement has been paid for by the candidate or the campaign committee;

(ii) if paid for by another person but authorized by a candidate or the candidate's campaign committee, shall clearly state who paid for the advertisement and that the candidate or the campaign committee authorized the advertisement; or

(iii) if not authorized by a candidate or [his] a candidate's campaign committee, shall clearly state the name of the person who paid for the advertisement and state that the advertisement is

not authorized by any candidate or candidate's committee.

(2) (a) A person that makes an expenditure for the purpose of financing an advertisement related to a ballot proposition shall ensure that the advertisement complies with Subsection (2)(b) if the advertisement expressly advocates:

(i) for placing a ballot proposition on the ballot;

(ii) for keeping a ballot proposition off the ballot;

(iii) that a voter refrain from voting on a ballot proposition; or

(iv) that a voter vote for or against a ballot proposition.

(b) An advertisement described in Subsection (2)(a) shall:

(i) if paid for by a political issues committee, clearly state that the advertisement was paid for by the political issues committee;

(ii) if paid for by another person but authorized by a political issues committee, clearly state who paid for the advertisement and that the political issues committee authorized the advertisement; or

(iii) if not authorized by a political issues committee, clearly state the name of the person who paid for the advertisement and state that the advertisement is not authorized by any political issues committee.

~~[(b)]~~ (3) The requirements of ~~[Subsection]~~ Subsections ~~(1)(a)~~ and (2) do not apply to:

~~[(i)]~~ (a) lawn signs with dimensions of four by eight feet or smaller;

~~[(ii)]~~ (b) bumper stickers;

~~[(iii)]~~ (c) campaign pins, buttons, and pens; ~~[and]~~ or

~~[(iv)]~~ (d) similar small items upon which the disclaimer cannot be conveniently printed.

~~[(2)]~~ (4) (a) A person who is not a reporting entity and pays for an electioneering communication shall file a report with the lieutenant governor within 24 hours of making the payment or entering into a contract to make the payment.

(b) The report shall include:

(i) the name and address of the person described in Subsection ~~[(2)]~~ (4)(a);

(ii) the name and address of each person contributing at least \$100 to the person described in Subsection ~~[(2)]~~ (4)(a) for the purpose of disseminating the electioneering communication;

(iii) the amount spent on the electioneering communication;

(iv) the name of the identified referenced candidate; and

(v) the medium used to disseminate the electioneering communication.

~~[(3)]~~ (5) A person may not, in order to promote the success of any candidate for nomination or election

to any public office, or in connection with any question submitted to the voters, include or cause to be included the name of any person as endorser or supporter in any political advertisement, circular, poster, or publication without the express consent of that person.

[4] (6) (a) It is unlawful for a person to pay the owner, editor, publisher, or agent of any newspaper or other periodical to induce him to advocate or oppose editorially any candidate for nomination or election.

(b) It is unlawful for any owner, editor, publisher, or agent to accept any payment to advocate or oppose editorially any candidate for nomination or election.

CHAPTER 155**H. B. 326**

Passed March 14, 2019
Approved March 22, 2019
Effective May 14, 2019

CAMPAIGN FINANCE CHANGES

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill defines "loan" under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.

Highlighted Provisions:

This bill:

- ▶ defines "loan" under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-16-202, as enacted by Laws of Utah 2016, Chapter 50
20A-11-101, as last amended by Laws of Utah 2017, Chapter 452

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

Section 1. Section 17-16-202 is amended to read:**17-16-202. Definitions.**

As used in this part:

(1) (a) Except as provided in Subsection (1)(b), "contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

(2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.

(3) "County office candidate" means an individual who:

(a) files a declaration of candidacy for a county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.

(4) "County officer" means an individual who holds a county office.

(5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section 17-16-6.5;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

- (6) "Filing entity" means:
- (a) a county office candidate;
 - (b) a county officer;
 - (c) a local school board candidate;
 - (d) a local school board member; or
 - (e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section 17-16-6.5.
- (7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.
- (8) "Local school board candidate" means an individual who:
- (a) files a declaration of candidacy for local school board; or
 - (b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.
- (9) (a) "Personal use expenditure" means an expenditure that:
- (i) (A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and
 - (B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or
 - (ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.
- (b) "Personal use expenditure" includes:
- (i) a mortgage, rent, utility, or vehicle payment;
 - (ii) a household food item or supply;
 - (iii) clothing, except for clothing:
- (A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and
 - (B) used in the county office candidate's or local school board member's campaign;
 - (iv) admission to a sporting, artistic, or recreational event or other form of entertainment;
 - (v) dues, fees, or gratuities at a country club, health club, or recreational facility;
 - (vi) a salary payment made to:
 - (A) a county office candidate, county officer, local school board candidate, or local school board member; or
 - (B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;
 - (vii) a vacation;
 - (viii) a vehicle expense;
 - (ix) a meal expense;
 - (x) a travel expense;
 - (xi) payment of an administrative, civil, or criminal penalty;
 - (xii) satisfaction of a personal debt;
 - (xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;
 - (xiv) a membership fee for a professional or service organization; and
 - (xv) a payment in excess of the fair market value of the item or service purchased.
- (c) "Personal use expenditure" does not include an expenditure made:
- (i) for a political purpose;
 - (ii) for candidacy for county office or local school board;
 - (iii) to fulfill a duty or activity of a county officer or local school board member;
 - (iv) for a donation to a registered political party;
 - (v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (vi) to return all or a portion of a contribution to a contributor;
 - (vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:
 - (A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (C) a meal expense;
 - (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (E) a payment for a service provided by an attorney or accountant;
 - (F) a tuition payment or registration fee for participation in a meeting or conference;
 - (G) a gift;
 - (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;

- (I) a booth at a meeting or event; or
- (J) educational material;
- (viii) to purchase or mail informational material, a survey, or a greeting card;
- (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
- (x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;
- (xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;
- (xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;
- (xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c); or
- (xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member.

- (10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.
- (11) "Reporting entity":
 - (a) means the same as that term is defined in [Subsection] Section 20A-11-101[452]; and
 - (b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section 2. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

- (1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.
- (2) "Agent of a reporting entity" means:
 - (a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

- (b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;
- (c) the personal campaign committee of a candidate or officeholder;
- (d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or
- (e) a political consultant of a reporting entity.
- (3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.
- (4) "Candidate" means any person who:
 - (a) files a declaration of candidacy for a public office; or
 - (b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.
- (5) "Chief election officer" means:
 - (a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and
 - (b) the county clerk for local school board candidates.
- (6) (a) "Contribution" means any of the following when done for political purposes:
 - (i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;
 - (ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;
 - (iii) any transfer of funds from another reporting entity to the filing entity;
 - (iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;
 - (v) remuneration from:
 - (A) any organization or its directly affiliated organization that has a registered lobbyist; or
 - (B) any agency or subdivision of the state, including school districts;
 - (vi) a loan made by a candidate deposited to the candidate's own campaign; and
 - (vii) in-kind contributions.

- (b) "Contribution" does not include:
- (i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;
 - (ii) money lent to the filing entity by a financial institution in the ordinary course of business; or
 - (iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.
- (7) "Coordinated with" means that goods or services provided for the benefit of a candidate or political party are provided:
- (a) with the candidate's or political party's prior knowledge, if the candidate or political party does not object;
 - (b) by agreement with the candidate or political party;
 - (c) in coordination with the candidate or political party; or
 - (d) using official logos, slogans, and similar elements belonging to a candidate or political party.
- (8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:
- (i) the purpose of expressly advocating for political purposes; or
 - (ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.
- (b) "Corporation" does not mean:
- (i) a business organization's political action committee or political issues committee; or
 - (ii) a business entity organized as a partnership or a sole proprietorship.
- (9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.
- (10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.
- (11) "Detailed listing" means:
- (a) for each contribution or public service assistance:
 - (i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;
 - (ii) the amount or value of the contribution or public service assistance; and
 - (iii) the date the contribution or public service assistance was made; and
 - (b) for each expenditure:
 - (i) the amount of the expenditure;
 - (ii) the person or entity to whom it was disbursed;
 - (iii) the specific purpose, item, or service acquired by the expenditure; and
 - (iv) the date the expenditure was made.
- (12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.
- (b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.
- (13) "Election" means each:
- (a) regular general election;
 - (b) regular primary election; and
 - (c) special election at which candidates are eliminated and selected.
- (14) "Electioneering communication" means a communication that:
- (a) has at least a value of \$10,000;
 - (b) clearly identifies a candidate or judge; and
 - (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.
- (15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:
- (i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;
 - (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
 - (iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;
 - (iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;
 - (v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or
 - (vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

- (b) "Expenditure" does not include:
- (i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;
 - (ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or
 - (iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.
- (16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.
- (17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.
- (18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.
- (19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.
- (20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.
- (21) "Incorporation election" means the election authorized by Section 10-2a-210, 10-2a-304, or 10-2a-404.
- (22) "Incorporation petition" means a petition authorized by Section 10-2a-208 or 10-2a-302.5.
- (23) "Individual" means a natural person.
- (24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.
- (25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.
- (26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.
- (27) "Legislative office candidate" means a person who:
- (a) files a declaration of candidacy for the office of state senator or state representative;
 - (b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the

Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

~~[(28)]~~ (29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

~~[(29)]~~ (30) "Officeholder" means a person who holds a public office.

~~[(30)]~~ (31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

~~[(31)]~~ (32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

~~[(32)]~~ (33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

~~[(33)]~~ (34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

~~[(34)]~~ (35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

[(35)] (36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection [(35)] (36)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

[(36)] (37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

[(37)] (38) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection [(37)] (38)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection [(37)] (38)(b)(vi)(A).

[(38)] (39) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

[(39)] (40) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

[440] (41) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

[441] (42) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

[442] (43) "Primary election" means any regular primary election held under the election laws.

[443] (44) "Publicly identified class of individuals" means a group of 50 or more

individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

[444] (45) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

[445] (46) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

[446] (47) "Receipts" means contributions and public service assistance.

[447] (48) "Registered lobbyist" means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

[448] (49) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

[449] (50) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

[450] (51) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the

United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

~~[(51)]~~ (52) (a) “Remuneration” means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator’s ordinary course of business.

(b) “Remuneration” does not mean anything of economic value given to a legislator by:

(i) the legislator’s primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator’s ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

~~[(52)]~~ (53) “Reporting entity” means a candidate, a candidate’s personal campaign committee, a judge, a judge’s personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

~~[(53)]~~ (54) “School board office” means the office of state school board.

~~[(54)]~~ (55) (a) “Source” means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) “Source” means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

~~[(55)]~~ (56) “State office” means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

~~[(56)]~~ (57) “State office candidate” means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a state office.

~~[(57)]~~ (58) “Summary report” means the year end report containing the summary of a reporting entity’s contributions and expenditures.

~~[(58)]~~ (59) “Supervisory board” means the individual or group of individuals that allocate expenditures from a political issues committee.

CHAPTER 156**H. B. 334**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**BOARDS AND COMMISSIONS
 MEMBERSHIP REQUIREMENTS**

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill modifies provisions related to the membership requirements for certain state entities.

Highlighted Provisions:

This bill:

- ▶ regarding the Livestock Market Committee and the Department of Transportation Passenger Ropeway Safety Committee:
 - removes the political party affiliation requirement; and
 - requires board appointments to be made without considering political affiliation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-30-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
 72-11-202, as renumbered and amended by Laws of Utah 1999, Chapter 195

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

Section 1. Section 4-30-103 is amended to read:

4-30-103. Livestock Market Committee created -- Composition -- Terms -- Removal -- Compensation -- Duties.

(1) There is created a Livestock Market Committee which consists of the following seven members appointed to a four-year term of office by the commissioner:

- (a) one member recommended by the livestock market operators in the state;
- (b) one member recommended by the Utah Cattlemen's Association;
- (c) one member recommended by the Utah Dairymen's Association;
- (d) one member recommended by the Utah Woolgrowers Association;
- (e) one member recommended by the horse industry;

(f) one member recommended by the Utah Farm Bureau Federation; and

(g) one member recommended by the Utah Farmers Union.

(2) Notwithstanding the requirements of Subsection (1), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

~~[(3) No more than four members shall be members of the same political party.]~~

(3) The commissioner may not consider or seek to discover the political affiliation of a person when considering the person for appointment or reappointment to the committee.

(4) (a) The commissioner may remove a member of the committee at the request of the association or group which recommended the member's appointment.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) The Livestock Market Committee shall elect a chair from its membership, who shall serve for a term of office of two years, but may be reelected for subsequent terms.

(6) (a) The chair is responsible for the call and conduct of meetings.

(b) Four members constitute a quorum for the transaction of official business.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

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

(8) The Livestock Market Committee acts as advisor to the department with respect to the administration and enforcement of this chapter and makes recommendations necessary to carry out the intent of this chapter to the commissioner.

Section 2. Section 72-11-202 is amended to read:

72-11-202. Passenger ropeways -- Creation of Passenger Ropeway Safety Committee within Department of Transportation -- Members.

(1) There is created within the Department of Transportation a Passenger Ropeway Safety Committee.

(2) The committee is comprised of six appointive members and one ex officio member who shall be appointed by the executive director of the Department of Transportation.

(3) The appointive members shall be appointed by the governor from persons representing the following interests:

- (a) two members to represent the industry;
- (b) two members to represent the public at large;
- (c) one member who is a licensed engineer in Utah; and
- (d) one member to represent the United States Forest Service.

(4) (a) Except as required by Subsection (4)(b), as terms of committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

~~[(c) No more than four members shall be of the same political party.]~~

(c) The governor may not consider or seek to discover the political affiliation of a person when considering the person for appointment or reappointment to the committee.

(5) The governor, in making the appointments, shall request and consider recommendations made to him by:

- (a) the membership of the particular interest from which the appointments are to be made; and
- (b) the Department of Transportation.

CHAPTER 157**H. B. 338**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

CHANGES TO TOBACCO RETAIL PERMIT

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill amends provisions relating to a tobacco retail permit.

Highlighted Provisions:

This bill:

- ▶ makes amendments regarding the community location grandfathering exception for a retail tobacco specialty business.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-62-202, as enacted by Laws of Utah 2018, Chapter 231

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

Section 1. Section 26-62-202 is amended to read:**26-62-202. Permit application.**

(1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26-62-203.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

(ii) Chapter 38, Utah Indoor Clean Air Act;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of tobacco products; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the person retail tobacco specialty business obtained a license to operate the retail tobacco specialty business before December 31, 2015, from:

(a) a municipality under Section 10-8-41.6; or

(b) a county under Section 17-50-333.

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

CHAPTER 158**H. B. 355**

Passed March 14, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**WATER GENERAL
 ADJUDICATION AMENDMENTS**

Chief Sponsor: Joel Ferry
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill enacts and amends provisions relating to water rights.

Highlighted Provisions:

This bill:

- ▶ enacts and amends provisions related to an application to appropriate or permanently change a small amount of water;
- ▶ enacts and amends provisions related to a right to appeal during a general adjudication of water rights;
- ▶ enacts and amends provisions related to the state engineer's duty to search records for and serve summons on claimants during a general adjudication of water rights; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 73-3-5.6, as last amended by Laws of Utah 2009, Chapter 367
 73-4-16, as last amended by Laws of Utah 2016, Chapter 72
 73-4-22, as last amended by Laws of Utah 2016, Chapter 72

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

Section 1. Section 73-3-5.6 is amended to read:

73-3-5.6. Applications to appropriate or permanently change a small amount of water -- Proof of appropriation or change.

- (1) As used in this section:
- (a) "Application" means an application to:
- (i) appropriate a small amount of water; or
- (ii) permanently change a small amount of water.
- (b) "Livestock water right" means a right for:
- (i) livestock to consume water:
- (A) directly from the water source; or
- (B) from an impoundment into which the water is diverted; and
- (ii) associated uses of water related to the raising and care of livestock.

(c) "Proof" means proof of:

- (i) appropriation; or
- (ii) permanent change.
- (d) "Small amount of water" means the amount of water necessary to meet the requirements of:
- (i) one residence;
- (ii) 1/4 acre of irrigable land; and
- (iii) a livestock watering right for:
- (A) 10 cattle; or

(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.

(2) The state engineer may approve an application if:

(a) the state engineer undertakes a thorough investigation of the application;

(b) notice is provided in accordance with Subsection (3);

(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable; and

(d) the application does not conflict with a political subdivision's ordinance:

(i) for planning, zoning, or subdivision regulation; or

(ii) under Section 10-8-15.

(3) (a) Advertising of an application specified in Subsection (2) is at the discretion of the state engineer.

(b) If the state engineer finds that the uses proposed by the application may impair other rights, before approving the application, the state engineer shall give notice of the application according to Section 73-3-6.

(4) An applicant receiving approval under this section is responsible for the time limit for construction and submitting proof as required by Subsection (6).

(5) Sixty days before the end of the time limit for construction, the state engineer shall notify the applicant by mail when proof is due.

(6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate under Section 73-3-17 if ~~[an applicant files an affidavit, on a form provided by the state engineer, as proof, as proof, the applicant files an affidavit:~~

~~[(b) The affidavit shall:]~~

~~[(i) specify the amount of:]~~

~~[(A) irrigated land; and]~~

~~[(B) livestock watered; and]~~

~~[(ii) declare the residence is constructed and occupied.]~~

(i) on a form provided by the state engineer;

(ii) that specifies the amount of:

(A) irrigated land; and

(B) livestock watered; and

(iii) that declares the residence is constructed and occupied.

~~[(e)]~~ (b) The form provided by the state engineer under Subsection (6)(a) may require the information the state engineer determines is necessary to maintain accurate records regarding the point of diversion and place of use.

(7) If an applicant does not file the proof required by Subsection (6) by the day on which the time limit for construction ends, the application lapses under Section 73-3-18.

(8) (a) ~~[An]~~ Except as provided in Subsections (9) and (10), an applicant whose application lapses may file a request with the state engineer to reinstate the application, if the applicant demonstrates that the applicant or the applicant's predecessor in interest:

(i) constructed and occupied a residence within the time limit for construction; and

(ii) beneficially uses the water.

(b) ~~[(f)]~~ Except as provided in Subsection (10), if an applicant meets the requirements of Subsection (8)(a) and submits an affidavit as provided by Subsection (6), the state engineer shall issue a certificate~~[-]~~ for the beneficial uses the applicant attests to in an affidavit described in Subsection (6).

~~[(i) for the amount of water actually in use as described in the affidavit; and]~~

~~[(ii) with a priority date of the day on which the applicant files the request for reinstatement of the application.]~~

(9) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending or concluded, an applicant whose application lapses may not file a request for reinstatement with the state engineer if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3; and

(b) the applicant failed to timely submit a statement of claim as described in Subsection 10(c)(ii).

(10) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending, the state engineer shall allow a reinstatement request under Subsection (8)(a) and, instead of issuing a certificate, evaluate the reinstatement request and statement of claim as part of the general adjudication for the area, if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3;

(b) the applicant files the request for reinstatement no more than 90 days after the day on which the state engineer issues the notice of the time to file statements of claim in accordance with Section 73-4-3; and

(c) the applicant files:

(i) an affidavit described in Subsection (6); and

(ii) a timely statement of claim under Section 73-4-5.

(11) The priority date for an application reinstated under this section is the day on which the applicant files the request for reinstatement of the application.

Section 2. Section 73-4-16 is amended to read:

73-4-16. Appeals.

(1) There ~~[shall be]~~ is a right of appeal from a final judgment of the district court to the Supreme Court as provided in Section 78A-3-102.

(2) (a) There is a right of appeal to the Supreme Court from a district court order, judgment, or decree that resolves an objection filed in accordance with Section 73-4-9.5 or 73-4-11.

(b) The entry of a decree for a general adjudication area, division, or subdivision described in Section 73-4-1 is not a prerequisite to exercise the right to appeal described in Subsection (2)(a).

~~[(2)]~~ (3) The appeal shall be upon the record made in the district court, and may as in equity cases be on questions of both law and fact.

Section 3. Section 73-4-22 is amended to read:

73-4-22. State engineer's duty to search records for and serve summons on claimants -- Filing of affidavit -- Publication of summons -- Binding on unknown claimants.

(1) The state engineer, throughout the pendency of proceedings, shall serve summons in the manner prescribed by Section 73-4-4 upon all claimants to the use of water in the described source embraced by said action, whenever the names and addresses of said persons come to the attention of the state engineer.

(2) Immediately after the notice of the ~~[proposed determination]~~ list of unclaimed rights of record is given, in accordance with Section ~~[73-4-11]~~ 73-4-9.5 hereof, the state engineer shall diligently search for the names and addresses of any claimants to water in the source covered by the ~~[proposed determination]~~ general adjudication area, division, or subdivision who have not been previously served with summons other than by publication, and shall serve summons on any such persons located ~~[shall forthwith be served with summons]~~.

(3) (a) After the state engineer has exhausted the search for other claimants, as described in Subsection (2), the state engineer shall:

~~[(a)] (i) make such fact known to the district court by affidavit; and~~

~~[(b)] (ii) [as ordered by the court, again] in accordance with Subsection (3)(b), publish summons five times, once each week, for five successive weeks [which said service shall be binding upon all unknown claimants].~~

(b) A summons described in Subsection (3)(a)(ii) shall be substantially in the following form:

"In the District Court of County, State of Utah, in the matter of the general adjudication of water rights in the described water source.

SUMMONS

The State of Utah to the said defendant:

You are hereby summoned in the above entitled action, which is brought for the purpose of making a general determination of the water rights of the described water source. Upon the service of this summons on you, you will thereafter be subject to the jurisdiction of the entitled court and, if you have or intend to claim a water right, it shall be your duty to follow further proceedings in the above entitled action and to defend and protect your water rights therein. If you have not been served with summons other than by publication in a newspaper and you claim a water right for which you have not previously filed a statement of claim, you must file a statement of claim in accordance with Section 73-4-5 in this action setting forth the nature of your claim within 90 days after the last date of publication of this summons. Your failure to do so will constitute a default in the premises and a judgment may be entered against you declaring and adjudging that you have forfeited all rights to the use of water within the described water source and that you are forever barred and estopped from subsequently asserting any right to the use of water not claimed."

(4) An unknown claimant who has not been served with a summons other than by publication in a newspaper and has or intends to claim a water right, shall file a statement of claim in accordance with Section 73-4-5 within 90 days after the last day on which a summons is published as described in Subsection (3)(a)(ii).

(5) Service of the published summons described in Subsection (3)(a)(ii) is binding on all unknown claimants.

CHAPTER 159**H. B. 367**

Passed March 13, 2019
Approved March 22, 2019
Effective May 14, 2019

**BOUNDARY ADJUSTMENT
NOTICE AMENDMENTS**

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill extends the deadline for a requirement that municipalities make a certain filing with the lieutenant governor regarding an annexation or boundary adjustment.

Highlighted Provisions:

This bill:

- ▶ extends the deadline for a requirement that municipalities make a certain filing with the lieutenant governor regarding an annexation or boundary adjustment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-2-425, as last amended by Laws of Utah 2015, Chapter 352

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

Section 1. Section 10-2-425 is amended to read:**10-2-425. Filing of notice and plat --
Recording and notice requirements --
Effective date of annexation or boundary
adjustment.**

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404, shall:

(a) within ~~[30]~~ 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within ~~[30]~~ 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; ~~and~~

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) ~~[(A)]~~ if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county ~~[(D)]~~ the original ~~[(Aa)]~~ notice of an impending boundary action ~~[(Bb)]~~, the original certificate of annexation or boundary adjustment ~~[(Ce)]~~, the original approved final local entity plat ~~[(H)]~~, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

~~[(B)]~~ (ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

~~[(F)]~~ (A) submit to the recorder of one of those counties ~~[(E)]~~ the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

~~[(Aa)]~~ the original of the documents listed in Subsections ~~(1)(b)(i)(A)(I)(Aa)~~, ~~(Bb)~~, and ~~(Ce)~~; and

~~[(Bb)]~~ a certified copy of the ordinance approving the annexation or boundary adjustment; and

~~[(H)]~~ (B) submit to the recorder of each other county ~~[(Aa)]~~ a certified copy of the documents listed in ~~[Subsections (1)(b)(i)(A)(I)(Aa)~~, ~~(Bb)~~, and ~~(Ce)]~~ Subsection ~~(1)(b)(ii)(A)~~; and

~~[(Bb)]~~ (C) submit a certified copy of the ordinance approving the annexation or boundary adjustment ~~[(E)]~~ to each county described in Subsections ~~(1)(b)(ii)(A)~~ and ~~(B)~~; and

(c) concurrently with Subsection (1)(b):

~~[(iii)]~~ (i) send notice of the annexation or boundary adjustment to each affected entity; and

~~[(iii)]~~ (ii) in accordance with Section 26-8a-414, file with the Department of Health:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a local district under Section 17B-1-416 or an automatic withdrawal from a local district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the local district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or

boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).

(6) (a) As used in this Subsection (6):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

CHAPTER 160**H. B. 375**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**SCHOOL EMPLOYEE
BACKGROUND CHECKS**

Chief Sponsor: Craig Hall
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill exempts certain exempt providers from a background check administered by the Department of Health.

Highlighted Provisions:

This bill:

- ▶ exempts a provider who provides care to a qualifying child through an educational institution that is regulated by the State Board of Education from submitting information to the Department of Health for a background check.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-39-404, as last amended by Laws of Utah 2018, Chapter 58

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

Section 1. Section 26-39-404 is amended to read:**26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.**

(1) (a) Each exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

- (i) owners;
- (ii) directors;
- (iii) members of the governing body;
- (iv) employees;
- (v) providers of care;
- (vi) volunteers, except parents of children enrolled in the programs; and
- (vii) all adults residing in a residence where child care is provided.

(b) (i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to

determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).

(c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsections (4) and (5), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for a child care program or an exempt provider;

(c) reside at the premises where child care is provided; or

(d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

(ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

(a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

CHAPTER 161**H. B. 384**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

SEARCH AND RESCUE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill amends the membership of the Search and Rescue Advisory Board.

Highlighted Provisions:

This bill:

- ▶ reduces the number of search and rescue volunteers from three to two members; and
- ▶ provides for three sheriffs to be on the board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-1103, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 53-2a-1103 is amended to read:**53-2a-1103. Search and Rescue Advisory Board -- Members -- Compensation.**

(1) There is created the Search and Rescue Advisory Board consisting of seven members appointed as follows:

(a) two representatives designated by the Utah ~~Search and Rescue~~ Sheriff's Association, who are members of a voluntary search and rescue unit operating in the state, one of whom is from a county having a population of 75,000 or more; and one from a county having a population of less than 75,000;

(b) three ~~representatives~~ sheriffs designated by the Utah Sheriff's Association, ~~at least one of whom shall be a member of a voluntary search and rescue unit operating in the state,~~ at least one of whom shall be from a county having a population of 75,000 or more, and at least one of whom shall be from a county having a population of less than 75,000;

(c) one representative of the Division of Emergency Management designated by the director; and

(d) one private citizen appointed by the governor with the consent of the Senate.

(2) (a) The term of each member of the board is four years.

(b) A member may be reappointed to successive terms.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) In order to stagger the terms of membership, the members appointed or reappointed to represent the Utah Sheriff's Association on or after May 2, 2005, shall serve a term of two years, and all subsequent terms shall be four years.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

CHAPTER 162**H. B. 404**

Passed March 14, 2019
Approved March 22, 2019
Effective May 14, 2019

**JUVENILE JUSTICE
REFORM AMENDMENTS**

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill creates a restricted account and modifies the custody, commitment, and jurisdiction relating to a minor in juvenile court.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Juvenile Justice Reinvestment Restricted Account;
- ▶ describes the purposes and sources of the restricted account;
- ▶ grants rulemaking authority to the Division of Juvenile Justice Services;
- ▶ extends the presumptive length of jurisdiction by the court over a minor for nonrepayment of restitution;
- ▶ modifies custody and commitment of a minor to the Division of Juvenile Justice Services; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-7-101, as last amended by Laws of Utah 2017, Chapter 330
78A-6-117, as last amended by Laws of Utah 2018, Chapters 117 and 285
78A-6-117.5, as enacted by Laws of Utah 2017, Chapter 330
78A-6-119, as last amended by Laws of Utah 2017, Chapter 330
78A-6-604, as last amended by Laws of Utah 2017, Chapter 330
78A-6-1101, as last amended by Laws of Utah 2017, Chapter 330

ENACTS:

62A-7-112, Utah Code Annotated 1953
62A-7-113, Utah Code Annotated 1953

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

Section 1. Section 62A-7-101 is amended to read:

62A-7-101. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 62A-7-112.

(1) (2) "Authority" means the Youth Parole Authority, established in accordance with Section 62A-7-501.

(2) (3) "Board" means the Board of Juvenile Justice Services established in accordance with Section 62A-1-105.

(3) (4) "Community-based program" means a nonsecure residential or nonresidential program designated to supervise and rehabilitate youth offenders in accordance with Subsection 78A-6-117(2) that prioritizes the least restrictive nonresidential setting, consistent with public safety, and designated or operated by or under contract with the division.

(4) (5) "Control" means the authority to detain, restrict, and supervise a youth in a manner consistent with public safety and the well being of the youth and division employees.

(5) (6) "Court" means the juvenile court.

(6) (7) "Delinquent act" is an act which would constitute a felony or a misdemeanor if committed by an adult.

(7) (8) "Detention" means secure detention or home detention.

(8) (9) "Detention center" means a facility established in accordance with Title 62A, Chapter 7, Part 2, Detention Facilities.

(9) (10) "Director" means the director of the Division of Juvenile Justice Services.

(10) (11) "Discharge" means a written order of the Youth Parole Authority that removes a youth offender from its jurisdiction.

(11) (12) "Division" means the Division of Juvenile Justice Services.

(12) (13) "Home detention" means predispositional placement of a child in the child's home or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct by a child who is alleged to have committed a delinquent act or postdispositional placement pursuant to Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

(13) (14) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(14) (15) "Parole" means a conditional release of a youth offender from residency in a secure facility to live outside that facility under the supervision of the Division of Juvenile Justice Services or other person designated by the division.

(15) (16) "Performance-based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or

programs rated as effective for reducing recidivism by a standardized tool pursuant to Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

~~[(16)]~~ (17) "Receiving center" means a nonsecure, nonresidential program established by the division or under contract with the division that is responsible for juveniles taken into custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

~~[(17)]~~ (18) "Rescission" means a written order of the Youth Parole Authority that rescinds a parole date.

~~[(18)]~~ (19) "Revocation of parole" means a written order of the Youth Parole Authority that terminates parole supervision of a youth offender and directs return of the youth offender to the custody of a secure facility after a hearing and a determination that there has been a violation of law or of a condition of parole that warrants a return to a secure facility in accordance with Section 62A-7-504.

~~[(19)]~~ (20) "Runaway" means a youth who willfully leaves the residence of a parent or guardian without the permission of the parent or guardian.

~~[(20)]~~ (21) "Secure detention" means predisposition placement in a facility operated by or under contract with the division, for conduct by a child who is alleged to have committed a delinquent act.

~~[(21)]~~ (22) "Secure facility" means any facility operated by or under contract with the division, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

~~[(22)]~~ (23) "Shelter" means the temporary care of children in physically unrestricted facilities pending court disposition or transfer to another jurisdiction.

~~[(23)]~~ (24) (a) "Temporary custody" means control and responsibility of nonadjudicated youth until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate agency.

(b) "Temporary custody" does not include a placement in a secure facility, including secure detention, or a residential community-based program operated or contracted by the division, except pursuant to Subsection 78A-6-117(2).

~~[(24)]~~ (25) "Termination" means a written order of the Youth Parole Authority that terminates a youth offender from parole.

~~[(25)]~~ (26) "Ungovernable" means a youth in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the youth, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the youth, the family, or others; or

(c) results in the situations in both Subsections ~~[(25)]~~ (26)(a) and (b).

~~[(26)]~~ (27) "Work program" means a nonresidential public or private service work project established and administered by the division for youth offenders for the purpose of rehabilitation, education, and restitution to victims.

~~[(27)]~~ (28) "Youth offender" means a person 12 years of age or older, and who has not reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and jurisdiction of the division, for confinement in a secure facility or supervision in the community, following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult in accordance with Section 78A-6-117.

~~[(28)]~~ (29) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) These services include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with their families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) The services may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time out placement; and

(iv) family counseling.

Section 2. Section 62A-7-112 is enacted to read:

62A-7-112. Juvenile Justice Reinvestment Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."

(2) The account shall be funded by savings calculated from General Fund appropriations by the Division of Finance as described in Subsection (3).

(3) At the end of the fiscal year, the Division of Finance shall:

(a) use the formula established in Subsection 67A-7-113(1) to calculate the savings from General Fund appropriations; and

(b) lapse the calculated savings into the account.

(4) Upon appropriation by the Legislature, the department may expend funds from the account:

(a) for the statewide expansion of nonresidential community-based programs, including:

(i) receiving centers;

(ii) mobile crisis outreach teams as defined in Section 78A-6-105;

(iii) youth courts; and

(iv) victim-offender mediation;

(b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;

(c) to implement:

(i) nonresidential diagnostic assessment; and

(ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or

(d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Section 3. Section 62A-7-113 is enacted to read:

62A-7-113. Rulemaking authority and division responsibilities.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330 resulting from the reduction in out-of-home placements for youth offenders with the division.

(2) No later than December 31 of each year, the division shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the division's activities under this section and Section 62A-7-112, including:

(a) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection (1);

(b) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;

(c) an accounting of the money expended or committed to be expended under Subsection 62A-7-112(4); and

(d) the balance of the account.

Section 4. Section 78A-6-117 is amended to read:

78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.

(1) (a) ~~[When]~~ Except as provided in Subsection (1)(b), when a minor is found to come within Section 78A-6-103, the court shall ~~[so adjudicate]. The court shall make a finding of the facts upon which it~~

~~bases its jurisdiction over the minor. However, in cases within]~~ adjudicate the case and make findings of fact upon which the court bases the court's jurisdiction over the minor.

(b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

~~[(b)]~~ (c) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, ~~[it]~~ the court shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, ~~[if]~~ whether the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

~~[(e)]~~ (d) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection ~~[(4)(e)]~~ (1)(d); and

(C) if the court orders treatment, be based on a validated risk and needs assessment conducted under Subsection ~~[(4)(e)]~~ (1)(d);

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated ~~[persons]~~ individuals in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated ~~[persons]~~ individuals may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable ~~person~~ individual, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) ~~(4)~~ The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

~~(A)~~ (i) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

~~(B)~~ (ii) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

~~(4)~~ (d) (i) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

~~(4)~~ (ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections ~~(2)(e)(iii)~~(d)(ii)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection ~~(2)(e)(iii)~~(d)(ii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection ~~(2)(e)(iii)~~(d)(ii)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

~~(4)~~ (e) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that the minor poses a risk of harm to others and is adjudicated under this section for:

~~(A)~~ (i) a felony offense;

~~(B)~~ (ii) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

~~(C)~~ (iii) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

~~(4)~~ (f) (i) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

~~(4)~~ (ii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

~~(e)~~ (g) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

~~(4)~~ (h) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(~~f~~)(h) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)(~~f~~)(h)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(~~f~~)(h)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(~~g~~). Only the seven days under this Subsection (2)(~~f~~)(h)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(~~f~~)(v), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c)(~~g~~).

(~~g~~) (i) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(~~h~~) (j) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) [A victim has the meaning defined under Subsection 77-38a-102(14).] A victim, as defined in Subsection 77-38a-102(14), of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay; ~~and~~

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed[-]; and

(D) the length of the presumptive term of supervision shall be taken into account in determining the minor's ability to satisfy the restitution order within the presumptive term.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

(~~g~~) (k) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(~~g~~) (l) (i) The court may through [its] the court's probation department encourage the development of nonresidential employment or work programs to enable ~~minors~~ a minor to fulfill ~~their~~ the minor's obligations under Subsection (2)(~~h~~)(j) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered

collectively to ensure that the order ~~[is reasonable and prioritizes restitution.]:~~

(A) is reasonable;

(B) prioritizes restitution; and

(C) takes into account the minor's ability to satisfy the order within the presumptive term of supervision.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(~~(j)~~)(1)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

~~[(4)]~~ (m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)(~~(k)~~)(m)(i) except for a disposition under Subsection (2)(c), (d), (e), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

~~[(4)]~~ (n) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(~~(j)~~)(1)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other ~~[person]~~ individual at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct

supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(~~(h)~~)(j).

~~[(m)]~~ (o) (i) Subject to Subsection (2)(~~(m)~~)(o)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(~~(m)~~)(o)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(~~(m)~~)(o)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(~~(m)~~)(o).

~~[(m)]~~ (p) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration

the religious preferences of the minor and of a child's parents.

~~[(q)]~~ (q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

~~[(p)]~~ (r) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

~~[(q)]~~ (s) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)~~[(q)]~~(s)(i).

~~[(t)]~~ (t) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

~~[(s)]~~ (u) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c), (d), ~~(e)~~, and ~~[(d)]~~ (f).

~~[(t)]~~ (v) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

~~[(w)]~~ (w) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another ~~[person]~~ individual, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

~~[(x)]~~ (x) Except as provided in Subsection (2)~~[(x)]~~(z)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

~~[(w)]~~ (y) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

~~[(x)]~~ (z) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)~~[(x)]~~(z)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that ~~[employees]~~ an employee designated to collect the saliva DNA specimens ~~[receive]~~ receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c), (d), (e), or ~~[(d)]~~ (f), the court may suspend a custody order pursuant to Subsection (2)(c), (d), (e), or ~~[(d)]~~ (f) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

(A) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii); ~~[or]~~

(B) if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate~~[-];~~ or

(C) if, after a notice and a hearing, the court finds a new or previous evaluation recommends a higher level of treatment, and the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed; [øf]

(v) there is an outstanding fine[-]; or

(vi) there is a failure to pay restitution in full.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)[(i), (ii), (iii), ~~or (iv)~~] exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)[(i), (ii), (iii), ~~or (iv)~~] exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended [~~to complete service hours~~] under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended [~~to complete service hours~~] under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) a felony violation of Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm; or

(j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

Section 5. Section 78A-6-117.5 is amended to read:

78A-6-117.5. Custody in Division of Child and Family Services or in the Division of Juvenile Justice Services.

(1) Notwithstanding [~~Subsection~~] Subsections 78A-6-117(2)(c) and (d), the court may not vest custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(2) If the court finds that a child is at risk of being removed from the home or that the family is in crisis, the court may order the Division of Child and Family Services to conduct an assessment to determine if provision of in-home family preservation services is appropriate. If considered appropriate by the Division of Child and Family Services, services shall be provided pursuant to Section 62A-4a-202.

(3) Notwithstanding Section 78A-6-117, a court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(4) Notwithstanding Section 78A-6-117, a court may not commit a minor to the temporary custody of the Division of Juvenile Justice Services for residential observation and evaluation or residential observation and assessment.

Section 6. Section 78A-6-119 is amended to read:

78A-6-119. Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

(1) The court may modify or set aside any order or decree made by the court, except on and after July 1, 2018, the order or decree must be in accordance with Sections 78A-6-117 and 78A-6-123, however a modification of an order placing a minor on probation may not include on and after July 1, 2018, an order:

(a) under Subsection 78A-6-117(2)(c), (d), ~~(e)~~, (f), or [~~(f)~~] (h); or

(b) extending supervision, except pursuant to Subsection 78A-6-117(7).

(2) Notice of the hearing shall be required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 78A-6-1103 and pursuant to Section 78A-6-117.

(3) (a) Notice of an order terminating probation or protective supervision of a child shall be given to the child's:

- (i) parents;
- (ii) guardian;
- (iii) custodian; and
- (iv) where appropriate, to the child.

(b) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years of age shall be given to the minor.

Section 7. Section 78A-6-604 is amended to read:

78A-6-604. Minor held in detention -- Credit for good behavior.

(1) A minor held in detention under Subsection 78A-6-117(2)(~~f~~)(h) is eligible to receive credit for good behavior against the period of detention. The rate of credit is one day for every three days served. The Division of Juvenile Justice Services shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules describing good behavior for which credit may be earned.

(2) Any disposition including detention under Subsection 78A-6-117(2)(~~f~~)(h) shall be concurrent with any other order of ~~f~~ detention.

Section 8. Section 78A-6-1101 is amended to read:

78A-6-1101. Violation of order of court -- Contempt -- Penalty -- Enforcement of fine, fee, or restitution.

(1) A person who willfully violates or refuses to obey any order of the court may be proceeded against for contempt of court.

(2) A person 18 years of age or older found in contempt of court may be punished in accordance with Section 78B-6-310.

(3) (a) A person younger than 18 years of age found in contempt of court may be punished by disposition permitted under Section 78A-6-117, except the court may only order a disposition that changes the custody of the minor, including community placement or commitment to a secure facility, if the disposition is commitment to a secure detention pursuant to Subsection 78A-6-117(2)(~~f~~)(h) for no longer than 72 hours, excluding weekends and legal holidays.

(b) A court may not suspend all or part of the punishment upon compliance with conditions imposed by the court.

(4) In accordance with Section 78A-6-117, the court may enforce orders of fines, fees, or restitution through garnishments, wage withholdings, supplementary proceedings, or executions. An order described in this Subsection (4) may not be enforced through an order of detention, community placement, or commitment to a secure facility.

CHAPTER 163**H. B. 429**

Passed March 14, 2019

Approved March 22, 2019

Effective May 14, 2019

NAVAJO TRUST FUND AMENDMENTS

Chief Sponsor: Phil Lyman
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill modifies provisions related to the Diné Advisory Committee for the Navajo Trust Fund.

Highlighted Provisions:

This bill:

- ▶ addresses appointments to the Diné Advisory Committee;
- ▶ amends stipend provisions for members of the Diné Advisory Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

51-10-206, as enacted by Laws of Utah 2015, Chapter 319

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

Section 1. Section 51-10-206 is amended to read:**51-10-206. Diné Advisory Committee.**

(1) There is created the Diné Advisory Committee.

(2) (a) The governor, with the consent of the Senate, shall appoint nine members to the Diné Advisory Committee.

(b) In making an appointment under Subsection (2)(a), the governor shall ensure that the Diné Advisory Committee includes:

(i) two registered members of the Aneth Chapter of the Navajo Nation who reside in San Juan County, Utah;

(ii) one registered member of the Blue Mountain Diné who resides in San Juan County, Utah;

(iii) one registered member of the Mexican Water Chapter of the Navajo Nation who resides in San Juan County, Utah;

(iv) one registered member of the Naatsis' n Chapter of the Navajo Nation who resides in San Juan County, Utah;

(v) subject to Subsection (4), two members who reside in San Juan County, Utah, one of whom is a registered member of the Oljato Chapter of the Navajo Nation, and one of whom is a registered member of either the Oljato Chapter or the Dennehotso Chapter of the Navajo Nation;

(vi) one registered member of the Red Mesa Chapter of the Navajo Nation who resides in San Juan County, Utah; and

(vii) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who resides in San Juan County, Utah.

(3) (a) (i) Each chapter of the Utah Navajo Chapter, except the Aneth, Oljato, and Dennehotso chapters, shall submit to the governor the names of ~~[three]~~ two nominees to the Diné Advisory Committee chosen by the chapter.

(ii) The governor shall ~~[select]~~ appoint one of the ~~[three]~~ two persons whose names are submitted under Subsection (3)(a)(i) as that chapter's representative on the Diné Advisory Committee.

(b) (i) The Blue Mountain Diné shall submit to the governor the names of ~~[three]~~ two nominees to the Diné Advisory Committee.

(ii) The governor shall ~~[select]~~ appoint one of the ~~[three]~~ two persons whose names are submitted under Subsection (3)(b)(i) as the Blue Mountain Diné representative on the Diné Advisory Committee.

(c) (i) The Aneth Chapter shall submit to the governor the names of ~~[six]~~ two nominees for each of the two positions to the Diné Advisory Committee ~~[chosen by]~~ representing the Aneth chapter.

(ii) The governor shall ~~[select]~~ appoint two of the ~~[six]~~ two persons whose names are submitted under Subsection (3)(c)(i) to be the Aneth Chapter's representatives on the Diné Advisory Committee.

(d) (i) ~~[The]~~ Subject to Subsection (3)(d)(ii), the Oljato Chapter shall submit to the governor the names of ~~[six]~~ two nominees for each of the two positions to the Diné Advisory Committee ~~[chosen by]~~ representing the ~~[chapter]~~ Oljato Chapter and the Dennehotso Chapter.

~~[(ii) One of the six names submitted under Subsection (3)(d)(i) may be a registered member of the Dennehotso Chapter.]~~

(ii) The Dennehotso Chapter may submit one nominee for purposes of the governor appointing a representative of the Oljato Chapter and the Dennehotso Chapter.

(iii) The governor shall ~~[select]~~ appoint two of the ~~[six]~~ two persons whose names are submitted under Subsection (3)(d)(i) or (ii) to be the representatives on the Diné Advisory Committee of the Oljato Chapter and the Dennehotso ~~[chapters]~~ Chapter.

(e) Before submitting a name to the governor, a Utah Navajo Chapter and the Blue Mountain Diné shall ensure that the individual's whose name is submitted:

- (i) is an enrolled member of the Navajo Nation;
- (ii) resides in San Juan County, Utah;
- (iii) is 21 years of age or older;
- (iv) is not an officer of the chapter;
- (v) has not been convicted of a felony; and

(vi) is not currently, or within the last 12 months has not been, an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from an expenditure of:

- (A) the Division of Indian Affairs; or
- (B) the fund.

(4) If both members appointed under Subsection ~~[(2)(b)(vi)]~~ (2)(b)(v) are registered members of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as practicable.

(5) (a) Except as provided in Subsection (5)(b) and other than the amount authorized by this section for Diné Advisory Committee member expenses, a person appointed to the Diné Advisory Committee may not solicit, accept, or receive any benefit from an expenditure of:

- (i) the Division of Indian Affairs;
- (ii) the fund; or

(iii) the Division of Indian Affairs or fund as an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from the expenditure of:

- (A) the Division of Indian Affairs; or
- (B) the fund.

(b) A member of the Diné Advisory Committee may receive a benefit from an expenditure of the fund if:

(i) when the benefit is discussed by the Diné Advisory Committee:

(A) the member discloses that the member may receive the benefit;

(B) the member physically leaves the room in which the Diné Advisory Committee is discussing the benefit; and

(C) the Diné Advisory Committee approves the member receiving the benefit by a unanimous vote of the members present at the meeting discussing the benefit;

(ii) a Utah Navajo Chapter requests that the benefit be received by the member;

(iii) the member is in compliance with the ethics and conflict of interest policy required under Subsection 51-10-204(2)(c);

(iv) (A) the expenditure from the fund is made in accordance with this chapter; and

(B) the benefit is no greater than the benefit available to members of the Navajo Nation residing in San Juan County, Utah; and

(v) the member is not receiving the benefit as an officer, director, employee, or contractor of a service provider.

(6) (a) (i) Except as required in Subsection (6)(a)(ii), as terms of current committee members expire, the governor shall appoint each new

member or reappointed member to a four-year term.

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the Diné Advisory Committee is appointed every two years.

(iii) The terms of the Aneth Chapter's representatives appointed under Subsection (3)(c)(ii) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(iv) The terms of the Oljato Chapter's and the Dennehotso Chapter's representatives appointed under Subsection (3)(d) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(b) Except as provided in Subsection (6)(c), a committee member shall serve until the committee member's successor is appointed and qualified.

(c) If a committee member is absent from three consecutive committee meetings, or if the committee member violates the ethical or conflict of interest policies established by statute or the Diné Advisory Committee:

- (i) the committee member's appointment is terminated;
- (ii) the position is vacant; and
- (iii) the governor shall appoint a replacement.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term according to the procedures of this section.

(e) The governor may appoint an individual to more than one term on the Diné Advisory Committee.

(7) (a) The committee members shall select a chair and vice chair from committee membership each two years subsequent to the appointment of new committee members.

(b) Five members of the Diné Advisory Committee is a quorum for the transaction of business.

(c) The Diné Advisory Committee shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) ensure that its meetings are held at or near:

(A) a chapter house or meeting hall of a Utah Navajo Chapter; or

(B) other places in Utah that the Diné Advisory Committee considers practical and appropriate; and

(iii) ensure that its meetings are public hearings at which a resident of San Juan County, Utah, may appear and speak.

(8) A committee member may not receive compensation or benefits for the committee

member's service, but may receive per diem and travel expenses in accordance with [] policy adopted by the board.

~~[(a) Section 63A-3-106;]~~

~~[(b) Section 63A-3-107; and]~~

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

(9) The trust administrator shall staff the Diné Advisory Committee.

(10) The Diné Advisory Committee shall advise the trust administrator about the expenditure of fund money.

CHAPTER 164**H. B. 463**

Passed March 12, 2019
 Approved March 22, 2019
 Effective May 14, 2019

EARLY LITERACY AMENDMENTS

Chief Sponsor: Val L. Peterson
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to early interactive reading software for literacy instruction.

Highlighted Provisions:

This bill:

- ▶ authorizes a school to use a license for early interactive reading software for students in grades 2 or 3 to advance beyond grade level; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-4-203, as enacted by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-4-203 is amended to read:**53F-4-203. Early intervention interactive reading software -- Independent evaluator.**

(1) (a) Subject to legislative appropriations, the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the State Board of Education shall distribute licenses for early interactive reading software described in Subsection (1)(a) to the school districts and charter schools of local education boards that apply for the licenses.

(c) Except as provided in board rule, a school district or charter school that received a license described in Subsection (1)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (1)(c) shall be distributed through a competitive process.

(2) A public school that receives a license described in Subsection (1)(b) shall use the license[; (a)] for a student in kindergarten or grade 1, 2, or 3:

[~~(i)~~] (a) for intervention for the student if the student is reading below grade level; or

[~~(ii)~~] (b) for advancement beyond grade level for the student if the student is reading at or above grade level[; and].

[~~(b) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level.~~]

(3) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);

(ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software.

(c) The State Board of Education and the independent evaluator selected under Subsection (3)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.

(4) The State Board of Education may use up to 4% of the appropriation provided under Subsection (1)(a) to:

(a) acquire an analytical software program that:

(i) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(ii) analyzes the information gathered under Subsection (4)(a)(i) to prescribe individual school usage time to maximize the beneficial impact on student performance; or

(b) contract with an independent evaluator selected under Subsection (3)(a).

CHAPTER 165**S. B. 35**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**MUNICIPAL
 INCORPORATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill modifies provisions related to the incorporation of a municipality.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ repeals Title 10, Chapter 2a, Part 3, Incorporation of a Town;
- ▶ adds the incorporation of a town to the existing process for incorporating a city;
- ▶ establishes qualifications for an area to incorporate as a municipality;
- ▶ establishes a population density threshold for an area to incorporate as a municipality;
- ▶ amends provisions related to the content of a feasibility study;
- ▶ requires a feasibility consultant to consult with certain governmental entities when drafting a feasibility study;
- ▶ changes the deadline by which a feasibility consultant is required to complete a feasibility study;
- ▶ establishes the Municipal Incorporation Expendable Special Revenue Fund for the lieutenant governor's provision of municipal incorporation services;
- ▶ establishes provisions related to a new municipality's responsibility to repay the lieutenant governor for certain services rendered by the lieutenant governor during the incorporation process; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the Municipal Incorporation Expendable Special Revenue Fund as a one-time appropriation:
 - from the General Fund, \$40,000.

Other Special Clauses:

This bill provides revisor instructions.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 10-2-403, as last amended by Laws of Utah 2017, Chapter 452
- 10-2a-102, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-106, as last amended by Laws of Utah 2017, Chapter 452
- 10-2a-201, as enacted by Laws of Utah 2015, Chapter 352

- 10-2a-202, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-203, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-204, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-205, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-206, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-207, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-208, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-209, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-210, as last amended by Laws of Utah 2015, Chapters 111, 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-211, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-212, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-213, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-214, as last amended by Laws of Utah 2017, Chapter 91
- 10-2a-215, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352
- 10-2a-216, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-217, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-218, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-219, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-220, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352

10-2a-402, as last amended by Laws of Utah 2017, Chapter 367
 10-2a-413, as enacted by Laws of Utah 2015, Chapter 352
 20A-1-203, as last amended by Laws of Utah 2018, Chapters 68 and 415
 20A-11-101, as last amended by Laws of Utah 2017, Chapter 452
 63I-2-210, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
 67-1a-2, as last amended by Laws of Utah 2018, Chapter 330

ENACTS:

10-2a-201.5, Utah Code Annotated 1953

REPEALS:

10-2a-221, as renumbered and amended by Laws of Utah 2015, Chapter 352
 10-2a-301, as enacted by Laws of Utah 2015, Chapter 352
 10-2a-302.5, as last amended by Laws of Utah 2018, Chapters 281 and 330
 10-2a-303, as last amended by Laws of Utah 2017, Chapter 452
 10-2a-304, as last amended by Laws of Utah 2017, Chapter 452
 10-2a-305, as renumbered and amended by Laws of Utah 2015, Chapter 352 and repealed and reenacted by Laws of Utah 2015, Chapter 111
 10-2a-305.1, as last amended by Laws of Utah 2018, Chapter 11
 10-2a-305.2, as enacted by Laws of Utah 2015, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352
 10-2a-306, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352
 10-2a-307, as enacted by Laws of Utah 2015, Chapter 157 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352 Utah Code Sections Affected by Revisor Instructions:
 10-2a-106, as last amended by Laws of Utah 2017, Chapter 452

Utah Code Sections Affected by Coordination Clause:

10-2a-207, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
 10-2a-210, as last amended by Laws of Utah 2015, Chapters 111, 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
 10-2a-213, as renumbered and amended by Laws of Utah 2015, Chapter 352
 10-2a-214, as last amended by Laws of Utah 2017, Chapter 91
 10-2a-215, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352

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

Section 1. Section 10-2-403 is amended to read:**10-2-403. Annexation petition -- Requirements -- Notice required before filing.**

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) with respect to the proposed annexation of an area located in a county of the first class, the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

“Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may

choose whether [~~or not~~] to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk~~[, as the case may be,]~~ of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned

real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property as that term is defined in Section 17B-2a-1107 within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) if the area proposed to be annexed is located in a county of the first class, contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located, be accompanied by a copy of the resolution, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located; and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area

proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) A petition under Subsection (1) proposing the annexation of an area located in a county of the first class may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 [~~or a petition under Section 10-2a-302.5~~] if:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, or a petition under Section 10-2a-208 based on that request, [~~or a petition under Section 10-2a-302.5~~] is still pending on the date the annexation petition is filed.

(6) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(7) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(8) A property owner who signs an annexation petition proposing to annex an area located in a county of the first class may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 2. Section 10-2a-102 is amended to read:

10-2a-102. Definitions.

(1) As used in this part:

(a) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(b) (i) "Municipal service" means any of the following that are publicly provided:

(A) culinary water;

(B) secondary water;

(C) sewer service;

(D) storm drainage or flood control;

(E) recreational facilities or parks;

(F) electrical power generation or distribution;

(G) construction or maintenance of local streets and roads;

(H) street lighting;

(I) curb, gutter, and sidewalk maintenance;

(J) law or code enforcement service;

(K) fire protection service;

(L) animal services;

(M) planning and zoning;

(N) building permits and inspections;

(O) refuse collection; or

(P) weed control.

(ii) "Municipal service" includes the physical facilities required to provide a service described in Subsection (1)(b)(i).

~~(b)~~ (c) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the request or petition; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the request or petition.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a request or petition:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the request or petition is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a request or petition in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are

indicated on the request or petition with the person's signature; and

(ii) the person provides documentation accompanying the request or petition that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a request or petition on behalf of a deceased owner.

Section 3. Section 10-2a-106 is amended to read:

10-2a-106. Feasibility study or petition to incorporate filed before May 12, 2015.

(1) If a request for a feasibility study to incorporate a city is filed under Section 10-2a-202 before May 12, 2015, the request and a subsequent feasibility study, petition, public hearing, election, and any other city incorporation action applicable to that request shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.

(2) If a petition to incorporate a town is filed ~~under Section 10-2a-302.5~~ before May 12, 2015, the petition and a subsequent feasibility study, petition, public hearing, election, and any other town incorporation action applicable to that petition to incorporate shall be filed with and be acted upon, held, processed, or paid for by the county legislative body or county clerk, as applicable, as designated, directed, or authorized before Laws of Utah 2015, Chapter 157, takes effect.

(3) If an individual files a request for a feasibility study for the incorporation of a city, or an application for an incorporation petition for the incorporation of a town, before May 14, 2019, the process for incorporating that city or town under that request or application is not subject to this bill.

Section 4. Section 10-2a-201 is amended to read:

Part 2. Incorporation of a Municipality

10-2a-201. Title.

This part is known as "Incorporation of a [City] Municipality."

Section 5. Section 10-2a-201.5 is enacted to read:

10-2a-201.5. Qualifications for incorporation.

(1) (a) An area may incorporate as a town in accordance with this part if the area:

(i) subject to Subsection (1)(c), is contiguous;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) An area may incorporate as a city in accordance with this part if the area:

(i) subject to Subsection (1)(c), is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(c) An area is not contiguous for purposes of Subsection (1)(a)(i) or (b)(i) if:

(i) the area includes a strip of land that connects geographically separate areas; and

(ii) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(2) (a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subject to Subsection (1)(c), an area that does not comply with Subsection (2)(a)(ii) may incorporate under this part if the noncompliance is necessary to connect separate areas that share a demonstrable community interest.

(3) Subject to Subsection (1)(c), an area incorporating under this part may not include land owned by the United States federal government unless:

(a) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(b) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A request for a feasibility study may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections 10-2a-202(1) and (2) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous under Subsection (1)(c).

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

Section 6. Section 10-2a-202 is amended to read:

10-2a-202. Request for feasibility study -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a [city] municipality is initiated by an individual filing a request for a feasibility study [filed] with the Office of the Lieutenant Governor[-] that:

~~[(2) Each request under Subsection (1) shall:]~~

(a) [be] is signed by the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is equal in value to at least 7% of the value of all private real property within the area;

(b) [indicate] indicates the typed or printed name and current residence address of each owner signing the request;

(c) [describe] describes the contiguous area proposed to be incorporated as a [city] municipality;

(d) [designate] designates up to five signers of the request as sponsors, one of whom [shall be] is designated as the contact sponsor, with the mailing address and telephone number of each;

(e) [be] is accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundaries of the proposed [city] municipality; and

(f) [request] requests the lieutenant governor to commission a study to determine the feasibility of incorporating the area as a [city] municipality.

~~[(3)] (2)~~ A request for a feasibility study under this section may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection [10-2a-208(3)] 10-2a-205(6)(a) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(b) the time [provided under] described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without [the filing of a petition] the sponsors filing an incorporation petition under Section 10-2a-208.

~~[(4) (a) Except as provided in Subsection (4)(b), a request under this section may not propose for~~

incorporation an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:]

~~[(i) was filed before the filing of the request; and]~~

~~[(ii) is still pending on the date the request is filed.]~~

~~[(b) Notwithstanding Subsection (4)(a), a request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:]~~

~~[(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;]~~

~~[(ii) the request complies with Subsections (2) and (3) with respect to the area proposed for incorporation excluding the proposed annexation area; and]~~

~~[(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to lose its contiguousness.]~~

~~[(e) Except as provided in Section 10-2a-206, each request to which Subsection (4)(b) applies shall be considered as not proposing the incorporation of the area proposed for annexation.]~~

(3) Sponsors may not file a request under this section regarding the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Section 7. Section 10-2a-203 is amended to read:

10-2a-203. Notice to owner of property -- Exclusion of property from proposed boundaries.

(1) As used in this section:

(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

~~[(c) "Urban" means an area with a residential density of greater than one unit per acre.]~~

(2) Within seven calendar days [of the date] after the day on which an individual files a request under Section 10-2a-202 [is filed], the lieutenant governor shall send written notice of the proposed incorporation to each record owner of real property owning more than:

(a) 1% of the assessed value of all property in the proposed incorporation boundaries; or

(b) 10% of the total private land area within the proposed incorporation boundaries.

(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the

proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may request that the lieutenant governor exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a [Notice of Exclusion] notice of exclusion with the Office of the Lieutenant Governor:

(a) that describes the property for which the owner requests exclusion; and

(b) within 15 calendar days [of receiving the clerk's notice under] after the day on which the owner receives the notice described in Subsection (2).

(4) The lieutenant governor shall exclude the property identified by an owner [in the Notice of Exclusion] under Subsection (3) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence [in the record] that:

(a) the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the property [to be excluded: (i) is urban; and (ii) currently] receives from the county a majority of [municipal-type services including:] currently provided municipal services.

[(A) culinary or irrigation water;]

[(B) sewage collection or treatment;]

[(C) storm drainage or flood control;]

[(D) recreational facilities or parks;]

[(E) electric generation or transportation;]

[(F) construction or maintenance of local streets and roads;]

[(G) curb and gutter or sidewalk maintenance;]

[(H) garbage and refuse collection; and]

[(I) street lighting.]

[(5) This section applies only to counties of the first or second class.]

[(6) If the lieutenant governor excludes property from the proposed boundaries under Subsection (4), the lieutenant governor shall, within five days of the exclusion, send written notice of the exclusion to the contact sponsor.]

(5) Within five days after the day on which the lieutenant governor makes a determination on whether to exclude a property under Subsection (4), the lieutenant governor shall mail or transmit to the owner that requested the property's exclusion and to the contact sponsor written notice of whether the property is excluded from the proposed incorporation boundaries.

Section 8. Section 10-2a-204 is amended to read:

10-2a-204. Processing a request for incorporation -- Certification or rejection

by lieutenant governor -- Processing priority -- Determination by the Utah Population Committee.

(1) Within 45 days [of the filing of a request] after the day on which an individual files a request under Section 10-2a-202, the lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed from whom the lieutenant governor requests assistance, determine whether the request complies with Section 10-2a-202; and

(b) (i) if the lieutenant governor determines that the request complies with Section 10-2a-202:

(A) certify the request; [and]

(B) [mail or deliver] transmit written notification of the certification to the contact sponsor; [or] and

(C) transmit written notification of the certification to the Utah Population Committee; or

(ii) if the lieutenant governor determines that the request fails to comply with Section 10-2a-202 [requirements], reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection (1)(b)(i)(C), the Utah Population Committee shall:

(i) determine whether, on the date the sponsors filed the request under Section 10-2a-202 for the proposed municipality, the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5; and

(ii) provide the determination to the lieutenant governor.

(b) If the Utah Population Committee determines that a proposed municipality does not comply with the population, population density, or contiguity requirements described in Section 10-2a-201.5, the lieutenant governor shall rescind the certification described in Subsection (1)(b)(i) and reject the application in accordance with Subsection (1)(b)(ii).

[(2)] (3) The lieutenant governor shall certify or reject requests under Subsection (1) in the order in which [they] the requests are filed.

[(3)] (4) (a) (i) If the lieutenant governor rejects a request under Subsection (1)(b)(ii), the [request may be amended] sponsors may, subject to Section 10-2a-206, amend the request to correct the deficiencies for which [it was rejected and then refiled] the lieutenant governor rejected the request and refile the request with the lieutenant governor.

[(ii)] A signature on a request under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(2)(a) for the request as modified under Subsection (3)(a)(i).]

(ii) The sponsors shall submit any amended request within 90 days after the day on which the

lieutenant governor rejects the request under Subsection (1)(b)(ii).

(iii) The sponsors may reuse a signature described in Subsection 10-2a-202(1)(a) that is on a rejected request or on an amended request described in Subsection (4)(a)(i).

~~(b) [If a request is] The lieutenant governor shall consider a request that is amended and refiled under Subsection [(3)(a) after having been rejected by the lieutenant governor under Subsection (1)(b)(ii), it shall be considered as a newly filed request, and its processing priority is determined by the date on which it is refiled] (4)(a) as a newly filed request and process the request in accordance with Subsection (3).~~

Section 9. Section 10-2a-205 is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) Within 90 days [of receipt of a certified request] after the day on which the lieutenant governor receives a request that the lieutenant governor certifies under Subsection 10-2a-204(1)(b)(i), the lieutenant governor shall engage [the] a feasibility consultant [chosen under] selected, in accordance with Subsection (2), to conduct a feasibility study.

~~[(2) The feasibility consultant shall be chosen:]~~

~~[(a) (i) by the contact sponsor of the incorporation petition with the consent of the lieutenant governor; or]~~

~~[(ii) by the lieutenant governor if the designated sponsors state, in writing, that the contact sponsor defers selection of the feasibility consultant to the lieutenant governor; and]~~

~~[(b) in accordance with applicable procurement procedures.]~~

(2) (a) The lieutenant governor shall select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(b) The lieutenant governor shall ensure that a feasibility consultant selected under Subsection (2)(a):

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with:

(A) a sponsor of the feasibility study request to which the feasibility study relates; or

(B) the county in which the proposed municipality is located.

(3) The lieutenant governor shall require the feasibility consultant to:

~~[(a) complete the feasibility study and submit the written results to the lieutenant governor,]~~

(a) submit a draft of the feasibility study to each applicable person with whom the feasibility

consultant is required to consult under Subsection (4)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(b) allow each person to whom the consultant provides a draft under Subsection (3)(a) to review and provide comment on the draft;

(c) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed[, and];

(iii) the contact sponsor [no later than 90 days after the feasibility consultant is engaged to conduct the study]; and

(iv) each person to whom the consultant provided a draft under Subsection (3)(a); and

~~[(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and]~~

~~[(e) (d) attend the public hearings [under Subsection 10-2a-207(1) and] described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public [at these hearings].~~

~~[(4) (a) The feasibility study shall consider:]~~

(4) (a) The feasibility consultant shall ensure that the feasibility study includes:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

~~[(ii) current and five-year projections of demographics and economic base in]~~

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed [city] municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

~~[(iii) projected growth in the proposed city and in adjacent areas during the next five years;]~~

~~[(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of governmental services in the proposed city, including:]~~

~~[(A) culinary water;]~~

~~[(B) secondary water;]~~

~~[(C) sewer;]~~

~~[(D) law enforcement;]~~

~~[(E) fire protection;]~~

~~[(F) roads and public works;]~~

~~[(G) garbage;]~~

~~[(H) weeds; and]~~

~~[(I) government offices;]~~

(iii) subject to Subsection (4)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

[(v)] (iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed [city] municipality;

~~[(vi) a projection of any new taxes per household]~~

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (4)(a)(iii) or revenues described in Subsection (4)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the [incorporated area] proposed municipality within five years [of] after incorporation; and]

[(vii)] (viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, local districts, special service districts, and other governmental entities in the county[-]; and

(ix) if the lieutenant governor excludes property from the proposed municipality under Section 10-2a-203, an update to the map and legal description described in Subsection 10-2a-202(1)(e).

(b) (i) For purposes of Subsection (4)(a)[(iv)](iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of [governmental services to be provided to the proposed city in the future] municipal services that fairly and reasonably approximate the level and quality of [governmental] municipal services [being] that are provided to the area of the proposed [city at the time of] municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In determining the present cost of a [governmental service] municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed [city] municipality to provide [governmental] the municipal service for the first five years after the municipality's incorporation; and

(B) the [county's] current municipal service provider's present and five-year projected cost of providing [governmental] the municipal service.

~~[(iii) The costs calculated under Subsection (4)(a)(iv), shall take into account inflation and anticipated growth.]~~

(iii) In calculating costs under Subsection (4)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (3)(a):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) any other special service district that provides services to a portion of the proposed municipality.

(5) If the [five-year] five-year projected revenues calculated under Subsection (4)(a)[(v)](iv) exceed the [five-year] five-year projected costs calculated under Subsection (4)(a)[(iv)](iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(6) (a) Except as provided in Subsection (6)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (4)(a)(iv) does not exceed the average annual cost calculated under Subsection (4)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (6)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (6)(a).

~~[(6)] (7) If the results of the feasibility study or revised feasibility study do not [meet—the requirements of Subsection 10-2a-208(3)] comply with Subsection (6), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study [and if requested by the sponsors of the request], make recommendations [as to] regarding how the boundaries of the proposed [city] municipality may be altered [so that the requirements of Subsection 10-2a-208(3) may be met] to comply with Subsection (6).~~

(8) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.

Section 10. Section 10-2a-206 is amended to read:

10-2a-206. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) ~~[(ii)]~~ The sponsors of a feasibility study request may modify the request to alter the boundaries of the proposed ~~[city and then refile the request, as modified,]~~ municipality and refile the modified request with the lieutenant governor if:

~~[(A)]~~ (i) the results of the feasibility study do not ~~[meet the requirements of Subsection 10-2a-208(3)]~~ comply with Subsection 10-2a-205(6)(a); or

~~[(B)-(D)]~~ (ii) (A) the request ~~[meets the conditions of]~~ complies with Subsection ~~[10-2a-202 10-2a-201.5(4)(b);~~

~~[(H)]~~ (B) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

~~[(I)]~~ (C) an incorporation petition based on the request has not been filed.

~~[(ii)-(A)]~~ (b) (i) [A] The sponsors of a feasibility study request may not file a modified request under Subsection (1)(a)(i)~~[(A) may not be filed]~~ more than 90 days after the ~~[feasibility consultant's submission of the results of the study]~~ day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-205(3)(c).

~~[(B)]~~ (ii) [A] The sponsors of a request may not file a modified request under Subsection ~~[(4)(a)(i)(B) may not be filed]~~ (1)(a)(ii) more than 18 months after ~~[the filing of]~~ filing the original request under Section 10-2a-202.

~~[(b)]~~ (c) (i) Subject to Subsection (1)~~[(b)]~~(c)(ii), each modified request under Subsection (1)(a) shall comply with ~~[the requirements of Subsections 10-2a-202(2), (3), and (4)]~~ Subsections 10-2a-202(1) and (2) and Subsection 10-2a-201.5(4).

(ii) Notwithstanding Subsection (1)~~[(b)]~~(c)(i), a signature on a request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202~~[(2)]~~(1)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% ~~[greater]~~ larger or smaller than the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) Within 20 days after the lieutenant governor's receipt of the modified request, the lieutenant governor shall follow the same procedure under Subsection 10-2a-204(1) for the modified request as ~~[provided under Subsection 10-2a-204(1)]~~ for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same

processing priority under Subsection 10-2a-204~~[(2)]~~(3) as the original request.

(4) Within 10 days after the day on which the lieutenant ~~[governor's receipt of a certified]~~ governor receives a modified request under Subsection (1)(a)~~[(i)(A) or a certified modified request under Subsection (1)(a)(i)(B) that was filed after the completion of a feasibility study on the original request]~~ that relates to a request for which a feasibility study has already been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to ~~[supplement the feasibility study to take into account the information in the modified request that was not included in the original request]~~ conduct a supplemental feasibility study that accounts for the modified request.

(5) The lieutenant governor shall require the feasibility consultant to ~~[complete the supplemental feasibility study and to submit written results of the supplemental study to the lieutenant governor and to the contact sponsor no later than 30 days after the feasibility consultant is commissioned to conduct the supplemental feasibility study.];~~

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not ~~[meet the requirements of Subsection 10-2a-208(3);(i) the sponsors may file a further modified request as provided in Subsection (1); and]~~ comply with Subsection 10-2a-205(6)(a), the sponsors may further modify the request in accordance with Subsection (1).

~~[(ii)]~~ (b) Subsections (2), (4), and (5) apply to a ~~[further]~~ modified request ~~[under]~~ described in Subsection (6)(a)~~[(i)]~~.

~~[(b)]~~ A further modified request under Subsection (6)(a) shall, for purposes of its processing priority, be considered as an original request for a feasibility study under Section 10-2a-202.

(c) The lieutenant governor shall consider a modified request described in Subsection (6)(a) as

an original request for a feasibility study for purposes of determining the modified request's processing priority under Subsection 10-2a-204(3).

Section 11. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study ~~meet the requirements of~~ comply with Subsection ~~10-2a-208(3)~~ 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, ~~schedule~~ conduct at least two public hearings ~~to be held~~:

(a) within ~~the following~~ 60 days after ~~receipt of~~ the day on which the lieutenant governor receives the results;

(b) at least seven days apart;

(c) except in a proposed municipality that will be a city of the fifth class or a town, in geographically diverse locations;

(d) within or near the proposed ~~city, and~~ municipality;

~~[(d) for the purpose of allowing:]~~

~~[(4)]~~ (e) to allow the feasibility consultant to present the results of the feasibility study; and

~~[(ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.]~~

(f) to inform the public about the results of the feasibility study.

(2) At [a] each public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed ~~city~~ municipality;

(b) provide a copy of the feasibility study for public review; ~~and~~

(c) allow members of the public to express ~~its~~ views about the proposed incorporation, including ~~its view~~ views about the proposed ~~boundary~~ boundaries; and

(d) allow the public to ask the feasibility consultant questions about the feasibility study.

(3) (a) (i) The lieutenant governor shall publish notice of the public hearings ~~required under~~ described in Subsection (1):

(A) at least once a week for three ~~successive~~ consecutive weeks before the first hearing in a newspaper of general circulation within the proposed ~~city~~ municipality; and

(B) for three weeks before the first hearing on the Utah Public Notice Website created in Section 63F-1-701~~, for three weeks~~.

(ii) The last ~~publication of~~ notice required to be published under Subsection (3)(a)(i)(A) shall be

published at least three days before the first public hearing ~~required under~~ described in Subsection (1).

(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed ~~city~~ municipality, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed ~~city~~ municipality that are most likely to give notice of the hearings to the residents of the proposed ~~city~~ municipality.

(ii) The lieutenant governor shall post the notices ~~under~~ described in Subsection (3)(b)(i) at least seven days before the first hearing ~~under~~ described in Subsection (1).

(c) The notice ~~under~~ described in Subsections (3)(a) and (b) shall include the feasibility study summary ~~under~~ described in Subsection 10-2a-205(3)(~~b~~)(c) and shall indicate that a full copy of the study is available ~~for inspection and copying~~ on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

~~[(d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.]~~

Section 12. Section 10-2a-208 is amended to read:

10-2a-208. Incorporation petition -- Requirements and form.

(1) At any time within one year ~~of the completion of~~ after the day on which the lieutenant governor completes the public hearings ~~required under~~ Subsection 10-2a-207(1), ~~a petition for incorporation of the area proposed to be incorporated as a city may be filed in the Office of the Lieutenant Governor.]~~ described in Section 10-2a-207, individuals within the proposed municipality may proceed with the incorporation process by circulating and submitting to the lieutenant governor an incorporation petition that, to be certified under Subsection 10-2a-209(1)(b)(i), is required to be signed by:

~~[(2) Each petition under Subsection (1) shall:]~~

~~[(a) be signed by:]~~

~~[(4)]~~ (a) 10% of all registered voters within the area proposed to be incorporated as a ~~city~~ city, according to the official voter registration list ~~maintained by the county on~~ municipality, as of the date the petition is filed; ~~and~~

~~[(ii)]~~ (b) if the petition proposes the incorporation of a city, and subject to Subsection (4), 10% of all registered voters within~~, subject to Subsection (5),~~ 90% of the voting precincts within the area proposed to be incorporated as a city, ~~according to the official voter registration list maintained by the county on~~ as of the date the petition is filed; and

(c) the owners of private real property that:

(i) is located within the proposed municipality;

(ii) covers at least 10% of the total private land area within the proposed municipality; and

(iii) is equal in value to at least 7% of the value of all private real property within the proposed municipality.

(2) The petition sponsors shall ensure that the petition:

[(b)] (a) [indicate] includes the typed or printed name and current residence address of each [owner signing] voter that signs the petition;

[(c)] (b) [describe] describes the area proposed to be incorporated as a [city] municipality, as described in the feasibility study request or modified request that [meets the requirements of Subsection (3)] complies with Subsection 10-2a-205(6)(a);

[(d)] (c) [state] states the proposed name for the proposed [city] municipality;

[(e)] (d) [designate] designates five signers of the petition as petition sponsors, one of whom [shall be] is designated as the contact sponsor, with the mailing address and telephone number of each;

[(f)] (e) [state] if the sponsors propose the incorporation of a city, states that the signers of the petition appoint the sponsors, if the incorporation measure passes, to represent the signers in [the process of]:

(i) selecting the number of commission or council members the new city will have; and

(ii) drawing district boundaries for the election of [commission or] council members, if the voters decide to elect [commission or] council members by district;

[(g)] (f) [be] is accompanied by and circulated with an accurate plat or map, prepared by a licensed surveyor, showing the boundaries of the proposed [city] municipality; and

[(h)] (g) substantially [comply] complies with and [be] is circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed [city] municipality)

To the Honorable Lieutenant Governor:

We, the undersigned ~~[owners of real property]~~ registered voters within the area described in this petition, respectfully petition the lieutenant governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a [city] municipality. Each of the undersigned affirms that each has personally signed this petition and is ~~[an owner of real property]~~ a registered voter who resides within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a [city] municipality is described as

follows: (insert an accurate description of the area proposed to be incorporated).

~~[(3) A petition for incorporation of a city under Subsection (1) may not be filed unless the results of the feasibility study or supplemental feasibility study show that the average annual amount of revenue under Subsection 10-2a-205(4)(a)(v) does not exceed the average annual amount of cost under Subsection 10-2a-205(4)(a)(iv) by more than 5%.]~~

~~[(4) (3) A valid signature on a request [under] described in Section 10-2a-202 or a modified request [under] described in Section 10-2a-206 may not be used toward fulfilling the signature requirement [of] described in Subsection [(2)(a)] (1):~~

~~(a) if the request [under Section 10-2a-202 or modified request under Section 10-2a-206] notified the signer in conspicuous language that the signature, unless withdrawn, would also be used for [purposes of] a petition for incorporation under this section; and~~

~~(b) unless the signer files with the lieutenant governor a written withdrawal of the signature before the petition is filed under this section [is filed] with the lieutenant governor.~~

~~[(5) (4) (a) A signature does not qualify [as a signature to meet the requirement described in Subsection (2)(a)(ii)] under Subsection (1)(b) if the signature is gathered from a voting precinct that:~~

~~(i) except in a proposed municipality that will be a city of the fifth class, is not located entirely within the boundaries of [the] a proposed city; or~~

~~(ii) includes less than 50 registered voters.~~

~~(b) A voting precinct that is not located entirely within the boundaries of the proposed city does not qualify as a voting precinct [to meet the precinct requirements of Subsection (2)(a)(ii)] under Subsection (1)(b).~~

Section 13. Section 10-2a-209 is amended to read:

10-2a-209. Processing of petition by lieutenant governor -- Certification or rejection -- Petition modification.

(1) Within 45 days ~~[of the filing of a petition]~~ after the day on which an incorporation petition is filed under Section 10-2a-208, the lieutenant governor shall:

(a) with the assistance of other county officers of the county in which the incorporation is proposed, and from whom the lieutenant governor requests assistance, determine whether the petition ~~[meets the requirements of]~~ complies with Section 10-2a-208; and

(b) (i) if the lieutenant governor determines that the petition ~~[meets those requirements]~~ complies with Section 10-2a-208, certify the petition and notify in writing the contact sponsor of the certification; or

(ii) if the lieutenant governor determines that the petition fails to ~~[meet any of those requirements]~~ comply with Section 10-2a-208, reject the petition

and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(2) (a) If the lieutenant governor rejects a petition under Subsection (1)(b)(ii), the petition ~~may be modified to~~ sponsors may correct the deficiencies for which ~~it~~ the petition was rejected and ~~then refiled~~ refile the petition with the lieutenant governor.

(b) ~~[A]~~ Notwithstanding the deadline described in Subsection 10-2a-208(1), the petition sponsors may file a modified petition under Subsection (2)(a) ~~may be filed at any time until~~ no later than 30 days after the day on which the lieutenant governor notifies the contact sponsor of rejection under Subsection (1)(b)(ii) ~~even though the modified petition is filed after the expiration of the deadline provided in Subsection 10-2a-208(1).~~

(c) A valid signature on an incorporation petition ~~under~~ described in Section 10-2a-208 may be used toward fulfilling the signature requirement ~~of Subsection 10-2a-208(2)(a) for the petition as~~ described in Subsection 10-2a-208(1) for a petition that is modified under Subsection (2)(a).

(3) (a) Within 20 days ~~of the lieutenant governor's receipt of~~ after the day on which the lieutenant governor receives a modified petition under Subsection (2)(a), the lieutenant governor shall ~~follow the same procedure for the modified petition as provided under Subsection (1) for an original petition~~ review the modified petition in accordance with Subsection (1).

~~[(b) If the lieutenant governor rejects a modified petition under Subsection (1)(b)(ii), no further modification of that petition may be filed.]~~

(b) The sponsors of an incorporation petition may not modify the petition more than once.

Section 14. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election.

~~[(1) (a) Upon receipt of a certified petition under Subsection 10-2a-209(1)(b)(i) or a certified modified petition under Subsection 10-2a-209(3), the lieutenant governor shall:]~~

~~[(i) determine and set an election date for the incorporation election that is:]~~

~~[(A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and]~~

~~[(B) at least 65 days after the day that the lieutenant governor receives the certified petition; and]~~

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section

20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

~~[(ii)]~~ (b)(i) The lieutenant governor shall direct the county legislative body of the county in which the ~~incorporation is~~ proposed municipality is located to hold the election on the date ~~determined by~~ that the lieutenant governor ~~in accordance with~~ schedules under Subsection (1)(a)(i).

~~[(b)]~~ (ii) The county shall hold the election as directed by the lieutenant governor ~~in accordance with Subsection (1)(a)(ii)]~~ under Subsection (1)(b)(i).

~~[(e) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.]~~

(2) (a) ~~[The]~~ Except as provided in Subsection (2)(d)(i), the county clerk shall publish notice of the election:

(i) at least once a week for three consecutive weeks before the election in a newspaper of general circulation within ~~the area proposed to be incorporated at least once a week for three successive weeks~~ the proposed municipality; and

(ii) for three weeks before the election in accordance with Section 45-1-101 ~~for three weeks~~.

(b) The notice ~~required by Subsection (2)(a)]~~ described in Subsections (2)(a) and (d) shall contain:

(i) a ~~statement~~ description of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a ~~city~~ municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) the feasibility study summary ~~under~~ described in Subsection 10-2a-205(3)~~[(b)](c)~~ and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection ~~and copying~~ at the Office of the Lieutenant Governor.

(c) The last ~~publication of~~ notice required to be published under Subsection (2)(a) shall ~~occur~~ be published at least one day, but no more than seven days, before the election.

(d) (i) ~~[In accordance with Subsection (2)(a)(i), if]~~ If there is no newspaper of general circulation within the proposed ~~city~~ municipality, the county clerk shall post at least one notice of the election, and at least one additional notice of the election per 1,000 population of the proposed municipality, in conspicuous places within the proposed ~~city~~ municipality that are most likely to give notice of the election to the voters of the proposed ~~city~~ municipality.

(ii) The clerk shall post the notices ~~under~~ described in Subsection (2)(d)(i) at least seven days before the election ~~under Subsection (1)~~.

(3) An individual may not vote in an incorporation election under this section unless the

individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

~~(3)~~ (4) If a majority of those ~~leasting votes within the area boundaries of the proposed city vote to incorporate as a city,~~ who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 15. Section 10-2a-211 is amended to read:

10-2a-211. Ballot used in incorporation election.

(1) (a) The ballot ~~[at the]~~ used in an incorporation election ~~[under Subsection 10-2a-210(1)]~~ described in Section 10-2a-210 shall pose the incorporation question substantially as follows:

“Shall the area described as (insert a description of the proposed [city] municipality) be incorporated as ~~[the city of]~~ (insert the proposed name of the proposed [city] municipality)?”

~~(2)~~ (b) The ballot shall provide a space for the voter to answer “yes” or “no” to the question described in Subsection (1)(a).

~~(3)~~ (a) (2) The ballot ~~[at the]~~ for an incorporation election for a proposed city shall also:

(a) (i) pose the question relating to the form of government substantially as follows:

“If the above incorporation proposal passes, under what form of municipal government shall (insert the name of the proposed city) operate? Vote for one:

Five-member council form

Six-member council form

Five-member council-mayor form

Seven-member council-mayor form.”

~~(b)~~ (ii) ~~[The ballot shall]~~ provide a space for the voter to vote for one form of government~~[-]; and~~

~~(4)~~ (a) ~~The ballot at the incorporation election shall also]~~

(b) (i) pose the question of whether to elect city council members by district substantially as follows:

“If the above incorporation proposal passes, shall members of the city council of (insert the name of the proposed city) be elected by district?”; and

~~(b)~~ (ii) ~~[The ballot shall]~~ provide a space for the voter to answer “yes” or “no” to the question described in Subsection ~~[(4)(a)]~~ (2)(b)(i).

Section 16. Section 10-2a-212 is amended to read:

10-2a-212. Notification to lieutenant governor of incorporation election results.

Within 10 days ~~[of]~~ after the day on which the county conducts a canvass of the incorporation election, the county clerk shall send written notice to the lieutenant governor of:

(1) the results of the election; and

(2) if the incorporation measure passes~~[(a)]~~, the name of the ~~[city; and]~~ municipality.

~~[(b) the class of the city as provided under Section 10-2-301.]~~

Section 17. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within ~~[25 days of the]~~ 60 days after the day on which the county conducts the canvass of the election under Section ~~[10-2a-210]~~ 10-2a-212:

(a) for the incorporation of a city:

~~(a)~~ (i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the ~~[future]~~ city; and

~~(b)~~ (ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

~~(e)~~ (i) determine the initial terms of the mayor and members of the [city] municipal council so that:

~~(i)~~ (A) the mayor and approximately half the members of the [city] municipal council are elected to serve an initial term, of no less than one year, that allows ~~[their]~~ the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

~~(ii)~~ (B) the remaining members of the [city] municipal council are elected to serve an initial term, of no less than one year, that allows ~~[their]~~ the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

~~(d)~~ (ii) submit in writing to the county legislative body the results of the ~~[sponsors' determinations]~~ determinations made by the sponsors under Subsections (1)(a)~~[-(b), and (e)]~~ and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

~~(2)~~ (3) (a) Before making a determination under Subsection ~~[(1)(a), (b), or (e)]~~ (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future [city] municipality on the applicable issues ~~[under]~~ described in Subsections (1)(a)~~[-(b), and (e)]~~ and (b)(i).

(b) (i) ~~[The]~~ Except as provided in Subsection (3)(c), the petition sponsors shall publish notice of the public hearing ~~[under]~~ described in Subsection ~~[(2)]~~ (3)(a):

(A) at least once a week for two consecutive weeks before the hearing in a newspaper of general circulation within the future [city at least once a week for two successive weeks before the hearing] municipality; and

(B) for two weeks before the hearing on the Utah Public Notice Website created in Section 63F-1-701[, for two weeks before the hearing].

(ii) The last ~~[publication of]~~ notice required to be published under Subsection ~~[(2)]~~ (3)(b)(i)(A) shall be published at least three days before the public hearing [under] described in Subsection [(2)] (3)(a).

(c) (i) ~~[In accordance with Subsection (2)(b)(i)(A), if]~~ If there is no newspaper of general circulation within the future [city] municipality, the petition sponsors shall post at least one notice of the hearing, and at least one additional notice of the hearing per 1,000 population of the proposed municipality, in conspicuous places within the future [city] municipality that are most likely to give notice of the hearing to the residents of the future [city] municipality.

(ii) The petition sponsors shall post the notices ~~[under]~~ described in Subsection ~~[(2)]~~ (3)(c)(i) at least seven days before the hearing ~~[under]~~ described in Subsection ~~[(2)]~~ (3)(a).

Section 18. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) (a) Within 20 days ~~[of the county legislative body's receipt of the information]~~ after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)~~[(d)]~~(b)(ii), the county clerk shall publish, in accordance with Subsection (1)(b), notice containing:

(i) the number of ~~[commission or]~~ municipal council members to be elected for the new [city] municipality;

(ii) if some or all of the ~~[commission or]~~ municipal council members are to be elected by district, a description of the boundaries of those districts ~~[as designated by the petition sponsors under Subsection 10-2a-213(1)(b)];~~

(iii) information about the deadline for ~~[filing]~~ an individual to file a declaration of candidacy ~~[for those seeking to become candidates]~~ to become a candidate for mayor or ~~[city commission or]~~ municipal council; and

(iv) information about the length of the initial term of each of the ~~[city officers, as determined by the petition sponsors under Subsection 10-2a-213(1)(e)]~~ municipal officers.

~~[(b) The notice under Subsection (1)(a) shall be published;]~~

(b) Except as provided in Subsection (1)(c), the county clerk shall publish the notice described in Subsection (1)(a):

(i) at least once a week for two consecutive weeks, before the deadline for filing a declaration of candidacy under Subsection (2), in a newspaper of general circulation within the future [city- at least once a week for two successive weeks] municipality; and

(ii) for two weeks, before the deadline for filing a declaration of candidacy under Subsection (2), in accordance with Section 45-1-101 [for two weeks].

(c) (i) ~~[In accordance with Subsection (1)(b)(i), if]~~ If there is no newspaper of general circulation within the future [city] municipality, the county clerk shall post at least one notice described in Subsection (1)(a), and one additional notice described in Subsection (1)(a) per 1,000 population of the proposed municipality, in conspicuous places within the future [city] municipality that are most likely to give notice to the residents of the future [city] municipality.

~~[(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).]~~

~~[(iii) (ii) [The petition sponsors]~~ The county clerk shall post the notices ~~[under]~~ described in Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(2) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or ~~[city commission or]~~ municipal council of a [city] municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future [city] municipality is located and in accordance with ~~[the deadlines set by the clerk as authorized by Section 10-2a-215.];~~

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 19. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of [city] municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited ~~[by]~~ under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election ~~[under]~~ described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

~~[(a)]~~ (i) appropriate to the form of government chosen by the voters at the incorporation election;

~~[(b)]~~ (ii) consistent with the voters' decision about whether to elect ~~[commission or]~~ city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

~~[(c)]~~ (iii) consistent with the sponsors' determination of the number of ~~[commission or]~~ city council members to be elected ~~[and the length of their initial term].~~

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election ~~[under]~~ described in Subsection (1)(a) shall be held at the earliest of the next:

~~[(i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;]~~

~~[(ii)]~~ (i) [notwithstanding Subsection 20A-1-201.5(2),] regular primary election ~~[under]~~ described in Subsection 20A-1-201.5(1); or

~~[(iii)]~~ (ii) municipal primary election ~~[under]~~ described in Section 20A-9-404~~[- or].~~

~~[(iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.]~~

(b) The county shall hold the primary election, if necessary, on the next ~~[earliest]~~ election date [listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least: (i) 75 days] described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210~~[- and].~~

~~[(ii) 65 days after the last day of the candidate filing period.]~~

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election ~~[under]~~ described in Subsection (1)(b) ~~[on one of the following election dates]:~~

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

~~[(i)]~~ (ii) a regular general election ~~[under]~~ described in Section 20A-1-201; or

~~[(ii)]~~ (iii) municipal primary election under Section 20A-9-404~~[-];~~

~~[(iii)]~~ (iii) a regular municipal general election under Section 20A-1-202~~[-]; or].~~

~~[(iv) regular primary election under Section 20A-1-201.5.]~~

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii)~~[- or (iv)]:~~

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) (a) (i) ~~[The]~~ Except as provided in Subsection (5)(b), the county clerk shall publish notice of an election conducted under this section:

(A) at least once a week for two [successive] consecutive weeks before the election in a newspaper of general circulation within the future [city] municipality; and

(B) for two weeks in accordance with Section 45-1-101 ~~[for two weeks].~~

(ii) The ~~[later]~~ last notice required to be published under Subsection (5)(a)(i) shall be published at least one day, but no more than seven days, before the election.

(b) (i) ~~[In accordance with Subsection (5)(a)(i)(A), if]~~ If there is no newspaper of general circulation within the future [city] municipality, the county clerk shall post at least one notice of the election, and at least one additional notice of the election per 1,000 population in the proposed municipality, in conspicuous places within the future [city] municipality that are most likely to give notice of the election to the voters of the municipality.

(ii) The county clerk shall post the notices ~~[under]~~ described in Subsection (5)(b)(i) at least seven days before each election ~~[under]~~ described in Subsection (1).

(6) ~~[(a)]~~ Until the [city] municipality is incorporated, the county clerk:

~~[(i)]~~ (a) is the election officer for all purposes ~~[in an election of officers of the city approved at an incorporation election; and]~~ related to the election of municipal officers;

~~[(ii)]~~ (b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law~~[-];~~

~~[(b)]~~ (c) ~~[The county clerk]~~ shall require and determine deadlines for ~~[the filing of]~~ municipal office candidates to file campaign financial disclosures [of city officer candidates] in accordance with Section 10-3-208~~[-]; and~~

~~[(c)]~~ The county clerk is responsible to ensure that~~[-].~~

~~[(i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and]~~

~~[(ii)]~~ (d) shall ensure that the ballot for the election includes each office that is required to be

included in the election for officers of the newly incorporated [city and] municipality, including the term of each office.

(7) ~~[A person]~~ An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements ~~[of]~~ described in Section 10-3-208; and

(b) the requirements and deadlines ~~[as lawfully set forth]~~ established by the county clerk under this section.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(2)(c)(ii).

Section 20. Section 10-2a-216 is amended to read:

10-2a-216. Notification to lieutenant governor of election of municipal officers.

Within 10 days ~~[of]~~ after the day on which the county conducts the canvass of the final election of [city] municipal officers under Section 10-2a-215, the county clerk shall send written notice to the lieutenant governor of the name and position of each officer elected in a new municipality and the term for which each has been elected.

Section 21. Section 10-2a-217 is amended to read:

10-2a-217. Filing of notice and approved final local entity plat with lieutenant governor -- Effective date of incorporation -- Necessity of recording documents and effect of not recording.

(1) The mayor of the future [city] municipality shall:

(a) within 30 days after the day of the canvass of the final election of [city] municipal officers under Section 10-2a-215, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that ~~[meets the requirements of]~~ complies with Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5:

(i) if the [city] municipality is located within the boundary of a single county, submit to the recorder of that county the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; or

(ii) if the [city] municipality is located within the boundaries of more than ~~[a single]~~ one county, submit the original of the documents ~~[listed in Subsections (1)(b)(i)(A), (B), and (C)]~~ described in Subsection (1)(b)(i) to one of those counties and a certified copy of those documents to each other county.

(2) (a) The incorporation of a new municipality is effective upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5.

(b) Notwithstanding any other provision of law, a [city] municipality is conclusively presumed to be lawfully incorporated and existing if, for two years following the [city's] municipality's incorporation:

(i) (A) the [city] municipality has levied and collected a property tax; or

(B) for a [city] municipality incorporated on or after July 1, 1998, the [city] municipality has imposed a sales and use tax; and

(ii) no challenge to the existence or incorporation of the [city] municipality has been filed in the district court for the county in which the [city] municipality is located.

(3) (a) The effective date of an incorporation for purposes of assessing property within the new [city] municipality is governed by Section 59-2-305.5.

(b) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated [city] municipality may not:

(i) levy or collect a property tax on property within the [city] municipality;

(ii) levy or collect an assessment on property within the [city] municipality; or

(iii) charge or collect a fee for service provided to property within the [city] municipality.

Section 22. Section 10-2a-218 is amended to read:

10-2a-218. Powers of officers-elect.

(1) ~~[Upon the]~~ After the county conducts the canvass of the final election of [city] municipal officers under Section 10-2a-215, and until the future [city] municipality becomes legally incorporated, the officers of the future [city] municipality may:

(a) prepare and adopt, under Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, a proposed budget and compilation of ordinances;

(b) negotiate and make personnel contracts and hirings;

(c) negotiate and make service contracts;

(d) negotiate and make contracts to purchase equipment, materials, and supplies;

(e) borrow funds from the county in which the future [city] municipality is located under Subsection 10-2a-219(3);

(f) borrow funds for startup expenses of the future [city] municipality;

(g) issue tax anticipation notes in the name of the future [city] municipality; and

(h) make appointments to the [city's] municipality's planning commission.

(2) The ~~[city's legislative body]~~ municipal council shall review and ratify each contract made by ~~[the officers]~~ a municipal officer under Subsection (1) within 30 days after the day on which the municipality's incorporation is effective ~~[date of incorporation]~~ under Section 10-2a-217.

Section 23. Section 10-2a-219 is amended to read:

10-2a-219. Division of municipal service revenues -- County may provide startup funds.

(1) The county in which an area incorporating under this part is located shall, until the ~~[date of the city's]~~ day on which the municipality's incorporation is effective under Section 10-2a-217, continue to:

(a) ~~[to]~~ levy and collect ad valorem property tax and other revenues from or pertaining to the future [city] municipality; and

(b) except as otherwise agreed by the county and the officers of the [city] municipality, to provide the same services to the future [city] municipality as the county provided before the commencement of the incorporation proceedings.

(2) (a) The legislative body of the county in which a newly incorporated [city] municipality is located shall share pro rata with the new [city] municipality, based on the date of incorporation, the taxes and service charges or fees levied and collected by the county under Section 17-34-3 during the year of the new [city's] municipality's incorporation if and to the extent that the new [city] municipality provides, by itself or by contract, the same services for which the county levied and collected the taxes and service charges or fees.

(b) (i) The legislative body of a county in which a [city] municipality incorporated after January 1, 2004, is located may share with the new [city] municipality taxes and service charges or fees that were levied and collected by the county under Section 17-34-3:

(A) before the year of the new [city's] municipality's incorporation;

(B) from the previously unincorporated area that, because of the [city's] municipality's incorporation, is located within the boundaries of the newly incorporated [city] municipality; and

(C) ~~[for the purpose of providing]~~ to provide services to the area that before the new [city's] municipality's incorporation was unincorporated.

(ii) A county legislative body may share taxes and service charges or fees under Subsection (2)(b)(i) by a direct appropriation of funds or by a credit or

offset against amounts due under a contract for ~~[municipal-type services]~~ a municipal service provided by the county to the new [city] municipality.

(3) (a) The legislative body of a county in which an area incorporating under this part is located may appropriate county funds to:

(i) before incorporation but after the canvass of the final election of [city] municipal officers under Section 10-2a-215, the officers of the future [city] municipality to pay startup expenses of the future [city] municipality; or

(ii) after incorporation, the new [city] municipality.

(b) Funds appropriated under Subsection (3)(a) may be distributed in the form of a grant, a loan, or as an advance against future distributions made under Subsection (2).

Section 24. Section 10-2a-220 is amended to read:

10-2a-220. Costs of incorporation -- Fees established by lieutenant governor.

(1) (a) There is created an expendable special revenue fund known as the "Municipal Incorporation Expendable Special Revenue Fund."

(b) The fund shall consist of:

(i) appropriations from the Legislature; and

(ii) fees the Office of the Lieutenant Governor collects and remits to the fund under this section.

(c) The Office of the Lieutenant Governor shall deposit all money collected under this section into the fund.

~~[(1)]~~ (2) (a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor for an incorporation proceeding, including:

(i) a request certification;

(ii) a feasibility study;

(iii) a petition certification;

(iv) publication of notices;

(v) public hearings;

(vi) all other incorporation activities occurring after the elections; and

(vii) any other cost incurred by the lieutenant governor in relation to an incorporation proceeding.

(b) A cost under Subsection ~~[(1)]~~ (2)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.

~~[(2) Subject to Subsection (3)(a), the lieutenant governor shall, by supplemental appropriations,]~~

(3) The lieutenant governor shall pay for a cost described in ~~[Subsections (1)(a)(i) through (vii)]~~ Subsection (2)(a) using funds from the Municipal Incorporation Expendable Special Revenue Fund.

~~[(3) If incorporation occurs, the new city shall pay:]~~

(4) (a) An area that incorporates as a municipality shall pay:

~~[(a)] (i) to the lieutenant governor each fee established under Subsection ~~[(4)] (2)~~ for each ~~incurred cost described in Subsections (1)(a)(i) through (vii)]~~ cost described in Subsection (2)(a) incurred by the lieutenant governor; and~~

~~[(b)] (ii) the county for a cost described in Subsection ~~[(4)] (2)(b)~~.~~

(b) The lieutenant governor shall execute a payback agreement with each new municipality for the new municipality to pay the fees described in Subsection (4)(a) over a period that, except as provided in Subsection (4)(c), may not exceed five years.

(c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the deadline described in Subsection (4)(b) by amending the payback agreement described in Subsection (4)(b).

(d) The lieutenant governor shall deposit each fee the lieutenant governor collects under Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue Fund.

(5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable Special Revenue Fund that are not repaid to the lieutenant governor under Subsection (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall appropriate money to the fund in an amount equal to the funds that are not repaid.

Section 25. Section 10-2a-402 is amended to read:

10-2a-402. Application.

(1) The provisions of this part:

(a) apply to a planning township that is:

(i) located in a county of the first class; and

(ii) established before January 1, 2015; and

(b) do not apply to a planning advisory area, as defined in Section 17-27a-103, or any other unincorporated area located outside of a county of the first or second class.

(2) (a) The provisions of Part 2, Incorporation of a ~~[City, and Part 3, Incorporation of a Town,]~~ Municipality, apply to an unincorporated area described in Subsection (1) for an incorporation as a city after November 3, 2015.

(b) The provisions of Chapter 2, Part 4, Annexation, apply to an unincorporated island that is not annexed at an election under this part for purposes of annexation on or after November 4, 2015.

Section 26. Section 10-2a-413 is amended to read:

10-2a-413. Incorporation under this part subject to other provisions.

(1) An incorporation of a metro township, city, or town under this part is subject to the following provisions to the same extent as the incorporation of a city under Part 2, Incorporation of a ~~[City]~~ Municipality:

(a) Section 10-2a-217;

(b) Section 10-2a-219; and

(c) Section 10-2a-220.

(2) An incorporation of a city or town under this part is subject to Section 10-2a-218 to the same extent as the incorporation of a city or town under Part 2, Incorporation of a ~~[City]~~ Municipality.

Section 27. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2) (a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5) (a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether ~~[or not]~~ Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

(x) a vote on the creation of a study committee under Sections 17-52a-302 and 17-52a-304;

(xi) a vote on a special property tax under Section 53F-8-402;

(xii) a vote on the incorporation of a [city] municipality in accordance with Section 10-2a-210; or

~~[(xiii) a vote on the incorporation of a town in accordance with Section 10-2a-304; or]~~

~~[(xiv)]~~ (xiii) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 28. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Agent of a reporting entity" means:

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

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments,

and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a candidate or political party at less than fair market value that are not authorized by or coordinated with the candidate or political party.

(7) “Coordinated with” means that goods or services provided for the benefit of a candidate or political party are provided:

(a) with the candidate’s or political party’s prior knowledge, if the candidate or political party does not object;

(b) by agreement with the candidate or political party;

(c) in coordination with the candidate or political party; or

(d) using official logos, slogans, and similar elements belonging to a candidate or political party.

(8) (a) “Corporation” means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) “Corporation” does not mean:

(i) a business organization’s political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) “County political party” means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) “County political party officer” means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) “Detailed listing” means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the person or entity to whom it was disbursed;

(iii) the specific purpose, item, or service acquired by the expenditure; and

(iv) the date the expenditure was made.

(12) (a) “Donor” means a person that gives money, including a fee, due, or assessment for membership

in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) “Donor” does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) “Election” means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) “Electioneering communication” means a communication that:

(a) has at least a value of \$10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate’s or judge’s election date.

(15) (a) “Expenditure” means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate’s personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value.

(b) “Expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) “Federal office” means the office of president of the United States, United States Senator, or United States Representative.

(17) “Filing entity” means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) “Financial statement” includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) “Governing board” means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) “Incorporation” means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) “Incorporation election” means the election ~~authorized by~~ conducted under Section 10-2a-210~~, 10-2a-304,~~ or 10-2a-404.

(22) “Incorporation petition” means a petition ~~authorized by~~ described in Section 10-2a-208 ~~or 10-2a-302.5~~.

(23) “Individual” means a natural person.

(24) “In-kind contribution” means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) “Interim report” means a report identifying the contributions received and expenditures made since the last report.

(26) “Legislative office” means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) “Legislative office candidate” means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person’s nomination, election, or appointment to a legislative office.

(28) “Major political party” means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(29) “Officeholder” means a person who holds a public office.

(30) “Party committee” means any committee organized by or authorized by the governing board of a registered political party.

(31) “Person” means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(32) “Personal campaign committee” means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(33) “Personal use expenditure” has the same meaning as provided under Section 20A-11-104.

(34) (a) “Political action committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) “Political action committee” includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) “Political action committee” does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(35) (a) “Political consultant” means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) “Political consultant” includes a circumstance described in Subsection (35)(a), where the person:

(i) has already been paid, with money or other consideration;

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

(iii) understands that the person may, in the discretion of the reporting entity or another person

on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(36) “Political convention” means a county or state political convention held by a registered political party to select candidates.

(37) (a) “Political issues committee” means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) “Political issues committee” does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (37)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than \$5,000 for the purpose described in Subsection (37)(b)(vi)(A).

(38) (a) “Political issues contribution” means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) “Political issues contribution” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(39) (a) “Political issues expenditure” means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) “Political issues expenditure” does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(40) “Political purposes” means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(41) (a) “Poll” means the survey of a person regarding the person’s opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) “Poll” does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(42) “Primary election” means any regular primary election held under the election laws.

(43) “Publicly identified class of individuals” means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(44) “Public office” means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(45) (a) “Public service assistance” means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder’s constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) “Public service assistance” does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(46) “Receipts” means contributions and public service assistance.

(47) “Registered lobbyist” means a person registered under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(48) “Registered political action committee” means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(49) “Registered political issues committee” means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(50) “Registered political party” means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(51) (a) “Remuneration” means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator’s ordinary course of business.

(b) “Remuneration” does not mean anything of economic value given to a legislator by:

(i) the legislator’s primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator’s ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(52) “Reporting entity” means a candidate, a candidate’s personal campaign committee, a judge,

a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(53) "School board office" means the office of state school board.

(54) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(55) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(56) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(57) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(58) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 29. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

~~[(1) On July 1, 2018, the following are repealed:]~~

~~[(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";]~~

~~[(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";]~~

~~[(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";]~~

~~[(d) Section 10-2a-302;]~~

~~[(e) Subsection 10-2a-302.5(2)(a);]~~

~~[(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";]~~

~~[(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";]~~

~~[(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and]~~

~~[(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5) or".]~~

~~[(2)] (1) Subsection 10-9a-304(2) is repealed June 1, 2020.~~

~~[(3)] (2) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

Section 30. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Subsection 20A-5-302(2) and Sections 20A-5-802 and 20A-5-803;

(x) conduct the study described in Section 67-1a-14;

(xi) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xii) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new [city's] municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part

2, Incorporation of a [City] Municipality, based on the [city's] municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new [city] municipality belongs based on the [city's] municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the [city's] municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and

(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.

(d) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(e) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(f) (i) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 31. Repealer.

This bill repeals:

Section 10-2a-221, Incorporation petition or feasibility study before May 8, 2012.

Section 10-2a-301, Title.

Section 10-2a-302.5, Incorporation of a town -- Petition.

Section 10-2a-303, Incorporation of a town -- Public hearing on feasibility.

Section 10-2a-304, Incorporation of a town -- Election to incorporate -- Ballot form.

Section 10-2a-305, Form of government -- Determination of council officer terms -- Hearings and notice.

Section 10-2a-305.1, Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for city office -- Occupation of office.

Section 10-2a-305.2, Election of officers of new town -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

Section 10-2a-306, Notice to lieutenant governor -- Effective date of incorporation -- Effect of recording documents.

Section 10-2a-307, Costs of town incorporation -- Fees established by lieutenant governor.

Section 32. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. The

Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To the Municipal Incorporation Expendable Special Revenue Fund

From General Fund, One-time \$40,000

Schedule of Programs:

Municipal Incorporation Expendable Special Revenue Fund \$40,000

Section 33. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Subsection 10-2a-106(3), from "this bill" to the bill's designated chapter number in the Laws of Utah.

Section 34. Coordinating S.B. 35 with S.B. 33 -- Substantive and technical amendments.

If this S.B. 35 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(1) Subsection 10-2a-207(3) is amended to read:

"(3) ~~[(a)-(i)]~~ The lieutenant governor shall publish notice of the public hearings ~~[required under]~~ described in Subsection (1):

~~[(A)]~~ (a) (i) at least once a week for three ~~[successive]~~ consecutive weeks before the first public hearing in a newspaper of general circulation within the proposed ~~[city]~~ municipality; ~~[and]~~

(ii) if there is no newspaper of general circulation in the proposed municipality, at least three weeks before the day of the first public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

(iii) at least three weeks before the first public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

~~[(B)]~~ (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks~~[-]~~ before the day of the first public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the first public hearing; and (d) on the lieutenant governor's website for three weeks before the day of the first public hearing.

~~[(iii)] (4) The last [publication of] notice required to be published under Subsection (3)(a)(i)[(A)] shall be at least three days before the first public hearing required under Subsection (1).~~

~~[(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.]~~

~~[(ii) The lieutenant governor shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).]~~

~~[(c) The notice under Subsections (3)(a) and (b)]~~

~~(5) (a) Except as provided in Subsection (5)(b), the notice described in Subsection (3) shall include the feasibility study summary [under] described in Subsection 10-2a-205(3)[(b)](c) and shall indicate that a full copy of the study is available [for inspection and copying] on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.~~

~~[(d) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.]~~

~~(b) Instead of publishing the feasibility summary under Subsection (5)(a), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasibility study:~~

- ~~(i) the lieutenant governor's website;~~
- ~~(ii) the physical address of the Office of the Lieutenant Governor; and~~
- ~~(iii) a mailing address and telephone number.”;~~

~~(2) Subsections 10-2a-210(2) and (3) are amended to read:~~

~~“(2) [(a)] The county clerk shall publish notice of the election:~~

~~(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks[; and] before the election;~~

~~(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or~~

~~(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;~~

~~(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;~~

~~[(iii)] (c) in accordance with Section 45-1-101, for three weeks[;] before the day of the election; and~~

~~(d) on the county's website for three weeks before the day of the election.~~

~~[(b)] (3) (a) The notice required by Subsection (2)[(a)] shall contain:~~

- ~~(i) a statement of the contents of the petition;~~
- ~~(ii) a description of the area proposed to be incorporated as a [city] municipality;~~
- ~~(iii) a statement of the date and time of the election and the location of polling places; and~~

~~(iv) except as provided in Subsection (3)(c), the feasibility study summary [under] described in Subsection 10-2a-205(3)[(b)](c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection [and copying] at the Office of the Lieutenant Governor.~~

~~[(e)] (b) The last [publication of] notice required to be published under Subsection (2)(a)(i) shall [occur] be published at least one day, but no more than seven days, before the day of the election.~~

~~[(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.]~~

~~[(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).]~~

~~(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:~~

- ~~(i) the lieutenant governor's website;~~
- ~~(ii) the physical address of the Office of the Lieutenant Governor; and~~
- ~~(iii) a mailing address and telephone number.~~

~~(4) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.~~

~~[(3)] (5) If a majority of those [casting votes within the area boundaries of the proposed city vote to incorporate as a city,] who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.”;~~

~~(3) Subsections 10-2a-213(2) and (3) are amended to read:~~

~~“[(2)-(a)] (3) Before making a determination under Subsection (1)(a)[, (b), or (e)] or (b)(i), the petition~~

sponsors shall hold a public hearing within the future [city] municipality on the applicable issues [under] described in Subsections (1)(a)[- (b), and - (e)] and (b)(i).

~~(b)~~ (i) (4) The petition sponsors shall publish notice of the public hearing [under] described in Subsection ~~(2)(a)~~ (3):

~~(A)~~ (a) (i) in a newspaper of general circulation within the future [city] municipality at least once a week for two successive weeks before the public hearing; [and]

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

~~(B)~~ (b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing[-];

(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing; and

(d) on the county's website for two weeks before the day of the public hearing.

~~(ii)~~ (5) The last [publication of] notice required to be published under Subsection ~~(2)(b)(i)(A)~~ (4)(a)(i) shall be published at least three days before the day of the public hearing [under] described in Subsection ~~(2)(a)~~ (3).

~~(c)~~ (i) In accordance with Subsection ~~(2)(b)(i)(A)~~, if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.

~~(ii)~~ The petition sponsors shall post the notices under Subsection ~~(2)(c)(i)~~ at least seven days before the hearing under Subsection ~~(2)(a)~~[-];

(4) Section 10-2a-214 is amended to read:

"10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

(1) ~~(a)~~ Within 20 days [of the county legislative body's receipt of the information] after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)~~(d)~~(b)(ii), the county clerk shall publish, in accordance with Subsection ~~(1)(b)~~ (2), notice containing:

~~(i)~~ (a) the number of [commission or] municipal council members to be elected for the new [city] municipality;

~~(ii)~~ (b) except as provided in Subsection (3), if some or all of the [commission or] municipal council members are to be elected by district, a description of the boundaries of those districts [as designated by the petition sponsors under Subsection 10-2a-213(1)(b)];

~~(iii)~~ (c) information about the deadline for [filing] an individual to file a declaration of candidacy [for those seeking to become candidates] to become a candidate for mayor or [city commission or] municipal council; and

~~(iv)~~ (d) information about the length of the initial term of each of the [city officers, as determined by the petition sponsors under Subsection 10-2a-213(1)(e)] municipal officers.

~~(b)~~ (2) The county clerk shall publish the notice [under] described in Subsection (1)~~(a)~~ shall be published:

(a) (i) in a newspaper of general circulation within the future [city] at least once a week for two [successive] consecutive weeks; [and]

(ii) if there is no newspaper of general circulation in the future municipality, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality; or

(iii) by mailing notice to each residence in the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks;

~~(ii)~~ (c) in accordance with Section 45-1-101, for two weeks[-]; and

(d) on the county's website for two weeks.

~~(c)~~ (i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.

~~(ii)~~ The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).

~~(iii)~~ The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

~~[(2)]~~ (4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or ~~[city commission or]~~ municipal council of a [city] municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future [city] municipality is located and in accordance with [the deadlines set by the clerk as authorized by Section 10-2a-215-];

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.”; and

(5) Subsections 10-2a-215(5) and (6) are amended to read:

“(5) [(a) (i)] The county clerk shall publish notice of an election under this section:

~~[(A)]~~ (a) (i) in accordance with Subsection (6), at least once a week for two [successive] consecutive weeks before the election in a newspaper of general circulation within the future [city] municipality; [and]

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the election;

~~[(B)]~~ (c) in accordance with Section 45-1-101, for two weeks[.] before the day of the election; and

(d) on the county’s website for two weeks before the day of the election.

~~[(ii)]~~ (6) The ~~[later]~~ last notice required to be published under Subsection (5)(a)(i) shall be published at least one day but no more than seven days before the day of the election.

~~[(b) (i)]~~ In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.]

~~[(ii)]~~ The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).]

~~[(6) (a)]~~ (7) Until the [city] municipality is incorporated, the county clerk:

~~[(i)]~~ (a) is the election officer for all purposes ~~[in an election of officers of the city approved at an incorporation election; and]~~ related to the election of municipal officers;

~~[(ii)]~~ (b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law[.];

~~[(b)]~~ (c) ~~[The county clerk]~~ shall require and determine deadlines for ~~[the filing of]~~ municipal office candidates to file campaign financial disclosures ~~[of city officer candidates]~~ in accordance with Section 10-3-208[.]; and

~~[(c)]~~ The county clerk is responsible to ensure that:]

~~[(i)]~~ a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and]

~~[(ii)]~~ (d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated ~~[city and]~~ municipality, including the term of each office.”.

CHAPTER 166**S. B. 37**

Passed March 13, 2019

Approved March 22, 2019

Effective May 14, 2019

**INTERVENTIONS FOR READING
DIFFICULTIES SUNSET AMENDMENTS**

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends the Interventions for Reading Difficulties Pilot Program, including extending the sunset date.

Highlighted Provisions:

This bill:

- ▶ renames the Interventions for Reading Difficulties Pilot Program as the Interventions for Reading Difficulties Program (program);
- ▶ repeals outdated provisions related to the program;
- ▶ modifies requirements related to the program;
- ▶ extends the sunset date for the program from July 1, 2019, to July 1, 2024; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-5-203, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 2

63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

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

Section 1. Section 53F-5-203 is amended to read:**53F-5-203. Interventions for Reading Difficulties Program.**

(1) As used in this section:

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

(b) "Dyslexia" means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.

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

(i) a school district;

(ii) a charter school; or

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

(d) "Multi-Tier System of Supports" or "MTSS" means a framework integrating assessment and intervention that:

(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:

(A) tier II interventions that, in addition to standard classroom reading, provide supplemental and targeted small group instruction in reading using evidence-based curricula; and

(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and

(ii) is developed to:

(A) maximize student achievement;

(B) reduce behavior problems; and

(C) increase long-term success.

(e) "Program" means the Interventions for Reading Difficulties [Pilot] Program.

(f) "Reading difficulty" means an impairment, including dyslexia, that negatively affects a student's ability to learn to read.

(2) There is created the Interventions for Reading Difficulties [Pilot] Program to provide:

(a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and

(b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).

(3) (a) An LEA may submit a proposal to the board to participate in the program.

(b) An LEA proposal described in Subsection (3)(a) shall:

(i) specify:

(A) a range of current benchmark assessment in reading scores described in Section 53E-4-307 that the LEA will use to determine whether a student is at risk for a reading difficulty; and

(B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;

(ii) describe the LEA's existing reading program;

(iii) describe the LEA's MTSS approach; and

(iv) include any other information requested by the board.

(c) The board may:

(i) specify the format for an LEA proposal; and

(ii) set a deadline for an LEA to submit a proposal.

(4) The board shall:

(a) define criteria for selecting an LEA to participate in the program;

(b) ~~[during fiscal year 2016, select five]~~ select LEAs to participate in the program:

(i) on a competitive basis; and

(ii) using criteria described in Subsection (4)(a); and

(c) subject to legislative appropriations, provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.

~~[(5) During fiscal years 2017, 2018, and 2019, if funding allows, the board may select additional LEAs to participate in the program.]~~

~~[(6) An LEA that participates in the program:]~~

~~[(a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and]~~

~~[(b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.]~~

~~[(7) (5) An LEA that participates in the program shall:~~

~~(a) select at least one school in the LEA to participate in the program;~~

~~(b) identify students in kindergarten through grade 5 for participation in the program by:~~

~~(i) using current benchmark assessment in reading scores as described in Section 53E-4-307; and~~

~~(ii) considering other reading difficulty risk factors identified by the LEA;~~

~~(c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions;~~

~~(d) include the LEA's proposal submitted under Subsection (3)(b) in the reading achievement plan described in Section 53E-4-306 for each school in the LEA that participates in the program; ~~and]~~~~

~~(e) participate in training provided by the state board; and~~

~~[(e) (f) report annually to the board on:~~

~~(i) individual student outcomes in changes in reading ability;~~

~~(ii) school level outcomes; and~~

~~(iii) any other information requested by the board.~~

~~[(8) (6) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:~~

~~(a) to provide for ongoing professional development in evidence-based literacy interventions;~~

(b) to support educators in earning a reading interventionist credential that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:

(i) explicit;

(ii) systematic; and

(iii) targeted to a student's specific reading difficulty; and

(c) to implement the program.

~~[(9) (7) The board shall contract with an independent evaluator to evaluate the program on:~~

~~(a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection ~~[(7) (5)(c);~~~~

~~(b) whether the program may reduce ~~[future special education costs]~~ the need for a student to be referred for possible special education services; and~~

~~(c) any other student or school achievement outcomes requested by the board.~~

~~[(10) (a) The board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.]~~

~~[(b) In the final report described in Subsection (10)(a), the board shall include the results of the evaluation described in Subsection (9).]~~

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

~~[(1) Subsection 53-10-202(18) is repealed July 1, 2018.]~~

~~[(2) Section 53-10-202.1 is repealed July 1, 2018.]~~

~~[(3) (1) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.~~

~~[(4) (2) Section 53B-18-1501 is repealed July 1, 2021.~~

~~[(5) (3) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.~~

~~[(6) (4) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.~~

~~[(7) (5) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.~~

~~[(8) (6) Section 53E-3-515 is repealed January 1, 2023.~~

~~[(9) (7) Section 53F-2-514 is repealed July 1, 2020.~~

~~[(10) (8) Section 53F-5-203 is repealed July 1, 2019] 2024.~~

~~[(11)]~~ ~~(9)~~ Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(12)]~~ ~~(10)~~ Section 53F-6-201 is repealed July 1, 2019.

~~[(13)]~~ ~~(11)~~ Section 53F-9-501 is repealed January 1, 2023.

~~[(14)]~~ ~~(12)~~ Subsection 53G-8-211(4) is repealed July 1, 2020.

CHAPTER 167**S. B. 55**

Passed February 20, 2019

Approved March 22, 2019

Effective May 14, 2019

**CHARTER TRUST
LAND COUNCIL AMENDMENTS**

Chief Sponsor: Luz Escamilla

House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill amends provisions related to charter trust land councils.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits grandparents of students enrolled in a charter school to serve on the charter school's charter trust land council; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-7-1205, as enacted by Laws of Utah 2018, Chapter 448

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

Section 1. Section 53G-7-1205 is amended to read:**53G-7-1205. Charter trust land councils.**

(1) As used in this section, "council" means a charter trust land council described in this section.

~~[(1)]~~ (2) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).

~~[(2)]~~ (3) (a) The membership of the council shall include parents, grandparents, or guardians of students enrolled at the charter school and may include other members.

(b) The number of council members who are parents, grandparents, or guardians of students enrolled at the charter school shall exceed all other members combined by at least two.

~~[(3)]~~ (4) A charter school governing board may serve as the ~~[charter trust land council that prepares a plan for the use of School LAND Trust Program money]~~ charter school's council if the membership of the charter school governing board meets the requirements of Subsection ~~[(2)]~~ (3)(b).

~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), council members who are parents,

grandparents, or guardians of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection ~~[(4)]~~ (5)(a) does not apply to a charter school governing board that serves as ~~[the charter trust land]~~ a council ~~[that prepares a plan for the use of School LAND Trust Program money]~~.

~~[(5)]~~ (6) A parent, grandparent, or guardian of a student enrolled at ~~[the]~~ a charter school shall serve as chair or co-chair of ~~[a charter trust land council that prepares a plan for the use of School LAND Trust Program money]~~ the charter school's council.

CHAPTER 168**S. B. 66**

Passed February 20, 2019

Approved March 22, 2019

Effective May 14, 2019

DAM SAFETY AMENDMENTS

Chief Sponsor: Scott D. Sandall

House Sponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill modifies the power of the state engineer to regulate the safety of dams.

Highlighted Provisions:

This bill:

- ▶ states that the state engineer has the authority to regulate the safety of dams for the purpose of protecting public safety; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-5a-101, as enacted by Laws of Utah 1990, Chapter 319

73-5a-501, as last amended by Laws of Utah 2009, Chapter 177

73-5a-503, as enacted by Laws of Utah 1990, Chapter 319

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

Section 1. Section 73-5a-101 is amended to read:**73-5a-101. Power of state engineer to regulate dams.**

(1) The state engineer has the authority to regulate the safety of dams for the purpose of protecting public safety.

(2) To protect life and property, the state engineer may make rules controlling the construction and operation of dams, including rules controlling:

- (a) design;
- (b) maintenance;
- (c) repair;
- (d) removal; and
- (e) abandonment.

(3) The state engineer may by rule exempt from this chapter any dam that:

- (a) impounds less than 20 acre-feet of water and does not constitute a threat to human life if it fails; or
- (b) does not constitute a threat to human life and would result in only minor damage to property of the owner if it fails.

Section 2. Section 73-5a-501 is amended to read:**73-5a-501. State engineer to inspect dams.**

(1) The state engineer shall inspect each dam that in the state engineer's opinion, if it failed:

- (a) poses a threat to human life; or
- (b) could cause significant property damage [~~if the dam failed~~].

(2) An inspection required by Subsection (1) shall occur:

- (a) at increments commensurate with the relative risk to life and property; and
- (b) not less than once every five years.

(3) The state engineer may inspect a dam that is not exempt from regulation by this chapter.

Section 3. Section 73-5a-503 is amended to read:**73-5a-503. Owners required to perform maintenance -- Orders to protect life and property.**

(1) Following an inspection, the state engineer shall specify what maintenance is necessary to keep the dam and appurtenant structures in satisfactory condition, and the owner of the dam shall be responsible for that maintenance.

(2) Depending upon the severity of problems [~~noted during an inspection~~] specified under Subsection (1), the state engineer may issue orders for:

- (a) engineering studies;
- (b) repairs;
- (c) storage limitations;
- (d) removal of the dam;
- (e) breaching of the dam; or
- (f) any other remedy the state engineer determines is appropriate to protect life and property.

CHAPTER 169**S. B. 86**

Passed February 7, 2019
 Approved March 22, 2019
 Effective May 14, 2019

SAVINGS PROMOTION PROGRAMS

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Tim Quinn

LONG TITLE**General Description:**

This bill enacts provisions in the Financial Institutions Act related to savings promotion programs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a depository institution to conduct a savings promotion program under certain conditions; and
- ▶ permits the Commissioner of Financial Institutions to make rules related to savings promotion programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

7-1-619, Utah Code Annotated 1953

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

Section 1. Section 7-1-619 is enacted to read:**7-1-619. Savings promotion programs.**

(1) As used in this section:

(a) “Prize period” means a period of time, designated by a depository institution, during which a qualifying account holder may submit an entry into the depository institution’s savings promotion program for a chance to win a prize designated as the prize for that period.

(b) “Qualifying account” means a savings account that qualifies the savings account holder for an entry into the saving account’s depository institution’s savings promotion program each time the holder of the savings account:

(i) deposits a minimum amount of money specified by the depository institution into the savings account; and

(ii) leaves the minimum deposit in the savings account for no less than an amount of time specified by the depository institution.

(c) “Qualifying account holder” means a person who holds a qualifying account.

(d) “Savings promotion program” means a contest:

(i) that a depository institution conducts to encourage savings deposits; and

(ii) in which a qualifying account holder is offered a chance to win a designated prize for each entry submitted in association with the qualifying account holder’s qualifying account.

(2) A depository institution may conduct a savings promotion program if:

(a) no qualifying account holder is required to:

(i) pay a fee or otherwise provide any consideration to submit an entry in the savings promotion program; or

(ii) be present at a prize drawing in order to win;

(b) any fee charged by a depository institution in connection with a qualifying account is comparable with a fee charged in connection with a comparable nonqualifying account the depository institution offers;

(c) any interest rate a depository institution associates with a qualifying account is comparable to an interest rate associated with a comparable nonqualifying account the depository institution offers;

(d) each entry in the savings promotion program during a single prize period has an equal chance of winning; and

(e) the depository institution:

(i) conducts the savings promotion program in a manner that does not:

(A) jeopardize the depository institution’s ability to operate in a safe and sound manner; or

(B) mislead the depository institution’s account holders; and

(ii) fully discloses the terms and conditions of the savings promotion program to each of the depository institution’s account holders.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules that:

(a) require a depository institution that conducts a savings promotion program to maintain all records the commissioner determines necessary for the administration and enforcement of this section; or

(b) ensure that a depository institution conducts a savings promotion program in accordance with this section.

CHAPTER 170**S. B. 87**

Passed February 27, 2019

Approved March 22, 2019

Effective May 14, 2019

**PROCUREMENT OF DESIGN
PROFESSIONALS AMENDMENTS**

Chief Sponsor: Luz Escamilla

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Procurement Code relating to design professionals.

Highlighted Provisions:

This bill:

- ▶ includes commercial interior designers as design professionals, for purposes of the Utah Procurement Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-6a-103, as last amended by Laws of Utah 2018, Second Special Session, Chapter 4

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

Section 1. Section 63G-6a-103 is amended to read:**63G-6a-103. Definitions.**

As used in this chapter:

- (1) "Applicable rulemaking authority" means:
 - (a) for a legislative procurement unit, the Legislative Management Committee;
 - (b) for a judicial procurement unit, the Judicial Council;
 - (c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:
 - (A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;
 - (B) for the Office of the Attorney General, the attorney general; and
 - (C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and
 - (ii) for each other executive branch procurement unit, the board;
 - (d) for a local government procurement unit:
 - (i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(g) for the State Board of Education, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

(k) for any other procurement unit, the board.

(2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Building board" means the State Building Board, created in Section 63A-5-101.

(9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) “Definite quantity contract” means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) “Design professional” means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; [øø]

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act[-]; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(27) “Design professional procurement process” means the procurement process described in Part 15, Design Professional Services.

(28) “Design-build” means the procurement of design professional services and construction by the use of a single contract.

(29) “Design professional services” means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; [øø]

(c) master planning and programming services[-]; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(30) “Director” means the director of the division.

(31) “Division” means the Division of Purchasing and General Services, created in Section 63A-2-101.

(32) “Educational procurement unit” means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(33) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(34) “Executive branch procurement unit” means a department, division, office, bureau, agency, or other organization within the state executive branch.

(35) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(36) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(37) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(38) “Head of a procurement unit” means:

(a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;

(b) for an executive branch procurement unit:

(i) the director of the division; or

(ii) any other person designated by the board, by rule;

(c) for a judicial procurement unit:

(i) the Judicial Council; or

(ii) any other person designated by the Judicial Council, by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) any other person designated by the local government procurement unit;

(e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;

(f) for a special service district, the governing body of the special service district or a designee of the governing body;

(g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;

(h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;

(i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;

(j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;

(m) for a public transit district, the board of trustees or a designee of the board of trustees;

(n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.

(39) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) “Local building authority” means the same as that term is defined in Section 17D-2-102.

(48) “Local district” means the same as that term is defined in Section 17B-1-102.

(49) “Local government procurement unit” means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) “Multiple award contracts” means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) “Multiyear contract” means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) “Municipality” means a city, town, or metro township.

(53) “Nonadopting local government procurement unit” means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) “Offeror” means a person who submits a proposal in response to a request for proposals.

(55) “Preferred bidder” means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) “Procure” means to acquire a procurement item through a procurement.

(57) “Procurement”:

(a) means a procurement unit’s acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) “Procurement item” means a supply, a service, or construction.

(59) “Procurement officer” means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) “Procurement unit”:

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) “Professional service” means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

- (j) psychiatry; or
- (k) underwriting.
- (62) "Protest officer" means:
- (a) for the division or a procurement unit with independent procurement authority:
- (i) the head of the procurement unit;
- (ii) the head of the procurement unit's designee who is an employee of the procurement unit; or
- (iii) a person designated by rule made by the applicable rulemaking authority; or
- (b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.
- (63) "Public corporation" means the same as that term is defined in Section 63E-1-102.
- (64) "Public entity" means any government entity of the state or political subdivision of the state, including:
- (a) a procurement unit;
- (b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and
- (c) any other government entity located in the state that expends public funds.
- (65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.
- (66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.
- (67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.
- (68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.
- (69) "Qualified vendor" means a vendor who:
- (a) is responsible; and
- (b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.
- (70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(74) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(78) "Sealed" means manually or electronically secured to prevent disclosure.

(79) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(81) "Sole source contract" means a contract resulting from a sole source procurement.

(82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) "Solicitation" means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) "Special service district" means the same as that term is defined in Section 17D-1-102.

(86) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(89) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) "Supply" means a good, material, technology, piece of equipment, or any other item of personal property.

(92) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(93) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) "Trial use contract" means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

CHAPTER 171**S. B. 88**

Passed February 27, 2019

Approved March 22, 2019

Effective May 14, 2019

**CRIME VICTIMS
RESTITUTION AMENDMENTS**

Chief Sponsor: Jani Iwamoto

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill modifies restitution criteria to include expenses for security measures put in place by a victim in response to a criminal offense.

Highlighted Provisions:

This bill:

- ▶ provides that restitution may include expenses for security measures put in place by a victim in response to a criminal offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-38a-302, as last amended by Laws of Utah 2017, Chapter 304

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

Section 1. Section 77-38a-302 is amended to read:**77-38a-302. Restitution criteria.**

(1) When a defendant enters into a plea disposition or is convicted of criminal activity that has resulted in pecuniary damages, in addition to any other sentence or term of a plea in abeyance it may impose, the court shall order that the defendant make restitution to victims of crime as provided in this chapter, or for conduct for which the defendant has agreed to make restitution as part of a plea disposition. For purposes of restitution, "victim" means the same as that term is defined in Subsection 77-38a-102(14). In determining whether restitution is appropriate, the court shall follow the criteria and procedures as provided in Subsections (2) through (5).

(2) In determining restitution, the court shall determine complete restitution and court-ordered restitution.

(a) "Complete restitution" means restitution necessary to compensate a victim for all losses caused by the defendant.

(b) "Court-ordered restitution" means the restitution the court having criminal jurisdiction orders the defendant to pay as a part of the criminal sentence.

(c) Complete restitution and court-ordered restitution shall be determined as provided in Subsection (5).

(3) If the court determines that restitution is appropriate or inappropriate under this part, the court shall make the reasons for the decision part of the court record.

(4) If the defendant objects to the imposition, amount, or distribution of the restitution, the court shall allow the defendant a full hearing on the issue.

(5) (a) For the purpose of determining restitution for an offense, the offense shall include any criminal conduct admitted by the defendant to the sentencing court or [tø] for which the defendant agrees to pay restitution. A victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

(b) In determining the monetary sum and other conditions for complete restitution, the court shall consider all relevant facts, including:

(i) the cost of the damage or loss if the offense resulted in damage to or loss or destruction of property of a victim of the offense;

(ii) the cost of necessary medical and related professional services and devices relating to physical or mental health care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(iii) the cost of necessary physical and occupational therapy and rehabilitation;

(iv) the income lost by the victim as a result of the offense;

(v) the individual victim's reasonable determinable wages that are lost due to theft of or damage to tools or equipment items of a trade that were owned by the victim and were essential to the victim's current employment at the time of the offense; ~~and~~

(vi) the cost of necessary funeral and related services if the offense resulted in the death of a victim[-]; and

(vii) expenses incurred by a victim in implementing reasonable security measures in response to the offense.

(c) In determining the monetary sum and other conditions for court-ordered restitution, the court shall consider:

(i) the factors listed in Subsections (5)(a) and (b);

(ii) the financial resources of the defendant, as disclosed in the financial declaration described in Section 77-38a-204;

(iii) the burden that payment of restitution will impose, with regard to the other obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and the method of payment; and

(vi) other circumstances that the court determines may make restitution inappropriate.

(d) (i) The prosecuting agency shall submit all requests for complete restitution and court-ordered restitution to the court at the time of sentencing if feasible, otherwise within one year after sentencing.

(ii) If a defendant is placed on probation pursuant to Section 77-18-1:

(A) the court shall determine complete restitution and court-ordered restitution; and

(B) the time period for determination of complete restitution and court-ordered restitution may be extended by the court upon a finding of good cause, but may not exceed the period of the probation term served by the defendant.

(iii) If the defendant is committed to prison:

(A) any pecuniary damages that have not been determined by the court within one year after sentencing may be determined by the Board of Pardons and Parole; and

(B) the Board of Pardons and Parole may, within one year after sentencing, refer an order of judgment and commitment back to the court for determination of restitution.

CHAPTER 172**S. B. 106**

Passed February 27, 2019

Approved March 22, 2019

Effective May 14, 2019

MENTAL HEALTH SERVICES IN SCHOOLS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill enacts provisions relating to coverage of certain mental health services by the Medicaid program and certain health insurers.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to develop a proposal and submit a state plan amendment to allow the state Medicaid program to be billed for certain mental health services provided in a public school;
- ▶ prohibits certain health benefit plans offered on or after January 1, 2020, from denying a claim for mental health services solely because they are provided by a public school employee or in a public school; and
- ▶ prohibits a local education agency from billing for certain health care services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-419, Utah Code Annotated 1953

31A-22-650, Utah Code Annotated 1953

53G-7-217, Utah Code Annotated 1953

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

Section 1. Section 26-18-419 is enacted to read:**26-18-419. Medicaid waiver for coverage of mental health services in schools.**

(1) As used in this section, "local education agency" means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(2) In consultation with the Department of Human Services and the State Board of Education, the department shall develop a proposal to allow the state Medicaid program to reimburse a local education agency, a local mental health authority, or a private provider for covered mental health services provided:

- (a) in accordance with Section 53E-9-203; and
- (b) (i) at a local education agency building or facility; or

(ii) by an employee or contractor of a local education agency.

(3) Before January 1, 2020, the department shall apply to CMS for a state plan amendment to implement the coverage described in Subsection (2).

Section 2. Section 31A-22-650 is enacted to read:**31A-22-650. Coverage for mental health services in schools.**

(1) As used in this section, "local education agency" means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind.

(2) A health benefit plan that is entered into or renewed on or after January 1, 2020, may not deny a claim for a covered mental health service solely because the mental health service is provided:

(a) at a local education agency building or facility; or

(b) by an employee or contractor of a local education agency.

(3) Nothing in this section:

(a) prohibits a health benefit plan from denying a claim:

(i) by an individual that is not a licensed health care provider;

(ii) by a health care provider practicing outside the health care provider's scope of practice;

(iii) that is submitted by a person that is not a network provider;

(iv) for a mental health service that is not medically necessary as determined by the health benefit plan; or

(v) that does not otherwise comply with the health benefit plan's policies; or

(b) requires a health benefit plan to pay a claim for a service that is:

(i) provided under an individualized education program as defined in Section 53E-4-301; or

(ii) administrative in nature to the local education agency.

Section 3. Section 53G-7-217 is enacted to read:**53G-7-217. Prohibition on billing for certain health care services.**

A local education agency, or an employee or contractor of a local education agency, may not bill:

(1) a health benefit plan as defined in Section 31A-1-301, for any service that is:

(a) provided under an individualized education program as defined in Section 53E-4-301; or

(b) administrative in nature to the local education agency; or

(2) a student or a student's family for a service that is:

(a) performed by the local education agency or an employee or contractor of a local education agency; and

(b) not covered by the student's health benefit plan.

CHAPTER 173**S. B. 115**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

HIGH-NEED SCHOOL AMENDMENTS

Chief Sponsor: Kathleen Riebe
 House Sponsor: Marie H. Poulson

LONG TITLE**General Description:**

This bill provides for grants to local education agencies to employ additional educators in high-need schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to:
 - solicit proposals from local education agencies;
 - award grants; and
 - make administrative rules;
- ▶ requires a local education agency that receives a grant to:
 - use the funding to employ an additional first year educator in a high-need school;
 - provide matching funds; and
 - report to the State Board of Education;
- ▶ provides a sunset date; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Education - Related to Basic School Programs - Grants for Educators for High-need Schools as an ongoing appropriation:
 - from the Education Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

ENACTS:

53F-5-212, Utah Code Annotated 1953

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

Section 1. Section 53F-5-212 is enacted to read:**53F-5-212. Grants for additional educators for high-need schools.**

(1) As used in this section:

(a) “Educator” means an individual who holds a professional educator license described in Section 53E-6-201.

(b) “First-year educator” means an educator who is:

(i) a classroom teacher; and

(ii) in the educator’s first year of teaching.

(c) “High-need school” means an elementary school in an LEA that qualifies for a grant under this section based on the criteria established by the state board under Subsection (5)(a)(ii).

(d) “Local education agency” or “LEA” means a school district or charter school.

(e) “Title I school” means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(2) Subject to legislative appropriations, and in accordance with this section, the state board shall award a grant to an LEA to fund the salary and benefits for an additional first-year educator to teach in a high-need school.

(3) The state board shall:

(a) solicit proposals from LEAs to receive a grant under this section; and

(b) award grants to LEAs on a competitive basis based on the LEA applications described in Subsection (4)(a).

(4) To receive a grant under this section, an LEA shall:

(a) submit an application to the state board that:

(i) lists the school or schools for which the LEA intends to use a grant;

(ii) describes how each school for which the LEA intends to use a grant meets the criteria for being a high-need school; and

(iii) includes any other information required by the board under the rules described in Subsection (5); and

(b) provide matching funds in an amount equal to the grant received by the LEA under this section.

(5) (a) The state board shall make rules specifying:

(i) the procedure for an LEA to apply for a grant under this section, including application requirements; and

(ii) the criteria for determining if an elementary school is a high-need school.

(b) In establishing the criteria described in Subsection (5)(a)(ii), the state board shall consider the following factors:

(i) Title I school status;

(ii) low school performance, as indicated by the school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System;

(iii) a high percentage of students enrolled in the school who are either experiencing or at risk of experiencing intergenerational poverty;

(iv) a high ratio of students to educators in the school;

(v) higher than average educator turnover in the school;

(vi) a high percentage of students enrolled in the school who are experiencing homelessness; and

(vii) other factors determined by the state board.

(6) An LEA that receives a grant under this section shall:

(a) (i) use the grant to fund a portion of the cost of the salary and benefits for an additional first-year educator who teaches in a high-need school; and

(ii) maintain a class size of fewer than 20 students for a first-year educator whose salary and benefits are funded by the grant; and

(b) annually submit a report to the state board describing:

(i) how the LEA used the grant; and

(ii) whether the grant was effective in maintaining a smaller class size for the first-year educator whose salary and benefits were funded by the grant.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) Section 53F-2-514 is repealed July 1, 2020.

(10) Section 53F-5-203 is repealed July 1, 2019.

(11) Section 53F-5-212 is repealed July 1, 2024.

~~[(11)]~~ (12) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(12)]~~ (13) Section 53F-6-201 is repealed July 1, 2019.

~~[(13)]~~ (14) Section 53F-9-501 is repealed January 1, 2023.

~~[(14)]~~ (15) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Related to Basic School Programs

<u>From Education Fund</u>	<u>\$500,000</u>
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Schedule of Programs:

<u>Grants for Educators for High-need Schools</u>	<u>\$500,000</u>
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The Legislature intends that appropriations provided under this item be used for grants for additional educators for high-need schools as described in Section 53F-5-212.

CHAPTER 174**S. B. 137**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

SINGLE USER DATA CORRELATION ACT

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill establishes provisions related to a web portal through which a person may access from a single source information and services from multiple state entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ eliminates a requirement that a database be created in conjunction with the single sign-on business portal;
- ▶ requires the Department of Technology Services to create a web portal through which an individual may access from a single source information and services from multiple state entities;
- ▶ establishes requirements for the web portal described in the preceding paragraph;
- ▶ modifies reporting requirements; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-1-2, as last amended by Laws of Utah 2018, Chapters 12 and 200
 63F-3-101, as enacted by Laws of Utah 2016, Chapter 259
 63F-3-102, as enacted by Laws of Utah 2016, Chapter 259
 63F-3-103, as last amended by Laws of Utah 2018, Chapter 12
 63F-3-104, as last amended by Laws of Utah 2018, Chapter 12

ENACTS:

63F-3-103.5, Utah Code Annotated 1953

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

Section 1. Section 13-1-2 is amended to read:**13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.**

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of Occupational and Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at \$1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) “Renewal fee” means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity’s periodic renewal of its status with the Division of Corporations and Commercial Code.

(iv) “Single sign-on fee” means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on ~~[web]~~ business portal.

(v) “Single sign-on ~~[web]~~ business portal” means ~~[the web portal described in Subsection 63F-3-103(2)]~~ the same as that term is defined in Section 63F-3-103.

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed \$5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on ~~[web]~~ business portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section 63F-1-103; or

(B) a third-party vendor working under a contract with the Department of Technology Services.

(e) The department shall report ~~[-(i)-]~~ on fund revenues and expenditures ~~[-(ii)-]~~ to the Public Utilities, Energy, and Technology Interim Committee of the Legislature ~~[-and (iii)-]~~ annually and at any other time requested by the committee.

Section 2. Section 63F-3-101 is amended to read:

CHAPTER 3. SINGLE SIGN-ON PORTAL

63F-3-101. Title.

This chapter is known as “Single Sign-On ~~[Database]~~ Portal.”

Section 3. Section 63F-3-102 is amended to read:

63F-3-102. Definitions.

As used in this chapter:

(1) “Business data” means data collected by the state about a person doing business in the state.

~~[(2) “Business database” means the database described in Subsection 63F-3-103(1).]~~

~~[(3) “Database” means an electronic means of storing information.]~~

~~[(4)] (2) “Single sign-on ~~[web]~~ business portal” means the web portal described in ~~[Subsection] Section 63F-3-103(2)].~~~~

(3) “Single sign-on citizen portal” means the web portal described in Section 63F-3-103.5.

~~[(5)] (4) “Web portal” means an Internet webpage that can be accessed by ~~[an individual where the individual]~~ a person that enters the ~~[individual’s]~~ person’s unique user information in order to access secure information.~~

Section 4. Section 63F-3-103 is amended to read:

63F-3-103. Single sign-on business portal -- Creation.

(1) The department shall, in consultation with the entities described in Subsection (4), design and create ~~[a prototype of a single database, and associated data entry screens, that stores business data]~~ a single sign-on business portal that is:

(a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4) ~~[that is:]; and~~

~~[(a) secure;]~~

~~[(b) centralized; and]~~

~~[(c) interconnected.]~~

(b) secure, centralized, and interconnected.

(2) The department shall ~~[create a web portal that]~~ ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

(a) business registration;

(b) workers’ compensation;

(c) tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop ~~[the business database and]~~ the single sign-on ~~[web]~~ business portal:

(a) using an open platform that:

(i) facilitates participation in the ~~[database and]~~ web portal by a state entity; and

(ii) allows for optional participation by a political subdivision of the state; and

(b) in a manner that anticipates ~~[expanding the database and web portal to include: (i) a database for data collected by the state on an individual; and (ii) a web portal for an individual to access all]~~

~~relevant data collected by the state on the individual]~~ the creation of the single sign-on citizen portal described in Section 63F-3-103.5.

(4) In developing ~~[the business database and]~~ the single sign-on ~~[web]~~ business portal, the department shall consult with:

- (a) the Department of Commerce;
- (b) the State Tax Commission;
- (c) the Labor Commission;
- (d) the Department of Workforce Services;
- (e) the Governor's Office of Management and Budget;
- (f) the Utah League of Cities and Towns;
- (g) the Utah Association of Counties; and
- (h) the business community that is likely to use the ~~[business database and]~~ single sign-on ~~[web]~~ business portal.

(5) The department shall ensure that the single sign-on ~~[web]~~ business portal is fully operational no later than May 1, 2021.

Section 5. Section 63F-3-103.5 is enacted to read:

63F-3-103.5. Single sign-on citizen portal -- Creation.

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The department shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;

(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101;

(ii) immunization records maintained by the Utah Department of Health; and

(iii) previous years' tax filing information from the State Tax Commission;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The department shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity; and

(b) allows for optional participation in the portal by a political subdivision of the state.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administer a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The department shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 6. Section 63F-3-104 is amended to read:

63F-3-104. Report.

(1) The department shall report to the Public Utilities, Energy, and Technology Interim Committee ~~[- (a) no later than November 30, 2016, with an initial design and prototype of the business database and the single sign-on web portal, together with a minimum two-year plan, including projected cost, for the initial implementation phase of the project; and (b)-] before November 30 of each year [beginning in 2017: (i)] regarding:~~

(a) the progress the department has made in developing [the business database and] the single sign-on [web] business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on [web portal; and] business portal and the single sign-on citizen portal;

(b) the department's goals and plan for each of the next five years to fulfill the department's responsibilities described in this part; and

~~(ii)~~ (c) whether the department recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The Public Utilities, Energy, and Technology Interim Committee shall annually:

(a) review the single sign-on fee being charged under Section 13-1-2;

(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and

(c) make any recommendation to the Legislature that the committee considers appropriate concerning:

(i) the single sign-on fee; and

(ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.

CHAPTER 175**S. B. 164**

Passed March 12, 2019
 Approved March 22, 2019
 Effective May 14, 2019

STUDENT DATA PRIVACY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: A. Cory Maloy

LONG TITLE**General Description:**

This bill repeals provisions related to the State Board of Education sharing student data.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to the State Board of Education sharing student data with the Utah Registry of Autism and Developmental Disabilities;
- ▶ repeals provisions related to the State Board of Education sharing student data with the State Board of Regents; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 53E-9-301, as last amended by Laws of Utah 2018, Chapters 304, 389 and renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-9-305, as last amended by Laws of Utah 2018, Chapter 304 and renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-9-308, as last amended by Laws of Utah 2018, Chapters 285, 304 and renumbered and amended by Laws of Utah 2018, Chapter 1

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

Section 1. Section 53E-9-301 is amended to read:**53E-9-301. Definitions.**

As used in this part:

- (1) "Adult student" means a student who:
- (a) is at least 18 years old;
 - (b) is an emancipated student; or
 - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
- (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with board rule.

(3) (a) "Biometric identifier" means a:

- (i) retina or iris scan;
- (ii) fingerprint;
- (iii) human biological sample used for valid scientific testing or screening; or
- (iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

- (i) a writing sample;
- (ii) a written signature;
- (iii) a voiceprint;
- (iv) a photograph;
- (v) demographic data; or
- (vi) a physical description, such as height, weight, hair color, or eye color.

(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

(a) based on an individual's biometric identifier; and

(b) used to identify the individual.

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

(6) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

(7) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of an education entity data governance staff member;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between an education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the education entity's website.

(8) "Education entity" means:

- (a) the board;
- (b) a local school board;

(c) a charter school governing board;

(d) a school district;

(e) a charter school;

(f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.

(9) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.

(10) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:

(a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and

(b) is not subject to a contract between an education entity and a third-party contractor.

~~[(11) "Higher education outreach student data" means the following student data for a student:]~~

~~[(a) name;]~~

~~[(b) parent name;]~~

~~[(c) grade;]~~

~~[(d) school and school district; and]~~

~~[(e) contact information, including:]~~

~~[(i) primary phone number;]~~

~~[(ii) email address; and]~~

~~[(iii) physical address.]~~

~~[(12) (11) "Individualized education program" or "IEP" means a written statement:~~

~~(a) for a student with a disability; and~~

~~(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.~~

~~[(13) (12) "Local education agency" or "LEA" means:~~

~~(a) a school district;~~

~~(b) a charter school;~~

~~(c) the Utah Schools for the Deaf and the Blind; or~~

~~(d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.~~

~~[(14) (13) "Metadata dictionary" means a record that:~~

(a) defines and discloses all personally identifiable student data collected and shared by the education entity;

(b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

(i) the purpose for sharing the data with the recipient;

(ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and

(iii) how sharing the data is permitted under federal or state law; and

(c) without disclosing personally identifiable student data, is displayed on the education entity's website.

~~[(15) (14) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:~~

~~(a) name;~~

~~(b) date of birth;~~

~~(c) sex;~~

~~(d) parent contact information;~~

~~(e) custodial parent information;~~

~~(f) contact information;~~

~~(g) a student identification number;~~

~~(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;~~

~~(i) courses taken and completed, credits earned, and other transcript information;~~

~~(j) course grades and grade point average;~~

~~(k) grade level and expected graduation date or graduation cohort;~~

~~(l) degree, diploma, credential attainment, and other school exit information;~~

~~(m) attendance and mobility;~~

~~(n) drop-out data;~~

~~(o) immunization record or an exception from an immunization record;~~

~~(p) race;~~

~~(q) ethnicity;~~

~~(r) tribal affiliation;~~

~~(s) remediation efforts;~~

~~(t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;~~

~~(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;~~

- (v) student injury information;
- (w) a disciplinary record created and maintained as described in Section 53E-9-306;
- (x) juvenile delinquency records;
- (y) English language learner status; and
- (z) child find and special education evaluation data related to initiation of an IEP.

~~[(16)]~~ (15) (a) "Optional student data" means student data that is not:

- (i) necessary student data; or
- (ii) student data that an education entity may not collect under Section 53E-9-305.
- (b) "Optional student data" includes:
 - (i) information that is:
 - (A) related to an IEP or needed to provide special needs services; and
 - (B) not necessary student data;
 - (ii) biometric information; and
 - (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

~~[(17)]~~ (16) "Parent" means:

- (a) a student's parent;
- (b) a student's legal guardian; or
- (c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

~~[(18)]~~ (17) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

- (b) "Personally identifiable student data" includes:
 - (i) a student's first and last name;
 - (ii) the first and last name of a student's family member;
 - (iii) a student's or a student's family's home or physical address;
 - (iv) a student's email address or other online contact information;
 - (v) a student's telephone number;
 - (vi) a student's social security number;
 - (vii) a student's biometric identifier;
 - (viii) a student's health or disability data;
 - (ix) a student's education entity student identification number;
 - (x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

- (A) a customer number held in a cookie; or
- (B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

~~[(19)]~~ (18) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

~~[(20)]~~ (19) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

~~[(21)]~~ (20) "Student data manager" means:

- (a) the state student data officer; or
- (b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

~~[(22)]~~ (21) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

- (i) at an online location based upon that student's current visit to that location; or
- (ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

~~[(23)]~~ (22) "Third-party contractor" means a person who:

- (a) is not an education entity; and
- (b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

~~[(24)]~~ (23) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 2. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section 78A-6-112, criminal record.

(2) An education entity that collects student data shall, in accordance with this section, prepare and distribute, except as provided in Subsection (3), to parents and students a student data collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part; and

~~[(i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests written consent to share student data with the State Board of Regents as described in Section 53E-9-308.]~~

(3) The board may publicly post the board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an alternative evidence-based intervention described in Subsection 53G-8-211(3) without written consent.

Section 3. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

(2) A student data manager shall:

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

(3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Human Services if:

(a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 62A-4a-409(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

(4) The Department of Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:

(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

(ii) submits the request to the education entity's research review process; and

(iii) fulfills the instructions that result from the review process.

(b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.

(ii) (A) At least 30 days before the state board shares student data in accordance with Subsection (6)(b)(i), the education entity from which the state board received the student data shall provide notice to the parent of each student for which the state board intends to share student data.

(B) The state board may not, for a particular student, share student data as described in Subsection (6)(b)(i) if the student's parent requests that the state board not share the student data.

~~(iii)~~ (iii) A person who receives student data under Subsection (6)(b)(i):

(A) shall maintain and protect the student data in accordance with board rule described in Section 53E-9-307;

(B) may not use the student data for a purpose not described in Section 26-7-4; and

(C) is subject to audit by the state student data officer described in Section 53E-9-302.

~~(e) The board shall enter into an agreement with the State Board of Regents, established in Section 53B-1-103, to share higher education outreach student data, for students in grades 9 through 12 who have obtained written consent under Subsection 53E-9-305(2)(i), to be used strictly for the purpose of:~~

~~(i) providing information and resources to students in grades 9 through 12 about higher education; and~~

~~(ii) helping students in grades 9 through 12 enter the higher education system and remain until graduation.]~~

CHAPTER 176**S. B. 169**

Passed March 12, 2019
Approved March 22, 2019
Effective May 14, 2019

**POLITICAL ACTION
COMMITTEE AMENDMENTS**

Chief Sponsor: Karen Mayne
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends provisions relating to a political action committee.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to a statement of organization for a political action committee;
- ▶ prohibits a political action committee from using a name or acronym:
 - other than a name or acronym disclosed in the political action committee's statement of organization;
 - that is the same, or deceptively similar to, the name or acronym of another political action committee; or
 - that is likely to mislead a potential donor regarding the individuals or entities represented by, or affiliated with, the political action committee;
- ▶ provides for enforcement of the provisions of this bill by the lieutenant governor's office;
- ▶ permits legal action to enforce the provisions of this bill or to recover damages in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

20A-11-601, as last amended by Laws of Utah 2018, Chapter 83

Utah Code Sections Affected by Coordination Clause:

20A-11-601, as last amended by Laws of Utah 2018, Chapter 83

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

Section 1. Section 20A-11-601 is amended to read:

20A-11-601. Political action committees -- Registration -- Name or acronym used by political action committee -- Criminal penalty for providing false information or accepting unlawful contribution.

~~(1)(a) Each political action committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless~~

~~the political action committee has filed a notice of dissolution under Subsection (4).]~~

~~[(b) If a political action committee is organized after the January 10 filing date, the]~~

~~(1) (a) A political action committee shall file an initial statement of organization with the lieutenant governor's office no later than seven days after:~~

- ~~(i) receiving contributions totaling at least \$750; or~~
- ~~(ii) distributing expenditures for political purposes totaling at least \$750.~~

~~[(c) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.]~~

~~(b) After filing an initial statement of organization, a political action committee shall, before January 10 each year after the year in which the political action committee files an initial statement of organization, file an updated statement of organization with the lieutenant governor's office.~~

~~(2) A statement of organization described in Subsection (1) shall include:~~

- ~~(a) the full name of the political action committee, a second name, if any, and an acronym, if any;~~
- ~~(b) the address and phone number of the political action committee;~~
- ~~(c) the name, address, telephone number, title, and occupation of:~~

~~(i) the two officers described in Subsection (5) and the treasurer of the political action committee;~~

~~(ii) all other officers, advisory members, and governing board members of the political action committee; and~~

~~(iii) each individual or entity represented by, or affiliated with, the political action committee; and~~

~~(d) other relevant information requested by the lieutenant governor.~~

~~(3) (a) A political action committee may not use a name or acronym:~~

~~(i) other than a name or acronym disclosed in the political action committee's latest statement of organization;~~

~~(ii) that is the same, or deceptively similar to, the name or acronym of another political action committee; or~~

~~(iii) that is likely to mislead a potential donor regarding the individuals or entities represented by, or affiliated with, the political action committee.~~

~~(b) Within seven days after the day on which a political action committee files an initial statement of organization, the lieutenant governor's office shall:~~

~~(i) review the statement and determine whether a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii); and~~

(ii) if the lieutenant governor's office determines that a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii), order, in writing, that the political action committee:

(A) immediately cease and desist use of the name or acronym; and

(B) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(c) If, beginning on May 14, 2019, a political action committee is using a name or acronym that is the same, or deceptively similar to, the name or acronym of another political action committee, the lieutenant governor shall determine which political action committee has been using the name the longest and shall order, in writing, any other political action committee using the same, or a deceptively similar, name or acronym to:

(i) immediately cease and desist use of the name or acronym; and

(ii) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(d) If a political action committee uses a name or acronym other than a name or acronym disclosed in the political action committee's latest statement of organization:

(i) the lieutenant governor shall order, in writing, that the political action committee cease and desist use of the name or acronym; and

(ii) the political action committee shall immediately comply with the order described in Subsection (3)(d)(i).

(4) (a) The lieutenant governor may, in addition to any other penalty provided by law, impose a \$100 fine against a political action committee that:

(i) fails to timely file a complete and accurate statement of organization or subsequent statement of organization; or

(ii) fails to comply with an order described in Subsection (3).

(b) The attorney general, or a political action committee that is harmed by the action of a political action committee in violation of this section, may bring an action for an injunction against the violating political action committee, or an officer of the violating political action committee, to enforce the provisions of this section.

(c) A political action committee may bring an action for damages against another political action committee that uses a name or acronym that is the same, or deceptively similar to, the name or acronym of the political action committee bringing the action.

[~~(2)~~] (5) (a) Each political action committee shall designate two officers who have primary

decision-making authority for the political action committee.

(b) A person may not exercise primary decision-making authority for a political action committee who is not designated under Subsection [~~(2)~~] (5)(a).

[~~(3)~~] The statement of organization shall include:]

[~~(a)~~] the name and address of the political action committee;]

[~~(b)~~] the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2)(a);]

[~~(c)~~] the name, street address, occupation, and title of all other officers of the political action committee;]

[~~(d)~~] the name and street address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;]

[~~(e)~~] the name and street address of all affiliated or connected organizations and their relationships to the political action committee;]

[~~(f)~~] the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and]

[~~(g)~~] the name, street address, and occupation of each member of the governing and advisory boards, if any.]

(6) A political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

[~~(4)~~] (7) (a) Any registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political action committee does not exempt that political action committee from complying with the financial reporting requirements of this chapter.

[~~(5)~~] (8) (a) Unless the political action committee has filed a notice of dissolution under Subsection [~~(4)~~] (7), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection [~~(2)~~] (5)(a).

(b) Notice of a change of a primary officer described in Subsection [~~(2)~~] (5)(a) shall:

(i) be filed within 10 days of the date of the change; and

(ii) contain the name and title of the officer being replaced, and the name, street address, occupation, and title of the new officer.

[~~(6)~~] (9) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in [~~the~~] a statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection [(2)] (5)(a) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection [(6)] (9) is a third degree felony.

Section 2. Coordinating S.B. 169 with S.B. 33 -- Substantive and technical amendments.

If this S.B. 169 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 20A-11-601(1) to read:“

“(1)-(a) Each political action committee shall file a statement of organization with the lieutenant governor's office by January 10 of each year, unless the political action committee has filed a notice of dissolution under Subsection (4).]

[(b) If a political action committee is organized after the January 10 filing date, the]

(1) (a) A political action committee shall file an initial statement of organization with the lieutenant governor's office no later than 5 p.m. seven days after:

(i) receiving contributions totaling at least \$750; or

(ii) distributing expenditures for political purposes totaling at least \$750.

(b) Unless the political action committee has filed a notice of dissolution under Subsection (7), after filing an initial statement of organization, a political action committee shall file an updated statement of organization with the lieutenant governor's office each year after the year in which the political action committee files an initial statement of organization:

(i) before 5 p.m. on January 10; or

(ii) electronically, before midnight on January 10.

[(c) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.]”.

CHAPTER 177**S. B. 191**

Passed March 12, 2019
 Approved March 22, 2019
 Effective May 14, 2019

EQUINE DENTISTRY AMENDMENTS

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

LONG TITLE**General Description:**

This bill amends the Veterinary Practice Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits certain individuals to perform teeth floating without a license if the individual holds a valid third party certification to perform teeth floating; and
- ▶ permits certain individuals to administer a sedative drug for teeth floating under the direct supervision of a licensed veterinarian.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-28-102, as last amended by Laws of Utah 2010, Chapter 189
 58-28-307, as last amended by Laws of Utah 2014, Chapter 191
 58-28-502, as last amended by Laws of Utah 2015, Chapter 61

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

Section 1. Section 58-28-102 is amended to read:**58-28-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Abandonment" means to forsake entirely or to refuse to provide care and support for an animal placed in the custody of a licensed veterinarian.

(2) "Administer" means:

(a) the direct application by a person of a prescription drug or device by injection, inhalation, ingestion, or by any other means, to the body of an animal that is a patient or is a research subject; or

(b) a veterinarian providing to the owner or caretaker of an animal a prescription drug for application by injection, inhalation, ingestion, or any other means to the body of the animal by the owner or caretaker in accordance with the veterinarian's written directions.

(3) "Animal" means any animal other than a human.

(4) "AVMA" means American Veterinary Medical Association.

(5) "Board" means the Veterinary Board established in Section 58-28-201.

(6) "Client" means the patient's owner, the owner's agent, or other person responsible for the patient.

(7) "Direct supervision" means a veterinarian licensed under this chapter is present and available for face-to-face contact with the patient and person being supervised, at the time the patient is receiving veterinary care.

(8) "Extra-label use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with approved labeling.

(9) "Immediate supervision" means the veterinarian licensed under this chapter is present with the individual being supervised, while the individual is performing the delegated tasks.

(10) "Indirect supervision" means a veterinarian licensed under this chapter:

(a) has given either written or verbal instructions for veterinary care of a patient to the person being supervised; and

(b) is available to the person being supervised by telephone or other electronic means of communication during the period of time in which the veterinary care is given to the patient.

(11) "Practice of veterinary medicine, surgery, and dentistry" means to:

(a) diagnose, prognose, or treat any disease, defect, deformity, wound, injury, or physical condition of any animal;

(b) administer, prescribe or dispense any drug, medicine, treatment, method, or practice, perform any operation or manipulation, apply any apparatus or appliance for the cure, relief, or correction of any animal disease, deformity, defect, wound, or injury, or otherwise practice any veterinary medicine, dentistry, or surgery on any animal;

(c) represent by verbal or written claim, sign, word, title, letterhead, card, or any other manner that one is a licensed veterinarian or qualified to practice veterinary medicine, surgery, or dentistry;

(d) hold oneself out as able to practice veterinary medicine, surgery, or dentistry;

(e) solicit, sell, or furnish any parenterally administered animal disease cures, preventions, or treatments, with or without the necessary instruments for the administration of them, or any and all worm and other internal parasitic remedies, upon any agreement, express or implied, to administer these cures, preventions, treatments, or remedies; or

(f) assume or use the title or designation, "veterinary," "veterinarian," "animal doctor," "animal surgeon," or any other title, designation,

words, letters, abbreviations, sign, card, or device tending to indicate that such person is qualified to practice veterinary medicine, surgery, or dentistry.

(12) (a) “Teeth floating” means the removal of enamel points and the smoothing, contouring, and leveling of dental arcades and incisors of equine and other farm animals.

(b) “Teeth floating” does not include a dental procedure on a canine or feline.

(13) “Unlawful conduct” is defined in Sections 58-1-501 and 58-28-501.

(14) “Unlicensed assistive personnel”:

(a) means any unlicensed person, regardless of title, to whom tasks are delegated by a veterinarian licensed under this chapter as permitted by administrative rule and in accordance with the standards of the profession; and

(b) includes:

(i) a veterinary assistant, if working under immediate supervision;

(ii) a veterinary technician who:

(A) has graduated from a program of veterinary technology accredited by the AVMA that is at least a two-year program; and

(B) who is working under direct supervision; and

(iii) a veterinary technologist who:

(A) has graduated from a four-year program of veterinary technology accredited by the AVMA; and

(B) is working under indirect supervision.

(15) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-28-502 and may be further defined by rule.

(16) “Veterinarian-client-patient relationship” means:

(a) a veterinarian licensed under this chapter has assumed responsibility for making clinical judgements regarding the health of an animal and the need for medical treatment of an animal, and the client has agreed to follow the veterinarian’s instructions;

(b) the veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, including knowledge of the keeping and care of the animal as a result of recent personal examination of the animal or by medically appropriate visits to the premises where the animal is housed; and

(c) the veterinarian has arranged for emergency coverage for follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

Section 2. Section 58-28-307 is amended to read:

58-28-307. Exemptions from chapter.

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) any person who practices veterinary medicine, surgery, or dentistry upon any animal owned by him, and the employee of that person when the practice is upon an animal owned by his employer, and incidental to his employment, except:

(a) this exemption does not apply to any person, or his employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) any person who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of his academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under his supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) any person while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) any person who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) veterinarians licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) registered pharmacists of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at his regular place of business;

(8) any person in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) any person rendering emergency first aid to animals in those areas where a licensed

veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) any person performing or teaching nonsurgical bovine artificial insemination;

(11) any person affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12) (a) upon written referral by a licensed veterinarian, the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has completed an animal chiropractic course approved by the American Veterinary Chiropractic Association or the division;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a) (i) acting under the indirect supervision of a licensed veterinarian; and

(ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control; ~~and~~

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics[-]; and

(16) an individual who performs teeth floating if the individual:

(a) has a valid certification from the International Association of Equine Dentistry, or an equivalent certification designated by division rule made in collaboration with the board, to perform teeth floating; and

(b) administers or uses a sedative drug only if the individual is under the direct supervision of a veterinarian in accordance with Subsection 58-28-502(2)(a)(iv).

Section 3. Section 58-28-502 is amended to read:

58-28-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

(c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

(d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

(e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

(f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

(g) violating Chapter 37, Utah Controlled Substances Act;

(h) delegating tasks to unlicensed assistive personnel in violation of standards of the profession and in violation of Subsection (2); and

(i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2) (a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral

instructions are provided to the technician by the veterinarian; ~~and~~

(iii) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession[-]; and

(iv) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating.

(b) The delegation of tasks permitted under Subsection (2)(a) does not include:

- (i) diagnosing;
- (ii) prognosing;
- (iii) surgery; or
- (iv) prescribing drugs, medicines, or appliances.

CHAPTER 178**S. B. 194**

Passed March 12, 2019
Approved March 22, 2019
Effective May 14, 2019

**CONSERVATION
COMMISSION AMENDMENTS**

Chief Sponsor: David P. Hinkins
House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill modifies provisions related to the conservation commission.

Highlighted Provisions:

This bill:

- ▶ addresses purposes to obtain and administer federal or state money;
- ▶ expands purposes for the commission making loans;
- ▶ addresses the issuance of grants including specifying sources and purposes of the grants;
- ▶ expands powers of advisory boards; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-18-105, as last amended by Laws of Utah 2018, Chapter 115
4-18-106, as last amended by Laws of Utah 2018, Chapter 115
4-18-108, as last amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, ~~utilize~~ use, and develop the soil, water, and air resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts' activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually the information required in Section 17D-3-103;

(e) approve and make loans for agricultural purposes, through the loan advisory subcommittee described in Section 4-18-106, from the Agriculture Resource Development Fund;

(f) seek to obtain and administer federal or state ~~funds~~ money in accordance with applicable federal or state guidelines and make loans or grants from ~~those funds~~ that money to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the preservation of soil, water, and air resources, or for a reason set forth in Section 4-18-108;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies; and

(h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise ~~its~~ the commission's powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 2. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

- (a) money appropriated to it by the Legislature;
- (b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;
- (c) money received for the repayment of loans made from the fund;
- (d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(3) The commission shall make loans from the Agriculture Resource Development Fund for a:

- (a) rangeland improvement and management project;
- (b) watershed protection or flood prevention project;
- (c) soil and water conservation project;
- (d) program designed to promote energy efficient farming practices;

(e) improvement program for agriculture product storage or program designed to protect a crop or animal resource; [ø]

(f) hydroponic or aquaponic system[-]; or

(g) project or program to improve water quality or address other environmental issues.

(4) The commission may appoint an advisory board that shall:

- (a) oversee the award process for loans, as described in this section;
- (b) approve loans; and
- (c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

~~[(5) The commission may make a grant from the Agriculture Resource Development Fund to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that has the legal right to occupy land for:]~~

~~[(a) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102; and]~~

~~[(b) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board.]~~

Section 3. Section 4-18-108 is amended to read:

4-18-108. Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

~~[(1)(a) Subject to appropriation, the commission, as described in Subsection (4), may make a grant to an owner or operator of a farm or ranch to pay for the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on the farm or ranch operation, including the costs of preparing or implementing a nutrient management plan.]~~

~~[(b) The commission shall make a grant described in Subsection (1)(a) from funds appropriated by the Legislature for that purpose.]~~

(1) The commission may make a grant from the Agriculture Resource Development Fund to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) a purpose set forth under Subsection 4-18-106(3);

(b) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102;

(c) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;

(d) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on the farm or ranch operation, including the costs of preparing or implementing a nutrient management plan; or

(e) the improvement of water quality or to address other environmental issues.

(2) The commission may make a grant for a purpose described in Subsection (1) from money appropriated by the Legislature for the purpose of awarding a grant under this section.

~~[(2)]~~ (3) (a) In awarding a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for the costs of proposed plans or projects ~~[to improve manure management or control surface water runoff];~~

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of a grant.

~~[(3)]~~ (4) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to implement this section.

~~[(4)] (5) The commission [:(a) shall be responsible for awarding a grant or loan for water quality or other environmental issues; and (b)] may appoint an advisory board to:~~

~~[(i)] (a) assist with the [award] grant process; [and]~~

~~[(ii)] (b) make recommendations to the commission regarding [awards.] grants; and~~

~~(c) establish policies and procedures for awarding grants from the Agricultural Resource Development Fund.~~

CHAPTER 179**S. B. 198**

Passed March 13, 2019
 Approved March 22, 2019
 Effective May 14, 2019

**HUMAN TRAFFICKING
 PREVENTION TRAINING**

Chief Sponsor: Todd Weiler
 House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill creates training requirements for human trafficking prevention and awareness.

Highlighted Provisions:

This bill:

- ▶ requires school districts and charter schools to provide biennial training regarding human trafficking prevention and awareness to school personnel, parents and guardians, and students; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-9-207, as last amended by Laws of Utah 2018, Chapter 209 and renumbered and amended by Laws of Utah 2018, Chapter 3

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

Section 1. Section 53G-9-207 is amended to read:**53G-9-207. Child sexual abuse prevention.**

(1) As used in this section, "school personnel" means the same as that term is defined in Section 53G-9-203.

(2) The State Board of Education shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) A school district or charter school shall provide, every other year, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; ~~and~~

(B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and

~~(B)~~ (C) the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403; and

(ii) parents or guardians of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the State Board of Education under Subsection (2) to provide the training and instruction to school personnel and parents or guardians under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.

(b) A school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent or guardian of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent or guardian's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent or guardian of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the State Board of Education, a school district or charter school shall provide evidence of compliance with this section.

CHAPTER 180**S. B. 205**

Passed March 12, 2019

Approved March 22, 2019

Effective May 14, 2019

**INTERNET SERVICE PROVIDER
FILTERING COMPILATION**

Chief Sponsor: Todd Weiler

House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill amends provisions related to an Internet service provider's compliance with a filtering requirement.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Consumer Protection to request information from an Internet service provider on how the provider complies with an existing filtering requirement;
- ▶ requires the Division of Consumer Protection to publish and update a compilation of information from Internet service providers;
- ▶ repeals outdated provisions related to Internet service provider notifications; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-1231, as last amended by Laws of Utah 2018, Chapter 164

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

Section 1. Section 76-10-1231 is amended to read:**76-10-1231. Data service providers --
Internet content harmful to minors.**

(1) (a) Upon request by a consumer, a service provider shall filter content to prevent the transmission of material harmful to minors to the consumer.

(b) A service provider complies with Subsection (1)(a) if the service provider makes a good faith effort to apply a generally accepted and commercially reasonable method of filtering.

~~[(2)-(a)]~~ (c) At the time of a consumer's subscription to a service provider's service, the service provider shall notify the consumer in a conspicuous manner that the consumer may request to have material harmful to minors blocked under Subsection (1)(a).

~~[(b) (i) A service provider shall, before December 30, 2018, notify in a conspicuous manner all of the service provider's consumers with a Utah~~

~~residential address that the consumer may request material harmful to minors be blocked under Subsection (1)(a).]~~

~~[(ii) A service provider may provide the notice described in Subsection (2)(b)(i):]~~

~~[(A) by electronic communication;]~~

~~[(B) with a consumer's bill; or]~~

~~[(C) in another conspicuous manner.]~~

~~[(e) Before December 31, 2018, a service provider shall:]~~

~~[(i) notify the Division of Consumer Protection within the Department of Commerce that notice was sent under Subsection (2)(b); and]~~

~~[(ii) provide the Division of Consumer Protection within the Department of Commerce a copy of the notice that was sent under Subsection (2)(b).]~~

~~[(d)] (2) The Division of Consumer Protection within the Department of Commerce shall [report all violations of Subsections (2)(b) and (c) to the attorney general:]~~

~~(a) every other year request from each service provider information on how the service provider complies with Subsection (1)(a);~~

~~(b) publish on the division's website a compilation of the information the division receives under Subsection (2)(a); and~~

~~(c) update the compilation described in Subsection (2)(b) every other year.~~

(3) (a) A service provider may comply with Subsection (1)(a) by providing in-network filtering to prevent receipt of material harmful to minors, provided that the filtering does not affect or interfere with access to Internet content for consumers who do not request filtering under Subsection (1)(a).

(b) A service provider may comply with Subsection (1)(a) by engaging a third party to provide or referring a consumer to a third party that provides a commercially reasonable method of filtering to block the receipt of material harmful to minors.

(c) A service provider may charge a consumer a commercially reasonable fee for providing filtering under this Subsection (3).

(4) If the attorney general determines that a service provider violates Subsection (1) ~~or (2)~~, the attorney general shall:

(a) notify the service provider that the service provider is in violation of Subsection (1) ~~or (2)~~; and

(b) notify the service provider that the service provider has 90 days to comply with the provision being violated or be subject to Subsection (5).

(5) (a) A service provider that intentionally or knowingly violates Subsection (1)(a) is subject to a civil fine of \$2,500 for each separate violation of Subsection (1)(a), up to \$15,000 per day.

(b) A service provider that intentionally or knowingly violates Subsection [~~2~~] (1)(c) is subject to a civil fine up to \$10,000.

(6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the attorney general in a court of competent jurisdiction.

CHAPTER 181**S. B. 217**

Passed March 14, 2019
Approved March 22, 2019
Effective May 14, 2019

**GANG PREVENTION
FUNDING AMENDMENTS**

Chief Sponsor: Karen Mayne
House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies provisions regarding the Enhancement for At-Risk Students Program.

Highlighted Provisions:

This bill:

- ▶ modifies the distribution of funds for a gang prevention and intervention program from the Enhancement for At-Risk Students Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-2-410, as last amended by Laws of Utah 2018, Chapters 117, 165, 396 and renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53F-2-410 is amended to read:**53F-2-410. Enhancement for At-Risk Students Program.**

(1) (a) Subject to Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall [~~appropriate \$1,500,000 from~~] allocate 4% of the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students at risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall:

(a) use the following criteria:

(i) low performance on statewide assessments described in Section 53E-4-301;

(ii) poverty;

(iii) mobility;

(iv) limited English proficiency;

(v) chronic absenteeism; and

(vi) homelessness;

(b) ensure that the distribution formula distributes money on a per student and per criterion basis; and

(c) ensure that the distribution formula provides funding for each criterion that a student meets such that a student who meets:

(i) one criterion is counted once; and

(ii) more than one criterion is counted for each criterion the student meets up to three criteria.

(3) Subject to future budget constraints, the amount appropriated for the Enhancement for At-Risk Students Program shall increase annually with growth in the at-risk student population and changes to the value of the weighted pupil unit as defined in Section 53F-9-305.

(4) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure including addressing truancy.

(5) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(6) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

(7) During the fiscal year that begins July 1, 2022, the Public Education Appropriations Subcommittee shall evaluate:

(a) the impact of funding provided in this section to determine whether the funding has improved educational outcomes for students who are at-risk for academic failure; and

(b) whether the funding should continue as established, be amended, or be consolidated in the value of the weighted pupil unit.

CHAPTER 182**S. B. 220**

Passed March 14, 2019
Approved March 22, 2019
Effective July 1, 2019

BUDGETING REVISIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill modifies budgeting provisions relating to dedicated credits, expendable receipts, and grants.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that dedicated credits are subject to appropriations and certain restrictions;
- ▶ provides that expendable receipts are not limited by appropriations;
- ▶ provides that an agency may expend expendable receipts in accordance with the terms set by the nonstate entity that provides the funds;
- ▶ provides expenditure procedures and reporting requirements for an agency that receives expendable receipts revenue greater than the amount included in an appropriations act line item; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469
63J-1-102, as last amended by Laws of Utah 2018, Chapter 469
63J-1-105, as enacted by Laws of Utah 2018, Chapter 469
63J-1-206, as last amended by Laws of Utah 2018, Chapters 415 and 469
63J-7-101, as enacted by Laws of Utah 2008, Chapter 195

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

Section 1. Section 63I-2-263 is amended to read:**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

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

~~[(4) On July 1, 2019:]~~

~~[(a) in Subsection 63J-1-206(2)(c)(i), the language that states “Subsection(2)(c)(ii) and” is repealed; and]~~

~~[(b) Subsection 63J-1-206(2)(c)(ii) is repealed.]~~

~~[(5)]~~ (4) Section 63J-4-708 is repealed January 1, 2023.

~~[(6)]~~ (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

~~[(7)]~~ (6) Section 63N-3-110 is repealed July 1, 2020.

Section 2. Section 63J-1-102 is amended to read:**63J-1-102. Definitions.**

As used in this chapter:

(1) “Agency” means a unit of accounting, typically associated with a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government, that includes line items and programs.

(2) “Budget execution plan” means a proposal submitted by an administrative unit of state government to the Division of Finance enumerating expected revenues and authorized expenditures within line items and among programs.

(3) “Debt service” means the money that is required annually to cover the repayment of interest and principal on state debt.

(4) (a) “Dedicated credits” means collections by an agency that ~~[are deposited directly into an account for expenditure by the agency]~~ fund agency operations.

(b) “Dedicated credits” includes ~~[collections from assessments, contributions, donations, fees, fines, licenses, penalties, rental, sales, non-federal grants, or other collections not:]~~

(i) assessments;

(ii) sales of goods and materials;

(iii) sales of services;

(iv) permits, licenses, and other fees;

(v) fines, penalties, and forfeitures; and

(vi) rental revenue.

~~[(i) otherwise designated by law for deposit into another fund or account; or]~~

~~[(ii) specifically excluded from the definition.]~~

(c) “Dedicated credits” does not ~~[mean:]~~ include:

(i) expendable receipts;

~~(ii)~~ revenues otherwise designated by law for deposit into another fund or account;

~~(i)~~ ~~(iii)~~ federal revenues and the related pass through ~~[or the related state match paid by one agency to another]; or~~

~~(iii)~~ ~~(iv)~~ revenues that are not deposited in governmental funds~~[-or-]~~.

~~(iii)~~ ~~revenues from any contracts.~~

(5) (a) “Expendable receipts” means collections by an agency for expenditures that are limited by a nonstate entity that provides the funds.

(b) “Expendable receipts” includes:

(i) grants;

(ii) state matches for federal revenues paid by a nonstate entity; and

(iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures as the original program.

(c) “Expendable receipts” does not include:

(i) dedicated credits;

(ii) revenues otherwise designated by law for deposit into another fund or account;

(iii) federal revenues and the related pass through; or

(iv) revenues that are not deposited into governmental funds.

~~(5)~~ (6) “Federal revenues” means collections by an agency from a federal source that are deposited into an account for expenditure by the agency.

~~(6)~~ (7) “Free revenue” includes:

(a) collections that are required by law to be deposited in:

(i) the General Fund;

(ii) the Education Fund;

(iii) the Uniform School Fund; or

(iv) the Transportation Fund;

(b) collections that are not otherwise designated by law;

(c) collections that are not externally restricted; and

(d) collections that are not included in an approved ~~[work program-]~~ budget execution plan.

(8) “Grant” means the same as that term is defined in Section 63J-7-101.

~~(7)~~ (9) (a) “Item of appropriation” means an authorization of expenditure contained in legislation that appropriates funds and includes the following:

(i) the name of the agency and line item to which authorization is granted; and

(ii) sources of finance from which authorization is granted and associated amounts authorized.

(b) “Item of appropriation” also includes:

(i) a schedule of programs;

(ii) intent language;

(iii) approved full-time equivalent employment;

(iv) authorized capital outlay; and

(v) other conditions of appropriation.

~~(8)~~ (10) “Line item” means a unit of accounting, typically representing an administrative unit of state government within an agency, that contains one or more programs.

~~(9)~~ (11) “Major revenue types” means:

(a) free revenue;

(b) federal revenue;

~~(b)~~ (c) restricted revenue; ~~and~~

~~(e)~~ (d) dedicated credits~~[-]~~; and

(e) expendable receipts.

~~(10)~~ (12) “Program” means a unit of accounting included on a schedule of programs within a line item used to track budget authorizations, collections, and expenditures on specific purposes or functions.

~~(11)~~ (13) “Restricted revenue” means collections that are:

(a) deposited, by law, into a separate fund, subfund, or account; and

(b) designated for a specific program or purpose.

~~(12)~~ (14) “Schedule of programs” means a list of programs and associated authorization amounts within an item of appropriation.

Section 3. Section 63J-1-105 is amended to read:

63J-1-105. Revenue types -- Disposition of dedicated credits and expendable receipts.

(1) (a) Dedicated credits are subject to appropriations and the restrictions in this chapter.

(b) An agency may expend dedicated credits for any purpose within the program or line item.

(2) Except as provided in Subsections (3) and (4), an agency may not expend dedicated credits in excess of the amount appropriated to a line item as dedicated credits by the Legislature.

(3) Each agency that receives dedicated credits revenue greater than the amount appropriated to a line item by the Legislature in the annual appropriations acts may expend the excess up to 25% of the amount appropriated if the expenditure is included in a revised budget execution plan ~~[approved]~~ submitted as provided in Section 63J-1-209.

(4) Notwithstanding the requirements of Subsection (3), when an agency’s dedicated credits

revenue represents over 90% of the budget of the line item for which the dedicated credits are collected, the agency may expend 100% of the excess of the amount appropriated if the ~~[expenditure is authorized by an amended]~~ agency submits a revised budget execution plan ~~[approved]~~ as provided in Subsection (3) and Section 63J-1-209.

(5) An expenditure of dedicated credits in excess of amounts appropriated to a line item as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:

(a) the increase is approved by the Legislature; or

(b) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.

(6) (a) All excess dedicated credits not received or expended in compliance with Subsection (3), (4), or (7) lapse to the General Fund or other appropriate fund as free or restricted revenue at the end of the fiscal year.

(b) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.

(7) (a) When an agency has a line item that is funded by more than one major revenue type, one of which is dedicated credits, the agency shall completely expend authorized dedicated credits within the current fiscal year and allocate unused spending authorization among other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits, unless the Legislature has designated a portion of the dedicated credits as nonlapsing, in which case the agency shall completely expend within the current fiscal year authorized dedicated credits minus the portion of dedicated credits designated as nonlapsing, and allocate unused spending authorization among the other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits.

(b) Nothing in Subsection (7)(a) shall be construed to allow an agency to receive and expend dedicated credits in excess of legislative appropriations to a line item without complying with Subsection (3) or (4).

(c) Each agency that receives dedicated credits shall report, to the Division of Finance, any balances remaining in those funds at the conclusion of each fiscal year.

(8) Each agency shall include in its annual budget request estimates of dedicated credits revenue that is identified by, collected for, or set by the agency.

(9) Each agency may expend expendable receipts in accordance with the terms set by a nonstate entity that provides the funds.

(10) (a) Expendable receipts are not limited by appropriations.

(b) Each agency that receives expendable receipts revenue greater than the amount included for a line item by the Legislature in the annual appropriations acts may expend the excess if the expenditure is included in a revised budget execution plan submitted as provided in Section 63J-1-209.

(c) If an agency receives excess expendable receipts revenue that is more than 25% greater than the amount included for a line item by the Legislature in the annual appropriations acts, the agency shall report the excess amount, the source of the expendable receipts, and the purpose for which the expendable receipts will be expended to the Governor's Office of Management and Budget, the legislative fiscal analyst, and the Executive Appropriations Committee within 60 days of submitting a revised budget execution plan as provided in Section 63J-1-209.

Section 4. Section 63J-1-206 is amended to read:

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

(1) (a) Except as provided in ~~[Subsection (2)(b), (3)(e),]~~ Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

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

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

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection (2)(c)(ii) ~~[and Subsection (2)(c)(iii)]~~, an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

~~[(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, division, or line item only for the purposes of law enforcement, adjudication, corrections, and~~

~~providing and addressing services for homeless individuals and families.]~~

~~[(iii)] (ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.~~

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

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

Section 5. Section 63J-7-101 is amended to read:

63J-7-101. Definitions.

(1) As used in this chapter:

(a) (i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes executive branch entities and judicial branch entities.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) (i) "Grant" means cash or other money donated to an agency ~~[by a grantor]~~.

(ii) "Grant" includes:

(A) a reauthorization of an existing grant[-]; and

(B) a donation, regardless of whether it is subject to a formal grant agreement.

(iii) "Grant" does not mean:

(A) money appropriated to an agency by the Legislature;

(B) money received from the United States government;

(C) money legally required to be paid to the state; ~~[or]~~

(D) money legally required to be repaid by the state[-]; or

(E) revenues otherwise designated by law for deposit into another fund or account.

(c) "Grantor" means the individual, group of individuals, foundation, corporation, or public or private organization making the grant.

(d) "Grant reauthorization" means the formal submission from an agency to the grantor applying for reauthorization or seeking reauthorization of a grant.

(e) "Grant summary" means a document detailing:

(i) the amount of money that is being requested or is available to be received by the agency from a grant;

(ii) the duration of the grant and provisions for its reauthorization or extension, if any;

(iii) the name of the grantor;

(iv) the purpose of the grant, including, in detail, any programs, resources, and positions required to be funded by the grant;

(v) any requirements that the agency must meet as a condition to receive or participate in the grant; and

(vi) the amount of state money, if any, that will be required in order to obtain the grant.

(f) "New state money" means money, whether specifically appropriated by the Legislature or not, that the grantor requires Utah to expend as a condition for receiving the grant.

(g) "State" means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a "permanent full-time employee" or a "permanent part-time employee," it is not intended to, and may not be construed to, affect the employee's status as an at-will employee.

Section 6. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 183**H. B. 15**

Passed March 1, 2019

Approved March 25, 2019

Effective May 14, 2019

VICTIM RIGHTS AMENDMENTS

Chief Sponsor: Steve Eliason

Senate Sponsor: Todd Weiler

Cosponsors: Lee B. Perry

Andrew Stoddard

Mike Winder

LONG TITLE**General Description:**

This bill allows investigations to be reviewed at the request of a victim or victim's family.

Highlighted Provisions:

This bill:

- ▶ creates a review process for open investigations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

11-63-101, Utah Code Annotated 1953

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

Section 1. Section 11-63-101 is enacted to read:**11-63-101. Review of open investigation.**

(1) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may request review of a criminal investigation if:

(a) the incident was reported for investigation to a law enforcement agency with jurisdiction to investigate the incident;

(b) at least one year has passed from the date the incident was first reported for investigation to a law enforcement agency with jurisdiction to investigate the incident; and

(c) the law enforcement agency investigating the incident has not submitted the investigation results to be screened for criminal charges by the county or district attorney in the jurisdiction in which the incident occurred.

(2) (a) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may request review of the investigation by the chief executive of the law enforcement agency investigating the incident. Within 30 days after receiving a request, the chief executive of the law enforcement agency shall meet with the investigating officers to evaluate the investigation, including existing leads and obstacles and investigative resources that may be available to move the investigation to conclusion, and develop a plan to:

(i) close the investigation;

(ii) undertake further investigative steps; or

(iii) submit the investigation results to be screened for criminal charges by the county or district attorney in the jurisdiction in which the incident occurred.

(b) Within 60 days after receiving a request for review under Subsection (2)(a), the chief executive of the law enforcement agency investigating the incident shall send written notification to the individual who made the review request advising the individual whether the agency will:

(i) close the investigation;

(ii) undertake further investigative steps; or

(iii) submit the investigation results to be screened for criminal charges.

(3) (a) If the written notification under Subsection (2)(b) indicates further investigative steps will be undertaken or that the investigation results will be submitted to be screened for criminal charges and no charges have been filed within 90 days following the date of the written notification under Subsection (2)(b), or the investigation will be closed, the individual who is a victim of crime, or who is a family member of a victim of crime, may submit a second request to the law enforcement agency investigating the incident that the investigation results and all evidence be transferred to the county attorney with jurisdiction over the area in which the incident occurred.

(b) Within 15 days after receiving a transfer request under Subsection (3)(a), the chief executive of the law enforcement agency shall forward the investigation results to the county attorney as requested by the victim or victim's family.

(c) Within 30 days of receiving the investigation results from the law enforcement agency investigating the incident, the county attorney shall evaluate the investigation, including existing leads and obstacles, evidence, and investigative resources that may be available to move the investigation to conclusion, and:

(i) develop a plan to undertake further investigative steps; or

(ii) decline to accept the transferred investigation.

(d) Within 60 days after receiving the investigation results from the law enforcement agency investigating the incident, the county attorney shall send written notification to the individual who made the transfer request advising the individual whether the county attorney will undertake further investigative steps.

(4) If the county attorney declines to accept the transferred investigation, it shall return all evidence and information to the law enforcement agency within 30 days.

(5) Nothing in this section requires a law enforcement agency or prosecuting agency to close an investigation if charges are not filed within the time frames set forth in this section.

(6) An individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, may seek review of an investigation by the attorney general, pursuant to its concurrent jurisdiction to investigate and prosecute crimes in any city or county of the state.

(a) Within 30 days of receiving a request from an individual who is a victim of a first degree felony, or who is a family member of a missing person or homicide victim, to accept a transferred investigation, the attorney general shall request from the law enforcement agency all evidence and information regarding the investigation.

(b) Within 60 days after receiving the investigation information from the law enforcement agency investigating the incident, the attorney general shall review all evidence and information received and make a determination regarding the investigation.

(c) The attorney general shall send written notification to the individual who made the transfer request within 60 days of its decision to decline or continue an investigation.

CHAPTER 184**H. B. 19**

Passed February 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

PRETRIAL RELEASE AMENDMENTS

Chief Sponsor: Angela Romero
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies pretrial release provisions.

Highlighted Provisions:

This bill:

- ▶ addresses the right to bail involving qualifying offenses;
- ▶ modifies terms related to jail release agreements and jail release court orders;
- ▶ addresses conditions for release after arrest for domestic violence and other offenses;
- ▶ amends provisions related to dismissal of certain offenses;
- ▶ addresses contents of pretrial protective orders;
- ▶ repeals language regarding privileged communications; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 77-20-1, as last amended by Laws of Utah 2017, Chapters 289, 311, and 332
 77-20-3.5, as last amended by Laws of Utah 2018, Chapter 281
 77-36-1, as last amended by Laws of Utah 2018, Chapter 255
 77-36-2.7, as last amended by Laws of Utah 2017, Chapter 289

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

Section 1. Section 77-20-1 is amended to read:**77-20-1. Right to bail -- Denial of bail -- Hearing.**

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) ~~[A person]~~ An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the ~~[person]~~ individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the ~~[person]~~ individual would constitute a substantial danger to any other ~~[person]~~ individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail; ~~[or]~~

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the ~~[person]~~ individual violated a material condition of release while previously on bail~~[-];~~ or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

(3) Any ~~[person]~~ individual who may be admitted to bail may be released by written undertaking or an equal amount of cash bail, or on the ~~[person's]~~ individual's own recognizance, on condition that the ~~[person]~~ individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

(4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

(d) ~~[A person]~~ An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 77-20-3.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection ~~[77-20-3.5(9) or (11)]~~ (2).

(5) The magistrate or court may rely upon information contained in:

- (a) the indictment or information;
- (b) any sworn probable cause statement;
- (c) information provided by any pretrial services agency; or
- (d) any other reliable record or source.

(6) (a) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(7) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

(8) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (2).

(9) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

- (a) the prosecutor files a notice of intent to not seek the death penalty; or
- (b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

Section 2. Section 77-20-3.5 is amended to read:

77-20-3.5. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

(1) As used in this section:

(a) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(b) "Jail release agreement" means a written agreement [~~described in Subsection (3)~~] that is entered into by an arrested individual:

~~[(i) limits the contact an individual arrested for a qualifying offense may have with an alleged victim; and]~~

(i) under which the arrested individual agrees to not engage in any of the following:

- (A) have personal contact with the alleged victim;
- (B) threaten or harass the alleged victim; or

(C) knowingly enter on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(ii) that specifies other conditions of release from jail.

(c) "Jail release court order" means a written court order [~~issued in accordance with Subsection (3)~~] that:

~~[(i) limits the contact an individual arrested for a qualifying offense may have with an alleged victim; and]~~

(i) orders an arrested individual not to engage in any of the following:

- (A) have personal contact with the alleged victim;
- (B) threaten or harass the alleged victim; or

(C) knowingly enter on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(ii) specifies other conditions of release from jail.

(d) "Minor" means an unemancipated individual who is younger than 18 years of age.

(e) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, or 76-5-111.

(f) "Qualifying offense" means:

- (i) domestic violence;
- (ii) an offense against a child or vulnerable adult; or
- (iii) the commission or attempted commission of an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) (a) Upon arrest for a qualifying offense and before the ~~[person]~~ individual is released on bail, recognizance, or otherwise, the ~~[person]~~ individual may not personally contact the alleged victim.

(b) ~~[A person]~~ An individual who violates Subsection (2)(a) is guilty of a class B misdemeanor.

(3) (a) After ~~[a person]~~ an individual is arrested for a qualifying offense, the ~~[person]~~ individual may not be released before:

- (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or
- (ii) the ~~[person]~~ individual signs a jail release agreement [~~in accordance with Subsection (3)(d)(i)~~].

(b) The arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (6)(a).

(c) (i) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall determine ~~[(i) whether grounds exist to hold the arrested person]~~ whether the arrested individual may be held without bail, in accordance with Section 77-20-1[~~5~~].

~~(ii) if no grounds exist to hold the arrested person without bail,]~~

(ii) If the magistrate determines that the arrested individual has the right to be admitted to bail, the magistrate shall determine:

(A) whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; [or] and

[(iii)] (B) any bail that is required to guarantee the arrested person's subsequent appearance in court.

~~[(d) (i) The magistrate may not release a person arrested for a qualifying offense before the person's initial court appearance before the court with jurisdiction over the offense for which the person was arrested, unless the arrested person agrees in writing or the magistrate orders, as a release condition, that, until the arrested person appears at the initial court appearance, the arrested person will not:]~~

~~[(A) have personal contact with the alleged victim;]~~

~~[(B) threaten or harass the alleged victim; or]~~

~~[(C) knowingly enter onto the premises of the alleged victim's residence or any premises temporarily occupied by the alleged victim.]~~

~~[(ii) The magistrate shall schedule the appearance described in Subsection (3)(d)(i) to take place no more than 96 hours after the time of the arrest.]~~

~~[(iii) The arrested person may make the appearance described in Subsection (3)(d)(i) by video if the arrested person is not released.]~~

(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.

(4) (a) If [a person] an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate [under Subsection (3)(d), the person] within 96 hours after the time of arrest, the individual shall comply with the release conditions [described in Subsection (3)(d)(i) until the person] of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against [a person] an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (3)[(d)], or by the court under Subsection (4)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the [person] individual an opportunity to be heard on the motion, extend the release conditions described in [Subsection (3)(d)(i)] the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection (4)(b)(i), shall order the arrested [person] individual to appear at a time scheduled before the end of the granted extension.

(c) (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (4)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

(ii) A prosecutor's notice of declination transmitted under this Subsection (4)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

(5) Except as provided in Subsection (4) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested [person's] individual's initial scheduled court appearance described in Subsection [(3)(d)(i)-] (4)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection (4)(c); or

(c) 30 days after the day on which the arrested individual is arrested.

(6) (a) (i) After an arrest for a qualifying offense, an alleged victim who is not a minor may waive in writing the release conditions [described in Subsection (3)(d)(i)(A) or (C)-] prohibiting:

(A) personal contact with the alleged victim; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(ii) Upon waiver, [those] the release conditions described in Subsection (6)(a)(i) do not apply to the arrested [person] individual.

(b) A court or magistrate may modify [the release conditions described in Subsection (3)(d)(i)-] a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

(7) (a) When an arrested [person] individual is released in accordance with Subsection (3), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the arrested [person] individual, give the arrested [person] individual a copy of the jail release agreement or the jail release court order.

(b) (i) When ~~[a person]~~ an individual arrested for domestic violence is released pursuant to ~~[Subsection (3)] this section~~ based on a ~~[written]~~ jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When ~~[a person]~~ an individual arrested for domestic violence is released pursuant to ~~[Subsections (3) through (5)] this section~~ based upon a jail release court order or if a ~~[written]~~ jail release agreement is modified pursuant to Subsection (6)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (7) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(8) (a) If a law enforcement officer has probable cause to believe that ~~[a person]~~ an individual has violated a jail release agreement or jail release court order, the officer shall, without a warrant, arrest the ~~[person]~~ individual.

(b) ~~[Any person]~~ An individual who knowingly violates a jail release court order or jail release agreement executed pursuant to Subsection (3) is guilty as follows:

(i) if the original arrest was for a felony, an offense under this section is a third degree felony; or

(ii) if the original arrest was for a misdemeanor, an offense under this section is a class A misdemeanor.

(c) ~~[City attorneys]~~ A city attorney may prosecute class A misdemeanor violations under this section.

(9) ~~[A person]~~ An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the ~~[person]~~ individual.

(10) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in ~~[Subsections (3) through (5)] this section~~, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a ~~[written]~~ jail release agreement to comply with the release conditions; or

(ii) the magistrate ~~[orders]~~ issues a jail release order that specifies the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release court order;

~~[(c)] notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest;~~

~~[(d)]~~ (c) the address of the appropriate court in the district or county in which the alleged victim resides;

~~[(e)]~~ (d) the availability and effect of any waiver of the release conditions; and

~~[(f)]~~ (e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(11) At the time an arrest is made for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released;

(b) the release conditions described in ~~[Subsections (3) through (5)] this section~~ and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a ~~[written]~~ jail release agreement to comply with the release conditions; or

(ii) the magistrate ~~[orders the release conditions]~~ issues a jail release court order;

(c) notification of the penalties for violation of any jail release agreement or jail release court order; and

(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.

(12) (a) A pretrial or sentencing protective order supercedes a jail release agreement or jail release court order.

(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.

~~[(13) In addition to the provisions of Subsections (3) through (12), because of the unique and highly emotional nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of an offender who has been arrested for domestic violence, it is the finding of the Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for which bail may be denied if there is substantial evidence to support the charge, and if the court finds by clear and convincing evidence that the alleged perpetrator would constitute a substantial danger to an alleged victim of domestic violence if released on bail.]~~

~~[(14) The provisions of this section do]~~

(13) This section does not apply if the ~~[person]~~ individual arrested for the qualifying offense is a

minor, unless the qualifying offense is domestic violence.

Section 3. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" ~~also means~~ includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(m) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(o), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(p) child abuse, as described in Section 76-5-109.1;

(q) threatening use of a dangerous weapon, as described in Section 76-10-506;

(r) threatening violence, as described in Section 76-5-107;

(s) tampering with a witness, as described in Section 76-8-508;

(t) retaliation against a witness or victim, as described in Section 76-8-508.3;

(u) unlawful distribution of an intimate image, as described in Section 76-5b-203;

(v) sexual battery, as described in Section 76-9-702.1;

(w) voyeurism, as described in Section 76-9-702.7;

(x) damage to or interruption of a communication device, as described in Section 76-6-108; or

(y) an offense described in Section 77-20-3.5.

(5) "Jail release agreement" means the same as that term is defined in Section 77-20-3.5.

(6) "Jail release court order" means the same as that term is defined in Section 77-20-3.5.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 77-36-5.1(6).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to ~~Subsection 77-20-3.5(3)~~ Section 77-20-3.5, Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a

domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 4. Section 77-36-2.7 is amended to read:

77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial protective order pending trial.

(1) Because of the serious nature of domestic violence, the court, in domestic violence actions:

(a) may not dismiss any charge or delay disposition because of concurrent divorce or other civil proceedings;

(b) may not require proof that either party is seeking a dissolution of marriage before instigation of criminal proceedings;

(c) shall waive any requirement that the victim's location be disclosed other than to the defendant's attorney and order the defendant's attorney not to disclose the victim's location to the client;

(d) shall identify, on the docket sheets, the criminal actions arising from acts of domestic violence; and

~~[(e) may dismiss a charge on stipulation of the prosecutor and the victim; and]~~

~~[(f)]~~ (e) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas in Abeyance, making treatment or any other requirement for the defendant a condition of that status.

(2) When the court holds a plea in abeyance in accordance with Subsection (1)~~[(f)]~~(e), the case against a perpetrator of domestic violence may be dismissed only if the perpetrator successfully completes all conditions imposed by the court. If the defendant fails to complete any condition imposed by the court under Subsection (1)~~[(f)]~~(e), the court may accept the defendant's plea.

(3) (a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past and the vulnerability of victims of other qualifying offenses, as defined in Section 77-20-3.5, when any defendant is charged with a crime involving ~~[domestic violence]~~ a qualifying offense, the court may, during any court hearing where the defendant is present, issue a pretrial protective order, pending trial:

(i) enjoining the defendant from threatening to commit or committing acts of domestic violence or

abuse against the victim and any designated family or household member;

(ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) removing and excluding the defendant from the victim's residence and the premises of the residence;

(iv) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim and any designated family member; and

(v) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member.

(b) Violation of an order issued pursuant to this section is punishable as follows:

(i) if the original arrest or subsequent charge filed is a felony, an offense under this section is a third degree felony; and

(ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under this section is a class A misdemeanor.

(c) (i) The court shall provide the victim with a certified copy of any pretrial protective order that has been issued if the victim can be located with reasonable effort.

(ii) If the court is unable to locate the victim, the court shall provide the victim's certified copy to the prosecutor.

~~[(iii)]~~ (iii) The court shall ~~[also]~~ transmit the pretrial protective order to the statewide domestic violence network.

(d) Issuance of a pretrial or sentencing protective order ~~[supercedes]~~ supersedes a jail release agreement or jail release court order.

(e) If the alleged victim and the defendant share custody of one or more minor children, the court may include in a pretrial protective order provisions for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(f) In a pretrial protective order the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

(4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss charges against a defendant accused of a domestic violence offense, the specific reasons for dismissal shall be recorded in the court file and made a part of any related order or agreement on the statewide domestic violence network described in Section 78B-7-113.

(b) The court shall transmit the dismissal to the statewide domestic violence network.

(c) Any pretrial protective orders, including jail release court orders and jail release agreements,

related to the dismissed domestic violence criminal charge shall also be dismissed.

~~[(5) — When the privilege of confidential communication between spouses, or the testimonial privilege of spouses is invoked in any criminal proceeding in which a spouse is the victim of an alleged domestic violence offense, the victim shall be considered to be an unavailable witness under the Utah Rules of Evidence.]~~

[(6)] (5) The court may not approve diversion for a perpetrator of domestic violence.

CHAPTER 185**H. B. 23**

Passed March 4, 2019
 Approved March 25, 2019
 Effective May 14, 2019

GAMBLING MACHINES AMENDMENTS

Chief Sponsor: Michael K. McKell
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions relating to gambling.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies definitions;
- ▶ clarifies that certain gambling offenses include fringe gambling; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 76-10-1101, as last amended by Laws of Utah 2012, Chapters 27 and 157
 76-10-1102, as last amended by Laws of Utah 2012, Chapter 157
 76-10-1103, as enacted by Laws of Utah 1973, Chapter 196
 76-10-1104, as last amended by Laws of Utah 1991, Chapter 241
 76-10-1105, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section 76-10-1101 is amended to read:**76-10-1101. Definitions.**

As used in this part:

(1) "Consumer" means the same as that term is defined in Section 76-10-1230.

~~[(1)]~~ (2) (a) "Fringe gambling" means any gambling, lottery, fringe gaming device, or video gaming device ~~[which is: (i)]~~ that is given, conducted, or offered for use or sale by a business in exchange for anything of value; ~~or (ii) given away]~~ or incident to the purchase of ~~[other goods or services]~~ another good or service.

(b) "Fringe gambling" does not ~~mean~~ include a promotional activity that is clearly ancillary to the primary activity of a business.

~~[(c) Determination of whether a promotional activity is clearly ancillary under Subsection (1)(b) is by consideration of the totality of the circumstances, which may include one or more of these factors:]~~

~~[(i) the manner in which the business is marketed, advertised, or promoted;]~~

~~[(ii) whether and the degree to which the business provides instructions regarding the use or operation of the promotional activity, as compared to the use or operation of the goods or services sold by the business;]~~

~~[(iii) the availability and terms of any free play option to engage in the promotional activity;]~~

~~[(iv) whether any contest, sweepstakes, or other promotional entries provided to customers who purchase goods or services from the business provide any advantage in winning a prize over any advantage provided to participants in the promotional activity who do not purchase goods or services from the business;]~~

~~[(v) whether the goods or services promoted for purchase by the business are on terms that are commercially reasonable; and]~~

~~[(vi) whether any prize won by participation in the promotion may be parlayed into one or more additional opportunities to win an additional prize.]~~

(3) (a) "Fringe gaming device" means a device that provides the user:

(i) a card, token, credit, or product in exchange for anything of value; and

(ii) along with the card, token, credit, or product, the opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or something of value that is based on an element of chance and not substantially affected by a person's skill, knowledge, or dexterity.

(b) "Fringe gaming device" does not include a device that provides the user a card, token, credit, or product in exchange for only the user's name, birthdate, or contact information.

~~[(2)]~~ (4) (a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based ~~[upon]~~ on an element of chance, regardless of the existence of a preview or pre-reveal feature in the device, contest, or game; and

(ii) is in accord with an agreement or understanding that someone will receive ~~[something]~~ anything of value in the event of a certain outcome.

(b) "Gambling" includes a lottery ~~[and fringe gambling]~~.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) playing an amusement device that confers:

(A) only an immediate and unrecorded right of replay not exchangeable for value; or

(B) as a reward for playing, a toy or novelty with a value of less than \$10.

[43] (5) “Gambling bet” means money, checks, credit, or any other representation of value.

[44] (6) “Gambling device or record” means anything specifically designed for use in gambling or fringe gambling or used primarily for gambling or fringe gambling.

[45] (7) “Gambling proceeds” means anything of value used in gambling or fringe gambling.

[46] (8) “Internet gambling” or “online gambling” means gambling, fringe gambling, or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

(9) “Internet service provider” means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in Utah.

[47] (10) “Lottery” means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(11) “Promotional activity that is clearly ancillary to the primary activity of a business” means that the promotional activity:

(a) continues for a limited period of time;

(b) is related to a good or service provided by the business or the marketing or advertisement of a good or service provided by the business;

(c) does not require a person to purchase a good or service from the business in consideration for participation or an advantage in the promotional activity or any other contest, game, gaming scheme, sweepstakes, or promotional activity; and

(d) promotes the good or service being promoted for purchase by the business on terms that are commercially reasonable.

[48] (12) “Video gaming device” means any device that possesses all of the following characteristics:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or

risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that, in order to function, requires inserting money, tokens, or other valuable consideration ~~[in order to function]~~ other than solely the user’s name, birthdate, or contact information.

Section 2. Section 76-10-1102 is amended to read:

76-10-1102. Gambling.

(1) A person is guilty of gambling if the person:

(a) participates in gambling or fringe gambling, including any Internet or online gambling;

(b) knowingly permits any gambling or fringe gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(c) knowingly allows the use of any video gaming device that is:

(i) in any business establishment or public place; and

(ii) accessible for use by any person within the establishment or public place.

(2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.

(3) (a) A person is guilty of a class A misdemeanor who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.

(b) Subsection (3)(a) does not apply to an Internet service provider ~~[or]~~, a hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising service, or provider of public telecommunications services:

(i) transmits, routes, or provides connections for material without selecting the material; or

(ii) stores or delivers the material at the direction of a user.

(4) If any federal law is enacted that authorizes Internet gambling in the states and that federal law provides that individual states may opt out of Internet gambling, this state shall opt out of Internet gambling in the manner provided by federal law and within the time frame provided by that law.

(5) Whether or not any federal law is enacted that authorizes Internet gambling in the states, this section acts as this state’s prohibition of any

gambling, including Internet gambling, in this state.

Section 3. Section 76-10-1103 is amended to read:

76-10-1103. Gambling fraud.

(1) A person is guilty of gambling fraud if ~~[he]~~ the person participates in gambling or fringe gambling and wins or acquires to himself or herself or another any gambling proceeds when ~~[he]~~ the person knows ~~[he]~~ the person has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all participants.

(2) A person convicted of gambling fraud ~~[shall be]~~ is punished as in the case of theft of property of like value.

Section 4. Section 76-10-1104 is amended to read:

76-10-1104. Gambling promotion.

(1) A person is guilty of gambling promotion if ~~[he]~~ the person derives or intends to derive an economic benefit other than personal winnings from gambling or fringe gambling and:

(a) ~~[he]~~ the person induces or aids another to engage in gambling or fringe gambling; or

(b) ~~[he]~~ the person knowingly invests in, finances, owns, controls, supervises, manages, or participates in any gambling or fringe gambling.

(2) Gambling promotion is a class B misdemeanor, ~~[provided, however]~~ except that any person who is twice convicted under this section ~~[shall be]~~ is guilty of a ~~[felony of the]~~ third degree felony.

Section 5. Section 76-10-1105 is amended to read:

76-10-1105. Possessing a gambling device or record.

(1) A person is guilty of possessing a gambling device or record if ~~[he]~~ the person knowingly possesses ~~[it with intent to use it]~~ the gambling device or record with intent to use the gambling device or record in gambling or fringe gambling.

(2) Possession of a gambling device or record is a class B misdemeanor, ~~[provided, however,]~~ except that any person who is twice convicted under this section ~~[shall be]~~ is guilty of a class A misdemeanor, and ~~[any]~~ a person who is convicted three or more times under this section ~~[shall be]~~ is guilty of a ~~[felony of the]~~ third degree felony.

CHAPTER 186**H. B. 27**

Passed February 14, 2019

Approved March 25, 2019

Effective May 14, 2019

**PUBLIC EDUCATION
DEFINITIONS AMENDMENTS**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill defines terms that apply to the public education code and amends provisions in the public education code related to defined terms.

Highlighted Provisions:

This bill:

- ▶ defines terms that apply to:
 - Title 53E, Public Education System -- State Administration;
 - Title 53F, Public Education System -- Funding; and
 - Title 53G, Public Education System -- Local Administration;
- ▶ amends provisions in Title 53E, Public Education System -- State Administration, and Title 53F, Public Education System -- Funding, to use and conform with the defined terms;
- ▶ amends other provisions in the public education code related to defined terms; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

26-7-9, as last amended by Laws of Utah 2018, Chapter 415

53E-1-102, as enacted by Laws of Utah 2018, Chapter 1

53E-2-201, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-2-202, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-2-301, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-2-302, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-2-303, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-2-304, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-201, as last amended by Laws of Utah 2018, Chapter 336 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-202, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-203, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-204, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-301, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-302, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-303, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-401, as last amended by Laws of Utah 2018, Chapters 200, 383 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-402, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-403, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-501, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-503, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-504, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-505, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-506, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-507, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-508, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-509, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-510, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-511, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-512, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-513, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-515, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-516, as enacted by Laws of Utah 2018, Chapter 302

53E-3-517, as enacted by Laws of Utah 2018, Chapter 73

53E-3-602, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-603, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-702, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-703, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-705, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-706, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-707, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-3-709, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-402, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-307, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-403, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-308, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-405, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-309, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-406, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-310, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-503, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-311, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-504, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-312, as last amended by Laws of Utah 2018, Chapters 208, 300, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-505, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-313, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-601, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-401, as last amended by Laws of Utah 2018, Chapter 396 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-603, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-402, as last amended by Laws of Utah 2018, Chapter 396 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-606, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-403, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-607, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-404, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-609, as renumbered and amended by Laws of Utah 2018, Chapter 1	53F-2-405, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-701, as enacted by Laws of Utah 2018, Chapter 341	53F-2-407, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-703, as enacted by Laws of Utah 2018, Chapter 341	53F-2-408, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-704, as enacted by Laws of Utah 2018, Chapter 341	53F-2-409, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-705, as enacted by Laws of Utah 2018, Chapter 341	53F-2-410, as last amended by Laws of Utah 2018, Chapters 117, 165, 396 and renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-706, as enacted by Laws of Utah 2018, Chapter 341	53F-2-411, as renumbered and amended by Laws of Utah 2018, Chapter 2
53E-10-707, as enacted by Laws of Utah 2018, Chapter 341	53F-2-413, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-102, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 2	53F-2-501, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-202, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-2-502, as renumbered and amended by Laws of Utah 2018, Chapter 2 and repealed and reenacted by Laws of Utah 2018, Chapter 98
53F-2-203, as last amended by Laws of Utah 2018, Chapters 448, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2	53F-2-503, as last amended by Laws of Utah 2018, Chapters 300, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-204, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-2-504, as last amended by Laws of Utah 2018, Chapter 212 and renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-205, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 2	53F-2-505, as renumbered and amended by Laws of Utah 2018, Chapter 2
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53F-2-207, as renumbered and amended by Laws of Utah 2018, Chapter 2	
53F-2-302, as renumbered and amended by Laws of Utah 2018, Chapter 2	
53F-2-303, as enacted by Laws of Utah 2018, Chapter 2	
53F-2-304, as renumbered and amended by Laws of Utah 2018, Chapter 2	
53F-2-305, as renumbered and amended by Laws of Utah 2018, Chapter 2	
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53F-2-508, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-306, as renumbered and amended by Laws of Utah 2018, Chapter 2
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53F-2-510, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-402, as last amended by Laws of Utah 2018, Chapter 163 and renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-511, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-404, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-512, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-405, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-513, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-406, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-514, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-407, as renumbered and amended by Laws of Utah 2018, Chapter 2
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53F-2-519, as last amended by Laws of Utah 2018, Chapter 396 and renumbered and amended by Laws of Utah 2018, Chapter 107	53F-4-504, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-601, as enacted by Laws of Utah 2018, Chapter 2	53F-4-507, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-702, as last amended by Laws of Utah 2018, Chapter 383 and renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-508, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-703, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-510, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-704, as enacted by Laws of Utah 2018, Chapter 2 and last amended by Laws of Utah 2018, Chapters 211, 300, 383, and 456	53F-4-511, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-2-705, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-512, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-3-202, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-514, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-3-203, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-4-516, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-201, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-201, as renumbered and amended by Laws of Utah 2018, Chapter 2
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53F-4-204, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-204, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-205, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-205, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-206, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-207, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-301, as renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-208, as renumbered and amended by Laws of Utah 2018, Chapter 2
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53F-4-303, as last amended by Laws of Utah 2018, Chapter 168 and renumbered and amended by Laws of Utah 2018, Chapter 2	53F-5-210, as enacted by Laws of Utah 2018, Chapter 358

53F-5-211, as enacted by Laws of Utah 2018, Chapter 441

53F-5-301, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-302, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-303, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-304, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-305, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-307, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-401, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-402, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-403, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-404, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-405, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-406, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-501, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-502, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-503, as last amended by Laws of Utah 2018, Chapter 102 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-504, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-505, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-506, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-601, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-602, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-603, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-201, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-202, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-301, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-304, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-309, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-7-201, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-7-301, as enacted by Laws of Utah 2018, Chapter 2

53F-8-201, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-402, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-8-403, as enacted by Laws of Utah 2018, Chapter 2

53F-9-202, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-203, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-206, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-301, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-302, as last amended by Laws of Utah 2018, Chapter 456 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-304, as last amended by Laws of Utah 2018, Chapters 249, 329 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-305, as enacted by Laws of Utah 2018, Chapter 456

53F-9-306, as enacted by Laws of Utah 2018, Chapter 456

53F-9-401, as last amended by Laws of Utah 2018, Chapter 142 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-501, as renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 26-7-9 is amended to read:

26-7-9. Online public health education module.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Nonimmune" means that a child or an individual:

(i) has not received each vaccine required in Section 53G-9-305 and has not developed a natural immunity through previous illness to a vaccine-preventable disease, as documented by a health care provider;

(ii) cannot receive each vaccine required in Section 53G-9-305; or

(iii) is otherwise known to not be immune to a vaccine-preventable disease.

(c) "Vaccine-preventable disease" means an infectious disease that can be prevented by a vaccination required in Section 53G-9-305.

(2) The department shall develop an online education module regarding vaccine-preventable diseases:

(a) to assist a parent of a nonimmune child to:

(i) recognize the symptoms of vaccine-preventable diseases;

(ii) respond in the case of an outbreak of a vaccine-preventable disease;

(iii) protect children who contract a vaccine-preventable disease; and

(iv) prevent the spread of vaccine-preventable diseases;

(b) that contains only the following:

(i) information about vaccine-preventable diseases necessary to achieve the goals stated in Subsection (2)(a), including the best practices to prevent the spread of vaccine-preventable diseases;

(ii) recommendations to reduce the likelihood of a nonimmune individual contracting or transmitting a vaccine-preventable disease; and

(iii) information about additional available resources related to vaccine-preventable diseases and the availability of low-cost vaccines;

(c) that includes interactive questions or activities; and

(d) that is expected to take an average user 20 minutes or less to complete, based on user testing.

(3) In developing the online education module described in Subsection (2), the department shall consult with individuals interested in vaccination or vaccine-preventable diseases, including:

(a) representatives from organizations of health care professionals; and

(b) parents of nonimmune children.

(4) The department shall make the online education module described in Subsection (2) publicly available to parents through:

(a) a link on the department's website;

(b) county health departments, as that term is defined in Section 26A-1-102;

(c) local health departments, as that term is defined in Section 26A-1-102;

(d) local education agencies, as that term is defined in Section ~~[53E-3-401]~~ 53E-1-102; and

(e) other public health programs or organizations.

Section 2. Section 53E-1-102 is amended to read:

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

[As] Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration⁵:

(1) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(2) "Charter school governing board" means the board that governs a charter school.

(3) "District school" means a public school under the control of a local school board.

(4) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "LEA governing board" means:

(a) for a school district, the local school board;

(b) for a charter school, the charter school governing board; or

(c) for the Utah Schools for the Deaf and the Blind, the state board.

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

(a) a school district;

(b) a charter school; or

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

(7) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(8) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(9) "Parent" means a parent or legal guardian.

~~["public"]~~ (10) "Public education code" means:

~~[(1)]~~ (a) this title;

~~[(2)]~~ (b) Title 53F, Public Education System -- Funding; and

~~[(3)]~~ (c) Title 53G, Public Education System -- Local Administration.

(11) "Rule" means a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) "Section 504 accommodation plan" means a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student with a disability, to meet the student's educational needs and ensure equitable access to a free appropriate public education.

(13) "State board" means the State Board of Education.

(14) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 3. Section 53E-2-201 is amended to read:

53E-2-201. Policy for Utah's public education system.

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

(b) The state's public education system is established and maintained as provided in Utah

Constitution, Article X, and this public education code.

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

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

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

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

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

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

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

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

Section 4. Section 53E-2-202 is amended to read:

53E-2-202. Planning for Utah's public education system.

(1) Before November 30, 2016, the [~~State Board of Education~~] state board shall:

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

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

(A) repeal outdated policies and programs; and

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

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

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

Section 5. Section 53E-2-301 is amended to read:

53E-2-301. Public education's vision and mission.

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

(a) citizen participation in civic and political affairs;

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

(c) strong moral and social values; and

(d) loyalty and commitment to constitutional government.

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

(a) learning and occupational skills;

(b) character development;

(c) literacy and numeracy;

(d) high quality instruction;

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

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

(3) The Legislature:

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

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

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

(4) This section will be applied consistent with Section 53G-10-204.

Section 6. Section 53E-2-302 is amended to read:

53E-2-302. Characteristics of public education system.

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

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

(2) provides a personalized education plan or personalized education occupation plan for each

student, which involves the student, the student's parent [~~or guardian~~], and school personnel in establishing the plan;

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

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

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

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

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

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

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

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

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

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

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

Section 7. Section 53E-2-303 is amended to read:

53E-2-303. Parental participation in educational process -- Employer support.

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

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

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

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

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

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

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

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

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

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

Section 8. Section 53E-2-304 is amended to read:

53E-2-304. School district and individual school powers -- Plan for college and career readiness definition.

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

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

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

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

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

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

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

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

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

(b) (i) As used in this section, “plan for college and career readiness” means a plan developed by a student and the student’s parent ~~or guardian~~, in consultation with school counselors, teachers, and administrators that:

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

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

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

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

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

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

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

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

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

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

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102.

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

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

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

Section 9. Section 53E-3-201 is amended to read:

53E-3-201. State board members -- Election and appointment of officers -- Removal from office.

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

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

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

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

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

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

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

Section 10. Section 53E-3-202 is amended to read:

53E-3-202. Compensation for members of the state board -- Insurance -- Per diem and expenses.

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

(2) Compensation for a member of the ~~[State Board of Education]~~ state board is payable monthly.

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

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

(a) Section 63A-3-106;

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

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

Section 11. Section 53E-3-203 is amended to read:

53E-3-203. State board meetings -- Quorum requirements.

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

(2) A majority of all members is required to validate an act of the [~~State Board of Education~~] state board.

Section 12. Section 53E-3-204 is amended to read:

53E-3-204. Gross neglect of duty -- Nonpayment of salary or expenses.

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

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

Section 13. Section 53E-3-301 is amended to read:

53E-3-301. Appointment -- Qualifications -- Duties.

(1) (a) The [~~State Board of Education~~] state board shall appoint a state superintendent of public instruction, [~~hereinafter called the state superintendent,~~] who is the executive officer of the [~~State Board of Education~~] state board and serves at the pleasure of the [~~State Board of Education~~] state board.

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

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

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

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

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

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

(d) model remediation programs;

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

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

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

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

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

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

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

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

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

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

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

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

(ii) a complete statement of fund balances;

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

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

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

(vi) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

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

- (E) pupil-teacher ratios;
- (F) average class sizes;
- (G) average salaries;
- (H) applicable private school data; and

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

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

- (A) alcohol and drug abuse;
- (B) weapon possession;
- (C) assaults; and
- (D) arson;

(viii) information about:

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

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

(C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and

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

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

(i) data that are:

(A) comparable across schools and school districts;

(B) appropriate for use in longitudinal studies; and

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

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

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

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

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

(A) require the state superintendent to:

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

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

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

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

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

(f) administering and implementing federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs; and

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

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

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

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

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

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

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

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

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

(i) include the pupil-teacher ratio for:

(A) each school district;

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

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

Section 14. Section 53E-3-302 is amended to read:

53E-3-302. Compensation of state superintendent -- Other state board employees.

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

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

- (a) appoint other employees; and
- (b) delegate appropriate duties and responsibilities to state board employees.

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

Section 15. Section 53E-3-303 is amended to read:

53E-3-303. Advice by state superintendent -- Written opinions.

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

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

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

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

Section 16. Section 53E-3-401 is amended to read:

53E-3-401. Powers of the state board -- Adoption of rules -- Enforcement -- Attorney.

(1) As used in this section:

[~~(a) "Board" means the State Board of Education.~~]

[~~(b)~~] (a) "Education entity" means:

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

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

(iii) a school district; or

(iv) a charter school.

[~~(e)~~] (b) "Educational good or service" means a good or service that is required or regulated under:

(i) this public education code; or

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

[~~(d) "Local education agency" or "LEA" means:~~]

[~~(i) a school district;~~]

[~~(ii) a charter school; or~~]

[~~(iii) the Utah Schools for the Deaf and the Blind.~~]

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

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

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

[~~(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~]

(4) (a) The state board may make rules to execute the state board's duties and responsibilities under the Utah Constitution and state law.

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

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

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

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

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

(6) The state board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.

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

(8) (a) If an education entity violates this public education code or rules authorized under this public

education code, the state board may, in accordance with the rules described in Subsection (8)(c):

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

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

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

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

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

~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(c) The state board shall make rules:

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

(ii) to administer this Subsection (8).

(d) (i) An individual may bring a violation of statute or state board rule to the attention of the state board in accordance with a process described in rule adopted by the state board.

(ii) If the state board identifies a violation of statute or state board rule as a result of the process described in Subsection (8)(d)(i), the state board may take action in accordance with this section.

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

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

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

(a) this public education code; and

(b) state board rule authorized under this public education code.

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

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

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

(i) conduct litigation;

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

(iii) issue formal legal opinions.

(12) The state board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 17. Section 53E-3-402 is amended to read:

53E-3-402. Acceptance of gifts, endowments, devises, and bequests.

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

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

Section 18. Section 53E-3-403 is amended to read:

53E-3-403. Establishment of public education foundations -- Powers and duties -- Tax exempt status.

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

(a) assist in the development and implementation of programs to promote educational excellence; and

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

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

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

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

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

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

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

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

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

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

- (i) details account transactions; and
- (ii) shows available balances in the accounts; and
- (i) may not:
 - (i) engage in lobbying activities;
 - (ii) attempt to influence legislation; or
 - (iii) participate in any campaign activity for or against:
 - (A) a political candidate; or
 - (B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

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

- (a) require the foundation to:
 - (i) use the school district's accounting system; or
 - (ii) follow written accounting policies established by the local school board;
- (b) review and approve the foundation's accounting, purchasing, and check issuance policies to ensure that there is an adequate separation of responsibilities; and

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

Section 19. Section 53E-3-501 is amended to read:

53E-3-501. State board to establish miscellaneous minimum standards for public schools.

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

- (a) (i) the qualification and certification of educators and ancillary personnel who provide direct student services;
- (ii) required school administrative and supervisory services; and
- (iii) the evaluation of instructional personnel;
- (b) (i) access to programs;
- (ii) attendance;
- (iii) competency levels;
- (iv) graduation requirements; and
- (v) discipline and control;
- (c) (i) school accreditation;

- (ii) the academic year;
- (iii) alternative and pilot programs;
- (iv) curriculum and instruction requirements;
- (v) school libraries; and
- (vi) services to:

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

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

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

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

(B) other special groups;

- (d) (i) state reimbursed bus routes;
- (ii) bus safety and operational requirements; and
- (iii) other transportation needs; and
- (e) (i) school productivity and cost effectiveness measures;
- (ii) federal programs;
- (iii) school budget formats; and
- (iv) financial, statistical, and student accounting requirements.

(2) The [~~State Board of Education~~] state board shall determine if:

- (a) the minimum standards have been met; and
- (b) required reports are properly submitted.

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

(4) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the [~~State Board of Education~~] state board.

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

Section 20. Section 53E-3-503 is amended to read:

53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

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

[~~(2)~~] (1) (a) The state board is directly responsible for the education of all individuals who are:

- (i) (A) younger than 21 years old; or

(B) students with disabilities entitled to a free, appropriate public education as described in Section 53E-7-202; and

(ii) (A) receiving services from the Department of Human Services;

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

(C) being held in a juvenile detention facility.

(b) The state board shall make rules~~[, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ to provide for the distribution of funds for the education of individuals described in Subsection ~~[(2)]~~ (1)(a).

~~[(3)]~~ (2) Subsection ~~[(2)]~~ (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

~~[(4)]~~ (3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.

~~[(5)]~~ (4) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:

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

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

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

~~[(6)]~~ (5) (a) The Department of Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The Department of Human Services and the state board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

~~[(7)]~~ (6) A school district contracting to provide services under Subsection ~~[(4)]~~ (3) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

Section 21. Section 53E-3-504 is amended to read:

53E-3-504. Child literacy program -- Coordinated activities.

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

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

Section 22. Section 53E-3-505 is amended to read:

53E-3-505. Financial and economic literacy education.

(1) As used in this section:

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

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

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

(xi) online commerce;

(xii) identity fraud and theft;

(xiii) negative financial consequences of gambling;

(xiv) bankruptcy;

(xv) free markets and prices;

(xvi) supply and demand;

(xvii) monetary and fiscal policy;

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

(xix) scarcity and choices;

(xx) opportunity cost and tradeoffs;

(xxi) productivity;

- (xxii) entrepreneurship; and
- (xxiii) economic reasoning.
- (c) “Financial and economic literacy passport” means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.
- (d) “General financial literacy course” means the course of instruction described in Section 53E-4-204.
- (2) The ~~[State Board of Education]~~ state board shall:
- (a) in cooperation with interested private and nonprofit entities:
- (i) develop a financial and economic literacy passport that students may elect to complete;
- (ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and
- (iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:
- (A) a financial and economic literacy endorsement on the student’s diploma of graduation;
- (B) a specific designation on the student’s official transcript; and
- (C) any incentives offered by community partners;
- (b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:
- (i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;
- (ii) using curriculum mapping;
- (iii) creating training materials and staff development programs that:
- (A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and
- (B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and
- (iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;
- (c) work with interested public, private, and nonprofit entities to:
- (i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;
- (ii) coordinate school use of existing financial and economic literacy education resources;
- (iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;
- (iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and
- (v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;
- (d) ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses;
- (e) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;
- (ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and
- (iii) develop a plan, through the state superintendent ~~[of public instruction]~~, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:
- (A) an analysis of assessment results by standard; and
- (B) average scores statewide and by school district and school; and
- (f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:
- (i) a statewide learning community for financial and economic literacy;
- (ii) summer workshops; and
- (iii) online videos of experts in the field of financial and economic literacy education.
- (3) (a) The ~~[State Board of Education]~~ state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.
- (b) The task force membership shall include representatives of:
- (i) the ~~[State Board of Education]~~ state board;
- (ii) school districts and charter schools;

- (iii) the State Board of Regents; and
- (iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

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

Section 23. Section 53E-3-506 is amended to read:

53E-3-506. Educational program on the use of information technology.

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

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

- (a) provide instruction on skills and competencies essential for the workplace and requested by employers;
- (b) include the following components:
 - (i) a curriculum;
 - (ii) online access to the curriculum;
 - (iii) instructional software for classroom and student use;
 - (iv) certification of skills and competencies most frequently requested by employers;
 - (v) professional development for teachers; and
 - (vi) deployment and program support, including integration with existing core standards for Utah public schools; and
- (c) be made available to high school students, faculty, and staff.

Section 24. Section 53E-3-507 is amended to read:

53E-3-507. Powers of the state board.

The ~~[State Board of Education]~~ state board:

- (1) shall establish minimum standards for career and technical education programs in the public education system;
- (2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;
- (3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;
- (4) shall cooperate with the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical

education at Utah System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

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

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

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

- (a) how the career and technical education needs of secondary students are being met; and
- (b) the access secondary students have to programs offered:
 - (i) at technical colleges; and
 - (ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Section 25. Section 53E-3-508 is amended to read:

53E-3-508. Rulemaking -- Standards for high quality programs operating outside of the regular school day.

~~[(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Department of Workforce Services, the State Board of Education shall]~~

- (1) The state board shall, in consultation with the Department of Workforce Services, make rules that describe the standards for a high quality program operating outside of the regular school day:
 - (a) for elementary or secondary students; and
 - (b) offered by a:
 - (i) school district;
 - (ii) charter school;
 - (iii) private provider, including a non-profit provider; or
 - (iv) municipality.

(2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:

(a) provides a safe, healthy, and nurturing environment for all participants;

(b) develops and maintains positive relationships among staff, participants, families, schools, and communities;

(c) encourages participants to learn new skills; and

(d) is effectively administered.

Section 26. Section 53E-3-509 is amended to read:

53E-3-509. Gang prevention and intervention policies.

(1) (a) The ~~[State Board of Education]~~ state board shall adopt rules that require a local school board or charter school governing board ~~[of a charter school]~~ to enact gang prevention and intervention policies for all schools within the state board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent ~~[or guardian]~~ notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents ~~[and guardians]~~ of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;

(vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and

(vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or charter school governing board ~~[of a charter school]~~ to publicize the policies enacted by the local school board or charter school governing board ~~[of a charter school]~~ in accordance with the rules described in Subsection (1) to all students, parents, ~~[guardians,]~~ and faculty through school websites, handbooks, letters to parents ~~[and guardians]~~, or other reasonable means of communication.

(4) The ~~[State Board of Education]~~ state board may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Section 27. Section 53E-3-510 is amended to read:

53E-3-510. Control of school lunch revenues -- Apportionment -- Costs.

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

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

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

Section 28. Section 53E-3-511 is amended to read:

53E-3-511. Student Achievement Backpack -- Utah Student Record Store.

(1) As used in this section:

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

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

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

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

~~(c)~~ (b) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.

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

(i) is in electronic format;

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

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

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

(i) managed by the ~~[State Board of Education]~~ state board;

(ii) cloud-based; and

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

(2) (a) The ~~[State Board of Education]~~ state board shall use the ~~[State Board of Education]~~ state board's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53E-4-308, to allow the following to access a student's Student Achievement Backpack:

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

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

(b) The ~~[State Board of Education]~~ state board shall ensure that a Student Achievement Backpack:

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

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

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

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

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

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

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

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

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

(4) The ~~[State Board of Education]~~ state board shall implement security measures to ensure that:

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

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

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

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

(a) student demographics;

(b) course grades;

(c) course history; and

(d) results of a statewide assessment.

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

(a) section attendance;

(b) the name of a student's teacher for classes or courses the student takes;

(c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;

(d) results of statewide assessments;

(e) a student's writing sample that is written for a writing assessment administered pursuant to Section 53E-4-303;

(f) student growth scores on a statewide assessment, as applicable;

(g) a school's grade assigned pursuant to Chapter 5, Part 2, School Accountability System;

(h) results of benchmark assessments of reading administered pursuant to Section 53E-4-307; and

(i) a student's reading level at the end of grade 3.

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

Section 29. Section 53E-3-512 is amended to read:

53E-3-512. State board rules establishing basic ethical conduct standards -- Local school board policies.

~~[(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(1) The state board shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.

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

Section 30. Section 53E-3-513 is amended to read:

53E-3-513. Parental permission required for specified in-home programs -- Exceptions.

(1) The [~~State Board of Education~~] state board, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

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

Section 31. Section 53E-3-515 is amended to read:

53E-3-515. Hospitality and Tourism Management Career and Technical Education Pilot Program.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Local education agency" means a school district or charter school.

~~[(c)]~~ (b) "Pilot program" means the Hospitality and Tourism Management Career and Technical Education Pilot Program created under Subsection (2).

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

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

(i) hospitality soft skills;

(ii) operational areas of the hospitality industry;

(iii) sales and marketing; and

(iv) safety and security; and

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

(i) hospitality leadership skills;

(ii) operational leadership;

(iii) managing food and beverage operations; and

(iv) managing business operations.

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

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

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

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

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

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

(6) The state board shall evaluate the pilot program and provide an annual written report to

the Education Interim Committee and the Economic Development and Workforce Services Interim Committee on or before October 1 describing:

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

(b) any recommended changes to the pilot program.

Section 32. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;
- (iii) issuance of a ticket or summons;
- (iv) filing a delinquency petition; or
- (v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to ~~local~~ LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or ~~minimum school program~~ Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2020, the ~~[State Board of Education]~~ state board, in collaboration with school districts, charter schools, and law enforcement agencies, shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and
- (c) disciplinary actions.

(3) The report described in Subsection (2) shall include the following information by school district and charter school:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

- (i) the reason for the disciplinary action; and
- (ii) the type of disciplinary action; and
- (d) the number of SROs employed.

(4) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (3)(a) through (c):

- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.

(5) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection ~~[Act]~~;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

~~[(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(6) The state board shall make rules to compile the report described in Subsection (2).

(7) The ~~[State Board of Education]~~ state board shall provide the report described in Subsection (2) to the Education Interim Committee before

November 1 of each year for incidents that occurred during the previous school year.

Section 33. Section 53E-3-517 is amended to read:

53E-3-517. Educator credential database.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)] (a) "Educator" means the same as that term is defined in Section 53E-6-102.~~

~~[(e)] (b) "Educator credential database" means a database used by the state board that:~~

~~(i) contains educator credential information and LEA information; and~~

~~(ii) is used by the state board to determine funding distribution.~~

~~[(d) "Local education agency" or "LEA" means:]~~

~~[(i) a charter school;]~~

~~[(ii) a school district; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

(2) Before July 1, 2020, the state board shall ensure that a technical limitation of the educator credential database does not prevent an educator from accepting employment at more than one LEA.

Section 34. Section 53E-3-602 is amended to read:

53E-3-602. Auditors appointed -- Auditing standards.

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

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

Section 35. Section 53E-3-603 is amended to read:

53E-3-603. State board to verify audits.

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

Section 36. Section 53E-3-702 is amended to read:

53E-3-702. State board to adopt public school construction guidelines.

(1) As used in this section~~[-: (a) "Board" means the State Board of Education. (b) "Public], "public school construction" means construction work on a new public school.~~

(2) (a) The state board shall:

(i) adopt guidelines for public school construction; and

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

(b) The state board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.

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

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

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

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

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

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

(c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and

(d) year-round use.

(5) The guidelines shall address the following:

(a) square footage per student;

(b) minimum and maximum required real property for a public school;

(c) athletic facilities and fields, playgrounds, and hard surface play areas;

(d) cost per square foot;

(e) minimum and maximum qualities and costs for building materials;

(f) design efficiency;

(g) parking;

(h) furnishing;

(i) proof of compliance with applicable building codes; and

(j) safety.

Section 37. Section 53E-3-703 is amended to read:

53E-3-703. Construction and alteration of schools and plants -- Advertising for bids

**-- Payment and performance bonds --
Contracts -- Bidding limitations on local
school boards -- Interest of local school
board members.**

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.

(b) The advertisement shall state:

(i) that proposals for the building project are required to be sealed in accordance with plans and specifications provided by the local school board;

(ii) where and when the proposals will be opened;

(iii) that the local school board reserves the right to reject any and all proposals; and

(iv) that a person that submits a proposal is required to submit a certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the proposal.

(c) The local school board shall publish the advertisement, at a minimum:

(i) on the local school board's website; or

(ii) on a state website that is:

(A) owned or managed by, or provided under contract with, the Division of Purchasing and General Services; and

(B) available for the posting of public procurement notices.

(3) (a) The local school board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the local school board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The local school board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the local school board may proceed under its own direction with the required project.

(4) (a) The check or bond required under Subsection (2)(b) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

(5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.

(6) (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the local school board.

(b) If money is withheld, the local school board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the local school board.

(7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.

(b) The local school board may use its resources if no satisfactory bids are received under this section.

(8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.

(9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Section 38. Section 53E-3-705 is amended to read:

53E-3-705. School plant capital outlay report.

(1) The [~~State Board of Education~~] state board shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section 63A-3-402.

Section 39. Section 53E-3-706 is amended to read:

53E-3-706. Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) The state superintendent [~~of public instruction~~] shall enforce this part.

(2) The state superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this part;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this part.

(3) (a) (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the [State Board of Education] state board, advising those entities that the school district has complied with the inspection provisions of this part.

(ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the [State Board of Education] state board a certificate of inspection verification.

(iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the [State Board of Education] state board a certificate of inspection verification.

(iv) (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the [State Board of Education] state board a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent [of public instruction] shall:

(I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the

school district's or charter school's compliance with the inspection provisions of this part; and

(II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent [of public instruction] that the deficiencies have been remedied, the state superintendent [of public instruction] shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(E) (I) The state superintendent [of public instruction] may charge the school district or charter school a fee for an inspection that the state superintendent considers necessary to enable the state superintendent to issue a certificate authorizing permanent occupancy of the school building.

(II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Section 40. Section 53E-3-707 is amended to read:

53E-3-707. School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.

(1) (a) The [State Board of Education] state board, through the state superintendent [of public instruction], shall develop and distribute to each school district a school building construction and inspection resource manual.

(b) The manual shall be provided to a charter school upon request of the charter school.

(2) (a) The manual shall include:

(i) current legal requirements; and

(ii) information on school building construction and inspections, including the guidelines adopted by the [State Board of Education] state board in accordance with Section 53E-3-702.

(b) The state superintendent shall review and update the manual at least once every three years.

(3) The state board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:

- (a) receive current information on the design, construction, and inspection of school buildings;
- (b) receive training on such matters as:
 - (i) using properly certified building inspectors;
 - (ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;
 - (iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and
 - (iv) adequate documentation of school building inspections; and
- (c) provide input on any changes that may be needed to improve the existing school building inspection program.

(4) The state board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Section 41. Section 53E-3-709 is amended to read:

53E-3-709. Power of state board regarding expected federal aid to build schools.

For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and facilities, the ~~[State Board of Education]~~ state board, with the approval of the governor, may do the following:

- (1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the state board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.
- (2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.
- (3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and

other public institutions eligible to participate in those programs.

Section 42. Section 53E-3-801 is amended to read:

53E-3-801. Definitions.

As used in this part:

- (1) (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.
- (b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.
- (2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:
 - (a) the ~~[State Board of Education]~~ state board;
 - (b) the state superintendent ~~[of public instruction]~~;
 - (c) a local school board;
 - (d) a school district and its schools;
 - (e) a charter school governing board; and
 - (f) a charter school.
- (3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.
- (4) "Federal programs" include:
 - (a) the No Child Left Behind Act;
 - (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
 - (c) other federal educational programs.
- (5) "National program" means a national or multi-state education program, agreement, or standards that:
 - (a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;
 - (b) have, as a primary focus, an impact on the educational services at a public school; and
 - (c) are adopted by the ~~[State Board of Education]~~ state board or state superintendent ~~[of public instruction]~~ with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.
- (6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.
- (7) "School official" includes:
 - (a) the ~~[State Board of Education]~~ state board;
 - (b) the state superintendent;

(c) employees of the ~~[State Board of Education]~~ state board and the state superintendent;

(d) local school boards;

(e) school district superintendents and employees; and

(f) charter school governing board members, administrators, and employees.

Section 43. Section 53E-3-802 is amended to read:

53E-3-802. Federal programs -- School official duties.

(1) School officials may:

(a) apply for, receive, and administer funds made available through programs of the federal government;

(b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and

(c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.

(2) School officials shall:

(a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:

(i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and

(ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;

(b) interpret the provisions of federal programs in the best interest of students in this state;

(c) maximize local control and flexibility;

(d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;

(e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:

(i) federal statutes;

(ii) federal regulations; and

(iii) other federal policies and interpretations of program provisions; and

(f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:

(i) maximize state flexibility in implementing program provisions; and

(ii) receive reasonable time to comply with federal program provisions.

(3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.

(4) (a) As used in this Subsection (4):

(i) "Available Education Fund revenue surplus" means the Education Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.

(ii) "Education Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.

(b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the ~~[State Board of Education]~~ state board may:

(i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and

(ii) if the ~~[State Board of Education]~~ state board determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.

(c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available Education Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.

(d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Section 44. Section 53E-3-903 is amended to read:

53E-3-903. Article II -- Definitions.

(1) As used in this compact, unless the context clearly requires a different construction:

~~[(1)]~~ (a) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.

~~[(2)]~~ (b) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.

~~[(3)]~~ (c) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

~~[(4)]~~ (d) "Deployment" means the period one month prior to the service member's departure from

their home station on military orders through six months after return to their home station.

(45) (e) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

(46) (f) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

(47) (g) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section 53E-3-910 and generally referred to as Interstate Commission.

(48) (h) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.

(49) (i) "Member state" means a state that has enacted this compact.

(410) (j) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(411) (k) "Non-member state" means a state that has not enacted this compact.

(412) (l) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

(413) (m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.

(414) (n) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

(415) (o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.

(416) (p) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.

(417) (q) "Transition" means:

(a) (i) the formal and physical process of transferring from school to school; or

(b) (ii) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

(418) (r) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.

(419) (s) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

(2) The definitions described in Section 53E-1-102 do not apply to this compact.

Section 45. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the ~~[State Board of Education]~~ state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the ~~[State Board of Education]~~ state board may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The ~~[State Board of Education]~~ state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the ~~[State Board of Education]~~ state board shall:

(a) publicize draft core standards for Utah public schools on the ~~[State Board of Education's]~~ state board's website and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) ~~[Local school]~~ LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Section 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The ~~[State Board of Education]~~ state board shall annually report to the Education Interim Committee on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 46. Section 53E-4-203 is amended to read:

53E-4-203. Standards review committee.

~~[(1) As used in this section, "board" means the State Board of Education.]~~

~~[(2) (1) Subject to Subsection [(5)] (4), the [State Board of Education] state board shall establish:~~

(a) a time line for the review by a standards review committee of the core standards for Utah public schools for:

(i) English language arts;

(ii) mathematics;

(iii) science;

(iv) social studies;

(v) fine arts;

(vi) physical education and health; and

(vii) early childhood education; and

(b) a separate standards review committee for each subject area specified in Subsection ~~[(2)] (1)(a)~~ to review, and recommend to the state board revisions to, the core standards for Utah public schools.

~~[(3) (2) At least one year before the state board takes formal action to adopt new core standards for Utah public schools, the state board shall establish a standards review committee as required by Subsection [(2)] (1)(b).~~

~~[(4) (3) A standards review committee shall meet at least twice during the time period described in Subsection [(3)] (2).~~

~~[(5) (4) In establishing a time line for the review of core standards for Utah public schools by a standards review committee, the state board shall give priority to establishing a standards review committee to review, and recommend revisions to, the mathematics core standards for Utah public schools.~~

~~[(6) (5) The membership of a standards review committee consists of:~~

(a) seven individuals, with expertise in the subject being reviewed, appointed by the state board chair, including teachers, business

representatives, faculty of higher education institutions in Utah, and others as determined by the state board chair;

(b) five parents [~~or guardians~~] of public education students appointed by the speaker of the House of Representatives; and

(c) five parents [~~or guardians~~] of public education students appointed by the president of the Senate.

[~~(7)~~] (6) The state board shall provide staff support to the standards review committee.

[~~(8)~~] (7) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.

[~~(9)~~] (8) Among the criteria a standards review committee shall consider when reviewing the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

[~~(10)~~] (9) A standards review committee shall submit, to the state board, comments and recommendations for revision of the core standards for Utah public schools.

[~~(11)~~] (10) The state board shall take into consideration the comments and recommendations of a standards review committee in adopting the core standards for Utah public schools.

[~~(12)~~] (11) (a) Nothing in this section prohibits the state board from amending or adding individual core standards for Utah public schools as the need arises in the state board's ongoing responsibilities.

(b) If the state board makes changes as described in Subsection [~~(12)~~] (11)(a), the state board shall include the changes in the annual report the state board submits to the Education Interim Committee under Section 53E-4-202.

Section 47. Section 53E-4-204 is amended to read:

53E-4-204. Standards and graduation requirements.

(1) The [~~State Board of Education~~] state board shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations; and

(b) beginning no later than with the graduating class of 2008:

(i) use competency-based standards and assessments;

(ii) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

(iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in

language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The [~~State Board of Education~~] state board shall also establish competency-based standards and assessments for elective courses.

(3) On or before July 1, 2014, the [~~State Board of Education~~] state board shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:

(a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and

(b) technology that relates to banking, savings, and financial products.

(4) The [~~State Board of Education~~] state board shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core standards for Utah public schools courses for grades 9 through 12 are administered.

Section 48. Section 53E-4-205 is amended to read:

53E-4-205. American civics education initiative.

(1) As used in this section:

(a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.

(b) "Basic civics test" means a test that includes 50 of the 100 questions on the civics test form used by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

[~~(c) "Board" means the State Board of Education.~~]

[~~(d) "LEA" means:~~]

[~~(i) a school district;~~]

[~~(ii) a charter school; or~~]

[~~(iii) the Utah Schools for the Deaf and the Blind.~~]

(2) (a) Except as provided in Subsection (2)(b), the state board shall require:

(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and

(ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

(b) The state board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in state board rule.

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(4) The state board shall make rules that:

(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;

(b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;

(c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and

(d) for the alternate assessment described in Subsection (2)(b), describe:

(i) the content of an alternate assessment;

(ii) how a public school student qualifies for an alternate assessment; and

(iii) how an LEA determines if a student passes an alternate assessment.

Section 49. Section 53E-4-206 is amended to read:

53E-4-206. Career and college readiness mathematics competency standards.

(1) As used in this section, “qualifying score” means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.

~~[(2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~

(2) The state board shall make rules that:

(a) (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and

(ii) include the qualifying scores described in Subsection (4); and

(b) establish systematic reporting of college and career ready mathematics achievement.

(3) In addition to other graduation requirements established by the ~~[State Board of Education]~~ state board, a student shall fulfill one of the following

requirements to demonstrate mathematics competency that supports the student’s future college and career goals as outlined in the student’s college and career plan:

(a) for a student pursuing a college degree after graduation:

(i) receive a score that at least meets the qualifying score for:

(A) an Advanced Placement calculus or statistics exam;

(B) an International Baccalaureate higher level mathematics exam;

(C) a college-level math placement test described in Subsection (5);

(D) a College Level Examination Program precalculus or calculus exam; or

(E) the ACT Mathematics Test; or

(ii) receive at least a “C” grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;

(b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student’s career goals as described in the student’s college and career plan;

(c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student’s individualized education program; or

(d) for a senior student with special circumstances as described in ~~[State Board of Education]~~ state board rule, the student shall fulfill a requirement associated with the student’s special circumstances, as established in ~~[State Board of Education]~~ state board rule.

(4) The State Board of Regents shall, in consultation with the ~~[State Board of Education]~~ state board, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).

(5) The State Board of Regents, established in Section 53B-1-103, shall make a policy to select at least two tests for college-level math placement.

(6) The State Board of Regents shall, in consultation with the ~~[State Board of Education]~~ state board, make policies to:

(a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:

(i) receive college credit; and

(ii) satisfy the state system of higher education quantitative literacy requirement;

(b) allow a student, upon completion of required high school mathematics courses with at least a “C” grade, entry into a mathematics concurrent enrollment course;

(c) increase access to a range of mathematics concurrent enrollment courses;

(d) establish a consistent concurrent enrollment course approval process; and

(e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

Section 50. Section 53E-4-301 is amended to read:

53E-4-301. Definitions.

As used in this part:

[~~(1) “Board” means the State Board of Education.~~]

[~~(2)~~ (1) “Core standards for Utah public schools” means the standards established by the state board as described in Section 53E-4-202.

[~~(3) “Individualized education program” or “IEP” means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.~~]

[~~(4)~~ (2) “Statewide assessment” means one or more of the following, as applicable:

(a) a standards assessment described in Section 53E-4-303;

(b) a high school assessment described in Section 53E-4-304;

(c) a college readiness assessment described in Section 53E-4-305; or

(d) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307.

Section 51. Section 53E-4-301.5 is amended to read:

53E-4-301.5. Legislative intent.

(1) In enacting this part, the Legislature intends to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills toward which instruction is directed.

(2) The state board shall ensure that a statewide assessment provides the public, the Legislature, the state board, school districts, public schools, and school teachers with:

(a) evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools; and

(b) information to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to ensure educational opportunities for all students and to improve existing programs.

Section 52. Section 53E-4-302 is amended to read:

53E-4-302. Statewide assessments -- Duties of the state board.

(1) The state board shall:

(a) require the state superintendent [~~of public instruction~~] to:

(i) submit and recommend statewide assessments to the state board for adoption by the state board; and

(ii) distribute the statewide assessments adopted by the state board to a school district or charter school;

(b) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program; and

(c) require a school district or charter school to administer statewide assessments.

[~~(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(2) The state board shall make rules for the administration of statewide assessments.

(3) The state board shall ensure that statewide assessments are administered in compliance with the requirements of Chapter 9, Student Privacy and Data Protection.

Section 53. Section 53E-4-303 is amended to read:

53E-4-303. Utah standards assessments -- Administration -- Review committee.

(1) As used in this section, “computer adaptive assessment” means an assessment that measures the range of a student’s ability by adapting to the student’s responses, selecting more difficult or less difficult questions based on the student’s responses.

(2) The state board shall:

(a) adopt a standards assessment that:

(i) measures a student’s proficiency in:

(A) mathematics for students in each of grades 3 through 8;

(B) English language arts for students in each of grades 3 through 8;

(C) science for students in each of grades 4 through 8; and

(D) writing for students in at least grades 5 and 8; and

(ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and

(b) ensure that an assessment described in Subsection (2)(a) is:

(i) a criterion referenced assessment;

(ii) administered online;

(iii) aligned with the core standards for Utah public schools; and

(iv) adaptable to competency-based education as defined in Section 53F-5-501.

(3) A school district or charter school shall annually administer the standards assessment adopted by the state board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).

(4) A student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:

(a) the student's academic grade for a course; or

(b) whether the student may advance to the next grade level.

(5) (a) The state board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.

(b) The committee established in Subsection (5)(a) shall include the following parent members:

(i) five members appointed by the chair of the state board;

(ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and

(iii) five members appointed by the president of the Senate or the president's designee.

(c) The state board shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (5)(b) is four years.

(e) The chair of the state board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

Section 54. Section 53E-4-304 is amended to read:

53E-4-304. High school assessments.

(1) The state board shall adopt a high school assessment that:

(a) is predictive of a student's college readiness as measured by the college readiness assessment described in Section 53E-4-305; and

(b) provides a growth score for a student from grade 9 to 10.

(2) A school district or charter school shall annually administer the high school assessment adopted by the state board under Subsection (1) to all students in grades 9 and 10.

Section 55. Section 53E-4-305 is amended to read:

53E-4-305. College readiness assessments.

(1) The Legislature recognizes the need for the state board to develop and implement standards and assessment processes to ensure that student progress is measured and that [school] LEA governing boards and school personnel are accountable.

(2) The state board shall adopt a college readiness assessment for secondary students that:

(a) is the college readiness assessment most commonly submitted to local universities; and

(b) may include:

(i) the Armed Services Vocational Aptitude Battery; or

(ii) a battery of assessments that are predictive of success in higher education.

(3) (a) Except as provided in Subsection (3)(b), a school district or charter school shall annually administer the college readiness assessment adopted under Subsection (2) to all students in grade 11.

(b) A student with an IEP may take an appropriate college readiness assessment other than the assessment adopted by the state board under Subsection (2), as determined by the student's IEP.

(4) In accordance with Section 53F-4-202, the state board shall contract with a provider to provide an online college readiness diagnostic tool.

Section 56. Section 53E-4-306 is amended to read:

53E-4-306. State reading goal -- Reading achievement plan.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.

(2) (a) The Legislature recognizes that:

(i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;

(ii) there is an ever increasing demand for literacy in the highly technological society we live in;

(iii) students who do not learn to read will be economically and socially disadvantaged;

(iv) reading problems exist in almost every classroom;

(v) almost all reading failure is preventable if reading difficulties are diagnosed and treated early; and

(vi) early identification and treatment of reading difficulties can result in students learning to read by the end of [~~the third~~] grade 3.

(b) It is therefore the goal of the state to have every student in the state's public education system reading on or above grade level by the end of [~~the third~~] grade 3.

(3) (a) Each public school containing kindergarten, grade [~~one~~] 1, grade [~~two~~] 2, or grade [~~three~~] 3, including charter schools, shall develop, as a component of the school improvement plan described in Section 53G-7-1204, a reading achievement plan for its students in kindergarten through grade [~~three~~] 3 to reach the reading goal set in Subsection (2)(b).

(b) The reading achievement plan shall be:

(i) created under the direction of:

(A) the school community council or a subcommittee or task force created by the school community council, in the case of a school district school; or

(B) the charter school governing board or a subcommittee or task force created by the charter school governing board, in the case of a charter school; and

(ii) implemented by the school's principal, teachers, and other appropriate school staff.

(c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goal.

(d) Each reading achievement plan shall include:

(i) an assessment component that:

(A) focuses on ongoing formative assessment to measure the five domains of reading, as appropriate, and inform individualized instructional decisions; and

(B) includes a benchmark assessment of reading approved by the state board pursuant to Section 53E-4-307;

(ii) an intervention component:

(A) that provides adequate and appropriate interventions focused on each student attaining competency in reading skills;

(B) based on best practices identified through proven researched-based methods;

(C) that provides intensive intervention, such as focused instruction in small groups and individualized data driven instruction, implemented at the earliest possible time for students having difficulty in reading;

(D) that provides an opportunity for parents to receive materials and guidance so that they will be able to assist their children in attaining competency in reading skills; and

(E) that, as resources allow, may involve a reading specialist; and

(iii) a reporting component that includes reporting to parents:

(A) at the beginning, in the middle, and at the end of grade [~~one~~] 1, grade [~~two~~] 2, and grade [~~three~~] 3, their child's benchmark assessment results as required by Section 53E-4-307; and

(B) at the end of [~~third~~] grade 3, their child's reading level.

(e) In creating or reviewing a reading achievement plan as required by this section, a school community council, charter school governing board, or a subcommittee or task force of a school community council or charter school governing board may not have access to data that reveal the identity of students.

(4) (a) The school district shall approve each plan developed by schools within the district prior to its implementation and review each plan annually.

(b) The charter school governing board shall approve each plan developed by schools under its control and review each plan annually.

(c) A school district and charter school governing board shall:

(i) monitor the learning gains of a school's students as reported by the benchmark assessments administered pursuant to Section 53E-4-307; and

(ii) require a reading achievement plan to be revised, if the school district or charter school governing board determines a school's students are not making adequate learning gains.

Section 57. Section 53E-4-307 is amended to read:

53E-4-307. Benchmark assessments in reading -- Report to parent.

(1) As used in this section, "competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades [~~one, two, and three~~] 1, 2, and 3 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades [~~one, two, and three~~] 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student's parent [~~or guardian~~].

(4) If a benchmark assessment or supplemental reading assessment indicates a student lacks

competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

(a) provide focused individualized intervention to develop the reading skill;

(b) administer formative assessments to measure the success of the focused intervention;

(c) inform the student's parent [~~or guardian~~] of activities that the parent [~~or guardian~~] may engage in with the student to assist the student in improving reading proficiency; and

(d) provide information to the parent [~~or guardian~~] regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.

(5) In accordance with Section 53F-4-201, the state board shall contract with one or more educational technology providers for a diagnostic assessment system for reading for students in kindergarten through grade 3.

Section 58. Section 53E-4-308 is amended to read:

53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent [~~of public instruction~~], shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the State Board of Regents shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The state board and the State Board of Regents shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

Section 59. Section 53E-4-309 is amended to read:

53E-4-309. Grade level specification change.

(1) The state board may change a grade level specification for the administration of specific assessments under this part to a different grade level specification or a competency-based specification if the specification is more consistent with patterns of school organization.

(2) (a) If the state board changes a grade level specification described in Subsection (1), the state board shall submit a report to the Legislature explaining the reasons for changing the grade level specification.

(b) The state board shall submit the report at least six months before the anticipated change.

Section 60. Section 53E-4-310 is amended to read:

53E-4-310. Scoring -- Reports of results.

(1) For a statewide assessment that requires the use of a student answer sheet, a local school board or charter school governing board shall submit all answer sheets on a per-school and per-class basis to the state superintendent [~~of public instruction~~] for scoring unless the assessment requires scoring by a national testing service.

(2) The district, school, and class results of the statewide assessments, but not the score or relative position of individual students, shall be reported to each local school board or charter school governing board annually at a regularly scheduled meeting.

(3) A local school board or charter school governing board:

(a) shall make copies of the report available to the general public upon request; and

(b) may charge a fee for the cost of copying the report.

(4) (a) The state board shall annually provide to school districts and charter schools a comprehensive report for each of the school district's and charter school's students showing the student's statewide assessment results for each year that the student took a statewide assessment.

(b) A school district or charter school shall give a copy of the comprehensive report to the student's parents and make the report available to school staff, as appropriate.

Section 61. Section 53E-4-311 is amended to read:

53E-4-311. Analysis of results -- Staff professional development.

(1) The state board, through the state superintendent [~~of public instruction~~], shall develop an online data reporting tool to analyze the results of statewide assessments.

(2) The online data reporting tool shall include components designed to:

(a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs;

(b) identify schools not achieving state-established acceptable levels of student

performance in order to assist those schools in improving student performance levels; and

(c) provide:

(i) for statistical reporting of statewide assessment results at state, school district, school, and grade or course levels; and

(ii) actual levels of performance on statewide assessments.

(3) A local school board or charter school governing board shall provide for:

(a) evaluation of the statewide assessment results and use of the evaluations in setting goals and establishing programs; and

(b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain statewide assessments.

Section 62. Section 53E-4-312 is amended to read:

53E-4-312. Preparation for tests.

(1) School district employees may not conduct any specific instruction or preparation of students that would be a breach of testing ethics, such as the teaching of specific test questions.

(2) School district employees who administer the test shall follow the standardization procedures in the test administration manual for an assessment and any additional specific instructions developed by the state board.

(3) The state board may revoke the certification of an individual who violates this section.

Section 63. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" means the preschool entry assessment described in this section.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under:

(A) Title 53F, Chapter 5, Part 3, High Quality School Readiness Program; or

(B) Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(2) The ~~[State Board of Education]~~ state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section 53F-4-205.

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program:

(i) the school readiness assessment at the beginning of the student's participation in the school readiness program; and

(ii) the kindergarten entry assessment described in Section 53F-4-205 at the end of the student's participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to:

(i) the ~~[State Board of Education]~~ state board; and

(ii) the Department of Workforce Services.

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.

Section 64. Section 53E-4-402 is amended to read:

53E-4-402. Creation of commission -- Powers -- Payment of expenses.

(1) The ~~[State Board of Education]~~ state board shall appoint a State Instructional Materials Commission consisting of:

(a) the state superintendent ~~[of public instruction]~~ or the state superintendent's designee;

(b) a school district superintendent;

(c) a secondary school principal;

(d) an elementary school principal;

(e) a secondary school teacher;

(f) an elementary school teacher;

(g) five persons not employed in public education; and

(h) a dean of a school of education of a state college or university.

(2) The commission shall evaluate instructional materials for recommendation by the state board.

(3) Members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties shall be paid out of money appropriated to the state board.

Section 65. Section 53E-4-403 is amended to read:

53E-4-403. Commission's evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually after reviewing the evaluations of the commission, the state board shall

recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Section 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:

(a) instructional materials recommended by the state board as provided in this section; or

(b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

Section 66. Section 53E-4-404 is amended to read:

53E-4-404. Meetings -- Notice.

(1) The commission shall meet at the call of the state superintendent [~~of public instruction~~] or the state superintendent's designee.

(2) Notice of a meeting shall be given as required under Section 52-4-202.

Section 67. Section 53E-4-406 is amended to read:

53E-4-406. Awarding instructional materials contracts.

(1) The state board shall award contracts for furnishing instructional materials.

(2) If a satisfactory proposal to furnish instructional materials is not received, a new request for proposals may be issued.

Section 68. Section 53E-4-407 is amended to read:

53E-4-407. Illegal acts -- Misdemeanor.

It is a class B misdemeanor for a member of the commission or the state board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Section 69. Section 53E-4-408 is amended to read:

53E-4-408. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for

Utah public schools adopted under Section 53E-3-501;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the [~~State Board of Education~~] state board;

(b) the state superintendent [~~of public instruction~~] or employees of the [~~State Board of Education~~] state board;

(c) the State Instructional Materials Commission appointed pursuant to Section 53E-4-402;

(d) a local school board or a school district; or

(e) the instructional materials creator or publisher.

~~[(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(3) The state board shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 70. Section 53E-5-201 is amended to read:

53E-5-201. Definitions.

As used in this part:

~~[(1) "Board" means the State Board of Education.]~~

~~[(2) "Individualized education program" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.]~~

~~[(3)]~~ (1) "Lowest performing 25% of students" means the proportion of a school's students who scored in the lowest 25% of students in the school on a statewide assessment based on the prior school year's scores.

~~[(4)]~~ (2) "Statewide assessment" means one or more of the following, as applicable:

(a) a standards assessment described in Section 53E-4-303;

(b) a high school assessment described in Section 53E-4-304;

(c) a college readiness assessment described in Section 53E-4-305; or

(d) an alternate assessment administered to a student with a disability.

Section 71. Section 53E-5-202 is amended to read:

53E-5-202. Statewide school accountability system -- State board rulemaking.

(1) There is established a statewide school accountability system.

~~[(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(2) The state board shall make rules to implement the school accountability system in accordance with this part.

Section 72. Section 53E-5-203 is amended to read:

53E-5-203. Schools included in school accountability system -- Other indicators and point distribution for a school that serves a special student population.

(1) Except as provided in Subsection (2), the state board shall include all public schools in the state in the school accountability system established under this part.

(2) The state board shall exempt from the school accountability system:

(a) a school in which the number of students tested on a statewide assessment is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;

(b) a school in the school's first year of operations if the school's local school board or charter school governing board requests the exemption; or

(c) a high school in the school's second year of operations if the school's local school board or charter school governing board requests the exemption.

(3) Notwithstanding the provisions of this part, the state board may use, to appropriately assess the educational impact of a school that serves a special student population:

(a) other indicators in addition to the indicators described in Section 53E-5-205 or 53E-5-206; or

(b) different point distribution than the point distribution described in Section 53E-5-207.

Section 73. Section 53E-5-204 is amended to read:

53E-5-204. Rating schools.

(1) Except as provided in Subsection (3), and in accordance with this part, the state board shall annually assign to each school an overall rating using an A through F letter grading scale where, based on the school's performance level on the indicators described in Subsection (2):

(a) an A grade represents an exemplary school;

(b) a B grade represents a commendable school;

(c) a C grade represents a typical school;

(d) a D grade represents a developing school; and

(e) an F grade represents a critical needs school.

(2) A school's overall rating described in Subsection (1) shall be based on the school's performance on the indicators described in:

(a) Section 53E-5-205, for an elementary school or a middle school; or

(b) Section 53E-5-206, for a high school.

(3) (a) For a school year in which the state board determines it is necessary to establish, due to a transition to a new assessment, a new baseline to determine student growth described in Section 53E-5-210, the state board is not required to assign an overall rating described in Subsection (1) to a school to which the new baseline applies.

(b) For the 2017-2018 school year, the state board:

(i) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and

(ii) is not required to assign a school an overall rating described in Subsection (1).

Section 74. Section 53E-5-205 is amended to read:

53E-5-205. Indicators for elementary and middle schools.

For an elementary school or a middle school, the state board shall assign the school's overall rating, in accordance with Section 53E-5-207, based on the school's performance on the following indicators:

(1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;

(2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science; and

(3) equitable educational opportunity as measured by:

(a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and

(b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the state board.

Section 75. Section 53E-5-206 is amended to read:

53E-5-206. Indicators for high schools.

For a high school, in accordance with Section 53E-5-207, the state board shall assign the school's

overall rating based on the school's performance on the following indicators:

(1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;

(2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science;

(3) equitable educational opportunity as measured by:

(a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and

(b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the state board; and

(4) postsecondary readiness as measured by:

(a) the school's graduation rate, as described in Section 53E-5-207;

(b) student performance, as described in Section 53E-5-207, on a college readiness assessment described in Section 53E-4-305; and

(c) student achievement in advanced course work, as described in Section 53E-5-207.

Section 76. Section 53E-5-207 is amended to read:

53E-5-207. Calculation of points.

(1) (a) The state board shall award to a school points for academic achievement described in Subsection 53E-5-205(1) or 53E-5-206(1) as follows:

(i) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of English language arts, score at or above the proficient level on the assessment;

(ii) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of mathematics, score at or above the proficient level on the assessment; and

(iii) the state board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of science, score at or above the proficient level on the assessment.

(b) (i) The maximum number of total points possible for academic achievement described in Subsection (1)(a) is 56 points.

(ii) The maximum number of points possible for a component listed in Subsection (1)(a)(i), (ii), or (iii)

is one-third of the number of points described in Subsection (1)(b)(i).

(2) (a) Subject to Subsection (2)(b), the state board shall award to a school points for academic growth described in Subsection 53E-5-205(2) or 53E-5-206(2) as follows:

(i) the state board shall award a school points for growth of the school's students on a statewide assessment of English language arts;

(ii) the state board shall award a school points for growth of the school's students on a statewide assessment of mathematics; and

(iii) the state board shall award a school points for growth of the school's students on a statewide assessment of science.

(b) The state board shall determine points for growth awarded under Subsection (2)(a) by indexing the points based on:

(i) whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target; and

(ii) the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.

(c) (i) The maximum number of total points possible for academic growth described in Subsection (2)(a) is 56 points.

(ii) The maximum number of points possible for a component listed in Subsection (2)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (2)(c)(i).

(3) (a) Subject to Subsection (3)(b), the state board shall award to a school points for equitable educational opportunity described in Subsection 53E-5-205(3) or 53E-5-206(3) as follows:

(i) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of English language arts;

(ii) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of mathematics;

(iii) the state board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of science; and

(iv) except as provided in Section 53E-5-209, the state board shall award to a school points proportional to the percentage of English learners who achieve adequate progress as determined by the state board on an English learner assessment established by the state board.

(b) The state board shall determine points for academic growth awarded under Subsection (3)(a)(i), (ii), or (iii) by indexing the points based on the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.

(c) (i) The maximum number of total points possible for equitable educational opportunity described in Subsection (3)(a) is 38 points.

(ii) The maximum number of points possible for the components listed in Subsection (3)(a)(i), (ii), and (iii), combined, is 25 points.

(iii) The maximum number of points possible for a component listed in Subsection (3)(a)(i), (ii), or (iii) is one-third of the number of the combined points described in Subsection (3)(c)(ii).

(iv) The maximum number of points possible for the component listed in Subsection (3)(a)(iv) is 13 points.

(4) (a) The state board shall award to a high school points for postsecondary readiness described in Subsection 53E-5-206(4) as follows:

(i) the state board shall award to a high school points proportional to the percentage of the school's students who, out of all the school's students who take a college readiness assessment described in Section 53E-4-305, receive a composite score of at least 18 on the assessment;

(ii) the state board shall award to a high school points proportional to the percentage of the school's students who achieve at least one of the following:

(A) a C grade or better in an Advanced Placement course;

(B) a C grade or better in a concurrent enrollment course;

(C) a C grade or better in an International Baccalaureate course; or

(D) completion of a career and technical education pathway, as defined by the state board; and

(iii) in accordance with Subsection (4)(c), the state board shall award to a high school points proportional to the percentage of the school's students who graduate from the school.

(b) (i) The maximum number of total points possible for postsecondary readiness described in Subsection (4)(a) is 75 points.

(ii) The maximum number of points possible for a component listed in Subsection (4)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (4)(b)(i).

(c) (i) In calculating the percentage of students who graduate described in Subsection (4)(a)(iii), except as provided in Subsection (4)(c)(ii), the state board shall award to a high school points proportional to the percentage of the school's students who graduate from the school within four years.

(ii) The state board may award up to 10% of the points allocated for high school graduation described in Subsection (4)(b)(ii) to a school for students who graduate from the school within five years.

Section 77. Section 53E-5-208 is amended to read:

53E-5-208. Calculation of total points awarded -- Maximum number of total points possible.

(1) Except as provided in Section 53E-5-209, the state board shall calculate the number of total points awarded to a school by totaling the number of points the state board awards to the school in accordance with Section 53E-5-207.

(2) The maximum number of total points possible under Subsection (1) is:

(a) for an elementary school or a middle school, 150 points; or

(b) for a high school, 225 points.

Section 78. Section 53E-5-209 is amended to read:

53E-5-209. Exclusion of English learner progress -- Calculation of total points awarded for a school with fewer than 10 English learners.

(1) For a school that has fewer than 10 English learners, the state board shall:

(a) exclude the use of English learner progress in determining the school's overall rating by:

(i) awarding no points to the school for English learner progress described in Subsection 53E-5-207(3)(a)(iv); and

(ii) excluding the points described in Subsection 53E-5-207(3)(c)(iv) from the school's maximum points possible; and

(b) calculate the number of total points awarded to the school by totaling the number of points the state board awards to the school in accordance with Section 53E-5-207 subject to the exclusion described in Subsection (1)(a).

(2) The maximum number of total points possible under Subsection (1) is:

(a) for an elementary school or a middle school, 137 points; or

(b) for a high school, 212 points.

Section 79. Section 53E-5-210 is amended to read:

53E-5-210. State board duties -- Proficient level -- Student growth -- English learner adequate progress.

(1) (a) For the purpose of determining whether a student scores at or above the proficient level on a statewide assessment, the state board shall determine, through a process that evaluates student performance based on specific criteria, the minimum level that demonstrates proficiency for each statewide assessment.

(b) If the state board adjusts the minimum level that demonstrates proficiency described in Subsection (1)(a), the state board shall report the adjustment and the reason for the adjustment to

the Education Interim Committee no later than 30 days after the day on which the state board makes the adjustment.

(2) (a) For the purpose of determining whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target, the state board shall calculate, for each individual student, the amount of growth necessary to achieve or maintain proficiency by a future school year determined by the state board.

(b) For the purpose of determining the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores, the state board shall calculate growth as a percentile for a student using appropriate statistical methods.

(3) For the purpose of determining whether an English learner achieves adequate progress on an English learner assessment established by the state board, the state board shall determine the minimum progress that demonstrates adequate progress.

Section 80. Section 53E-5-211 is amended to read:

53E-5-211. Reporting.

(1) The state board shall annually publish on the state board's website a report card that includes for each school:

(a) the school's overall rating described in Subsection 53E-5-204(1);

(b) the school's performance on each indicator described in:

(i) Section 53E-5-205, for an elementary school or a middle school; or

(ii) Section 53E-5-206, for a high school;

(c) information comparing the school's performance on each indicator described in Subsection (1)(b) with:

(i) the average school performance; and

(ii) the school's performance in all previous years for which data is available;

(d) the percentage of students who participated in statewide assessments;

(e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; and

(f) for a high school, performance on Advanced Placement exams.

(2) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:

(a) are approved by the state board for inclusion; and

(b) may include process or input indicators.

(3) (a) The state board shall develop an individualized student achievement report that includes:

(i) information on the student's level of proficiency as measured by a statewide assessment; and

(ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.

(b) The state board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection (3)(a) available for a school district or charter school to access electronically.

(c) A school district or charter school shall distribute an individualized student achievement report to the parent [or guardian] of the student to whom the report applies.

Section 81. Section 53E-5-301 is amended to read:

53E-5-301. Definitions.

As used in this part:

[~~(1)~~] "Board" means the State Board of Education.]

[~~(2)~~] (1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

[~~(3)~~] "Charter school governing board" means the governing board, as defined in Section 53G-5-102, that governs a charter.]

[~~(4)~~] "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]

[~~(5)~~] (2) "Educator" means the same as that term is defined in Section 53E-6-102.

[~~(6)~~] (3) "Final remedial year" means the second school year following the initial remedial year.

[~~(7)~~] (4) "Independent school turnaround expert" or "turnaround expert" means a person identified by the state board under Section 53E-5-305.

[~~(8)~~] (5) "Initial remedial year" means the school year a district school or charter school is designated as a low performing school under Section 53E-5-302.

[~~(9)~~] (6) "[~~Local education~~] LEA governing board" means a local school board or charter school governing board.

[~~(10)~~] "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.]

[~~(11)~~] (7) "Low performing school" means a district school or charter school that has been designated a low performing school by the state board because the school is:

(a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and

(b) a low performing school according to other outcome-based measures as may be defined in rules made by the state board [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

[~~(12)~~] (8) "School accountability system" means the school accountability system established in Part 2, School Accountability System.

[~~(13)~~] (9) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.

[~~(14)~~] (10) "School turnaround committee" means a committee established under:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

[~~(15)~~] (11) "School turnaround plan" means a plan described in:

- (a) for a district school, Section 53E-5-303; or
- (b) for a charter school, Section 53E-5-304.

Section 82. Section 53E-5-302 is amended to read:

53E-5-302. State board to designate low performing schools -- Needs assessment.

(1) Except as provided in Subsection (4), the state board shall:

- (a) annually designate a school as a low performing school; and
- (b) conduct a needs assessment for a low performing school by thoroughly analyzing the root causes of the low performing school's low performance.

(2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

(3) A school that was designated as a low performing school based on 2015-2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016-2017 school year is exempt from the provisions of this part.

(4) The state board is not required to designate as a low performing school a school for which the state board is not required to assign an overall rating in accordance with Section 53E-5-204.

Section 83. Section 53E-5-303 is amended to read:

53E-5-303. Required action to turn around a low performing district school.

(1) In accordance with deadlines established by the state board, a local school board of a low performing school shall:

- (a) establish a school turnaround committee composed of the following members:

- (i) the local school board member who represents the voting district where the low performing school is located;

- (ii) the school principal;

- (iii) three parents of students enrolled in the low performing school appointed by the chair of the school community council;

- (iv) one teacher at the low performing school appointed by the principal;

- (v) one teacher at the low performing school appointed by the school district superintendent; and

- (vi) one school district administrator;

- (b) solicit proposals from a turnaround expert identified by the state board under Section 53E-5-305;

- (c) partner with the school turnaround committee to select a proposal;

- (d) submit the proposal described in Subsection (1)(b) to the state board for review and approval; and

- (e) subject to Subsections (3) and (4), contract with a turnaround expert.

(2) A proposal described in Subsection (1)(b) shall include a:

- (a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and

- (b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).

(3) A local school board may not select a turnaround expert that is:

- (a) the school district; or
- (b) an employee of the school district.

(4) A contract between a local school board and a turnaround expert:

- (a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;

- (b) shall include a scope of work that requires the turnaround expert to at a minimum:

- (i) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection (5);

- (ii) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

- (iii) provide ongoing implementation support and project management for a school turnaround plan;

- (iv) provide high-quality professional development personalized for school staff that is designed to build:

(A) the leadership capacity of the school principal;

(B) the instructional capacity of school staff;

(C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and

(v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;

(c) may include a scope of work that requires the turnaround expert to:

(i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or

(ii) other services that respond to the needs assessment conducted under Section 53E-5-302;

(d) shall include travel costs and payment milestones; and

(e) may include pay for performance provisions.

(5) A school turnaround committee shall partner with the turnaround expert selected under Subsection (1) to develop and implement a school turnaround plan that:

(a) addresses the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302;

(b) includes recommendations regarding changes to the low performing school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;

(c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;

(d) includes a professional development plan that identifies a strategy to address problems of instructional practice;

(e) includes a detailed budget specifying how the school turnaround plan will be funded;

(f) includes a plan to assess and monitor progress;

(g) includes a plan to communicate and report data on progress to stakeholders; and

(h) includes a timeline for implementation.

(6) A local school board of a low performing school shall:

(a) prioritize school district funding and resources to the low performing school;

(b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan; and

(c) assist the turnaround expert and the low performing school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan.

(7) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.

(b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the state board for approval.

(c) If the local school board does not approve the school turnaround plan submitted under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).

(8) A local school board, or a local school board's designee, shall annually report to the state board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Section 84. Section 53E-5-304 is amended to read:

53E-5-304. Required action to terminate or turn around a low performing charter school.

(1) In accordance with deadlines established by the state board, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53G-5-303, including the school's established minimum standards for student achievement.

(2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter agreement in accordance with Section 53G-5-503.

(3) A charter school authorizer shall make a determination on the status of a low performing school's charter agreement under Subsection (2) on or before a date specified by the state board in an initial remedial year.

(4) In accordance with deadlines established by the state board, if a charter school authorizer does not terminate a low performing school's charter agreement under Subsection (2), a charter school governing board of a low performing school shall:

(a) establish a school turnaround committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the low performing school, appointed by the school principal;

(b) solicit proposals from a turnaround expert identified by the state board under Section 53E-5-305;

(c) partner with the school turnaround committee to select a proposal;

(d) submit the proposal described in Subsection (4)(b) to the state board for review and approval; and

(e) subject to Subsections (6) and (7), contract with a turnaround expert.

(5) A proposal described in Subsection (4)(b) shall include a:

(a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection 53E-5-303(4)(b).

(6) A charter school governing board may not select a turnaround expert that:

(a) is a member of the charter school governing board;

(b) is an employee of the charter school; or

(c) has a contract to operate the charter school.

(7) A contract entered into between a charter school governing board and a turnaround expert shall include and reflect the requirements described in Subsection 53E-5-303(4).

(8) (a) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4) to develop and implement a school turnaround plan that includes the elements described in Subsection 53E-5-303(5).

(b) A charter school governing board shall assist a turnaround expert and a low performing charter school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan.

(9) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.

(b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a low performing school

shall submit the school turnaround plan to the state board for approval.

(c) If the charter school governing board does not approve the school turnaround plan submitted under Subsection (9)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).

(10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter agreement in accordance with Section 53G-5-503.

(11) A charter school governing board or a charter school governing board's designee shall annually report to the state board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Section 85. Section 53E-5-305 is amended to read:

53E-5-305. State board to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.

(1) The state board shall identify two or more approved independent school turnaround experts, through a standard procurement process, that a low performing school may contract with to:

(a) respond to the needs assessment conducted under Section 53E-5-302; and

(b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.

(2) In identifying independent school turnaround experts under Subsection (1), the state board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and

(f) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) The state board shall:

(i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;

(ii) review a school turnaround plan submitted for approval under Subsection 53E-5-303(7)(b) or under Subsection 53E-5-304(9)(b) within 30 days of submission; and

(iii) approve a school turnaround plan that:

(A) is timely;

(B) is well-developed; and

(C) meets the criteria described in Subsection 53E-5-303(5).

(b) The state board may not approve a school turnaround plan that is not aligned with the needs assessment conducted under Section 53E-5-302.

(4) (a) Subject to legislative appropriations, when a school turnaround plan is approved by the state board, the state board shall distribute funds to each local education LEA governing board with a low performing school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(b) The state board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).

(5) The state board shall:

(a) monitor and assess progress toward the goals, benchmarks and timetable in each school turnaround plan; and

(b) act as a liaison between a local school board, low performing school, and turnaround expert.

~~[(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(6) (a) The state board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the state board under Subsection (3)(a) or (b).

(b) The state board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:

(i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and

(ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.

(7) The state board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the state board in an open meeting.

Section 86. Section 53E-5-306 is amended to read:

53E-5-306. Implications for failing to improve school performance.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and state board rules;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a B grade under the school accountability system in the previous two school years.

~~[(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(2) (a) The state board shall make rules establishing:

(i) exit criteria for a low performing school;

(ii) criteria for granting a school an extension as described in Subsection (3); and

(iii) implications for a low performing school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a low performing school the state board shall:

(i) determine for each low performing school the number of points awarded under the school accountability system in the final remedial year that represent a substantive and statistically significant improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year;

(ii) establish a method to estimate the exit criteria after a low performing school's first remedial year to provide a target for each low performing school; and

(iii) use generally accepted statistical practices.

(c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the criteria adopted under this Subsection (2).

(3) (a) A low performing school may petition the state board for an extension to continue school improvement efforts for up to two years if the low performing school does not meet the exit criteria established by the state board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for:

(i) continued funding under Section 53E-5-305; and

(ii) (A) the school teacher recruitment and retention incentive under Section 53E-5-308; or

(B) the School Recognition and Reward Program under Section 53E-5-307.

(4) If a low performing school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:

(a) restructuring a district school, which may include:

- (i) contract management;
- (ii) conversion to a charter school; or
- (iii) state takeover;

(b) restructuring a charter school by:

- (i) terminating a school's charter agreement;
- (ii) closing a charter school; or
- (iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(c) other appropriate action as determined by the state board.

Section 87. Section 53E-5-307 is amended to read:

53E-5-307. School Recognition and Reward Program.

(1) As used in this section, "eligible school" means a low performing school that:

(a) was designated as a low performing school based on 2014-2015 school year performance; and

(b) (i) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; or

(ii) (A) has been granted an extension under Subsection 53E-5-306(3); and

(B) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.

(2) The School Recognition and Reward Program is created to provide incentives to schools and educators to improve the school grade of a low performing school.

(3) Subject to appropriations by the Legislature, upon the release of school grades by the state board, the state board shall distribute a reward equal to:

(a) for an eligible school that improves the eligible school's grade one letter grade:

- (i) \$100 per tested student; and
- (ii) \$1,000 per educator;

(b) for an eligible school that improves the eligible school's grade two letter grades:

- (i) \$200 per tested student; and
- (ii) \$2,000 per educator;

(c) for an eligible school that improves the eligible school's grade three letter grades:

- (i) \$300 per tested student; and
- (ii) \$3,000 per educator; and

(d) for an eligible school that improves the eligible school's grade four letter grades:

- (i) \$500 per tested student; and
- (ii) \$5,000 per educator.

(4) The principal of an eligible school that receives a reward under Subsection (3), in consultation with the educators at the eligible school, may determine how to use the money in the best interest of the school, including providing bonuses to educators.

(5) If the number of qualifying eligible schools exceeds available funds, the state board may reduce the amounts specified in Subsection (3).

(6) A local school board of an eligible school, in coordination with the eligible school's turnaround committee, may elect to receive a reward under this section or receive funds described in Section 53E-5-308 but not both.

Section 88. Section 53E-5-308 is amended to read:

53E-5-308. Turnaround school teacher recruitment and retention.

(1) As used in this section, "plan" means a teacher recruitment and retention plan.

(2) On a date specified by the state board, [~~a local education~~] an LEA governing board of a low performing school shall submit to the state board for review and approval a plan to address teacher recruitment and retention in a low performing school.

(3) The state board shall:

- (a) review a plan submitted under Subsection (2);
- (b) approve a plan if the plan meets criteria established by the state board in rules [~~made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]; and

(c) subject to legislative appropriations, provide funding to [~~a local education~~] an LEA governing board for teacher recruitment and retention efforts identified in an approved plan if the [~~local education~~] LEA governing board provides matching funds in an amount equal to at least the funding the low performing school would receive from the state board.

(4) The money distributed under this section may only be expended to fund teacher recruitment and retention efforts identified in an approved plan.

Section 89. Section 53E-5-309 is amended to read:

53E-5-309. School Leadership Development Program.

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of:

(a) initiating, achieving, and sustaining school improvement efforts; and

(b) forming and sustaining community partnerships as described in Section 53F-5-402.

(3) The state board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to turn around low performing schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by state board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices;

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and

(h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.

(4) Subject to legislative appropriations, the [~~State Board of Education~~] state board shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that received an F grade or D grade under the school accountability system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(5) The state board shall make rules specifying:

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 90. Section 53E-5-310 is amended to read:

53E-5-310. Reporting requirement.

On or before November 30 of each year, the state board shall report to the Education Interim Committee on the provisions of this part.

Section 91. Section 53E-6-102 is amended to read:

53E-6-102. Definitions.

As used in this chapter:

~~[(1) "Board" means the State Board of Education.]~~

~~[(2)]~~ (1) "Certificate" means a license issued by a governmental jurisdiction outside the state.

~~[(3)]~~ (2) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by the state board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

~~[(4)]~~ (3) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.

~~[(5)]~~ (4) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

~~[(6) "Rule" means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~[(7)]~~ (5) "School" means a public or private entity that provides educational services to a minor child.

~~[(8)]~~ (6) "UPPAC" means the Utah Professional Practices Advisory Commission.

Section 92. Section 53E-6-103 is amended to read:

53E-6-103. Legislative findings on teacher quality -- Declaration of education as a profession.

(1) (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.

(b) The Legislature further acknowledges that the primary responsibility for the education of

children within the state resides with their parents ~~(or guardians)~~ and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

(2) (a) The Legislature finds that:

(i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;

(ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and

(iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.

(b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

(i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs before assuming their responsibilities in the schools;

(ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;

(iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

(iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Section 93. Section 53E-6-201 is amended to read:

53E-6-201. State board licensure.

(1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the state board shall establish in rule a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a

public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule; and

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3) (a) The state board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.

Section 94. Section 53E-6-204 is amended to read:

53E-6-204. Exemptions from licensure.

Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state may work as an educator without being licensed under this title if:

(1) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the state board; and

(2) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 95. Section 53E-6-301 is amended to read:

53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.

(1) The state board shall establish by rule the scholarship, training, and experience required of license applicants.

(2) (a) The state board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(3) The state board may determine by examination or otherwise the qualifications of license applicants.

Section 96. Section 53E-6-302 is amended to read:

53E-6-302. Teacher preparation programs.

~~[(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(1) The state board shall make rules that establish standards for approval of a preparation program.

(2) The state board shall ensure that standards adopted under Subsection (1) meet or exceed generally recognized national standards for preparation of educators.

(3) The state board shall designate an employee of the state board's staff to:

(a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:

(i) monitoring courses for teacher preparation programs;

(ii) working with course instructors for teacher preparation programs; and

(iii) interviewing students admitted to teacher preparation programs;

(b) act as a liaison between:

(i) the state board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the state board; and

(ii) education deans of state institutions of higher education.

(4) The state board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and

(b) ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ make rules, as the state board determines is necessary, to implement recommendations described in Subsection (3)(c).

Section 97. Section 53E-6-303 is amended to read:

53E-6-303. Prohibition on use of degrees or credit from unapproved institutions.

(1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:

(a) approved for the granting of the degree or credit by the state board; or

(b) accredited by an accrediting organization recognized by the state board.

(2) The state board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Section 98. Section 53E-6-307 is amended to read:

53E-6-307. Certification in other jurisdictions -- Impact on licensing in Utah.

(1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.

(2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:

(a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;

(b) a complete list of prior school employers; and

(c) a release on a form provided by the administrator permitting the state board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section 53G-11-405.

(3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the state board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.

(4) The state board may not withhold a license for the sole reason that the applicant would be

ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Section 99. Section 53E-6-401 is amended to read:

53E-6-401. Background checks.

In accordance with Section 53G-11-403, the [State Board of Education] state board shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Section 100. Section 53E-6-402 is amended to read:

53E-6-402. State board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.

(1) (a) The state board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the state board that has significance in evaluating the employment or license of:

- (i) a current or prospective school employee;
- (ii) an educator or education license holder; or
- (iii) a license applicant.

(b) Information supplied under Subsection (1)(a) shall include:

- (i) the complete record of a hearing; and
- (ii) the investigative report for matters that:

(A) the educator has had an opportunity to contest; and

- (B) did not proceed to a hearing.

(2) At the request of the state board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the state board with a recommendation or other information possessed by the school or school district that has significance in evaluating the:

(a) license of an educator or education license holder; or

- (b) potential licensure of a license applicant.

(3) If the state board decides to deny licensure or to take action against an educator's license based upon information provided under this section, the state board shall:

(a) give notice of the information to the educator or license applicant; and

(b) afford the educator or license applicant an opportunity to respond to the information.

(4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

Section 101. Section 53E-6-403 is amended to read:

53E-6-403. Tie-in with the Criminal Investigations and Technical Services Division.

(1) The state board shall:

(a) designate employees to act, with state board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and

(b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53E-6-402.

(2) The cost of the online service shall be borne by the entity making the inquiry.

Section 102. Section 53E-6-501 is amended to read:

53E-6-501. Utah Professional Practices Advisory Commission established.

The Utah Professional Practices Advisory Commission, UPPAC, is established to assist and advise the state board in matters relating to the professional practices of educators.

Section 103. Section 53E-6-502 is amended to read:

53E-6-502. UPPAC members -- Executive secretary.

(1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.

(2) Six of the voting members shall be persons whose primary responsibility is teaching.

(3) (a) The state superintendent [~~of public instruction~~] shall appoint an employee to serve as executive secretary.

(b) Voting members are appointed by the state superintendent as provided under Section 53E-6-503.

(4) [Board] State board employees shall staff UPPAC activities.

Section 104. Section 53E-6-503 is amended to read:

53E-6-503. Nominations -- Appointment of commission members -- Reappointments.

(1) (a) The state board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.

(b) Nomination petitions must be filed with the state superintendent prior to June 16 of the year of appointment.

(c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the state board during the three years immediately preceding the date of appointment.

(2) The state superintendent [~~of public instruction~~] shall appoint the members of the commission.

(3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.

(4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.

(5) A member may not serve more than two terms.

Section 105. Section 53E-6-504 is amended to read:

53E-6-504. Filling of vacancies.

(1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.

(2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.

(3) If the state superintendent does not fill the vacancy within 60 days, the state board shall make the appointment.

(4) Nominations to fill vacancies are submitted to the state superintendent in accordance with procedures established under rules of the state board.

Section 106. Section 53E-6-505 is amended to read:

53E-6-505. Meetings and expenses of UPPAC members.

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The state board shall pay reimbursement to UPPAC members out of the Education Fund.

Section 107. Section 53E-6-506 is amended to read:

53E-6-506. UPPAC duties and procedures.

(1) The state board may direct UPPAC to review a complaint about an educator and recommend that the state board:

(a) dismiss the complaint; or

(b) investigate the complaint in accordance with this section.

(2) (a) The state board may direct UPPAC to:

(i) in accordance with this section, investigate a complaint's allegation or decision; or

(ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

(i) provide findings to the state board; and

(ii) make a recommendation for state board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3) (a) The state board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section 53E-6-606 administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the state board under Section 77-40-109.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the state board initiate a background check on an educator as described in Section 53G-11-403.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The state board may direct UPPAC to:

(a) recommend to the state board procedures for:

(i) receiving and processing complaints;

(ii) investigating a complaint's allegation or decision;

(iii) conducting hearings; or

(iv) reporting findings and making recommendations to the state board for state board action;

(b) recommend to the state board or a professional organization of educators:

(i) standards of professional performance, competence, and ethical conduct for educators; or

(ii) suggestions for improvement of the education profession; or

(c) fulfill other duties the state board finds appropriate.

(5) UPPAC may not participate as a party in a dispute relating to negotiations between:

(a) a school district and the school district's educators; or

(b) a charter school and the charter school's educators.

(6) The state board shall make rules establishing UPPAC duties and procedures.

Section 108. Section 53E-6-602 is amended to read:

53E-6-602. Licensing power of the state board -- Licensing final action -- Appeal rights.

(1) The state board holds the power to license educators.

(2) (a) The state board shall take final action with regard to an educator license.

(b) An entity other than the state board may not take final action with regard to an educator license.

(3) (a) In accordance with Subsection (3)(b), a license applicant or an educator may seek judicial review of a final action made by the state board under this chapter.

(b) A license applicant or educator may file a petition for judicial review of the state board's final action if the license applicant or educator files a petition within 30 days after the day on which the license applicant or educator received notice of the final action.

Section 109. Section 53E-6-603 is amended to read:

53E-6-603. Ineligibility for educator license.

(1) The state board may refuse to issue a license to a license applicant if the state board finds good cause for the refusal, including behavior of the applicant:

(a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and

(b) considered, as behavior of an educator, to be:

(i) immoral, unprofessional, or incompetent behavior; or

(ii) a violation of standards of ethical conduct, performance, or professional competence.

(2) The state board may not issue, renew, or reinstate an educator license if the license applicant or educator:

(a) was convicted of a felony of a sexual nature;

(b) pled guilty to a felony of a sexual nature;

(c) entered a plea of no contest to a felony of a sexual nature;

(d) entered a plea in abeyance to a felony of a sexual nature;

(e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;

(g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

(i) not a minor; and

(ii) enrolled in a school where the license applicant or educator is or was employed; or

(h) admits to the state board or UPPAC that the license applicant or educator committed conduct that amounts to:

(i) a felony of a sexual nature; or

(ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).

(3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:

(a) employ the person in the public school; or

(b) allow the person to volunteer in the public school.

(4) (a) If the state board denies licensure under this section, the state board shall immediately notify the applicant of:

(i) the denial; and

(ii) the applicant's right to request a hearing before UPPAC.

(b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the state board based the denial.

(c) If the state board receives a request for a hearing described in Subsection (4)(b), the state board shall direct UPPAC to hold a hearing.

Section 110. Section 53E-6-604 is amended to read:

53E-6-604. State board disciplinary action against an educator.

(1) (a) The state board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:

- (i) is immoral, unprofessional, or incompetent; or
- (ii) violates standards of ethical conduct, performance, or professional competence.

(b) If the state board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the state board may dismiss the allegation or decision without an investigation or hearing.

(2) The state board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the state board receives an allegation that the educator:

- (a) was charged with a felony of a sexual nature;
- (b) was convicted of a felony of a sexual nature;
- (c) pled guilty to a felony of a sexual nature;
- (d) entered a plea of no contest to a felony of a sexual nature;
- (e) entered a plea in abeyance to a felony of a sexual nature;
- (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
- (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

- (i) not a minor; and
- (ii) enrolled in a school where the educator is or was employed.

(3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board shall direct UPPAC to:

- (a) investigate the alleged violation; and
- (b) hold a hearing to allow the educator to respond to the allegation.

(4) Upon completion of an investigation or hearing described in this section, UPPAC shall:

- (a) provide findings to the state board; and
- (b) make a recommendation for state board action.

(5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the state board may:

- (i) revoke the educator's license;
- (ii) suspend the educator's license;
- (iii) restrict or prohibit the educator from renewing the educator's license;
- (iv) warn or reprimand the educator;
- (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
- (vi) direct UPPAC to further investigate or gather information; or
- (vii) take other action the state board finds to be appropriate for and consistent with the educator's behavior.

(b) Upon review of UPPAC's findings and recommendation, the state board shall revoke the license of an educator who:

- (i) was convicted of a felony of a sexual nature;
- (ii) pled guilty to a felony of a sexual nature;
- (iii) entered a plea of no contest to a felony of a sexual nature;
- (iv) entered a plea in abeyance to a felony of a sexual nature;
- (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
- (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
- (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:

- (A) not a minor; and
- (B) enrolled in a school where the educator is or was employed; or

(viii) admits to the state board or UPPAC that the applicant committed conduct that amounts to:

- (A) a felony of a sexual nature; or
- (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).

(c) The state board may not reinstate a revoked license.

(d) Before the state board takes adverse action against an educator under this section, the state board shall ensure that the educator had an opportunity for a UPPAC hearing.

Section 111. Section 53E-6-605 is amended to read:

53E-6-605. Designation of hearing officer or panel -- Review of findings.

(1) UPPAC or a state or local school board charged with responsibility for conducting a

hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.

(2) UPPAC or the local school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.

(3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Section 112. Section 53E-6-607 is amended to read:

53E-6-607. Policies for conducting hearings -- Standard of proof.

(1) The state board and each local school board shall adopt [rules] policies for the conduct of hearings to ensure that requirements of due process are met.

(2) An accused party shall be provided not less than 15 days before a hearing with:

(a) notice of the hearing;

(b) the law, rule, or policy alleged to have been violated;

(c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and

(d) a copy of the [rules] policies under which the hearing will be conducted.

(3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local school board, for actions taken under the auspices of a local school board, or on the records of the state board, for actions taken under the auspices of the state board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.

(4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.

(5) Unless otherwise provided in this public education code, the decisions of state and local school boards are final determinations under this section, appealable to the appropriate court for review.

Section 113. Section 53E-6-701 is amended to read:

53E-6-701. Mandatory reporting of physical or sexual abuse of students.

(1) For purposes of this section, "educator" means, in addition to a person included under Section 53E-6-102, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a

private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the state board.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the state board.

(4) Upon notice that an educator allegedly violated Subsection (2) or (3), the state board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53E-6-604.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Section 114. Section 53E-6-702 is amended to read:

53E-6-702. Reimbursement of legal fees and costs to educators.

(1) As used in this section:

(a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:

(i) the entity who licenses the educator; and

(ii) the LEA that employs the educator or employed the educator at the time of the alleged act or omission.

(b) "Educator" means an individual who holds or is required to hold a license as defined by the state board and is employed by an LEA located within the state.

~~[(c) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.]~~

(2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:

(a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and

(b) it is dismissed or results in findings favorable to the educator.

(3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Section 115. Section 53E-6-703 is amended to read:

53E-6-703. Professional competence or performance -- Administrative hearing by local school board -- Action on complaint.

(1) (a) No civil action by or on behalf of a student relating to the professional competence or performance of a licensed employee of a school district, or to the discipline of students by a licensed employee, application of in loco parentis, or a violation of ethical conduct by an employee of a school district, may be brought in a court until at least 60 days after the filing of a written complaint with the local school board [~~of education~~] of the district, or until findings have been issued by the local school board after a hearing on the complaint, whichever is sooner.

(b) As used in Subsection (1)(a), "in loco parentis" means the power of professional school personnel to exercise the rights, duties, and responsibilities of a reasonable, responsible parent in dealing with students in school-related matters.

(c) A parent of a student has standing to file a civil action against an employee who provides services to a school attended by the student.

(2) Within 15 days of receiving a complaint under Subsection (1), a local school board may elect to refer the complaint to the [~~State Board of Education~~] state board.

(3) If a complaint is referred to the state board, no civil action may be brought in a court on matters relating to the complaint until the state board has provided a hearing and issued its findings or until 90 days after the filing of the complaint with the local school board, whichever is sooner.

Section 116. Section 53E-6-801 is amended to read:

53E-6-801. Mediation of contract negotiations.

(1) The president of a professional local organization which represents a majority of the licensed employees of a school district or the chairman or president of a local school board may, after negotiating for 90 days, declare an impasse by written notification to the other party and to the [~~State Board of Education~~] state board.

(2) The party declaring the impasse may request the state superintendent [~~of public instruction~~] to appoint a mediator for the purpose of helping to resolve the impasse if the parties to the dispute have not been able to agree on a third party mediator.

(3) Within five working days after receipt of the written request, the state superintendent shall appoint a mediator who is mutually acceptable to the local school board and the professional organization representing a majority of the licensed employees.

(4) The mediator shall meet with the parties, either jointly or separately, and attempt to settle the impasse.

(5) The mediator may not, without the consent of both parties, make findings of fact or recommend terms for settlement.

(6) Both parties shall equally share the costs of mediation.

(7) Nothing in this section prevents the parties from adopting a written mediation procedure other than that provided in this section.

(8) If the parties have a mediation procedure, they shall follow that procedure.

Section 117. Section 53E-6-802 is amended to read:

53E-6-802. Appointment of hearing officer -- Hearing process.

(1) If a mediator appointed under Section 53E-6-801 is unable to effect settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent [~~of public instruction~~] request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.

(2) Within five working days after receipt of the request, the state superintendent [~~of public instruction~~] shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.

(3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.

(4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.

(5) The [~~State Board of Education~~] state board and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.

(6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.

(7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.

(8) Either the hearing officer, the professional organization, or the local school board may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.

(9) (a) The state superintendent [~~of public instruction~~] may determine the majority status of any professional organization which requests assistance under this section.

(b) The decision of the state superintendent is final unless it is clearly inconsistent with the evidence.

Section 118. Section 53E-6-902 is amended to read:

53E-6-902. Teacher leaders.

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; and

(c) support school-based professional learning.

~~[(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(3) The state board shall make rules that:

(a) define the role of a teacher leader, including the functions described in Subsection (2); and

(b) establish the minimum criteria for a teacher to qualify as a teacher leader.

(4) The state board shall solicit recommendations from school districts and educators regarding:

(a) appropriate resources to provide a teacher leader; and

(b) appropriate ways to compensate a teacher leader.

Section 119. Section 53E-7-202 is amended to read:

53E-7-202. Education programs for students with disabilities -- Supervision by the state board -- Enforcement.

(1) (a) All students with disabilities, who are 3 years old or older but younger than 22 years old and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.

(b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the end of the school year.

~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(c) The state board shall adopt rules consistent with applicable state and federal law to implement this part.

(2) The rules adopted by the [~~State Board of Education~~] state board shall include the following:

(a) appropriate and timely identification of students with disabilities;

(b) diagnosis, evaluation, and classification by qualified personnel;

(c) standards for classes and services;

(d) provision for multidistrict programs;

(e) provision for delivery of service responsibilities;

(f) certification and qualifications for instructional staff; and

(g) services for dual enrollment students attending public school on a part-time basis under Section 53G-6-702.

(3) (a) The [~~State Board of Education~~] state board shall have general control and supervision over all educational programs for students within the state who have disabilities.

(b) Those programs must comply with rules adopted by the [~~State Board of Education~~] state board under this section.

(4) The state superintendent [~~of public instruction~~] shall enforce this part.

Section 120. Section 53E-7-204 is amended to read:

53E-7-204. School district responsibility -- Reimbursement of costs -- Other programs.

(1) (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.

(b) The program shall include necessary special facilities, instruction, and education-related services.

(c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.

(2) School districts that provide special education services under this part in accordance with applicable rules of the [~~State Board of Education~~] state board shall receive reimbursement from the state board under Title 53F, Chapter 2, State Funding -- Minimum School Program, and other applicable laws.

(3) (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are:

(i) younger than 3 years old; or

(ii) older than 22 years old as described in Subsection 53E-7-202(1).

(b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Section 121. Section 53E-7-208 is amended to read:

53E-7-208. Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.

(1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the public schools.

(2) Therefore, the ~~[State Board of Education]~~ state board shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents ~~[or guardians]~~ as to the provision of free, appropriate public education to those students.

(3) The timelines established by the state board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.

(4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.

(5) (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.

(b) The hearing shall be conducted under rules adopted by the state board in accordance with 20 U.S.C. Section 1415.

(6) (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).

(b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.

(7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

Section 122. Section 53E-7-301 is amended to read:

53E-7-301. Definitions.

As used in this part:

(1) "Blind student" means an individual, who is 3 years old or older but younger than 22 years old and eligible for special education services, who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

~~[(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1414(d).]~~

Section 123. Section 53E-7-304 is amended to read:

53E-7-304. Braille versions of textbooks.

(1) As a condition of the annual contract for instructional materials process and as a condition of textbook acceptance, the ~~[State Board of Education]~~ state board shall require publishers of textbooks recommended by the state board to furnish, on request, their textbooks and related instructional materials in an electronic file set, in conformance with the National Instructional Materials Accessibility Standard, from which Braille versions of all or part of the textbook and related instructional materials can be produced.

(2) When Braille translation software for specialty code translation becomes available, publishers shall furnish, on request, electronic file sets, in conformance with the National Instructional Materials Accessibility Standard, for nonliterary subjects such as mathematics and science.

Section 124. Section 53E-8-102 is amended to read:

53E-8-102. Definitions.

As used in this chapter:

(1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.

(2) "Alternate format" includes braille, audio, or digital text, or large print.

(3) "Associate superintendent" means:

(a) the associate superintendent of the Utah School for the Deaf; or

(b) the associate superintendent of the Utah School for the Blind.

(4) "Blind" means:

(a) if the person is three years of age or older but younger than 22 years of age, having a visual

impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having a visual impairment.

(5) "Blindness" means an impairment in vision in which central visual acuity:

(a) does not exceed 20/200 in the better eye with correcting lenses; or

(b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

~~[(6) "Board" means the State Board of Education.]~~

~~[(7)]~~ (6) "Cortical visual impairment" means a neurological visual disorder:

(a) that:

(i) affects the visual cortex or visual tracts of the brain;

(ii) is caused by damage to the visual pathways to the brain;

(iii) affects a person's visual discrimination, acuity, processing, and interpretation; and

(iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and

(b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.

~~[(8)]~~ (7) "Deaf" means:

(a) if the person is three years of age or older but younger than 22 years of age, having hearing loss, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having hearing loss.

~~[(9)]~~ (8) "Deafblind" means:

(a) if the person is three years of age or older but younger than 22 years of age:

(i) deaf;

(ii) blind; and

(iii) having hearing loss and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or

(b) if the person is younger than three years of age, having both hearing loss and vision impairments that are diagnosed as provided in Section 53E-8-401.

~~[(10)]~~ (9) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.

~~[(11)]~~ (10) "Educator" means a person who holds:

(a) (i) a license issued under Chapter 6, Education Professional Licensure; and

(ii) a position as:

(A) a teacher;

(B) a speech pathologist;

(C) a librarian or media specialist;

(D) a preschool teacher;

(E) a guidance counselor;

(F) a school psychologist;

(G) an audiologist; or

(H) an orientation and mobility specialist; or

(b) (i) a bachelor's degree or higher;

(ii) credentials from the governing body of the professional's area of practice; and

(iii) a position as:

(A) a Parent Infant Program consultant;

(B) a deafblind consultant;

(C) a school nurse;

(D) a physical therapist;

(E) an occupational therapist;

(F) a social worker; or

(G) a low vision specialist.

~~[(12)]~~ (11) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.

~~[(13)]~~ (12) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.

~~[(14)]~~ (13) "Hard of hearing" means having a hearing loss, excluding deafness.

~~[(15)]~~ (14) "Individualized education program" or "IEP" means:

(a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or

(b) an individualized family service plan developed:

(i) for a child with a disability who is younger than three years of age; and

(ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

[46] (15) "LEA" means a local education agency that has administrative control and direction for public education.

[47] (16) "LEA of record" means the school district of residence of a student as determined under Section 53G-6-302.

[48] (17) "Low vision" means an impairment in vision in which:

(a) visual acuity is at 20/70 or worse; or

(b) the visual field is reduced to less than 20 degrees.

[49] (18) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:

(a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and

(b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.

[20] (19) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

[21] "~~Section 504 accommodation plan~~" means a ~~plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.~~

[22] (20) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.

[23] (21) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Section 125. Section 53E-8-201 is amended to read:

53E-8-201. Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

(1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:

(a) the Utah School for the Deaf;

(b) the Utah School for the Blind;

(c) programs for students who are deafblind; and

(d) the Parent Infant Program.

(2) Under the general control and supervision of the state board, consistent with the state board's constitutional authority, the Utah Schools for the Deaf and the Blind:

(a) may provide services to students statewide:

(i) who are deaf, blind, or deafblind; or

(ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the state board established pursuant to Section 53E-8-401; and

(b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the student's LEA of record, parent ~~or legal guardian~~, and the Utah Schools for the Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and the Blind.

(3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

(4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Chapter 7, Part 2, Special Education Program.

Section 126. Section 53E-8-204 is amended to read:

53E-8-204. Authority of the state board -- Rulemaking -- Superintendent -- Advisory council.

(1) The ~~[State Board of Education]~~ state board is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The state board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The state board shall make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the state board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an

understanding of the unique needs and education of deafblind persons.

(4) (a) The state board shall:

(i) establish an [~~Advisory Council~~] advisory council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

(i) two members who are blind;

(ii) two members who are deaf; and

(iii) two members who are deafblind or parents of a deafblind child.

(5) The state board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) On or before the November interim meeting each year, the state board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.

(b) The state board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

(ii) a report on the activities of the superintendent and associate superintendents;

(iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and

(iv) a report on student achievement, including:

(A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;

(B) graduation rates; and

(C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.

Section 127. Section 53E-8-301 is amended to read:

53E-8-301. Educators exempt from Department of Human Resource Management rules -- Collective bargaining agreement.

(1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Department of Human Resource Management.

(2) The state board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Department of Human Resource Management.

(3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53G-11-202.

Section 128. Section 53E-8-302 is amended to read:

53E-8-302. Annual salary adjustments for educators.

(1) In accordance with Section 53F-7-301, the Legislature shall appropriate money to the state board for the salary adjustments described in this section.

(2) The state board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.

(3) (a) The state board shall determine the salary adjustment specified in Subsection (2) by:

(i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and

(ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.

(b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the state board shall exclude educator salary adjustments provided pursuant to Section 53F-2-405.

(4) From money appropriated to the state board for salary adjustments, the state board shall adjust the salary schedule applicable to educators at the school each year.

Section 129. Section 53E-8-401 is amended to read:

53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3), (4), and (5), a person is eligible to receive services of the Utah Schools for the Deaf and the Blind if the person is:

(a) a resident of Utah;

(b) younger than 22 years of age;

(c) referred to the Utah Schools for the Deaf and the Blind by the person's school district of residence or a local early intervention program; and

(d) identified as deaf, blind, or deafblind through:

(i) the special education eligibility determination process; or

(ii) the Section 504 eligibility determination process.

(2) (a) In diagnosing a person younger than age three who is deafblind, the following information may be used:

(i) ophthalmological and audiological documentation;

(ii) functional vision or hearing assessments and evaluations; or

(iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

(ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(c) A parent [~~or legal guardian~~] of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a school district or charter school program subject to special education federal regulations regarding due process.

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the state board.

(b) The rules shall require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.

~~[(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the]~~

(6) The state board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive

services of the Utah Schools for the Deaf and the Blind if the student is younger than 22 years of age.

Section 130. Section 53E-8-402 is amended to read:

53E-8-402. Entrance policies and procedures.

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the state board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Section 131. Section 53E-8-406 is amended to read:

53E-8-406. Programs for deafblind individuals -- State deafblind education specialist.

(1) The state board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.

(2) Except as provided in Subsection (4), the state board shall designate an employee who holds a deafblind certification or equivalent training and expertise to:

(a) act as a resource coordinator for the state board on public education programs designed for individuals who are deafblind;

(b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.

(3) The state board may authorize and approve the costs of an employee to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).

(4) The state board may contract with a third party for the services required under Subsection (2).

Section 132. Section 53E-8-407 is amended to read:

53E-8-407. Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students -- Funding for the program.

(1) There is established the Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students.

(2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, hard of hearing, blind, or deafblind students.

(3) The advisory council shall design and implement the program, subject to the approval by the state board.

(4) The program shall be funded from the interest and dividends derived from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Section 133. Section 53E-8-408 is amended to read:

53E-8-408. Educational services for an individual with a hearing loss.

(1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide educational services to an individual:

(a) who seeks to receive the educational services; and

(b) (i) whose results of a test for hearing loss are reported to the Utah Schools for the Deaf and the Blind in accordance with Section 26-10-6 or 26-10-13; or

(ii) who has been diagnosed with a hearing loss by a physician or an audiologist.

(2) If the individual who will receive the services described in Subsection (1) is a minor, the Utah Schools for the Deaf and the Blind may not provide the services to the individual until after receiving permission from the individual's parent [~~or guardian~~].

Section 134. Section 53E-8-409 is amended to read:

53E-8-409. Instructional Materials Access Center -- State board to make rules.

(1) The state board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.

(2) The state board shall make rules[~~, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats;

(d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and

(e) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Section 135. Section 53E-9-202 is amended to read:

53E-9-202. Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.

(1) As used in this section "education entity" means:

(a) the [~~State Board of Education~~] state board;

(b) a local school board or charter school governing board;

(c) a school district;

(d) a public school; or

(e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under this part and the Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this part.

Section 136. Section 53E-9-203 is amended to read:

53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent [~~or legal guardian~~], in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

(a) political affiliations or, except as provided under Section 53G-10-202 or rules of the [~~State Board of Education~~] state board, political philosophies;

(b) mental or psychological problems;

(c) sexual behavior, orientation, or attitudes;

(d) illegal, anti-social, self-incriminating, or demeaning behavior;

(e) critical appraisals of individuals with whom the student or family member has close family relationships;

(f) religious affiliations or beliefs;

(g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

(h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent [~~or legal guardian~~] has been obtained.

(4) (a) Written parental consent is valid only if a parent [~~or legal guardian~~] has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

(i) records or information, including information about relationships, that may be examined or requested;

(ii) the means by which the records or information shall be examined or reviewed;

(iii) the means by which the information is to be obtained;

(iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent [~~or legal guardian~~] can view the exact survey to be administered to the [~~parent or legal guardian's~~] parent's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A,

Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent [~~or legal guardian~~] must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent [~~or guardian~~] may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent [~~or legal guardian~~] and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent [~~or guardian~~] terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent [~~or guardian~~] without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent [~~or guardian~~] of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of [~~his~~] the student's parent [~~or guardian~~], or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent [~~or legal guardian~~].

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for

teachers and administrators on the implementation of this section.

(9) The state board shall provide procedures for disciplinary action for violations of this section.

Section 137. Section 53E-9-204 is amended to read:

53E-9-204. Access to education records -- Training requirement -- Certification.

(1) As used in this section, "education record" means the same as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(2) A local school board or charter school governing board shall require each public school to:

(a) create and maintain a list that includes the name and position of each school employee who the public school authorizes, in accordance with Subsection (4), to have access to an education record; and

(b) provide the list described in Subsection (2)(a) to the school's local school board or charter school governing board.

(3) A local school board or charter school governing board shall:

(a) provide training on student privacy laws; and

(b) require a school employee on the list described in Subsection (2) to:

(i) complete the training described in Subsection (3)(a); and

(ii) provide to the local school board or charter school governing board a certified statement, signed by the school employee, that certifies that the school employee completed the training described in Subsection (3)(a) and that the school employee understands student privacy requirements.

(4) (a) Except as provided in Subsection (4)(b), a local school board, charter school governing board, public school, or school employee may only share an education record with a school employee if:

(i) that school employee's name is on the list described in Subsection (2); and

(ii) federal and state privacy laws authorize the education record to be shared with that school employee.

(b) A local school board, charter school governing board, public school, or school employee may share an education record with a school employee if the board, school, or employee obtains written consent from:

(i) the parent [or legal guardian] of the student to whom the education record relates, if the student is younger than 18 years old; or

(ii) the student to whom the education record relates, if the student is 18 years old or older.

Section 138. Section 53E-9-301 is amended to read:

53E-9-301. Definitions.

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with state board rule.

(3) (a) "Biometric identifier" means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

(i) a writing sample;

(ii) a written signature;

(iii) a voiceprint;

(iv) a photograph;

(v) demographic data; or

(vi) a physical description, such as height, weight, hair color, or eye color.

(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

(a) based on an individual's biometric identifier; and

(b) used to identify the individual.

~~[(5) "Board" means the State Board of Education.]~~

~~[(6)]~~ (5) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

~~[(7)]~~ (6) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of an education entity data governance staff member;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between an education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the education entity's website.

[~~(8)~~] (7) "Education entity" means:

- (a) the state board;
- (b) a local school board;
- (c) a charter school governing board;
- (d) a school district;
- (e) a charter school;
- (f) the Utah Schools for the Deaf and the Blind; or

(g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.

[~~(9)~~] (8) "Expunge" means to seal or permanently delete data, as described in state board rule made under Section 53E-9-306.

[~~(10)~~] (9) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:

(a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and

(b) is not subject to a contract between an education entity and a third-party contractor.

[~~(11)~~] (10) "Higher education outreach student data" means the following student data for a student:

- (a) name;
- (b) parent name;
- (c) grade;
- (d) school and school district; and
- (e) contact information, including:
 - (i) primary phone number;
 - (ii) email address; and
 - (iii) physical address.

[~~(12)~~] "~~Individualized education program~~" or "~~IEP~~" means a written statement:

- [~~(a) for a student with a disability; and~~]

[~~(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.~~]

[~~(13)~~] (11) "Local education agency" or "LEA" means:

- (a) a school district;
- (b) a charter school;
- (c) the Utah Schools for the Deaf and the Blind; or
- (d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.

[~~(14)~~] (12) "Metadata dictionary" means a record that:

(a) defines and discloses all personally identifiable student data collected and shared by the education entity;

(b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

(i) the purpose for sharing the data with the recipient;

(ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and

(iii) how sharing the data is permitted under federal or state law; and

(c) without disclosing personally identifiable student data, is displayed on the education entity's website.

[~~(15)~~] (13) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:

- (a) name;
- (b) date of birth;
- (c) sex;
- (d) parent contact information;
- (e) custodial parent information;
- (f) contact information;
- (g) a student identification number;
- (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
- (i) courses taken and completed, credits earned, and other transcript information;
- (j) course grades and grade point average;
- (k) grade level and expected graduation date or graduation cohort;
- (l) degree, diploma, credential attainment, and other school exit information;
- (m) attendance and mobility;

- (n) drop-out data;
- (o) immunization record or an exception from an immunization record;
- (p) race;
- (q) ethnicity;
- (r) tribal affiliation;
- (s) remediation efforts;
- (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

- (v) student injury information;
- (w) a disciplinary record created and maintained as described in Section 53E-9-306;
- (x) juvenile delinquency records;
- (y) English language learner status; and
- (z) child find and special education evaluation data related to initiation of an IEP.

[46] (14) (a) "Optional student data" means student data that is not:

- (i) necessary student data; or
 - (ii) student data that an education entity may not collect under Section 53E-9-305.
- (b) "Optional student data" includes:
- (i) information that is:
 - (A) related to an IEP or needed to provide special needs services; and
 - (B) not necessary student data;
 - (ii) biometric information; and
 - (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

[47] (15) "Parent" means:

- (a) a student's parent;
- (b) a student's legal guardian; or
- (c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

[48] (16) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

- (i) a student's first and last name;
- (ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

[49] (17) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

[20] (18) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

[21] (19) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

[22] (20) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

- (i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

[(23)] (21) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

[(24)] (22) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 139. Section 53E-9-302 is amended to read:

53E-9-302. State student data protection governance.

(1) (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(b) The state board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The state board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the state board shall establish advisory groups to oversee student data protection in the state and make recommendations to the state board regarding student data protection.

(a) The state board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the state board and state board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the state board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the state board.

(b) The state board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other state board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by state board program offices; and

(B) preparing and maintaining the state board's student data governance plan under the direction of the student data policy advisory group.

(c) The state board shall establish a student data users advisory group:

(i) composed of members who use student data at the local level; and

(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4) (a) The state board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the state board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable state board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the state board;

(B) an applicable education entity; and

(C) the student data policy advisory group; and

(v) act as a state level student data manager.

(5) The state board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The state board shall establish a research review process for a request for data for the purpose of research or evaluation.

Section 140. Section 53E-9-303 is amended to read:

53E-9-303. Local student data protection governance.

(1) An LEA shall adopt policies to protect student data in accordance with this part and state board rule, taking into account the specific needs and priorities of the LEA.

(2) (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section 53E-9-308.

(b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.

(3) An LEA shall create and maintain an LEA:

- (a) data governance plan; and
- (b) metadata dictionary.

(4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Section 141. Section 53E-9-304 is amended to read:

53E-9-304. Student data ownership and access -- Notification in case of significant data breach.

(1) (a) A student owns the student's personally identifiable student data.

(b) An education entity shall allow the following individuals to access a student's student data that is maintained by the education entity:

- (i) the student's parent;
- (ii) the student; and
- (iii) in accordance with the education entity's internal policy described in Section 53E-9-303 and in the absence of a parent, an individual acting as a parent to the student.

(2) (a) If a significant data breach occurs at an education entity, the education entity shall notify:

- (i) the student, if the student is an adult student; or
- (ii) the student's parent ~~[or legal guardian]~~, if the student is not an adult student.

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(b) The state board shall make rules to define a significant data breach described in Subsection (2)(a).

Section 142. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student's:

- (a) social security number; or
- (b) except as required in Section 78A-6-112, criminal record.

(2) An education entity that collects student data shall, in accordance with this section, prepare and distribute, except as provided in Subsection (3), to parents and students a student data collection notice statement that:

- (a) is a prominent, stand-alone document;
- (b) is annually updated and published on the education entity's website;
- (c) states the student data that the education entity collects;
- (d) states that the education entity will not collect the student data described in Subsection (1);
- (e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;
- (f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data;

(h) states a student's rights under this part; and

(i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests written consent to share student data with the State Board of Regents as described in Section 53E-9-308.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

- (a) the student, if the student is an adult student; or
- (b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

- (i) the optional student data to be collected; and
- (ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

- (i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an alternative evidence-based intervention described in Subsection 53G-8-211(3) without written consent.

Section 143. Section 53E-9-306 is amended to read:

53E-9-306. Using and expunging student data -- Rulemaking -- Disciplinary records.

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, ~~and Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~ the state board shall make rules regarding using and expunging student data, including:

(a) a categorization of disciplinary records that includes the following levels of maintenance:

- (i) one year;
- (ii) three years; and

(iii) in accordance with Subsection (3), as determined by the education entity;

(b) the types of student data that may be expunged, including:

- (i) medical records; and
- (ii) behavioral test assessments;

(c) the types of student data that may not be expunged, including:

- (i) grades;
- (ii) transcripts;
- (iii) a record of the student's enrollment; and
- (iv) assessment information; and

(d) the timeline and process for a prior student or parent of a prior student to request that an education entity expunge all of the prior student's student data.

(2) In accordance with state board rule, an education entity may create and maintain a disciplinary record for a student.

(3) (a) As recognized in Section 53E-9-304, and to ensure maximum student data privacy, an education entity shall, in accordance with state board rule, expunge a student's student data that is stored by the education entity.

(b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and state board rule.

Section 144. Section 53E-9-307 is amended to read:

53E-9-307. Securing and cataloguing student data.

~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

The state board shall make rules that:

(1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:

- (a) an education entity;
- (b) the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4, for student data obtained under Section 53E-9-308; and
- (c) a third-party contractor; and
- (2) state requirements for an education entity's metadata dictionary.

Section 145. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

(2) A student data manager shall:

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

(3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Human Services if:

- (a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 62A-4a-409(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

(4) The Department of Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:

(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

(ii) submits the request to the education entity's research review process; and

(iii) fulfills the instructions that result from the review process.

(b) (i) In accordance with state and federal law, the state board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.

(ii) A person who receives student data under Subsection (6)(b)(i):

(A) shall maintain and protect the student data in accordance with state board rule described in Section 53E-9-307;

(B) may not use the student data for a purpose not described in Section 26-7-4; and

(C) is subject to audit by the state student data officer described in Section 53E-9-302.

(c) The state board shall enter into an agreement with the State Board of Regents, established in Section 53B-1-103, to share higher education outreach student data, for students in grades 9 through 12 who have obtained written consent under Subsection 53E-9-305(2)(i), to be used strictly for the purpose of:

(i) providing information and resources to students in grades 9 through 12 about higher education; and

(ii) helping students in grades 9 through 12 enter the higher education system and remain until graduation.

Section 146. Section 53E-9-309 is amended to read:

53E-9-309. Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:

(a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and state board rule;

(b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a parent of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) only if the third-party contractor obtains authorization in writing from:

(A) a student's parent through the student's school or LEA; or

(B) for an adult student, the student.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a

third-party contractor if the third-party contractor remains in compliance with this section.

(7) The provisions of this section do not:

(a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;

(b) apply to the providing of Internet service; or

(c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the third-party contractor obtains authorization from the following individual, in writing, to waive that provision:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 147. Section 53E-9-310 is amended to read:

53E-9-310. Penalties.

(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the state board to pay a civil penalty of up to \$25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the state board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) The state board may bring an action in the district court of the county in which the office of the state board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A parent or adult student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:

- (i) damages; and
- (ii) costs.

Section 148. Section 53E-10-202 is amended to read:

53E-10-202. State board to supervise.

(1) The general control and supervision, but not the direct management, of adult education is vested in the [State Board of Education] state board.

(2) The state board has the following powers:

(a) makes and enforces rules to organize, conduct, and supervise adult education;

(b) appoints state staff for the adult education program, establishes their duties, and fixes their compensation;

(c) determines the qualifications of, and issues teaching certificates to, persons employed to give adult education instruction; and

(d) determines the basis of apportionment and distributes funds made available for adult education.

(3) (a) The [State Board of Education] state board shall make rules providing for the establishment of fees which shall be imposed by local school boards for participation in adult education programs.

(b) A fee structure for adult education shall take into account the ability of a Utah resident who participates in adult education to pay the fees.

(c) Sections 53G-7-504 and 53G-7-505 pertaining to fees and fee waivers in secondary schools do not apply to adult education.

Section 149. Section 53E-10-203 is amended to read:

53E-10-203. Director of adult education.

(1) Upon recommendation of the state superintendent, the [State Board of Education] state board may appoint a full-time director for adult education to work under the supervision of the state board.

(2) The director may coordinate the adult education program authorized under Sections

53E-10-202 through 53E-10-206 with other adult education programs.

Section 150. Section 53E-10-206 is amended to read:

53E-10-206. Salaries -- Costs.

(1) Salaries and other necessary expenses of the state adult education staff shall be paid from funds appropriated for adult education.

(2) The [State Board of Education] state board shall determine the terms and conditions of payment.

(3) A local school board shall pay all costs incident to the local administration and operation of its adult education program.

(4) The local school board shall submit reports required by the [State Board of Education] state board for the administration of adult education.

Section 151. Section 53E-10-302 is amended to read:

53E-10-302. Concurrent enrollment program.

(1) The [State Board of Education] state board and the State Board of Regents shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

- (i) toward high school graduation; and
- (ii) at an institution of higher education;

(b) includes only a course that:

(i) leads to a degree or certificate offered by an institution of higher education; and

(ii) is one of the following:

- (A) a general education course;
- (B) a career and technical education course;
- (C) a pre-major college level course; or
- (D) a foreign language concurrent enrollment course described in Section 53E-10-307;

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The [State Board of Education] state board and the State Board of Regents shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the [State Board of Education] state board; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at institutions of higher education; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:

(a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) on or before January 1, 2019, establish a policy that:

(i) describes the qualifications for an LEA employee to be an eligible instructor; and

(ii) ensures that the qualifications described in Subsection (3)(b)(i):

(A) maximize concurrent enrollment opportunities for eligible students while maintaining quality; and

(B) allow for an individual who teaches a concurrent enrollment course in the 2017-18 or 2018-19 school year to continue to teach the concurrent enrollment course in subsequent years.

(4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(5) (a) An institution of higher education faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an institution of higher education; and

(iii) (A) meets the qualifications described in the policy established under Subsection (3)(b); or

(B) has an upper level mathematics credential issued by the [~~State Board of Education~~] state board.

(c) Notwithstanding Subsection (5)(b)(iii), an LEA employee is an eligible instructor if:

(i) the State Board of Regents has not established the policy described in Subsection (3)(b); and

(ii) the LEA employee:

(A) meets the requirements described in Subsections (5)(b)(i) and (ii); and

(B) is approved as adjunct faculty by an institution of higher education.

(6) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section 53E-10-307.

(7) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

Section 152. Section 53E-10-304 is amended to read:

53E-10-304. Concurrent enrollment participation form -- Parental permission.

(1) The State Board of Regents shall create a higher education concurrent enrollment participation form that includes a parental permission form.

(2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:

(a) submitted the participation form described in Subsection (1);

(b) signed an acknowledgment of program participation requirements; and

(c) obtained parental permission as indicated by the signature of a student's parent [~~or legal guardian~~] on the parental permission form.

Section 153. Section 53E-10-308 is amended to read:

53E-10-308. Reporting.

The [~~State Board of Education~~] state board and the State Board of Regents shall submit an annual written report to the Higher Education Appropriations Subcommittee and the Public Education Appropriations Subcommittee on student participation in the concurrent enrollment program, including:

(1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;

(2) tuition or fees charged under Section 53E-10-305;

(3) an accounting of the money appropriated for concurrent enrollment; and

(4) a justification of the distribution method described in Subsections 53F-2-409(3)(d) and (e).

Section 154. Section 53E-10-401 is amended to read:

53E-10-401. Definitions.

As used in this part:

(1) "Commission" means the American Indian-Alaskan Native Education Commission created in Section 53E-10-403.

(2) "Liaison" means the individual appointed under Section 53E-10-402.

(3) "Native American Legislative Liaison Committee" means the committee created in Section 36-22-1.

(4) "State plan" means the state plan adopted under Section 53E-10-405.

~~[(5) "Superintendent" means the superintendent of public instruction appointed under Section 53E-3-301.]~~

Section 155. Section 53E-10-402 is amended to read:

53E-10-402. American Indian-Alaskan Native Public Education Liaison.

(1) Subject to budget constraints, the state superintendent shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.

(2) The liaison shall work under the direction of the state superintendent in the development and implementation of the state plan.

(3) The liaison shall annually report to the Native American Legislative Liaison Committee about:

(a) the liaison's activities; and

(b) the activities related to the education of American Indians and Alaskan Natives in the state's public school system and efforts to close the achievement gap.

Section 156. Section 53E-10-403 is amended to read:

53E-10-403. Commission created.

(1) There is created a commission known as the "American Indian-Alaskan Native Education Commission." The commission shall consist of 16 members as follows:

(a) the state superintendent;

(b) the liaison;

(c) two individuals appointed by the ~~[State Board of Education]~~ state board that are coordinators funded in whole or in part under Title VII, Elementary and Secondary Education Act;

(d) three members of the Native American Legislative Liaison Committee appointed by the chairs of the Native American Legislative Liaison Committee;

(e) a representative of the Navajo Nation who resides in Utah selected by the Navajo Utah Commission;

(f) a representative of the Ute Indian Tribe of the Uintah and Ouray Reservation who resides in Utah selected by the Uintah and Ouray Tribal Business Committee;

(g) a representative of the Paiute Indian Tribe of Utah who resides in Utah selected by the Paiute Indian Tribe of Utah Tribal Council;

(h) a representative of the Northwestern Band of the Shoshone Nation who resides in Utah selected by the Northwestern Band of the Shoshone Nation Tribal Council;

(i) a representative of the Confederated Tribes of the Goshute who resides in Utah selected by the Confederated Tribes of the Goshute Reservation Tribal Council;

(j) a representative of the Skull Valley Band of Goshute Indians who resides in Utah selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;

(k) a representative of the Ute Mountain Ute Tribe who resides in Utah selected by the Ute Mountain Ute Tribal Council;

(l) a representative of the San Juan Southern Paiute Tribe who resides in Utah selected by the San Juan Southern Paiute Tribal Council; and

(m) an appointee from the governor.

(2) Unless otherwise determined by the ~~[State Board of Education]~~ state board, the state superintendent shall chair the commission.

(3) (a) The state superintendent shall call meetings of the commission.

(b) Eight members of the commission constitute a quorum of the commission.

(c) The action of a majority of the commission at a meeting when a quorum is present constitutes action of the commission.

(4) If a vacancy occurs in the membership for any reason, the replacement shall be appointed in the same manner of the original appointment for the vacant position.

(5) The commission may adopt procedures or requirements for:

(a) voting, when there is a tie of the commission members; and

(b) the frequency of meetings.

(6) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The staff of the [~~State Board of Education~~] state board shall staff the commission.

(8) The commission shall be dissolved on December 31, 2015.

Section 157. Section 53E-10-405 is amended to read:

53E-10-405. Adoption of state plan.

(1) After receipt of the proposed state plan from the commission in accordance with Section 53E-10-404, the Native American Legislative Liaison Committee may review the proposed state plan and make changes to the proposed state plan that the Native American Legislative Liaison Committee considers beneficial to addressing the educational achievement gap of the state's American Indian and Alaskan Native students.

(2) (a) The Native American Legislative Liaison Committee shall submit the proposed state plan as modified by the Native American Legislative Liaison Committee to the Utah [~~State Board of Education~~] state board.

(b) The Utah [~~State Board of Education~~] state board shall, by majority vote, within 60 days after receipt of the state plan under Subsection (2)(a), adopt, modify, or reject the state plan. If the Utah [~~State Board of Education~~] state board does not act within 60 days after receipt of the state plan, the state plan is considered adopted by the Utah [~~State Board of Education~~] state board.

(3) The Native American Legislative Liaison Committee may prepare legislation to implement the state plan adopted under this section.

Section 158. Section 53E-10-406 is amended to read:

53E-10-406. Changes to state plan.

(1) The Native American Legislative Liaison Committee may recommend to the [~~Utah State Board of Education~~] state board changes to the state plan adopted under Section 53E-10-405 to ensure that the state plan continues to meet the academic needs of the state's American Indian and Alaskan Native students.

(2) The Native American Legislative Liaison Committee may recommend to the state superintendent that the commission be reconstituted for an 18-month period if the Native American Legislative Liaison Committee determines that a substantial review of the state plan is necessary. If reconstituted under this Subsection (2), the commission shall comply with the requirements of Sections 53E-10-402 through 53E-10-404.

Section 159. Section 53E-10-503 is amended to read:

53E-10-503. School Safety and Crisis Line Commission established -- Members.

(1) There is created the School Safety and Crisis Line Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah Public Education System, appointed by the [~~State Board of Education~~] state board;

(c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;

(d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits,

per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 160. Section 53E-10-504 is amended to read:

53E-10-504. School Safety and Crisis Line Commission duties.

The commission shall coordinate:

(1) statewide efforts related to the School Safety and Crisis Line; and

(2) with the ~~[State Board of Education]~~ state board and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

Section 161. Section 53E-10-505 is amended to read:

53E-10-505. State board and local boards of education to update policies and promote awareness.

(1) The ~~[State Board of Education]~~ state board shall:

(a) revise the conduct and discipline policy models, described in Section 53G-8-202, to include procedures for responding to reports received under Subsection 53E-10-502(3); and

(b) revise the curriculum developed by the ~~[State Board of Education]~~ state board for the parent seminar, described in Section 53G-9-703, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

(a) revise the conduct and discipline policies, described in Section 53G-8-203, to include procedures for responding to reports received under Subsection 53E-10-502(3); and

(b) inform students, parents, and school personnel about the School Safety and Crisis Line.

Section 162. Section 53E-10-601 is amended to read:

53E-10-601. Definitions.

As used in this part:

~~[(1) "Board" means the State Board of Education.]~~

~~[(2)]~~ (1) "Electronic High School" means a rigorous program offering grade 9 - 12 level online courses and coordinated by the state board.

~~[(3)]~~ (2) "Home-schooled student" means a student:

(a) attends a home school;

(b) is exempt from school attendance pursuant to Section 53G-6-204; and

(c) attends no more than two regularly scheduled classes or courses in a public school per semester.

~~[(4)]~~ (3) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.

Section 163. Section 53E-10-603 is amended to read:

53E-10-603. Courses and credit.

(1) The Electronic High School may only offer courses required for high school graduation or that fulfill course requirements established by the ~~[State Board of Education]~~ state board.

(2) The Electronic High School shall:

(a) offer courses in an open-entry, open-exit format; and

(b) offer courses that are in conformance with the core standards for Utah public schools established by the state board.

(3) Public schools shall:

(a) accept all credits awarded to students by the Electronic High School; and

(b) apply credits awarded for a course described in Subsection (2)(b) toward the fulfillment of course requirements.

Section 164. Section 53E-10-606 is amended to read:

53E-10-606. Payment for an Electronic High School course.

(1) Electronic High School courses are provided to students who are Utah residents, as defined in Section 53G-6-302, free of charge.

(2) Nonresident students may enroll in Electronic High School courses for a fee set by the state board, provided that the course can accommodate additional students.

Section 165. Section 53E-10-607 is amended to read:

53E-10-607. Electronic High School diploma.

The Electronic High School may award a diploma to a student that meets any of the following criteria upon the student's completion of high school graduation requirements set by the state board:

(1) a home-schooled student;

(2) a student who has dropped out of school and whose original high school class has graduated; or

(3) a student who is identified by the student's resident school district as ineligible for graduation from a traditional high school program for specific reasons.

Section 166. Section 53E-10-609 is amended to read:

53E-10-609. State contribution for the Electronic High School.

Money appropriated to the [~~State Board of Education~~] state board for the Electronic High School shall be distributed to the school according to rules established by the state board [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

Section 167. Section 53E-10-701 is amended to read:

53E-10-701. Definitions.

As used in this part:

[~~(1) "Board" means the State Board of Education.~~]

[~~(2)~~ (1) "Director" means the director of ULEAD appointed under this part.

[~~(3)~~ (2) "Director Selection Committee" or "selection committee" means the committee created in Section [~~53E-10-703~~] 53E-10-704 that appoints the director.

[~~(4)~~ (3) "Local education agency" or "LEA" means a public:

- (a) school district;
- (b) school; or
- (c) charter school.

[~~(5)~~ (4) "Participating institution" means a public or private research institution that enters into an arrangement with the director to provide research and other services described in this part.

[~~(6)~~ (5) "Research clearinghouse" means a collection of information maintained and distributed by ULEAD in accordance with Section [~~53E-10-705~~] 53E-10-706.

[~~(7)~~ (6) "Steering committee" means the committee that advises the director and is created in Section [~~53E-10-706~~] 53E-10-707.

[~~(8)~~ (7) "ULEAD" means Utah Leading through Effective, Actionable, and Dynamic Education through the efforts of the director, participating institutions, and the steering committee as described in this part.

Section 168. Section 53E-10-703 is amended to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; and

(ii) report to the state superintendent [~~of public instruction~~].

(2) The state superintendent shall:

(a) evaluate the director's performance annually;

(b) report on the director's performance to the selection committee; and

(c) provide space for the director and the director's staff.

(3) The director may hire staff, using only money specifically appropriated to ULEAD.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices shown to improve student learning;

(ii) identifying experts in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e) (i) disseminate each innovative practice report to LEAs; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the state board, revisions to state board rule or policy.

(10) The director shall:

(a) report on the activities of ULEAD annually to the state board; and

(b) provide reports or other information to the state board upon state board request.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) on or before September 30, submit the annual report:

(i) to the Education Interim Committee and the Public Education Appropriations Subcommittee; and

(ii) in accordance with Section 68-3-14;

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to LEAs through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 169. Section 53E-10-704 is amended to read:

53E-10-704. Director Selection Committee -- Membership -- Powers and duties -- Compensation.

(1) There is created the Director Selection Committee to appoint the director.

(2) The selection committee shall consist of the following nine members each appointed for two-year staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years:

(a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) one member of the Senate, appointed by the president of the Senate;

(d) one member of the state board, appointed by the chair of the state board;

(e) one member of the Board of Regents, appointed by the chair of the Board of Regents;

(f) one member appointed by the state superintendent [~~of public instruction~~];

(g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;

(h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and

(i) one member of a state association that represents school superintendents, appointed by the association executive director.

(3) (a) A member of the selection committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) A majority of the members shall constitute a quorum for the transaction of selection committee business.

(5) (a) The selection committee shall select and appoint a director for a four-year term.

(b) The director may be appointed for more than one term.

(6) (a) In a year in which the director is appointed, the selection committee shall:

(i) solicit applications for the director position to be submitted no later than June 1;

(ii) hold at least two meetings to discuss candidates for the open director position; and

(iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.

(b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position occurs, the selection committee shall:

(i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;

(ii) hold at least two meetings to discuss candidates for the vacant position; and

(iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.

(7) (a) The selection committee:

(i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and

(ii) is the only person empowered to remove the director.

(b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.

(8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The selection committee shall:

(a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; and

(b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program.

(10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 170. Section 53E-10-705 is amended to read:

53E-10-705. Participating institutions.

(1) The director may arrange or collaborate with a participating institution:

(a) to conduct an innovative practice report or provide other research services, including research regarding barriers to adoption of practices studied by ULEAD;

(b) to assist an LEA to:

(i) facilitate communities of practice for replication or adaptation of best practices identified by ULEAD; and

(ii) advise teachers and school leaders on conducting their own research to improve education practices;

(c) to assist an LEA with an application to the state board for waiver from a state board rule in accordance with Section 53G-7-202 to allow replication or adaptation of best practices; or

(d) for any other purpose that is consistent with and advances the director's duties and functions.

(2) An agreement entered into by a participating institution with the state board or an LEA to perform ULEAD work shall:

(a) include provisions allowing and governing external research data sharing; and

(b) comply with state and federal law.

(3) The director shall support federal and private research funding requests by a participating institution for research that is in support of the director's duties and functions.

Section 171. Section 53E-10-706 is amended to read:

53E-10-706. Electronic resources -- Research clearinghouse.

(1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section 35A-14-201 and data maintained by the state board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) an electronic directory of K-12 education experts identified in ULEAD research and reports; and

(b) a monthly report to LEAs, via electronic channels provided by the state board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.

(4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Section 172. Section 53E-10-707 is amended to read:

53E-10-707. ULEAD Steering Committee.

(1) (a) There is created the ULEAD Steering Committee.

(b) The director is the chair of the steering committee.

(2) The steering committee shall consist of the following members each appointed for a term of one year:

(a) the director;

(b) one member appointed by the chair of the state board;

(c) the state superintendent [~~of public instruction~~] or the state superintendent's designee;

(d) the staff director of the State Charter School Board or the director's designee;

(e) one member appointed by the office of the governor;

(f) one member, appointed by the director, who is a superintendent of a school district;

(g) one member, appointed by the director, of a local school board;

(h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

(i) two principals or other public school leaders of charter schools, appointed by the director;

(j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and

(k) two members representing citizens or business, nominated by the members of the public and appointed by the director.

(3) (a) A member of the steering committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) (a) The steering committee shall hold a meeting at least semi annually in January and July or on dates otherwise chosen by the director.

(b) The state board shall provide space for the steering committee to meet.

(5) The steering committee shall:

(a) discuss prospective and current ULEAD projects and findings;

(b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;

(c) facilitate connections between the director and Utah's political, business, education technology, and academic communities; and

(d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section 35A-14-201.

(6) In order to determine research priorities for ULEAD, the director shall consult with:

(a) members of the Legislature responsible for public education;

(b) members of Utah professional education associations, including principals and [~~school boards~~] LEA governing board members; and

(c) policy-research centers based in Utah.

(7) The state board or state superintendent [~~of public instruction~~] may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.

(8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 173. Section 53F-2-102 is amended to read:

53F-2-102. Definitions.

As used in this chapter:

(1) "Basic state-supported school program," "basic program," or "basic school program" means

public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in the enacted public education budget, except as otherwise provided in this chapter.

~~[(2) “Charter school governing board” means the governing board, as defined in Section 53G-5-102, that governs a charter school.]~~

~~[(3) “Local education] (2) “LEA governing board” means a local school board or charter school governing board.~~

~~[(4) “Local school board” means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.]~~

~~[(5)] (3) “Pupil in average daily membership (ADM)” means a full-day equivalent pupil.~~

~~[(6) (a) “State-supported minimum school program” or]~~

(4) (a) “Minimum School Program” means the state-supported public school programs for kindergarten, elementary, and secondary schools as described in this Subsection ~~[(6)] (4)~~.

(b) The Minimum School Program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the ~~[State Board of Education]~~ state board.

(c) (i) The state board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by ~~[a local education]~~ an LEA governing board, shall receive full support by the ~~[State Board of Education]~~ state board as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) ~~[A local education]~~ An LEA governing board may reallocate up to 32 instructional hours or four school days established under Subsection ~~[(6)] (4)(c)~~ for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection ~~[(6)] (4)(d)(i)~~ is subject to the approval of two-thirds of the members of ~~[a local education]~~ an LEA governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the ~~[local education]~~ LEA governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If ~~[a local education]~~ an LEA governing board reallocates instructional hours or school days as provided by this Subsection ~~[(6)] (4)(d)~~, the school district or charter school shall notify students' parents ~~[and guardians]~~ of the school calendar at

least 90 days before the beginning of the school year.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection ~~[(6)] (4)(d)~~ is considered part of a school term referred to in Subsection ~~[(6)] (4)(b)~~.

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

(i) Basic School Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

~~[(7)] (5) “Weighted pupil unit or units or WPU or WPU’s” means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each school district or charter school.~~

Section 174. Section 53F-2-202 is amended to read:

53F-2-202. Contribution of state to cost of Minimum School Program -- Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.

The state's contribution to the total cost of the ~~[minimum school program]~~ Minimum School Program is determined and distributed as follows:

(1) The State Tax Commission shall levy an amount determined by the Legislature on all taxable property of the state.

(a) This amount, together with other funds provided by law, is the state's contribution to the ~~[minimum school program]~~ Minimum School Program.

(b) The statewide levy is set at zero until changed by the Legislature.

(2) During the first week in November, the State Tax Commission shall certify to the ~~[State Board of Education]~~ state board the amounts designated as state aid for each school district under Section 59-2-902.

(3) (a) The actual amounts computed under Section 59-2-902 are the state's contribution to the ~~[minimum school program]~~ Minimum School Program of each school district.

(b) The ~~[State Board of Education]~~ state board shall provide each ~~[local education]~~ LEA governing board with a statement of the amount of state aid.

(4) Before the first day of each month, the state treasurer and the Division of Finance, with the approval of the ~~[State Board of Education]~~ state board, shall disburse 1/12 of the state's contribution to the cost of the ~~[minimum school program]~~ Minimum School Program to each school district and each charter school.

(a) The ~~[State Board of Education]~~ state board may not make a disbursement to a school district or charter school whose payments have been interrupted under Subsection (4)(d).

(b) Discrepancies between the monthly disbursements and the actual cost of the program shall be adjusted in the final settlement under Subsection (5).

(c) If the monthly distributions overdraw the money in the Uniform School Fund, the Division of Finance is authorized to run this fund in a deficit position.

(d) The ~~[State Board of Education]~~ state board may interrupt disbursements to a school district or charter school if, in the judgment of the ~~[State Board of Education]~~ state board, the school district or charter school is failing to comply with the ~~[minimum school program]~~ Minimum School Program, is operating programs that are not approved by the ~~[State Board of Education]~~ state board, or has not submitted reports required by law or the ~~[State Board of Education]~~ state board.

(i) Disbursements shall be resumed upon request of the ~~[State Board of Education]~~ state board.

(ii) Back disbursements shall be included in the next regular disbursement, and the amount disbursed certified to the State Division of Finance and state treasurer by the ~~[State Board of Education]~~ state board.

(e) The ~~[State Board of Education]~~ state board may authorize exceptions to the 1/12 per month disbursement formula for grant funds if the ~~[State Board of Education]~~ state board determines that a different disbursement formula would better serve the purposes of the grant.

(5) (a) If money in the Uniform School Fund is insufficient to meet the state's contribution to the ~~[minimum school program]~~ Minimum School Program as appropriated, the amount of the deficiency thus created shall be carried as a deficiency in the Uniform School Fund until the next session of the Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

(b) If there is an operating deficit in public education Uniform School Fund appropriations, the Legislature shall eliminate the deficit by:

(i) budget transfers or other legal means;

(ii) appropriating money from the Education Budget Reserve Account;

(iii) appropriating up to 25% of the balance in the General Fund Budget Reserve Account; or

(iv) some combination of Subsections (5)(b)(i), (ii), and (iii).

(c) Nothing in Subsection (5)(b) precludes the Legislature from appropriating more than 25% of the balance in the General Fund Budget Reserve Account to fund operating deficits in public education appropriations.

Section 175. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of LEA governing board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the ~~[State Board of Education]~~ state board, after consultation with each ~~[local education]~~ LEA governing board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), ~~[a local education]~~ an LEA governing board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) ~~[A local education]~~ An LEA governing board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) USTAR centers provided in Section 53F-2-505;

(e) the School LAND Trust Program described in Sections 53F-2-404 and 53F-7-1206; or

(f) a special education program within the basic school program.

(6) ~~[A local education]~~ An LEA governing board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) ~~[A local education]~~ An LEA governing board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the ~~[State~~

~~Board of Education~~ state board as part of the school district or charter school's Annual Financial and Program report.

Section 176. Section 53F-2-204 is amended to read:

53F-2-204. Use of funds for approved programs -- Assessment of funded programs.

(1) Funds appropriated under this chapter shall only be used for programs approved by the ~~State Board of Education~~ state board.

(2) The ~~State Board of Education~~ state board shall assess the progress and degree of effectiveness of all programs funded under this chapter.

Section 177. Section 53F-2-205 is amended to read:

53F-2-205. Powers and duties of state board to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

~~[(c)]~~ (b) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

- (i) Basic Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the state board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the state board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704; or

(d) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are overestimated, the state board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are underestimated, the state board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the state board shall reduce the state guarantee per weighted pupil unit provided under the local levy state guarantee program described in Section 53F-2-601, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the state board is nonlapsing.

(8) The state board shall report actions taken by the state board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

Section 178. Section 53F-2-206 is amended to read:

53F-2-206. Flexibility in the use of certain related to basic program funds.

(1) As used in this section, "qualifying program" means:

(a) the Enhancement for At-Risk Students Program created in Section 53F-2-410;

(b) the Enhancement for Accelerated Students Program created in Section 53F-2-408; and

(c) the concurrent enrollment program established in Section 53E-10-302.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than \$10,000, the ~~[local education]~~ LEA governing board of the receiving school district or charter school may:

(a) (i) combine the funds with one or more qualifying program fund allocations each of which is less than \$10,000; and

(ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or

(b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to \$10,000; and

(ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

Section 179. Section 53F-2-207 is amended to read:

53F-2-207. Loss in student enrollment -- Board action.

To avoid penalizing a school district financially for an excessive loss in student enrollment due to factors beyond its control, the ~~[State Board of Education]~~ state board may allow a percentage increase in units otherwise allowable during any year when a school district's average daily membership drops more than 4% below the average for the highest two of the preceding three years in the school district.

Section 180. Section 53F-2-302 is amended to read:

53F-2-302. Determination of weighted pupil units.

The number of weighted pupil units in the ~~[minimum school program]~~ Minimum School Program for each year is the total of the units for each school district and, subject to Subsection (4), charter school, determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than kindergarten and self-contained classes for children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total by .55.

(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.

(b) Upon ~~[local education]~~ LEA governing board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.

(3) (a) The ~~[State Board of Education]~~ state board shall use prior year plus growth to determine average daily membership in distributing money under the ~~[minimum school program]~~ Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

(4) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

(a) .55 for kindergarten pupils;

(b) .9 for pupils in grades 1 through 6;

(c) .99 for pupils in grades 7 through 8; and

(d) 1.2 for pupils in grades 9 through 12.

Section 181. Section 53F-2-303 is amended to read:

53F-2-303. Foreign exchange student weighted pupil units.

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (4).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) The total number of foreign exchange students in the state that may be counted for the

purpose of apportioning state money under Subsection (2) shall be the lesser of:

(i) the number of foreign exchange students enrolled in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The ~~[State Board of Education]~~ state board shall make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under Section 53F-2-601.

Section 182. Section 53F-2-304 is amended to read:

53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section: (a) ~~“Board” means the State Board of Education.~~ (b) ~~“Necessarily,” “necessarily existent small schools funding balance” means the difference between:~~

~~[(i)]~~ (a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

~~[(ii)]~~ (b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better

served by one school meeting the needs of secondary students in a designated geographical area.

(4) A one or two-year secondary school that has received necessarily existent small school money under this section prior to July 1, 2000, may continue to receive such money in subsequent years.

(5) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(6) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using regression formulas adopted by the state board.

(b) The regression formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) Schools with fewer than 10 students shall receive the same add-on weighted pupil units as schools with 10 students.

(d) The state board shall prepare and distribute an allocation table based on the regression formula to each school district.

(7) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(8) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(9) (a) Subject to Subsection (9)(b) and after a distribution made under Subsection (8), the state board may distribute a portion of necessarily existent small schools funding in accordance with a formula adopted by the state board that considers the tax effort of a local school board.

(b) The amount distributed in accordance with Subsection (9)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(10) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

Section 183. Section 53F-2-305 is amended to read:

53F-2-305. Professional staff weighted pupil units.

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

- (a) Professional Staff Cost Formula

Years of Experience	Bachelor's Degree	Bachelor's +30 Qt. Hr	Master's Degree	Master's Degree +45 Qt. Hr	Doctorate
1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53F-2-302 and 53F-2-304.

(2) The ~~[State Board of Education]~~ state board shall enact rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the ~~[local education]~~ LEA governing board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

Section 184. Section 53F-2-306 is amended to read:

53F-2-306. Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.

(1) Administrative costs weighted pupil units are computed for a small school district and distributed to the small school district in accordance with the following schedule:

Administrative Costs Schedule

School District Enrollment as of October 1	Weighted Pupil Units
1 - 500 students	95
501 - 1,000 students	80
1,001 - 2,000 students	70
2,001 - 5,000 students	60

(2) (a) Except as provided in Subsection (2)(b), money appropriated to the ~~[State Board of Education]~~ state board for charter school administrative costs shall be distributed to charter schools in the amount of \$100 for each charter school student in enrollment.

(b) (i) If money appropriated for charter school administrative costs is insufficient to provide the amount per student prescribed in Subsection (2)(a), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the ~~[State Board of Education]~~ state board makes adjustments to Minimum School Program

allocations under Section 53F-2-205, the allocation provided in Subsection (2)(b)(i) shall be determined after adjustments are made under Section 53F-2-205.

(c) Charter school governing boards are encouraged to identify and use cost-effective methods of performing administrative functions, including contracting for administrative services with the State Charter School Board as provided in Section 53G-5-202.

(3) Charter schools are not eligible for funds for administrative costs under Subsection (1).

Section 185. Section 53F-2-307 is amended to read:

53F-2-307. Weighted pupil units for programs for students with disabilities -- Local school board allocation.

(1) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the ~~[State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board.

(2) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.

(3) The ~~[State Board of Education]~~ state board shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist school districts and charter schools in determining the services that should be provided to students with disabilities.

(4) Each year the ~~[State Board of Education]~~ state board shall evaluate the standards and guidelines that establish the identifying criteria for disability classifications to assure strict compliance with those standards by the school districts and charter schools.

(5) (a) Money appropriated to the ~~[State Board of Education]~~ state board for add-on WPU for students with disabilities enrolled in regular programs shall be allocated to school districts and charter schools as provided in this Subsection (5).

(b) The ~~[State Board of Education]~~ state board shall use a school district's or charter school's average number of special education add-on weighted pupil units determined by the previous five year's average daily membership data as a foundation for the special education add-on appropriation.

(c) A school district's or charter school's special education add-on WPUs for the current year may not be less than the foundation special education add-on WPUs.

(d) Growth WPUs shall be added to the prior year special education add-on WPUs, and growth WPUs shall be determined as follows:

(i) The special education student growth factor is calculated by comparing S-3 total special education ADM of two years previous to the current year to the S-3 total special education ADM three years previous to the current year, not to exceed the official October total school district growth factor from the prior year.

(ii) When calculating and applying the growth factor, a school district's S-3 total special education ADM for a given year is limited to 12.18% of the school district's S-3 total student ADM for the same year.

(iii) Growth ADMs are calculated by applying the growth factor to the S-3 total special education ADM of two years previous to the current year.

(iv) Growth ADMs for each school district or each charter school are multiplied by 1.53 weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation.

(6) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of school districts and charter schools for those programs, each school district and each charter school shall first receive the amount generated for each student with a disability under the basic program.

Section 186. Section 53F-2-308 is amended to read:

53F-2-308. Preschool special education appropriation -- Extended year program appropriation -- Appropriation for special education programs in state institutions -- Appropriations for stipends for special educators.

(1) (a) Money appropriated to the [State Board of Education] state board for the preschool special education program shall be allocated to school districts to provide a free, appropriate public education to preschool students with a disability, ages three through five.

(b) The money shall be distributed on the basis of the school district's count of preschool children with a disability for December 1 of the previous year, as mandated by federal law.

(2) Money appropriated for the extended school year program for children with a severe disability shall be limited to students with severe disabilities with education program goals identifying significant regression and recoupment disability as approved by the [State Board of Education] state board.

(3) (a) Money appropriated for self-contained regular special education programs may not be used to supplement other school programs.

(b) Money in any of the other restricted line item appropriations may not be reduced more than 2% to be used for purposes other than those specified by the appropriation, unless otherwise provided by law.

(4) (a) The [State Board of Education] state board shall compute preschool funding by a factor of 1.47 times the current December 1 child count of eligible preschool aged three, four, and five-year-olds times the WPU value, limited to 8% growth over the prior year December 1 count.

(b) The [State Board of Education] state board shall develop guidelines to implement the funding formula for preschool special education, and establish prevalence limits for distribution of the money.

(5) Of the money appropriated for Special Education - State Programming, the [State Board of Education] state board shall distribute the revenue generated from 909 WPUs to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends to special educators for additional days of work pursuant to the requirements of Section 53F-2-310.

Section 187. Section 53F-2-309 is amended to read:

53F-2-309. Appropriation for intensive special education costs.

~~(1) As used in this section:~~

~~(a) "Board" means the State Board of Education.~~

~~(b) "Local education agency" or "LEA" means:~~

~~(i) a school district;~~

~~(ii) a charter school; or~~

~~(iii) the Utah Schools for the Deaf and the Blind.~~

~~(2) (1) (a) On or before February 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the state board for Special Education -- Intensive Services that allocate to an LEA:~~

~~(i) 50% of the appropriation based on the highest cost students with disabilities; and~~

~~(ii) 50% of the appropriation based on the highest impact to an LEA due to high cost students with disabilities.~~

~~(b) Beginning with the 2017-18 school year, the state board shall allocate money appropriated to the state board for Special Education -- Intensive Services in accordance with rules described in Subsection ~~(2)~~ (1)(a).~~

~~(3) (2) Before initiating the rulemaking process under Subsection ~~(2)~~ (1)(a), the state board shall present the proposed rule to the Public Education Appropriations Subcommittee or Education Interim Committee.~~

Section 188. Section 53F-2-310 is amended to read:

53F-2-310. Stipends for special educators for additional days of work.

(1) As used in this section:

~~(a) "IEP" means an individualized education program developed pursuant to the Individuals~~

with Disabilities Education Improvement Act of 2004, as amended.]

~~(b)~~ (a) "Special education teacher" means a teacher whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

~~(e)~~ (b) "Special educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(i) a license issued by the ~~[State Board of Education]~~ state board; and

(ii) a position as a:

(A) special education teacher;

(B) speech-language pathologist; or

(C) teacher of the deaf or hard of hearing;

(2) The Legislature shall annually appropriate money for stipends to special educators for additional days of work:

(a) in recognition of the added duties and responsibilities assumed by special educators to comply with federal law regulating the education of students with disabilities and the need to attract and retain qualified special educators; and

(b) subject to future budget constraints.

(3) (a) The ~~[State Board of Education]~~ state board shall distribute money appropriated under this section to school districts, charter schools, and the Utah Schools for the Deaf and the Blind for stipends for special educators in the amount of \$200 per day for up to 10 additional working days.

(b) Money distributed under this section shall include, in addition to the \$200 per day stipend, money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(4) A special educator receiving a stipend shall:

(a) work an additional day beyond the number of days contracted with the special educator's school district or school for each daily stipend;

(b) schedule the additional days of work before or after the school year; and

(c) use the additional days of work to perform duties related to the IEP process, including:

(i) administering student assessments;

(ii) conducting IEP meetings;

(iii) writing IEPs;

(iv) conferring with parents; and

(v) maintaining records and preparing reports.

(5) A special educator may:

(a) elect to receive a stipend for one to 10 days of additional work; or

(b) elect to not receive a stipend.

(6) A person who does not hold a full-time position as a special educator is eligible for a partial stipend equal to the percentage of a full-time special educator position the person assumes.

Section 189. Section 53F-2-311 is amended to read:

53F-2-311. Weighted pupil units for career and technical education programs -- Funding of approved programs -- Performance measures -- Qualifying criteria.

(1) (a) Money appropriated to the ~~[State Board of Education]~~ state board for approved career and technical education programs and the comprehensive guidance program:

(i) shall be allocated to eligible recipients as provided in Subsections (2), (3), and (4); and

(ii) may not be used to fund programs below grade 9.

(b) Subsection (1)(a)(ii) does not apply to the following programs:

(i) comprehensive guidance;

(ii) Technology-Life-Careers; and

(iii) work-based learning programs.

(2) (a) Weighted pupil units are computed for pupils in approved programs.

(b) (i) The ~~[State Board of Education]~~ state board shall fund approved programs based upon hours of membership of grades 9 through 12 students.

(ii) Subsection (2)(b)(i) does not apply to the following programs:

(A) comprehensive guidance;

(B) Technology-Life-Careers; and

(C) work-based learning programs.

(c) The ~~[State Board of Education]~~ state board shall use an amount not to exceed 20% of the total appropriation under this section to fund approved programs based on performance measures such as placement and competency attainment defined in standards set by the ~~[State Board of Education]~~ state board.

(d) Leadership organization funds shall constitute an amount not to exceed 1% of the total appropriation under this section, and shall be distributed to each school district or each charter school sponsoring career and technical education student leadership organizations based on the agency's share of the state's total membership in those organizations.

(e) The ~~[State Board of Education]~~ state board shall make the necessary calculations for distribution of the appropriation to a school district and charter school and may revise and recommend

changes necessary for achieving equity and ease of administration.

(3) (a) Twenty weighted pupil units shall be computed for career and technical education administrative costs for each school district, except 25 weighted pupil units may be computed for each school district that consolidates career and technical education administrative services with one or more other school districts.

(b) Between 10 and 25 weighted pupil units shall be computed for each high school conducting approved career and technical education programs in a school district according to standards established by the ~~[State Board of Education]~~ state board.

(c) Forty weighted pupil units shall be computed for each school district that operates an approved career and technical education center.

(d) Between five and seven weighted pupil units shall be computed for each summer career and technical education agriculture program according to standards established by the ~~[State Board of Education]~~ state board.

(e) The ~~[State Board of Education]~~ state board shall, by rule, establish qualifying criteria for a school district or charter school to receive weighted pupil units under this Subsection (3).

(4) (a) Money remaining after the allocations made under Subsections (2) and (3) shall be allocated using average daily membership in approved programs for the previous year.

(b) A school district or charter school that has experienced student growth in grades 9 through 12 for the previous year shall have the growth factor applied to the previous year's weighted pupil units when calculating the allocation of money under this Subsection (4).

(5) (a) The ~~[State Board of Education]~~ state board shall establish rules for upgrading high school career and technical education programs.

(b) The rules shall reflect career and technical training and actual marketable job skills in society.

(c) The rules shall include procedures to assist school districts and charter schools to convert existing programs that are not preparing students for the job market into programs that will accomplish that purpose.

(6) Programs that do not meet ~~[State Board of Education]~~ state board standards may not be funded under this section.

Section 190. Section 53F-2-312 is amended to read:

53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the ~~[State Board of Education]~~ state board for class size reduction shall be used to reduce the average class size in kindergarten through grade 8 in the state's public schools.

(2) A school district or charter school shall receive an allocation for class size reduction based on the school district or charter school's prior year average daily membership plus growth in kindergarten through grade 8 as determined under Subsection 53F-2-302(3) compared to the total prior year average daily membership plus growth in kindergarten through grade 8 statewide.

(3) (a) ~~[A local education]~~ An LEA governing board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) ~~[A local education]~~ An LEA governing board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 students in kindergarten through grade 2, ~~[a local education]~~ an LEA governing board may petition the ~~[State Board of Education]~~ state board for, and the ~~[State Board of Education]~~ state board may grant, a waiver of the requirement described in Subsection (3)(b)(i).

(4) A school may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) ~~[A local education]~~ An LEA governing board may use up to 20% of an allocation under this section for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by at least 5% or at least 700 students from the previous school year, the ~~[local education]~~ LEA governing board may use up to 50% of an allocation received by the school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade 8.

Section 191. Section 53F-2-313 is amended to read:

53F-2-313. Weighted pupil units for career and technical education set-aside programs.

(1) Each school district and charter school shall receive a guaranteed minimum allocation from the money appropriated to the ~~[State Board of Education]~~ state board for a career and technical education set-aside program.

(2) The set-aside funds remaining after the initial minimum payment allocation are distributed

by a request for proposals process to help pay for equipment costs necessary to initiate new programs and for high priority programs as determined by labor market information.

Section 192. Section 53F-2-401 is amended to read:

53F-2-401. Appropriation for adult education programs.

(1) Money appropriated to the ~~[State Board of Education]~~ state board for adult education shall be allocated to school districts for adult high school completion and adult basic skills programs.

(2) (a) The ~~[State Board of Education]~~ state board and the Department of Corrections, subject to legislative appropriation, are responsible for providing the programs described in Subsection (1) to individuals in the custody of the Department of Corrections.

(b) To fulfill the responsibility described in Subsection (2)(a), the ~~[State Board of Education]~~ state board and the Department of Corrections shall, where feasible, contract with appropriate private or public agencies to provide educational and related administrative services.

(c) The ~~[State Board of Education]~~ state board shall allocate at least 15% of the money appropriated to the ~~[State Board of Education]~~ state board for adult education to support the programs for which the ~~[State Board of Education]~~ state board and the Department of Corrections are responsible under this Subsection (2).

(3) (a) For money that is not allocated under Subsection (2)(c), each school district shall receive a pro rata share of the appropriation for adult high school completion programs based on the number of people in the school district listed in the latest official census who are over 18 years of age and who do not have a high school diploma and prior year participation or as approved by ~~[State Board of Education]~~ state board rule.

(b) On February 1 of each school year, the ~~[State Board of Education]~~ state board shall recapture money not used for an adult high school completion program described in Subsection (3)(a) for reallocation to school districts that have implemented programs based on need and effort as determined by the ~~[State Board of Education]~~ state board.

(4) To the extent of money available, school districts shall provide program services to adults who do not have a diploma and who intend to graduate from high school, with particular emphasis on homeless individuals who are seeking literacy and life skills.

(5) Overruns in adult education in any school district may not reduce the value of the weighted pupil unit for this program in another school district.

(6) School districts shall spend money on adult basic skills programs according to standards

established by the ~~[State Board of Education]~~ state board.

Section 193. Section 53F-2-402 is amended to read:

53F-2-402. State support of pupil transportation.

(1) Money appropriated to the ~~[State Board of Education]~~ state board for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section 53F-2-403, except as otherwise provided in this section.

(2) (a) The Utah Schools for the Deaf and the Blind shall use an allocation of pupil transportation money to pay for transportation of students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A local school board may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section 53G-4-404.

(b) The state shall contribute 85% of approved transportation costs, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all school districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Section 194. Section 53F-2-403 is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade ~~[six]~~ 6 who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades ~~[seven]~~ 7 through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the ~~[State Board of Education]~~ state board for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the ~~[State Board of Education]~~ state board, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The ~~[State Board of Education]~~ state board shall distribute transportation money to school districts based on:

- (i) an allowance per mile for approved bus routes;
- (ii) an allowance per hour for approved bus routes; and
- (iii) a minimum allocation for each school district eligible for transportation funding.

(b) The ~~[State Board of Education]~~ state board shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(c) The ~~[State Board of Education]~~ state board shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and ~~[State Board of Education]~~ state board employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

(7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002 per dollar of taxable value of the school district's board local levy imposed under Section 53F-8-302 to pay for transporting students and for the replacement of school buses, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The ~~[State Board of Education's]~~ state board's employees shall distribute the state contribution according to rules enacted by the ~~[State Board of Education]~~ state board.

(b) (i) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (7)(a) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(ii) Subsection (7)(b)(i) applies for a period of two years following the change in the certified tax rate.

Section 195. Section 53F-2-404 is amended to read:

53F-2-404. School LAND Trust Program distribution of funds.

(1) (a) The School LAND Trust Program, established in Section 53G-7-1206, shall be funded each fiscal year:

(i) from the Trust Distribution Account created in Section 53F-9-201; and

(ii) in the amount of the sum of the following:

(A) on or about July 15 each year, out of the distributions from the investment of money in the permanent State School Fund deposited to the Trust Distribution Account; and

(B) interest accrued on the Trust Distribution Account in the immediately preceding fiscal year.

(b) The program shall be funded as provided in Subsection (1)(a) up to an amount equal to 3% of the funds provided for the Minimum School Program, pursuant to this chapter, each fiscal year.

(c) The Legislature shall annually allocate, through an appropriation to the ~~[State Board of Education]~~ state board, a portion of the Trust Distribution Account created in Section 53F-9-201 to be used for the administration of the School LAND Trust Program.

(d) Any unused balance remaining from an amount appropriated under Subsection (1)(c) shall be deposited in the Trust Distribution Account for distribution to schools in the School LAND Trust Program.

(2) (a) The ~~[State Board of Education]~~ state board shall allocate the money referred to in Subsection (1) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1); and

(iii) of the funds available for distribution under Subsection (1) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

~~(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(b) (i) The state board shall make rules specifying a formula to distribute the amount allocated under Subsection (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection (2)(b)(i), the ~~[State Board of Education]~~ state board shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each school within the school district on an equal per student basis.

~~[(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(d) The state board may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (2)(a)(iii).

(3) If the amount of money prescribed for funding the School LAND Trust Program under this section is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND Trust Program in this section, up to a maximum of an amount equal to 3% of the funds provided for the Minimum School Program.

(4) The ~~[State Board of Education]~~ state board shall distribute the money appropriated in Subsection (3) in accordance with this section and rules established by the state board ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act].~~

Section 196. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license issued by the ~~[State Board of Education]~~ state board; and

- (b) a position as a:
 - (i) classroom teacher;
 - (ii) speech pathologist;
 - (iii) librarian or media specialist;
 - (iv) preschool teacher;
 - (v) mentor teacher;

(vi) teacher specialist or teacher leader;

(vii) guidance counselor;

(viii) audiologist;

(ix) psychologist; or

(x) social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the ~~[State Board of Education]~~ state board for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) The ~~[State Board of Education]~~ state board may make rules as necessary to administer this section~~[, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act].~~

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

- (i) retirement;
- (ii) worker's compensation;
- (iii) social security; and
- (iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the ~~[State Board of Education]~~ state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 197. Section 53F-2-407 is amended to read:

53F-2-407. Appropriation for library books and electronic resources.

(1) The ~~[State Board of Education]~~ state board shall distribute money appropriated for library books and electronic resources as follows:

(a) 25% shall be divided equally among all public schools; and

(b) 75% shall be divided among public schools based on each school's average daily membership as compared to the total average daily membership.

(2) A school district or charter school may not use money distributed under Subsection (1) to supplant other money used to purchase library books or electronic resources.

Section 198. Section 53F-2-408 is amended to read:

53F-2-408. Enhancement for Accelerated Students Program.

(1) As used in this section, "eligible low-income student" means a student who:

(a) takes an Advanced Placement test;

(b) has applied for an Advanced Placement test fee reduction; and

(c) qualifies for a free lunch or a lunch provided at reduced cost.

(2) The ~~[State Board of Education]~~ state board shall distribute money appropriated for the Enhancement for Accelerated Students Program to school districts and charter schools according to a formula adopted by the ~~[State Board of Education]~~ state board, after consultation with ~~[local education]~~ LEA governing boards.

(3) A distribution formula adopted under Subsection (2) may include an allocation of money for:

(a) Advanced Placement courses;

(b) Advanced Placement test fees of eligible low-income students;

(c) gifted and talented programs, including professional development for teachers of high ability students; and

(d) International Baccalaureate programs.

(4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for Accelerated Students Program may be allowed for International Baccalaureate programs.

(5) A school district or charter school shall use money distributed under this section to enhance the academic growth of students whose academic achievement is accelerated.

(6) The ~~[State Board of Education]~~ state board shall develop performance criteria to measure the effectiveness of the Enhancement for Accelerated Students Program.

(7) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 199. Section 53F-2-409 is amended to read:

53F-2-409. Concurrent enrollment funding.

(1) The terms defined in Section ~~[53F-10-301]~~ 53E-10-301 apply to this section.

(2) The ~~[State Board of Education]~~ state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The ~~[State Board of Education]~~ state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken where:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the ~~[State Board of Education]~~ state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the State Board of Regents.

(c) From the money allocated under Subsection (3)(a)(ii), the ~~[State Board of Education]~~ state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the State Board of Regents.

(d) The ~~[State Board of Education]~~ state board shall make rules~~, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~ providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The State Board of Regents shall make rules~~, in accordance with Title 63G, Chapter 3, Utah~~

~~Administrative Rulemaking Act,~~] providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) kindergarten through grade 12 student enrollment; and

(b) the value of the weighted pupil unit.

(5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

Section 200. Section 53F-2-410 is amended to read:

53F-2-410. Enhancement for At-Risk Students Program.

(1) (a) Subject to Subsection (1)(b), the ~~[State Board of Education]~~ state board shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the ~~[State Board of Education]~~ state board, after consultation with ~~[local education]~~ LEA governing boards.

(b) (i) The ~~[State Board of Education]~~ state board shall appropriate \$1,500,000 from the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students at risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the ~~[State Board of Education]~~ state board shall:

(a) use the following criteria:

(i) low performance on statewide assessments described in Section 53E-4-301;

(ii) poverty;

(iii) mobility;

(iv) limited English proficiency;

(v) chronic absenteeism; and

(vi) homelessness;

(b) ensure that the distribution formula distributes money on a per student and per criterion basis; and

(c) ensure that the distribution formula provides funding for each criterion that a student meets such that a student who meets:

(i) one criterion is counted once; and

(ii) more than one criterion is counted for each criterion the student meets up to three criteria.

(3) Subject to future budget constraints, the amount appropriated for the Enhancement for At-Risk Students Program shall increase annually with growth in the at-risk student population and changes to the value of the weighted pupil unit as defined in Section ~~[53F-9-305]~~ 53F-4-301.

(4) ~~[A local education]~~ An LEA governing board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure including addressing truancy.

(5) The ~~[State Board of Education]~~ state board shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(6) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

(7) During the fiscal year that begins July 1, 2022, the Public Education Appropriations Subcommittee shall evaluate:

(a) the impact of funding provided in this section to determine whether the funding has improved educational outcomes for students who are at-risk for academic failure; and

(b) whether the funding should continue as established, be amended, or be consolidated in the value of the weighted pupil unit.

Section 201. Section 53F-2-411 is amended to read:

53F-2-411. Appropriation for Title I Schools in Improvement Paraeducators Program.

(1) As used in this section:

(a) "Eligible school" means a Title I school that has not achieved adequate yearly progress, as defined in the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq. in the same subject area for two consecutive years.

(b) "Paraeducator" means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) meets the requirements under Subsection (3).

(c) "Program" means the Title I Schools in Improvement Paraeducators Program created in this section.

(2) The program is created to provide funding for eligible schools to hire paraeducators to provide additional instructional aid in the classroom to assist students in achieving academic success and assist the school in exiting Title I school improvement status.

(3) A paraeducator who is funded under this section shall have:

(a) earned a secondary school diploma or a recognized equivalent;

(b) (i) completed at least two years with a minimum of 48 semester hours at an accredited higher education institution;

(ii) obtained an associates or higher degree from an accredited higher education institution; or

(iii) satisfied a rigorous state or local assessment about the individual's knowledge of, and ability to assist in instructing students in, reading, writing, and mathematics; and

(c) received large group-, small group-, and individual-level professional development that is intensive and focused and covers curriculum, instruction, assessment, classroom and behavior management, and teaming.

(4) The ~~[State Board of Education]~~ state board shall distribute money appropriated for the program to eligible schools, in accordance with rules adopted by the state board.

(5) Funds appropriated under the program may not be used to supplant other money used for paraeducators at eligible schools.

Section 202. Section 53F-2-413 is amended to read:

53F-2-413. Alternative programs.

(1) Since the ~~[State Board of Education]~~ state board has adopted a policy that requires school districts and charter schools to grant credit for proficiency through alternative programs, school districts and charter schools are encouraged to continue and expand school district and charter school cooperation with accredited institutions through performance contracts for educational services, particularly where it is beneficial to students whose progress could be better served through alternative programs.

(2) School districts and charter schools are encouraged to participate in programs that focus on increasing the number of ethnic minority and female students in the secondary schools who will go on to study mathematics, engineering, or related sciences at an institution of higher education.

Section 203. Section 53F-2-501 is amended to read:

53F-2-501. Early graduation incentives -- Incentive to school district -- Partial tuition scholarship for student -- Payments.

(1) A secondary public school student who has completed all required courses or demonstrated mastery of required skills and competencies may graduate at any time with the approval of:

(a) the student;

(b) the student's parent ~~[or guardian]~~; and

(c) a local school official who is authorized by the school's principal or director to approve early graduation.

(2) The ~~[State Board of Education]~~ state board shall make a payment to a public high school in an

amount equal to 1/2 of the scholarship awarded to each student under this section who graduates from the school at or before the conclusion of grade 11, or a proportionately lesser amount for a student who graduates after the conclusion of grade 11 but before the conclusion of grade 12.

(3) (a) The ~~[State Board of Education]~~ state board shall award to each student who graduates from high school at or before the conclusion of grade 11 a centennial scholarship in the amount of the greater of 30% of the previous year's value of the weighted pupil unit or \$1,000, subject to this Subsection (3) through Subsection (6).

(b) A student who is awarded a centennial scholarship may use the scholarship for full time enrollment at:

(i) a Utah public college, university, or community college;

(ii) a technical college described in Section 53B-2a-105; or

(iii) any other institution in the state of Utah that:

(A) is accredited by an accrediting organization recognized by the State Board of Regents; and

(B) offers postsecondary courses of the student's choice.

(c) Before making a payment of a centennial scholarship, the ~~[State Board of Education]~~ state board shall verify that the student has registered at an institution described in Subsection (3)(b):

(i) during the fiscal year following the student's graduation from high school; or

(ii) at the end of the student's deferral period, in accordance with Subsection (4).

(d) If a student graduates after the conclusion of grade 11 but before the conclusion of grade 12, the ~~[State Board of Education]~~ state board shall award the student a centennial scholarship of a proportionately lesser amount than the scholarship amount described in Subsection (3)(a).

(4) (a) A student who is eligible for a centennial scholarship under Subsection (3) may make a request to the ~~[State Board of Education]~~ state board that the ~~[State Board of Education]~~ state board defer consideration of the student for the scholarship for a set period of time.

(b) A student who makes a request under Subsection (4)(a) shall state in the request the reason for which the student wishes not to be considered for the scholarship until the end of the deferral period, which may include:

(i) health reasons;

(ii) religious reasons;

(iii) military service; or

(iv) humanitarian service.

(c) If a student makes a request under Subsection (4)(a), the ~~[State Board of Education]~~ state board shall:

- (i) (A) review the student's request; and
- (B) approve or reject the student's request; and
- (ii) if the ~~[State Board of Education]~~ state board approves the student's request, in consultation with the student, set the length of the deferral period, ensuring that the deferral period is sufficient to meet the student's needs under Subsection (4)(b).
- (d) At the end of the deferral period, and upon request of the student, the ~~[State Board of Education]~~ state board shall:
- (i) determine a student to be eligible for the scholarship if the student was eligible at the time of the student's request for deferral; and
- (ii) if found eligible, make a payment to the student in an amount equal to the amount described in Subsection (4)(e).
- (e) The amount of a student's deferred scholarship payment shall be determined by the ~~[State Board of Education]~~ state board based on the amount of the scholarship the student would have been entitled to as described in Subsection (3) and based on the fiscal year prior to the student's request for deferral.
- (5) Except as provided in Subsection (4)(b), the ~~[State Board of Education]~~ state board:
- (a) shall make the payments authorized in Subsections (2) and (3)(a) during the fiscal year that follows the student's graduation; and
- (b) may make the payments authorized in Subsection (3)(b) during the fiscal year:
- (i) in which the student graduates; or
- (ii) following the student's graduation.
- (6) Subject to future budget constraints, the Legislature shall adjust the appropriation for the Centennial Scholarship Program based on:
- (a) the anticipated increase of students awarded a centennial scholarship; and
- (b) the percent increase of the prior year's weighted pupil unit value, as provided in Subsection (3).

Section 204. Section 53F-2-502 is amended to read:

53F-2-502. Dual language immersion.

- (1) As used in this section:
- ~~[(a) "Board" means the State Board of Education.]~~
- ~~[(b)]~~ (a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.
- ~~[(c)]~~ (b) "Local education agency" or "LEA" means a school district or a charter school.
- ~~[(d)]~~ (c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

- ~~[(e)]~~ (d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.
- (2) The state board shall:
- (a) establish a dual language immersion program;
- (b) ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ make rules that establish:
- (i) a grant program for an LEA to receive funding for dual language immersion;
- (ii) the required qualifications for an LEA to be a participating LEA;
- (iii) subject to this section, requirements of a participating LEA;
- (iv) a proficiency assessment for each partner language; and
- (v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion;
- (c) subject to legislative appropriations:
- (i) select participating LEAs; and
- (ii) award to a participating LEA a grant to support dual language immersion in the LEA; and
- (d) report to a legislative committee on the results of a proficiency assessment described in Subsection (2)(b)(iv) upon request.
- (3) A participating LEA shall:
- (a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;
- (b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and
- (c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).
- (4) The state board shall:
- (a) provide support to a participating LEA, including by:
- (i) offering professional learning for dual language immersion educators;
- (ii) developing curriculum related to dual language immersion; or
- (iii) providing instructional support for a partner language;
- (b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and
- (c) on or before November 1, 2019, report to the Education Interim Committee and the Public

Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

Section 205. Section 53F-2-503 is amended to read:

53F-2-503. Early Literacy Program -- Literacy proficiency plan.

(1) As used in this section:

[~~(a)~~] “Board” means the State Board of Education.]

[~~(b)~~] (a) “Program” means the Early Literacy Program.

[~~(c)~~] (b) “Program money” means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) (a) [~~A local education~~] An LEA governing board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit a plan to the state board for literacy proficiency improvement that incorporates the following components:

(i) core instruction in:

(A) phonological awareness;

(B) phonics;

(C) fluency;

(D) comprehension;

(E) vocabulary;

(F) oral language; and

(G) writing;

(ii) intervention strategies that are aligned to student needs;

(iii) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;

(iv) assessments that support adjustments to core and intervention instruction;

(v) a growth goal for the school district or charter school that:

(A) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(B) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;

(vi) at least two goals that are specific to the school district or charter school that:

(A) are measurable;

(B) address current performance gaps in student literacy based on data; and

(C) include specific strategies for improving outcomes; and

(vii) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.

(b) [~~A local education~~] An LEA governing board shall approve a plan described in Subsection (4)(a) in a public meeting before submitting the plan to the state board.

(c) The state board shall provide model plans that [~~a local education~~] an LEA governing board may use, or [~~a local education~~] an LEA governing board may develop the [~~local education~~] LEA governing board's own plan.

(d) A plan developed by [~~a local education~~] an LEA governing board shall be approved by the state board.

(e) The state board shall develop uniform standards for acceptable growth goals that [~~a local education~~] an LEA governing board adopts for a school district or charter school as described in this Subsection (4).

(5) (a) There are created within the Early Literacy Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The state board may use up to \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the state board for the Early Literacy Program and not used by the state board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the [~~local education~~] LEA governing board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the state board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the charter school governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The state board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the state board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the state board the information the state board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPU's and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPU's.

(c) The state board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the state board for computer-assisted instructional learning and assessments.

(10) The state board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) ~~[A local education]~~ An LEA governing board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) ~~[A local education]~~ An LEA governing board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) ~~[A local education]~~ An LEA governing board shall annually submit a report to the state board accounting for the expenditure of program money in accordance with the ~~[local education]~~ LEA governing board's plan described in Subsection (4).

(b) If ~~[a local education]~~ an LEA governing board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the state board for the amount of program money improperly used, up to the amount of program money received from the state board.

~~[(14) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(14) (a) The state board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each ~~[local education]~~ LEA governing board to annually report progress in meeting goals described in Subsections (4)(a)(v) and (vi), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsection (4)(a)(v) or (vi), the ~~[local education]~~ LEA governing board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the state board before the ~~[local education]~~ LEA governing board receives an allocation for the next year.

(15) (a) The state board shall:

(i) develop strategies to provide support for a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi); and

(ii) provide increasing levels of support to a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi) for two consecutive years.

(b) (i) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy.

(ii) The digital reporting platform shall include performance information for a school district or charter school on the goals described in Subsection (4)(a)(v) and (vi).

(16) The state board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

(17) The state board shall make an annual report to the Public Education Appropriations Subcommittee that:

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4)(a); and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection (17)(a)(iv) to improve literacy proficiency for additional students.

(18) The report described in Subsection (17) shall include information provided through the digital reporting platform described in Subsection (15)(b).

Section 206. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program -- Appeal process.

(1) As used in this section:

~~[(a)]~~ ~~“Board” means the State Board of Education.~~

~~[(b)]~~ (a) “Certificate teacher” means a teacher who holds a National Board certification.

~~[(c)]~~ (b) “Eligible teacher” means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

(B) integrated science in grade 7 or 8;

(C) chemistry;

(D) physics;

(E) computer science; or

(F) special education;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

~~[(d)]~~ (c) “Field of computer science” means:

(i) computer science; or

(ii) computer information technology.

~~[(e)]~~ (d) “Field of science” means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

~~[(f)]~~ (e) “License” means the same as that term is defined in Section 53E-6-102.

~~[(g)]~~ (f) “National Board certification” means the same as that term is defined in Section 53E-6-102.

~~[(h)]~~ (g) “Qualifying educational background” means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree described in Subsection (1)[(h)](g)(ii)(A);

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree described in Subsection (1)[(h)](g)(iii)(A); or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

[(4)] (h) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.

[(4)] (i) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full time to teach one or more courses listed in Subsections (1)[(e)](b)(i)(A) through (F) is \$4,100 and funded through an appropriation described in Subsection (2).

(ii) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)[(e)](b)(i)(A) through (F) shall receive a partial salary supplement based on the number of hours worked in the course assignment.

(b) The annual salary supplement for a certificate teacher is \$750.

(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

(i) (A) is an eligible teacher; and

(B) has a course assignment as listed in Subsections (1)[(e)](b)(i)(A) through (F);

(ii) is a certificate teacher; or

(iii) is a Title I school certificate teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers, certificate teachers, and Title I school certificate teachers.

(5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher shall apply with the state board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may apply with the state board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree described in:

(A) Subsection (1)[(h)](g)(i)(A);

(B) Subsection (1)[(h)](g)(ii)(A);

(C) Subsection (1)[(h)](g)(iii)(A); or

(D) Subsection (1)[(h)](g)(iv).

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

- (A) Subsection (1)(~~(h)~~)(g)(i)(A);
- (B) Subsection (1)(~~(h)~~)(g)(ii)(A);
- (C) Subsection (1)(~~(h)~~)(g)(iii)(A); or
- (D) Subsection (1)(~~(h)~~)(g)(iv).

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.

(ii) A teacher shall provide to the state board a certificate or other related documentation in order for the state board to determine if the teacher holds a current certificate.

(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

- (A) holds a current certificate; and
- (B) is assigned to teach at a Title I school.

(ii) A teacher shall provide to the state board:

(A) information described in Subsection (6)(c)(ii); and

(B) verification that the teacher is assigned to teach at a Title I school.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or Title I school certificate teacher.

(b) The salary supplement is part of the teacher's base pay, subject to the teacher's qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 207. Section 53F-2-505 is amended to read:

53F-2-505. Utah Science Technology and Research Initiative Centers Program.

(1) (a) The Utah Science Technology and Research Initiative (USTAR) Centers Program is created to provide a financial incentive for [~~local education~~] LEA governing boards to adopt programs in respective charter schools and school districts that result in a more efficient use of human resources and capital facilities.

(b) The potential benefits of the program include:

(i) increased compensation for math and science teachers by providing opportunities for an expanded contract year which will enhance school districts' and charter schools' ability to attract and retain talented and highly qualified math and science teachers;

(ii) increased capacity of school buildings by using buildings more hours of the day or more days of the year, resulting in reduced capital facilities costs;

(iii) decreased class sizes created by expanding the number of instructional opportunities in a year;

(iv) opportunities for earlier high school graduation;

(v) improved student college preparation;

(vi) increased opportunities to offer additional remedial and advanced courses in math and science;

(vii) opportunities to coordinate high school and post-secondary math and science education; and

(viii) the creation or improvement of science, technology, engineering, and math centers (STEM Centers).

(2) From money appropriated for the USTAR Centers Program, the [~~State Board of Education~~] state board shall award grants to charter schools and school districts to pay for costs related to the adoption and implementation of the program.

(3) The [~~State Board of Education~~] state board shall:

(a) solicit proposals from the State Charter School Board and local school boards for the use of grant money to facilitate the adoption and implementation of the program; and

(b) award grants on a competitive basis.

(4) The State Charter School Board shall:

(a) solicit proposals from charter school governing boards that may be interested in participating in the USTAR Centers Program;

(b) prioritize and consolidate the proposals into the equivalent of a single school district request; and

(c) submit the consolidated request to the [~~State Board of Education~~] state board.

(5) In selecting a grant recipient, the [~~State Board of Education~~] state board shall consider:

(a) the degree to which a charter school or school district's proposed adoption and implementation of an extended year for math and science teachers achieves the benefits described in Subsection (1);

(b) the unique circumstances of different urban, rural, large, small, growing, and declining charter schools and school districts; and

(c) providing pilot programs in as many different school districts and charter schools as possible.

(6) (a) Except as provided in Subsection (6)(b), a school district or charter school may only use grant money to provide full year teacher contracts, part-time teacher contract extensions, or combinations of both, for math and science teachers.

(b) Up to 5% of the grant money may be used to fund math and science field trips, textbooks, and supplies.

(7) Participation in the USTAR Centers Program shall be:

(a) voluntary for an individual teacher; and

(b) voluntary for a charter school or school district.

Section 208. Section 53F-2-506 is amended to read:

53F-2-506. Beverley Taylor Sorenson Elementary Arts Learning Program.

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

~~[(d) "Local education agency" or "LEA" means:]~~

~~[(i) a school district;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade ~~six~~ 6 by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the ~~[State Board of Education]~~ state board shall, after consulting with endowed chairs and the integrated arts advocate and receiving their recommendations, administer a grant program to enable LEAs to:

(a) hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(b) provide up to \$10,000 in one-time funds for each new school arts specialist described under Subsection (4)(a) to purchase supplies and equipment; and

(c) engage in other activities that improve the quantity and quality of integrated arts education.

(5) (a) An LEA that receives a grant under Subsection (4) shall provide matching funds of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a).

(b) An LEA may not:

(i) include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a); or

(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.

(6) An LEA that receives a grant under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the ~~[State Board of Education]~~ state board shall administer a grant program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section 53G-11-303 to LEAs that receive a grant under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The ~~[State Board of Education]~~ state board shall make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ to administer the Beverley Taylor Sorenson Elementary Arts Learning Program.

Section 209. Section 53F-2-507 is amended to read:

53F-2-507. Enhanced kindergarten early intervention program.

(1) The ~~[State Board of Education]~~ state board shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) ~~[A local education]~~ An LEA governing board shall use funds appropriated in this section for a school district or charter school to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age-appropriate literacy and numeracy skills;

(b) uses an evidence-based early intervention model;

(c) is targeted to at-risk students; and

(d) is delivered through additional hours or other means.

(3) ~~[A local education]~~ An LEA governing board may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) The ~~[State Board of Education]~~ state board shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the ~~[State Board of Education]~~ state board in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

Section 210. Section 53F-2-508 is amended to read:

53F-2-508. Student Leadership Skills Development Program.

(1) For purposes of this section ~~[- (a) "Board" means the State Board of Education - (b) "Program", "program" means the Student Leadership Skills Development Program created in Subsection (2).~~

(2) There is created the Student Leadership Skills Development Program to develop student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

(a) communication skills;

(b) teamwork skills;

(c) interpersonal skills;

(d) initiative and self-motivation;

(e) goal setting skills;

(f) problem solving skills; and

(g) creativity.

(3) (a) The state board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The state board may award a grant of:

(i) up to \$10,000 per school for the first year a school participates in the program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the program.

(c) (i) After awarding a grant to a school for a particular year, the state board may not change the grant amount awarded to the school for that year.

(ii) The state board may award a school a different amount in subsequent years.

(4) An elementary school may participate in the program established under this section in accordance with ~~[State Board of Education rules, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board rules.

(5) In selecting elementary schools to participate in the program, the state board shall:

(a) require a school in the first year the school participates in the program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the state board;

(b) require a school to participate in the program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) The state board shall make the following information related to the grants described in Subsection (3) publicly available on the state board's website:

(a) reimbursement procedures that clearly define how a school may spend grant money and how the state board will reimburse the school;

(b) the period of time a school is permitted to spend grant money;

(c) criteria for selecting a school to receive a grant; and

(d) a list of schools that receive a grant and the amount of each school's grant.

(7) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the state board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results as measured by:

(A) a reduction in truancy;

(B) assessments of academic achievement;

(C) a reduction in incidents of student misconduct or disciplinary actions; and

(D) the achievement of school-wide goals and students' personal goals.

(8) After participating in the program for two years, a school may not receive additional grant money in subsequent years if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (7)(b).

(9) (a) The state board shall make a report on the program to the Education Interim Committee by the committee's October 2016 meeting.

(b) The report shall include an evaluation of the program's success in enhancing a school's learning environment and improving academic achievement.

Section 211. Section 53F-2-509 is amended to read:

53F-2-509. Grants for field trips to the State Capitol.

(1) The [~~State Board of Education~~] state board may award grants to school districts and charter schools to take students on field trips to the State Capitol.

(2) Grant money may be used to pay for transportation expenses related to a field trip to the State Capitol.

(3) The [~~State Board of Education~~] state board shall make rules:

(a) establishing procedures for applying for and awarding grants; and

(b) specifying how grant money shall be allocated among school districts and charter schools.

Section 212. Section 53F-2-510 is amended to read:

53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection (9)(b).

~~[(b) "Board" means the State Board of Education.]~~

~~[(e)]~~ (b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

~~[(d)]~~ (c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

~~[(e)]~~ (d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

~~[(f)]~~ (e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

~~[(g) "Local education agency" or "LEA" means:]~~

~~[(i) a school district;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

~~[(h)]~~ (f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections (8) through (13).

(4) (g) “Utah Education and Telehealth Network” or “UETN” means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

- (i) the state board;
- (ii) UETN;
- (iii) LEAs; and
- (iv) the Governor’s Education Excellence Commission.

(3) (a) The state board, in consultation with the digital teaching and learning task force created in Subsection (2), shall create a funding proposal for a statewide digital teaching and learning program designed to:

(i) improve student outcomes through the use of digital teaching and learning technology; and

(ii) provide high quality professional learning for educators to improve student outcomes through the use of digital teaching and learning technology.

(b) The state board shall:

(i) identify outcome based metrics to measure student achievement related to a digital teaching and learning program; and

(ii) develop minimum benchmark standards for student achievement and school level outcomes to measure successful implementation of a digital teaching and learning program.

(4) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

- (i) student and teacher devices;
- (ii) Wi-Fi and wireless compatible technology;
- (iii) curriculum software;
- (iv) assessment solutions;
- (v) technical support;
- (vi) change management of LEAs;
- (vii) high quality professional learning;
- (viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

- (i) statewide technology infrastructure; and
- (ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system’s current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state’s public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(5) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system’s current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(6) On or before December 1, 2015, the state board and UETN shall present the funding proposal for a statewide digital teaching and learning program described in Subsection (3) to the Education Interim Committee and the Executive Appropriations Committee, including:

(a) the state board’s progress on the development of a master plan described in Subsection (4); and

(b) the progress of UETN on the inventory and study described in Subsection (5).

(7) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an

LEA, shall annually complete a digital readiness assessment.

(8) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(9) The state board shall:

(a) ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement;

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds; and

(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

(10) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (11); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (10)(b).

(b) The state board or its designee shall provide the training described in Subsection (10)(a)(ii).

(11) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college

readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ including an application process and metrics to analyze the quality of a proposed LEA plan.

(12) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in realtime and for the LEA to use to create customized reports.

(13) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(14) (a) An LEA that receives a grant as part of the program shall:

(i) subject to Subsection (14)(b), complete an implementation assessment for each year that the LEA is expending grant money; and

(ii) (A) report the findings of the implementation assessment to the state board; and

(B) submit to the state board a plan to resolve issues raised in the implementation assessment.

(b) Each school within the LEA shall:

(i) complete an implementation assessment; and

(ii) submit a compilation report that meets the requirements described in Subsections (14)(a)(ii)(A) and (B).

(15) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(16) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(17) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections (17)(a) and (b) to the state board.

(18) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (18)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (18)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Title 53F, Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (18)(b)(ii) or (18)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (18)(b)(ii) or (18)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 213. Section 53F-2-511 is amended to read:

53F-2-511. Reimbursement Program for Early Graduation From Competency-Based Education.

(1) As used in this section:

[~~(a) "Board" means the State Board of Education.~~]

[~~(b)~~] (a) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

[~~(e)~~] (b) "Eligible LEA" means an LEA that has demonstrated to the state board that the LEA or, for a school district, a school within the LEA, provides and facilitates competency-based education that:

(i) is based on the core principles described in Section 53F-5-502; and

(ii) meets other criteria established by the state board in rule.

[~~(d)~~] (c) "Eligible student" means an individual who:

(i) attended an eligible LEA and graduated by completing graduation requirements, as described in Section 53E-4-204, earlier than that individual's cohort completed graduation requirements because of the individual's participation in the eligible LEA's competency-based education;

(ii) no longer attends the eligible LEA; and

(iii) is not included in the LEA's average daily membership under this chapter.

[~~(e) "Local education agency" or "LEA" means:~~]

[~~(i) a school district;~~]

[~~(ii) a charter school; or~~]

[~~(iii) the Utah Schools for the Deaf and the Blind.~~]

[~~(f)~~] (d) "Partial pupil" means if an eligible student attends less than a full year of membership, the number of days the student was in membership compared to a full membership year.

[~~(g)~~] (e) "Program" means the Reimbursement Program for Early Graduation From Competency-Based Education established in this section.

(2) (a) There is established the Reimbursement Program for Early Graduation From Competency-Based Education.

(b) Subject to future budget constraints, the Legislature may annually appropriate money to the Reimbursement Program for Early Graduation From Competency-Based Education.

(3) An LEA may apply to the state board to receive a reimbursement, as described in Subsection (5), for an eligible student.

(4) The state board shall approve a reimbursement to an LEA after the LEA demonstrates:

(a) that the LEA is an eligible LEA; and

(b) that the individual for whom the eligible LEA requests reimbursement is an eligible student.

(5) (a) For each eligible student, the state board shall only reimburse an eligible LEA:

(i) if the eligible student attended the eligible LEA for less than a full school year before the eligible student's cohort graduated, up to the value

of one weighted pupil unit pro rated based on the difference between:

(A) the number of days of partial pupil in average daily membership earned by the eligible LEA while the eligible student was still in attendance; and

(B) a full pupil in average daily membership; and

(ii) the value of one weighted pupil unit for each full school year the eligible student graduated ahead of the eligible student's cohort.

(b) The state board shall:

(i) use data from the prior year average daily membership to determine the number of eligible students; and

(ii) reimburse the eligible LEA in the current school year.

(6) The state board shall [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] adopt rules to administer the provisions of this section.

Section 214. Section 53F-2-512 is amended to read:

53F-2-512. Appropriation for accommodation plans for students with Section 504 accommodations.

~~[(1) As used in this section:]~~

~~[(a) "Board" means the State Board of Education.]~~

~~[(b) "Local education agency" or "LEA" means:]~~

~~[(i) a school district;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

~~[(e) "Section 504 accommodation plan" means an accommodation plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.]~~

~~[(2)] (1) (a) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish a reimbursement program that:~~

(i) distributes any money appropriated to the state board for Special Education -- Section 504 Accommodations;

(ii) allows an LEA to apply for reimbursement of the costs of services that:

(A) an LEA renders to a student with a Section 504 accommodation plan; and

(B) exceed 150% of the average cost of a general education student; and

(iii) provides for a pro-rated reimbursement based on the amount of reimbursement applications received during a given fiscal year and the amount of money appropriated to the state board that fiscal year.

(b) Beginning with the 2018-19 school year, the state board shall allocate money appropriated to the state board for Special Education -- Section 504 Accommodations in accordance with the rules described in Subsection ~~[(2)]~~ (1)(a).

~~[(3)]~~ (2) On or before January 30, 2018, the state board shall report to the Public Education Appropriations Subcommittee:

(a) information collected regarding the number of students who qualify for a Section 504 accommodation plan; and

(b) if available, the estimated financial impact of providing Section 504 accommodation services to the number of students described in Subsection ~~[(3)]~~ (2)(a).

Section 215. Section 53F-2-513 is amended to read:

53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Cohort" means a group of students, defined by the year in which the group enters grade 1.

~~[(c)]~~ (b) "Eligible teacher" means a teacher who:

(i) is employed as a teacher in a high poverty school at the time the teacher is considered by the state board for a salary bonus; and

(ii) achieves a median growth percentile of 70 or higher:

(A) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous school year by a high poverty school or a different public school; and

(B) while teaching at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303.

~~[(d)]~~ (c) "High poverty school" means a public school:

(i) in which:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii) (A) that has previously met the criteria described in Subsection (1)~~[(d)]~~(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)~~[(d)]~~(c)(i)(B) and for each school

year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch.

~~[(e)]~~ (d) “Intergenerational poverty” means the same as that term is defined in Section 35A-9-102.

~~[(f)]~~ (e) “Median growth percentile” means a number that describes the comparative effectiveness of a teacher in helping the teacher’s students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

~~[(g)]~~ (f) “Program” means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

~~[(h)]~~ (g) “Student growth percentile” is a number that describes where a student ranks in comparison to the student’s cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall ~~[, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ make rules for:

- (i) the administration of the program;
- (ii) payment of a salary bonus; and
- (iii) application requirements.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

- (i) social security; and
- (ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is \$5,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an

application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher; and

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators.

(6) The state board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by at least:

(i) surveying teachers who receive the salary bonus; and

(ii) examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

- (a) of the teacher’s median growth percentile; and
- (b) how the teacher’s median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

Section 216. Section 53F-2-514 is amended to read:

53F-2-514. Job enhancements for mathematics, science, technology, and special education training.

(1) As used in this section, “special education teacher” includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

(b) special education teachers; and

(c) teachers in grades ~~four~~ 4 through ~~six~~ 6 with mathematics endorsements.

(3) The program shall provide for the following:

(a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;

(b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:

(i) whose applications are approved; and

(ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);

(c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;

(ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the ~~[State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board, unless waived for good cause by the ~~[State Board of Education]~~ state board; and

(iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and

(d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and

(ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.

(4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:

(a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and

(b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.

(5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.

(b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the ~~[State Board of Education and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board in rule.

(c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

Section 217. Section 53F-2-517 is amended to read:

53F-2-517. Quality Teaching Block Grant Program -- State contributions.

(1) The ~~[State Board of Education]~~ state board shall distribute money appropriated for the Quality Teaching Block Grant Program to school districts and charter schools according to a formula adopted by the ~~[State Board of Education]~~ state board, after consultation with ~~[local education]~~ LEA governing boards, that allocates the funding in a fair and equitable manner.

(2) ~~[Local education]~~ LEA governing boards shall use Quality Teaching Block Grant money to implement professional learning that meets the standards specified in Section 53G-11-303.

Section 218. Section 53F-2-518 is amended to read:

53F-2-518. Appropriation for retirement and social security.

(1) The employee's retirement contribution shall be 1% for employees who are under the state's contributory retirement program.

(2) The employer's contribution under the state's contributory retirement program is determined under Section 49-12-301, subject to the 1% contribution under Subsection (1).

(3) (a) The employer-employee contribution rate for employees who are under the state's noncontributory retirement program is determined under Section 49-13-301.

(b) The same contribution rate used under Subsection (3)(a) shall be used to calculate the appropriation for charter schools described under Subsection (5).

(4) (a) Money appropriated to the ~~[State Board of Education]~~ state board for retirement and social security money shall be allocated to school districts and charter schools based on a school district's or charter school's total weighted pupil units compared to the total weighted pupil units for all school districts and charter schools in the state.

(b) Subject to budget constraints, money needed to support retirement and social security shall be

determined by taking a school district's or charter school's prior year allocation and adjusting it for:

- (i) student growth;
- (ii) the percentage increase in the value of the weighted pupil unit; and
- (iii) the effect of any change in the rates for retirement, social security, or both.

(5) A charter school governing board that makes an election of nonparticipation in the Utah State Retirement Systems in accordance with Section 53G-5-407 and Title 49, Utah State Retirement and Insurance Benefit Act, shall use the funds described under this section for retirement to provide the charter school's own compensation, benefit, and retirement programs.

Section 219. Section 53F-2-519 is amended to read:

53F-2-519. Appropriation for school nurses.

(1) The ~~[State Board of Education]~~ state board shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

(a) provide an equal amount of matching funds; and

(b) do not supplant other money used for school nurses.

(2) (a) A school district or charter school that is awarded a grant under this section shall require each school nurse employed by the school district or charter school to complete two hours of continuing nurse education on the emotional and mental health of students.

(b) The continuing nurse education described in Subsection (2)(a) shall include training on:

- (i) the awareness of, screening for, and triaging to appropriate treatment for mental health problems;
- (ii) trauma-informed care;
- (iii) signs of mental illness;
- (iv) alcohol and substance abuse;
- (v) response to acute mental health crises; and
- (vi) suicide prevention, including information about the 24-hour availability of the School Safety and Crisis Line established under Section 53E-10-502.

Section 220. Section 53F-2-601 is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, \$43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The ~~[State Board of Education]~~ state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the ~~[State Board of Education]~~ state board shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The ~~[State Board of Education]~~ state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 221. Section 53F-2-702 is amended to read:

53F-2-702. Funding for charter schools.

(1) Except as described in Section 53F-2-302, a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(2) (a) As described in Section 53F-2-703, the ~~[State Board of Education]~~ state board shall distribute charter school levy per pupil revenues to charter schools.

(b) As described in Section 53F-2-704, and subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection (2)(a).

(3) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(4) The ~~[State Board of Education]~~ state board shall distribute funds for charter school students directly to the charter school.

(5) (a) Notwithstanding Subsection (1), a charter school is not eligible to receive state transportation funding.

(b) The state board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53F-2-403 and 53G-6-405.

(c) ~~[The]~~ A charter school governing board ~~[of the charter school]~~ may provide transportation through an agreement or contract with the local school board, a private provider, or parents.

(6) (a) (i) In accordance with Section 53F-2-705, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The charter school governing board of a charter school that receives money from a grant under Section 53F-2-705 shall use the grant for expenses for planning and implementation of the charter school.

(b) The ~~[State Board of Education]~~ state board shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(7) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of Title 53G, Chapter 5, Charter Schools, or related provisions.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Section 222. Section 53F-2-703 is amended to read:

53F-2-703. Charter school levy.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) “Charter School Levy Account” means the Charter School Levy Account created in Section 53F-9-301.

~~[(e)]~~ (b) “Charter school levy per district revenues” means the product of:

(i) a school district’s district per pupil local revenues; and

(ii) the number of charter school students in the school district who are resident students.

~~[(d)]~~ (c) “Charter school levy per pupil revenues” means an amount equal to the following:

(i) charter school levy total local revenues for a given fiscal year, adjusted if necessary as described in Subsection (4); divided by

(ii) the number of students enrolled in a charter school on October 1 of the prior school year.

~~[(e)]~~ (d) “Charter school levy revenues” means the charter school levy revenues generated by a charter school levy rate described in Subsection (2)(b)(i).

~~[(f)]~~ (e) “Charter school levy total local revenues” means the sum of charter school levy per district revenues for every school district in the state for the same given fiscal year.

~~[(g)]~~ (f) “District per pupil local revenues” means the same as that term is defined in Section 53F-2-704.

~~[(h)]~~ (g) “Resident student” means the same as that term is defined in Section 53F-2-704.

(2) (a) Beginning with the taxable year beginning on January 1, 2017, the state shall annually impose a charter school levy as described in this Subsection (2).

(b) (i) For each school district, before June 22, the State Tax Commission shall certify a rate for the charter school levy described in Subsection (2)(a) to generate an amount of revenue within a school district equal to 25% of the charter school levy per district revenues excluding the amount of revenues:

(A) described in Subsection 53F-2-704(1)(c)(iv); and

(B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.

(ii) To calculate a charter school levy rate for a school district, the State Tax Commission shall use the calculation method described in Subsection 59-2-924(4).

(c) The charter school levy shall be separately stated on a tax notice.

(3) (a) A county treasurer shall collect the charter school levy revenues for all school districts located within the county treasurer’s county and remit the money monthly to the state treasurer.

(b) The state treasurer shall deposit the charter school levy revenues received from a county treasurer into the Charter School Levy Account.

(4) (a) For each charter school student, the state board shall distribute the charter school per pupil levy revenues from the Charter School Levy Account to the student’s charter school in accordance with this Subsection (4).

(b) For a given fiscal year, if the actual charter school levy total local revenues are more than the estimated charter school levy total local revenues the state board shall:

(i) deduct the amount of revenue that exceeds the estimated charter school levy total local revenues from the actual charter school levy total local revenues; and

(ii) use the remaining amount to calculate the charter school per pupil levy revenues.

(c) For a given fiscal year, if the actual charter school total local revenues are less than the estimated charter school levy total local revenues, the state board shall:

(i) if sufficient funds are available in the Charter School Levy Account, add an amount of funds from the Charter School Levy Account to the charter school levy total local revenues to equal the estimated charter school levy total local revenues; and

(ii) if sufficient funds are not available in the Charter School Levy Account, calculate the charter school per pupil levy revenues using the actual amount of the charter school levy total local revenues.

Section 223. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) “Charter school levy per pupil revenues” means the same as that term is defined in Section 53F-2-703.

(b) “Charter school students’ average local revenues” means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) “District local property tax revenues” means the sum of a school district’s revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for:

(A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(B) the Early Literacy Program described in Section 53F-2-503, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2) (a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(2)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the ~~[State Board of Education]~~ state board and the amount provided by the state under Subsection (2)(b) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under Subsection 53F-2-702(2).

(d) (i) If the legislative appropriation described in Subsection (2)(a) is insufficient to provide an amount described in Subsection (2)(b) for each charter school student, the ~~[State Board of Education]~~ state board shall make an adjustment to Minimum School Program allocations as described in Section 53F-2-205.

(ii) Following an adjustment described in Subsection (2)(d)(i), if legislative appropriations remain insufficient to provide an amount described in Subsection (2)(b) for each student enrolled in a charter school, the ~~[State Board of Education]~~ state board shall:

(A) distribute to a charter school an amount described in Subsection (2)(b) for each student enrolled in the charter school under or equal to the maximum number of students the charter school serves, as described in the charter school's charter school agreement described in Section 53G-5-303; and

(B) distribute money remaining after the distributions described in Subsection (2)(d)(ii)(A) to a charter school based on the charter school's share of all students enrolled in charter schools who exceed the number of maximum students served by charter schools, as described in charter school agreements entered into under Section 53G-5-303.

(3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(2), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 224. Section 53F-2-705 is amended to read:

53F-2-705. Grants for charter school start-up costs.

(1) (a) The State Charter School Board shall use money appropriated for charter school start-up costs to provide grants to charter schools to pay for expenses for the planning and implementation of a charter school.

(b) The State Charter School Board:

(i) may use up to 8% of the money appropriated for charter school start-up costs for financial monitoring of new charter schools and to provide professional development or technical assistance for charter school governing board members and staff of new charter schools; and

(ii) in accordance with rules adopted by the ~~[State Board of Education]~~ state board, may use up to \$200,000 of the money appropriated for charter school start-up costs for a mentoring program for new and existing charter schools.

(2) The amount of a grant for charter school start-up costs shall be based on the authorized enrollment of the charter school.

(3) The ~~[State Board of Education]~~ state board shall make rules consistent with this section specifying:

(a) procedures for applying for and awarding grants for charter school start-up costs;

(b) permitted uses of grant money; and

(c) requirements for a charter school to submit the following to the State Charter School Board:

(i) a budget for the grant money; and

(ii) a final report on the expenditure of the grant money.

(4) The ~~[State Board of Education]~~ state board shall make rules establishing a mentoring program for new and existing charter schools.

Section 225. Section 53F-3-202 is amended to read:

53F-3-202. Capital Outlay Foundation Program created -- Distribution formulas -- Allocations.

(1) As used in this section:

(a) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by the base tax effort rate, including the following:

(i) the revenue generated locally from a school district's combined capital levy rate; and

(ii) the revenue allocated to a school district by the ~~[State Board of Education]~~ state board in accordance with Section 53F-3-202.

(b) "Qualifying school district" means a school district with a property tax yield per ADM less than the foundation guarantee level per ADM.

(c) "Small school district" means a school district that has fewer than 1,000 pupils in average daily membership.

(2) There is created the Capital Outlay Foundation Program to provide capital outlay funding to a school district based on a district's local property tax effort and property tax yield per student compared to a foundation guarantee funding level.

(3) (a) The ~~[State Board of Education]~~ state board shall determine the foundation guarantee level per ADM that fully allocates the funds appropriated to the ~~[State Board of Education]~~ state board for distribution under this section.

(b) In determining the foundation guarantee level per ADM and a school district's allocation of funds under this section, the ~~[State Board of Education]~~ state board shall use data from the fiscal year that is two years prior to the fiscal year the school district receives the allocation, including the:

(i) number of pupils in average daily membership;

(ii) tax rates; and

(iii) derived net taxable value.

(4) By June 1, a county treasurer shall report to the ~~[State Board of Education]~~ state board the actual collections of property taxes in the school districts located within the county treasurer's

county for the period beginning April 1 through the following March 31 immediately preceding that June 1.

(5) If a qualifying school district imposes a combined capital levy rate that is greater than or equal to the base tax effort rate, the ~~[State Board of Education]~~ state board shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM; and

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM, as determined in accordance with Subsection (3); and

(ii) the qualifying school district's property tax yield per ADM.

(6) If a qualifying school district imposes a combined capital levy rate less than the base tax effort rate, the ~~[State Board of Education]~~ state board shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM;

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM; and

(ii) the qualifying school district's property tax yield per ADM; and

(c) a percentage equal to:

(i) the qualifying school district's combined capital levy rate; divided by

(ii) the base tax effort rate.

(7) (a) The ~~[State Board of Education]~~ state board shall allocate:

(i) a minimum of \$200,000 to each small school district with a property tax base per ADM less than or equal to the statewide average property tax base per ADM;

(ii) a minimum of \$100,000 to each small school district with a property tax base per ADM that is:

(A) greater than the statewide average property tax base per ADM; and

(B) less than or equal to two times the statewide average property tax base per ADM; and

(iii) a minimum of \$50,000 to each small school district with a property tax base per ADM that is:

(A) greater than two times the statewide average property tax base per ADM; and

(B) less than or equal to five times the statewide average property tax base per ADM.

(b) The ~~[State Board of Education]~~ state board shall incorporate the minimum allocations described in Subsection (7)(a) in its calculation of the foundation guarantee level per ADM determined in accordance with Subsection (3).

Section 226. Section 53F-3-203 is amended to read:

53F-3-203. Capital Outlay Enrollment Growth Program created -- Distribution formulas -- Allocations.

(1) As used in this section:

(a) "Average annual net enrollment increase" means the quotient of:

(i) (A) enrollment in the prior fiscal year, based on October 1 enrollment counts; minus

(B) enrollment in the year four years prior, based on October 1 enrollment counts; divided by

(ii) three.

(b) "Eligible district" or "eligible school district" means a school district that:

(i) has an average annual net enrollment increase; and

(ii) has a property tax base per ADM in the year two years prior that is less than two times the statewide average property tax base per ADM in the year two years prior.

(2) There is created the Capital Outlay Enrollment Growth Program to provide capital outlay funding to school districts experiencing net enrollment increases.

(3) For fiscal years beginning on or after July 1, 2008, the ~~[State Board of Education]~~ state board shall annually allocate appropriated funds to eligible school districts in accordance with Subsection (4).

(4) The ~~[State Board of Education]~~ state board shall allocate to an eligible school district an amount equal to the product of:

(a) the quotient of:

(i) the eligible school district's average annual net enrollment increase; divided by

(ii) the sum of the average annual net enrollment increase in all eligible school districts; and

(b) the total amount appropriated for the Capital Outlay Enrollment Growth Program in that fiscal year.

Section 227. Section 53F-4-201 is amended to read:

53F-4-201. State board required to contract for a diagnostic assessment system for reading.

(1) (a) As described in Section 53E-4-307, the ~~[State Board of Education]~~ state board shall approve a benchmark assessment for use statewide by school districts and charter schools.

(b) The ~~[State Board of Education]~~ state board shall contract with one or more educational technology providers, selected through a request for proposals process, for a diagnostic assessment system for reading for students in kindergarten through grade ~~[three]~~ 3 that meets the requirements of this section.

(2) Subject to legislative appropriations, a diagnostic assessment system for reading shall be made available to school districts and charter

schools that apply to use a diagnostic assessment for reading beginning in the 2011-12 school year.

(3) A diagnostic assessment system for reading for students in kindergarten through grade ~~[three]~~ 3 shall:

(a) be in a digital format;

(b) include benchmark assessments of reading proficiency to be administered at the beginning, in the middle, and at the end of kindergarten, grade ~~[one]~~ 1, grade ~~[two]~~ 2, and grade ~~[three]~~ 3;

(c) include formative assessments to be administered every two to four weeks for students who are at high risk of not attaining proficiency in reading;

(d) align with the language arts core standards for Utah public schools adopted by the ~~[State Board of Education]~~ state board; and

(e) include a data analysis component hosted by the provider that:

(i) has the capacity to generate electronic information immediately and produce individualized student progress reports, class summaries, and class groupings for instruction;

(ii) may have the capability of identifying lesson plans that may be used to develop reading skills;

(iii) enables teachers, administrators, and designated supervisors to access reports through a secured password system;

(iv) produces electronic printable reports for parents and administrators; and

(v) has the capability for principals to monitor usage by teachers.

Section 228. Section 53F-4-202 is amended to read:

53F-4-202. College readiness diagnostic tool.

(1) The state board shall contract with a provider, selected through a request for proposals process, to provide an online college readiness diagnostic tool that is aligned with the college readiness assessment described in Section 53E-4-305.

(2) An online test preparation program described in Subsection (1):

(a) (i) shall allow a student to independently access online materials and learn at the student's own pace; and

(ii) may be used to provide classroom and teacher-assisted instruction;

(b) shall provide online study materials, diagnostic exams, drills, and practice tests in an approach that is engaging to high school students;

(c) shall enable electronic reporting of student progress to administrators, teachers, parents, and other facilitators;

(d) shall record a student's progress in an online dashboard that provides diagnostic assessment of

the content areas tested and identifies mastery of corresponding skill sets; and

(e) shall provide training and professional development to personnel in school districts and charter schools on how to utilize the online test preparation program and provide teacher-assisted instruction to students.

(3) The state board, school districts, and charter schools shall make the online test preparation program available to a student:

- (a) beginning in the 2013-14 school year; and
- (b) for at least one full year.

Section 229. Section 53F-4-203 is amended to read:

53F-4-203. Early interactive reading software -- Independent evaluator.

(1) (a) Subject to legislative appropriations, the [State Board of Education] state board shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the [State Board of Education] state board shall distribute licenses for early interactive reading software described in Subsection (1)(a) to the school districts and charter schools of [local education] LEA governing boards that apply for the licenses.

(c) Except as provided in state board rule, a school district or charter school that received a license described in Subsection (1)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (1)(c) shall be distributed through a competitive process.

(2) A public school that receives a license described in Subsection (1)(b) shall use the license:

- (a) for a student in kindergarten or grade 1:
 - (i) for intervention for the student if the student is reading below grade level; or
 - (ii) for advancement beyond grade level for the student if the student is reading at or above grade level; and
- (b) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level.

(3) (a) On or before August 1 of each year, the [State Board of Education] state board shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The [State Board of Education] state board shall ensure that a contract with an independent evaluator requires the independent evaluator to:

- (i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);
- (ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and
- (iii) determine the extent to which a public school uses the early interactive reading software.

(c) The [State Board of Education] state board and the independent evaluator selected under Subsection (3)(a) shall report annually on the results of the evaluation to the Education Interim Committee and the governor.

(4) The [State Board of Education] state board may use up to 4% of the appropriation provided under Subsection (1)(a) to:

- (a) acquire an analytical software program that:
 - (i) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and
 - (ii) analyzes the information gathered under Subsection (4)(a)(i) to prescribe individual school usage time to maximize the beneficial impact on student performance; or
- (b) contract with an independent evaluator selected under Subsection (3)(a).

Section 230. Section 53F-4-204 is amended to read:

53F-4-204. Student intervention early warning pilot program.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Digital program" means a program that provides information for student early intervention as described in this section.

~~[(c) "Local education agency" or "LEA" means:]~~

~~[(i) a district school;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

~~[(d)]~~ (b) "Online data reporting tool" means a system described in Section 53E-4-311.

(2) (a) The state board shall, subject to legislative appropriations:

- (i) enhance the online data reporting tool and provide additional formative actionable data on student outcomes subject to Subsection (2)(c); and
- (ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) The contract described in Subsection (2)(a)(ii) shall be for a two-year pilot program.

(c) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered-intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the state board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board; and

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b).

(5) Subject to legislative appropriations, the online data reporting tool and the digital program shall:

(a) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(b) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents [~~or guardians~~];

(c) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(d) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;

(e) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(f) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(g) have the ability to generate student parent [~~or guardian~~] communication to alert the parent [~~or guardian~~] of academic plans or interventions; and

(h) configure alerts based upon student academic results, including a student's performance on the previous year standards assessment described in Section 53E-4-303.

(6) (a) The state board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall pay for 50% of the cost of the digital program.

(c) An LEA that receives access to a digital program shall no later than one school year after accessing a digital program report to the state board in a format required by the state board on the effectiveness of the digital program, positive and

negative attributes of the digital program, recommendations for improving the online data reporting tool, and any other information regarding a digital program requested by the state board.

(d) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(7) Information described in this section shall be used in accordance with and provided subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 231. Section 53F-4-205 is amended to read:

53F-4-205. Kindergarten supplemental enrichment program.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Eligible school" means a charter or school district school in which:

(i) at least 10% of the students experience intergenerational poverty; or

(ii) 50% of students were eligible to receive free or reduced lunch in the previous school year.

~~[(c)]~~ (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

~~[(d)]~~ (c) "Kindergarten supplemental enrichment program" means a program to improve the academic competency of kindergarten students that:

(i) meets the criteria described in Subsection (4);

(ii) receives funding from a grant program described in Subsection (3); and

(iii) is administered by an eligible school.

(2) (a) In accordance with this section, the state board shall distribute funds appropriated under this section to support kindergarten supplemental enrichment programs, giving priority first to awarding funds to an eligible school with at least 10% of the students experiencing intergenerational poverty and second priority to an eligible school in which 50% of students were eligible to receive free or reduced lunch in the previous school year.

(b) The state board shall develop kindergarten entry and exit assessments for use by a kindergarten supplemental enrichment program.

(3) (a) The state board shall administer a qualifying grant program as described in this Subsection (3) to distribute funds described in Subsection (2)(a) to an eligible school:

(i) that applies for a grant;

(ii) that offers a kindergarten supplemental enrichment program that meets the requirements described in Subsection (4);

(iii) that has an overall need for a kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection (4)(b)(ii);

(iv) if the eligible school has previously established a kindergarten supplemental enrichment program under this section, that shows success of the eligible school's kindergarten supplemental enrichment program, based on the results of the eligible school's kindergarten entry and exit assessments described in Subsection (4)(b)(ii); and

(v) that proposes a kindergarten supplemental enrichment program that addresses the particular needs of students at risk of experiencing intergenerational poverty.

(b) An eligible school shall include in a grant application a letter from the principal of the eligible school certifying that the eligible school's proposed kindergarten supplemental enrichment program will meet the needs of either children in intergenerational poverty or children who are eligible to receive free or reduced lunch as appropriate for the eligible school.

(4) An eligible school that receives a grant as described in Subsection (3) shall:

(a) use the grant money to offer a kindergarten supplemental enrichment program to:

(i) target kindergarten students at risk for not meeting grade 3 core standards for Utah public schools, established by the state board under Section 53E-4-202, by the end of each student's grade 3 year;

(ii) use an evidence-based early intervention model;

(iii) focus on academically improving age-appropriate literacy and numeracy skills;

(iv) emphasize the use of live instruction;

(v) administer the kindergarten entry and exit assessments described in Subsection (2)(b); and

(vi) deliver the kindergarten supplemental enrichment program through additional hours or other means; and

(b) report to the state board annually regarding:

(i) how the eligible school used grant money received under Subsection (3);

(ii) the results of the eligible school's kindergarten entry and exit assessments for the prior year;

(iii) with assistance from state board employees, the number of students served, including the number of students who are eligible for free or reduced lunch; and

(iv) with assistance from state board employees, student performance outcomes achieved by the eligible school's kindergarten supplemental enrichment program, disaggregated by economic and ethnic subgroups.

(5) An eligible school that receives a grant as described in Subsection (3) may not receive funds appropriated under Section 53F-2-507.

(6) A parent ~~[or legal guardian]~~ may decline participation of the ~~[parent or legal guardian's]~~ parent's kindergarten student in an eligible school's kindergarten supplemental enrichment program.

~~[(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(7) The state board shall make rules to establish reporting procedures and administer this section.

Section 232. Section 53F-4-206 is amended to read:

53F-4-206. Computer program for students with autism and other special needs.

~~[(1) As used in this section, "board" means the State Board of Education.]~~

~~[(2)]~~ (1) To improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2, the state board shall contract with a provider, selected through a request for proposals process, to provide computer software programs and activity manuals.

~~[(3)]~~ (2) In evaluating proposals submitted under Subsection ~~[(2)]~~ (1), the state board shall:

(a) ensure that the state board's evaluation criteria weighs heavily the proposer's ability and experience to provide computer software programs and activity manuals to improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2;

(b) consider, in evaluating the proposer's ability and experience, any quantitative and evaluative results from field testing, state tests, and other standardized achievement tests;

(c) ensure that the state board's evaluation criteria weighs heavily the proposer's ability to:

(i) collect data from each computer using the computer software, regardless of where the computer is located;

(ii) provide students access to the proposer's program from any computer with internet access;

(iii) enable reporting of student progress to administrators, teachers, parents, and other facilitators; and

(iv) record a student's progress in the computer software; and

(d) consider the extent to which the computer software program uses engaging animation to teach students.

~~[(4)]~~ (3) The state board shall provide the computer software programs and activity manuals procured under this section to school districts and charter schools that demonstrate a commitment by the school principal and staff to implement the computer software programs and activity manuals as prescribed by the provider.

Section 233. Section 53F-4-301 is amended to read:

53F-4-301. Definitions.

As used in this part:

(1) "Assessment team" means a team consisting of:

(a) the student's parent ~~[or guardian]~~;

(b) the student's private school classroom teacher;

(c) special education personnel from the student's school district; and

(d) if available, special education personnel from the private school at which the student is enrolled.

~~[(2) "Board" means the State Board of Education.]~~

~~[(3)]~~ (2) "Eligible private school" means a private school that meets the requirements of Section 53F-4-303.

~~[(4) "Individualized Education Program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.]~~

~~[(5)]~~ (3) "Local Education Agency" or "LEA" means:

(a) a school district; or

(b) a charter school.

~~[(6)]~~ (4) "Preschool" means an education program for a student who:

(a) is age three, four, or five; and

(b) has not entered kindergarten.

~~[(7)]~~ (5) "Scholarship student" means a student who receives a scholarship under this part.

~~[(8)]~~ (6) "Value of the weighted pupil unit" means the amount established each year in statute that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 234. Section 53F-4-302 is amended to read:

53F-4-302. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent ~~[or legal guardian]~~ shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

(i) an intellectual disability;

(ii) deafness or being hard of hearing;

(iii) a speech or language impairment;

- (iv) a visual impairment;
 - (v) a serious emotional disturbance;
 - (vi) an orthopedic impairment;
 - (vii) autism;
 - (viii) traumatic brain injury;
 - (ix) other health impairment;
 - (x) specific learning disabilities;
 - (xi) deafblindness; or
 - (xii) a developmental delay, provided the student is at least three years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;
- (c) the student shall be at least three years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and
- (d) except as provided in Subsection (3), the student shall:
- (i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;
 - (ii) have an IEP; and
 - (iii) have obtained acceptance for admission to an eligible private school.
- (3) The requirements of Subsection (2)(d) do not apply in the following circumstances:
- (a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and
 - (b) an assessment team is able to readily determine with reasonable certainty:
 - (i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and
 - (ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.
- (4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.
- (b) The state board may waive the full-year scholarship deadline described in Subsection (4)(a).
- (c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:

“I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time.”

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) Except as provided in Subsection (6)(b), a scholarship shall remain in force for the lesser of:

(i) three years; or

(ii) until the student is determined ineligible for special education services.

(b) If a student is determined ineligible for special education services as described in Subsection (6)(a)(ii) before the end of a school year, the student may remain enrolled at the private school and qualifies for the scholarship until the end of the school year.

(c) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(d) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(e) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (c):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student:

(a) may participate in the Statewide Online Education Program described in Part 5, Statewide Online Education Program; and

(b) may not participate in a dual enrollment program pursuant to Section 53G-6-702.

(9) The parents [~~or guardians~~] of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) An LEA shall notify in writing the parents [~~or guardians~~] of students enrolled in the LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the state board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) An LEA or school within an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the state board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.

Section 235. Section 53F-4-303 is amended to read:

53F-4-303. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement, as adopted by the state board; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum that the student will be participating in;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53F-4-302(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under

Title 53E, Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another eligible private school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the state board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the state board and demonstrate that it continues to meet the eligibility requirements of this section.

Section 236. Section 53F-4-304 is amended to read:

53F-4-304. Scholarship payments.

(1) (a) The state board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the state board from the General Fund to make scholarship payments.

(c) The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the state board shall allocate scholarships on a random basis except that the state board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, the state board may not award new scholarships during that school year and the state board shall prorate money available for scholarships among the eligible students who received scholarships in the previous year.

(2) Except as provided in Subsection (4), the state board shall award full-year scholarships in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the state board in accordance with the procedures described in rules adopted by the state board [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

(5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account to be available to support the costs of another scholarship.

(6) (a) The state board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the state board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The state board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

(7) (a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

(8) (a) Except as provided in Subsection (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the state board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with state board rule, the state board may make a scholarship payment before the

first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(9) A parent of a scholarship student shall notify the state board if the student does not have continuing enrollment and attendance at an eligible private school.

(10) Before scholarship payments are made, the state board shall cross-check enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

Section 237. Section 53F-4-305 is amended to read:

53F-4-305. State board to make rules.

~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~ The state board shall make rules consistent with this part establishing:

(1) the eligibility of students to participate in the scholarship program;

(2) the application process for the scholarship program; and

(3) payment procedures to eligible private schools.

Section 238. Section 53F-4-306 is amended to read:

53F-4-306. Enforcement and penalties.

(1) (a) The state board shall require a private school to submit a signed affidavit assuring the private school will comply with the requirements of this part.

(b) If a school fails to submit a signed affidavit within 30 days of receiving notification that the school is an approved private school to receive the Carson Smith Scholarship, the state board may:

(i) deny the private school permission to enroll scholarship students; and

(ii) interrupt disbursement of or withhold scholarship payments.

(2) The state board may investigate complaints and convene administrative hearings for an alleged violation of this part.

(3) Upon a finding that this part was violated, the state board may:

(a) deny a private school permission to enroll scholarship students;

(b) interrupt disbursement of or withhold scholarship payments; or

(c) issue an order for repayment of scholarship payments fraudulently obtained.

Section 239. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) “Contractor” means the educational technology provider selected by the ~~[State Board of Education]~~ state board under Section 53F-4-402.

(2) “Low income” means an income below 185% of the federal poverty guideline.

(3) “Preschool children” means children who are:

- (a) age four or five; and
- (b) have not entered kindergarten.

(4) “UPSTART” means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 240. Section 53F-4-402 is amended to read:

53F-4-402. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) (a) The ~~[State Board of Education]~~ state board shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(b) (i) The ~~[State Board of Education]~~ state board may, on or before July 1, 2019, issue a request for proposals for two-year pilot proposals from, and enter into a contract with, one or more educational technology providers that do not have an existing contract under this part with the state for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(ii) If the ~~[State Board of Education]~~ state board enters into a contract for a two-year pilot as described in Subsection (3)(b)(i), the ~~[State Board of Education]~~ state board may enter into a contract with one or more educational technology providers that have participated in a Utah pilot.

(c) Every five years after July 1, 2021, the ~~[State Board of Education]~~ state board may issue a new request for proposals described in this section.

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

- (i) communicating with parents;
- (ii) updating the instructional software;
- (iii) validating user access;
- (iv) collecting usage data;
- (v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

- (i) computer-assisted, individualized instruction in reading, mathematics, and science;
- (ii) a multisensory reading tutoring program; and
- (iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section 53F-4-403;

(g) the contractor shall solicit families to participate in the program as provided in Section 53F-4-404; and

(h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

- (i) soliciting families to participate in the program;
- (ii) providing training to families; and
- (iii) motivating families to regularly use the instructional software.

(5) (a) The contract shall provide funding for a home-based educational technology program for

preschool children, subject to the appropriation of money by the Legislature for UPSTART.

(b) An appropriation for a request for proposals described in Subsection (3)(b)(i) shall be separate from an appropriation described in Subsection (5)(a).

(6) The ~~[State Board of Education]~~ state board shall evaluate a proposal based on:

(a) whether the home-based educational technology program meets the standards specified in Subsection (4);

(b) the results of an independent evaluation of the home-based educational technology program;

(c) the experience of the home-based educational technology program provider; and

(d) the per pupil cost of the home-based educational technology program.

Section 241. Section 53F-4-404 is amended to read:

53F-4-404. Family participation in UPSTART -- Low income family verification.

(1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the ~~[State Board of Education]~~ state board to solicit participation from families of children experiencing intergenerational poverty, as defined in Section 35A-9-102, to participate in UPSTART.

(2) (a) Preschool children who participate in UPSTART shall:

(i) be from families with diverse socioeconomic and ethnic backgrounds;

(ii) reside in different regions of the state in both urban and rural areas; and

(iii) be given preference to participate if the preschool child's family resides in a rural area with limited prekindergarten services.

(b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.

(ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.

(3) A low income family that cannot afford a computer and Internet service to operate the instructional software may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the family's participation in UPSTART.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the ~~[State Board of Education]~~ state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The ~~[State Board of Education]~~ state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

(5) (a) The contractor shall:

(i) determine if a family is a low income family for purposes of this part; and

(ii) use the same application form as described in Section 35A-9-401 or create an application form that requires an individual to provide and certify the information necessary for the contractor to make the determination described in Subsection (5)(a)(i).

(b) The contractor may:

(i) require an individual to submit supporting documentation; and

(ii) create a deadline for an individual to submit an application, if necessary.

Section 242. Section 53F-4-405 is amended to read:

53F-4-405. Purchase of equipment and service through cooperative purchasing contracts.

The ~~[State Board of Education]~~ state board or a school district may purchase computers, peripheral equipment, and Internet service for low income families who cannot afford them through cooperative purchasing contracts administered by the state Division of Purchasing and General Services.

Section 243. Section 53F-4-406 is amended to read:

53F-4-406. Audit and evaluation.

(1) The state auditor shall:

(a) conduct an annual audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an annual audit.

(2) The ~~[State Board of Education]~~ state board shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% may be used for the evaluation of the program.

Section 244. Section 53F-4-407 is amended to read:

53F-4-407. Annual report.

(1) The ~~[State Board of Education]~~ state board shall make a report on UPSTART to the Education Interim Committee by November 30 each year.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53F-4-402; and

(b) include the following information:

(i) the number of families:

(A) volunteering to participate in the program;

(B) selected to participate in the program;

(C) requesting computers; and

(D) furnished computers;

(ii) the frequency of use of the instructional software;

(iii) obstacles encountered with software usage, hardware, or providing technical assistance to families;

(iv) student performance on pre-kindergarten and post-kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and

(v) as available, the evaluation of the program conducted pursuant to Section 53F-4-406.

Section 245. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

~~[(1) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(2)]~~ (1) "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

(b) beginning on July 1, 2013, a student:

(i) who attends a private school or home school; and

(ii) whose custodial parent ~~[or legal guardian]~~ is a resident of Utah.

~~[(3) "LEA" means a local education agency in Utah that has administrative control and direction for public education.]~~

~~[(4)]~~ (2) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

~~[(5)]~~ (3) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

~~[(6)]~~ (4) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

~~[(7)]~~ (5) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent ~~[or guardian]~~ pursuant to rules of the ~~[State Board of Education]~~ state board.

Section 246. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to the course limitations provided in Subsection (2), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's ~~[individual education plan (IEP)]~~ IEP, if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) An eligible student may enroll in online courses for no more than the following number of credits:

(a) in the 2011-12 and 2012-13 school years, two credits;

(b) in the 2013-14 school year, three credits;

(c) in the 2014-15 school year, four credits;

(d) in the 2015-16 school year, five credits; and

(e) beginning with the 2016-17 school year, six credits.

(3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the ~~[State Board of Education]~~ state board may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent [or legal guardian], is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section [53F-2-304] 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

(5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or online course provider.

(6) The [State Board of Education] state board, including an employee of the [State Board of Education] state board, may not give preference to an online course or online course provider.

(7) (a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

Section 247. Section 53F-4-504 is amended to read:

53F-4-504. Authorized online course providers.

The following entities may offer online courses to eligible students through the Statewide Online Education Program:

(1) a charter school or district school created exclusively for the purpose of serving students online;

(2) an LEA program, approved by the [LEA's] LEA governing board, that is created exclusively for the purpose of serving students online; and

(3) a program of an institution of higher education listed in Section 53B-2-101 that:

(a) offers secondary school level courses; and

(b) is created exclusively for the purpose of serving students online.

Section 248. Section 53F-4-507 is amended to read:

53F-4-507. State board to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students.

(1) For a fiscal year that begins on or after July 1, 2018, and subject to future budget constraints, the Legislature shall adjust the appropriation for the Statewide Online Education Program based on:

(a) the anticipated increase of eligible home school and private school students enrolled in the Statewide Online Education Program; and

(b) the value of the weighted pupil unit.

(2) (a) The [State Board of Education] state board shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection (2) in the amount and at the time an online course provider qualifies to receive payment for an online course as provided in Subsection 53F-4-505(4).

(3) From money deducted under Subsection (2), the [State Board of Education] state board shall make payments to the student's online course provider as provided in Section 53F-4-505.

(4) The Legislature shall establish a plan, which shall take effect beginning on July 1, 2013, for the payment of online courses taken by a private school or home school student.

Section 249. Section 53F-4-508 is amended to read:

53F-4-508. Course credit acknowledgment.

(1) A student's primary LEA of enrollment and the student's online course provider shall enter into a course credit acknowledgment in which the primary LEA of enrollment and the online course provider acknowledge that the online course provider is responsible for the instruction of the student in a specified online course.

(2) The terms of the course credit acknowledgment shall provide that:

(a) the online course provider shall receive a payment in the amount provided under Section 53F-4-505; and

(b) the student's primary LEA of enrollment acknowledges that the [State Board of Education] state board will deduct funds allocated to the LEA under Chapter 2, State Funding -- Minimum School Program, in the amount and at the time the online course provider qualifies to receive payment for the online course as provided in Subsection 53F-4-505(4).

(3) (a) A course credit acknowledgment may originate with either an online course provider or primary LEA of enrollment.

(b) The originating entity shall submit the course credit acknowledgment to the [State Board of

Education] state board who shall forward it to the primary LEA of enrollment for course selection verification or the online course provider for acceptance.

(c) (i) A primary LEA of enrollment may only reject a course credit acknowledgment if:

(A) the online course is not aligned with the student's plan for college and career readiness;

(B) the online course is not consistent with the student's IEP, if the student has an IEP;

(C) the online course is not consistent with the student's international baccalaureate program, if the student participates in an international baccalaureate program; or

(D) the number of online course credits exceeds the maximum allowed for the year as provided in Section 53F-4-503.

(ii) Verification of alignment of an online course with a student's plan for college and career readiness does not require a meeting with the student.

(d) An online course provider may only reject a course credit acknowledgment if:

(i) the student does not meet course prerequisites; or

(ii) the course is not open for enrollment.

(e) A primary LEA of enrollment or online course provider shall submit an acceptance or rejection of a course credit acknowledgment to the [State Board of Education] state board within 72 business hours of the receipt of a course credit acknowledgment from the [State Board of Education] state board pursuant to Subsection (3)(b).

(f) If an online course provider accepts a course credit acknowledgment, the online course provider shall forward to the primary LEA of enrollment the online course start date as established under Section 53F-4-506.

(g) If an online course provider rejects a course credit acknowledgment, the online course provider shall include an explanation which the [State Board of Education] state board shall forward to the primary LEA of enrollment for the purpose of assisting a student with future online course selection.

(h) If a primary LEA of enrollment does not submit an acceptance or rejection of a course credit acknowledgment to the [State Board of Education] state board within 72 business hours of the receipt of a course credit acknowledgment from the [State Board of Education] state board pursuant to Subsection (3)(b), the [State Board of Education] state board shall consider the course credit acknowledgment accepted.

(i) (i) Upon acceptance of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the acceptance and the start date for the online course as established under Section 53F-4-506.

(ii) Upon rejection of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the rejection and provide an explanation of the rejection.

(j) If the online course student has an individual education plan (IEP) or 504 accommodations, the primary LEA of enrollment shall forward the IEP or description of 504 accommodations to the online course provider within 72 business hours after the primary LEA of enrollment receives notice that the online course provider accepted the course credit acknowledgment.

(4) (a) A primary LEA of enrollment may not reject a course credit acknowledgment, because the LEA is negotiating, or intends to negotiate, an online course fee with the online course provider pursuant to Subsection 53F-4-505(6).

(b) If a primary LEA of enrollment negotiates an online course fee with an online course provider before the start date of an online course, a course credit acknowledgment may be amended to reflect the negotiated online course fee.

Section 250. Section 53F-4-510 is amended to read:

53F-4-510. Administration of statewide assessments to students enrolled in online courses.

(1) A student enrolled in an online course that is a course for which a statewide assessment is administered under Title 53E, Chapter 4, Part 3, Assessments, shall take the statewide assessment.

(2) (a) The [State Board of Education] state board shall make rules providing for the administration of a statewide assessment to a student enrolled in an online course.

(b) Rules made under Subsection (2)(a) shall:

(i) provide for the administration of a statewide assessment upon a student completing an online course; and

(ii) require an online course provider to proctor the statewide assessment.

Section 251. Section 53F-4-511 is amended to read:

53F-4-511. Report on performance of online course providers.

(1) The [State Board of Education] state board, in collaboration with online course providers, shall develop a report on the performance of online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an online course provider.

(2) A report on the performance of an online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the online course provider's students who complete online courses within the

applicable time period specified in Subsection 53F-4-505(4)(c);

(c) the percentage of the online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(d) the pupil-teacher ratio for the combined online courses of the online course provider.

(3) The ~~[State Board of Education]~~ state board shall post a report on the performance of an online course provider on the Statewide Online Education Program's website.

Section 252. Section 53F-4-512 is amended to read:

53F-4-512. Dissemination of information on the Statewide Online Education Program.

(1) The ~~[State Board of Education]~~ state board shall develop a website for the Statewide Online Education Program which shall include:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a directory of online course providers;

(d) a link to a course catalog for each online course provider; and

(e) a report on the performance of online course providers as required by Section 53F-4-511.

(2) An online course provider shall provide the following information on the online course provider's website:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a course catalog;

(d) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(e) the percentage of an online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(f) the percentage of an online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(g) the online learning provider's pupil-teacher ratio for the online courses combined.

Section 253. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking.

The ~~[State Board of Education]~~ state board shall make rules in accordance with this part ~~[and Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ that:

(1) establish a course credit acknowledgement form and procedures for completing and submitting to the ~~[State Board of Education]~~ state board a course credit acknowledgement; and

(2) establish procedures for the administration of a statewide assessment to a student enrolled in an online course.

Section 254. Section 53F-4-516 is amended to read:

53F-4-516. Report of noncompliance -- Action to ensure compliance.

(1) The state superintendent shall report to the ~~[State Board of Education]~~ state board any report of noncompliance of this part made to a member of the staff of the ~~[State Board of Education]~~ state board.

(2) The ~~[State Board of Education]~~ state board shall take appropriate action to ensure compliance with this part.

Section 255. Section 53F-5-201 is amended to read:

53F-5-201. Grants for online delivery of statewide assessments.

(1) As used in this section:

(a) "Adaptive tests" means tests administered during the school year using an online adaptive test system.

(b) "Core standards for Utah public schools" means the standards established by the ~~[State Board of Education]~~ state board as described in Section 53E-4-202.

(c) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.

(d) "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.

(e) "Uniform online summative test system" means a single system for the online delivery of summative tests required as statewide assessments that:

(i) is coordinated by the ~~[State Board of Education]~~ state board;

(ii) ensures the reliability and security of statewide assessments; and

(iii) is selected through collaboration between the ~~[State Board of Education]~~ state board and school district representatives with expertise in technology, assessment, and administration.

(2) The ~~[State Board of Education]~~ state board may award grants to school districts and charter schools to implement:

(a) a uniform online summative test system to enable school staff and parents of students to review statewide assessment scores by the end of the school year; or

(b) an online adaptive test system to enable parents of students and school staff to measure and monitor a student's academic progress during a school year.

(3) (a) Grant money may be used to pay for any of the following, provided it is directly related to implementing a uniform online summative test system, an online adaptive test system, or both:

(i) computer equipment and peripherals, including electronic data capture devices designed for electronic test administration and scoring;

(ii) software;

(iii) networking equipment;

(iv) upgrades of existing equipment or software;

(v) upgrades of existing physical plant facilities;

(vi) personnel to provide technical support or coordination and management; and

(vii) teacher professional development.

(b) Equipment purchased in compliance with Subsection (3)(a), when not in use for the online delivery of summative tests or adaptive tests required as statewide assessments, may be used for other purposes.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(4) The state board shall make rules:

(a) establishing procedures for applying for and awarding grants;

(b) specifying how grant money is allocated among school districts and charter schools;

(c) requiring reporting of grant money expenditures and evidence showing that the grant money has been used to implement a uniform online summative test system, an online adaptive test system, or both;

(d) establishing technology standards for an online adaptive testing system;

(e) requiring a school district or charter school that receives a grant under this section to implement, in compliance with Title 53E, Chapter 9, Student Privacy and Data Protection, an online adaptive test system by the 2014-15 school year that:

(i) meets the technology standards established under Subsection (4)(d); and

(ii) is aligned with the core standards for Utah public schools;

(f) requiring a school district or charter school to provide matching funds to implement a uniform online summative test system, an online adaptive

test system, or both in an amount that is greater than or equal to the amount of a grant received under this section; and

(g) ensuring that student identifiable data is not released to any person, except as provided by Title 53E, Chapter 9, Student Privacy and Data Protection, and rules of the ~~[State Board of Education]~~ state board adopted under the authority of those parts.

(5) If a school district or charter school uses grant money for purposes other than those stated in Subsection (3), the school district or charter school is liable for reimbursing the ~~[State Board of Education]~~ state board in the amount of the grant money improperly used.

(6) A school district or charter school may not use federal funds to provide the matching funds required to receive a grant under this section.

(7) A school district may not impose a tax rate above the certified tax rate for the purpose of generating revenue to provide matching funds for a grant under this section.

Section 256. Section 53F-5-202 is amended to read:

53F-5-202. National Board certification reimbursement.

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section ~~[(i) "Eligible], "eligible educator" means an educator who:~~

~~[(A)] (i) holds a current National Board certification; and~~

~~[(B)] (ii) is employed as an educator by an LEA.~~

~~[(ii) "Local education agency" or "LEA" means:]~~

~~[(A) a school district;]~~

~~[(B) a charter school; or]~~

~~[(C) the Utah Schools for the Deaf and the Blind.]~~

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the state board shall reimburse an eligible educator for the cost to attain or renew a National Board certification.

(b) The state board may only issue a reimbursement under Subsection (2)(a) for a certification attained or renewed after July 1, 2016.

(3) The state board shall reimburse an eligible educator under this section on a first come, first served basis.

(4) The state board shall make rules ~~[, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ specifying procedures and timelines for reimbursing costs under Subsection (2).

Section 257. Section 53F-5-203 is amended to read:

53F-5-203. Interventions for Reading Difficulties Pilot Program.

(1) As used in this section:

~~[(a) “Board” means the State Board of Education.]~~

~~[(b)] (a) “Dyslexia” means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.~~

~~[(c) “Local education agency” or “LEA” means:]~~

~~[(i) a school district;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

~~[(d)] (b) “Multi-Tier System of Supports” or “MTSS” means a framework integrating assessment and intervention that:~~

~~(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:~~

~~(A) tier II interventions that, in addition to standard classroom reading, provide supplemental and targeted small group instruction in reading using evidence-based curricula; and~~

~~(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and~~

~~(ii) is developed to:~~

~~(A) maximize student achievement;~~

~~(B) reduce behavior problems; and~~

~~(C) increase long-term success.~~

~~[(e)] (c) “Program” means the Interventions for Reading Difficulties Pilot Program.~~

~~[(f)] (d) “Reading difficulty” means an impairment, including dyslexia, that negatively affects a student’s ability to learn to read.~~

~~(2) There is created the Interventions for Reading Difficulties Pilot Program to provide:~~

~~(a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and~~

~~(b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).~~

~~(3) (a) An LEA may submit a proposal to the state board to participate in the program.~~

~~(b) An LEA proposal described in Subsection (3)(a) shall:~~

~~(i) specify:~~

~~(A) a range of current benchmark assessment in reading scores described in Section 53E-4-307 that the LEA will use to determine whether a student is at risk for a reading difficulty; and~~

~~(B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;~~

~~(ii) describe the LEA’s existing reading program;~~

~~(iii) describe the LEA’s MTSS approach; and~~

~~(iv) include any other information requested by the state board.~~

~~(c) The state board may:~~

~~(i) specify the format for an LEA proposal; and~~

~~(ii) set a deadline for an LEA to submit a proposal.~~

~~(4) The state board shall:~~

~~(a) define criteria for selecting an LEA to participate in the program;~~

~~(b) during fiscal year 2016, select five LEAs to participate in the program:~~

~~(i) on a competitive basis; and~~

~~(ii) using criteria described in Subsection (4)(a); and~~

~~(c) provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.~~

~~(5) During fiscal years 2017, 2018, and 2019, if funding allows, the state board may select additional LEAs to participate in the program.~~

~~(6) An LEA that participates in the program:~~

~~(a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and~~

~~(b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.~~

~~(7) An LEA that participates in the program shall:~~

~~(a) select at least one school in the LEA to participate in the program;~~

~~(b) identify students in kindergarten through grade 5 for participation in the program by:~~

~~(i) using current benchmark assessment in reading scores as described in Section 53E-4-307; and~~

~~(ii) considering other reading difficulty risk factors identified by the LEA;~~

~~(c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions;~~

~~(d) include the LEA’s proposal submitted under Subsection (3)(b) in the reading achievement plan~~

described in Section 53E-4-306 for each school in the LEA that participates in the program; and

(e) report annually to the state board on:

(i) individual student outcomes in changes in reading ability;

(ii) school level outcomes; and

(iii) any other information requested by the state board.

(8) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:

(a) to provide for ongoing professional development in evidence-based literacy interventions;

(b) to support educators in earning a reading interventionist credential that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:

(i) explicit;

(ii) systematic; and

(iii) targeted to a student's specific reading difficulty; and

(c) to implement the program.

(9) The state board shall contract with an independent evaluator to evaluate the program on:

(a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection (7)(c);

(b) whether the program may reduce future special education costs; and

(c) any other student or school achievement outcomes requested by the state board.

(10) (a) The state board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.

(b) In the final report described in Subsection (10)(a), the state board shall include the results of the evaluation described in Subsection (9).

Section 258. Section 53F-5-204 is amended to read:

53F-5-204. Initiative to strengthen college and career readiness.

(1) As used in this section:

(a) "College and career counseling" means:

(i) nurturing college and career aspirations;

(ii) assisting students in planning an academic program that connects to college and career goals;

(iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;

(iv) promoting participation in college and career assessments;

(v) providing financial aid information; and

(vi) increasing understanding about college admission processes.

(b) "LEA" or "local education agency" means a school district or charter school.

(2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students' college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.

(3) The [~~State Board of Education~~] state board shall:

(a) on or before August 1, 2015, collaborate with the State Board of Regents, and business, community, and education stakeholders to develop a certificate for school counselors that:

(i) certifies that a school counselor is highly skilled at providing college and career counseling; and

(ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the [~~State Board of Education~~] state board;

(b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment of course fees for courses required to earn the certificate developed by the [~~State Board of Education~~] state board under Subsection (3)(a); and

(c) [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] make rules specifying:

(i) procedures for applying for and awarding grants under this section;

(ii) criteria for awarding grants; and

(iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the [~~State Board of Education~~] state board under Subsection (3)(a).

(5) The [~~State Board of Education~~] state board shall report to the Education Interim Committee on the status of the Strengthening College and Career Readiness Program on or before:

(a) November 1, 2016; and

(b) November 1, 2017.

Section 259. Section 53F-5-205 is amended to read:

53F-5-205. Paraeducator to Teacher Scholarship Program -- Grants for math teacher training programs.

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section, “paraeducator” means a school employee who:

(i) delivers instruction under the direct supervision of a teacher; and

(ii) works in an area where there is a shortage of qualified teachers, such as special education, Title I, ESL, reading remediation, math, or science.

(2) The Paraeducator to Teacher Scholarship Program is created to award scholarships to paraeducators for education and training to become licensed teachers.

(3) The ~~[State Board of Education]~~ state board shall use money appropriated for the Paraeducator to Teacher Scholarship Program to award scholarships of up to \$5,000 to paraeducators employed by school districts and charter schools who are pursuing an associate’s degree or bachelor’s degree program to become a licensed teacher.

(4) A paraeducator is eligible to receive a scholarship if:

(a) the paraeducator is employed by a school district or charter school;

(b) is admitted to, or has made an application to, an associate’s degree program or bachelor’s degree program that will prepare the paraeducator for teacher licensure; and

(c) the principal at the school where the paraeducator is employed has nominated the paraeducator for a scholarship.

(5) (a) The ~~[State Board of Education]~~ state board shall establish a committee to select scholarship recipients from nominations submitted by school principals.

(b) The committee shall include representatives of the ~~[State Board of Education]~~ state board, State Board of Regents, and the general public, excluding school district and charter school employees.

(c) A member may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(d) The committee shall select scholarship recipients based on the following criteria:

(i) test scores, grades, or other evidence demonstrating the applicant’s ability to successfully complete a teacher education program; and

(ii) the applicant’s record of success as a paraeducator.

(6) The maximum scholarship amount is \$5,000.

(7) Scholarship money may only be used to pay for tuition costs:

(a) of:

(i) an associate’s degree program that fulfills credit requirements for the first two years of a bachelor’s degree program leading to teacher licensure; or

(ii) the first two years of a bachelor’s degree program leading to teacher licensure; and

(b) at a higher education institution:

(i) located in Utah; and

(ii) accredited by the Northwest Commission on Colleges and Universities.

(8) A scholarship recipient must be continuously employed as a paraeducator by a school district or charter school while pursuing a degree using scholarship money.

(9) The ~~[State Board of Education]~~ state board shall make rules in accordance with this section ~~[and Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ to administer the Paraeducator to Teacher Scholarship Program, including rules establishing:

(a) scholarship application procedures;

(b) the number of, and qualifications for, committee members who select scholarship recipients; and

(c) procedures for distributing scholarship money.

(10) If the state obtains matching funds of equal sums from private contributors, the state board may award grants to institutions of higher education or nonprofit educational organizations for programs that provide:

(a) mentoring and training leading to a secondary education license with a certificate in mathematics for an individual who:

(i) is not a teacher in a public or private school;

(ii) does not have a teaching license;

(iii) has a bachelor’s degree or higher; and

(iv) demonstrates a high level of mathematics competency by:

(A) successfully completing substantial course work in mathematics; and

(B) passing a mathematics content exam; or

(b) a stipend, professional development, and leadership opportunities to an experienced mathematics teacher who demonstrates high content knowledge and exemplary teaching and leadership skills to assist the teacher in becoming a teacher leader.

(11) (a) The state board shall make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ that establish criteria for awarding grants under this section.

(b) In awarding grants, the state board shall consider the amount or percent of matching funds provided by the grant recipient.

Section 260. Section 53F-5-207 is amended to read:

53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

~~[(c)]~~ (b) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(c) "LEA governing board" means a local school board or a charter school governing board.

(d) "Local ~~[Education Agency]~~ education agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the state board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The state board shall:

(a) solicit proposals from ~~[local education]~~ LEA governing boards to receive money under the program; and

(b) award grants to ~~[a local education]~~ an LEA governing board on behalf of an LEA based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the state board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program on behalf of an LEA, ~~[a local education]~~ an LEA governing board shall submit a proposal to the state board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The state board shall annually report to the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, by November 30 of each year, on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) The state board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

(c) An LEA that receives grant money pursuant to this section shall provide to the state board information that is necessary for the state board's report described in Subsection (7)(a).

Section 261. Section 53F-5-208 is amended to read:

53F-5-208. Reading Performance Improvement Scholarship Program.

(1) There is established a Reading Performance Improvement Scholarship Program to assist selected elementary teachers in obtaining a reading endorsement so that they may help improve the reading performance of students in their classes.

(2) The ~~[State Board of Education]~~ state board shall award scholarships of up to \$500 to each recipient under the program.

(3) The state board shall give weighted consideration to scholarship applicants who:

(a) teach in grades kindergarten through ~~[three]~~ 3;

(b) are designated by their schools as, or are seeking the designation of, reading specialist; and

(c) teach in a rural area of the state.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(4) The state board shall provide by rule for:

(a) the application procedure for the scholarship; and

(b) what constitutes a reading specialist at the elementary school level.

Section 262. Section 53F-5-209 is amended to read:

53F-5-209. Grants for school-based mental health supports.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)] (a) "Elementary school" means a school that includes any one or all of grades kindergarten through grade 6.~~

~~[(e)] (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.~~

~~[(d) "Local education agency" or "LEA" means a school district, charter school, or Utah Schools for the Deaf and the Blind.]~~

~~[(e)] (c) "Qualifying personnel" means a school counselor or school social worker who:~~

(i) is licensed by the state board; and

(ii) collaborates with educators and a student's family or guardian on:

(A) early identification and intervention of a student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for a student's academic achievement.

(2) Subject to legislative appropriations and Subsection (3), the state board shall award a grant to an LEA to provide targeted school-based mental health support in an elementary school, including trauma-informed care, through employment of qualifying personnel.

(3) In awarding a grant under this section, the state board shall give:

(a) first priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students exhibiting risk factors for childhood trauma; and

(b) second priority to an LEA that proposes to target funds to one or more elementary schools with a high percentage of students experiencing intergenerational poverty.

(4) To qualify for a grant, an LEA shall:

(a) submit an application to the state board that includes:

(i) measurable goals on improving student safety, student engagement, school culture, and academic achievement; and

(ii) how the LEA intends to meet goals submitted under Subsection (4)(a)(i) through the use of the grant funds; and

(b) provide local funds to match grant funds received under this section in an amount equal to one-half of the amount of the grant funds.

(5) An LEA may not replace federal, state, or local funds previously allocated to employ qualified personnel with funds distributed under this section.

~~[(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(6) The state board shall make rules specifying:

(a) procedures for applying for and awarding grants under this section, including:

(i) a definition of risk factors for childhood trauma;

(ii) the duration of a grant; and

(iii) a schedule for submission of matching grant funds; and

(b) annual reporting requirements for grantees in accordance with Subsection (7).

(7) An LEA that receives a grant under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (4)(a)(i); and

(b) if the LEA decides to discontinue the qualifying personnel position, the LEA's reason for discontinuing the position.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs educators on the impact of trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

Section 263. Section 53F-5-210 is amended to read:

53F-5-210. Educational Improvement Opportunities Outside of the Regular School Day Grant Program.

(1) As used in this section:

(a) "Applicant" means an LEA, private provider, nonprofit provider, or municipality that provides an existing program and applies for a grant under the provisions of this section.

~~[(b) "Board" means the State Board of Education.]~~

~~[(e)] (b) "Existing program" means a currently funded and operating program, as described in Subsections 53E-3-508(1)(a) and (b).~~

~~[(d)] (c) "Grant program" means the Educational Improvement Opportunities Outside of the Regular School Day Grant Program created in Subsection (2).~~

~~[(e)] (d) "Grantor" means:~~

(i) for an LEA that receives a grant under this section, the state board; or

(ii) for a private provider, nonprofit provider, or municipality that receives a grant under this section, the Department of Workforce Services.

[4f] (e) “Local education agency” or “LEA” means a school district or charter school.

(2) There is created the Educational Improvement Opportunities Outside of the Regular School Day Grant Program to provide grant funds for an existing program to improve and develop the existing program in accordance with the high quality standards described in Section 53E-3-508.

(3) Subject to legislative appropriation and in accordance with Subsection (7):

(a) the state board shall:

(i) solicit LEA applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5); and

(b) the Department of Workforce Services shall:

(i) solicit private provider, nonprofit provider, or municipality applications to receive a grant under this section; and

(ii) award a grant based on the criteria described in Subsection (5).

(4) To receive a grant under this section, an applicant shall submit a proposal to the grantor describing:

(a) how the applicant proposes to develop and improve the existing program to meet the standards described in Section 53E-3-508;

(b) information necessary for the state board to determine the impact of the applicant’s program on the academic performance of participating students;

(c) the total number of students the applicant proposes to serve through the existing program;

(d) the estimated percentage of the students described in Subsection (4)(c) who qualify for free or reduced lunch; and

(e) the estimated cost of the applicant’s existing program, per student.

(5) In awarding a grant under Subsection (3), the grantor shall consider:

(a) how an applicant’s existing program proposes to meet the standards described in Section 53E-3-508; and

(b) the percentage of students in that program who qualify for free and reduced lunch.

(6) An applicant that receives a grant under this section shall:

(a) use the grant to improve an existing program in accordance with the standards described in Section 53E-3-508; and

(b) annually report to the grantor:

(i) the number of students served by the existing program;

(ii) the academic outcomes that the program is expected to have on participating students;

(iii) program attendance rates of participating students; and

(iv) other information required by the grantor.

(7) (a) To receive a distribution of grant money under this section, an applicant shall identify and certify the availability of private matching funds in the amount of the grant to be distributed to the applicant.

(b) Neither the state board nor the Department of Workforce Services shall be expected to seek private matching funds for this grant program.

~~[(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(8) The state board shall make rules to administer this section that include:

(a) specific criteria to determine academic performance;

(b) application and reporting procedures; and

(c) criteria for an existing program to qualify for a grant under this section.

~~[(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(9) The Department of Workforce Services shall make rules to administer the grant program as described in Subsection (3)(b).

(10) In accordance with 34 C.F.R. Sec. 99.35, the state board shall designate the Department of Workforce Services as an authorized representative for the purpose of sharing student data and evaluating and reporting the impact and effectiveness of the grant program.

(11) The state board and the Department of Workforce Services may utilize up to 10% of the funds appropriated for administrative costs associated with the grant program and the report described in Subsection (12).

(12) The state board shall report to the Education Interim Committee before November 30, 2019, regarding:

(a) the grant program’s effect on the quality of existing programs that participate in the grant program; and

(b) the impact of the existing programs on the academic performance of participating students.

Section 264. Section 53F-5-211 is amended to read:

53F-5-211. Rural school transportation reimbursement.

(1) As used in this section:

(a) “Eligible school” means a district school or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501;

(ii) in which at least 65% of the students enrolled in the school qualify for free or reduced price lunch; and

(iii) that has provided transportation to and from the school for a regular school day for students for at least five years.

(b) [~~Local~~] “LEA governing board” means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) [~~A local~~] An LEA governing board may annually submit a request to the [~~State Board of Education~~] state board to receive reimbursement for an expense that:

(a) the [~~local~~] LEA governing board incurs transporting a student to or from an eligible school for the regular school day; and

(b) the [~~local~~] LEA governing board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the [~~State Board of Education~~] state board shall reimburse a local school board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the [~~State Board of Education~~] state board may reduce a local school board’s reimbursement in accordance with the rules described in Subsection (4).

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(4) The state board shall make rules that establish:

(a) requirements for information a local school board shall include in a reimbursement request described in Subsection (2);

(b) a deadline by which a local school board shall submit a request described in Subsection (2); and

(c) a formula for reducing a local school board’s allocation under Subsection (3).

(5) Nothing in this section affects a school district’s allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

Section 265. Section 53F-5-301 is amended to read:

53F-5-301. Definitions.

As used in this part:

~~[(1) “Board” means the State Board of Education.]~~

~~[(2)] (1) “Child Development Associate Credential” means a credential in early childhood education that is:~~

(a) based on a core set of competency standards; and

(b) nationally recognized.

~~[(3)] (2) “Department” means the Department of Workforce Services.~~

~~[(4)] (3) “Economically disadvantaged child” means a child who:~~

(a) is in a family that is eligible for assistance through TANF; or

(b) is eligible for free or reduced lunch.

~~[(5)] (4) “Eligible home-based technology provider” means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.~~

~~[(6)] (5) “Eligible private provider” means the same as that term is defined in Section 53F-6-301.~~

~~[(7)] (6) “Eligible student” means an individual who:~~

(a) will be four years of age on or before September 2 of the school year in which the individual intends to participate in a school readiness program;

(b) has not entered kindergarten; and

(c) (i) is experiencing intergenerational poverty, as determined by the department; or

(ii) (A) is an economically disadvantaged child; and

(B) is at risk for not meeting grade 3 core standards for Utah public schools, established by the [~~State Board of Education~~] state board under Section 53E-4-202, by the end of the individual’s grade 3 year, as determined by an assessment.

~~[(8)] (7) “High quality school readiness program” means a school readiness program that:~~

(a) is provided by an LEA, eligible private provider, or eligible home-based technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 53F-6-304 as determined by the state board or the department under Section 53F-5-303, 53F-5-304, or 53F-5-305.

~~[(9)] (8) “Intergenerational poverty” means the same as that term is defined in Section 35A-9-102.~~

~~[(10)] (9) “Intergenerational poverty scholarship” or “IGP scholarship” means a scholarship to attend a high quality school readiness program for an eligible student who is experiencing intergenerational poverty.~~

~~[(11)] (10) “Local education agency” or “LEA” means a:~~

(a) school district; or

(b) charter school.

~~[(12)] (11) “TANF” means Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.~~

Section 266. Section 53F-5-302 is amended to read:

53F-5-302. Administration of programs.

(1) The [~~State Board of Education~~] state board, in collaboration with the department, shall:

(a) administer the grant program described in Section 53F-5-303 for LEAs;

(b) administer the grant program for eligible home-based technology providers described in Section 53F-5-304; and

(c) oversee the evaluation described in Section 53F-5-307.

(2) The department, in collaboration with the state board, shall administer:

(a) the grant program described in Section 53F-5-303 for eligible private providers;

(b) the Intergenerational Poverty School Readiness Scholarship Program described in Section 53F-5-305; and

(c) early childhood teacher training described in Section 53F-5-306.

Section 267. Section 53F-5-303 is amended to read:

53F-5-303. Student Access to High Quality School Readiness Programs Grant Program -- Determination of high quality school readiness program-- Reporting requirement -- Fees.

(1) There is created the Student Access to High Quality School Readiness Programs Grant Program to expand access to high quality school readiness programs for eligible students through:

(a) grants for LEAs administered by the state board; and

(b) grants for eligible private providers administered by the department.

(2) The state board, in coordination with the department, shall develop a tool to determine whether a school readiness program is a high quality school readiness program.

(3) (a) The state board shall solicit proposals from LEAs to fund increases in the number of eligible students high quality school readiness programs can serve.

(b) The department shall solicit proposals from eligible private providers to fund increases in the number of eligible students high quality school readiness programs can serve.

(4) (a) Except as provided in Subsection (4)(c), a respondent shall submit a proposal that includes the information described in Subsection (4)(b):

(i) to the state board, for a respondent that is an LEA; or

(ii) to the department, for a respondent that is an eligible private provider.

(b) A respondent's proposal for the grant solicitation described in Subsection (3) shall include:

(i) the respondent's existing and proposed school readiness program, including:

(A) the number of students served by the respondent's school readiness program;

(B) the respondent's policies and procedures for admitting students into the school readiness program;

(C) the estimated cost per student; and

(D) any fees the respondent charges to a parent [~~or legal guardian~~] for the school readiness program;

(ii) the respondent's plan to use funding sources, in addition to a grant described in this section, including:

(A) federal funding; or

(B) private grants or donations;

(iii) existing or planned partnerships between the respondent and an LEA, eligible private provider, or eligible home-based technology provider to increase access to high quality school readiness programs for eligible students;

(iv) how the respondent would use a grant to:

(A) expand the number of eligible students served by the respondent's school readiness program; and

(B) target the funding toward the highest risk students, including addressing the particular needs of children at risk of experiencing intergenerational poverty;

(v) how the respondent's school readiness program is a high quality school readiness program; and

(vi) the results of any evaluations of the respondent's school readiness program.

(c) In addition to the requirements described in Subsection (4)(b), a respondent that is an LEA shall describe in the respondent's proposal the percentage of the respondent's kindergarten through grade 12 students who are economically disadvantaged children.

(5) (a) For each LEA proposal received in response to the solicitation described in Subsection (3)(a), the state board shall determine if the LEA school readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(b) For each eligible private provider proposal received in response to the solicitation described in Subsection (3)(b), the department shall determine if the school readiness program is a high quality school readiness program by:

(i) applying the tool described in Subsection (2); and

(ii) conducting at least one site visit to the program.

(6) (a) Subject to legislative appropriations and Subsection (6)(b), the state board shall award grants, on a competitive basis, to respondents that are LEAs.

(b) The state board may only award a grant to an LEA if:

(i) the LEA submits a proposal that includes the information required under Subsection (4);

(ii) the state board determines that the LEA's program is a high quality school readiness program as described in Subsection (5); and

(iii) the LEA agrees to the evaluation requirements described in Section 53F-5-307.

(7) (a) Subject to legislative appropriations and Subsection (7)(b), the department shall award grants, on a competitive basis, to respondents that are eligible private providers.

(b) The department may only award a grant to a respondent if:

(i) the respondent submits a proposal that includes the information required under Subsection (4);

(ii) the department determines that the respondent's school readiness program is a high quality school readiness program as described in Subsection (5); and

(iii) the respondent agrees to the evaluation requirements described in Section 53F-5-307.

(8) In evaluating a proposal received in response to the solicitation described in Subsection (3), the state board and the department shall consider:

(a) the number and percent of students in the respondent's high quality school readiness program that are eligible students at the highest risk;

(b) geographic diversity, including whether the respondent is urban or rural;

(c) the extent to which the respondent intends to participate in a partnership with an LEA, eligible private provider, or eligible home-based technology provider; and

(d) the respondent's level of administrative support and leadership to effectively implement, monitor, and evaluate the program.

(9) (a) The state board shall ensure that an LEA that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(b) The department shall ensure that a private provider that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.

(10) A respondent that receives a grant under this section shall:

(a) use the grant to expand access for eligible students to high quality school readiness programs by enrolling eligible students in a high quality school readiness program;

(b) report to the state board annually regarding:

(i) how the respondent used the grant awarded under Subsection (6) or (7);

(ii) participation in any partnerships between an LEA, eligible private provider, or eligible home-based technology provider; and

(iii) the results of any evaluations;

(c) allow classroom or other visits by an independent evaluator selected by the state board under Section 53F-5-307; and

(d) for a respondent that is an LEA, notify a parent [~~or legal guardian~~] who expresses interest in enrolling the [~~parent or legal guardian's~~] parent's child in the LEA's high quality school readiness program of each state-funded high quality school readiness program operating within the LEA's geographic boundaries.

(11) An LEA that receives a grant under this section may charge a student fee to participate in an LEA's school readiness program if:

(a) the LEA's local school board or charter school governing board approves the fee;

(b) the fee for a student does not exceed the actual cost of providing the high quality school readiness program to the student; and

(c) the fee structure for the program is designed on a sliding scale, based on household income.

(12) (a) The state board shall establish interventions for a grantee that is an LEA that fails to comply with the requirements described in this section.

(b) The department shall establish interventions for a grantee that is an eligible private provider that fails to comply with the requirements described in this section.

(c) An intervention under this Subsection (12) may include discontinuing or reducing funding.

(13) Subject to legislative appropriations, the state board and the department shall give first priority in awarding grants to a respondent that has previously received a grant under this section if the respondent:

(a) makes the annual report described in Subsection [~~(9)~~] (10)(b);

(b) participates in the annual evaluation described in Section 53F-5-307; and

(c) continues to offer a high quality school readiness program as determined during an annual site visit by:

(i) the state board, for an LEA; or

(ii) the department, for an eligible private provider.

~~[(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:]~~

~~[(a) the]~~

(14) (a) The state board shall make rules to:

(i) implement the tool described in Subsection (2); and

(ii) administer the grant program for LEAs described in this section~~;~~~~and~~.

(b) ~~[the]~~ The department shall make rules to administer the grant program for eligible private providers described in this section.

Section 268. Section 53F-5-304 is amended to read:

53F-5-304. Home-based technology high quality school readiness program.

(1) (a) The state board shall offer a home-based technology high quality school readiness program to eligible students by awarding contracts to one or more home-based technology providers, as described in this section.

(b) The state board shall solicit proposals from eligible home-based technology providers to provide high quality school readiness programs for eligible students to participate in:

(i) at home;

(ii) as part of a school readiness program offered by an LEA or private provider; or

(iii) in any other setting where Internet access is available, such as a library.

(c) The home-based technology high quality school readiness program described in this section is established in the public education system.

(2) An eligible home-based technology provider that responds to the solicitation described in Subsection (1) shall submit a proposal describing:

(a) how the home-based technology provider's school readiness program meets the elements of a high quality school readiness program described in ~~[Subsection]~~ Section 53F-6-304~~(2)~~;

(b) how the home-based technology provider intends to target the home-based technology provider's school readiness program to eligible students who are at the highest risk, as determined by the state board;

(c) the cost of the program per student;

(d) the cost of a statewide license;

(e) existing or planned partnerships between the home-based technology provider and an LEA or eligible private provider; and

(f) the results of all evaluations of the home-based technology provider's school readiness program.

(3) For each proposal received under Subsection (2), the state board shall:

(a) determine if the program is a high quality school readiness program using the tool described in Subsection 53F-5-303(2); and

(b) receive a demonstration of the home-based technology.

(4) (a) Subject to legislative appropriations, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall award contracts to one or more home-based technology providers to provide home-based school readiness programs.

(b) The state board may only award a contract to a home-based technology provider if the home-based technology provider:

(i) submits a proposal that includes the information described in Subsection (2);

(ii) offers a high quality school readiness program; and

(iii) agrees to the evaluation requirements described in Section 53F-5-307.

(5) In evaluating a proposal received under Subsection (2), the state board shall consider:

(a) the number and percent of eligible students that the respondent intends to serve;

(b) the extent to which the respondent intends to participate in a partnership with an LEA or eligible private provider;

(c) the extent to which the respondent is able to reach students who do not have access to other high quality school readiness programs; and

(d) the cost per student.

(6) A home-based technology provider that receives a contract under this section:

(a) shall use the funding to provide a high quality school readiness program to eligible students; and

(b) may use the funding for the installation of computer or Internet access in homes of eligible students whose families cannot afford the equipment or services.

(7) The state board shall ensure that a home-based technology provider that receives a grant under this section funded by TANF funds uses the grant to provide a home-based high quality school readiness program to eligible students who are eligible to receive TANF funded assistance.

~~[(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(8) The state board shall make rules to implement this section.

Section 269. Section 53F-5-305 is amended to read:

53F-5-305. Intergenerational Poverty School Readiness Scholarship Program.

(1) There is created the Intergenerational Poverty School Readiness Scholarship Program to provide an eligible student experiencing

intergenerational poverty access to a high quality school readiness program.

(2) The department shall, in accordance with Section 35A-9-401:

(a) determine if an individual is eligible for an IGP scholarship; and

(b) award an IGP scholarship.

(3) (a) (i) An LEA or home-based technology provider may apply to the state board to receive a designation as a high quality school readiness program.

(ii) The state board shall determine if an LEA or home-based technology provider offers a high quality school readiness program using the tool described in Subsection 53F-5-303(2).

(b) (i) An eligible private provider may apply to the department to receive a designation as a high quality school readiness program.

(ii) The department shall determine if an eligible private provider offers a high quality school readiness program using the tool described in Subsection 53F-5-303(2).

(4) (a) The department and the state board shall coordinate to assist a parent [~~or legal guardian~~] of a recipient of an IGP scholarship to enroll the IGP scholarship recipient in a high quality school readiness program:

(i) offered by an LEA, eligible private provider, or eligible home-based technology provider; and

(ii) of the [~~parent or legal guardian's~~] parent's choice.

(b) The department shall pay the scholarship amount directly to a high quality school readiness program in which an IGP scholarship recipient enrolls.

(5) (a) Except as provided in Subsection (5)(b), the department may not provide an individual's IGP scholarship to an LEA, eligible private provider, or eligible home-based technology provider unless the LEA, eligible private provider, or eligible home-based technology provider offers a high quality school readiness program, as determined by the state board or the department under Subsection (3).

(b) An LEA, eligible private provider, or eligible home-based technology provider that receives a determination as a high quality school readiness program under Section 53F-5-303 or 53F-5-305 may enroll an IGP scholarship recipient.

Section 270. Section 53F-5-307 is amended to read:

53F-5-307. Evaluation -- Reporting requirements.

(1) In accordance with this section, the state board, in coordination with the department, shall oversee the ongoing review and evaluation by an independent evaluator for each school year of:

(a) the Student Access to High Quality School Readiness Programs Grant Program described in Section 53F-5-303;

(b) the home-based technology high quality school readiness program described in Section 53F-5-304;

(c) the Intergenerational Poverty School Readiness Scholarship Program described in Section 53F-5-305; and

(d) early childhood teacher training described in Section 53F-5-306.

(2) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall enter into a contract with an independent evaluator to assist the state board in the evaluation process.

(b) In selecting an independent evaluator, the state board shall select an evaluator that:

(i) has the capacity to meet the requirements described in Subsection (3);

(ii) has a background in designing and conducting rigorous evaluations;

(iii) has a demonstrated ability to monitor and evaluate a program over an extended period of time;

(iv) is independent from agencies or providers implementing high quality school readiness programs funded under this part; and

(v) has experience in early childhood education or early childhood education evaluation.

(c) The state board may not enter into a contract with an independent evaluator without obtaining approval from the department.

(3) Under the direction of the state board, with input from the department, the independent evaluator selected under Subsection (2) shall:

(a) design an evaluation methodology that:

(i) assesses the effects of a high quality school readiness program on an eligible student's:

(A) readiness for kindergarten, using a uniform assessment methodology that includes a pre- and post-test chosen in coordination with the state board;

(B) ability, as determined by following the student longitudinally, to meet grade 3 core standards for Utah public schools, established by the state board under Section 53E-4-202, by the end of the student's grade 3 year; and

(C) attainment of a high school diploma or other completion certificate, as determined by following the student longitudinally; and

(ii) allows for comparisons between students with similar demographic characteristics who complete a high quality school readiness program and students who do not; and

(b) conduct an annual evaluation of the programs described in Subsection (1).

(4) To assist the independent evaluator selected under Subsection (2) in completing the evaluation required under Subsection (3):

(a) an LEA that receives a grant under Section 53F-5-303, or enrolls an IGP scholarship recipient under Section 53F-5-305, shall assign a statewide unique student identifier to each student who participates in the LEA's school readiness program;

(b) an eligible private provider that receives a grant described in Section 53F-5-303 or an eligible home-based technology provider that receives a contract described in Section 53F-5-304 shall work in conjunction with the state board to assign a statewide unique student identifier to each student who is enrolled in the provider's school readiness program in the student's last year before kindergarten; and

(c) an eligible private provider or eligible home-based technology provider that receives an IGP scholarship under Section 53F-5-305 shall work in conjunction with the state board to assign a statewide unique student identifier to each student who is funded by an IGP scholarship.

(5) The state board and the department shall report annually, on or before November 1, to the Education Interim Committee on the results of an evaluation conducted under this section.

Section 271. Section 53F-5-401 is amended to read:

53F-5-401. Definitions.

As used in this part:

~~[(1) "Board" means the State Board of Education.]~~

~~[(2)]~~ (1) "Eligible elementary school" or "eligible junior high school" means a district school or charter school that has at least 50% of the school's students with a family income at or below 185% of the federal poverty level.

~~[(3)]~~ (2) "Eligible partnership" means a partnership that:

(a) includes at least:

(i) a local education agency that has designated an eligible school feeder pattern;

(ii) a local nonprofit organization;

(iii) a private business;

(iv) a municipality or county in which the eligible school feeder pattern is located;

(v) an institution of higher education within the state;

(vi) a state or local government agency that provides services to students attending schools within the eligible school feeder pattern;

(vii) a local philanthropic organization; and

(viii) a local health care organization; and

(b) has designated a local education agency or local nonprofit organization to act as lead applicant for a grant described in this part.

~~[(4)]~~ (3) "Eligible school feeder pattern" means the succession of schools that a student enrolls in as the student progresses from kindergarten through

grade 12 that includes, as designated by a local education agency:

(a) a high school;

(b) an eligible junior high school that:

(i) is a district school within the geographic boundary of the high school described in Subsection ~~[(4)]~~ (3)(a); or

(ii) is a charter school that sends at least 50% of the charter school's students to the high school described in Subsection ~~[(4)]~~ (3)(a); and

(c) an eligible elementary school that:

(i) is a district school within the geographic boundary of the high school described in Subsection ~~[(4)]~~ (3)(a); or

(ii) is a charter school that sends at least 50% of the charter school's students to the junior high school described in Subsection ~~[(4)]~~ (3)(b).

~~[(5)]~~ (4) "Local education agency" means a school district or charter school.

Section 272. Section 53F-5-402 is amended to read:

53F-5-402. Partnerships for Student Success Grant Program established.

(1) There is created the Partnerships for Student Success Grant Program to improve educational outcomes for low income students through the formation of cross sector partnerships that use data to align and improve efforts focused on student success.

(2) Subject to legislative appropriations, the state board shall award grants to eligible partnerships that enter into a memorandum of understanding between the members of the eligible partnership to plan or implement a partnership that:

(a) establishes shared goals, outcomes, and measurement practices based on unique community needs and interests that:

(i) are aligned with the recommendations of the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and

(ii) address, for students attending a school within an eligible school feeder pattern:

(A) kindergarten readiness;

(B) grade 3 mathematics and reading proficiency;

(C) grade 8 mathematics and reading proficiency;

(D) high school graduation;

(E) postsecondary education attainment;

(F) physical and mental health; and

(G) development of career skills and readiness;

(b) coordinates and aligns services to:

(i) students attending schools within an eligible school feeder pattern; and

(ii) the families and communities of the students within an eligible school feeder pattern;

- (c) implements a system for:
- (i) sharing data to monitor and evaluate shared goals and outcomes, in accordance with state and federal law; and
- (ii) accountability for shared goals and outcomes; and
- (d) commits to providing matching funds as described in Section 53F-5-403.
- (3) In making grant award determinations, the state board shall prioritize funding for an eligible partnership that:
- (a) includes a low performing school as determined by the state board; or
- (b) addresses parent and community engagement.
- (4) In awarding grants under this part, the state board:
- (a) shall distribute funds to the lead applicant designated by the eligible partnership as described in Section 53F-5-401; and
- (b) may not award more than \$500,000 per fiscal year to an eligible partnership.

Section 273. Section 53F-5-403 is amended to read:

53F-5-403. Matching funds -- Grantee requirements.

- (1) (a) The state board may not award a grant to an eligible partnership unless the eligible partnership provides matching funds equal to two times the amount of the grant.
- (b) The state board shall ensure that at least half of the matching funds provided under Subsection (1)(a) are provided by a local education agency.
- (c) Matching funds may include cash or an in-kind contribution.
- (2) A partnership that receives a grant under this part shall:
- (a) select and contract with a technical assistance provider identified by the state board as described in Section 53F-5-404;
- (b) continually assess progress toward reaching shared goals and outcomes;
- (c) publish results of the continual assessment described in Subsection (2)(b) on an annual basis;
- (d) regularly report to the state board in accordance with rules established by the state board under Section 53F-5-406; and
- (e) as requested, share information and data with the third party evaluator described in Section 53F-5-405, in accordance with state and federal law.
- (3) A partnership that receives a grant under this part may use grant funds only for the following purposes:

- (a) to contract with a technical assistance provider identified by the state board as described in Section 53F-5-404; and
- (b) to plan or implement a partnership, including:
- (i) for project management;
- (ii) for planning and adaptation of services and strategies;
- (iii) to coordinate services;
- (iv) to establish and implement shared measurement practices;
- (v) to produce communication materials and conduct outreach activities to build public support;
- (vi) to establish data privacy and sharing agreements, in accordance with state and federal law;
- (vii) to purchase infrastructure, hardware, and software to collect and store data; or
- (viii) to analyze data.
- (4) (a) The state board shall establish interventions for a partnership that:
- (i) fails to comply with the requirements described in this section; or
- (ii) is not making progress toward reaching the shared goals and outcomes established by the partnership as described in Section 53F-5-402.

- (b) An intervention under Subsection (4)(a) may include discontinuing or reducing funding.

Section 274. Section 53F-5-404 is amended to read:

53F-5-404. Technical assistance.

- (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall identify two or more technical assistance providers that a partnership may select from to assist the partnership in:
- (a) establishing shared goals, outcomes, and measurement practices;
- (b) creating the capabilities to achieve shared goals and outcomes that may include providing leadership development training to members of the partnership; and
- (c) using data to align and improve efforts focused on student success.

- (2) In identifying technical assistance providers under this section the state board shall identify providers that have a credible track record of providing technical assistance as described in Subsection (1).

Section 275. Section 53F-5-405 is amended to read:

53F-5-405. Independent evaluation -- Reporting.

- (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to annually

evaluate a partnership that receives a grant under this part.

(2) The evaluation described in Subsection (1) shall:

(a) assess implementation of a partnership, including the extent to which members of a partnership:

(i) share data to align and improve efforts focused on student success; and

(ii) meet regularly and communicate authentically; and

(b) assess the impact of a partnership on student outcomes using appropriate statistical evaluation methods.

(3) In identifying an independent evaluator under Subsection (1), the state board shall identify an evaluator that:

(a) has a credible track record of conducting evaluations as described in Subsection (2); and

(b) is independent of any member of the partnership and does not otherwise have a vested interest in the outcome of the evaluation.

(4) Beginning in the 2017-18 school year, the state board shall ensure that the independent evaluator:

(a) prepares an annual written report of an evaluation conducted under this section; and

(b) annually submits the report to the Education Interim Committee.

Section 276. Section 53F-5-406 is amended to read:

53F-5-406. Rules.

~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~ The state board shall make rules to administer the Partnerships for Student Success Grant Program in accordance with this part.

Section 277. Section 53F-5-501 is amended to read:

53F-5-501. Definitions.

As used in this part:

(1) "Blended learning" means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student's learning path within a course or subject are connected to provide an integrated learning experience.

~~[(2) "Board" means the State Board of Education.]~~

~~[(3)]~~ (2) "Competency-Based education" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.

~~[(4)]~~ (3) "Extended learning" means learning opportunities outside of a traditional school structure, including:

(a) online learning available anywhere, anytime;

(b) career-based experiences, including internships and job shadowing;

(c) community-based projects; and

(d) off-site postsecondary learning.

~~[(5)]~~ (4) "Grant program" means the Competency-Based Education Grants Program created in this part.

~~[(6)]~~ (5) "Institution of higher education" means an institution listed in Section 53B-1-102.

~~[(7) "Local education agency" or "LEA" means:]~~

~~[(a) a school district;]~~

~~[(b) a charter school; or]~~

~~[(c) the Utah Schools for the Deaf and the Blind.]~~

~~[(8)]~~ (6) "Review committee" means the committee established under Section 53F-5-502.

~~[(9)]~~ (7) "STEM" means science, technology, engineering, and mathematics.

Section 278. Section 53F-5-502 is amended to read:

53F-5-502. Competency-Based Education Grants Program -- State board duties -- Review committee -- Technical assistance training.

(1) There is created the Competency-Based Education Grants Program consisting of the grants created in this part to improve educational outcomes in public schools by advancing student mastery of concepts and skills through the following core principles:

(a) student advancement upon mastery of a concept or skill;

(b) competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(c) assessment that is meaningful and provides a positive learning experience for a student;

(d) timely, differentiated support based on a student's individual learning needs; and

(e) learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

(2) The grant program shall incentivize an LEA to establish competency-based education within the LEA through the use of:

(a) personalized learning;

- (b) blended learning;
- (c) extended learning;
- (d) educator professional learning in competency-based education; or
- (e) any other method that emphasizes the core principles described in Subsection (1).

(3) The state board shall:

~~[(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~

(a) adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) to define outcome-based measures appropriate to the type of grant for an LEA that is awarded a grant under this part to use to measure the performance of the LEA's plan or program;

(b) establish a grant application process;

(c) in accordance with Subsection (4), establish a review committee to make recommendations to the state board for:

(i) metrics to analyze the quality of a grant application; and

(ii) approval of a grant application; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(4) (a) The review committee shall consist of STEM and blended learning experts, current and former school administrators, current and former teachers, and at least one former school district superintendent, in addition to other staff designated by the state board.

(b) The review committee shall:

(i) review a grant application submitted by an LEA;

(ii) make recommendations to the LEA to modify the application, if necessary; and

(iii) make recommendations to the state board regarding the final disposition of an application.

(5) (a) The state board shall provide technical assistance training to assist an LEA with a grant application under this part.

(b) An LEA may not apply for a grant under this part unless:

(i) a representative of the LEA attends the technical assistance training before the LEA submits a grant application; and

(ii) the representative is a superintendent, principal, or a person in a leadership position within the LEA.

(c) The technical assistance training shall include:

(i) instructions on completing a grant application, including grant application requirements;

(ii) information on the scoring metrics used to review a grant application; and

(iii) information on competency-based education.

(6) The state board may use up to 5% of an appropriation provided to fund this part for administration of the grant program.

Section 279. Section 53F-5-503 is amended to read:

53F-5-503. Planning grants -- Requirements.

(1) (a) The state board shall, subject to legislative appropriations, award a planning grant to an LEA:

(i) that submits a planning grant application that meets the requirements established by the state board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53F-5-502; and

(iii) if the LEA planning grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than one calendar year after receiving the funds.

(2) (a) A planning grant application shall include evidence that the LEA:

(i) can provide a general description of the program the LEA would like to plan;

(ii) is intending to plan for:

(A) schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, phasing the plan in schoolwide or districtwide over a specified period of time;

(iii) can describe the types of partners that will help with the plan and, eventually, implement the program;

(iv) planning activities and program will focus on:

(A) implementation of the core principles described in Section 53F-5-502;

(B) use of the methods, as applicable, described in Section 53F-5-502; and

(C) the outcome-based measures adopted by the state board under Section 53F-5-502;

(v) has:

(A) the capacity, qualifications, local governing body support, and time to successfully plan the program; and

(B) an intentional and feasible planning process;

(vi) will align the LEA's budget as necessary with the planning process; and

(vii) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The state board may adopt other requirements in addition to the requirements in Subsection (2)(a).

Section 280. Section 53F-5-504 is amended to read:

53F-5-504. Implementation grants -- Requirements.

(1) (a) The state board shall, subject to legislative appropriations, award an implementation grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an implementation grant application that meets the requirements established by the state board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53F-5-502; and

(iii) if the LEA implementation grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an implementation grant under this section unless the state board has previously awarded the LEA a planning grant under Section 53F-5-503.

(2) (a) An implementation grant application shall include evidence that the LEA:

(i) can logically articulate the proposed program's mission, theory of change, and the program's intended goals and outcomes;

(ii) (A) program will have schoolwide implementation; or

(B) if the LEA intends to implement initially with a population smaller than schoolwide, program includes steps to phase the program in schoolwide or districtwide over a specified period of time;

(iii) has an understanding of similar programs and can use this knowledge to strengthen the LEA's program implementation;

(iv) program will focus on:

(A) direct alignment with the core principles described in Section 53F-5-502;

(B) use of the methods, as applicable, described in Section 53F-5-502; and

(C) the outcome based measures adopted by the state board under Section 53F-5-502;

(v) program will address a need, determined by data, in the LEA or community;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to implementing the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully implement this program;

(ix) has an intentional and feasible scope of work to implement the program;

(x) will align the LEA's budget as necessary with the planning process; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The state board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section 53F-5-506, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 281. Section 53F-5-505 is amended to read:

53F-5-505. Expansion grants -- Requirements.

(1) (a) The state board shall, subject to legislative appropriations and to expand an existing LEA program schoolwide or districtwide, award a grant to, subject to Subsection (1)(c), an LEA:

(i) that submits an expansion grant application that meets the requirements established by the state board, subject to Subsection (2);

(ii) if an LEA designee has attended the technical assistance training described in Section 53F-5-502; and

(iii) if the LEA expansion grant application has been recommended by the review committee.

(b) An LEA that receives a grant under Subsection (1)(a) shall expend the grant funds no later than two calendar years after receiving the funds.

(c) An LEA is not eligible to receive an expansion grant under this section unless the state board has previously awarded the LEA an implementation grant under Section 53F-5-504.

(2) (a) An expansion grant application shall include evidence that the LEA:

(i) has an established program that:

(A) has successfully met previous goals;

(B) has shown outcomes that are in alignment with the core principles described in Section 53F-5-502 and used methods, as applicable, described in Section 53F-5-502;

(C) is supported by LEA management and leadership;

(D) is suitable for expansion schoolwide or districtwide; and

(E) is the program, with any necessary modifications, that the LEA plans to expand if awarded the expansion grant;

(ii) can logically articulate the LEA's program mission, theory of change, and the program's intended goals and outcomes;

(iii) program as proposed for expansion is focused on:

(A) direct alignment with the core principles identified in Section 53F-5-502;

(B) use of the methods, as applicable, described in Section 53F-5-502; and

(C) the outcome based measures adopted by the state board under Section 53F-5-502;

(iv) that the program will directly address a need, determined by data, in the LEA or community;

(v) has clearly articulated core components that ensure, when expanded, the program will yield positive outcomes;

(vi) has a strong evaluation plan that will clearly measure the success of the LEA's program against the stated goals and objectives;

(vii) has a list of signatures of key stakeholders and partners who are committed to expanding the program;

(viii) has the capacity, qualifications, local governing body support, and time to successfully expand the program;

(ix) has an intentional and feasible scope of work to expand the program;

(x) has a strategic budget that is aligned with the LEA's scope of work; and

(xi) will communicate and promote the plan with parents, teachers, and members of the community.

(b) The state board may adopt other requirements in addition to the requirements in Subsection (2)(a).

(3) A program under this section may include:

(a) a waiver, subject to Section 53F-5-506, of required school hours attended or traditional school calendar scheduling; and

(b) an adjustment of educator compensation to reflect the implementation of a waiver under Subsection (3)(a).

Section 282. Section 53F-5-506 is amended to read:

53F-5-506. Waiver from state board rule -- State board recommended statutory changes.

(1) An LEA may apply to the state board in a grant application submitted under this part for a waiver of a state board rule that inhibits or hinders the LEA from accomplishing its goals set out in its grant application.

(2) The state board may grant the waiver, unless:

(a) the waiver would cause the LEA to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the LEA.

(3) If the state board denies the waiver, the state board shall provide in writing the reason for the denial to the waiver applicant.

(4) (a) The state board shall request from each LEA that receives a grant under this part for each year the LEA receives funds:

(i) information on a state statute that hinders an LEA from fully implementing the LEA's program; and

(ii) suggested changes to the statute.

(b) The state board shall, in a written report, provide any information received from an LEA under Subsection (4)(a) and the state board's recommendations to the Legislature no later than November 30 of each year.

Section 283. Section 53F-5-601 is amended to read:

53F-5-601. Definitions.

(1) The terms defined in Section 53E-10-401 apply to this [section] part.

(2) As used in this part:

(a) "American Indian and Alaskan Native concentrated school" means a school where at least 29% of its students are American Indian or Alaskan Native.

~~[(b) "Board" means the State Board of Education.]~~

~~[(e)]~~ (b) "Teacher" means an individual employed by a school district or charter school who is required to hold an educator license issued by the state board and who has an assignment to teach in a classroom.

Section 284. Section 53F-5-602 is amended to read:

53F-5-602. Pilot programs created.

(1) (a) In addition to the state plan described in Title 53E, Chapter 10, Part 4, American Indian-Alaskan Native Education State Plan, beginning with fiscal year 2016-2017, there is created a five-year pilot program administered by the state board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(2) (a) Beginning with fiscal year 2017-2018, there is created a four-year pilot program administered by the state board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The pilot program shall consist of a grant program to school districts and charter schools to be

used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(c) In determining grant recipients under this Subsection (2), the state board shall give priority to American Indian and Alaskan Native concentrated schools located in a county of the fourth, fifth, or sixth class with significant populations of American Indians and Alaskan Natives.

(3) Up to 3% of the money appropriated to a grant program under this part may be used by the state board for costs in implementing the pilot program.

Section 285. Section 53F-5-603 is amended to read:

53F-5-603. Grant program to school districts and charter schools.

(1) From money appropriated to the grant program, the state board shall distribute grant money on a competitive basis to a school district or charter school that applies for a grant and:

(a) (i) has within the school district one or more American Indian and Alaskan Native concentrated schools; or

(ii) is an American Indian and Alaskan Native concentrated school; and

(b) has a program to fund stipends, recruitment, retention, and professional development of teachers who teach at American Indian and Alaskan Native concentrated schools.

(2) The grant money distributed under this section may only be expended to fund a program described in Subsection (1)(b).

(3) (a) If a school district or charter school obtains a grant under this section, by no later than two years from the date the school district or charter school obtains the grant, the state board shall review the implementation of the program described in Subsection (1)(b) to determine whether:

(i) the program is effective in addressing the need to retain teachers at American Indian and Alaskan Native concentrated schools; and

(ii) the money is being spent for a purpose not covered by the program described in Subsection (1)(b).

(b) If the state board determines that the program is not effective or that the money is being spent for a purpose not covered by the program described in Subsection (1)(b), the state board may terminate the grant money being distributed to the school district or charter school.

~~[(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(4) The state board may make rules providing:

(a) criteria for evaluating grant applications; and

(b) procedures for:

(i) a school district to apply to the state board to receive grant money under this section; and

(ii) the review of the use of grant money described in Subsection (3).

(5) The grant money is intended to supplement and not replace existing money supporting American Indian and Alaskan Native concentrated schools.

Section 286. Section 53F-6-201 is amended to read:

53F-6-201. Firearm Safety and Violence Prevention Pilot Program.

(1) As used in this section:

~~[(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(b)]~~ (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

~~[(c)]~~ (b) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).

(2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:

(a) firearm safety, including:

(i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(ii) teaching a student that to avoid injury when the student finds a firearm the student should:

(A) not touch the firearm;

(B) tell an adult about finding the firearm and the location of the firearm; and

(C) share the information described in Subsection (2)(a)(ii)(A) and (B) with any other minors who are with the student when the student finds the firearm; and

(b) what to do if the student becomes aware of a threat against the school.

(3) The instruction described in Subsection (2):

(a) may be delivered:

(i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the ~~[State Board of Education]~~ state board, shall select one or more providers, through the standard procurement process or an

exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5) (a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the ~~[State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent ~~[or legal guardian]~~ has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the ~~[State Board of Education]~~ state board, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

Section 287. Section 53F-6-202 is amended to read:

53F-6-202. Smart School Technology Program.

(1) As used in this section, "program" means the Smart School Technology Program.

(2) The Smart School Technology Program is created to encourage the deployment of whole-school one-to-one mobile device technology in public schools.

(3) The Board of Business and Economic Development with input from an independent evaluating committee, shall issue a request for proposals for the development and implementation of a whole-school one-to-one mobile device technology deployment plan for schools.

(4) From recommendations submitted by an independent evaluating committee, the Board of Business and Economic Development shall select a single education technology provider with integrated whole-school technology deployment

experience through the request for proposals process.

(5) (a) An independent evaluating committee shall be established to:

(i) advise the Board of Business and Economic Development in issuing a request for proposals under Subsection (3);

(ii) evaluate proposals submitted through a request for proposals issued under Subsection (3); and

(iii) advise the ~~[State Board of Education]~~ state board on selecting schools to participate in the program.

(b) The membership of the independent evaluating committee shall include:

(i) three members of the ~~[State Board of Education]~~ state board appointed by the chair of the ~~[State Board of Education]~~ state board;

(ii) the state chief information officer;

(iii) two members appointed by the executive director of the Governor's Office of Economic Development; and

(iv) the governor's education director.

(c) The independent evaluating committee shall evaluate a proposal on:

(i) a provider's experience with integrated whole-school technology deployment; and

(ii) the components of a whole-school technology deployment plan.

(6) An educational technology provider selected under Subsection (4) shall develop a customized whole-school one-to-one mobile device technology deployment plan for each school participating in the program.

(7) The whole-school technology deployment plan shall be based on submitted proposals to the committee and may include the following components:

(a) a personal mobile learning device for each student;

(b) desktop or laptop computers for each classroom;

(c) peripherals and networking equipment, including a wireless network that is not self-interfering;

(d) wireless audio equipment in each classroom;

(e) digital projectors or televisions with wireless device mirroring technology;

(f) on and off campus Internet filtering;

(g) operating software for the technology system, including software that connects personal mobile learning devices among students and a teacher to facilitate classroom interaction;

(h) curriculum and instructional software purchase credits per device to be used toward

improving student outcomes with respect to the core standards for Utah public schools and skill building on the use of technology;

(i) device repair and replacement criteria;

(j) professional development for educators and technology specialists on:

(i) the operation and use of the technology equipment; and

(ii) accessing and using online content; and

(k) ongoing technical support.

(8) (a) A school within a school district, with the approval of the local school board, or a charter school, may submit an application to the [~~State Board of Education~~] state board to participate in the program.

(b) With input from the independent evaluating committee established under Subsection (5), the [~~State Board of Education~~] state board shall select schools to participate in the program.

(c) In selecting schools, the [~~State Board of Education~~] state board shall seek to include in the program schools:

(i) from different regions of the state;

(ii) from urban and rural areas;

(iii) with a variety of economic and demographic characteristics; and

(iv) with documented technology implementation plans, including a plan for the use of:

(A) instructional software that improves student outcomes with respect to the core standards for Utah public schools; and

(B) software that provides students with skill building on the use of technology.

(d) The [~~State Board of Education~~] state board shall make rules:

(i) specifying procedures and criteria to be used for selecting schools that may participate in the program; and

(ii) requiring selected schools to provide matching funds to participate in the program.

(9) (a) The [~~State Board of Education~~] state board, in collaboration with the education technology provider and the schools participating in the program, shall evaluate the program and submit a report on the evaluation to the Governor's Office of Economic Development and the Education Interim Committee by the committee's October meetings in 2013 and 2014.

(b) The [~~State Board of Education~~] state board may contract with an independent evaluator to conduct the evaluation required in Subsection (9)(a).

(c) The evaluation shall be based on the following criteria:

(i) technology system functionality;

(ii) school level outcomes;

(iii) teacher instruction and outcomes; and

(iv) student engagement and outcomes.

Section 288. Section 53F-6-301 is amended to read:

53F-6-301. Definitions.

As used in this part:

(1) "Board" means the School Readiness Board, created in Section 35A-3-209.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that intends to offer a home-based educational technology program.

(4) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(5) (a) "Eligible private provider" means a child care program that:

(i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.

(b) "Eligible private provider" does not include residential child care, as defined in Section 26-39-102.

(6) "Eligible student" means a student:

(a) who is economically disadvantaged; and

(b) whose parent [~~or legal guardian~~] reports that the student has experienced at least one risk factor.

(7) "Evaluator" means an independent evaluator selected in accordance with Section 53F-3-309.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 53F-6-304.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 53F-6-309 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) “Local Education Agency” or “LEA” means a school district or charter school.

(11) “Pay for success program” means a program funded through a model in which the program is initially funded through private funding and the entity providing the private funding receives repayment through public funding if the program achieves certain outcomes.

(12) “Performance outcome measure” means a cost avoidance in special education use for a student at-risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based contract.

(13) “Program intermediary” means an entity selected by the board under Section 35A-3-209 to coordinate with the Department of Workforce Services to provide program support to the board.

(14) “Results-based contract” means a contract that:

(a) is entered into in accordance with Section 53F-3-309;

(b) includes a performance outcome measure; and

(c) is between:

(i) the board, a provider of a high quality school readiness program, and an investor; or

(ii) the board and a provider of a high quality school readiness program.

(15) “Risk factor” means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child’s household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child’s home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child’s home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) “Student at-risk for later special education placement” means an eligible student who, at preschool entry, scores at least two standard deviations below the mean on the assessment selected by the board under Section 53F-6-309.

Section 289. Section 53F-6-304 is amended to read:

53F-6-304. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the [State Board of Education] state board, and incorporates intentional and differentiated instruction in whole group, small group, and child-directed learning, including the following academic content areas:

(i) oral language and listening comprehension;

(ii) phonological awareness and prereading;

(iii) alphabet and word knowledge;

(iv) prewriting;

(v) book knowledge and print awareness;

(vi) numeracy;

(vii) creative arts;

(viii) science and technology; and

(ix) social studies, health, and safety;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student’s educational growth and developmental progress to inform instruction;

(d) a pre- and post-assessment of each student whose parent [or legal guardian] consents to the assessment that, for a school readiness program receiving funding under this part, is selected by the board in accordance with Section 53F-6-309;

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family’s circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field.

(2) A high quality school readiness program run by a home-based educational technology provider shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah early childhood core standards;

(d) require the administration of a pre- and post-assessment of each student whose parent [or legal guardian] consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section 53F-6-309; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

Section 290. Section 53F-6-309 is amended to read:

53F-6-309. Results-based contracts -- Assessment selection -- Independent evaluators.

(1) The board may enter into a results-based contract to fund participation of eligible students in a high quality school readiness program in accordance with Section 35A-3-209 and this part.

(2) (a) Except as provided in Subsection (3), the board shall include an investor as a party to a results-based contract.

(b) The board may provide for a repayment to an investor to include a return of investment and an additional return on investment, dependent on achievement of the performance outcome measures set in the results-based contract.

(c) The additional return on investment described in Subsection (2)(b) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based contract.

(d) Funding obtained for an early education program through a results-based contract that includes an investor is not a procurement item under Section 63G-6a-103.

(e) A results-based contract that includes an investor shall include:

(i) a requirement that the repayment to the investor be conditioned on achieving the performance outcome measures set in the results-based contract;

(ii) a requirement for an evaluator to determine whether the performance outcome measures have been achieved;

(iii) a provision that repayment to the investor is:

(A) based upon available money in the School Readiness Restricted Account described in Section 35A-3-210; and

(B) subject to legislative appropriations; and

(iv) a provision that the investor is not eligible to receive or view personally identifiable student data of students funded through the results-based contract.

(f) The board may not issue a results-based contract that includes an investor as a party to the contract if the total outstanding obligations of results-based contracts that include an investor as a party to the contract would exceed \$15,000,000 at any one time.

(3) (a) The board may enter into a results-based contract to directly fund a high quality school readiness program that has at least four years of data for at least one cohort of students showing that the high quality school readiness program has met a performance outcome measure.

(b) A results-based contract described in Subsection (3)(a):

(i) does not require an investor; and

(ii) shall include a provision that:

(A) requires that in order to continue receiving funding, the high quality school readiness program continue to meet a performance outcome measure; and

(B) provides an improvement time frame during which the high quality school readiness program may continue to receive funding if the high quality school readiness program fails to continue to meet the performance outcome measure.

(4) The board shall select a uniform assessment of age-appropriate cognitive or language skills that:

(a) is nationally norm-referenced;

(b) has established reliability;

(c) has established validity with other similar measures and with later school outcomes; and

(d) has strong psychometric characteristics.

(5) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select at least three independent evaluators with experience in:

(i) evaluating school readiness programs; and

(ii) administering the assessment selected under Subsection (4).

(b) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that has a results-based contract shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-306.

(c) The board shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-305.

(6) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator described in Subsection (5)(b) shall determine whether the performance outcome measures set in the results-based contract have been met.

(b) The board may not pay an investor unless the evaluation described in Subsection (6)(a) determines that the performance outcome measures in the results-based contract have been met.

(7) (a) The board shall ensure that a parent [~~or guardian~~] of an eligible student participating in a program funded through a results-based contract has given permission and signed an acknowledgment that the student's data may be shared with an independent evaluator for research and evaluation purposes, subject to federal law.

(b) The board shall maintain documentation of parental permission required in Subsection (7)(a).

Section 291. Section 53F-7-201 is amended to read:

53F-7-201. Appropriations from Automobile Driver Education Tax Account.

There is appropriated to the [~~State Board of Education~~] state board from the Automobile Driver Education Tax Account, annually, all money in the account, in excess of the expense of administering the collection of the tax, for use and distribution in the administration and maintenance of driver education classes and programs with respect to classes offered in the school district and the establishment of experimental programs, including the purchasing of equipment, by the state board.

Section 292. Section 53F-7-301 is amended to read:

53F-7-301. Annual salary adjustments for Utah Schools for the Deaf and the Blind educators -- Legislative appropriation.

Subject to future budget constraints, the Legislature shall annually appropriate money to the state board for the salary adjustments described in Section 53E-8-302, including step and lane changes.

Section 293. Section 53F-8-201 is amended to read:

53F-8-201. Annual certification of tax rate proposed by local school board --

Inclusion of school district budget -- Modified filing date.

(1) Prior to June 22 of each year, each local school board shall certify to the county legislative body in which the district is located, on forms prescribed by the State Tax Commission, the proposed tax rate approved by the local school board.

(2) A copy of the district's budget, including items under Section 53G-7-302, and a certified copy of the local school board's resolution which approved the budget and set the tax rate for the subsequent school year beginning July 1 shall accompany the tax rate.

(3) If the tax rate approved by the local school board is in excess of the certified tax rate, as defined in Section 59-2-924, the date for filing the tax rate and budget adopted by the local school board shall be that established under Section 59-2-919.

Section 294. Section 53F-8-402 is amended to read:

53F-8-402. Special tax to buy school building sites, build and furnish schoolhouses, or improve school property.

(1) (a) Except as provided in Subsection (6), a local school board may, by following the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a special election to determine whether a special property tax should be levied for one or more years to buy building sites, build and furnish schoolhouses, or improve the school property under its control.

(b) The tax may not exceed .2% of the taxable value of all taxable property in the district in any one year.

(2) The local school board shall give reasonable notice of the election and follow the same procedure used in elections for the issuance of bonds.

(3) If a majority of those voting on the proposition vote in favor of the tax, it is computed on the valuation of the county assessment roll for that year.

(4) (a) Within 20 days after the election, the local school board shall certify the amount of the approved tax to the governing body of the county in which the school district is located.

(b) The governing body shall acknowledge receipt of the certification and levy and collect the special tax.

(c) It shall then distribute the collected taxes to the business administrator of the school district at the end of each calendar month.

(5) The special tax becomes due and delinquent and attaches to and becomes a lien on real and personal property at the same time as state and county taxes.

(6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 295. Section 53F-8-403 is amended to read:

53F-8-403. School transportation levy.

(1) Except as provided in Subsection (5), a local school board may provide for the transportation of students regardless of the distance from school, from a tax rate not to exceed .0003 per dollar of taxable value levied by the local school board.

(2) A local school board may use revenue from the tax described in Subsection (1) to pay for transporting students and for the replacement of school buses.

(3) (a) If a local school board levies a tax under Subsection (1) of at least .0002, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(b) The ~~[State Board of Education]~~ state board's employees shall distribute the state contribution according to rules enacted by the ~~[State Board of Education]~~ state board.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (3) may not be reduced for the sole reason that the school district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.

(b) Subsection (4)(a) applies for a period of two years following the change in the certified tax rate.

(5) Beginning January 1, 2012, a local school board may not impose a tax in accordance with this section.

(6) The terms defined in Section 53F-2-102 apply to this section.

Section 296. Section 53F-9-202 is amended to read:

53F-9-202. Duty of Division of Finance -- Apportionment of fund by state board -- Certification of apportionments.

(1) The Division of Finance shall give the state superintendent, upon request, a written accounting of the current balance in the Uniform School Fund.

(2) The ~~[State Board of Education]~~ state board shall apportion the fund among the several school districts.

(3) The state superintendent shall certify the apportionments to the Division of Finance and draws warrants on the state treasurer in favor of the school districts.

Section 297. Section 53F-9-203 is amended to read:

53F-9-203. Charter School Revolving Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter

School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The ~~[State Board of Education]~~ state board, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the ~~[State Board of Education]~~ state board.

(3) The Charter School Revolving Account shall consist of:

(a) money appropriated to the account by the Legislature;

(b) money received from the repayment of loans made from the account; and

(c) interest earned on money in the account.

(4) The state superintendent ~~[of public instruction]~~ shall make loans to charter schools from the account to pay for the costs of:

(a) planning expenses;

(b) constructing or renovating charter school buildings;

(c) equipment and supplies; or

(d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) (a) The ~~[State Board of Education]~~ state board shall establish a committee to:

(i) review requests by charter schools for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the ~~[State Board of Education]~~ state board.

(b) (i) A committee established under Subsection (6)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.

(ii) Of the members appointed to a committee established under Subsection (6)(a):

(A) one member shall be nominated by the governor; and

(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.

(c) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

- (iii) the interest rate to be charged.
- (d) A committee member may not:
- (i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or
 - (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.
- (7) A loan under this section may not be made unless the ~~[State Board of Education]~~ state board, in consultation with the State Charter School Board, approves the loan.
- (8) The term of a loan to a charter school under this section may not exceed five years.
- (9) The ~~[State Board of Education]~~ state board may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.
- (10) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the ~~[State Board of Education]~~ state board shall be deposited into the Charter School Revolving Account.
- (b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Section 298. Section 53F-9-206 is amended to read:

53F-9-206. School Building Revolving Account -- Access to the account.

(1) (a) There is created within the Uniform School Fund a restricted account known as the "School Building Revolving Account" to provide short-term help to school districts to meet district needs for school building construction and renovation.

(b) The state superintendent ~~[of public instruction]~~ shall administer the School Building Revolving Account in accordance with Chapter 3, State Funding -- Capital Outlay Programs, and rules adopted by the ~~[State Board of Education]~~ state board.

(2) The ~~[State Board of Education]~~ state board may not allocate funds from the School Building Revolving Account that exceed a school district's bonding limit minus its outstanding bonds.

(3) In order to receive money from the School Building Revolving Account, a school district shall:

(a) levy a combined capital levy rate of at least .0024;

(b) contract with the state superintendent ~~[of public instruction]~~ to repay the money, with interest at a rate established by the state superintendent, within five years of receipt, using future state capital outlay allocations, local revenues, or both;

(c) levy sufficient ad valorem taxes under Section 11-14-310 to guarantee annual loan repayments,

unless the state superintendent ~~[of public instruction]~~ alters the payment schedule to improve a hardship situation; and

(d) meet any other condition established by the ~~[State Board of Education]~~ state board pertinent to the loan.

(4) (a) The state superintendent shall establish a committee, including representatives from state and local education entities, to:

(i) review requests by school districts for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the state superintendent.

(b) If the committee recommends approval of a loan application under Subsection (4)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

Section 299. Section 53F-9-301 is amended to read:

53F-9-301. Charter School Levy Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Levy Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Charter School Levy Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-703.

(4) Upon appropriation from the Legislature, the ~~[State Board of Education]~~ state board shall distribute funds from the account as described in Section 53F-2-703.

(5) The account shall earn interest.

(6) Interest earned on the account shall be deposited into the account.

(7) Funds in the account are nonlapsing.

Section 300. Section 53F-9-302 is amended to read:

53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section ~~53F-3-203~~ 53F-3-202; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.

Section 301. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, \$1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the Department of Alcoholic Beverage Control deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The ~~[State Board of Education]~~ state board shall use money in the account for the Underage Drinking Prevention Program described in Section 53G-10-406.

Section 302. Section 53F-9-305 is amended to read:

53F-9-305. Local Levy Growth Account.

(1) As used in this section, "account" means the Local Levy Growth Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Local Levy Growth Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the ~~[State Board of Education]~~ state board.

Section 303. Section 53F-9-306 is amended to read:

53F-9-306. Teacher and Student Success Account.

(1) As used in this section, "account" means the Teacher and Student Success Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Teacher and Student Success Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the ~~[State Board of Education]~~ state board.

Section 304. Section 53F-9-401 is amended to read:

53F-9-401. Autism Awareness Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Autism Awareness Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the state superintendent shall:

(a) (i) ensure the inventory of Autism Awareness Support special group license plate decals are in stock; and

(ii) transfer money to the Tax Commission to pay for the group license plate as needed;

(b) distribute funds in the account to one or more charitable organizations that:

(i) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(ii) has as the organization's sole mission to promote access to resources and responsible information for individuals of all ages who have, or are affected by, autism or autism spectrum related conditions;

(iii) is an independent organization that has representation from state agencies and private providers serving individuals with autism spectrum disorder and their families in the state;

(iv) includes representation of:

(A) national and local autism advocacy groups, as available; and

(B) interested parents and professionals; and

(v) does not endorse any specific treatment, therapy, or intervention used for autism.

(4) (a) An organization described in Subsection (3) may apply to the state superintendent to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the state superintendent in accordance with Subsection (3) shall expend the distribution only to:

(i) pay for autism education and public awareness of programs and related services in the state;

(ii) enhance programs designed to serve individuals with autism;

(iii) provide support to caregivers providing services for individuals with autism;

(iv) pay administrative costs of the organization; and

(v) pay for academic scholarships and research efforts in the area of autism spectrum disorder.

~~[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(c) The state board may make rules providing procedures for an organization to apply to the state superintendent to receive a distribution under Subsection (3).

Section 305. Section 53F-9-501 is amended to read:

53F-9-501. Hospitality and Tourism Management Education Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Hospitality and Tourism Management Education Account," which the ~~[State Board of Education]~~ state board shall use to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement Section 53E-3-507 or 53E-3-515.

(3) The ~~[State Board of Education]~~ state board shall administer the account.

(4) The cost of administering the account shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 306. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 28, Public Education Definitions Coordination, does not pass.

CHAPTER 187**H. B. 29**

Passed February 15, 2019

Approved March 25, 2019

Effective May 14, 2019

SPECIAL EDUCATION RECODIFICATION

Chief Sponsor: Val L. Peterson
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill recodifies Title 53E, Chapter 7, Special Education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ repeals outdated provisions related to special education;
- ▶ reorganizes, redrafts, and updates existing provisions related to special education; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53E-3-503, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-201, as enacted by Laws of Utah 2018, Chapter 1

53G-8-305, as renumbered and amended by Laws of Utah 2018, Chapter 3

62A-2-108.1, as last amended by Laws of Utah 2018, Chapter 415

62A-5a-102, as last amended by Laws of Utah 2018, Chapter 415

62A-5a-105, as last amended by Laws of Utah 2018, Chapter 415

REPEALS AND REENACTS:

53E-7-202, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-204, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-206, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-207, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-208, as renumbered and amended by Laws of Utah 2018, Chapter 1

RENUMBERS AND AMENDS:

53G-6-709, (Renumbered from 53E-7-205, as renumbered and amended by Laws of Utah 2018, Chapter 1)

REPEALS:

53E-7-301, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-302, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-303, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-7-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

Utah Code Sections Affected by Coordination Clause:

53E-7-201, as enacted by Laws of Utah 2018, Chapter 1

53E-7-204, as last amended by Laws of Utah 2018, Chapter 75 and renumbered and amended by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-503 is amended to read:**53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.**

(1) For purposes of this section, "board" means the State Board of Education.

(2) (a) The board is directly responsible for the education of all individuals who are:

(i) (A) younger than 21 years old; or

~~[(B) students with disabilities entitled to a free, appropriate public education as described in Section 53E-7-202; and]~~

(B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and

(ii) (A) receiving services from the Department of Human Services;

(B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or

(C) being held in a juvenile detention facility.

(b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (2)(a).

(3) Subsection (2)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

(4) The board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the board shall retain responsibility for the programs.

(5) The Legislature shall establish and maintain separate education budget categories for youth in

custody or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;

(b) the Division of Substance Abuse and Mental Health; and

(c) the Division of Services for People with Disabilities.

(6) (a) The Department of Human Services and the board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The Department of Human Services and the board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.

(7) A school district contracting to provide services under Subsection (4) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

Section 2. Section 53E-7-201 is amended to read:

53E-7-201. Definitions.

[Reserved]

As used in this part:

(1) “Child with a disability” means the same as that term is defined in 34 C.F.R. Sec. 300.308.

(2) “Due process hearing” means an administrative due process hearing authorized by 20 U.S.C. Sec. 1415.

(3) “Individualized education program” or “IEP” means a written statement for an eligible student that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(4) “LEA special education program” means the implementation of an eligible student’s IEP by the eligible student’s LEA.

(5) “Local education agency” or “LEA” means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(6) “Special education services” means the specialized instruction and related services, described in an eligible student’s IEP, that are necessary to provide a free appropriate public education to the eligible student.

(7) “State board” means the State Board of Education.

(8) “Student who is eligible for special education services” or “eligible student” means a child with a disability who is:

(a) at least 3 years old but younger than 22 years old; or

(b) 22 years old, if the school year in which the child with a disability turned 22 years old has not yet ended.

Section 3. Section 53E-7-202 is repealed and reenacted to read:

53E-7-202. Free appropriate public education for eligible students.

An eligible student who has not received a regular high school diploma is entitled to a free appropriate public education.

Section 4. Section 53E-7-204 is repealed and reenacted to read:

53E-7-204. State Board of Education special education authority and duties -- Rulemaking.

(1) The State Board of Education shall have general control and supervision over all public educational programs in the state for students who are eligible for special education services.

(2) A program described in Subsection (1) shall comply with state board rule.

(3) In accordance with federal law, state law, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement this part, including provisions that ensure:

(a) appropriate and timely identification of a potential eligible student;

(b) the evaluation and classification of an eligible student by qualified personnel;

(c) standards for special education services and supports;

(d) availability of LEA special education programs;

(e) delivery of special education service responsibilities;

(f) certification and qualification for the instructional staff of eligible students; and

(g) special education services for eligible students who are dual enrollment students attending public school on a part-time basis as described in Section 53G-6-702.

(4) In accordance with federal law, state law, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to otherwise administer the state board’s authority described in Subsection (1).

Section 5. Section 53E-7-206 is repealed and reenacted to read:

53E-7-206. Special education funding.

In accordance with Title 53F, Chapter 2, State Funding -- Minimum School Program, state board

rule, and other applicable law, the state board shall administer the payment of restricted state and federal funds to an LEA to provide special education services to an eligible student.

Section 6. Section 53E-7-207 is repealed and reenacted to read:

53E-7-207. Local education agency special education duty and authority.

(1) An LEA shall, at no cost to the eligible student, provide a full continuum of special education services and placements to an eligible student enrolled at the LEA.

(2) (a) Upon request of the Division of Child and Family Services and if the LEA obtains appropriate consent for the evaluation, an LEA shall provide an initial special education evaluation to an individual who enters the custody of the Division of Child and Family Services, if the Division of Child and Family Services suspects the individual may be an eligible student.

(b) (i) Except as provided in Subsection (2)(b)(ii), the LEA shall conduct an evaluation described in Subsection (2)(a) within 30 days after the day on which the Division of Child and Family Services makes the request.

(ii) An LEA may refuse to conduct an evaluation described in Subsection (2)(a) if the LEA reviews the relevant data regarding the individual and, within 10 days after the day on which the LEA received the request described in Subsection (2)(a), gives the Division of Child and Family Services written prior notice of refusal to evaluate.

(3) (a) In accordance with Subsection (3)(b), an LEA may provide education or training for an individual with a disability who is:

(i) younger than 3 years old; or

(ii) at least 22 years old and not an eligible student.

(b) (i) Except as provided in Subsection (3)(b)(ii), an LEA may not use funding described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to pay for the cost of education or training described in Subsection (3)(a).

(ii) An LEA may use adult education program funding described in Section 53F-2-401, in accordance with the requirements described in Section 53F-2-401, to pay for the cost of the education or training described in Subsection (3)(a).

(c) To pay for the cost of education or training described in Subsection (3)(a), an LEA may use fees, contributions, or other funds received by the LEA if the purpose of the fees, contributions, or other funds is to provide the education or training.

Section 7. Section 53E-7-208 is repealed and reenacted to read:

53E-7-208. Special education dispute resolution -- Rulemaking -- Due process hearing -- Right to appeal.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this section, the state board shall make rules that:

(a) allow for a prompt, fair, and final resolution of a dispute that arises over the provision of special education services to an eligible student;

(b) establish and maintain procedural safeguards that meet the requirements of 20 U.S.C. Sec. 1415; and

(c) establish timelines that provide adequate time to address and resolve a dispute described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's free appropriate public education.

(2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a diligent and good faith effort to resolve the dispute informally at the LEA level before seeking a due process hearing under state board rule.

(3) (a) If a dispute is not resolved informally as described in Subsection (2), a party to the dispute may request a due process hearing in accordance with state board rule.

(b) Upon request of a party to a dispute described in Subsection (2), the state board shall, in accordance with state board rule and 20 U.S.C. Sec. 1415:

(i) conduct a due process hearing; and

(ii) issue a decision on the due process hearing.

(4) (a) A party to a due process hearing may appeal the decision resulting from the due process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the party files the action within 30 days after the day on which the due process hearing decision was issued.

(b) If parties to a due process hearing fail to reach agreement on the payment of attorney fees for the due process hearing, a party may seek to recover attorney fees in accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on which the due process hearing decision was issued.

Section 8. Section 53G-6-709, which is renumbered from Section 53E-7-205 is renumbered and amended to read:

[53E-7-205]. 53G-6-709. Participation of students with a disability in extracurricular activities.

(1) A student with a disability may not be denied the opportunity of participating in a public school [programs] program or extracurricular [activities] activity solely because of the student's age or disability, unless the participation threatens the health or safety of the student.

(2) The school district or charter school, in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.

(3) Subsection (1) applies to a student who:

(a) has not graduated from high school with a regular diploma; and

(b) is under the age of [20] 22, if participation is recommended by the student's individualized education program team.

Section 9. Section 53G-8-305 is amended to read:

53G-8-305. Exception.

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section [53E-7-202] 53E-7-204 is excepted from this part.

Section 10. Section 62A-2-108.1 is amended to read:

62A-2-108.1. Coordination of human services and educational services -- Licensing of programs -- Procedures.

(1) For purposes of this section:

(a) "accredited private school" means a private school that is accredited by an accrediting entity recognized by the Utah State Board of Education; and

(b) "education entitled children" means children:

(i) subject to compulsory education under Section 53G-6-202;

(ii) subject to the school attendance requirements of Section 53G-6-203; or

~~[(iii) entitled to educational services under Section 53E-7-202.]~~

(iii) who are eligible for special education services as described in Title 53E, Chapter 7, Part 2, Special Education Program.

(2) Subject to Subsection (8) or (9), a human services program may not be licensed to serve education entitled children unless the human services program presents an educational service plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that children served by the human services program shall receive appropriate educational services satisfying the requirements of applicable law.

(3) Subject to Subsection (8) or (9), if a human services program serves any education entitled children whose custodial parents or legal guardians reside outside the state, then the program shall also provide an educational funding plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that all costs for educational services to be provided to the education entitled children, including tuition, and school fees approved by the local school board, shall be borne by the human services program.

(4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human services program shall obtain and provide the office with a letter:

(a) from the entity referred to in Subsection (2)(a)(ii):

(i) approving the educational service plan referred to in Subsection (2); or

(ii) (A) disapproving the educational service plan referred to in Subsection (2); and

(B) listing the specific requirements the human services program must meet before approval is granted; and

(b) from the entity referred to in Subsection (3)(a)(ii):

(i) approving the educational funding plan, referred to in Subsection (3); or

(ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and

(B) listing the specific requirements the human services program must meet before approval is granted.

(5) Subject to Subsection (8), failure of a local school board or school district superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent to approval of the plan by the local school board or school district superintendent if the human services program provides to the office:

(a) proof that:

(i) the human services program submitted the proposed plan to the local school board or school district superintendent; and

(ii) more than 45 days have passed from the day on which the plan was submitted; and

(b) an affidavit, on a form produced by the office, stating:

(i) the date that the human services program submitted the proposed plan to the local school board or school district superintendent;

(ii) that more than 45 days have passed from the day on which the plan was submitted; and

(iii) that the local school board or school district superintendent described in Subsection (5)(b)(i)

failed to respond to the proposed plan within 45 days from the day on which the plan was submitted.

(6) If a licensee that is licensed to serve an education entitled child fails to comply with its approved educational service plan or educational funding plan, then:

(a) the office shall give the licensee notice of intent to revoke the licensee's license; and

(b) if the licensee continues its noncompliance for more than 30 days after receipt of the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

(7) If an education entitled child whose custodial parent or legal guardian resides within the state is provided with educational services by a school district other than the school district in which the custodial parent or legal guardian resides, then the funding provisions of Section 53G-6-405 apply.

(8) A human services program that is an accredited private school:

(a) for purposes of Subsection (2):

(i) is only required to submit proof to the office that the accreditation of the private school is current; and

(ii) is not required to submit an educational service plan for approval by an entity described in Subsection (2)(a)(ii);

(b) for purposes of Subsection (3):

(i) is only required to submit proof to the office that all costs for educational services provided to education entitled children will be borne by the human services program; and

(ii) is not required to submit an educational funding plan for approval by an entity described in Subsection (3)(a)(ii); and

(c) is not required to comply with Subsections (4) and (5).

(9) Except for Subsection (7), the provisions of this section do not apply to a human services program that is:

(a) a foster home; and

(b) required to be licensed by the office.

Section 11. Section 62A-5a-102 is amended to read:

62A-5a-102. Definitions.

As used in this chapter:

(1) "Council" means the Coordinating Council for Persons with Disabilities.

(2) "State agencies" means:

(a) the Division of Services for People with Disabilities and the Division of Substance Abuse and Mental Health, within the Department of Human Services;

(b) the Division of Health Care Financing within the Department of Health;

(c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;

(d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

(e) special education programs operated by the State Board of Education [~~and local school districts~~] or an LEA under Title 53E, Chapter 7, Part 2, Special Education Program.

Section 12. Section 62A-5a-105 is amended to read:

62A-5a-105. Coordination of services for school-age children.

(1) Within appropriations authorized by the Legislature, the state director of special education, the director of the Utah State Office of Rehabilitation created in Section 35A-1-202, the executive director of the Department of Human Services, and the family health services director within the Department of Health, or their designees, and the affected [~~local school district~~] LEA, as defined in Section 53E-1-102, shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53E, Chapter 7, Part 2, Special Education Program, who also require services from the Department of Human Services, the Department of Health, or the Utah State Office of Rehabilitation.

(2) Distribution of costs for services and supports described in Subsection (1) shall be determined through a process established by the State Board of Education, the Department of Human Services, and the Department of Health.

Section 13. Repealer.

This bill repeals:

Section 53E-7-301, Definitions.

Section 53E-7-302, Braille skills assessment -- Development of individualized education program.

Section 53E-7-303, Instruction in reading and writing of Braille.

Section 53E-7-304, Braille versions of textbooks.

Section 14. Coordinating H.B. 29 with H.B. 27 -- Substantive and technical amendments.

If this H.B. 29 and H.B. 27, Public Education Definitions Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) repealing Subsections 53E-7-201(3), (5), and (7) and renumbering the remaining subsections accordingly; and

(2) replacing the words "State Board of Education" in Subsection 53E-7-204(1) with the words "state board".

CHAPTER 188**H. B. 35**

Passed February 8, 2019
Approved March 25, 2019
Effective May 14, 2019

CUSTODY AND PARENT-TIME REVISIONS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions regarding custody and parent-time.

Highlighted Provisions:

This bill:

- ▶ rewrites and consolidates some provisions regarding custody;
- ▶ addresses custody of children and factors the court may consider;
- ▶ addresses joint legal custody, joint physical custody, and factors the court shall consider in making a determination;
- ▶ addresses parent-time;
- ▶ permits a court to rely on divorce custody and parent-time provisions in a parentage act judicial proceeding; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 30-3-10, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
30-3-10.2, as last amended by Laws of Utah 2005, Chapter 142
30-3-10.4, as last amended by Laws of Utah 2017, Chapter 224
30-3-32, as last amended by Laws of Utah 2017, Chapter 120
30-3-34, as last amended by Laws of Utah 2015, Chapter 18
30-3-35, as last amended by Laws of Utah 2018, Chapter 39
30-3-35.1, as last amended by Laws of Utah 2018, Chapter 96
78A-6-104, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-610, as last amended by Laws of Utah 2015, Chapter 45

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-10 is amended to read:**30-3-10. Custody of a child -- Custody factors.**

~~[(1) If a married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.]~~

~~[(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:]~~

~~[(i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;]~~

~~[(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;]~~

~~[(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;]~~

~~[(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and]~~

~~[(v) those factors outlined in Section 30-3-10.2.]~~

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence,

neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

~~[(4b)]~~ (3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases ~~[where]~~ when there is:

~~[(i) domestic violence in the home or in the presence of the child;]~~

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

~~[(4b)]~~ (b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

~~[(4ii)]~~ (c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

~~[(4iv)]~~ (d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

~~[(e)]~~ (4) (i) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(ii) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

~~[(4d)]~~ (5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

~~[(e)]~~ (b) (i) The court may inquire of the child's and take into consideration the ~~[the]~~ child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

~~[(4f)]~~ (c) (i) If an interview with a child is conducted by the court pursuant to Subsection ~~[(1)(e)]~~ (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

~~[(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.]~~

~~[(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.]~~

~~[(4)]~~ (6) (a) Except as provided in Subsection ~~[(4)]~~ (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

~~[(5)]~~ (8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

~~[(6)]~~ (9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

~~[(7)]~~ (10) In considering the past conduct and demonstrated moral standards of each party under Subsection ~~[(1)(a)(i)]~~ (2)(d) or any other factor a court finds relevant, the court may not discriminate against a parent because of or otherwise consider the parent's:

(a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, except as it relates to that parent's ability to care for a child; or

(b) status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) state central fill agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 2. Section 30-3-10.2 is amended to read:

30-3-10.2. Joint custody order -- Factors for court determination -- Public assistance.

(1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and ~~[(i)]~~ the court determines that joint legal custody or joint physical custody or both is in the best interest of the child.

(2) In determining whether the best interest of a child will be served by ordering joint legal custody or joint physical custody or both, the court shall

consider the custody factors in Section 30-3-10 and the following factors:

(a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal custody or joint physical custody or both;

(b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;

~~[(c) whether each parent is capable of encouraging and accepting a positive relationship between the child and the other parent, including the sharing of love, affection, and contact between the child and the other parent;]~~

(c) co-parenting skills, including:

(i) ability to appropriately communicate with the other parent;

(ii) ability to encourage the sharing of love and affection; and

(iii) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(d) whether both parents participated in raising the child before the divorce;

(e) the geographical proximity of the homes of the parents;

(f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal custody or joint physical custody or both;

(g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;

(h) the past and present ability of the parents to cooperate with each other and make decisions jointly; and

~~[(i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and]~~

[(j)] (i) any other ~~[factors]~~ factor the court finds relevant.

(3) The determination of the best interest of the child shall be by a preponderance of the evidence.

(4) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.

(5) The court may order that ~~[where]~~ when possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Section 3. Section 30-3-10.4 is amended to read:

30-3-10.4. Modification or termination of order.

(1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(2) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10[(4)(b)](3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10[(5)](8) and may order the parents to file a parenting plan in accordance with this chapter.

(4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(6) [When] If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 4. Section 30-3-32 is amended to read:

30-3-32. Parent-time -- Intent -- Policy -- Definitions.

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who experiences domestic or family violence.

(b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's child consistent with the child's best interests; and

(iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

(c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, shall be considered evidence of real harm or substantiated potential harm to the child.

(3) For purposes of [Sections 30-3-32] this section through Section 30-3-37:

(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

(b) Subject to Subsection (5), "Christmas school vacation" means:

(i) for a single child, the time period beginning on the evening the child is released from school for the Christmas or winter school break and ending the evening before the child returns to school; and

(ii) for multiple children when the children's school schedules differ, at the option of the parent exercising the holiday or the parent's half of the holiday, the time period [beginning] may begin on the first evening all children's schools are released for the Christmas or winter school break and [ending] end the evening before any of the children returns to school.

(c) “Extended parent-time” means a period of parent-time other than a weekend, holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in Subsections 30-3-33(3) and (17), and “Christmas school vacation.”

(d) “Supervised parent-time” means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

(e) “Surrogate care” means care by any individual other than the parent of the child.

(f) “Uninterrupted time” means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

(g) “Virtual parent-time” means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person parent-time.

(4) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 30-3-37.

(5) A Christmas school vacation shall be divided equally as required by Section 30-3-35.

Section 5. Section 30-3-34 is amended to read:

30-3-34. Parent-time -- Best interests -- Rebuttable presumption.

(1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.

(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child unless the court determines that Section 30-3-35.1 should apply. The parent-time schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon ~~any~~ one or more of the following criteria:

(a) parent-time would endanger the child’s physical health or mental health, or significantly impair the child’s emotional development;

(b) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, a parent, or a household member of the parent;

~~(4b)~~ (c) the distance between the residency of the child and the noncustodial parent;

~~(4e)~~ (d) a ~~[substantiated or unfounded]~~ credible allegation of child abuse has been made;

~~(4d)~~ (e) the lack of demonstrated parenting skills without safeguards to ensure the child’s well-being during parent-time;

~~(4e)~~ (f) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

~~(4f)~~ (g) the preference of the child if the court determines the child ~~[to be]~~ is of sufficient maturity;

~~(4g)~~ (h) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

~~(4h)~~ (i) shared interests between the child and the noncustodial parent;

~~(4i)~~ (j) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

~~(4j)~~ (k) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

~~(4k)~~ (l) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

~~(4l)~~ (m) the minimal duration of and lack of significant bonding in the parents’ relationship ~~[prior to]~~ before the conception of the child;

~~(4m)~~ (n) the parent-time schedule of siblings;

~~(4n)~~ (o) the lack of reasonable alternatives to the needs of a nursing child; and

~~(4o)~~ (p) any other criteria the court determines relevant to the best interests of the child.

(3) The court shall enter the reasons underlying ~~[its]~~ the court’s order for parent-time that:

(a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

(b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.

(4) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Section 6. Section 30-3-35 is amended to read:

30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.

(1) The parent-time schedule in this section applies to children 5 to 18 years of age.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered

the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

(B) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i); or

(C) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30 p.m. if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

(ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.

(b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

(B) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection (2)(b)(i)(A); or

(C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on Sunday, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

(ii) A step-parent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iii) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(iv) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and which are contiguous to the weekend period.

(c) Holidays include any "snow" days, teacher development days after the children begin the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule, however:

(i) birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; and

(ii) birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or

(B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

(iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iv) An election should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) subject to Subsection (2)(i), spring break beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the evening before school resumes;

(iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vii) Veterans Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.

(g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

(vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

(viii) the second portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, so long

as the entire Christmas holiday period is equally divided.

(h) The custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years.

(i) If there is more than one child and the children's school schedules vary for purpose of a holiday, ~~[it is presumed that]~~ at the option of the parent exercising the holiday or the parent's half of the holiday, the children ~~[will]~~ may remain together for the holiday period beginning the first evening that all children's schools are let out for the holiday and ending the evening before any child returns to school.

(j) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday.

(k) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday.

(l) Extended parent-time with the noncustodial parent may be:

(i) up to four consecutive weeks when school is not in session at the option of the noncustodial parent, including weekends normally exercised by the noncustodial parent, but not holidays;

(ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.

(m) The custodial parent shall have an identical two-week period of uninterrupted time when school is not in session for purposes of vacation.

(n) Both parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days before the end of the child's school year to the other parent and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.

(o) Telephone contact shall be at reasonable hours and for a reasonable duration.

(p) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(3) An election required to be made in accordance with this section by either parent concerning

parent-time shall be made a part of the decree and made a part of the parent-time order.

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).

Section 7. Section 30-3-35.1 is amended to read:

30-3-35.1. Optional schedule for parent-time for children 5 to 18 years of age.

(1) The optional parent-time schedule in this section applies to ~~children~~ a child 5 to 18 years of age. This schedule is 145 overnights. Any impact on child support shall be consistent with Subsection 78B-12-102(15).

(2) The parents and the court may consider the following increased parent-time schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the following:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties are able to communicate effectively regarding the child, or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(3) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in ~~day~~ child care;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

(f) bonding with the child; and

(g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent, consistent with Subsection 30-3-10~~(4)~~(6);

(d) flexibility of employment or other schedule of the parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(5) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order. An election may only be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(6) If the parties agree or the court enters an order for the optional parent-time schedule as set forth in this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the following optional parent-time schedule~~[.]~~.

(a) The noncustodial parent or the court may specify one weekday for parent-time. If no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the following day when delivering the child to school, or until 8 a.m., if there is no school the following day. Once the election of the weekday is made, it may only be changed in accordance with Subsection (5). At the election of the noncustodial parent, weekday parent-time may commence:

(i) from the time the child's school is regularly dismissed; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m., accommodating the custodial parent's work schedule.

(b) Beginning on the first weekend after the entry of the decree, the noncustodial parent shall be entitled to alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m. if there is no school on Monday. At the election of the noncustodial parent, weekend parent-time may commence:

(i) from the time the child's school is regularly dismissed on Friday; or

(ii) if school is not in session, and the parent is available to be with the child, at approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.

(c) Subsections 30-3-35(2)(f) through (p) are incorporated into this section and constitute the parent-time schedule with the exception that all instances that require the noncustodial parent to return the child at any time after 6 p.m. be changed so that the noncustodial parent is required to return the child to school the next morning or at 8 a.m., if there is no school.

(7) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent may pick up the child if the custodial parent is aware of the identity of the individual, and if the noncustodial parent will be with the child by 7 p.m.

(8) Weekends include any “snow” days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(9) Holidays include any “snow” days, teacher development days after the child begins the school year, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule.

(a) If a holiday falls on a school day, the noncustodial parent shall be responsible for the child’s attendance at school for that school day.

(b) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(c) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child’s school is dismissed at the beginning of the holiday weekend or, if school is not in session, and if the noncustodial parent is available to be with the child, parent-time over a scheduled holiday weekend may begin at approximately 8 a.m., accommodating the custodial parent’s work schedule, unless the court directs the application of Subsection (6)(a).

(10) Birthdays take precedence over holidays and extended parent-time, except Mother’s Day and Father’s Day. Birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken along for birthdays.

(11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended beyond the hours designated in Subsection 30-3-35(2)(g)(vi).

(12) If there [are children] is a child aged 5 to 18 and [children] a child under the age of five who are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule pursuant to this section.

Section 8. Section 78A-6-104 is amended to read:

78A-6-104. Concurrent jurisdiction -- District court and juvenile court.

(1) The district court or other court has concurrent jurisdiction with the juvenile court as follows:

(a) when a person who is 18 years of age or older and who is under the continuing jurisdiction of the juvenile court under Section 78A-6-117 violates any federal, state, or local law or municipal ordinance; and

(b) in establishing paternity and ordering testing for the purposes of establishing paternity, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, with regard to proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

(2) The juvenile court has jurisdiction over petitions to modify a minor’s birth certificate if the court otherwise has jurisdiction over the minor.

(3) This section does not deprive the district court of jurisdiction to appoint a guardian for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas corpus or when the question of support, custody, and parent-time is incidental to the determination of a cause in the district court.

(4) (a) [Where] When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) The juvenile court may, by order, change the custody, subject to Subsection 30-3-10[(4)](6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child. The juvenile court order remains in effect so long as the jurisdiction of the juvenile court continues.

(c) [When] If a copy of the findings and order of the juvenile court has been filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(5) The juvenile court has jurisdiction over questions of custody, support, and parent-time of a minor who comes within the court’s jurisdiction under this section or Section 78A-6-103.

Section 9. Section 78B-15-610 is amended to read:

78B-15-610. Joinder of judicial proceedings -- Court reliance of custody and parent-time standards.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(3) A court may rely on Title 30, Chapter 3, Divorce, in determining issues related to custody or parent-time.

CHAPTER 189**H. B. 40**

Passed February 22, 2019

Approved March 25, 2019

Effective May 14, 2019

**AMENDMENTS TO
CRIMINAL PROVISIONS**

Chief Sponsor: Paul Ray

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies criminal offenses and penalties in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “health professional” as the term relates to certain sexual offenses;
- ▶ modifies certain criminal offenses and penalties relating to:
 - dealing in material harmful to minors between a young adult and adolescent;
 - obstruction of alcoholic beverage control investigations;
 - registration as a sex offender;
 - rendering a dead body unavailable for postmortem investigation;
 - repeated violations of the Minimum Wage Act; and
 - theft;
- ▶ repeals the criminal offenses of adultery and sodomy;
- ▶ provides immunity from prosecution for the offenses of prostitution and sexual solicitation under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-2-18.5, as enacted by Laws of Utah 2009, Chapter 223

31A-22-726, as last amended by Laws of Utah 2015, Chapter 283

32B-4-505, as enacted by Laws of Utah 2010, Chapter 276

34-40-204, as last amended by Laws of Utah 1997, Chapter 375

53G-6-707, as renumbered and amended by Laws of Utah 2018, Chapter 3

62A-15-602, as last amended by Laws of Utah 2018, Chapter 322

76-3-406, as last amended by Laws of Utah 2017, Chapter 397

76-5-403, as last amended by Laws of Utah 2013, Chapter 81

76-5-404, as last amended by Laws of Utah 2018, Chapter 192

76-5-406, as last amended by Laws of Utah 2018, Chapter 176

76-5-407, as last amended by Laws of Utah 2000, Chapter 128

76-6-412, as last amended by Laws of Utah 2018, Chapter 265

76-7-302, as last amended by Laws of Utah 2018, Chapter 282

76-7-305, as last amended by Laws of Utah 2018, Chapter 282

76-10-1206, as last amended by Laws of Utah 2009, Chapter 345

76-10-1302, as last amended by Laws of Utah 2017, Chapter 433

76-10-1313, as last amended by Laws of Utah 2018, Chapter 308

77-41-107, as last amended by Laws of Utah 2015, Chapter 210

REPEALS:

76-7-103, as last amended by Laws of Utah 1991, Chapter 241

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-18.5 is amended to read:**26-2-18.5. Rendering a dead body unavailable for postmortem investigation.**

(1) As used in this section:

(a) “Medical examiner” [~~is as~~] means the same as that term is defined in Section 26-4-2.

(b) “Unavailable for postmortem investigation” [~~is as~~] means the same as that term is defined in Section 26-4-2.

(2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable for postmortem investigation, unless, before engaging in that conduct, the person obtains a permit from the medical examiner to render the dead body unavailable for postmortem investigation, under Section 26-4-29[-], if the person intends to make the body unavailable for postmortem investigation.

(3) A person who violates Subsection (2) is guilty of a [~~class B misdemeanor~~] third degree felony.

(4) If a person engages in conduct that constitutes both a violation of this section and a violation of Section 76-9-704, the provisions and penalties of Section 76-9-704 [~~supersede~~] supersede the provisions and penalties of this section.

Section 2. Section 31A-22-726 is amended to read:**31A-22-726. Abortion coverage restriction in health benefit plan and on health insurance exchange.**

(1) As used in this section, “permitted abortion coverage” means coverage for abortion:

(a) that is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) of a fetus that has a defect that is documented by a physician or physicians to be uniformly diagnosable and uniformly lethal; or

(c) where the woman is pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406~~(149)~~ (2)(j) or Section 76-7-102.

(2) A person may not offer coverage for an abortion in a health benefit plan, unless the coverage is a type of permitted abortion coverage.

~~[(3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title 63N, Chapter 11, Health System Reform Act, unless the coverage is a type of permitted abortion coverage.]~~

~~[(4)] (3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.~~

Section 3. Section 32B-4-505 is amended to read:

32B-4-505. Obstructing a search, official proceeding, or investigation.

(1) A person who is in the premises or has charge over premises may not refuse or fail to admit to the premises or obstruct the entry of any of the following who demands entry when acting under this title:

(a) a commissioner;

(b) an authorized representative of the commission or department; or

(c) a law enforcement officer.

(2) A person who is in the premises or has charge of the premises may not interfere with any of the following who is conducting an investigation under this title at the premises:

(a) a commissioner;

(b) an authorized representative of the commission or department; or

(c) a law enforcement officer.

(3) A person is guilty of a ~~[second degree felony]~~ class A misdemeanor if, believing that an official proceeding or investigation is pending or about to be instituted under this title, that person:

(a) alters, destroys, conceals, or removes a record with a purpose to impair ~~[its]~~ the record's verity or availability in the proceeding or investigation; or

(b) makes, presents, or uses anything that the person knows to be false with a purpose to deceive any of the following who may be engaged in a proceeding or investigation under this title:

(i) a commissioner;

(ii) an authorized representative of the commission or department;

(iii) a law enforcement officer; or

(iv) other person.

Section 4. Section 34-40-204 is amended to read:

34-40-204. Criminal penalty -- Enforcement.

~~(1) [(a) Repeated violation of this chapter is a class B misdemeanor.]~~

~~[(b) "Repeated violations" does not include] As used in this section, "violation" includes separate violations as to individual employees arising out of the same investigation or enforcement action.~~

~~(2) (a) A violation of this chapter is an infraction.~~

~~(b) A second violation of this chapter is a class C misdemeanor.~~

~~(c) A third or subsequent violation of this chapter is a class B misdemeanor.~~

~~[(2) Upon the third violation by the same employer within a three-year period, the]~~

~~(3) Upon an employer's violation of this section, the commission may prosecute a criminal action in the name of the state.~~

~~[(3)] (4) The county attorney, district attorney, or attorney general shall provide assistance in prosecutions under this section at the request of the commission.~~

Section 5. Section 53G-6-707 is amended to read:

53G-6-707. Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

(4) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.

(5) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(40)(2)(j) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(6) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(7) Notwithstanding Subsection 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

(a) is sponsored by an agency approved by the State Board of Education;

(b) attends the same school during the same time period that another student from the school is:

(i) sponsored by the same agency; and

(ii) enrolled in a school in a foreign country; and

(c) is enrolled in the school for one year or less.

Section 6. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years of age or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(4) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(5) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(6) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(7) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or

an approved treatment facility or program for the treatment of an adult's substance use disorder.

(8) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406~~(1) through (12)~~ (2)(a) through (1):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(9) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(10) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(11) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(12) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(13) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(14) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(15) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(17) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

(18) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 7. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for ~~[any person]~~ an individual who commits a capital felony or a first degree felony involving:

(a) Section 76-5-202, aggravated murder;

(b) Section 76-5-203, murder;

(c) Section 76-5-301.1, child kidnaping;

(d) Section 76-5-302, aggravated kidnaping;

(e) Section 76-5-402, rape, if the ~~[person]~~ individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) Section 76-5-402.1, rape of a child;

(g) Section 76-5-402.2, object rape, if the ~~[person]~~ individual is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the ~~[person]~~ individual is sentenced under Subsection 76-5-403~~[(4)] (3)(b), [(4)] (3)(c), or [(5)] (4);~~

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the ~~[person]~~ individual is sentenced under Subsection 76-5-404~~(2)(b) or (3);~~

(l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) The provisions of this section do not apply if the sentencing court finds that the defendant was under the age of 18 at the time of the offense and could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the Information, unless the offenses are before the court pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703.

Section 8. Section 76-5-403 is amended to read:

76-5-403. Forcible sodomy.

(1) ~~[A person commits sodomy when the actor engages in any sexual act with a person who is 14 years of age or older involving the genitals of one person and mouth or anus of another person, regardless of the sex of either participant.] As used in this section, "sodomy" means engaging in any sexual act with an individual who is 14 years of age or older involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant.~~

(2) ~~[A person]~~ An individual commits forcible sodomy when the actor commits sodomy upon another without the other's consent.

~~[(3) Sodomy is a class B misdemeanor.]~~

~~[(4)] (3)~~ Forcible sodomy is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection ~~[(4)] (3)(b) or (c),~~ not less than five years and which may be for life;

(b) except as provided in Subsection ~~[(4)] (3)(c) or [(5)] (4),~~ 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to another; or

(ii) at the time of the commission of the rape, the defendant was younger than 18 years of age and was previously convicted of a grievous sexual offense; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.

~~[(5)] (4)~~ If, when imposing a sentence under Subsection ~~[(4)] (3)(b),~~ a court finds that a lesser term than the term described in Subsection ~~[(4)] (3)(b)~~ is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

~~[(6)] (5)~~ The provisions of Subsection ~~[(5)] (4)~~ do not apply when ~~[a person]~~ an individual is sentenced under Subsection ~~[(4)] (3)(a) or (c).~~

~~[(7)] (6)~~ Imprisonment under Subsection ~~[(4)] (3)(b), [(4)] (3)(c), or [(5)] (4)~~ is mandatory in accordance with Section 76-3-406.

Section 9. Section 76-5-404 is amended to read:

76-5-404. Forcible sexual abuse.

(1) An individual commits forcible sexual abuse if the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, forcible sodomy, or attempted rape or forcible sodomy, the actor touches the anus, buttocks, pubic area, or any part of the genitals of another, or touches the breast of a female, or otherwise takes indecent liberties with another, with intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, without the consent of the other, regardless of the sex of any participant.

(2) Forcible sexual abuse is:

(a) except as provided in Subsection (2)(b), a felony of the second degree, punishable by a term of imprisonment of not less than one year nor more than 15 years; or

(b) except as provided in Subsection (3), a felony of the first degree, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the defendant caused serious bodily injury to another.

(3) If, when imposing a sentence under Subsection (2)(b), a court finds that a lesser term than the term described in Subsection (2)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(4) Imprisonment under Subsection (2)(b) or (3) is mandatory in accordance with Section 76-3-406.

Section 10. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.

(1) As used in this section:

(a) "Health professional" means an individual who is licensed or who holds the individual out to be

licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling, including an athletic trainer, physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.

(b) “Religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

(c) “To retaliate” includes threats of physical force, kidnapping, or extortion.

(2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, [~~sodomy, attempted sodomy,~~] forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

[(4)] (a) the victim expresses lack of consent through words or conduct;

[(2)] (b) the actor overcomes the victim through the actual application of physical force or violence;

[(3)] (c) the actor is able to overcome the victim through concealment or by the element of surprise;

[(4) (a) (i)] (d) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

[(b) as used in this Subsection (4), “to retaliate” includes threats of physical force, kidnapping, or extortion;]

[(5)] (e) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

[(6)] (f) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:

[(a)] (i) appraise the nature of the act;

[(b)] (ii) resist the act;

[(e)] (iii) understand the possible consequences to the victim’s health or safety; or

[(d)] (iv) appraise the nature of the relationship between the actor and the victim[-];

[(7)] (g) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim’s spouse;

[(8)] (h) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim’s knowledge;

[(9)] (i) the victim is younger than 14 years of age;

[(10)] (j) the victim is younger than 18 years of age and at the time of the offense the actor was the victim’s parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

[(11)] (k) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection [(2) or (4)] (2)(b) or (d); or

[(12)] (l) the actor is a health professional or religious counselor, [~~as those terms are defined in this Subsection (12),~~] the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested[; for purposes of this Subsection (12):]

[(a) “health professional” means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and]

[(b) “religious counselor” means a minister, priest, rabbi, bishop, or other recognized member of the clergy].

Section 11. Section 76-5-407 is amended to read:

76-5-407. Applicability of part -- “Penetration” or “touching” sufficient to constitute offense.

(1) The provisions of this part do not apply to consensual conduct between [persons] individuals married to each other.

(2) In any prosecution for:

(a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving sexual intercourse;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving sexual intercourse; or

(iii) rape, a violation of Section 76-5-402; or

(b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving acts of sodomy;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving acts of sodomy;

~~[(iii) sodomy, a violation of Subsection 76-5-403(1);]~~

~~[(iv)] (iii) forcible sodomy, a violation of Subsection 76-5-403(2);~~

~~[(v)] (iv) rape of a child, a violation of Section 76-5-402.1; or~~

~~[(vi)] (v) object rape of a child, a violation of Section 76-5-402.3.~~

(3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:

(a) sodomy on a child, a violation of Section 76-5-403.1; or

(b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section 76-5-404.1.

Section 12. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the value of the property or services is or exceeds \$500 and the actor has been twice before

convicted of any of the following offenses, if each prior offense was committed within 10 years [øf] before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

~~[(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or]~~

~~[(iv)] (iii) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;~~

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4);

~~[(v)] (iv) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;~~

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years [øf] before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or Subsection 76-6-413(1), or commits theft of ~~property described in Subsection 76-6-412(1)(b)(iii)]~~ a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal

raised for commercial purposes, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 13. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

- (a) the unborn child is not viable; or
- (b) the unborn child is viable, if:
 - (i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a defect that is uniformly diagnosable and uniformly lethal; or

(iii) (A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406~~(409)~~ (2)(j) or Section 76-7-102; and

(B) before the abortion is performed, the physician who performs the abortion:

(I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and

(II) complies with the requirements of Section 62A-4a-403.

(4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

Section 14. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains a voluntary and

informed written consent from the woman on whom the abortion is performed, that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term; and

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website; and

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3); and

(ii) obtain a copy of the statement described in Subsection (2)(c)(i).

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection [~~(6)~~] (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as defined in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406[~~(4)~~] (2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be

held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 15. Section 76-10-1206 is amended to read:

76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for internet service providers and hosting companies.

(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that ~~a person~~ an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:

(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or ~~a person the actor~~ an individual whom the person believes to be a minor, any material harmful to minors;

(b) produces, performs, or directs any performance, before a minor or ~~a person the actor~~ an individual whom the person believes to be a minor, that is harmful to minors; or

(c) participates in any performance, before a minor or ~~a person the actor~~ an individual whom the person believes to be a minor, that is harmful to minors.

(2) (a) ~~Each~~ Except as provided in Subsection (2)(b), each separate offense under this section committed by a person 18 years of age or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

(b) Each separate offense under this section committed by a person 18 years of age or older

against a minor 16 years of age or older, but younger than 18 years of age, is a class A misdemeanor if the person is less than seven years older than the minor at the time of the offense.

~~(b)~~ (c) Each separate offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor.

~~(e)~~ (d) Each separate offense under this section committed by a person younger than 16 years of age is a class B misdemeanor.

~~(d)~~ (e) Subsection (2)(a) supersedes Section 77-18-1.

(3) (a) ~~If~~ Except for a defendant described in Subsection (2)(b), if a defendant 18 years of age or older has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:

(i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a third degree felony.

(c) Subsection (3)(a) supersedes Section 77-18-1.

(d) (i) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(A) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(I) transmitting or routing data from one person to another person; or

(II) providing a connection between one person and another person;

(B) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(C) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(ii) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(A) the distribution of pornographic material by the hosting company occurs only incidentally

through the hosting company's function of providing data storage space or data caching to a person;

(B) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(C) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(4) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).

Section 16. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An individual is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) [Ø] and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Child" means the same as that term is defined in Section 76-10-1301.

(ii) "Child engaged in prostitution" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" means the same as that term is defined in Section 62A-7-101.

(b) Upon encountering a child engaged in prostitution or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation;

(ii) refer the child to the division;

(iii) if an arrest is made, bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

(c) When law enforcement has referred the child to the division under Subsection (3)(b)(ii):

(i) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services; and

(ii) the child may not be subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

(4) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or

(s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

Section 17. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) An individual is guilty of sexual solicitation when the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

~~(3) [(a) Sexual solicitation is a class A misdemeanor, except under Subsection (4).]~~

~~[(b) An] Except as provided in Section 76-10-1309 and Subsections (4) and (5), an individual who is convicted [a second time] of sexual solicitation under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor[, except as provided in Section 76-10-1309].~~

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

(5) If an individual commits an act of sexual solicitation and the individual solicited is a child, the offense is a third degree felony if the solicitation does not amount to human trafficking or human

smuggling, a violation of Section 76-5-308, or aggravated human trafficking or aggravated human smuggling, a violation of Section 76-5-310.

(6) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the offenses or an attempt to commit any of the offenses described in Subsection 76-10-1302(4), and the individual reports the offense or attempt to law enforcement in good faith.

Section 18. Section 77-41-107 is amended to read:

77-41-107. Penalties.

(1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:

(a) a third degree felony and shall be sentenced to serve a term of incarceration for not less than [90] 30 days and also at least one year of probation if:

(i) the offender is required to register for a felony conviction or adjudicated delinquent for what would be a felony if the juvenile were an adult of an offense listed in Subsection 77-41-102(9)(a) or (17)(a); or

(ii) the offender is required to register for the offender's lifetime under Subsection 77-41-105(3)(c); or

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than [90] 30 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction or is adjudicated delinquent for what would be a misdemeanor if the juvenile were an adult of an offense listed in Subsection 77-41-102(9)(a) or (17)(a).

(2) (a) Neither the court nor the Board of Pardons and Parole may release [a person] an individual who violates this chapter from serving the term required under Subsection (1).

(b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.

(3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Section 19. Repealer.

This bill repeals:

Section 76-7-103, Adultery.

CHAPTER 190**H. B. 43**

Passed February 14, 2019

Approved March 25, 2019

Effective May 14, 2019

SUPPORT ANIMALS AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to animals that provide support for individuals with disabilities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends housing and criminal provisions relating to the use of a service animal or a support animal;
- ▶ amends provisions related to liability for an individual training an animal to become a service animal or a police service canine; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-5b-101, as enacted by Laws of Utah 2007, Chapter 22

62A-5b-102, as last amended by Laws of Utah 2011, Chapter 94

62A-5b-103, as renumbered and amended by Laws of Utah 2007, Chapter 22

62A-5b-104, as last amended by Laws of Utah 2012, Chapter 389

62A-5b-105, as renumbered and amended by Laws of Utah 2007, Chapter 22

62A-5b-106, as renumbered and amended by Laws of Utah 2007, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-5b-101 is amended to read:**CHAPTER 5b. RIGHTS AND PRIVILEGES OF AN INDIVIDUAL WITH A DISABILITY****62A-5b-101. Title.**

This chapter is known as "Rights and Privileges of ~~[a Person]~~ an Individual with a Disability."

Section 2. Section 62A-5b-102 is amended to read:**62A-5b-102. Definitions.**

As used in this chapter:

(1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans With Disabilities Act of 1990, as may be amended in the

future, and 28 C.F.R. 36.104 of the Code of Federal Regulations, as may be amended in the future.

~~[(2) "Restaurant":]~~

~~[(a) — includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or fast-food service where food is prepared or served for immediate consumption; and]~~

~~[(b) does not include:]~~

~~[(i) — any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and]~~

~~[(ii) — except for a dinner theater, a theater that sells food items.]~~

~~[(3)]~~ (2) (a) "Service animal" includes any dog that:

(i) is trained, or is in training, to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability; and

(ii) performs work or tasks, or is in training to perform work or tasks, that are directly related to the individual's disability, including:

(A) assisting an individual who is blind or has low vision with navigation or other tasks;

(B) alerting an individual who is deaf or hard of hearing to the presence of people or sounds;

(C) providing non-violent protection or rescue work;

(D) pulling a wheelchair;

(E) assisting an individual during a seizure;

(F) alerting an individual to the presence of an allergen;

(G) retrieving an item for the individual;

(H) providing physical support and assistance with balance and stability ~~[to an individual with a mobility disability];~~ or

(I) helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors.

(b) "Service animal" does not include:

(i) an animal other than a dog, whether wild or domestic, trained or untrained; or

(ii) an animal used solely to provide:

(A) a crime deterrent;

(B) emotional support;

(C) well-being;

(D) comfort; or

(E) companionship.

(3) "Support animal" means an animal, other than a service animal, that qualifies as a reasonable

accommodation under federal law for an individual with a disability.

Section 3. Section 62A-5b-103 is amended to read:

62A-5b-103. Rights and privileges of an individual with a disability.

(1) ~~[A person]~~ An individual with a disability has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as ~~[a person]~~ an individual who is not ~~[a person]~~ an individual with a disability.

(2) ~~[A person]~~ An individual with a disability has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) ~~[A person]~~ An individual with a disability has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

(4) (a) ~~[A person]~~ An individual with a disability has equal rights and access to public and private housing accommodations offered for rent, lease, or other compensation in this state.

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate ~~[a person]~~ an individual with a disability or to provide a higher degree of care for that ~~[person]~~ individual than for someone who is not ~~[a person]~~ an individual with a disability.

(c) A person renting, leasing, or selling private housing or real property to ~~[a person]~~ an individual with a disability shall comply with the provisions of Section 62A-5b-104~~], regarding the right of the person to be accompanied by a service animal specially trained for that purpose].~~

Section 4. Section 62A-5b-104 is amended to read:

62A-5b-104. Right to be accompanied by service animal or support animal -- Security deposits -- Discrimination -- Liability.

(1) (a) ~~[A person]~~ An individual with a disability has the right to be accompanied by a service animal, unless the service animal is a danger or nuisance to others as interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

(i) in any of the places specified in Section 62A-5b-103; and

(ii) without additional charge for the service animal.

~~[(b) This section does not prohibit an owner or lessor of private housing accommodations from charging a person, including a person with a~~

~~disability, a reasonable deposit as security for any damage or wear and tear that might be caused by a service animal if the owner or lessor would charge a similar deposit to other persons for potential wear and tear.]~~

~~[(e)]~~ (b) An owner or lessor of private housing accommodations:

(i) may not, in any manner, discriminate against ~~[a person]~~ an individual with a disability on the basis of the ~~[person's]~~ individual's possession of a service animal~~[-]~~ or a support animal, including by charging an extra fee or deposit for a service animal or a support animal; and

(ii) may recover a reasonable cost to repair damage caused by a service animal or a support animal.

(2) ~~[A person]~~ An individual who is not ~~[a person]~~ an individual with a disability has the right to be accompanied by an animal that is in training to become a service animal or a police service canine, as defined in Section 53-16-102:

(a) in any of the places specified in Section 62A-5b-103; and

(b) without additional charge for the animal.

~~[(3) A person with a disability is liable for any loss or damage caused or inflicted to the premises by the person's service animal.]~~

~~[(4) A person accompanied by a service animal is encouraged to identify the animal by exhibiting one or more of the following:]~~

~~[(a) the animal's laminated identification card;]~~

~~[(b) the animal's service vest; or]~~

~~[(c) another form of identification.]~~

~~[(3) An individual described in Subsection (1) or (2) is liable for any loss or damage the individual's accompanying service animal, support animal, or animal described in Subsection (2) causes or inflicts to the premises of a place specified in Section 62A-5b-103.]~~

~~[(4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a service animal or a support animal from a place described in Section 62A-5b-103.]~~

Section 5. Section 62A-5b-105 is amended to read:

62A-5b-105. Policy of state to employ individuals with a disability.

It is the policy of this state that ~~[a person]~~ an individual with a disability ~~[shall be]~~ is employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as ~~[a person]~~ an individual who is not ~~[a person]~~ an individual with a disability, unless it is shown that the particular disability prevents the performance of the work involved.

Section 6. Section 62A-5b-106 is amended to read:

62A-5b-106. Interference with rights provided in this chapter --

Misrepresentation of rights under this chapter.

(1) Any ~~[person]~~ individual, or agent of any ~~[person]~~ individual, who denies or interferes with the rights provided in this chapter is guilty of a class C misdemeanor.

(2) ~~[A person]~~ An individual is guilty of a class ~~[B]~~ C misdemeanor if:

(a) the ~~[person]~~ individual intentionally and knowingly falsely represents to another person that an animal is a service animal ~~[as defined in Section 62A-5b-102;]~~ or a support animal;

(b) the ~~[person]~~ individual knowingly and intentionally misrepresents a material fact to a health care provider for the purpose of obtaining documentation from the health care provider necessary to designate an animal as a service animal ~~[as defined in Section 62A-5b-102;]~~ or a support animal; or

(c) the individual, except for an individual with a disability, uses an animal to gain treatment or benefits only provided for an individual with a disability.

(3) This section does not affect the enforceability of any criminal law, including Subsection 76-6-501(2).

(4) An agent of a protection and advocacy agency, acting in the agent's professional capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

CHAPTER 191**H. B. 48**

Passed March 13, 2019

Approved March 25, 2019

Effective May 14, 2019

SCHOOL TRUST FUND MODIFICATIONS

Chief Sponsor: Jefferson Moss

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to school and institutional trust fund management, advocacy, and distribution of funds.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to board meetings and funding the office operations of the School and Institutional Trust Fund Office;
- ▶ amends provisions related to funding the office operations of the Land Trusts Protection and Advocacy Office;
- ▶ amends provisions related to the Trust Distribution Account;
- ▶ amends provisions related to the School LAND Trust Program;
- ▶ repeals outdated provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53D-1-203, as enacted by Laws of Utah 2014, Chapter 426

53D-1-304, as last amended by Laws of Utah 2018, Chapter 448

53D-2-204, as enacted by Laws of Utah 2018, Chapter 448

53F-2-404, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-9-201, as last amended by Laws of Utah 2018, Chapter 448 and renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53D-1-203 is amended to read:**53D-1-203. Funding of office operations.**

(1) As used in this section, "trust fund earnings" includes any of the following that is in excess of the trust fund corpus:

- (a) realized or unrealized gains;
- (b) interest;
- (c) dividends;

(d) other income; or

(e) other sources of revenue.

[4] (2) There is created an enterprise fund known as the School and Institutional Trust Fund Management Account.

[2] (3) The account is funded by money deposited into the account as provided in Subsection [3] (4).

[3] (4) [The] Except as provided in Subsection (5)(b), the director shall deposit into the account an amount of money from the [earnings from] trust fund [assets] earnings equal to the annual appropriation that the Legislature makes to the office, to pay for the office's operating costs.

[4] (5) (a) The office may use money in the account to pay for the office's operating costs.

(b) If the amount of money deposited into the account under Subsection [3] (4) in any fiscal year exceeds the amount required by the office during that fiscal year to fund [its] the office's operations, the office ~~[shall distribute that excess money proportionately to the various funds established for the beneficiaries of land grants under the enabling act, based on the balances of those funds as of June 30]~~ shall, in the following fiscal year, reduce the amount deposited into the account under Subsection (4) by the amount of the unspent appropriation.

[5] (6) (a) ~~[Before distributing earnings from trust fund assets, the]~~ The office may deduct from trust fund earnings:

(i) the cost for any audit, risk management, consulting, equipment, legal[, and custodial costs and management] services, software, research, or custodial services; or

(ii) manager fees incurred in managing the trust fund assets.

(b) The costs and fees described in Subsection [5] (6)(a) are separate from and in addition to the office's operating costs that are paid from the account.

Section 2. Section 53D-1-304 is amended to read:**53D-1-304. Board meetings.**

(1) The board shall hold at least six meetings per year to conduct business.

(2) The board chair or two board members:

(a) may call a board meeting; and

(b) if calling a board meeting, shall provide as much advance notice as is reasonable under the circumstances to all board members, the director, and the advocacy office director.

(3) Any board member may place an item on a board meeting agenda.

(4) The board shall ~~[annually]~~ adopt a set of parliamentary procedures to govern board meetings.

(5) The board may establish an attendance policy to govern the attendance of board members at board meetings.

Section 3. Section 53D-2-204 is amended to read:

53D-2-204. Land Trusts Protection and Advocacy Account -- Funding of advocacy office operations.

(1) As used in this section:

(a) "Account" means the Land Trusts Protection and Advocacy Account created in this section.

(b) "School and Institutional Trust Fund Office director" or "SITFO director" means the director of the School and Institutional Trust Fund Office, appointed under Section 53D-1-401.

(c) "Trust fund" means the same as that term is defined in Section 53D-1-102.

(d) "Trust fund earnings" means the same as that term is defined in Section 53D-1-203.

(2) There is created an enterprise fund known as the Land Trusts Protection and Advocacy Account.

(3) The account is funded by money deposited into the account as provided in Subsection (4).

(4) (a) ~~[During a fiscal year]~~ Except as provided in Subsection (4)(c), the SITFO director shall deposit into the account a total amount of money, taken proportionately from trust fund ~~[assets]~~ earnings according to the value of the various funds established for the trust beneficiaries, that is equal to the annual appropriation that the Legislature makes to the advocacy office.

(b) The advocacy office may use money in the account to pay for the advocacy office's operating costs.

(c) If the amount of money deposited into the account under Subsection (4)(a) in any fiscal year exceeds the amount required by the advocacy office during that fiscal year to fund advocacy office operations, the SITFO director ~~[shall distribute the excess money proportionately to the various funds established for the trust beneficiaries, based on the balances of those funds as of June 30]~~ shall, in the following fiscal year, reduce the amount deposited into the account under Subsection (4)(a) by the amount of the unspent appropriation.

Section 4. Section 53F-2-404 is amended to read:

53F-2-404. School LAND Trust Program distribution of funds.

~~[(1) (a) The School LAND Trust Program, established in Section 53G-7-1206, shall be funded each fiscal year:]~~

~~[(i) from the Trust Distribution Account created in Section 53F-9-201; and]~~

~~[(ii) in the amount of the sum of the following:]~~

~~[(A) on or about July 15 each year, out of the distributions from the investment of money in the permanent State School Fund deposited to the Trust Distribution Account; and]~~

~~[(B) interest accrued on the Trust Distribution Account in the immediately preceding fiscal year.]~~

(1) (a) By appropriation the Legislature shall fund the School LAND Trust Program, established in Section 53G-7-1206, on or before July 31 of each fiscal year:

(i) from the Trust Distribution Account, created in Section 53F-9-201; and

(ii) except as provided in Subsection (1)(b), in the total amount of the quarterly deposits made to the Trust Distribution Account for the School LAND Trust Program during the prior fiscal year.

~~(b) [The program shall be funded as provided in Subsection (1)(a) up to an]~~ The amount described in Subsection (1)(a)(ii) may not exceed an amount equal to 3% of the funds provided for the Minimum School Program, [pursuant to] in accordance with this chapter, each fiscal year.

~~[(c) The Legislature shall annually allocate, through an appropriation to the State Board of Education, a portion of the Trust Distribution Account created in Section 53F-9-201 to be used for the administration of the School LAND Trust Program.]~~

(c) Independently from the appropriation for the School LAND Trust Program described in Subsection (1)(a), the Legislature shall make an annual appropriation to the state board from the Trust Distribution Account, created in Section 53F-9-201, for the administration of the School LAND Trust Program.

(d) Any unused balance remaining from an amount appropriated under Subsection (1)(c) shall be deposited [in] into the Trust Distribution Account [for distribution to schools in the School LAND Trust Program].

(2) (a) The State Board of Education shall allocate the money referred to in Subsection (1)(a) annually as follows:

(i) the Utah Schools for the Deaf and the Blind shall receive funding equal to the product of:

(A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the Blind divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a);

(ii) charter schools shall receive funding equal to the product of:

(A) charter school enrollment on October 1 in the prior year, divided by enrollment on October 1 in the prior year in public schools statewide; and

(B) the total amount available for distribution under Subsection (1)(a); and

(iii) of the funds available for distribution under Subsection (1)(a) after the allocation of funds for the Utah Schools for the Deaf and the Blind and charter schools:

(A) school districts shall receive 10% of the funds on an equal basis; and

(B) the remaining 90% of the funds shall be distributed to school districts on a per student basis.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules specifying a formula to distribute the amount allocated under Subsection (2)(a)(ii) to charter schools.

(ii) In making rules under Subsection (2)(b)(i), the State Board of Education shall:

(A) consult with the State Charter School Board; and

(B) ensure that the rules include a provision that allows a charter school in the charter school's first year of operations to receive funding based on projected enrollment, to be adjusted in future years based on actual enrollment.

(c) A school district shall distribute its allocation under Subsection (2)(a)(iii) to each school within the school district on an equal per student basis.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education may make rules regarding the time and manner in which the student count shall be made for allocation of the money under Subsection (2)(a)(iii).

~~[(3) If the amount of money prescribed for funding the School LAND Trust Program under this section is less than or greater than the money appropriated for the School LAND Trust Program, the appropriation shall be equal to the amount of money prescribed for funding the School LAND Trust Program in this section, up to a maximum of an amount equal to 3% of the funds provided for the Minimum School Program.]~~

~~[(4) The State Board of Education shall distribute the money appropriated in Subsection (3) in accordance with this section and rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

Section 5. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

~~[(4)] (2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:~~

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including revenues received by donation.

~~[(2)] (3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.~~

~~[(b) The Trust Distribution Account consists of the average of:]~~

~~[(i) 4% of the average market value of the permanent State School Fund based on an annual review each July of the past 12 consecutive quarters; and]~~

~~[(ii) the prior year's distribution from the Trust Distribution Account as described in Section 53F-2-404, increased by prior year changes in the percentage of student enrollment growth and in the consumer price index.]~~

~~[(3) Notwithstanding Subsection (2)(b), the distribution may not exceed 4% of the average market value of the permanent State School Fund over the past 12 consecutive quarters.]~~

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment

earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the State Board of Education; and

(vii) the Governor's Office of Management and Budget.

~~[(4)]~~ (6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review [distribution of the Trust Distribution Account] the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula [described in Subsection (2)(b)] for calculating the distribution amount.

~~[(5)-(a)]~~ (7) Upon appropriation by the Legislature, the SITFO director [of the School and Institutional Trust Fund Office created in Section 53D-1-201] shall place in the Trust Distribution Account funds for: (i) the administration of the School LAND Trust Program as described in [Sections -] Subsections 53F-2-404(1)(a) and [53G-7-1206;] (c).

~~[(ii) the School and Institutional Trust Fund Office; and]~~

~~[(iii) the School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301.]~~

~~[(b) The Legislature may appropriate any remaining balance for the support of the public education system.]~~

CHAPTER 192**H. B. 52**

Passed February 8, 2019

Approved March 25, 2019

Effective November 1, 2019

REMOTE NOTARIZATION STANDARDS

Chief Sponsor: Craig Hall
Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill modifies the Notaries Public Reform Act to allow a notarization to be performed remotely.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes requirements for and a process by which the lieutenant governor may certify a notary as a remote notary;
- ▶ establishes requirements for the process by which a remote notary may perform a remote notarization, including standards for:
 - determining an individual's identity; and
 - the equipment, software, and hardware by which a remote notary may perform a remote notarization;
- ▶ grants rulemaking authority to the director of elections in the Office of the Lieutenant Governor;
- ▶ amends the fees a notary may charge for performing a notarization;
- ▶ requires a remote notary to keep an electronic journal, including an audio and video recording, of each notarization the remote notary performs;
- ▶ amends provisions related to the security, maintenance, and custody of a notary's journal;
- ▶ amends provisions related to the obtaining, use, surrendering, and destruction of a notary's official seal; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 46-1-2, as last amended by Laws of Utah 2017, Chapter 259
- 46-1-3, as last amended by Laws of Utah 2017, Chapter 259
- 46-1-4, as last amended by Laws of Utah 2017, Chapter 259
- 46-1-6, as repealed and reenacted by Laws of Utah 2017, Chapter 259
- 46-1-6.5, as enacted by Laws of Utah 2017, Chapter 259
- 46-1-10, as repealed and reenacted by Laws of Utah 1998, Chapter 287
- 46-1-12, as last amended by Laws of Utah 1998, Chapter 287
- 46-1-13, as repealed and reenacted by Laws of Utah 1998, Chapter 287
- 46-1-14, as last amended by Laws of Utah 2006, Chapter 21

46-1-15, as last amended by Laws of Utah 2017, Chapter 259

46-1-16, as last amended by Laws of Utah 2017, Chapter 259

46-1-17, as repealed and reenacted by Laws of Utah 1998, Chapter 287

46-1-18, as last amended by Laws of Utah 2017, Chapter 259

46-1-21, as last amended by Laws of Utah 2003, Chapter 136

53-10-108, as last amended by Laws of Utah 2018, Chapters 417 and 427

ENACTS:

46-1-3.5, Utah Code Annotated 1953

46-1-3.6, Utah Code Annotated 1953

46-1-3.7, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 46-1-2 is amended to read:**46-1-2. Definitions.**

As used in this chapter:

(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.

(2) "Before me" means that an individual appears in the presence of the notary.

~~[(2)]~~ (3) "Commission" means:

(a) to empower to perform notarial acts; or

(b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.

~~[(3)]~~ (4) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(5) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.

(6) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a remote notary may attach to a notarial certificate to complete a remote notarization.

~~[(4)]~~ (7) "Electronic signature" means the same as that term is defined in Section 46-4-102.

(8) "In the presence of the notary" means that an individual:

(a) is physically present with the notary in close enough proximity to see and hear the notary; or

(b) communicates with a remote notary by means of an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7.

~~(45)~~ (9) “Jurat” means a notarial act in which a notary certifies:

(a) the identity of a signer who:

(i) is personally known to the notary; or

(ii) provides the notary satisfactory evidence of the signer’s identity;

(b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and

(c) that the signer voluntarily signs the document in the presence of the notary.

~~(46)~~ (10) “Notarial act” or “notarization” means an act that a notary is authorized to perform under Section 46-1-6.

~~(47)~~ (11) “Notarial certificate” means the affidavit described in Section 46-1-6.5 that is:

(a) a part of or attached to a notarized document; and

(b) completed by the notary and bears the notary’s signature and official seal.

~~(48)~~ (12) (a) “Notary” means ~~[any person]~~ an individual commissioned to perform notarial acts under this chapter.

(b) “Notary” includes a remote notary.

~~(49)~~ (13) “Oath” or “affirmation” means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

~~(410)~~ (14) “Official misconduct” means a notary’s performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(15) (a) “Official seal” means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.

(b) “Official seal” includes an electronic seal.

~~(411)~~ (16) “Personally known” means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(17) “Remote notarization” means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.

(18) “Remote notary” means a notary that holds an active remote notary certification under Section 46-1-3.5.

~~(412)~~ (19) (a) “Satisfactory evidence of identity” means:

(i) for both an in-person and remote notarization, identification of an individual based on:

~~(4)~~ (A) subject to Subsection (19)(b), valid personal identification with the individual’s photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

~~(4ii)~~ (B) subject to Subsection (19)(b), a valid passport that any nation issues; or

~~(4iii)~~ (C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual[-]; and

(ii) for a remote notarization only, a third party’s affirmation of an individual’s identity in accordance with rules made under Section 46-1-3.7 by means of:

(A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual’s personal information obtained from public or proprietary data sources; or

(B) analysis of the individual’s biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.

(b) “Satisfactory evidence of identity,” for a remote notarization, requires the identification described in Subsection (19)(a)(i)(A) or passport described in Subsection (19)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.

~~(4b)~~ (c) “Satisfactory evidence of identity” does not include:

(i) a driving privilege card under Subsection 53-3-207(10); or

(ii) another document that is not considered valid for identification.

~~(413)~~ (20) “Signature witnessing” means a notarial act in which an individual:

(a) appears in ~~[person before a]~~ the presence of the notary and presents a document;

(b) provides the notary satisfactory evidence of the individual’s identity, or is personally known to the notary; and

(c) signs the document in the presence of the notary.

Section 2. Section 46-1-3 is amended to read:

46-1-3. Qualifications -- Application for notarial commission required -- Term.

(1) Except as provided in Subsection ~~(43)~~ (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified person who submits an application in accordance with this chapter.

(2) To qualify for a notarial commission an individual shall:

(a) be at least 18 years old;

(b) lawfully reside in the state for at least 30 days immediately before the individual applies for a notarial commission;

(c) be able to read, write, and understand English;

(d) submit an application to the lieutenant governor containing no significant misstatement or omission of fact, that includes:

(i) the individual's:

(A) name as it will appear on the commission;

(B) residential address;

(C) business address;

(D) daytime telephone number; and

(E) date of birth;

(ii) an affirmation that the individual meets the requirements of this section;

(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;

(iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in this or any other state;

(v) an indication that the individual has passed the examination described in Subsection ~~[(5)]~~ (6); and

(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504; ~~and~~

(e) (i) be a United States citizen; or

(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act~~[-];~~ and

(f) submit to a background check described in Subsection (3).

(3) (a) The lieutenant governor shall:

(i) request the Department of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;

(ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and

(iii) provide the Department of Human Resource Management the personal identifying information of each individual who submits an application under this section.

(b) The Department of Human Resource Management shall:

(i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and

(ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.

~~[(3)]~~ (4) The lieutenant governor may deny an application based on:

(a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

(b) any revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this or any other state;

(c) the applicant's official misconduct while acting in the capacity of a notary; or

(d) the applicant's failure to pass the examination described in Subsection ~~[(5)]~~ (6).

~~[(4)]~~ (5) (a) An individual whom the lieutenant governor commissions as a notary:

(i) may perform notarial acts in any part of the state for a term of four years, unless the person resigns or the commission is revoked or suspended under Section 46-1-19~~[-];~~ and

(ii) except through a remote notarization performed in accordance with this chapter, may not perform a notarial act for another individual who is outside of the state.

(b) (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.

(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

~~[(5)]~~ (6) (a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.

(b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

~~[(6)]~~ (7) (a) A notary shall maintain permanent residency in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency under Subsection ~~[(6)]~~ (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Section 3. Section 46-1-3.5 is enacted to read:

46-1-3.5. Remote notary qualifications -- Application -- Authority.

(1) An individual commissioned as a notary, or an individual applying to be commissioned as a notary, under Section 46-1-3 may apply to the lieutenant

governor for a remote notary certification under this section.

(2) The lieutenant governor shall certify an individual to perform remote notarizations as a remote notary if the individual:

(a) complies with Section 46-1-3 to become a commissioned notary;

(b) submits to the lieutenant governor, on a form created by the lieutenant governor, a correctly completed application for a remote notary certification; and

(c) pays to the lieutenant governor the application fee described in Subsection (4).

(3) The lieutenant governor shall ensure that the application described in Subsection (2)(b) requires an applicant to:

(a) list the applicant's name as it appears or will appear on the applicant's notarial commission;

(b) agree to comply with the provisions of this chapter, and rules made under Section 46-1-3.7, that relate to a remote notarization; and

(c) provide the applicant's email address.

(4) The lieutenant governor may establish and charge a fee in accordance with Section 63J-1-504 to an individual who seeks to obtain remote notary certification under this section.

Section 4. Section 46-1-3.6 is enacted to read:

46-1-3.6. Remote notarization procedures.

(1) A remote notary who receives a remote notary certification under Section 46-1-3.5 may perform a remote notarization if the remote notary is physically located in this state.

(2) A remote notary that performs a remote notarization for an individual that is not personally known to the remote notary shall, at the time the remote notary performs the remote notarization, establish satisfactory evidence of identity for the individual by:

(a) communicating with the individual using an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7; and

(b) requiring the individual to transmit to the remote notary an image of a form of identification described in Subsection 46-1-2(17)(a)(i)(A) or passport described in Subsection 46-1-2(17)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory evidence of identity.

(3) (a) A remote notary shall create an audio and video recording of the performance of each remote notarization and store the recording in accordance with Sections 46-1-14 and 46-1-15.

(b) A remote notary shall take reasonable steps, consistent with industry standards, to ensure that any non-public data transmitted or stored in connection with a remote notarization performed by the remote notary is secure from unauthorized interception or disclosure.

(4) Notwithstanding any other provision of law, a remote notarization lawfully performed under this chapter satisfies any provision of state law that requires an individual to personally appear before, or be in the presence of, a notary at the time the notary performs a notarial act.

Section 5. Section 46-1-3.7 is enacted to read:

46-1-3.7. Rulemaking authority for remote notarization.

(1) The director of elections in the Office of the Lieutenant Governor may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding standards for and types of:

(a) electronic software and hardware that a remote notary may use to:

(i) perform a remote notarization; and

(ii) keep an electronic journal under Section 46-1-13;

(b) public and proprietary data sources that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(17)(b);

(c) dynamic knowledge-based authentication or biometric data analysis that a remote notary may use to establish satisfactory evidence of identity under Subsection 46-1-2(17)(a)(ii); and

(d) electronic seals a remote notary may use to complete an electronic notarial certificate.

(2) When making a rule under this section, the director of elections in the Office of the Lieutenant Governor shall review and consider standards recommended by one or more national organizations that address the governance or operation of notaries.

Section 6. Section 46-1-4 is amended to read:

46-1-4. Bond.

(1) A notarial commission is not effective until:

~~[(1)]~~ (a) the notary named in the commission takes a constitutional oath of office and files a \$5,000 bond with the lieutenant governor that:

~~[(a)]~~ (i) a licensed surety executes for a term of four years beginning on the commission's effective date and ending on the commission's expiration date; and

~~[(b)]~~ (ii) conditions payment of bond funds to any person upon the notary's misconduct while acting in the scope of the notary's commission; and

~~[(2)]~~ (b) the lieutenant governor approves the oath and bond ~~[are approved by the lieutenant governor]~~ described in Subsection (1)(a).

(2) In addition to the requirements described in Subsection (1), a remote notary certification described in Section 46-1-3.5 is not effective until:

(a) the notary named in the remote notary certification files with the lieutenant governor evidence that the notary has obtained \$5,000 of bond coverage, in addition to the bond coverage described in Subsection (1)(a), that:

(i) a licensed surety executes for a term that begins on the certification's effective date and ends on the remote notary's commission's expiration date; and

(ii) conditions payment of bond funds to any person upon the remote notary's misconduct while acting in the scope of the remote notary's commission; and

(b) the lieutenant governor approves the additional bond coverage described in Subsection (2)(a).

Section 7. Section 46-1-6 is amended to read:

46-1-6. Powers and limitations.

(1) A notary may perform the following acts:

- (a) a jurat;
- (b) an acknowledgment;
- (c) a signature witnessing;
- (d) a copy certification; and
- (e) an oath or affirmation.

(2) A notary may not:

(a) perform an act as a notary that is not described in Subsection (1); or

(b) perform an act described in Subsection (1) if the [person] individual for whom the notary performs the notarial act is not in the [physical] presence of the notary at the time the notary performs the act.

Section 8. Section 46-1-6.5 is amended to read:

46-1-6.5. Form of notarial certificate for document notarizations.

(1) A correctly completed affidavit in substantially the form described in this section, that is included in or attached to a document, is sufficient for the completion of a notarization under this Title 46, Chapter 1, Notaries Public Reform Act.

(2) (a) A notary shall ensure that a signer takes the following oath or makes the following affirmation before the notary witnesses the signature for a jurat:

"Do you swear or affirm under penalty of perjury that the statements in your document are true?"

(b) An affidavit for a jurat that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

Subscribed and sworn to before me (notary public name), on this (date) day of (month), in the year (year), by (name of document signer).

([Notary] Notary's Official Seal)

Notary Signature".

(3) An affidavit for an acknowledgment that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), before me (name of notary public), a notary public, personally appeared (name of document signer), proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to in this document, and acknowledged (he/she/they) executed the same.

([Notary] Notary's Official Seal)

Notary Signature".

(4) An affidavit for a copy certification that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), I certify that the preceding or attached document is a true, exact, and unaltered photocopy of (description of document), and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recorded document.

([Notary] Notary's Official Seal)

Notary Signature".

(5) An affidavit for a signature witnessing that is in substantially the following form is sufficient under Subsection (1):

"State of Utah

§

County of _____

On this (date) day of (month), in the year (year), before me, (name of notary public), personally appeared (name of document signer), proved to me through satisfactory evidence of identification, which was (form of identification), to be the person whose name is signed on the preceding or attached document in my presence.

([Notary] Notary's Official Seal)

Notary Signature”.

(6) A remote notary shall ensure that the notarial certificate described in this section that is used for a remote notarization includes a statement that the remote notary performed the notarization remotely.

Section 9. Section 46-1-10 is amended to read:

46-1-10. Testimonials prohibited.

A notary may not use the notary’s title or official seal to endorse or promote any product, service, contest, or other offering [if the notary’s title or seal is used in the endorsement or promotional statement].

Section 10. Section 46-1-12 is amended to read:

46-1-12. Fees and notice.

(1) (a) [The maximum fees that may be charged by a notary] Except as provided in Subsection (1)(b), the maximum fees a notary may charge for notarial acts are [for]:

[~~(a)~~] (i) [acknowledgments, \$5] for an acknowledgment, \$10 per signature;

[~~(b)~~] (ii) [certified copies, \$5] for a certified copy, \$10 per page certified;

[~~(c)~~] (iii) [jurats, \$5] for a jurat, \$10 per signature; [and]

[~~(d)~~] (iv) [oaths or affirmations] for an oath or affirmation without a signature, [~~\$5~~] \$10 per person[-]; and

(v) for each signature witnessing, \$10.

(b) The maximum fee a remote notary may charge for an item described in Subsection (1)(a) that the remote notary performs as a part of a remote notarization is \$25.

(2) A notary may charge a travel fee, not to exceed the approved federal mileage rate, when traveling to perform a notarial act if:

(a) the notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee in Subsection (1) and is neither specified nor mandated by law; and

(b) the notary and the person requesting the notarial act agree upon the travel fee in advance.

(3) A notary shall display an English-language schedule of fees for notarial acts and may display a non-English-language schedule of fees.

(4) (a) [The fee of a notary shall not exceed \$5] A notary may not charge a fee of more than \$10 per individual for each set of forms relating to a change of that individual’s immigration status.

(b) The fee limitation described in Subsection (4)(a) [shall apply whether or not] applies regardless of whether the notary is acting as a notary but does not apply to a licensed attorney, who is also a notary rendering professional services regarding immigration matters.

Section 11. Section 46-1-13 is amended to read:

46-1-13. Notary journal.

(1) A notary may keep, maintain, and protect as a public record, and provide for lawful inspection a chronological, permanently bound official journal of notarial acts, containing numbered pages.

(2) A remote notary shall keep a secure electronic journal of each remote notarization the notary performs.

Section 12. Section 46-1-14 is amended to read:

46-1-14. Entries in journal -- Required information.

(1) [For every notarial act, the notary may] A notary may, for each notarial act the notary performs, and a remote notary shall, for each notarial act the remote notary performs remotely, record the following information in the journal described in Section 46-1-13 at the time of notarization:

(a) the date and time of day of the notarial act;

(b) the type of notarial act;

(c) [a] the type title, or a description of the document, electronic record, or proceeding that is the subject of the notarial act;

(d) the signature and printed name and address of each [person] individual for whom a notarial act is performed;

(e) the evidence of identity of each [person] individual for whom a notarial act is performed, in the form of:

(i) a statement that the person is[-] personally known[?] to the notary;

(ii) a description of the identification document[, its] and the identification document’s issuing agency, [its] serial or identification number, and [its] date of issuance or expiration; [or]

(iii) the signature and printed name and address of a credible witness swearing or affirming to the person’s identity; [and] or

(iv) if used for a remote notarization, a description of the dynamic knowledge-based authentication or biometric data analysis that was used to provide satisfactory evidence of identity under Subsection 46-1-2(17)(a)(ii); and

(f) the fee, if any, the notary charged for the notarial act.

(2) A notary may record in the journal a description of the circumstances [in refusing] under which the notary refused to perform or complete a notarial act.

(3) (a) A remote notary shall include with the journal a copy of the electronic recording of the remote notarization.

(b) The electronic recording is not a public record and is not a part of the notary’s journal.

(4) A remote notary shall maintain, or ensure that a person that the notary designates as a custodian under Subsection 46-1-15(2)(b)(i) maintains, for a period of five years, the information described in Subsections (1) and (3) for each remote notarization the notary performs.

Section 13. Section 46-1-15 is amended to read:

46-1-15. Inspection of journal -- Safekeeping and custody of journal.

(1) ~~[F]~~ Except as provided in Subsection (2)(b), if a notary maintains a journal, the notary shall:

(a) keep the journal in the notary's exclusive custody; and

(b) ensure that the journal is not used by any other person for any purpose.

(2) (a) A remote notary shall:

(i) ensure that the electronic journal and electronic recording described in Section 46-1-14 that is maintained by the remote notary is a secure and authentic record of the remote notarizations that the notary performs;

(ii) maintain a backup electronic journal and electronic recording; and

(iii) protect the backup electronic journal and electronic recording described in Subsection (2)(a)(ii) from unauthorized access or use.

(b) (i) A remote notary may designate as a custodian of the remote notary's electronic journal and electronic recording described in Section 46-1-14:

(A) subject to Subsection (3), the remote notary's employer that employs the remote notary to perform notarizations; or

(B) except as provided in Subsection (2)(b)(iii), an electronic repository that grants the remote notary sole access to the electronic journal and electronic recording and does not allow the person who operates the electronic repository or any other person to access the journal, information in the journal, or the electronic recording for any purpose.

(ii) A remote notary that designates a custodian under Subsection (2)(b)(i) shall execute an agreement with the custodian that requires the custodian to comply with the safety and security requirements of this chapter with regard to the electronic journal, the information in the electronic journal, and the electronic recording.

(iii) An electronic repository described in Subsection (2)(b)(i)(B) may access an electronic journal, information contained in an electronic journal, and the electronic recording:

(A) for a purpose solely related to completing, in accordance with this chapter, the notarization for which the journal or information in the journal is accessed;

(B) for a purpose solely related to complying with the requirements to retain and store records under this chapter; or

(C) if required under a court order.

~~(2)~~ (3) The notary's employer may not require the notary to surrender the journal or the electronic recording upon termination of the notary's employment.

Section 14. Section 46-1-16 is amended to read:

46-1-16. Official signature -- Official seal -- Destruction of seal -- Unlawful use of seal -- Criminal penalties.

(1) In completing a notarial act, a notary shall sign on the notarial certificate exactly and only the name indicated on the notary's commission.

(2) (a) ~~[A]~~ Except as provided in Subsection (2)(d), a notary shall keep an official ~~[notarial]~~ seal, and a remote notary shall keep an electronic seal and electronic signature, that is the exclusive property of the notary ~~[and that]~~.

(b) Except as provided in Subsection (2)(d), a notary's official seal, electronic seal, or electronic signature may not be used by any other person.

~~[(b) Upon the resignation, revocation, or expiration of a notarial commission, the notary shall destroy the notary's seal.]~~

(c) (i) Each ~~[notarial seal obtained by a notary shall use purple ink]~~ official seal used for an in-person notarization shall be in purple ink.

(ii) Each official seal used for a remote notarization shall be rendered in black.

(d) (i) A remote notary may allow a person that provides an electronic seal to the remote notary under Section 46-1-17 to act as guardian over the electronic seal.

(ii) Except as provided in Subsection (2)(d)(iii), a guardian described in Subsection (2)(d)(i) shall store the seal in a secure manner that prevents any person from:

(A) accessing the seal, other than the guardian and the remote notary named on the seal; or

(B) using the seal to perform a notarization, other than the remote notary named on the seal.

(iii) A guardian that a notary designates under Subsection (2)(d)(i) may access and use the seal of the notary:

(A) for a purpose solely related to completing, in accordance with this chapter, the notarization, by the notary, for which the seal is accessed or used;

(B) for a purpose solely related to complying with the requirements to obtain, store, and protect the seal under this chapter; or

(C) if required under a court order.

(3) (a) A notary shall obtain a new official seal:

(i) when the notary receives a new commission; or

(ii) if the notary changes the notary's name of record at any time during the notary's commission.

(b) [A] Subject to Subsection (3)(c), a notary shall affix the official seal ~~[impression]~~ near the notary's official signature on a notarial certificate and shall include a sharp, legible, and photographically reproducible ~~[ink impression of the notarial]~~ rendering of the official seal that consists of:

(i) the notary public's name exactly as indicated on the notary's commission;

(ii) the words "notary public," "state of Utah," and "my commission expires on (commission expiration date)";

(iii) the notary's commission number, exactly as indicated on the notary's commission;

(iv) a facsimile of the great seal of the state; and

(v) a rectangular border no larger than one inch by two and one-half inches surrounding the required words and official seal.

(c) When performing a remote notarization, a remote notary shall attach the remote notary's electronic signature and electronic seal under Subsection (3)(b) to an electronic notarial certificate in a manner that makes evident any subsequent change or modification to:

(i) the notarial certificate; or

(ii) any electronic record, that is a part of the notarization, to which the notarial certificate is attached.

(4) A notary may use an embossed seal impression that is not photographically reproducible in addition to, but not in place of, the photographically reproducible official seal required in this section.

(5) A notary shall affix the ~~[notarial]~~ official seal in a manner that does not obscure or render illegible any information or signatures contained in the document or in the notarial certificate.

(6) A notary may not use ~~[a notarial]~~ an official seal independent of a notarial certificate.

(7) [A] Except for a notarial certificate that is completed as a part of a remote notarization, a notarial certificate on an annexation, subdivision, or other map or plat is considered complete without the imprint of the notary's official seal if:

(a) the notary signs the notarial certificate in permanent ink; and

(b) the following appear below or immediately adjacent to the notary's signature:

(i) the notary's name and commission number appears exactly as indicated on the notary's commission;

(ii) the words "A notary public commissioned in Utah"; and

(iii) the expiration date of the notary's commission.

(8) A notarial certificate on an electronic message or document is considered complete without the ~~[imprint of the]~~ notary's official seal if the following information appears electronically within the message or document:

(a) the notary's name and commission number appearing exactly as indicated on the notary's commission; and

(b) the words "notary public," "state of Utah," and "my commission expires on _____ (date)".

(9) (a) When a notary resigns or the notary's commission expires or is revoked, the notary shall:

(i) destroy the notary's official seal and certificate; and

(ii) if the notary is a remote notary, destroy any coding, disk, certificate, card, software, or password that enables the remote notary to affix the remote notary's electronic signature or electronic seal to a notarial certificate.

(b) A former remote notary shall certify to the lieutenant governor in writing that the former remote notary has complied with Subsection (9)(a)(ii) within 10 days after the day on which the notary resigns or the notary's commission expires or is revoked.

(10) (a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote notary to affix an official electronic signature or electronic seal to an electronic record is guilty of a class B misdemeanor.

(b) A remote notary shall immediately notify the lieutenant governor if the notary becomes aware that the notary's electronic signature, electronic seal, electronic journal, or information from the journal has been lost, stolen, or used unlawfully.

Section 15. Section 46-1-17 is amended to read:

46-1-17. Obtaining official seal.

(1) A ~~[vendor]~~ person may not provide ~~[a notarial seal, either inking or embossing, to a person]~~ an official seal to an individual claiming to be a notary, unless the ~~[person presents a photocopy of the person's]~~ individual presents a copy of the individual's notarial commission, attached to a notarized declaration substantially as follows:

Application for ~~[Notary]~~ Notary's Official Seal

I, _____ (name of ~~[person]~~ individual requesting seal), declare that I am a notary public duly commissioned by the state of Utah with a commission starting date of _____, a commission expiration date of _____, and a commission number of _____. As evidence, I attach to this ~~[paper-a photocopy]~~ statement a copy of my commission.

(2) (a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or possess an electronic seal unless the individual is a remote notary.

(b) A person is not guilty of a violation of Subsection (2)(a) if the person is a business that creates, obtains, or possesses an electronic seal for the sole purpose of providing the electronic seal to a certified remote notary.

~~[(2)]~~ (3) A ~~[vender]~~ person who provides ~~[a notarial]~~, creates, obtains, or possesses an official seal in violation of this section is guilty of a class B misdemeanor.

Section 16. Section 46-1-18 is amended to read:

46-1-18. Liability.

(1) A notary may be liable to any person for any damage to that person proximately caused by the notary's misconduct in performing a notarization.

(2) (a) A surety for a notary's bond may be liable to any person for damages proximately caused to that person by the notary's misconduct in performing a notarization, but the surety's liability may not exceed the penalty of the bond or of any remaining bond funds that have not been expended to other claimants.

(b) Regardless of the number of claimants under Subsection (2)(a), a surety's total liability may not exceed the penalty of the bond.

(3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:

(a) a notary to violate a provision of this chapter; or

(b) ~~[the employer of a notary]~~ a notary's employer to solicit the notary to violate a provision of this chapter.

Section 17. Section 46-1-21 is amended to read:

46-1-21. Resignation.

(1) A notary who resigns a notarial commission shall provide to the lieutenant governor a notice indicating the effective date of resignation.

(2) A notary who ceases to reside in this state or who becomes unable to read and write as provided in Section 46-1-3 shall resign the commission.

(3) A notary who resigns shall destroy the official seal and certificate in accordance with Subsection 46-1-16(9).

Section 18. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an

individual applying to be a notary public under Section 46-1-3.

~~[(4)]~~ (k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

~~[(4)]~~ (l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)~~[(4)]~~(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through ~~[(4)]~~ (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15)~~[(a)]~~(ii).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15)~~[(a)]~~(ii).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through ~~[(4)]~~ (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant ~~[or]~~, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion

decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through ~~[(4)]~~ (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through ~~[(4)]~~ (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through ~~[(4)]~~ (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(b) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(b) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h) ~~or (2)(i), (i), or (j)~~, the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

Section 19. Effective date.

This bill takes effect on November 1, 2019.

CHAPTER 193**H. B. 55**

Passed March 8, 2019

Approved March 25, 2019

Effective May 14, 2019

(Exception clause in Section 66)

INSURANCE AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the meeting requirements of the Title and Escrow Commission;
- ▶ decreases the amount held in the Captive Insurance Restricted Account at the end of the current and upcoming fiscal years;
- ▶ enacts provisions that require a group-wide supervisor for each internationally active insurance group;
- ▶ enacts the Corporate Governance Annual Disclosure Act, which:
 - requires each insurer or insurance group to submit a disclosure document to the insurance commissioner that describes the entity's corporate governance structure, policies, and practices;
 - provides that a corporate governance annual disclosure and certain related records are confidential and classified as protected for purposes of the Government Records Access and Management Act;
 - allows the insurance commissioner to hire one or more third-party consultants to review a corporate governance annual disclosure; and
 - provides a penalty for an insurer or insurance group that fails to timely submit a corporate governance annual disclosure;
- ▶ modifies the eligibility requirements for the small company exemption from the generally applicable requirements for reserves;
- ▶ provides that an endorsement to a policy must include the insurer's name and state of domicile;
- ▶ provides a deadline by which an insurer issuing certain types of policies must deliver a policy to the policyholder or a certificate to each member of the insured group;
- ▶ provides certain conditions and disclosure requirements for a short-term limited duration insurance policy that includes a preexisting condition exclusion;
- ▶ modifies the requirements for certain contracts between a vision plan and a vision service provider;
- ▶ clarifies that an employee may, under certain circumstances, extend coverage under an employer's group policy;
- ▶ provides that the commissioner may take action against a navigator licensee or applicant, a third-party administrator licensee or applicant,

or an insurance adjuster licensee or applicant, who:

- is convicted of a misdemeanor involving fraud, misrepresentation, theft, or dishonesty; or
 - has had a professional or occupational license or registration denied, suspended, revoked, or surrendered to resolve an administrative action;
- ▶ enacts provisions related to an indemnitor's duty to indemnify an insolvent insurer;
 - ▶ modifies the conduct that constitutes a fraudulent insurance act under the Insurance Code and the Utah Criminal Code;
 - ▶ clarifies that the Insurance Department may investigate and enforce certain provisions of the Workers' Compensation Act;
 - ▶ clarifies the process by which the insurance commissioner reviews and acts upon an application for a bail bond agency license;
 - ▶ consolidates certain provisions governing captive insurance companies;
 - ▶ establishes a certificate of dormancy for eligible captive insurance companies;
 - ▶ requires a new or renamed captive insurance company to include the word "insurance" or an equivalent term in its name;
 - ▶ requires two individuals to verify a captive insurance company's report of financial condition;
 - ▶ requires a captive insurance company to report certain changes to its financial condition to the insurance commissioner;
 - ▶ reauthorizes the Health Reform Task Force for two years;
 - ▶ modifies the duties of the Health Reform Task Force; and
 - ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 31A-1-301, as last amended by Laws of Utah 2018, Chapter 319
- 31A-2-308, as last amended by Laws of Utah 2017, Chapter 168
- 31A-2-403, as last amended by Laws of Utah 2018, Chapter 319
- 31A-3-304, as last amended by Laws of Utah 2018, Chapter 319
- 31A-16-109, as last amended by Laws of Utah 2016, Chapter 163
- 31A-17-519, as enacted by Laws of Utah 2016, Chapter 163
- 31A-21-201, as last amended by Laws of Utah 2010, Chapter 10
- 31A-21-311, as last amended by Laws of Utah 2003, Chapter 252
- 31A-22-501, as last amended by Laws of Utah 2005, Chapter 125
- 31A-22-605.1, as enacted by Laws of Utah 2005, Chapter 78
- 31A-22-611, as last amended by Laws of Utah 2011, Chapters 297 and 366

31A-22-627, as last amended by Laws of Utah 2017, Chapter 292

31A-22-638, as enacted by Laws of Utah 2010, Chapter 360

31A-22-648, as enacted by Laws of Utah 2018, Chapter 314

31A-22-701, as last amended by Laws of Utah 2018, Chapter 319

31A-22-722, as last amended by Laws of Utah 2018, Chapter 319

31A-22-726, as last amended by Laws of Utah 2015, Chapter 283

31A-22-1401, as last amended by Laws of Utah 2001, Chapter 116

31A-23a-111, as last amended by Laws of Utah 2018, Chapter 319

31A-23a-402, as last amended by Laws of Utah 2017, Chapter 292

31A-23a-411.1, as enacted by Laws of Utah 2003, Chapter 252

31A-23a-415, as last amended by Laws of Utah 2015, Chapters 312 and 330

31A-23b-401, as last amended by Laws of Utah 2017, Chapter 168

31A-25-208, as last amended by Laws of Utah 2016, Chapter 138

31A-26-213, as last amended by Laws of Utah 2017, Chapter 168

31A-30-103, as last amended by Laws of Utah 2014, Chapters 290, 300, and 425

31A-30-104, as last amended by Laws of Utah 2017, Chapter 292

31A-30-118, as enacted by Laws of Utah 2014, Chapter 425

31A-31-103, as last amended by Laws of Utah 2004, Chapter 104

31A-31-107, as last amended by Laws of Utah 1997, Chapter 375

31A-35-405, as last amended by Laws of Utah 2016, Chapter 234

31A-37-102, as last amended by Laws of Utah 2017, Chapter 168

31A-37-103, as last amended by Laws of Utah 2016, Chapter 138

31A-37-106, as last amended by Laws of Utah 2017, Chapter 168

31A-37-201, as enacted by Laws of Utah 2003, Chapter 251

31A-37-203, as enacted by Laws of Utah 2003, Chapter 251

31A-37-301, as last amended by Laws of Utah 2017, Chapter 168

31A-37-401, as last amended by Laws of Utah 2015, Chapter 244

31A-37-501, as last amended by Laws of Utah 2016, Chapter 138

31A-37-502, as last amended by Laws of Utah 2016, Chapters 138 and 348

31A-37-503, as last amended by Laws of Utah 2008, Chapter 382

31A-45-102, as enacted by Laws of Utah 2017, Chapter 292

31A-45-303, as last amended by Laws of Utah 2017, Chapter 168 and renumbered and amended by Laws of Utah 2017, Chapter 292

31A-45-401, as renumbered and amended by Laws of Utah 2017, Chapter 292

34A-2-110, as last amended by Laws of Utah 2011, Chapters 328 and 413

58-1-501.7, as enacted by Laws of Utah 2013, Chapter 100

62A-2-101, as last amended by Laws of Utah 2018, Chapters 252 and 316

63G-2-305, as last amended by Laws of Utah 2018, Chapters 81, 159, 285, 315, 316, 319, 352, 409, and 425

63I-1-236, as last amended by Laws of Utah 2018, Chapters 33, 170, and 342

76-6-521, as last amended by Laws of Utah 2004, Chapter 104

ENACTS:

31A-16-108.6, Utah Code Annotated 1953

31A-16b-101, Utah Code Annotated 1953

31A-16b-102, Utah Code Annotated 1953

31A-16b-103, Utah Code Annotated 1953

31A-16b-104, Utah Code Annotated 1953

31A-16b-105, Utah Code Annotated 1953

31A-16b-106, Utah Code Annotated 1953

31A-16b-107, Utah Code Annotated 1953

31A-16b-108, Utah Code Annotated 1953

31A-27a-512.1, Utah Code Annotated 1953

31A-37-701, Utah Code Annotated 1953

31A-37-702, Utah Code Annotated 1953

36-29-106, Utah Code Annotated 1953

REPEALS AND REENACTS:

31A-37-202, as last amended by Laws of Utah 2017, Chapter 168

REPEALS:

31A-16a-102, as enacted by Laws of Utah 2017, Chapter 168

Utah Code Sections Affected by Coordination Clause:

62A-2-101, as last amended by Laws of Utah 2018, Chapters 252 and 316

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-1-301 is amended to read:**31A-1-301. Definitions.**

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

- (C) an expense reimbursement contract;
- (D) a credit accident and health contract;
- (E) a continuing care contract; and
- (F) a long-term care contract; and
- (ii) may provide:
 - (A) hospital coverage;
 - (B) surgical coverage;
 - (C) medical coverage;
 - (D) loss of income coverage;
 - (E) prescription drug coverage;
 - (F) dental coverage; or
 - (G) vision coverage.
- (c) "Accident and health insurance" does not include workers' compensation insurance.
- (d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."
- (2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Administrator" means the same as that term is defined in Subsection [~~474~~] (178).
- (4) "Adult" means an individual who has attained the age of at least 18 years.
- (5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.
- (6) "Agency" means:
 - (a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and
 - (b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.
- (7) "Alien insurer" means an insurer domiciled outside the United States.
- (8) "Amendment" means an endorsement to an insurance policy or certificate.
- (9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.
- (10) "Application" means a document:
 - (a) (i) completed by an applicant to provide information about the risk to be insured; and
 - (ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

- (A) insure the risk under:
 - (I) the coverage as originally offered; or
 - (II) a modification of the coverage as originally offered; or
- (B) decline to insure the risk; or
- (b) used by the insurer to gather information from the applicant before issuance of an annuity contract.
- (11) "Articles" or "articles of incorporation" means:
 - (a) the original articles;
 - (b) a special law;
 - (c) a charter;
 - (d) an amendment;
 - (e) restated articles;
 - (f) articles of merger or consolidation;
 - (g) a trust instrument;
 - (h) another constitutive document for a trust or other entity that is not a corporation; and
 - (i) an amendment to an item listed in Subsections (11)(a) through (h).
- (12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.
- (13) "Binder" means the same as that term is defined in Section 31A-21-102.
- (14) "Blanket insurance policy" means a group policy covering a defined class of persons:
 - (a) without individual underwriting or application; and
 - (b) that is determined by definition without designating each person covered.
- (15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.
- (16) "Bona fide office" means a physical office in this state:
 - (a) that is open to the public;
 - (b) that is staffed during regular business hours on regular business days; and
 - (c) at which the public may appear in person to obtain services.
- (17) "Business entity" means:
 - (a) a corporation;
 - (b) an association;
 - (c) a partnership;
 - (d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) “Business of insurance” means the same as that term is defined in Subsection ~~[(92)]~~ (94).

(19) “Business plan” means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

~~[(a) Section 31A-7-201;]~~

~~[(b)]~~ (a) Section 31A-8-205; or

~~[(c)]~~ (b) Subsection 31A-9-205(2).

(20) (a) “Bylaws” means the rules adopted for the regulation or management of a corporation’s affairs, however designated.

(b) “Bylaws” includes comparable rules for a trust or other entity that is not a corporation.

(21) “Captive insurance company” means:

(a) an insurer:

(i) owned by another organization; and

(ii) whose exclusive purpose is to insure risks of the parent organization and an affiliated company; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose exclusive purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) “Casualty insurance” means liability insurance.

(23) “Certificate” means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) “Certificate of authority” is included within the term “license.”

(25) “Claim,” unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) “Claims-made coverage” means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) “Commissioner” or “commissioner of insurance” means Utah’s insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) “Continuing care insurance” means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) “Control,” “controlling,” “controlled,” or “under common control” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) “Controlled insurer” means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) “Controlling person” means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) “Controlling producer” means a producer who directly or indirectly controls an insurer.

(33) “Corporate governance annual disclosure” means a report an insurer or insurance group files

in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

[~~(33)~~] (34) (a) “Corporation” means an insurance corporation, except when referring to:

- (i) a corporation doing business:
- (A) as:
- (I) an insurance producer;
- (II) a surplus lines producer;
- (III) a limited line producer;
- (IV) a consultant;
- (V) a managing general agent;
- (VI) a reinsurance intermediary;
- (VII) a third party administrator; or
- (VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) “Mutual” or “mutual corporation” means a mutual insurance corporation.

(c) “Stock corporation” means a stock insurance corporation.

[~~(34)~~] (35) (a) “Creditable coverage” has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) “Creditable coverage” includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children’s Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

[~~(35)~~] (36) “Credit accident and health insurance” means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

[~~(36)~~] (37) (a) “Credit insurance” means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) “Credit insurance” includes:

- (i) credit accident and health insurance;
- (ii) credit life insurance;
- (iii) credit property insurance;
- (iv) credit unemployment insurance;
- (v) guaranteed automobile protection insurance;
- (vi) involuntary unemployment insurance;
- (vii) mortgage accident and health insurance;
- (viii) mortgage guaranty insurance; and
- (ix) mortgage life insurance.

[~~(37)~~] (38) “Credit life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

[~~(38)~~] (39) “Creditor” means a person, including an insured, having a claim, whether:

- (a) matured;
- (b) unmatured;
- (c) liquidated;
- (d) unliquidated;
- (e) secured;
- (f) unsecured;
- (g) absolute;
- (h) fixed; or
- (i) contingent.

[~~(39)~~] (40) “Credit property insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

[~~(40)~~] (41) “Credit unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

[~~(41)~~] (42) (a) “Crop insurance” means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

- (i) provided by the private insurance market; or
- (ii) subsidized by the Federal Crop Insurance Corporation.

(b) “Crop insurance” includes multiperil crop insurance.

[~~(42)~~] (43) (a) “Customer service representative” means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

- (A) customer;
- (B) client; or
- (C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

~~[(43)]~~ (44) "Deadline" means a final date or time:

- (a) imposed by:
- (i) statute;
- (ii) rule; or
- (iii) order; and

(b) by which a required filing or payment must be received by the department.

~~[(44)]~~ (45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

~~[(45)]~~ (46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

~~[(46)]~~ (47) "Department" means the Insurance Department.

~~[(47)]~~ (48) "Director" means a member of the board of directors of a corporation.

~~[(48)]~~ (49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

- (a) perform the duties of:
- (i) that individual's occupation; or
- (ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

- (i) eating;
- (ii) toileting;
- (iii) transferring;
- (iv) bathing; or
- (v) dressing.

~~[(49)]~~ (50) "Disability income insurance" means the same as that term is defined in Subsection ~~[(83)]~~ (85).

~~[(50)]~~ (51) "Domestic insurer" means an insurer organized under the laws of this state.

~~[(51)]~~ (52) "Domiciliary state" means the state in which an insurer:

- (a) is incorporated;
- (b) is organized; or
- (c) in the case of an alien insurer, enters into the United States.

~~[(52)]~~ (53) (a) "Eligible employee" means:

- (i) an employee who:
- (A) works on a full-time basis; and
- (B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection ~~[(52)]~~ (53)(b).

(b) "Eligible employee" includes:

- (i) an owner who:
- (A) works on a full-time basis; and
- (B) has a normal work week of 30 or more hours; and

(ii) if the individual is included under a health benefit plan of a small employer:

- (A) a sole proprietor;
- (B) a partner in a partnership; or
- (C) an independent contractor.

(c) "Eligible employee" does not include, unless eligible under Subsection ~~[(52)]~~ (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection ~~[(52)]~~ (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection ~~[(52)]~~ (53)(a)(i).

~~[(53)]~~ (54) "Employee" means:

- (a) an individual employed by an employer; and
- (b) an owner who meets the requirements of Subsection ~~[(52)]~~ (53)(b)(i).

~~[(54)]~~ (55) "Employee benefits" means one or more benefits or services provided to:

- (a) an employee; or
- (b) a dependent of an employee.

~~[(55)]~~ (56) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

- (A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

[~~56~~] 57 "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

[~~57~~] 58 (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

[~~58~~] 59 "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

[~~59~~] 60 "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

[~~60~~] 61 (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

[~~61~~] 62 "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

[~~62~~] 63 (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

[~~63~~] 64 "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

[~~64~~] 65 "Expense reimbursement insurance" means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

[(65)] (66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

[(66)] (67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection [(66)] (67)(a).

[(67)] (68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

[(68)] (69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

[(69)] (70) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

[(70)] (71) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

[(71)] (72) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

[(72)] (73) "General lines of authority" include:

(a) the general lines of insurance in Subsection [(73)] (74);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

[(73)] (74) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

[(74)] (75) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

[(75)] (76) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(77) "Group-wide supervisor" means the commissioner or other regulatory official

designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

~~[(76)]~~ (78) “Guaranteed automobile protection insurance” means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

~~[(77)]~~ (79) (a) “Health benefit plan” means, except as provided in Subsection ~~[(77)]~~ (79)(b), a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care.

(b) “Health benefit plan” does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers’ compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) hospital indemnity or other fixed indemnity insurance; and

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan.

~~[(78)]~~ (80) “Health care” means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

~~[(79)]~~ (81) (a) “Health care insurance” or “health insurance” means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) “Health care insurance” or “health insurance” does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers’ compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

~~[(80)]~~ (82) “Health care provider” means the same as that term is defined in Section 78B-3-403.

~~[(81)]~~ (83) “Health insurance exchange” means an exchange as defined in 45 C.F.R. Sec. 155.20.

~~[(82)]~~ (84) “Health Insurance Portability and Accountability Act” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

~~[(83)]~~ (85) “Income replacement insurance” or “disability income insurance” means insurance written to provide payments to replace income lost from accident or sickness.

[~~84~~] (86) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

[~~85~~] (87) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

[~~86~~] (88) "Independently procured insurance" means insurance procured under Section 31A-15-104.

[~~87~~] (89) "Individual" means a natural person.

[~~88~~] (90) "Inland marine insurance" includes insurance covering:

- (a) property in transit on or over land;
- (b) property in transit over water by means other than boat or ship;
- (c) bailee liability;
- (d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and
- (e) personal and commercial property floaters.

[~~89~~] (91) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

[~~90~~] (92) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

[~~91~~] (93) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[~~92~~] (94) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection [~~121~~] (125);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections [~~92~~] (94)(a) through (h) in a manner designed to evade this title.

[~~93~~] (95) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(96) "Insurance group" means the persons that comprise an insurance holding company system.

[~~94~~] (97) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

[~~95~~] (98) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed

under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) “Producer for the insurer” means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) “Producer for the insurer” may be referred to as an “agent.”

(c) (i) “Producer for the insured” means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) “Producer for the insured” may be referred to as a “broker.”

[~~96~~] (99) (a) “Insured” means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

- (i) a policyholder;
- (ii) a subscriber;
- (iii) a member; and
- (iv) a beneficiary.

(b) The definition in Subsection [~~96~~] (99)(a):

- (i) applies only to this title;
- (ii) does not define the meaning of “insured” as used in an insurance policy or certificate; and
- (iii) includes an enrollee.

[~~97~~] (100) (a) “Insurer” means a person doing an insurance business as a principal including:

- (i) a fraternal benefit society;
- (ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);
- (iii) a motor club;
- (iv) an employee welfare plan;
- (v) a person purporting or intending to do an insurance business as a principal on that person’s own account; and
- (vi) a health maintenance organization.

(b) “Insurer” does not include a governmental entity [~~to the extent the governmental entity is engaged in an activity described in Section 31A-12-107~~].

[~~98~~] (101) “Interinsurance exchange” means the same as that term is defined in Subsection [~~153~~] (160).

(102) “Internationally active insurance group” means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

- (i) total assets of at least \$50,000,000,000; or
- (ii) total gross written premiums of at least \$10,000,000,000.

[~~99~~] (103) “Involuntary unemployment insurance” means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

- (i) specific loan; or
- (ii) credit transaction.

[~~100~~] (104) (a) “Large employer,” in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

- (i) employed an average of at least 51 employees on business days during the preceding calendar year; and
- (ii) employs at least one employee on the first day of the plan year.

(b) The number of employees shall be determined using the method set forth in 26 U.S.C. Sec. 4980H(c)(2).

[~~101~~] (105) “Late enrollee,” with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

[~~102~~] (106) “Late enrollment,” with respect to an employer health benefit plan, means enrollment of an individual other than:

- (a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or
- (b) through special enrollment.

[~~103~~] (107) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, “legal expense insurance” means insurance written to indemnify or pay for a specified legal expense.

(b) “Legal expense insurance” includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) “Legal expense insurance” does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

[~~104~~] (108) (a) “Liability insurance” means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

- (A) medical malpractice insurance;
- (B) professional liability insurance; and
- (C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

- (A) medical malpractice insurance;
- (B) professional liability insurance; and
- (C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

- (i) vehicle liability insurance;
- (ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

~~[(105)]~~ (109) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

~~[(106)]~~ (110) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

- (i) granting a death benefit;
- (ii) granting an annuity benefit;
- (iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

~~[(107)]~~ (111) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

~~[(108)]~~ (112) "Limited line credit insurance" includes the following forms of insurance:

- (a) credit life;
- (b) credit accident and health;
- (c) credit property;
- (d) credit unemployment;
- (e) involuntary unemployment;
- (f) mortgage life;
- (g) mortgage guaranty;
- (h) mortgage accident and health;
- (i) guaranteed automobile protection; and
- (j) another form of insurance offered in connection with an extension of credit that:
 - (i) is limited to partially or wholly extinguishing the credit obligation; and
 - (ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

~~[(109)]~~ (113) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

~~[(110)]~~ (114) "Limited line insurance" includes:

- (a) bail bond;
- (b) limited line credit insurance;
- (c) legal expense insurance;
- (d) motor club insurance;
- (e) car rental related insurance;
- (f) travel insurance;
- (g) crop insurance;
- (h) self-service storage insurance;
- (i) guaranteed asset protection waiver;
- (j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

~~[(111)]~~ (115) "Limited lines authority" includes the lines of insurance listed in Subsection ~~[(110)]~~ (114).

~~[(112)]~~ (116) “Limited lines producer” means a person who sells, solicits, or negotiates limited lines insurance.

~~[(113)]~~ (117) (a) “Long-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

- (A) expenses incurred;
- (B) indemnity;
- (C) prepayment; or
- (D) another method;

(iii) for one or more necessary or medically necessary services that are:

- (A) diagnostic;
- (B) preventative;
- (C) therapeutic;
- (D) rehabilitative;
- (E) maintenance; or
- (F) personal care; and

(iv) that may be issued by:

- (A) an insurer;
- (B) a fraternal benefit society;
- (C) (I) a nonprofit health hospital; and
- (II) a medical service corporation;
- (D) a prepaid health plan;
- (E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections ~~[(113)]~~ (117)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) “Long-term care insurance” includes:

(i) any of the following that provide directly or supplement long-term care insurance:

- (A) a group or individual annuity or rider; or
- (B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

- (A) cognitive impairment; or
- (B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) “Long-term care insurance” does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

- (A) disease; or
- (B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

- (I) benefits; or
- (II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

~~[(114)]~~ (118) “Managed care organization” means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

~~[(115)]~~ (119) “Medical malpractice insurance” means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

~~[(116)]~~ (120) “Member” means a person having membership rights in an insurance corporation.

~~[(117)]~~ (121) “Minimum capital” or “minimum required capital” means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

~~[(118)]~~ (122) “Mortgage accident and health insurance” means insurance offered in connection with an extension of credit that provides indemnity

for payments coming due on a mortgage while the debtor has a disability.

~~[(119)]~~ (123) “Mortgage guaranty insurance” means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

~~[(120)]~~ (124) “Mortgage life insurance” means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

~~[(121)]~~ (125) “Motor club” means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections ~~[(121)]~~ (125)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

~~[(122)]~~ (126) “Mutual” means a mutual insurance corporation.

~~[(123)]~~ (127) “Network plan” means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

~~[(124)]~~ (128) “Network provider” means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

~~[(125)]~~ (129) “Nonparticipating” means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

~~[(126)]~~ (130) “Ocean marine insurance” means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

~~[(127)]~~ (131) “Order” means an order of the commissioner.

(132) “ORSA guidance manual” means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(133) “ORSA summary report” means a confidential high-level summary of an insurer or insurance group’s own risk and solvency assessment.

~~[(128)]~~ (134) “Outline of coverage” means a summary that explains an accident and health insurance policy.

(135) “Own risk and solvency assessment” means an insurer or insurance group’s confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group’s current business plan to support each risk described in Subsection (135)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (135)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

~~[(129)]~~ (136) “Participating” means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

~~[(130)]~~ (137) “Participation,” as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

- (ii) another government health benefit.
- [(431)] (138) “Person” includes:
- (a) an individual;
 - (b) a partnership;
 - (c) a corporation;
 - (d) an incorporated or unincorporated association;
 - (e) a joint stock company;
 - (f) a trust;
 - (g) a limited liability company;
 - (h) a reciprocal;
 - (i) a syndicate; or
 - (j) another similar entity or combination of entities acting in concert.

[(432)] (139) “Personal lines insurance” means property and casualty insurance coverage sold for primarily noncommercial purposes to:

- (a) an individual; or
- (b) a family.

[(433)] (140) “Plan sponsor” means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

[(434)] (141) “Plan year” means:

- (a) the year that is designated as the plan year in:
 - (i) the plan document of a group health plan; or
 - (ii) a summary plan description of a group health plan;
- (b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:
 - (i) the year used to determine deductibles or limits;
 - (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or
 - (iii) the employer’s taxable year if:
 - (A) the plan does not impose deductibles or limits on a yearly basis; and
 - (B) (I) the plan is not insured; or
 - (II) the insurance policy is not renewed on an annual basis; or
- (c) in a case not described in Subsection [(434)] (141)(a) or (b), the calendar year.

[(435)] (142) (a) “Policy” means a document, including an attached endorsement or application that:

- (i) purports to be an enforceable contract; and
- (ii) memorializes in writing some or all of the terms of an insurance contract.

(b) “Policy” includes a service contract issued by:

- (i) a motor club under Chapter 11, Motor Clubs;
- (ii) a service contract provided under Chapter 6a, Service Contracts; and
- (iii) a corporation licensed under:
 - (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
 - (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- (c) “Policy” does not include:
 - (i) a certificate under a group insurance contract; or
 - (ii) a document that does not purport to have legal effect.

[(436)] (143) “Policyholder” means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

[(437)] (144) “Policy illustration” means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years.

[(438)] (145) “Policy summary” means a synopsis describing the elements of a life insurance policy.

[(439)] (146) “PPACA” means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

[(440)] (147) “Preexisting condition,” with respect to health care insurance:

- (a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and
- (b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

[(441)] (148) (a) “Premium” means the monetary consideration for an insurance policy.

(b) “Premium” includes, however designated:

- (i) an assessment;
- (ii) a membership fee;
- (iii) a required contribution; or
- (iv) monetary consideration.

(c) (i) “Premium” does not include consideration paid to a third party administrator for the third party administrator’s services.

(ii) “Premium” includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

[(442)] (149) “Principal officers” for a corporation means the officers designated under Subsection 31A-5-203(3).

~~[(143)]~~ (150) “Proceeding” includes an action or special statutory proceeding.

~~[(144)]~~ (151) “Professional liability insurance” means insurance against legal liability incident to the practice of a profession and provision of a professional service.

~~[(145)]~~ (152) (a) Except as provided in Subsection ~~[(145)]~~ (152)(b), “property insurance” means insurance against loss or damage to real or personal property of every kind and any interest in that property:

- (i) from all hazards or causes; and
- (ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) “Property insurance” does not include:

- (i) inland marine insurance; and
- (ii) ocean marine insurance.

~~[(146)]~~ (153) “Qualified long-term care insurance contract” or “federally tax qualified long-term care insurance contract” means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

- (i) (A) by rider; or
- (B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

~~[(147)]~~ (154) “Qualified United States financial institution” means an institution that:

- (a) is:
 - (i) organized under the laws of the United States or any state; or
 - (ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

- (i) the commissioner by rule; or
- (ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

~~[(148)]~~ (155) (a) “Rate” means:

- (i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

- (I) expenses;
- (II) profit; and
- (III) individual insurer variation in loss experience.

(b) “Rate” does not include a minimum premium.

~~[(149)]~~ (156) (a) Except as provided in Subsection ~~[(149)]~~ (156)(b), “rate service organization” means a person who assists an insurer in rate making or filing by:

- (i) collecting, compiling, and furnishing loss or expense statistics;
- (ii) recommending, making, or filing rates or supplementary rate information; or
- (iii) advising about rate questions, except as an attorney giving legal advice.

(b) “Rate service organization” does not mean:

- (i) an employee of an insurer;
- (ii) a single insurer or group of insurers under common control;
- (iii) a joint underwriting group; or
- (iv) an individual serving as an actuarial or legal consultant.

~~[(150)]~~ (157) “Rating manual” means any of the following used to determine initial and renewal policy premiums:

- (a) a manual of rates;
- (b) a classification;
- (c) a rate-related underwriting rule; and
- (d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

~~[(151)]~~ (158) (a) “Rebate” means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

- (i) a refund of premium or portion of premium;
- (ii) a refund of commission or portion of commission;
- (iii) a refund of all or a portion of a consultant fee; or
- (iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) “Rebate” does not include:

- (i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

~~[(152)]~~ (159) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

~~[(153)]~~ (160) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

~~[(154)]~~ (161) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

~~[(155)]~~ (162) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

~~[(156)]~~ (163) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

~~[(157)]~~ (164) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

~~[(158)]~~ (165) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

~~[(159)]~~ (166) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

~~[(160)]~~ (167) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections ~~[(160)]~~ (167)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

~~[(161)]~~ (168) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection ~~[(161)]~~ (168).

~~[(162)]~~ (169) (a) “Self-insurance” means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection ~~[(162)]~~ (169), “self-insurance” does not include an arrangement under which a number of persons spread their risks among themselves.

(c) “Self-insurance” includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee’s employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) “Self-insurance” does not include an arrangement with an independent contractor.

~~[(163)]~~ (170) “Sell” means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

~~[(164)]~~ (171) “Short-term care insurance” means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.

(172) “Short-term limited duration health insurance” means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

~~[(165)]~~ (173) “Significant break in coverage” means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

~~[(166)]~~ (174) (a) “Small employer” means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) “Small employer” does not include a sole proprietor that does not employ at least one employee.

~~[(167)]~~ (175) “Special enrollment period,” in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

~~[(168)]~~ (176) (a) “Subsidiary” of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) “Wholly owned subsidiary” of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary’s domicile requires to be owned by directors or others.

~~[(169)]~~ (177) Subject to Subsection ~~[(90)]~~ (91)(b), “surety insurance” includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal’s obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

~~[(170)]~~ (178) (a) “Surplus” means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) “Permanent surplus” means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) “Excess surplus” means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer’s or health organization’s total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer’s or health organization’s minimum capital or permanent

surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

~~[(471)]~~ (179) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternal; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

~~[(472)]~~ (180) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

~~[(473)]~~ (181) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

~~[(474)]~~ (182) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

~~[(475)]~~ (183) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

~~[(476)]~~ (184) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

~~[(477)]~~ (185) "Vehicle liability insurance" means insurance against liability resulting from or

incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection ~~[(445)]~~ (152).

~~[(479)]~~ (186) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

~~[(479)]~~ (187) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

~~[(480)]~~ (188) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

- (i) a compensable accidental injury; and
- (ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section 31A-2-308 is amended to read:

31A-2-308. Enforcement penalties and procedures.

(1) (a) A person who violates any insurance statute or rule or any order issued under Subsection 31A-2-201(4) shall forfeit to the state up to twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b) (i) The commissioner may order an individual producer, surplus line producer, limited line producer, managing general agent, reinsurance intermediary, adjuster, third party administrator, navigator, or insurance consultant who violates an insurance statute or rule to forfeit to the state not more than \$2,500 for each violation.

(ii) The commissioner may order any other person who violates an insurance statute or rule to forfeit to the state not more than \$5,000 for each violation.

(c) (i) The commissioner may order an individual producer, surplus line producer, limited line producer, managing general agent, reinsurance intermediary, adjuster, third party administrator, navigator, or insurance consultant who violates an order issued under Subsection 31A-2-201(4) to forfeit to the state not more than \$2,500 for each violation. Each day the violation continues is a separate violation.

(ii) The commissioner may order any other person who violates an order issued under Subsection 31A-2-201(4) to forfeit to the state not more than

\$5,000 for each violation. Each day the violation continues is a separate violation.

(d) The commissioner may accept or compromise any forfeiture under this Subsection (1) until after a complaint is filed under Subsection (2). After the filing of the complaint, only the attorney general may compromise the forfeiture.

(2) When a person fails to comply with an order issued under Subsection 31A-2-201(4), including a forfeiture order, the commissioner may file an action in any court of competent jurisdiction or obtain a court order or judgment:

(a) enforcing the commissioner's order;

(b) (i) directing compliance with the commissioner's order and restraining further violation of the order; and

(ii) subjecting the person ordered to the procedures and sanctions available to the court for punishing contempt if the failure to comply continues; or

(c) imposing a forfeiture in an amount the court considers just, up to \$10,000 for each day the failure to comply continues after the filing of the complaint until judgment is rendered.

(3) (a) The Utah Rules of Civil Procedure govern actions brought under Subsection (2), except that the commissioner may file a complaint seeking a court-ordered forfeiture under Subsection (2)(c) no sooner than two weeks after giving written notice of the commissioner's intention to proceed under Subsection (2)(c).

(b) The commissioner's order issued under Subsection 31A-2-201(4) may contain a notice of intention to seek a court-ordered forfeiture if the commissioner's order is disobeyed.

(4) If, after a court order is issued under Subsection (2), the person fails to comply with the commissioner's order or judgment:

(a) the commissioner may certify the fact of the failure to the court by affidavit; and

(b) the court may, after a hearing following at least five days written notice to the parties subject to the order or judgment, amend the order or judgment to add the forfeiture or forfeitures, as prescribed in Subsection (2)(c), until the person complies.

(5) (a) The proceeds of the forfeitures under this section, including collection expenses, shall be paid into the General Fund.

(b) The expenses of collection shall be credited to the department's budget.

(c) The attorney general's budget shall be credited to the extent the department reimburses the attorney general's office for its collection expenses under this section.

(6) (a) Forfeitures and judgments under this section bear interest at the rate charged by the United States Internal Revenue Service for past due taxes on the:

(i) date of entry of the commissioner's order under Subsection (1); or

(ii) date of judgment under Subsection (2).

(b) Interest accrues from the later of the dates described in Subsection (6)(a) until the forfeiture and accrued interest are fully paid.

(7) A forfeiture may not be imposed under Subsection (2)(c) if:

(a) at the time the forfeiture action is commenced, the person was in compliance with the commissioner's order; or

(b) the violation of the order occurred during the order's suspension.

(8) The commissioner may seek an injunction as an alternative to issuing an order under Subsection 31A-2-201(4).

(9) (a) A person is guilty of a class B misdemeanor if that person:

(i) intentionally violates:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4);

(ii) intentionally permits a person over whom that person has authority to violate:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4); or

(iii) intentionally aids any person in violating:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4).

(b) Unless a specific criminal penalty is provided elsewhere in this title, the person may be fined not more than:

(i) \$10,000 if a corporation; or

(ii) \$5,000 if a person other than a corporation.

(c) If the person is an individual, the person may, in addition, be imprisoned for up to one year.

(d) As used in this Subsection (9), "intentionally" has the same meaning as under Subsection 76-2-103(1).

(10) (a) A person who knowingly and intentionally violates Section 31A-4-102, 31A-8a-208, 31A-15-105, 31A-23a-116, or 31A-31-111 is guilty of a felony as provided in this Subsection (10).

(b) When the value of the property, money, or other things obtained or sought to be obtained in violation of Subsection (10)(a):

(i) is less than \$5,000, a person is guilty of a third degree felony; or

(ii) is or exceeds \$5,000, a person is guilty of a second degree felony.

(11) (a) After a hearing, the commissioner may, in whole or in part, revoke, suspend, place on probation, limit, or refuse to renew the licensee's license or certificate of authority:

(i) when a licensee of the department, other than a domestic insurer:

(A) persistently or substantially violates the insurance law; or

(B) violates an order of the commissioner under Subsection 31A-2-201(4);

(ii) if there are grounds for delinquency proceedings against the licensee under Section 31A-27a-207; or

(iii) if the licensee's methods and practices in the conduct of the licensee's business endanger, or the licensee's financial resources are inadequate to safeguard, the legitimate interests of the licensee's customers and the public.

(b) Additional license termination or probation provisions for licensees other than insurers are set forth in Sections 31A-19a-303, 31A-19a-304, 31A-23a-111, 31A-23a-112, 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214, 31A-35-501, and 31A-35-503.

(12) The enforcement penalties and procedures set forth in this section are not exclusive, but are cumulative of other rights and remedies the commissioner has pursuant to applicable law.

Section 3. Section 31A-2-403 is amended to read:

31A-2-403. Title and Escrow Commission created.

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows:

(i) except as provided in Subsection (1)(c), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) (i) [The] Except as provided in Subsection (6)(b), the commission shall meet at least monthly.

(ii) (A) The commissioner shall, with the concurrence of the chair of the commission, designate at least one monthly meeting per quarter as an in-person meeting.

(B) Notwithstanding Section 52-4-207, a commission member shall physically attend [a regularly scheduled monthly meeting of the commission] a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through electronic means. A commission member may attend any other commission meeting, subcommittee [meetings, emergency meetings, or other not regularly scheduled meetings electronically] meeting, or emergency meeting by electronic means in accordance with Section 52-4-207.

(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.

(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).

~~(b)~~ (c) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

~~(e)~~ (d) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

Section 4. Section 31A-3-304 is amended to read:

31A-3-304. Annual fees -- Other taxes or fees prohibited -- Captive Insurance Restricted Account.

(1) (a) A captive insurance company shall pay an annual fee imposed under this section to obtain or renew a certificate of authority.

(b) The commissioner shall:

(i) determine the annual fee pursuant to Section 31A-3-103; and

(ii) consider whether the annual fee is competitive with fees imposed by other states on captive insurance companies.

(2) A captive insurance company that fails to pay the fee required by this section is subject to the relevant sanctions of this title.

(3) (a) A captive insurance company that pays one of the following fees is exempt from Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Title 59, Chapter 9, Taxation of Admitted Insurers:

- (i) a fee under this section;
- (ii) a fee under Chapter 37, Captive Insurance Companies Act; or
- (iii) a fee under Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(b) The state or a county, city, or town within the state may not levy or collect an occupation tax or other fee or charge not described in Subsections (3)(a)(i) through (iii) against a captive insurance company.

(c) The state may not levy, assess, or collect a withdrawal fee under Section 31A-4-115 against a captive insurance company.

(4) A captive insurance company shall pay the fee imposed by this section to the commissioner by June 1 of each year.

(5) (a) Money received pursuant to a fee described in Subsection (3)(a) shall be deposited into the Captive Insurance Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Captive Insurance Restricted Account."

(c) The Captive Insurance Restricted Account shall consist of the fees described in Subsection (3)(a).

(d) The commissioner shall administer the Captive Insurance Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Captive Insurance Restricted Account to:

- (i) administer and enforce:
 - (A) Chapter 37, Captive Insurance Companies Act; and
 - (B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; and
- (ii) promote the captive insurance industry in Utah.
- (e) An appropriation from the Captive Insurance Restricted Account is nonlapsing, except that at the end of each fiscal year, money received by the commissioner in excess of the following shall be treated as free revenue in the General Fund:

(i) for fiscal year [2017-2018] 2018-2019 and subsequent fiscal years, in excess of [\$1,850,000] \$1,600,000; and

(ii) for fiscal year [2018-2019] 2019-2020 and subsequent fiscal years, in excess of [\$1,600,000] \$1,450,000.

Section 5. Section 31A-16-108.6 is enacted to read:

31A-16-108.6. Supervision of internationally active insurance groups.

(1) (a) Except as otherwise provided in this section, the commissioner shall act as the group-wide supervisor for each internationally active insurance group.

(b) In lieu of acting as the group-wide supervisor for an internationally active insurance company, the commissioner may acknowledge a regulatory official from another jurisdiction as the internationally active insurance group's group-wide supervisor, if the internationally active insurance group:

(i) does not have substantial insurance operations in the United States;

(ii) has substantial insurance operations in the United States, but does not have substantial insurance operations in the state; or

(iii) has substantial insurance operations in the United States and in the state, but in accordance with the provisions of this section, the commissioner determines that a regulatory official from another jurisdiction is an appropriate group-wide supervisor.

(2) In deciding whether to acknowledge another regulatory official as an internationally active insurance group's group-wide supervisor in lieu of acting as the group-wide supervisor, the commissioner shall:

(a) consult and cooperate with other state, federal, and international regulatory agencies; and

(b) consider:

(i) the domicile of the insurer or insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;

(ii) the domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group;

(iii) the location of the executive office or largest operational office of the internationally active insurance group;

(iv) whether another regulatory official acts or seeks to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:

(A) substantially similar to the system of regulation provided under the laws of this state; or

(B) sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and

(v) whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

(3) (a) Before acting as the group-wide supervisor for an internationally active insurance group, the commissioner shall notify:

(i) the insurer registered under Section 31A-16-105; and

(ii) the ultimate controlling person within the internationally active insurance group.

(b) Within 30 days after the day on which an internationally active insurance group receives a notification described in Subsection (3)(a), the internationally active insurance group may provide the commissioner additional information relevant to whether the commissioner should act as the internationally active insurance group's group-wide supervisor.

(4) If the commissioner acts as the group-wide supervisor for an internationally active insurance group, the commissioner may later acknowledge a regulatory official from another jurisdiction as the group-wide supervisor for the internationally active insurance group if the commissioner:

(a) considers the factors described in Subsection (2)(b);

(b) cooperates with other regulatory officials involved with the supervision of the members of the internationally active insurance group; and

(c) consults with the internationally active insurance group.

(5) Notwithstanding any other provision of law, when a regulatory official from another jurisdiction is acting as the group-wide supervisor for an internationally active insurance group, the commissioner shall:

(a) acknowledge the regulatory official as the group-wide supervisor; and

(b) in accordance with Subsection (2), reevaluate whether it is appropriate to acknowledge a regulatory official from another jurisdiction as the group-wide supervisor if a change in circumstances results in:

(i) the insurer or insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities being domiciled in the state; or

(ii) the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group being domiciled in the state.

(6) In accordance with Section 31A-16-107.5, upon request from the commissioner, an insurer subject to this chapter shall provide the commissioner any information necessary to determine the appropriate group-wide supervisor for an internationally active insurance group.

(7) The commissioner shall publish on the department's website the identity of each internationally active insurance group for which the commissioner acts as the group-wide supervisor.

(8) If the commissioner is the group-wide supervisor of an internationally active insurance group, the commissioner may:

(a) assess the enterprise risks within the internationally active insurance group to ensure that:

(i) management of the internationally active insurance group identifies the material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance; and

(ii) reasonable and effective mitigation measures are in place;

(b) request, from any member of the internationally active insurance group, subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:

(i) governance, risk assessment, and management;

(ii) capital adequacy; or

(iii) material intercompany transactions;

(c) coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(d) communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group;

(e) subject to the confidentiality provisions of Section 31A-16-109, share relevant information:

(i) through a supervisory college in accordance with Section 31A-16-108.5; or

(ii) by entering into an agreement or obtaining documentation:

(A) with or from an insurer registered under Section 31A-16-105, a member of the internationally active insurance group, or a state, federal, or international regulatory agency for members of the internationally active insurance group; and

(B) that provides the basis for or otherwise clarifies the commissioner's role as group-wide supervisor, including a provision for resolving disputes with another regulatory official; and

(f) engage in any other group-wide supervision activity, consistent with an authority and purpose enumerated in this section, as the commissioner determines necessary.

(9) An agreement or documentation described in Subsection (8)(e) may not serve as evidence in any proceeding that an insurer or person within an insurance holding company system not domiciled or incorporated in the state:

(a) is doing business in the state; or

(b) is subject to jurisdiction in the state.

(10) (a) If the commissioner acknowledges as a group-wide supervisor another regulatory official from a jurisdiction that the NAIC does not accredit as a group-wide supervisor, the commissioner may reasonably cooperate, through supervisory colleges or otherwise, with the group-wide supervision undertaken by the group-wide supervisor, provided that:

(i) the commissioner's cooperation is in compliance with the laws of this state; and

(ii) the group-wide supervisor also recognizes and cooperates with the commissioner's activities as the group-wide supervisor for other internationally active insurance groups where applicable.

(b) Where the recognition and cooperation described in Subsection (10)(a)(ii) is not reasonably reciprocal, the commissioner may refuse recognition and cooperation.

(11) The commissioner may in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the administration of this section.

(12) An insurer subject to this section is liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including:

(a) the engagement of an attorney, actuary, or other professional; and

(b) all reasonable travel expenses.

Section 6. Section 31A-16-109 is amended to read:

31A-16-109. Confidentiality of information obtained by commissioner.

(1) (a) [~~Information, documents, and copies of these that are~~] Documents, materials, or information obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section 31A-16-107.5, and all information reported or provided to the department under Section 31A-16-105 or 31A-16-108.6, is confidential. [~~It is~~]

(b) Any confidential document, material, or information described in Subsection (1)(a) is not subject to subpoena and may not be made public by the commissioner or any other person without the permission of the insurer, except [~~it~~] the confidential document, material, or information may be provided to the insurance departments of other states, without the prior written consent of the insurer to which [~~it~~] the confidential document, material, or information pertains.

(2) The commissioner and any person who [~~received~~] receives documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any

confidential documents, materials, or information subject to Subsection (1).

(3) (a) To assist in the performance of the commissioner's duties, the commissioner:

(i) may share documents, materials, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:

(A) [~~either~~] a state, federal, [~~and~~] or international regulatory [~~agencies~~] agency;

(B) the National Association of Insurance Commissioners [~~and its affiliates and subsidiaries; and~~] or an NAIC affiliate or subsidiary; or

(C) a state, federal, [~~and~~] or international law enforcement [~~authorities~~] authority, including [~~members~~] a member of a supervisory college described in Section 31A-16-108.5;

(ii) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section 31A-16-105 or 31A-16-108.6 with [~~commissioners of states~~] a commissioner of a state having statutes or regulations substantially similar to Subsection (1) and who [~~have~~] has agreed in writing not to disclose the documents, material, or information;

(iii) may receive documents, materials, or information, including otherwise confidential documents, materials, or information from:

(A) the National Association of Insurance Commissioners [~~and its affiliates and subsidiaries and from~~] or an NAIC affiliate or subsidiary; or

(B) a regulatory [~~and~~] or law enforcement [~~officials~~] official of [~~either~~] a foreign or domestic [~~jurisdictions, and~~] jurisdiction;

(iv) shall maintain as confidential any document, material, or information received under this section with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and

[~~(iv)~~] (v) shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:

(A) specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and [~~its~~] NAIC affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, or international regulators;

(B) specify that ownership of information shared with the National Association of Insurance

Commissioners and ~~its~~ NAIC affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the National Association of Insurance Commissioner's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners pursuant to this chapter is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(D) require the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and ~~its~~ NAIC affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) A waiver of any applicable claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (3).

(6) Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners pursuant to this chapter are:

(a) confidential, not public records, and not open to public inspection; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 7. Section 31A-16b-101 is enacted to read:

CHAPTER 16b. CORPORATE GOVERNANCE ANNUAL DISCLOSURE ACT

31A-16b-101. Title.

This chapter is known as the "Corporate Governance Annual Disclosure Act."

Section 8. Section 31A-16b-102 is enacted to read:

31A-16b-102. Administration and scope.

(1) The commissioner is solely responsible for the administration and enforcement of the provisions of this chapter.

(2) This chapter does not:

(a) prescribe or impose corporate governance standards or internal procedures beyond what is required under applicable state corporate law; or

(b) limit the commissioner's authority, or the rights or obligations of third parties, under Chapter 2, Administration of the Insurance Laws.

(3) The requirements of this chapter apply to each insurer domiciled in the state.

Section 9. Section 31A-16b-103 is enacted to read:

31A-16b-103. Disclosure requirement.

(1) An insurer, or the insurance group of which the insurer is a member, shall on or before June 1 of each year submit to the commissioner a corporate governance annual disclosure that contains the information required under Section 31A-16b-105.

(2) Notwithstanding a request from the commissioner described in Subsection (4), if an insurer is a member of an insurance group, the insurer shall submit the report required under this section to the commissioner of the lead state for the insurance group in accordance with:

(a) the laws of the lead state; and

(b) the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.

(3) The corporate governance annual disclosure described in Subsection (1) shall include a signature:

(a) of the insurer's or insurance group's chief executive officer or corporate secretary; and

(b) attesting to the best of the signatory's belief and knowledge that:

(i) the insurer or insurance group has implemented the corporate governance practices; and

(ii) a copy of the disclosure has been provided to the insurer's or insurance group's board of directors or the appropriate committee thereof.

(4) An insurer not required to submit a corporate governance annual disclosure under this section shall submit a corporate governance annual disclosure to the commissioner upon the commissioner's request.

(5) (a) For purposes of completing a corporate governance annual disclosure, an insurer or insurance group may provide information regarding corporate governance at one of the following levels:

(i) at the ultimate controlling parent level;

(ii) at an intermediate holding company level; or

(iii) at the individual legal entity level.

(b) An insurer or insurance group shall consider making each corporate governance annual disclosure at the level at which the insurer or insurance group:

(i) determines the insurer or insurance group's risk appetite;

(ii) (A) collectively oversees the earnings, capital, liquidity, operations, and reputation of the insurer; and

(B) coordinates and exercises the supervision of earnings, capital, liquidity, operations, and reputation of the insurer; or

(iii) places legal liability for failure of general corporate governance duties.

(6) If an insurer or insurance group chooses a level of reporting described in Subsection (5), it shall indicate:

(a) which of the three levels the insurer or insurance group chose; and

(b) explain any subsequent change in the level of reporting.

(7) An insurer may choose not to include certain information in a corporate governance annual disclosure, if:

(a) the information is substantially similar to information included in another document submitted to the commissioner, including a proxy statement filed in conjunction with Section 31A-16-105 or another state or federal filing provided to the department; and

(b) the insurer cross references the document described in Subsection (7)(a) in the corporate governance annual disclosure.

(8) A review of a corporate governance annual disclosure or any additional request for information related to a corporate governance annual disclosure shall be made through the lead state as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.

Section 10. Section 31A-16b-104 is enacted to read:

31A-16b-104. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to implement and administer this chapter.

(2) The commissioner may issue orders as is necessary to carry out this chapter.

Section 11. Section 31A-16b-105 is enacted to read:

31A-16b-105. Contents of corporate governance annual disclosure.

(1) (a) A corporate governance annual disclosure shall include information sufficient to provide the commissioner a clear understanding of the insurer's or insurance group's corporate governance structure, policies, and practices.

(b) An insurer or insurance group has discretion to determine the information the insurer or insurance group includes in a corporate governance annual disclosure, provided the information complies with Subsection (1)(a).

(2) The commissioner may request additional information that the commissioner determines material and necessary to provide the commissioner with a clear understanding of the insurer's or insurance group's:

(a) corporate governance policies;

(b) reporting and information systems; or

(c) controls implementing the items described in Subsection (2)(a) or (b).

(3) An insurer or insurance group shall maintain and make available upon request of the commissioner:

(a) documentation; and

(b) supporting information.

Section 12. Section 31A-16b-106 is enacted to read:

31A-16b-106. Confidentiality.

(1) A document, material, or other information, including a corporate governance annual disclosure, is considered proprietary and to contain a trade secret if the document, material, or other information is:

(a) in the control or possession of the department; and

(b) obtained by, created by, or disclosed to the commissioner or any other person in accordance with this chapter.

(2) A document, material, or other information described in Subsection (1) is:

(a) confidential and privileged;

(b) classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act;

(c) not subject to:

(i) subpoena; or

(ii) discovery; and

(d) not admissible as evidence in any private civil action.

(3) (a) The commissioner may use a document, material, or other information described in Subsection (1) in the furtherance of a regulatory or legal action brought as a part of the commissioner's duties.

(b) Except as described in Subsection (3)(a), the commissioner may not make a document, material, or other information described in Subsection (1) public without the prior written consent of the insurer or insurance group.

(4) Nothing in this section requires written consent of the insurer or insurance group before the commissioner shares or receives, in accordance with Subsection (6), a document, material, or other information described in Subsection (1) to assist in the performance of the commissioner's duties.

(5) The following may not testify in any private civil action regarding a document, material, or other information described in Subsection (1):

(a) the commissioner; or

(b) a person:

(i) who receives the document, material, or other information, through examination or otherwise, while acting under the authority of the commissioner; or

(ii) with whom the document, material, or other information is shared in accordance with this chapter.

(6) To carry out the commissioner's duties, the commissioner may:

(a) upon request, share a document, material, or other information described in Subsection (1) with:

(i) a state, federal, or international financial regulatory agency, including a member of a supervisory college as defined in Section 31A-16-108.5; or

(ii) the NAIC or a third-party consultant retained in accordance with Section 31A-16b-107, if the recipient:

(A) agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information; and

(B) verifies in writing the legal authority to maintain confidentiality; or

(b) receive documents, materials, or other information related to a corporate governance annual disclosure, including:

(i) otherwise confidential and privileged documents, materials, or other information; and

(ii) proprietary and trade secret information or documents from:

(A) a regulatory official of a state, federal, or international financial regulatory agency, including a member of a supervisory college as defined in Section 31A-16-108.5; or

(B) the NAIC.

(7) A written agreement governing the sharing of a document, material, or other information described in Subsection (1) with the NAIC or a third-party consultant shall contain the following:

(a) specific procedures and protocols for maintaining the confidentiality and privileged status of the document, material, or other information in accordance with this chapter;

(b) procedures and protocols ensuring the NAIC shares information only with a state regulator from a state in which the insurance group has a domiciled insurer;

(c) verification that the recipient has legal authority to maintain the confidentiality and privileged status of the document, material, or other information;

(d) a provision specifying that:

(i) ownership of the document, material, or other information remains with the department; and

(ii) the NAIC's or third-party consultant's use of the document, material, or other information shared with the NAIC or third-party consultant is subject to the direction of the commissioner;

(e) a provision prohibiting the NAIC or third-party consultant from storing the document, material, or other information in a permanent database after the underlying analysis is complete;

(f) a provision requiring the NAIC or third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the document, material, or other information;

(g) a provision requiring the NAIC or third-party consultant consent to the insurer or insurance group intervening in any judicial or administrative action in which the NAIC or third-party consultant may be required to disclose the document, material, or other information; and

(h) a provision requiring the written consent of the insurer or insurance group before making public the document, material, or other information.

(8) (a) The commissioner shall maintain as confidential or privileged any documents, materials, or other information received with notice or with the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(b) The NAIC and a third-party consultant are subject to the same confidentiality standards and requirements as the commissioner.

(9) The sharing of a document, material, or other information described in Subsection (1) by the commissioner in accordance with this chapter is not a delegation of regulatory authority or rulemaking.

(10) Disclosing or sharing a document, material, or other information described in Subsection (1) in accordance with this chapter does not waive any privilege or claim of confidentiality, propriety, or trade secret related to the document, material, or other information.

Section 13. Section 31A-16b-107 is enacted to read:

31A-16b-107. Third-party consultants.

(1) The commissioner may retain a third-party consultant, including an attorney, actuary, accountant, or other expert not otherwise a part of the commissioner's staff:

(a) at the insurer's or insurance group's expense; and

(b) as is reasonably necessary to assist the commissioner in reviewing the insurer's or insurance group's:

(i) corporate governance annual disclosure and related information; or

(ii) compliance with this chapter.

(2) A person the commissioner retains under Subsection (1):

(a) is under the direction and control of the commissioner; and

(b) shall act in a purely advisory capacity.

(3) As part of the retention process, a third-party consultant shall verify to the commissioner, with notice to the insurer or insurance group, that the third-party consultant:

(a) is free of a conflict of interest; and

(b) has internal procedures in place to:

(i) monitor compliance with Subsection (3)(a); and

(ii) comply with the confidentiality standards and requirements of this chapter.

Section 14. Section 31A-16b-108 is enacted to read:

31A-16b-108. Penalties.

(1) An insurer or insurance group that, without just cause, fails to timely file a corporate governance annual disclosure as required in this chapter shall, after notice and hearing, pay a penalty of \$10,000 for each day's delay, up to \$300,000.

(2) Any penalty recovered by the commissioner under this section shall be deposited into the General Fund.

(3) The commissioner may reduce a penalty under this section if the insurer or insurance group demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

Section 15. Section 31A-17-519 is amended to read:

31A-17-519. Small company exemption.

(1) A company that is licensed and doing business in Utah, and whose reserves are computed subject to the requirements of Subsection 31A-17-502(2), in lieu of the reserves required under Sections 31A-17-514 and 31A-17-515, may hold reserves for ordinary life insurance policies issued directly, or assumed, during the current calendar year, based on the mortality tables and interest rates defined by the valuation manual for net premium reserves and using the methodology defined in Sections 31A-17-507 through 31A-17-512 as they apply to ordinary life insurance [in lieu of the reserves required by Sections 31A-17-514 and 31A-17-515], provided that all of the following conditions have been met:

(a) the company has less than \$300,000,000 of ordinary life premium;

(b) if the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than \$600,000,000;

~~(c) the company reported total adjusted capital of at least 450% of Authorized Control Level Risk Based Capital in the risk-based capital report for the prior calendar year;~~

~~(d)~~ (c) the appointed actuary has provided an unqualified opinion on the reserves in accordance with Subsection 31A-17-503(2) for the prior calendar year;

~~(e) the company has provided a certification by a qualified actuary that~~ (d) any universal life policy with a secondary guarantee issued on or after [the operative date of the valuation manual] January 1, 2020, and in force on the company's annual financial statement for the current calendar year-end valuation date, only has secondary guarantees that meets the definition of a [non-material] non material secondary guarantee [universal life product] as defined in the valuation manual;

~~(f)~~ (e) the company has filed by July 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required a statement with its domiciliary commissioner certifying that these conditions are met and that the company intends to calculate reserves as described in this section; and

~~(g)~~ (f) the company's domiciliary commissioner has not informed the company in writing before September 1 of the calendar year for which valuation under Subsection 31A-17-502(2) is required that the company must comply with the valuation manual requirements for life insurance reserves.

(2) For purposes of Subsections (1)(a) and (b), ordinary life premiums are measured as direct premium plus reinsurance assumed from an unaffiliated company, as reported in the prior calendar year annual statement, excluding premiums for guaranteed issue policies and pre-need life contracts and excluding amounts that represent the transfer of reserves in-force as of the effective date of a reinsurance assumed transaction.

Section 16. Section 31A-21-201 is amended to read:

31A-21-201. Filing of forms.

(1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.

(b) A form is considered filed with the commissioner when the commissioner receives:

(i) the form;

(ii) the applicable filing fee as prescribed under Section 31A-3-103; and

(iii) the applicable transmittal forms as required by the commissioner.

(2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.

(3) (a) The commissioner may prohibit the use of a form at any time upon a finding that:

(i) the form:

(A) is inequitable;

(B) is unfairly discriminatory;

(C) is misleading;

(D) is deceptive;

(E) is obscure;

(F) is unfair;

(G) encourages misrepresentation; or

(H) is not in the public interest;

(ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;

(iii) except an application required by Section 31A-22-635, the form is an insurance policy or application for an insurance policy that fails to conspicuously, as defined by rule, provide:

(A) the exact name of the insurer;

(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and

(C) for a life insurance and annuity insurance policy only, the address of the administrative office of the insurer filing the insurance policy or application for the insurance policy;

(iv) the form violates a statute or a rule adopted by the commissioner; or

(v) the form is otherwise contrary to law.

~~[(b) Subsection (3)(a)(iii) does not apply to an endorsement to an insurance policy.]~~

~~[(e)]~~ (b) (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the order, the use of the form be discontinued.

(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.

(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.

~~[(d)]~~ (c) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:

(i) be in writing;

(ii) constitute an order; and

(iii) state the reasons for the prohibition.

(4) (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a

form be subject to the commissioner's approval before its use.

(b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.

(c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:

(i) a form for a particular class of insurance;

(ii) a form for a specific line of insurance;

(iii) a specific type of form; or

(iv) a form for a specific market segment.

(5) (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):

(i) a form:

(A) filed under this section for use; or

(B) that is in use; and

(ii) a document filed under this section with a form described in Subsection (5)(a)(i).

(b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:

(i) the last day on which the form is used; or

(ii) the last day an insurance policy that is issued using the form is in effect.

Section 17. Section 31A-21-311 is amended to read:

31A-21-311. Delivery of policy or certificate.

(1) (a) An insurer issuing an individual or group life insurance policy or an accident and health insurance policy shall deliver a copy of the policy to the policyholder as soon as practicable but no later than 90 days after the day on which the coverage is effective.

(b) The policy described in this Subsection (1) shall:

(i) provide the exact name of the insurer; and

(ii) state the state of domicile of the insurer.

~~[(1)]~~ (2) (a) (i) Except under Subsection ~~[(1)]~~ (2)(d), an insurer issuing a group insurance policy other than a blanket insurance policy shall, as soon as practicable after the coverage is effective, but no later than 90 days after the day on which the coverage is effective, provide a certificate for each member of the insured group, except that only one certificate need be provided for the members of a family unit.

(ii) The certificate ~~required by~~ described in this Subsection ~~[(1)]~~ (2) shall:

(A) provide the exact name of the insurer;

(B) state the state of domicile of the insurer; and

(C) contain a summary of the essential features of the insurance coverage, including:

(I) any rights of conversion to an individual policy;

(II) in the case of group life insurance, any continuation of coverage during total disability; and

(III) in the case of group life insurance, the incontestability provision.

(iii) Upon receiving a written request, the insurer shall inform any insured how the insured may inspect, during normal business hours at a place reasonably convenient to the insured:

(A) a copy of the policy; or

(B) a summary of the policy containing all the details that are relevant to the certificate holder.

(b) The commissioner may by rule impose a requirement similar to Subsection ~~[(4)]~~ (2)(a) on any class of blanket insurance policies for which the commissioner finds that the group of persons covered is constant enough for that type of action to be practicable and not unreasonably expensive.

(c) (i) A certificate shall be provided in a manner reasonably calculated to bring the certificate to the attention of the certificate holder.

(ii) The insurer may deliver or mail a certificate:

(A) directly to the certificate holders; or

(B) in bulk to the policyholder to transmit to certificate holders.

(iii) An affidavit by the insurer that the insurer mailed the certificates in the usual course of business creates a rebuttable presumption that the insurer has mailed the certificate to:

(A) a certificate holder; or

(B) a policyholder as provided in Subsection ~~[(4)]~~ (2)(c)(ii)(B).

(d) The commissioner may by rule or order prescribe substitutes for delivery or mailing of certificates that are reasonably calculated to inform a certificate holder of the certificate holder's rights, including:

(i) booklets describing the coverage;

(ii) the posting of notices in the place of business; or

(iii) publication in a house organ.

~~[(2)]~~ (3) Unless a policy, certificate or an authorized substitute has been made available to the policyholder or certificate holder, as applicable, when required by this section, an act or omission forbidden to or required of the policyholder or certificate holder by the policy or certificate after the coverage has become effective as to the policyholder or certificate holder, other than intentionally causing the loss insured against or failing to make required contributory premium

payments, may not affect the insurer's obligations under the insurance contract.

Section 18. Section 31A-22-501 is amended to read:

31A-22-501. Eligible groups.

A group or blanket policy of life insurance may not be delivered in Utah unless the insured group:

(1) falls within at least one of the classifications under Sections 31A-22-501.1 through 31A-22-509; and

(2) is formed ~~[for a reason other than the purchase of insurance]~~ and maintained in good faith for purposes other than obtaining insurance.

Section 19. Section 31A-22-605.1 is amended to read:

31A-22-605.1. Preexisting condition limitations.

(1) Any provision dealing with preexisting conditions shall be consistent with this section, Section 31A-22-609, and rules adopted by the commissioner.

(2) Except as provided in this section, an insurer that elects to use an application form without questions concerning the insured's health or medical treatment history shall provide coverage under the policy for any loss which occurs more than 12 months after the effective date of coverage due to a preexisting condition which is not specifically excluded from coverage.

(3) (a) An insurer that issues a specified disease policy may not deny a claim for loss due to a preexisting condition that occurs more than six months after the effective date of coverage.

(b) A specified disease policy may impose a preexisting condition exclusion only if the exclusion relates to a preexisting condition which first manifested itself within six months prior to the effective date of coverage or which was diagnosed by a physician at any time prior to the effective date of coverage.

(4) (a) Except as ~~[provided in this Subsection (4)]~~ otherwise provided in this section, a health benefit plan may impose a preexisting condition exclusion only if:

(i) the exclusion relates to a preexisting condition for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date from an individual licensed or similarly authorized to provide those services under state law and operating within the scope of practice authorized by state law;

(ii) the exclusion period ends no later than 12 months after the enrollment date, or in the case of a late enrollee, 18 months after the enrollment date; and

(iii) the exclusion period is reduced by the number of days of creditable coverage the enrollee has as of the enrollment date, in accordance with Subsection (4)(b).

(b) (i) The amount of creditable coverage allowed under Subsection (4)(a)(iii) is determined by counting all the days on which the individual has one or more types of creditable coverage.

(ii) Days of creditable coverage that occur before a significant break in coverage are not required to be counted.

(A) Days in a waiting period or affiliation period are not taken into account in determining whether a significant break in coverage has occurred.

(B) For an individual who elects federal COBRA continuation coverage during the second election period provided under the federal Trade Act of 2002, the days between the date the individual lost group health plan coverage and the first day of the second COBRA election period are not taken into account in determining whether a significant break in coverage has occurred.

(c) A group health benefit plan may not impose a preexisting condition exclusion relating to pregnancy.

(d) (i) An insurer imposing a preexisting condition exclusion shall provide a written general notice of preexisting condition exclusion as part of any written application materials.

(ii) The general notice under this subsection shall include:

(A) a description of the existence and terms of any preexisting condition exclusion under the plan, including the six-month period ending on the enrollment date, the maximum preexisting condition exclusion period, and how the insurer will reduce the maximum preexisting condition exclusion period by creditable coverage;

(B) a description of the rights of individuals:

(I) to demonstrate creditable coverage, including any applicable waiting periods, through a certificate of creditable coverage or through other means; and

(II) to request a certificate of creditable coverage from a prior plan;

(C) a statement that the current plan will assist in obtaining a certificate of creditable coverage from any prior plan or issuer if necessary; and

(D) a person to contact, and an address and telephone number for the person, for obtaining additional information or assistance regarding the preexisting condition exclusion.

(e) An insurer may not impose any limit on the amount of time that an individual has to present a certificate or other evidence of creditable coverage.

(f) This Subsection (4) does not preclude application of any waiting period applicable to all new enrollees under the plan.

(5) (a) If a short-term limited duration health insurance policy provides for an extension or renewal of the policy, the insurer may not exclude coverage for a loss due to a preexisting condition for

a period greater than 12 months following the original effective date of the coverage, unless the insurer specifically and expressly excludes the preexisting condition in the terms of the policy or certificate.

(b) (i) An insurer that includes a preexisting condition exclusion in a short-term limited duration health insurance policy in accordance with this subsection shall provide a written general notice of the preexisting condition exclusion as part of any written application materials.

(ii) A written general notice described in this subsection shall:

(A) include a description of the existence and terms of any preexisting condition exclusion under the policy, including the maximum preexisting exclusion period; and

(B) state that the exclusion period ends no later than 12 months after the original effective date of the coverage.

Section 20. Section 31A-22-611 is amended to read:

31A-22-611. Coverage for children with a disability.

(1) For the purposes of this section:

(a) "Dependent with a disability" means a child who is and continues to be both:

(i) unable to engage in substantial gainful employment to the degree that the child can achieve economic independence due to a medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; and

(ii) chiefly dependent upon an insured for support and maintenance since the child reached the age specified in Subsection 31A-22-610.5(2).

(b) "Mental impairment" means a mental or psychological disorder such as:

(i) an intellectual disability;

(ii) organic brain syndrome;

(iii) emotional or mental illness; or

(iv) specific learning disabilities as determined by the insurer.

(c) "Physical impairment" means a physiological disorder, condition, or disfigurement, or anatomical loss affecting one or more of the following body systems:

(i) neurological;

(ii) musculoskeletal;

(iii) special sense organs;

(iv) respiratory organs;

(v) speech organs;

(vi) cardiovascular;

- (vii) reproductive;
- (viii) digestive;
- (ix) genito-urinary;
- (x) hemic and lymphatic;
- (xi) skin; or
- (xii) endocrine.

(2) The insurer may require proof of the [in~~capacity~~] impairment and dependency be furnished by the person insured under the policy within 30 days of the effective date or the date the child attains the age specified in Subsection 31A-22-610.5(2), and at any time thereafter, except that the insurer may not require proof more often than annually after the two-year period immediately following attainment of the limiting age by the dependent with a disability.

(3) Any individual or group accident and health insurance policy or health maintenance organization contract that provides coverage for a policyholder's or certificate holder's dependent shall, upon application, provide coverage for all unmarried dependents with a disability who have been continuously covered, with no break of more than 63 days, under any accident and health insurance since the age specified in Subsection 31A-22-610.5(2).

(4) Every accident and health insurance policy or contract that provides coverage of a dependent with a disability may not terminate the policy due to an age limitation.

Section 21. Section 31A-22-627 is amended to read:

31A-22-627. Coverage of emergency medical services.

(1) A health insurance policy or managed care organization contract:

(a) shall provide, at a minimum, coverage of emergency services as required in 29 C.F.R. Sec. 2590.715-2719A; and

(b) may not:

(i) require any form of preauthorization for treatment of an emergency medical condition until after the insured's condition has been stabilized; or

(ii) deny a claim for any covered evaluation, covered diagnostic test, or other covered treatment considered medically necessary to stabilize the emergency medical condition of an insured.

(2) A health insurance policy or managed care organization contract may require authorization for the continued treatment of an emergency medical condition after the insured's condition has been stabilized. If such authorization is required, an insurer who does not accept or reject a request for authorization may not deny a claim for any evaluation, diagnostic testing, or other treatment considered medically necessary that occurred between the time the request was received and the

time the insurer rejected the request for authorization.

(3) For purposes of this section:

(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention [at] through a hospital emergency department to result in:

(i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

(b) "Hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.

(c) "Stabilize" means the same as that term is defined in 42 U.S.C. Sec. 1395dd(e)(3).

(4) Nothing in this section may be construed as:

(a) altering the level or type of benefits that are provided under the terms of a contract or policy; or

(b) restricting a policy or contract from providing enhanced benefits for certain emergency medical conditions that are identified in the policy or contract.

(5) Notwithstanding Section 31A-2-308, if the commissioner finds an insurer has violated this section, the commissioner may:

(a) work with the insurer to improve the insurer's compliance with this section; or

(b) impose the following fines:

(i) not more than \$5,000; or

(ii) twice the amount of any profit gained from violations of this section.

Section 22. Section 31A-22-638 is amended to read:

31A-22-638. Coverage for prosthetic devices.

(1) For purposes of this section:

(a) "Orthotic device" means a rigid or semirigid device supporting a weak or deformed leg, foot, arm, hand, back, or neck, or restricting or eliminating motion in a diseased or injured leg, foot, arm, hand, back, or neck.

(b) (i) "Prosthetic device" means an artificial limb device or appliance designed to replace in whole or in part an arm or a leg.

(ii) "Prosthetic device" does not include an orthotic device.

(2) (a) Beginning January 1, 2011, an insurer, other than an insurer described in Subsection

(2)(b), that provides a health benefit plan shall offer at least one plan, in each market where the insurer offers a health benefit plan, that provides coverage for benefits for prosthetics that includes:

- (i) a prosthetic device;
- (ii) all services and supplies necessary for the effective use of a prosthetic device, including:
 - (A) formulating its design;
 - (B) fabrication;
 - (C) material and component selection;
 - (D) measurements and fittings;
 - (E) static and dynamic alignments; and
 - (F) instructing the patient in the use of the prosthetic device;
- (iii) all materials and components necessary to use the prosthetic device; and
- (iv) any repair or replacement of a prosthetic device that is determined medically necessary to restore or maintain the ability to complete activities of daily living or essential job-related activities and that is not solely for comfort or convenience.

(b) Beginning January 1, 2011, an insurer that is subject to Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act, shall offer to a covered employer at least one plan that:

- (i) provides coverage for prosthetics that complies with Subsections (2)(a)(i) through (iv); and
- (ii) requires an employee who elects to purchase the coverage described in Subsection (2)(b)(i) to pay an increased premium to pay the costs of obtaining that coverage.
- (c) At least one of the plans with the prosthetic benefits described in Subsections (2)(a) and (b) that is offered by an insurer described in this Subsection (2) shall have a coinsurance rate, that applies to physical injury generally and to prosthetics, of 80% to be paid by the insurer and 20% to be paid by the insured, if the prosthetic benefit is obtained from a person that the insurer contracts with or approves.
- (d) For policies issued on or after July 1, 2010 until July 1, 2015, an insurer is exempt from the 30% index rating restrictions in Section 31A-30-106.1, and for the first year only that coverage under this section is chosen, the 15% annual adjustment restriction in Section 31A-30-106.1, for any small employer with 20 or less enrolled employees who chooses coverage that meets or exceeds the coverage under this section.

(3) The coverage described in this section:

(a) shall, except as otherwise provided in this section, be made subject to cost-sharing provisions, including dollar limits, deductibles, copayments, and co-insurance, that are not less favorable to the insured than the cost-sharing provisions of the health benefit plan that apply to physical illness generally; and

(b) may limit coverage for the purchase, repair, or replacement of a microprocessor component for a prosthetic device to \$30,000, per limb, every three years.

(4) If the coverage described in this section is provided through a managed care plan, offered under Chapter [8, ~~Health Maintenance Organizations and Limited Health Plans, or under a preferred provider plan under this chapter,~~] 45, Managed Care Organizations, the insured shall have access to medically necessary prosthetic clinical care, and to prosthetic devices and technology, from one or more prosthetic providers in the managed care plan's provider network.

Section 23. Section 31A-22-648 is amended to read:

31A-22-648. Vision insurance -- Contract provisions.

(1) As used in this section:

(a) "Covered individual" means an individual who has insurance coverage under a vision plan.

(b) "Covered service" means a vision service that:

(i) is reimbursable under or would be reimbursable under an enrollee's vision plan, but for the application of at least one of the following contractual provisions:

- (A) a deductible;
- (B) a copayment;
- (C) coinsurance;
- (D) a waiting period;
- (E) an annual or lifetime maximum;
- (F) a frequency limitation; or
- (G) an alternative benefit payment; and

(ii) is not merely nominal, for the purpose of avoiding the requirements of this section.

(c) "Optometrist" means an individual licensed under Title 58, Chapter 16a, Utah Optometry Practice Act.

(d) "Vendor" means a person who provides ophthalmic goods to a vision service provider.

~~[(d)]~~ (e) "Vision plan" means a health insurance policy or contract that provides vision coverage.

~~[(e)]~~ (f) "Vision service" means:

(i) professional work performed by a vision service provider; or

(ii) an ophthalmic medical device, such as lenses, ophthalmic frames, contact lenses, or a prosthetic device that treats a condition of the human eye or the areas surrounding the human eye.

~~[(f)]~~ (g) "Vision service provider" means:

(i) an optometrist; or

(ii) an individual who provides a vision service and is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act; or

(B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) (a) This section applies to:

(i) a vision plan that a person enters into or renews on or after January 1, 2019; and

(ii) an administrator providing third-party administration services or a provider network for a vision plan.

(b) This section does not apply to a self-insured vision plan that is regulated by federal law.

(3) A contract between a vision plan and a vision service provider to provide a covered service may not:

(a) except as provided in Subsection (4), require that a vision service provider provide a vision service to a covered individual at a fee set by, or a fee subject to the approval of, the vision plan unless the vision service is a covered service; [or]

(b) prohibit a vision service provider from offering or providing a vision service that is not a covered service to a covered individual at a fee determined by:

(i) the vision service provider; or

(ii) the vision service provider and the covered individual[.]; or

(c) require a vision service provider to use one or more specific vendors to replenish the vision service provider's inventory of spectacle lenses after the vision service provider dispenses the vision service provider's inventory to eligible members of the vision plan as a covered vision service.

(4) (a) In accordance with Subsections (4)(b) and (c), a vision service provider may, in a contract with a vision plan, agree to participate in a discount program sponsored by the vision plan.

(b) A contract between a vision service provider and a vision plan to provide a covered service may not be contingent on whether the vision service provider agrees to participate in a discount program sponsored by the vision plan.

(c) Regardless of whether a vision service provider participates in a discount program sponsored by the vision plan, a vision plan shall offer equal treatment to a vision service provider under contract with the vision plan to provide a covered service, regarding:

(i) promotional treatment;

(ii) marketing benefits;

(iii) materials; and

(iv) contract terms for providing a covered service.

(5) Notwithstanding Subsection (4)(c), a vision plan may, when providing a typically-formatted list of vision service providers that accept the vision

plan, identify whether a vision service provider participates in a discount program sponsored by the vision plan.

Section 24. Section 31A-22-701 is amended to read:

31A-22-701. Groups eligible for group or blanket insurance.

(1) As used in this section, "association group" means a lawfully formed association of individuals or business entities that:

(a) purchases insurance on a group basis on behalf of members; and

(b) is formed and maintained in good faith for purposes other than obtaining insurance.

(2) A group accident and health insurance policy may be issued to:

(a) a group:

(i) to which a group life insurance policy may be issued under Section 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-506, or 31A-22-507; and

(ii) that is formed and maintained in good faith for a purpose other than obtaining insurance;

(b) an association group authorized by the commissioner that:

(i) has been actively in existence for at least five years;

(ii) has a constitution and bylaws;

(iii) has a shared or common purpose that is not primarily a business or customer relationship;

(iv) is formed and maintained in good faith for purposes other than obtaining insurance;

(v) does not condition membership in the association group on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee;

(vi) makes accident and health insurance coverage offered through the association group available to all members regardless of any health status-related factor relating to the members or individuals eligible for coverage through a member;

(vii) does not make accident and health insurance coverage offered through the association group available other than in connection with a member of the association group; and

(viii) is actuarially sound; or

(c) a group specifically authorized by the commissioner, upon a finding that:

(i) authorization is not contrary to the public interest;

(ii) the group is actuarially sound;

(iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs;

(iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the

proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups;

(v) the group would not present hazards of adverse selection;

(vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and

(vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance.

(3) A blanket accident and health insurance policy:

(a) covers a defined class of persons;

(b) may not be offered or underwritten on an individual basis;

(c) shall cover only a group that is:

(i) actuarially sound; and

(ii) formed and maintained in good faith for a purpose other than obtaining insurance; and

(d) may be issued only to:

(i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status;

(ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder;

(iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees;

(iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;

(v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;

(vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;

(vii) a newspaper or other publisher, as policyholder, covering its carriers;

(viii) a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the

activities or operations sponsored or supervised by the policyholder;

~~[(viii)]~~ (ix) an association, ~~including a labor union,~~ that has a constitution and bylaws ~~[and that is organized in good faith for purposes other than that of obtaining insurance, as policyholder,]~~ covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; ~~[and] or~~

~~[(ix)]~~ (x) any other class of risks that, in the judgment of the commissioner, may be properly eligible for blanket accident and health insurance.

(4) The judgment of the commissioner may be exercised on the basis of:

(a) individual risks;

(b) a class of risks; or

(c) both Subsections (4)(a) and (b).

Section 25. Section 31A-22-722 is amended to read:

31A-22-722. Utah mini-COBRA benefits for employer group coverage.

(1) An ~~insured may extend the~~ employer's group policy shall offer an employee's coverage to be extended under the current employer's group policy for a period of 12 months, except as provided in Subsection (2). The right to extend coverage includes:

(a) voluntary termination;

(b) involuntary termination;

(c) retirement;

(d) death;

(e) divorce or legal separation;

(f) loss of dependent status;

(g) sabbatical;

(h) a disability;

(i) leave of absence; or

(j) reduction of hours.

(2) (a) Notwithstanding Subsection (1), an employee may not extend coverage under the current employer's group insurance policy if the employee:

(i) fails to pay premiums or contributions in accordance with the terms of the insurance policy;

(ii) acquires other group coverage covering all preexisting conditions including maternity, if the coverage exists;

(iii) performs an act or practice that constitutes fraud in connection with the coverage;

(iv) makes an intentional misrepresentation of material fact under the terms of the coverage;

(v) is terminated from employment for gross misconduct;

(vi) is not continuously covered under the current employer's group policy for a period of three months immediately before the termination of the insurance policy due to an event set forth in Subsection (1);

(vii) is eligible for an extension of coverage required by federal law;

(viii) establishes residence outside of this state;

(ix) moves out of the insurer's service area;

(x) is eligible for similar coverage under another group insurance policy; or

(xi) has the employee's coverage terminated because the employer's coverage is terminated, except as provided in Subsection (8).

(b) The right to extend coverage under Subsection (1) applies to spouse or dependent coverage, including a surviving spouse or dependents whose coverage under the insurance policy terminates by reason of the death of the employee or member.

(3) (a) The employer shall notify the following in writing of the right to extend group coverage and the payment amounts required for extension of coverage, including the manner, place, and time in which the payments shall be made:

(i) a terminated insured;

(ii) an ex-spouse of an insured; or

(iii) if Subsection (2)(b) applies:

(A) a surviving spouse; and

(B) the guardian of surviving dependents, if different from a surviving spouse.

(b) The notification required in Subsection (3)(a) shall be sent first class mail within 30 days after the termination date of the group coverage to:

(i) the terminated insured's home address as shown on the records of the employer;

(ii) the address of the surviving spouse, if different from the insured's address and if shown on the records of the employer;

(iii) the guardian of any dependents address, if different from the insured's address, and if shown on the records of the employer; and

(iv) the address of the ex-spouse, if shown on the records of the employer.

(4) The insurer shall provide the employee, spouse, or any eligible dependent the opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

(a) the employer policyholder does not provide the terminated insured the written notification required by Subsection (3)(a); and

(b) the employee or other individual eligible for extension contacts the insurer within 60 days of coverage termination.

(5) (a) A premium amount for extended group coverage may not exceed 102% of the group rate in effect for a group member, including an employer's contribution, if any, for a group insurance policy.

(b) Except as provided in Subsection (5)(a), an insurer may not charge an insured an additional fee, an additional premium, interest, or any similar charge for electing extended group coverage.

(6) Except as provided in this Subsection (6), coverage extends without interruption for 12 months and may not terminate if the terminated insured or, with respect to a minor, the parent or guardian of the terminated insured:

(a) elects to extend group coverage within 60 days of losing group coverage; and

(b) tenders the amount required to the employer or insurer.

(7) The insured's coverage may be terminated before 12 months if the terminated insured:

(a) establishes residence outside of this state;

(b) moves out of the insurer's service area;

(c) fails to pay premiums or contributions in accordance with the terms of the insurance policy, including any timeliness requirements;

(d) performs an act or practice that constitutes fraud in connection with the coverage;

(e) makes an intentional misrepresentation of material fact under the terms of the coverage;

(f) becomes eligible for similar coverage under another group insurance policy; or

(g) has the coverage terminated because the employer's coverage is terminated, except as provided in Subsection (8).

(8) If the current employer coverage is terminated and the employer replaces coverage with similar coverage under another group insurance policy, without interruption, the terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection (2)(b) applies, may obtain extension of coverage under the replacement group insurance policy:

(a) for the balance of the period the terminated insured would have extended coverage under the replaced group insurance policy; and

(b) if the terminated insured is otherwise eligible for extension of coverage.

(9) An insurer shall require an insured employer to offer to the following individuals an open enrollment period at the same time as other regular employees:

(a) an individual who extends group coverage and is current on payment; and

(b) during the applicable grace period described in Subsection (3) or (4), an individual who is eligible to elect to extend group coverage.

Section 26. Section 31A-22-726 is amended to read:

31A-22-726. Abortion coverage restriction in health benefit plan and on health insurance exchange.

(1) As used in this section, "permitted abortion coverage" means coverage for abortion:

(a) that is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(b) of a fetus that has a defect that is documented by a physician or physicians to be uniformly diagnosable and uniformly lethal; or

(c) where the woman is pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

(2) A person may not offer coverage for an abortion in a health benefit plan, unless the coverage is a type of permitted abortion coverage.

~~[(3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title 63N, Chapter 11, Health System Reform Act, unless the coverage is a type of permitted abortion coverage.]~~

~~[(4)]~~ (3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.

Section 27. Section 31A-22-1401 is amended to read:

31A-22-1401. Application.

(1) The requirements of this part apply to individual policies and to group policies and certificates marketed in this state on or after July 1, 2001 ~~[, other than employee and labor union group policies and certificates].~~

(2) Entities subject to this part shall comply with other applicable insurance laws and rules unless they are in conflict with this part.

(3) The laws, regulations, and rules designed and intended to apply to Medicare supplement insurance policies may not be applied to long-term care insurance.

(4) Any policy or rider advertised, marketed, or offered as long-term care or nursing home insurance shall comply with the provisions of this part.

Section 28. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) [is] has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) ~~[violates or permits others to violate]~~ has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and ~~[therefore under]~~ has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033 ~~[is prohibited from engaging in the business of insurance; or];~~

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public~~[-];~~ or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 29. Section 31A-23a-402 is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), “false or misleading information” includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or

(III) wilfully refraining from making a proper entry in a record.

(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any name, advertisement, or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency[, including Utah's small employer health insurance exchange known as “Avenue H,”] and the Children’s Health Insurance Program created in Title 26, Chapter 40, Utah Children’s Health Insurance Act:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8, Health Maintenance Organizations and Limited Health Plans, may not use the term “Health Maintenance Organization” or “HMO” in referring to itself.

(b) A licensee’s violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that insurer.

(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section 31A-2-405; or

(iv) material inducement.

(b) “Charge made incident to the issuance of the title insurance” includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not unfairly discriminatory merely because they are more favorable than in similar individual policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this title; and

(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an insurer or licensee under this chapter, another person who is required to pay for insurance as a condition for the conclusion of a contract or other transaction or for the exercise of any right under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this state is not a reasonable ground for disapproval, and the commissioner may by rule specify additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from declining an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium financing charges for the protection of property or of a security interest in property, as a condition for obtaining, renewing, or continuing the financing of a purchase of the property or the lending of money on the security of an interest in the property.

(7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.

(b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.

(8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

(b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title and Escrow Commission shall make rules, subject

to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:

(i) is misleading;

(ii) is deceptive;

(iii) is unfairly discriminatory;

(iv) provides an unfair inducement; or

(v) unreasonably restrains competition.

Section 30. Section 31A-23a-411.1 is amended to read:

31A-23a-411.1. Person's liability if premium received is not forwarded to the insurer.

A person commits insurance fraud as described in Subsection 31A-31-103(1)(~~f~~)(g) if that person knowingly fails to forward to the insurer a premium:

(1) received from one of the following in partial or total payment of the premium due from:

(a) an applicant;

(b) a policyholder; or

(c) a certificate holder; or

(2) collected from or on behalf of an insured employee under an insured employee benefit plan.

Section 31. Section 31A-23a-415 is amended to read:

31A-23a-415. Assessment on agency title insurance producers or title insurers -- Account created.

(1) For purposes of this section:

(a) "Premium" is as defined in Subsection 59-9-101(3).

(b) "Title insurer" means a person:

(i) making any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety;

(ii) proposing to make any contract or policy of title insurance as:

(A) insurer;

(B) guarantor; or

(C) surety; or

(iii) transacting or proposing to transact any phase of title insurance, including:

(A) soliciting;

(B) negotiating preliminary to execution;

(C) executing of a contract of title insurance;

(D) insuring; and

(E) transacting matters subsequent to the execution of the contract and arising out of the contract.

(c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:

(i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or

(ii) invalidity or unenforceability of any liens or encumbrances on the property.

(2) (a) The commissioner may assess each title insurer, each individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:

(i) determined by the Title and Escrow Commission:

(A) after consultation with the commissioner; and

(B) in accordance with this Subsection (2); and

(ii) to be used for the purposes described in Subsection (3).

(b) An agency title insurance producer and individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall be assessed up to:

(i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and

(ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).

(c) A title insurer shall be assessed up to:

(i) \$250 for the first office in each county in which the title insurer maintains an office;

(ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and

(iii) an amount calculated by:

(A) aggregating the assessments imposed on:

(I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and

(II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);

(B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(iii)(B); and

(II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.

(d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title and Escrow Commission by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed \$100,000 annually.

(e) (i) An individual licensed to practice law in Utah is exempt from the requirements of this Subsection (2) if that person issues 12 or less policies during a 12-month period.

(ii) In determining the number of policies issued by an individual licensed to practice law in Utah for purposes of Subsection (2)(e)(i), if the individual issues a policy to more than one party to the same closing, the individual is considered to have issued only one policy.

(3) (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.

(b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."

(c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.

(d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of ~~[this part and Part 5, Compensation of Producers and Consultants, related to:]~~ laws governing individual title insurance producers, agency title insurance producers, or title insurers.

~~(i) the marketing of title insurance; and]~~

~~(ii) audits of agency title insurance producers.]~~

(e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section 32. Section 31A-23b-401 is amended to read:

31A-23b-401. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal or reinstatement.

(1) A license as a navigator under this chapter remains in force until:

(a) revoked or suspended under Subsection (4);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under this section; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke a license;

(ii) suspend a license for a specified period of 12 months or less;

(iii) limit a license in whole or in part;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (4)(a)(i) through (iv) and Subsection (4)(a)(v).

(b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license under Section 31A-23b-204, 31A-23b-205, or 31A-23b-206;

(ii) violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) failed to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;

(v) refused:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(vi) had an officer who refused to:

(A) give information with respect to the navigator's affairs; or

(B) perform any other legal obligation as to an examination;

(vii) provided information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(viii) violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(ix) obtained or attempted to obtain a license through misrepresentation or fraud;

(x) improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xi) intentionally misrepresented the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) application for public program;

(xii) is has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xiii) admitted or is found to have committed an insurance unfair trade practice or fraud;

(xiv) in the conduct of business in this state or elsewhere:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xv) has had an insurance license, navigator license, or [its equivalent,] other professional or occupational license or registration, or an

equivalent of the same denied, suspended, [or] revoked [in another state, province, district, or territory], or surrendered to resolve an administrative action;

(xvi) forged another's name to:

(A) an application for insurance;

(B) a document related to an insurance transaction;

(C) a document related to an application for a public program; or

(D) a document related to an application for premium subsidies;

(xvii) improperly used notes or another reference material to complete an examination for a license;

(xviii) knowingly accepted insurance business from an individual who is not licensed;

(xix) failed to comply with an administrative or court order imposing a child support obligation;

(xx) failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxi) ~~[violated or permitted others to violate]~~ has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and ~~[therefore under]~~ has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033 ~~[is prohibited from engaging in the business of insurance; or];~~

(xxii) engaged in a method or practice in the conduct of business that endangered the legitimate interests of customers and the public~~[-];~~ or

(xxiii) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) surrendered in lieu of administrative action;

(iv) lapsed; or

(v) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this chapter if so ordered by a court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 33. Section 31A-25-208 is amended to read:

31A-25-208. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

(1) A license type issued under this chapter remains in force until:

- (a) revoked or suspended under Subsection (4);
- (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
- (c) the licensee dies or is adjudicated incompetent as defined under:
- (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
- (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
- (d) lapsed under Section 31A-25-210; or
- (e) voluntarily surrendered.
- (2) The following may be reinstated within one year after the day on which the license is no longer in force:
- (a) a lapsed license; or
- (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.
- (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:
- (a) this title; or
- (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:
- (i) revoke a license;
- (ii) suspend a license for a specified period of 12 months or less;
- (iii) limit a license in whole or in part; or
- (iv) deny a license application.
- (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:
- (i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;
- (ii) has violated:
- (A) an insurance statute;
- (B) a rule that is valid under Subsection 31A-2-201(3); or
- (C) an order that is valid under Subsection 31A-2-201(4);
- (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
- (iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;
- (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;
- (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;
- (vii) refuses:
- (A) to be examined; or
- (B) to produce its accounts, records, and files for examination;
- (viii) has an officer who refuses to:
- (A) give information with respect to the third party administrator's affairs; or
- (B) perform any other legal obligation as to an examination;
- (ix) provides information in the license application that is:
- (A) incorrect;
- (B) misleading;
- (C) incomplete; or
- (D) materially untrue;
- (x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
- (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- (xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;
- (xiii) has intentionally misrepresented the terms of an actual or proposed:
- (A) insurance contract; or
- (B) application for insurance;
- (xiv) has been convicted of:
- (A) a felony; or
- (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;
- (xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;
- (xvi) in the conduct of business in this state or elsewhere has:
- (A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or [its equivalent,] other professional or occupational license or registration, or an equivalent of the same, denied, suspended, [or] revoked [in any other state, province, district, or territory], or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).

(5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(6) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against the person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(7) (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.

(8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.

(9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 34. Section 31A-26-213 is amended to read:

31A-26-213. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-26-214.5; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which it is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A license classification issued under this chapter remains in force until:

(a) the qualifications pertaining to a license classification are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5); or

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action.

(5) (a) If the commissioner makes a finding under Subsection (5)(b) as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a license classification;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a license classification;

(iii) limit in whole or in part:

(A) a license; or

(B) a license classification;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee:

(i) is unqualified for a license or license classification under Section 31A-26-202, 31A-26-203, 31A-26-204, or 31A-26-205;

(ii) has violated:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent, or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person in this state within 60 days after the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance adjuster that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance adjuster's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) has obtained or attempted to obtain a license through misrepresentation or fraud;

(xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;

(xiii) has intentionally misrepresented the terms of an actual or proposed:

- (A) insurance contract; or
 - (B) application for insurance;
- (xiv) has been convicted of:

(A) a felony; or
 (B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere has:

(A) used fraudulent, coercive, or dishonest practices; or

(B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license, ~~or its equivalent~~ or other professional or occupational license or registration, or equivalent, denied, suspended, ~~or~~ revoked ~~in any other state, province, district, or territory~~, or surrendered to resolve an administrative action;

(xviii) has forged another's name to:

(A) an application for insurance; or
 (B) a document related to an insurance transaction;

(xix) has improperly used notes or any other reference material to complete an examination for an insurance license;

(xx) has knowingly accepted insurance business from an individual who is not licensed;

(xxi) has failed to comply with an administrative or court order imposing a child support obligation;

(xxii) has failed to:

(A) pay state income tax; or
 (B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has ~~violated or permitted others to violate~~ been convicted of a violation of the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and ~~therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance~~ has not obtained written consent in accordance with 18 U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business; ~~or~~

(xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public~~[-]~~; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent in accordance with 18

U.S.C. Sec. 1033 to engage in the business of insurance or participate in such business.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

- (i) the individual;
- (ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

- (iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for conducting an insurance business without a license if:

- (a) the licensee's license is:

- (i) revoked;
- (ii) suspended;
- (iii) limited;
- (iv) surrendered in lieu of administrative action;
- (v) lapsed; or
- (vi) voluntarily surrendered; and

- (b) the licensee:

- (i) continues to act as a licensee; or
- (ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

- (i) fraud;
- (ii) deceit;
- (iii) misrepresentation; or
- (iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a

license in lieu of administrative action may specify a time not to exceed five years within which the former licensee may not apply for a new license.

(b) If no time is specified in the order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years without the express approval of the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 35. Section 31A-27a-512.1 is enacted to read:

31A-27a-512.1. Indemnitor liability.

(1) (a) Except as otherwise provided in this chapter, the amount recoverable by the receiver from an indemnitor may not be reduced as a result of a delinquency proceeding with a finding of insolvency, regardless of any provision in the indemnity contract or other agreement.

(b) To the extent an agreement, written or oral, conflicts with or is not in strict compliance with this section, the agreement is unenforceable.

(c) Except as expressly provided in this section, a person who is not the receiver, including a creditor or third-party beneficiary, does not have a right to indemnity proceeds from any indemnitor of the insolvent insurer:

(i) on the basis of any agreement, written or oral; or

(ii) pursuant to an action or cause of action seeking any equitable or legal remedy.

(d) This section applies to all the insurer's indemnity contracts.

(2) The amount recoverable by the liquidator from an indemnitor is payable under one or more contract of indemnity on the basis of:

(a) proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver, to the extent of payment; or

(b) the allowance of the claim pursuant to:

(i) Section 31A-27a-608;

(ii) an order of the receivership court; or

(iii) a plan of rehabilitation.

(3) If an insurer takes credit for an indemnity contract in a filing or submission made to the commissioner and the indemnity contract does not contain the provisions required with respect to the obligations of indemnitor in the event of insolvency of the principal, the indemnity contract is considered to contain the provisions required with respect to:

(a) the obligations of indemnitors in the event of insolvency of the principal in order to obtain indemnity; or

(b) other applicable statutes.

(4) An indemnity contract that under Subsection (3) is considered to contain certain provisions, is considered to contain a provision that:

(a) in the event of insolvency and the appointment of a receiver, the indemnity obligation is payable to the indemnified insurer or to its receiver without diminution because of the insolvency or because the receiver fails to pay all or a portion of the claim;

(b) payment shall be made upon:

(i) to the extent of the payment, proof of payment of the insured claim by an affected guaranty association, the insurer, or the receiver; or

(ii) the allowance of the claim pursuant to:

(A) Section 31A-27a-608;

(B) an order of the receivership court; or

(C) a plan of rehabilitation; and

(c) if an indemnitor does not pay the amount billed by the receiver within 60 days after the mailing by the receiver, interest on the unpaid billed amount will begin to accrue at the statutory legal rate described in Section 15-1-1, except that all or a portion of the interest may be waived.

(5) (a) The receiver shall notify in writing, in accordance with the terms of the indemnity contract, each indemnitor obligated in relation to an indemnified claim or the pendency of an indemnified claim against the indemnified company.

(b) (i) The receiver's failure to give notice of a pending claim does not excuse the obligation of the indemnitor, unless the indemnitor is prejudiced by the receiver's failure.

(ii) If the indemnitor is prejudiced by the receiver's failure, the indemnitor's obligation is reduced only to the extent of the prejudice.

(c) In a proceeding in which an indemnified claim is to be adjudicated, an indemnitor may interpose, at its own expense, any one or more defenses that the indemnitor considers available to the indemnified company or its receiver.

(6) The entry of an order of rehabilitation or liquidation is not:

(a) a breach or an anticipatory breach of an indemnity contract; or

(b) grounds for retroactive revocation or retroactive cancellation of an indemnity contract by the indemnifier.

Section 36. Section 31A-30-103 is amended to read:

31A-30-103. Definitions.

As used in this chapter:

(1) “Actuarial certification” means a written statement by a member of the American Academy of Actuaries or other individual approved by the commissioner that a covered carrier is in compliance with this chapter, based upon the examination of the covered carrier, including review of the appropriate records and of the actuarial assumptions and methods used by the covered carrier in establishing premium rates for applicable health benefit plans.

(2) “Affiliate” or “affiliated” means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person.

(3) “Base premium rate” means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the covered carrier to covered insureds with similar case characteristics for health benefit plans with the same or similar coverage.

(4) (a) “Bona fide employer association” means an association of employers:

(i) that meets the requirements of Subsection 31A-22-701(2)(b);

(ii) in which the employers of the association, either directly or indirectly, exercise control over the plan;

(iii) that is organized:

(A) based on a commonality of interest between the employers and their employees that participate in the plan by some common economic or representation interest or genuine organizational relationship unrelated to the provision of benefits; and

(B) to act in the best interests of its employers to provide benefits for the employer’s employees and their spouses and dependents, and other benefits relating to employment; and

(iv) whose association sponsored health plan complies with 45 C.F.R. 146.121.

(b) The commissioner shall consider the following with regard to determining whether an association of employers is a bona fide employer association under Subsection (4)(a):

(i) how association members are solicited;

(ii) who participates in the association;

(iii) the process by which the association was formed;

(iv) the purposes for which the association was formed, and what, if any, were the pre-existing relationships of its members;

(v) the powers, rights and privileges of employer members; and

(vi) who actually controls and directs the activities and operations of the benefit programs.

(5) “Carrier” means a person that provides health insurance in this state including:

(a) an insurance company;

(b) a prepaid hospital or medical care plan;

(c) a health maintenance organization;

(d) a multiple employer welfare arrangement; and

(e) another person providing a health insurance plan under this title.

(6) (a) Except as provided in Subsection (6)(b), “case characteristics” means demographic or other objective characteristics of a covered insured that are considered by the carrier in determining premium rates for the covered insured.

(b) “Case characteristics” do not include:

(i) duration of coverage since the policy was issued;

(ii) claim experience; and

(iii) health status.

(7) “Class of business” means all or a separate grouping of covered insureds that is permitted by the commissioner in accordance with Section 31A-30-105.

(8) “Covered carrier” means an individual carrier or small employer carrier subject to this chapter.

(9) “Covered individual” means an individual who is covered under a health benefit plan subject to this chapter.

(10) “Covered insureds” means small employers and individuals who are issued a health benefit plan that is subject to this chapter.

(11) “Dependent” means an individual to the extent that the individual is defined to be a dependent by:

(a) the health benefit plan covering the covered individual; and

(b) Chapter 22, Part 6, Accident and Health Insurance.

(12) “Established geographic service area” means a geographical area approved by the commissioner within which the carrier is authorized to provide coverage.

(13) “Index rate” means, for each class of business as to a rating period for covered insureds with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) “Individual carrier” means a carrier that provides coverage on an individual basis through a health benefit plan regardless of whether:

(a) coverage is offered through:

(i) an association;

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar groups; or

(b) the policy or contract is situated out-of-state.

(15) "Individual conversion policy" means a conversion policy issued to:

- (a) an individual; or
- (b) an individual with a family.

(16) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or that could have been charged or offered, by the carrier to covered insureds with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(17) "Premium" means money paid by covered insureds and covered individuals as a condition of receiving coverage from a covered carrier, including fees or other contributions associated with the health benefit plan.

(18) (a) "Rating period" means the calendar period for which premium rates established by a covered carrier are assumed to be in effect, as determined by the carrier.

(b) A covered carrier may not have:

(i) more than one rating period in any calendar month; and

(ii) no more than 12 rating periods in any calendar year.

~~[(19) "Short-term limited duration insurance" means a health benefit product that:]~~

~~[(a) is not renewable; and]~~

~~[(b) has an expiration date specified in the contract that is less than 364 days after the date the plan became effective.]~~

~~[(20)]~~ (19) "Small employer carrier" means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:

- (a) coverage is offered through:
 - (i) an association;
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar grouping; or
- (b) the policy or contract is situated out-of-state.

Section 37. Section 31A-30-104 is amended to read:

31A-30-104. Applicability and scope.

(1) This chapter applies to any:

(a) health benefit plan that provides coverage to:

- (i) individuals;
- (ii) small employers, except as provided in Subsection (3); or

(iii) both Subsections (1)(a)(i) and (ii); or

(b) individual conversion policy for purposes of Sections 31A-30-106.5 and 31A-30-107.5.

(2) This chapter applies to a health benefit plan that provides coverage to small employers or individuals regardless of:

(a) whether the contract is issued to:

(i) an association, except as provided in Subsection (3);

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar grouping; or

(b) the situs of delivery of the policy or contract.

(3) This chapter does not apply to:

(a) short-term limited duration health insurance;

(b) federally funded or partially funded programs; or

(c) a bona fide employer association.

(4) (a) Except as provided in Subsection (4)(b), for the purposes of this chapter:

(i) carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier; and

(ii) any restrictions or limitations imposed by this chapter or Section 31A-22-618.6 or 31A-22-618.7 shall apply as if all health benefit plans delivered or issued for delivery to covered insureds in this state by the affiliated carriers were issued by one carrier.

(b) Upon a finding of the commissioner, an affiliated carrier that is a health maintenance organization having a certificate of authority under this title may be considered to be a separate carrier for the purposes of this chapter.

(c) Unless otherwise authorized by the commissioner, a covered carrier may not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to covered insureds in this state if the ceding arrangements would result in less than 50% of the insurance obligation or risk for the health benefit plans being retained by the ceding carrier.

(d) Section 31A-22-1201 applies if a covered carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to covered insureds in this state.

(5) (a) A Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act, or a carrier with the written authorization of such a trust, may make a written request to the commissioner for a waiver from the application of any of the provisions of Subsections 31A-30-106(1) and 31A-30-106.1(1) with respect to a health benefit plan provided to the trust.

(b) The commissioner may grant a trust or carrier described in Subsection (5)(a) a waiver if the

commissioner finds that application with respect to the trust would:

(i) have a substantial adverse effect on the participants and beneficiaries of the trust; and

(ii) require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.

(c) A waiver granted under this Subsection (5) may not apply to an individual if the person participates in a Taft Hartley trust as an associate member of any employee organization.

(6) The provisions of Chapter 45, Managed Care Organizations, and Sections 31A-22-618.6, 31A-30-106, 31A-30-106.1, 31A-30-106.5, 31A-30-106.7, and 31A-30-108, apply to:

(a) any insurer engaging in the business of insurance related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit; and

(b) any contract of an insurer, other than a workers' compensation policy, related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit.

(7) The commissioner may make rules requiring that the marketing practices be consistent with this chapter for:

- (a) a small employer carrier;
- (b) a small employer carrier's agent;
- (c) an insurance producer;
- (d) an insurance consultant; and
- (e) a navigator.

Section 38. Section 31A-30-118 is amended to read:

31A-30-118. Patient Protection and Affordable Care Act -- State insurance mandates -- Cost of additional benefits.

(1) (a) The commissioner shall identify a new mandated benefit that is in excess of the essential health benefits required by PPACA.

(b) The state shall quantify the cost attributable to each additional mandated benefit specified in Subsection (1)(a) based on a qualified health plan issuer's calculation of the cost associated with the mandated benefit, which shall be:

(i) calculated in accordance with generally accepted actuarial principles and methodologies;

(ii) conducted by a member of the American Academy of Actuaries; and

(iii) reported to the commissioner and to the individual exchange operating in the state.

(c) The commissioner may require a proponent of a new mandated benefit under Subsection (1)(a) to provide the commissioner with a cost analysis

conducted in accordance with Subsection (1)(b). The commissioner may use the cost information provided under this Subsection (1)(c) to establish estimates of the cost to the state under Subsection (2).

(2) If the state is required to defray the cost of additional required benefits under the provisions of 45 C.F.R. 155.170:

(a) the state shall make the required payments:

(i) in accordance with Subsection (3); and

(ii) directly to the qualified health plan issuer in accordance with 45 C.F.R. 155.170;

(b) an issuer of a qualified health plan that receives a payment under the provisions of Subsection (1) and 45 C.F.R. 155.170 shall:

(i) reduce the premium charged to the individual on whose behalf the issuer will be paid under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); or

(ii) notwithstanding Subsection 31A-23a-402.5(5), provide a premium rebate to an individual on whose behalf the issuer received a payment under Subsection (1), in an amount equal to the amount of the payment under Subsection (1); and

(c) a premium rebate made under this section is not a prohibited inducement under Section 31A-23a-402.5.

(3) A payment required under 45 C.F.R. 155.170(c) shall:

(a) unless otherwise required by PPACA, be based on a statewide average of the cost of the additional benefit for all issuers who are entitled to payment under the provisions of 45 C.F.R. 155.70; and

(b) be submitted to an issuer through a process established and administered by ~~the~~ the federal marketplace exchange for the state under PPACA for individual health plans ~~;~~.

~~(ii) Avenue H small employer market exchange for qualified health plans offered on the exchange.]~~

(4) The commissioner may:

(a) ~~may~~ adopt rules as necessary to administer the provisions of this section and 45 C.F.R. 155.170; and

(b) ~~may not~~ establish or implement ~~the~~ a process for submitting ~~the payments~~ a payment to an issuer under Subsection (3)(b)(i) ~~unless the cost of establishing and implementing the process for submitting payments is paid for by the federal exchange marketplace].~~

Section 39. Section 31A-31-103 is amended to read:

31A-31-103. Fraudulent insurance act.

(1) A person commits a fraudulent insurance act if that person with intent to deceive or defraud:

(a) knowingly presents or causes to be presented to an insurer any oral or written statement or

representation knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract[;], as part of or in support of:

(i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to the person;

(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person; or

(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

(b) [~~knowingly~~] presents or causes to be presented to an insurer any oral or written statement or representation:

(i) (A) as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or

(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and

(ii) knowing that the statement or representation contains false, incomplete, or misleading information concerning any fact or thing material to the claim;

(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act;

(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for anything of value, including professional services, by means of false or fraudulent pretenses, representations, promises, or material omissions;

[~~(d)~~] (e) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;

[~~(e)~~] (f) knowingly supplies false or fraudulent material information in any document or statement required by the department;

[~~(f)~~] (g) knowingly fails to forward a premium to an insurer in violation of Section 31A-23a-411.1; or

[~~(g)~~] (h) knowingly employs, uses, or acts as a runner for the purpose of committing a fraudulent insurance act.

(2) A service provider commits a fraudulent insurance act if that service provider with intent to deceive or defraud:

(a) knowingly submits or causes to be submitted a bill or request for payment:

(i) containing charges or costs for an item or service that are substantially in excess of customary charges or costs for the item or service; or

(ii) containing itemized or delineated fees for what would customarily be considered a single procedure or service;

(b) knowingly furnishes or causes to be furnished an item or service to a person:

(i) substantially in excess of the needs of the person; or

(ii) of a quality that fails to meet professionally recognized standards;

(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act; or

(d) assists, abets, solicits, or conspires with another to commit a fraudulent insurance act.

(3) An insurer commits a fraudulent insurance act if that insurer with intent to deceive or defraud:

(a) knowingly withholds information or provides false or misleading information with respect to an application, coverage, benefits, or claims under a policy or certificate;

(b) assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;

(c) knowingly accepts a benefit from the proceeds derived from a fraudulent insurance act; or

(d) knowingly supplies false or fraudulent material information in any document or statement required by the department.

(4) An insurer or service provider is not liable for any fraudulent insurance act committed by an employee without the authority of the insurer or service provider unless the insurer or service provider knew or should have known of the fraudulent insurance act.

Section 40. Section 31A-31-107 is amended to read:

31A-31-107. Workers' compensation insurance fraud.

(1) In any action involving workers' compensation insurance, Section 34A-2-110 supersedes this chapter.

(2) Nothing in this section prohibits the department from investigating and pursuing civil or criminal penalties in accordance with Section 31A-31-109 and Title 34A, Utah Labor Code, for violations of Section 34A-2-110.

Section 41. Section 31A-35-405 is amended to read:

31A-35-405. Issuance of license -- Denial -- Right of appeal.

(1) After the commissioner receives a complete application, fee, and any additional information in accordance with Section 31A-35-401, the board shall determine whether the applicant meets the requirements for issuance of a license under this chapter.

[~~(1) Upon a determination by the board that a person applying for a bail bond agency license~~] (2) (a) If the board determines that the applicant meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license.

(b) If the board determines that the applicant does not meet the requirements for issuance of a license under this chapter, the commissioner shall make a final determination as to whether to issue a license under this chapter.

~~[(2)] (3) (a) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification [to the person applying for licensure:] of the denial by commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~

(b) An applicant may request a hearing on a denial of an application for a bail bond agency license within 15 days after the day on which the commissioner issues the denial.

(c) The commissioner shall hold a hearing no later than 60 days after the day on which the commissioner receives a request for a hearing described in Subsection (3)(b).

~~[(i) stating the grounds for denial; and]~~

~~[(ii) notifying the person applying for licensure as a bail bond agency that:]~~

~~[(A) the person is entitled to a hearing if that person wants to contest the denial; and]~~

~~[(B) if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.]~~

~~[(b) The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.]~~

~~[(c) The department shall hear the appeal, and may:]~~

~~[(i) return the case to the commissioner for reconsideration;]~~

~~[(ii) modify the commissioner's decision; or]~~

~~[(iii) reverse the commissioner's decision.]~~

~~[(3) A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act.]~~

Section 42. Section 31A-37-102 is amended to read:

31A-37-102. Definitions.

As used in this chapter:

(1) (a) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

- (i) a parent;
- (ii) an industrial insured; or
- (iii) a member organization.

(b) Notwithstanding Subsection (1)(a), the commissioner may issue an order finding that a business entity is not an affiliated company.

(2) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien or foreign jurisdiction; and

(ii) in a form acceptable to the commissioner.

(3) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.

~~[(3)] (4) "Association" means a legal association of two or more persons that has been in continuous existence for at least one year if:~~

(a) the association or its member organizations:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(ii) have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(b) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer; or

(c) the association or its member organizations have complete voting control over an association captive insurance company formed as a limited liability company.

~~[(4)] (5) "Association captive insurance company" means a business entity that insures risks of:~~

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

~~[(5)] (6) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.~~

~~[(6)] (7) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a captive insurance company that is domiciled outside of this state.~~

~~[(7)] (8) "Branch operation" means a business operation of a branch captive insurance company in this state.~~

~~[(8)] (9) "Captive insurance company" means any of the following formed or holding a certificate of authority under this chapter:~~

(a) a branch captive insurance company;

- (b) a pure captive insurance company;
- (c) an association captive insurance company;
- (d) a sponsored captive insurance company;
- (e) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;
- (f) a special purpose captive insurance company;
- or
- (g) a special purpose financial captive insurance company.

[~~(9)~~] (10) “Commissioner” means Utah’s Insurance Commissioner or the commissioner’s designee.

[~~(10)~~] (11) “Common ownership and control” means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a protected cell is a separate captive insurance company owned and controlled by the protected cell’s participant, only if:

(i) the participant is the only participant with respect to the protected cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

[~~(11)~~] (12) “Consolidated debt to total capital ratio” means the ratio of Subsection [~~(11)~~] (12)(a) to (b).

(a) This Subsection [~~(11)~~] (12)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

- (i) all borrowings from depository institutions;
- (ii) all senior debt;
- (iii) all subordinated debts;
- (iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection [~~(11)~~] (12)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection [~~(11)~~] (12)(a); and

(ii) shareholders’ equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

[~~(12)~~] (13) “Consolidated GAAP net worth” means the consolidated shareholders’ or members’ equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

[~~(13)~~] (14) “Controlled unaffiliated business” means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent’s affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks that are or will be insured by a pure captive insurance company, an industrial insured captive insurance company, or both, are managed in accordance with Subsection 31A-37-106(1)(j) by:

(i) (A) a pure captive insurance company; or

(B) an industrial insured captive insurance company; or

(ii) a parent or affiliate of:

(A) a pure captive insurance company; or

(B) an industrial insured captive insurance company.

[~~(14)~~] “Department” means the Insurance Department.

(15) “Establisher” means a person who establishes a business entity or a trust.

(16) “Governing body” means the persons who hold the ultimate authority to direct and manage the affairs of an entity.

[~~(15)~~] (17) “Industrial insured” means an insured:

(a) that produces insurance:

(i) by the services of a full-time employee acting as a risk manager or insurance manager; or

(ii) using the services of a regularly and continuously qualified insurance consultant;

(b) whose aggregate annual premiums for insurance on all risks total at least \$25,000; and

(c) that has at least 25 full-time employees.

[46] (18) "Industrial insured captive insurance company" means a business entity that:

(a) insures risks of the industrial insureds that comprise the industrial insured group; and

(b) may insure the risks of:

(i) an affiliated company of an industrial insured; or

(ii) a controlled unaffiliated business of:

(A) an industrial insured; or

(B) an affiliated company of an industrial insured.

[47] (19) "Industrial insured group" means:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;

(b) a group that is:

(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and

(ii) taxable under this title as a:

(A) stock corporation; or

(B) mutual insurer; or

(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.

[48] (20) "Member organization" means a person that belongs to an association.

[49] (21) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.

[~~(a) the outstanding voting securities of a pure captive insurance company; or~~]

[~~(b) the pure captive insurance company, if the pure captive insurance company is formed as a limited liability company.~~]

[20] (22) "Participant" means an entity that is insured by a sponsored captive insurance company:

(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and

(b)(i) the entity is permitted to be a participant under Section 31A-37-403; or

(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.

[21] (23) "Participant contract" means a contract by which a sponsored captive insurance company:

(a) insures the risks of a participant; and

(b) limits the losses of the participant to the assets of a protected cell.

[22] (24) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

[23] (25) "Pure captive insurance company" means a business entity that insures risks of a parent or affiliate of the business entity.

[24] (26) "Special purpose financial captive insurance company" is as defined in Section 31A-37a-102.

[25] (27) "Sponsor" means an entity that:

(a) meets the requirements of Section 31A-37-402; and

(b) is approved by the commissioner to:

(i) provide all or part of the capital and surplus required by applicable law in an amount of not less than \$350,000, which amount the commissioner may increase by order if the commissioner considers it necessary; and

(ii) organize and operate a sponsored captive insurance company.

[26] (28) "Sponsored captive insurance company" means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or holding a certificate of authority under this chapter;

(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more protected cells.

[27] (29) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 43. Section 31A-37-103 is amended to read:

31A-37-103. Chapter exclusivity.

(1) Except as provided in Subsections (2) and (3) or otherwise provided in this chapter, a provision of this title other than this chapter does not apply to a captive insurance company.

(2) To the extent that a provision of the following does not contradict this chapter, the provision applies to a captive insurance company that receives a certificate of authority under this chapter:

(a) Chapter 1, General Provisions;

~~[(a)]~~ (b) Chapter 2, Administration of the Insurance Laws;

~~[(b)]~~ (c) Chapter 4, Insurers in General;

~~[(c)]~~ (d) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

~~[(d)]~~ (e) Chapter 14, Foreign Insurers;

~~[(e)]~~ (f) Chapter 16, Insurance Holding Companies;

~~[(f)]~~ (g) Chapter 17, Determination of Financial Condition;

~~[(g)]~~ (h) Chapter 18, Investments;

~~[(h)]~~ (i) Chapter 19a, Utah Rate Regulation Act;

~~[(i)]~~ (j) Chapter 27, Delinquency Administrative Action Provisions; and

~~[(j)]~~ (k) Chapter 27a, Insurer Receivership Act.

(3) In addition to this chapter, and subject to Section 31A-37a-103:

(a) Chapter 37a, Special Purpose Financial Captive Insurance Company Act, applies to a special purpose financial captive insurance company; and

(b) for purposes of a special purpose financial captive insurance company, a reference in this chapter to "this chapter" includes a reference to Chapter 37a, Special Purpose Financial Captive Insurance Company Act.

(4) In addition to this chapter, an industrial group captive insurance company formed as a risk retention group captive is subject to Chapter 15, Part 2, Risk Retention Groups Act, to the extent that this chapter is silent regarding regulation of risk retention groups conducting business in the state.

Section 44. Section 31A-37-106 is amended to read:

31A-37-106. Authority to make rules -- Authority to issue orders.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules to:

(a) determine circumstances under which a branch captive insurance company is not required to be a pure captive insurance company;

(b) require a statement, document, or information that a captive insurance company shall provide to the commissioner to obtain a certificate of authority;

(c) determine a factor a captive insurance company shall provide evidence of under Subsection ~~[31A-37-202]~~ 31A-37-201 (4)(b);

(d) prescribe one or more capital requirements for a captive insurance company in addition to those required under Section 31A-37-204 based on the

type, volume, and nature of insurance business transacted by the captive insurance company;

(e) waive or modify a requirement for public notice and hearing for the following by a captive insurance company:

(i) merger;

(ii) consolidation;

(iii) conversion;

(iv) mutualization;

(v) redomestication; or

(vi) acquisition;

(f) approve the use of one or more reliable methods of valuation and rating for:

(i) an association captive insurance company;

(ii) a sponsored captive insurance company; or

(iii) an industrial insured group;

(g) prohibit or limit an investment that threatens the solvency or liquidity of:

(i) a pure captive insurance company; or

(ii) an industrial insured captive insurance company;

(h) determine the financial reports a sponsored captive insurance company shall annually file with the commissioner;

(i) prescribe the required forms and reports under Section 31A-37-501; ~~and~~

(j) establish one or more standards to ensure that:

(i) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by a pure captive insurance company:

(A) a parent; or

(B) an affiliated company of a parent; or

(ii) one of the following is able to exercise control of the risk management function of a controlled unaffiliated business to be insured by an industrial insured captive insurance company:

(A) an industrial insured; or

(B) an affiliated company of the industrial insured~~[-]; and~~

(k) establish requirements for obtaining, maintaining, and renewing a certificate of dormancy.

(2) Notwithstanding Subsection (1)(j), until the commissioner adopts the rules authorized under Subsection (1)(j), the commissioner may by temporary order grant authority to insure risks to:

(a) a pure captive insurance company; or

(b) an industrial insured captive insurance company.

(3) The commissioner may issue prohibitory, mandatory, and other orders relating to a captive

insurance company as necessary to enable the commissioner to secure compliance with this chapter.

Section 45. Section 31A-37-201 is amended to read:

31A-37-201. Certificate of authority.

(1) The commissioner may issue a certificate of authority to act as an insurer in this state to a captive insurance company that meets the requirements of this chapter.

(2) To conduct insurance business in this state, a captive insurance company shall:

(a) obtain from the commissioner a certificate of authority authorizing it to conduct insurance business in this state;

(b) hold at least once each year in the state a meeting of the governing body;

(c) maintain in this state:

(i) the principal place of business of the captive insurance company; or

(ii) in the case of a branch captive insurance company, the principal place of business for the branch operations of the branch captive insurance company; and

(d) except as provided in Subsection (3), appoint a resident registered agent to accept service of process and to otherwise act on behalf of the captive insurance company in the state.

(3) In the case of a captive insurance company formed as a corporation, if the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the commissioner is the agent of the captive insurance company upon whom process, notice, or demand may be served.

(4) (a) Before receiving a certificate of authority, an applicant captive insurance company shall file with the commissioner:

(i) a certified copy of the captive insurance company's organizational charter;

(ii) a statement under oath of the captive insurance company's president and secretary or their equivalents showing the captive insurance company's financial condition; and

(iii) any other statement or document required by the commissioner under Section 31A-37-106.

(b) In addition to the information required under Subsection (4)(a), an applicant captive insurance company shall file with the commissioner evidence of:

(i) the amount and liquidity of the assets of the applicant captive insurance company relative to the risks to be assumed by the applicant captive insurance company;

(ii) the adequacy of the expertise, experience, and character of the person who will manage the applicant captive insurance company;

(iii) the overall soundness of the plan of operation of the applicant captive insurance company;

(iv) the adequacy of the loss prevention programs for the prospective insureds of the applicant captive insurance company as the commissioner deems necessary; and

(v) any other factor the commissioner:

(A) adopts by rule under Section 31A-37-106; and

(B) considers relevant in ascertaining whether the applicant captive insurance company will be able to meet the policy obligations of the applicant captive insurance company.

(c) In addition to the information required by Subsections (4)(a) and (b), an applicant sponsored captive insurance company shall file with the commissioner:

(i) a business plan at the level of detail required by the commissioner under Section 31A-37-106 demonstrating:

(A) the manner in which the applicant sponsored captive insurance company will account for the losses and expenses of each protected cell; and

(B) the manner in which the applicant sponsored captive insurance company will report to the commissioner the financial history, including losses and expenses, of each protected cell;

(ii) a statement acknowledging that the applicant sponsored captive insurance company will make all financial records of the applicant sponsored captive insurance company, including records pertaining to a protected cell, available for inspection or examination by the commissioner;

(iii) a contract or sample contract between the applicant sponsored captive insurance company and a participant; and

(iv) evidence that expenses will be allocated to each protected cell in an equitable manner.

(5) (a) Information submitted pursuant to this section is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner may disclose information submitted pursuant to this section to a public official having jurisdiction over the regulation of insurance in another state if:

(i) the public official receiving the information agrees in writing to maintain the confidentiality of the information; and

(ii) the laws of the state in which the public official serves require the information to be confidential.

(c) This Subsection (5) does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.

(6) (a) A captive insurance company shall pay to the department the following nonrefundable fees

established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

(i) a fee for examining, investigating, and processing, by a department employee, of an application for a certificate of authority made by an applicant captive insurance company;

(ii) a fee for obtaining a certificate of authority for the year the captive insurance company is issued a certificate of authority by the department; and

(iii) a certificate of authority renewal fee, assessed annually.

(b) The commissioner may:

(i) assign a department employee or retain legal, financial, or examination services from outside the department to perform the services described in:

(A) Subsection (6)(a); and

(B) Section 31A-37-502; and

(ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the applicant captive insurance company.

(7) If the commissioner is satisfied that the documents and statements filed by the applicant captive insurance company comply with this chapter, the commissioner may grant a certificate of authority authorizing the company to do insurance business in this state.

(8) A certificate of authority granted under this section expires annually and shall be renewed by July 1 of each year.

Section 46. Section 31A-37-202 is repealed and reenacted to read:

31A-37-202. Permissive areas of insurance.

(1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.

(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:

(a) a member organization of the association captive insurance company's association; or

(b) an affiliate of a member organization of the association captive insurance company's association.

(3) The following may insure a risk of a controlled unaffiliated business:

(a) an industrial insured captive insurance company;

(b) a protected cell;

(c) a pure captive insurance company; or

(d) a sponsored captive insurance company.

(4) To the extent allowed by a captive insurance company's organizational charter, a captive

insurance company may provide any type of insurance described in this title, except:

(a) workers' compensation insurance;

(b) personal motor vehicle insurance;

(c) homeowners' insurance; and

(d) any component of the types of insurance described in Subsections (4)(a) through (c).

(5) A captive insurance company may not provide coverage for:

(a) a wager or gaming risk;

(b) loss of an election;

(c) the penal consequences of a crime; or

(d) punitive damages.

(6) Notwithstanding Subsection (4), if approved by the commissioner, a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage.

Section 47. Section 31A-37-203 is amended to read:

31A-37-203. Deceptive name prohibited.

(1) A captive insurance company may not adopt a name that is:

~~(1)~~ (a) the same as any other existing business name registered in this state;

~~(2)~~ (b) deceptively similar to any other existing business name registered in this state; or

~~(3)~~ (c) likely to be:

~~(a)~~ (i) confused with any other existing business name registered in this state; or

~~(b)~~ (ii) mistaken for any other existing business name registered in this state.

(2) An applicant captive insurance company that submits an application for a certificate of authority on or after May 14, 2019, or a captive insurance company that changes its name on or after May 14, 2019, shall include the word "insurance" or a term of equivalent meaning in its name.

Section 48. Section 31A-37-301 is amended to read:

31A-37-301. Formation.

(1) A [pure] captive insurance company [~~or a sponsored captive insurance company formed as a stock insurer shall be incorporated as a stock insurer with the capital of the pure captive insurance company or sponsored captive insurance company~~], other than a branch captive insurance company, may be formed as a corporation or a limited liability company.

~~(a) divided into shares; and~~

~~(b) held by the stockholders of the pure captive insurance company or sponsored captive insurance company.~~

~~(2) A pure captive insurance company or a sponsored captive insurance company formed as a~~

limited liability company shall be organized as a members' interest insurer with the capital of the pure captive insurance company or sponsored captive insurance company;]

~~[(a) divided into interests; and]~~

~~[(b) held by the members of the pure captive insurance company or sponsored captive insurance company.]~~

~~[(3) An association captive insurance company or an industrial insured captive insurance company may be:]~~

~~[(a) incorporated as a stock insurer with the capital of the association captive insurance company or industrial insured captive insurance company:]~~

~~[(i) divided into shares; and]~~

~~[(ii) held by the stockholders of the association captive insurance company or industrial insured captive insurance company;]~~

~~[(b) incorporated as a mutual insurer without capital stock, with a governing body elected by the member organizations of the association captive insurance company or industrial insured captive insurance company; or]~~

~~[(c) organized as a limited liability company with the capital of the association captive insurance company or industrial insured captive insurance company:]~~

~~[(i) divided into interests; and]~~

~~[(ii) held by the members of the association captive insurance company or industrial insured captive insurance company.]~~

(2) The capital of a captive insurance company shall be held by:

(a) the interest holders of the captive insurance company; or

(b) a governing body elected by:

(i) the insureds;

(ii) one or more affiliates; or

(iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).

~~[(4) (3) A captive insurance company formed [as a corporation may not have fewer than three incorporators of whom one shall be a resident of this state] in this state shall have at least one establisher who is an individual and a resident of the state.~~

~~[(5) A captive insurance company formed as a limited liability company may not have fewer than three organizers of whom one shall be a resident of this state.]~~

~~[(6) (a) Before a captive insurance company formed as a corporation files the corporation's articles of incorporation with the Division of Corporations and Commercial Code, the~~

~~incorporators shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed corporation will promote the general good of the state.]~~

~~(4) (a) An applicant captive insurance company's establishers shall obtain a certificate of public good from the commissioner before filing its governing documents with the Division of Corporations and Commercial Code.~~

~~(b) In considering a request for a certificate under Subsection [(6)] (4)(a), the commissioner shall consider:~~

~~(i) the character, reputation, financial standing, and purposes of the [incorporators] establishers;~~

~~(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the principal officers [and directors] or members of the governing body;~~

~~(iii) any information in:~~

~~(A) the application for a certificate of authority; or~~

~~(B) the department's files; and~~

~~(iv) other aspects that the commissioner considers advisable.~~

~~[(7) (a) Before a captive insurance company formed as a limited liability company files the limited liability company's certificate of organization with the Division of Corporations and Commercial Code, the limited liability company shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed limited liability company will promote the general good of the state.]~~

~~[(b) In considering a request for a certificate under Subsection (7)(a), the commissioner shall consider:]~~

~~[(i) the character, reputation, financial standing, and purposes of the organizers;]~~

~~[(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the managers;]~~

~~[(iii) any information in:]~~

~~[(A) the application for a certificate of authority; or]~~

~~[(B) the department's files; and]~~

~~[(iv) other aspects that the commissioner considers advisable.]~~

~~[(8) (a) A captive insurance company formed as a corporation shall file with the Division of Corporations and Commercial Code:]~~

~~[(i) the captive insurance company's articles of incorporation;]~~

~~[(ii) the certificate issued pursuant to Subsection (6); and]~~

~~[(iii) the fees required by the Division of Corporations and Commercial Code.]~~

~~[(b) The Division of Corporations and Commercial Code shall file both the articles of incorporation and the certificate described in Subsection (6) for a captive insurance company that complies with this section.]~~

~~[(9) (a) A captive insurance company formed as a limited liability company shall file with the Division of Corporations and Commercial Code:]~~

~~[(i) the captive insurance company's certificate of organization;]~~

~~[(ii) the certificate issued pursuant to Subsection (7); and]~~

~~[(iii) the fees required by the Division of Corporations and Commercial Code.]~~

~~[(b) The Division of Corporations and Commercial Code shall file both the certificate of organization and the certificate described in Subsection (7) for a captive insurance company that complies with this section.]~~

~~[(10) (a) The organizers of a captive insurance company formed as a reciprocal insurer shall obtain from the commissioner a certificate finding that the establishment and maintenance of the proposed association will promote the general good of the state.]~~

~~[(b) In considering a request for a certificate under Subsection (10)(a), the commissioner shall consider:]~~

~~[(i) the character, reputation, financial standing, and purposes of the incorporators;]~~

~~[(ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors;]~~

~~[(iii) any information in:]~~

~~[(A) the application for a certificate of authority; or]~~

~~[(B) the department's files; and]~~

~~[(iv) other aspects that the commissioner considers advisable.]~~

~~[(11) (a) An alien captive insurance company that has received a certificate of authority to act as a branch captive insurance company shall obtain from the commissioner a certificate finding that:]~~

~~[(i) the home jurisdiction of the alien captive insurance company imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that state; and]~~

~~[(ii) after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the alien captive insurance company, and other relevant information, the establishment and maintenance of the branch operations will promote the general good of the state.]~~

~~[(b) After the commissioner issues a certificate under Subsection (11)(a) to an alien captive insurance company, the alien captive insurance company may register to do business in this state.]~~

~~[(12) At least one of the members of the board of directors of a captive insurance company formed as a corporation shall be a resident of this state.]~~

~~[(13) At least one of the managers of a limited liability company shall be a resident of this state.]~~

~~[(5) (a) Except as otherwise provided in this title, the governing body of a captive insurance company shall consist of at least three individuals as members, at least one of whom is a resident of the state.]~~

~~[(b) One-third of the members of the governing body of a captive insurance company constitutes a quorum of the governing body.]~~

~~[(6) A captive insurance company shall have at least three individuals as principal officers with duties comparable to those of president, treasurer, and secretary.]~~

~~[(14) (7) (a) A captive insurance company formed as a corporation [under this chapter has the privileges and is subject to the provisions of the general corporation law as well as the applicable provisions contained in this chapter. (b) If] is subject to the provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and this chapter. If a conflict exists between a provision of [the general corporation law] Title 16, Chapter 10a, Utah Revised Business Corporation Act, and a provision of this chapter, this chapter [shall control] controls.]~~

~~[(b) A captive insurance company formed as a limited liability company is subject to the provisions of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and this chapter. If a conflict exists between a provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, and a provision of this chapter, this chapter controls.]~~

~~[(c) Except as provided in Subsection [(14)] (7)(d), the provisions of this title [pertaining to] that govern a merger, consolidation, conversion, mutualization, and redomestication apply [in determining the procedures to be followed by] to a captive insurance company in carrying out any of the transactions described in those provisions.]~~

~~[(d) Notwithstanding Subsection [(14)] (7)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.]~~

~~[(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.]~~

~~[(15) (a) A captive insurance company formed as a limited liability company under this chapter has the privileges and is subject to Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as well as the applicable provisions in this chapter.]~~

~~[(b) If a conflict exists between a provision of the limited liability company law and a provision of this chapter, this chapter controls.]~~

~~[(c) The provisions of this title pertaining to a merger, consolidation, conversion, mutualization, and redomestication apply in determining the procedures to be followed by a captive insurance company in carrying out any of the transactions described in those provisions.]~~

~~[(d) Notwithstanding Subsection (15)(e), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.]~~

~~[(e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.]~~

~~[(16)(a) The articles of incorporation or bylaws of a captive insurance company formed as a corporation may not authorize a quorum of a board of directors to consist of fewer than one-third of the fixed or prescribed number of directors as provided in Section 16-10a-824.]~~

~~[(b) The certificate of organization of a captive insurance company formed as a limited liability company may not authorize a quorum of a board of managers to consist of fewer than one-third of the fixed or prescribed number of directors required in Section 16-10a-824.]~~

Section 49. Section 31A-37-401 is amended to read:

31A-37-401. Sponsored captive insurance companies -- Formation.

(1) One or more sponsors may form a sponsored captive insurance company under this chapter.

(2) A sponsored captive insurance company formed under this chapter may establish and maintain a protected cell to insure risks of a participant if:

(a) the ~~[shareholders]~~ interest holders of a sponsored captive insurance company are limited to:

(i) the participants of the sponsored captive insurance company; and

(ii) the sponsors of the sponsored captive insurance company;

(b) each protected cell is accounted for separately on the books and records of the sponsored cell captive insurance company to reflect:

(i) the financial condition of each individual protected cell;

(ii) the results of operations of each individual protected cell;

(iii) the net income or loss of each individual protected cell;

(iv) the dividends or other distributions to participants of each individual protected cell; and

(v) other factors that may be:

(A) provided in the participant contract; or

(B) required by the commissioner;

(c) the assets of a protected cell are not chargeable with liabilities arising out of any other insurance business the sponsored captive insurance company may conduct;

(d) a sale, exchange, or other transfer of assets is not made by the sponsored captive insurance company between or among any of the protected cells of the sponsored captive insurance company without the consent of the protected cells;

(e) a sale, exchange, transfer of assets, dividend, or distribution is not made from a protected cell to a sponsor or participant without the commissioner's approval, which may not be given if the sale, exchange, transfer, dividend, or distribution would result in insolvency or impairment with respect to a protected cell;

(f) a sponsored captive insurance company annually files with the commissioner financial reports the commissioner requires under Section 31A-37-106, including accounting statements detailing the financial experience of each protected cell;

(g) a sponsored captive insurance company notifies the commissioner in writing within 10 business days of a protected cell that is insolvent or otherwise unable to meet the claim or expense obligations of the protected cell;

(h) a participant contract does not take effect without the commissioner's prior written approval;

(i) the addition of each new protected cell and withdrawal of a participant of any existing protected cell does not take effect without the commissioner's prior written approval; and

(j) (i) a protected cell captive insurance company shall pay to the department the following nonrefundable fees established by the department under Sections 31A-3-103, 31A-3-304, and 63J-1-504:

(A) a fee for examining, investigating, and processing by a department employee of an application for a certificate of authority made by a protected cell captive insurance company;

(B) a fee for obtaining a certificate of authority for the year the protected cell captive insurance company is issued a certificate of authority by the department; and

(C) a certificate of authority renewal fee; and

(ii) a protected cell may be created by the sponsor or the sponsor may create a pooling insurance arrangement to provide for pooling of risks to allow for risk distribution upon written approval from every protected cell under the sponsor and written approval of the commissioner.

Section 50. Section 31A-37-501 is amended to read:

31A-37-501. Reports to commissioner.

(1) A captive insurance company is not required to make a report except those provided in this chapter.

(2) (a) Before March 1 of each year, a captive insurance company shall submit to the commissioner a report of the financial condition of the captive insurance company, verified by oath of ~~[one of the]~~ at least two individuals who are executive officers of the captive insurance company.

(b) Except as provided in Section 31A-37-204, a captive insurance company shall report:

(i) using generally accepted accounting principles, except to the extent that the commissioner requires, approves, or accepts the use of a statutory accounting principle;

(ii) using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the commissioner for the type of insurance and kind of insurer to be reported upon; and

(iii) supplemental or additional information required by the commissioner.

(c) Except as otherwise provided:

(i) a licensed captive insurance company shall file the report required by Section 31A-4-113; and

(ii) an industrial insured group shall comply with Section 31A-4-113.5.

(3) (a) A pure captive insurance company may make written application to file the required report on a fiscal year end that is consistent with the fiscal year of the parent company of the pure captive insurance company.

(b) If the commissioner grants an alternative reporting date for a pure captive insurance company requested under Subsection (3)(a), the annual report is due 60 days after the fiscal year end.

(4) (a) Sixty days after the fiscal year end, a branch captive insurance company shall file with the commissioner a copy of the reports and statements required to be filed under the laws of the jurisdiction in which the alien captive insurance company is formed, verified by oath by two of the alien captive insurance company's executive officers.

(b) If the commissioner is satisfied that the annual report filed by the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed provides adequate information concerning the financial condition of the alien captive insurance company, the commissioner may waive the requirement for completion of the annual statement required for a captive insurance company under this section with respect to business written in the alien or foreign jurisdiction.

(c) A waiver by the commissioner under Subsection (4)(b):

(i) shall be in writing; and

(ii) is subject to public inspection.

(5) Before March 1 of each year, a sponsored cell captive insurance company shall submit to the commissioner a consolidated report of the financial condition of each individual protected cell, including a financial statement for each protected cell.

(6) (a) A captive insurance company shall notify the commissioner in writing if there is:

(i) a material change to the captive insurance company's most recently filed report of financial condition; or

(ii) an adverse material change in the financial condition of a captive insurance company since the captive insurance company's most recently filed report of financial condition.

(b) A captive insurance company shall submit a notification described in this subsection within 20 days after the day on which the captive insurance company learns of the material change.

Section 51. Section 31A-37-502 is amended to read:

31A-37-502. Examination.

(1) (a) As provided in this section, the commissioner, or a person appointed by the commissioner, shall examine each captive insurance company in each five-year period.

(b) The five-year period described in Subsection (1)(a) shall be determined on the basis of five full annual accounting periods of operation.

(c) The examination is to be made as of:

(i) December 31 of the full five-year period; or

(ii) the last day of the month of an annual accounting period authorized for a captive insurance company under this section.

(d) In addition to an examination required under this Subsection (1), the commissioner, or a person appointed by the commissioner may examine a captive insurance company whenever the commissioner determines it to be prudent.

(2) During an examination under this section the commissioner, or a person appointed by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance company to ascertain:

(a) the financial condition of the captive insurance company;

(b) the ability of the captive insurance company to fulfill the obligations of the captive insurance company; and

(c) whether the captive insurance company has complied with this chapter.

(3) The commissioner may accept a comprehensive annual independent audit in lieu of an examination:

(a) of a scope satisfactory to the commissioner; and

(b) performed by an independent auditor approved by the commissioner.

(4) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection ~~[31A-37-202]~~ 31A-37-201(6)(b), the expenses and charges of an inspection and examination.

Section 52. Section 31A-37-503 is amended to read:

31A-37-503. Classification and use of records.

(1) The following shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act:

(a) examination, analysis, and licensing application reports under this ~~[section]~~ chapter;

(b) preliminary examination, analysis, and licensing application reports or results under this ~~[section]~~ chapter;

(c) working papers for an examination, analysis, or licensing application review conducted under this ~~[section]~~ chapter;

(d) recorded information for an examination, analysis, or licensing application review conducted under this ~~[section]~~ chapter; and

(e) documents and copies of documents produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination, analysis, or licensing application review conducted under this ~~[section]~~ chapter.

(2) This section does not prevent the commissioner from using the information provided under this section in furtherance of the commissioner's regulatory authority under this title.

(3) Notwithstanding other provisions of this section, the commissioner may grant access to the information provided under this section to:

(a) public officers having jurisdiction over the regulation of insurance in any other state or country; or

(b) law enforcement officers of this state or any other state or agency of the federal government, if the officers receiving the information agree in writing to hold the information in a manner consistent with this section.

Section 53. Section 31A-37-701 is enacted to read:

Part 7. Dormancy.

31A-37-701. Certificate of dormancy.

(1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group may apply, without fee, to the commissioner for a certificate of dormancy.

(2) (a) A captive insurance company, other than a risk retention group, is eligible for a certificate of dormancy if the captive insurance company:

(i) has ceased transacting the business of insurance, including the issuance of insurance policies; and

(ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.

(b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.

(3) Except as provided in Subsection (5), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.

(4) A captive insurance company that holds a certificate of dormancy:

(a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than \$25,000;

(ii) in the case of an association captive insurance company, not less than \$75,000; or

(iii) in the case of a sponsored captive insurance company, not less than \$100,000, of which at least \$35,000 is provided by the sponsor; and

(b) is not required to:

(i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;

(ii) maintain an active agreement with an independent auditor or actuary; or

(iii) hold an annual meeting of the captive insurance company in the state.

(5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.

(6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance's company's certificate of authority renewal fee.

(7) A captive insurance company may consecutively renew a certificate or dormancy no more than five times.

Section 54. Section 31A-37-702 is enacted to read:

31A-37-702. Cancelling a certificate of dormancy.

A captive insurance company may apply to cancel its certificate of dormancy by complying with the

procedures established in rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 55. Section 31A-45-102 is amended to read:

31A-45-102. Definitions.

As used in this chapter:

(1) "Covered benefit" or "benefit" means the health care services to which a covered person is entitled under the terms of a health ~~[benefit]~~ care insurance plan offered by a managed care organization.

(2) "Managed care organization" means:

(a) a managed care organization as that term is defined in Section 31A-1-301; and

(b) a third party administrator as that term is defined in Section 31A-1-301.

Section 56. Section 31A-45-303 is amended to read:

31A-45-303. Network provider contract provisions.

(1) Managed care organizations may provide for enrollees to receive services or reimbursement ~~[under the health benefit plans]~~ in accordance with this section.

(2) (a) Subject to restrictions under this section, a managed care organization may enter into contracts with health care providers under which the health care providers agree to be a network provider and supply services, at prices specified in the contracts, to enrollees.

(b) A network provider contract shall require the network provider to accept the specified payment in this Subsection (2) as payment in full, relinquishing the right to collect amounts other than copayments, coinsurance, and deductibles from the enrollee.

(c) The insurance contract may reward the enrollee for selection of network providers by:

- (i) reducing premium rates;
- (ii) reducing deductibles;
- (iii) coinsurance;
- (iv) other copayments; or
- (v) any other reasonable manner.

(3) (a) When reimbursing for services of health care providers that are not network providers, the managed care organization may:

- (i) make direct payment to the enrollee; and
- (ii) impose a deductible on coverage of health care providers not under contract.

(b) (i) Subsections (3)(b)(iii) and (c) apply to a managed care organization licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) Subsections (3)(b)(iii) and (c) and Subsection (6)(b) do not apply to a managed care organization licensed under Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(iii) When selecting health care providers with whom to contract under Subsection (2), a managed care organization described in Subsection (3)(b)(i) may not unfairly discriminate between classes of health care providers, but may discriminate within a class of health care providers, subject to Subsection (6).

(c) For purposes of this section, unfair discrimination between classes of health care providers includes:

(i) refusal to contract with class members in reasonable proportion to the number of insureds covered by the insurer and the expected demand for services from class members; and

(ii) refusal to cover procedures for one class of providers that are:

(A) commonly used by members of the class of health care providers for the treatment of illnesses, injuries, or conditions;

(B) otherwise covered by the managed care organization; and

(C) within the scope of practice of the class of health care providers.

(4) Before the enrollee consents to the insurance contract, the managed care organization shall fully disclose to the enrollee that the managed care organization has entered into network provider contracts. The managed care organization shall provide sufficient detail on the network provider contracts to permit the enrollee to agree to the terms of the insurance contract. The managed care organization shall provide at least the following information:

(a) a list of the health care providers under contract, and if requested their business locations and specialties;

(b) a description of the insured benefits, including deductibles, coinsurance, or other copayments;

(c) a description of the quality assurance program required under Subsection (5); and

(d) a description of the adverse benefit determination procedures required under Section 31A-22-629.

(5) (a) A managed care organization using network provider contracts shall maintain a quality assurance program for assuring that the care provided by the network providers meets prevailing standards in the state.

(b) The commissioner in consultation with the executive director of the Department of Health may designate qualified persons to perform an audit of the quality assurance program. The auditors shall

have full access to all records of the managed care organization and the managed care organization's health care providers, including medical records of individual patients.

(c) The information contained in the medical records of individual patients shall remain confidential. All information, interviews, reports, statements, memoranda, or other data furnished for purposes of the audit and any findings or conclusions of the auditors are privileged. The information is not subject to discovery, use, or receipt in evidence in any legal proceeding except hearings before the commissioner concerning alleged violations of this section.

(6) (a) A health care provider or managed care organization may not discriminate against a network provider for agreeing to a contract under Subsection (2).

(b) (i) Subsections (6)(b) and (c) apply to a managed care organization that is described in Subsection (3)(b)(i) and do not apply to a managed care organization described in Subsection (3)(b)(ii).

(ii) A health care provider licensed to treat an illness or injury within the scope of the health care provider's practice, that is willing and able to meet the terms and conditions established by the managed care organization for designation as a network provider, shall be able to apply for and receive the designation as a network provider. Contract terms and conditions may include reasonable limitations on the number of designated network providers based upon substantial objective and economic grounds, or expected use of particular services based upon prior provider-patient profiles.

(c) Upon the written request of a provider excluded from a network provider contract, the commissioner may hold a hearing to determine if the managed care organization's exclusion of the provider is based on the criteria set forth in Subsection (6)(b).

(7) Nothing in this section is to be construed as to require a managed care organization to offer a certain benefit or service as part of a health benefit plan.

(8) Notwithstanding Subsection (2) or [Subsection] (6)(b), a managed care organization described in Subsection (3)(b)(i) or third party administrator is not required to, but may, enter into a contract with a licensed athletic trainer, licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

Section 57. Section 31A-45-401 is amended to read:

31A-45-401. Court ordered coverage for minor children who reside outside the service area.

(1) (a) The requirements of Subsection (2) apply to a managed care organization if the managed care organization [~~health benefit plan~~]:

(i) restricts coverage for nonemergency services to services provided by contracted providers within the organization's service area; and

(ii) does not offer a benefit that permits members the option of obtaining covered services from a non-network provider.

(b) The requirements of Subsection (2) do not apply to a managed care organization if:

(i) the child [~~that is~~] is no longer the subject of a court or administrative support order [~~is over the age of 18 and is no longer enrolled in high school~~]; or

(ii) a parent's employer offers the parent a choice to select health insurance coverage that is not a managed care organization plan either at the time of the court or administrative support order, or at a subsequent open enrollment period. This exemption from Subsection (2) applies even if the parent ultimately chooses the managed care organization plan.

(2) If a parent is required by a court or administrative support order to provide health insurance coverage for a child who resides outside of a managed care organization's service area, the managed care organization shall:

(a) comply with the provisions of Section 31A-22-610.5;

(b) allow the enrollee parent to enroll the child on the organization plan;

(c) pay for otherwise covered health care services rendered to the child outside of the service area by a non-network provider:

(i) if the child, noncustodial parent, or custodial parent has complied with prior authorization or utilization review otherwise required by the organization; and

(ii) in an amount equal to the dollar amount the organization pays under a noncapitated arrangement for comparable services to a network provider in the same class of health care providers as the provider who rendered the services; and

(d) make payments on claims submitted in accordance with Subsection (2)(c) directly to the provider, custodial parent, the child who obtained benefits, or state Medicaid agency.

(3) (a) The parents of the child who is the subject of the court or administrative support order are responsible for any charges billed by the provider in excess of those paid by the organization.

(b) This section does not affect any court or administrative order regarding the responsibilities between the parents to pay any medical expenses not covered by accident and health insurance or a managed care organization plan.

(4) The commissioner shall adopt rules as necessary to administer this section and Section 31A-22-610.5.

Section 58. Section 34A-2-110 is amended to read:

34A-2-110. Workers' compensation insurance fraud -- Elements -- Penalties -- Notice.

(1) As used in this section:

(a) "Corporation" has the same meaning as in Section 76-2-201.

(b) "Intentionally" has the same meaning as in Section 76-2-103.

(c) "Knowingly" has the same meaning as in Section 76-2-103.

(d) "Person" has the same meaning as in Section 76-1-601.

(e) "Recklessly" has the same meaning as in Section 76-2-103.

(f) "Thing of value" means one or more of the following obtained under this chapter or Chapter 3, Utah Occupational Disease Act:

- (i) workers' compensation insurance coverage;
- (ii) disability compensation;
- (iii) a medical benefit;
- (iv) a good;
- (v) a professional service;
- (vi) a fee for a professional service; or
- (vii) anything of value.

(2) (a) A person is guilty of workers' compensation insurance fraud if that person intentionally, knowingly, or recklessly:

(i) devises a scheme or artifice to do the following by means of a false or fraudulent pretense, representation, promise, or material omission:

(A) obtain a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act;

(B) avoid paying the premium that an insurer charges, for an employee on the basis of the underwriting criteria applicable to that employee, to obtain a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act; or

(C) deprive an employee of a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act; and

(ii) communicates or causes a communication with another in furtherance of the scheme or artifice.

(b) A violation of this Subsection (2) includes a scheme or artifice to:

(i) make or cause to be made a false written or oral statement with the intent to obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class code actually covered by the insurance coverage;

(ii) form a business, reorganize a business, or change ownership in a business with the intent to:

(A) obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class code actually covered by the insurance coverage;

(B) misclassify an employee as described in Subsection (2)(b)(iii); or

(C) deprive an employee of workers' compensation coverage as required by Subsection 34A-2-103(8);

(iii) misclassify an employee as one of the following so as to avoid the obligation to obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act:

(A) an independent contractor;

(B) a sole proprietor;

(C) an owner;

(D) a partner;

(E) an officer; or

(F) a member in a limited liability company;

(iv) use a workers' compensation coverage waiver issued under Part 10, Workers' Compensation Coverage Waivers Act, to deprive an employee of workers' compensation coverage under this chapter or Chapter 3, Utah Occupational Disease Act; or

(v) collect or make a claim for temporary disability compensation as provided in Section 34A-2-410 while working for gain.

(3) (a) Workers' compensation insurance fraud under Subsection (2) is punishable in the manner prescribed in Subsection (3)(c).

(b) A corporation or association is guilty of the offense of workers' compensation insurance fraud under the same conditions as those set forth in Section 76-2-204.

(c) (i) In accordance with Subsection (3)(c)(ii), the determination of the degree of an offense under Subsection (2) shall be measured by the following on the basis of which creates the greatest penalty:

(A) the total value of all property, money, or other things obtained or sought to be obtained by the scheme or artifice described in Subsection (2); or

(B) the number of individuals not covered under this chapter or Chapter 3, Utah Occupational Disease Act, because of the scheme or artifice described in Subsection (2).

(ii) A person is guilty of:

(A) a class A misdemeanor:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is less than \$1,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is less than five;

(B) a third degree felony:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is equal to or greater than \$1,000, but is less than \$5,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is equal to or greater than five, but is less than 50; and

(C) a second degree felony:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is equal to or greater than \$5,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is equal to or greater than 50.

(4) The following are not a necessary element of an offense described in Subsection (2):

(a) reliance on the part of a person;

(b) the intent on the part of the perpetrator of an offense described in Subsection (2) to permanently deprive a person of property, money, or anything of value; or

(c) an insurer or self-insured employer giving written notice in accordance with Subsection (5) that workers' compensation insurance fraud is a crime.

(5) (a) An insurer or self-insured employer who, in connection with this chapter or Chapter 3, Utah Occupational Disease Act, prints, reproduces, or furnishes a form described in Subsection (5)(b) shall cause to be printed or displayed in comparative prominence with other content on the form the statement: "Any person who knowingly presents false or fraudulent underwriting information, files or causes to be filed a false or fraudulent claim for disability compensation or medical benefits, or submits a false or fraudulent report or billing for health care fees or other professional services is guilty of a crime and may be subject to fines and confinement in state prison."

(b) Subsection (5)(a) applies to a form upon which a person:

(i) applies for insurance coverage;

(ii) applies for a workers' compensation coverage waiver issued under Part 10, Workers' Compensation Coverage Waivers Act;

(iii) reports payroll;

(iv) makes a claim by reason of accident, injury, death, disease, or other claimed loss; or

(v) makes a report or gives notice to an insurer or self-insured employer.

(c) An insurer or self-insured employer who issues a check, warrant, or other financial instrument in payment of compensation issued under this chapter or Chapter 3, Utah Occupational

Disease Act, shall cause to be printed or displayed in comparative prominence above the area for endorsement a statement substantially similar to the following: "Workers' compensation insurance fraud is a crime punishable by Utah law."

(d) This Subsection (5) applies only to the legal obligations of an insurer or a self-insured employer.

(e) A person who violates Subsection (2) is guilty of workers' compensation insurance fraud, and the failure of an insurer or a self-insured employer to fully comply with this Subsection (5) is not:

(i) a defense to violating Subsection (2); or

(ii) grounds for suppressing evidence.

(6) In the absence of malice, a person, employer, insurer, or governmental entity that reports a suspected fraudulent act relating to a workers' compensation insurance policy or claim is not subject to civil liability for libel, slander, or another relevant cause of action.

(7) (a) In an action involving workers' compensation, this section supersedes Title 31A, Chapter 31, Insurance Fraud Act.

(b) Nothing in this section prohibits the Insurance Department from investigating violations of this section or from pursuing civil or criminal penalties for violations of this section in accordance with Section 31A-31-109 and this title.

Section 59. Section 36-29-106 is enacted to read:

36-29-106. Health Reform Task Force.

(1) There is created the Health Reform Task Force consisting of the following 11 members:

(a) four members of the Senate appointed by the president of the Senate, no more than three of whom are from the same political party; and

(b) seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than five of whom are from the same political party.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the task force.

(3) Salaries and expenses of the members of the task force shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(5) The task force shall review and make recommendations on health system reform, including the following issues:

(a) the need for state statutory and regulatory changes in response to federal actions affecting health care;

(b) Medicaid and reforms to the Medicaid program;

(c) options for increasing state flexibility, including the use of federal waivers;

(d) the state's health insurance marketplace;

(e) health insurance code modifications;

(f) insurance network adequacy standards and balance billing;

(g) health care provider workforce in the state;

(h) rising health care costs; and

(i) non-opiate pain management options.

(6) A final report, including any proposed legislation, shall be presented to the Business and Labor Interim Committee and Health and Human Services Interim Committee before November 30, 2019, and November 30, 2020.

Section 60. Section 58-1-501.7 is amended to read:

58-1-501.7. Standards of conduct for prescription drug education -- Academic and commercial detailing.

(1) For purposes of this section:

(a) "Academic detailing":

(i) means a health care provider who is licensed under this title to prescribe or dispense a prescription drug and employed by someone other than a pharmaceutical manufacturer:

(A) for the purpose of countering information provided in commercial detailing; and

(B) to disseminate educational information about prescription drugs to other health care providers in an effort to better align clinical practice with scientific research; and

(ii) does not include a health care provider who:

(A) is disseminating educational information about a prescription drug as part of teaching or supervising students or graduate medical education students at an institution of higher education or through a medical residency program;

(B) is disseminating educational information about a prescription drug to a patient or a patient's representative; or

(C) is acting within the scope of practice for the health care provider regarding the prescribing or dispensing of a prescription drug.

(b) "Commercial detailing" means an educational practice employed by a pharmaceutical manufacturer in which clinical information and evidence about a prescription drug is shared with health care professionals.

(c) "Manufacture" is as defined in Section 58-37-2.

(d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

(2) (a) Except as provided in Subsection (3), the provisions of this section apply to an academic detailer beginning July 1, 2013.

(b) An academic detailer and a commercial detailer who educate another health care provider about prescription drugs through written or oral educational material is subject to federal regulations regarding:

(i) false and misleading advertising in 21 C.F.R., Part 201 (2007);

(ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and

(iii) the federal Office of the Inspector General's Compliance Program Guidance for Pharmaceutical Manufacturers issued in April 2003, as amended.

(c) A person who is injured by a violation of this section has a private right of action against a person engaged in academic detailing, if:

(i) the actions of the person engaged in academic detailing, that are a violation of this section, are:

(A) the result of gross negligence by the person; or

(B) willful and wanton behavior by the person; and

(ii) the damages to the person are reasonable, foreseeable, and proximately caused by the violations of this section.

(3) (a) For purposes of this Subsection, "accident and health ~~insurer~~ insurance":

(i) ~~is as~~ means the same as that term is defined in Section 31A-1-301; and

(ii) includes a self-funded health benefit plan and an administrator for a self-funded health benefit plan.

(b) This section does not apply to a person who engages in academic detailing if that person is engaged in academic detailing on behalf of:

(i) ~~an~~ a person who provides accident and health ~~insurer~~ insurance, including when ~~an accident and health insurer~~ the person who provides accident and health insurance contracts with or offers:

(A) the state Medicaid program, including the Primary Care Network within the state's Medicaid program;

(B) the Children's Health Insurance Program created in Section 26-40-103;

(C) the state's high risk insurance program created in Section 31A-29-104;

(D) a Medicare plan; ~~and~~ or

(E) a Medicare supplement plan;

(ii) a hospital as defined in Section 26-21-2;

(iii) any class of pharmacy as defined in Section 58-17b-102, including any affiliated pharmacies;

(iv) an integrated health system as defined in Section 13-5b-102; or

(v) a medical clinic.

(c) This section does not apply to communicating or disseminating information about a prescription drug for the purpose of conducting research using prescription drugs at a health care facility as defined in Section 26-21-2, or a medical clinic.

Section 61. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) “Adult day care” means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) “Applicant” means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) “Associated with the licensee” means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) “Associated with the licensee” does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) “Boarding school” means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school’s students:

(A) for the purpose of enabling the school’s students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school’s students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (33)(a); or

(B) provides the treatment or services described in Subsection (33)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), “education” means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (33)(a) on a limited basis if:

(A) the treatment or services described in Subsection (33)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (33)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (33)(a).

(c) “Boarding school” does not include a therapeutic school.

(5) “Child” means a person under 18 years of age.

(6) “Child placing” means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) “Child-placing agency” means a person that engages in child placing.

(8) “Client” means an individual who receives or has received services from a licensee.

(9) “Day treatment” means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(10) “Department” means the Department of Human Services.

(11) “Department contractor” means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(12) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(13) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(14) "Director" means the director of the Office of Licensing.

(15) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(16) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(17) "Elder adult" means a person 65 years of age or older.

(18) "Executive director" means the executive director of the department.

(19) "Foster home" means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

(20) "Health benefit plan" means the same as that term is defined in Section ~~31A-22-619.6~~ 31A-1-301.

(21) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(23) (a) "Human services program" means a:

(i) foster home;

(ii) therapeutic school;

(iii) youth program;

(iv) resource family home;

(v) recovery residence; or

(vi) facility or program that provides:

(A) secure treatment;

(B) inpatient treatment;

(C) residential treatment;

(D) residential support;

(E) adult day care;

(F) day treatment;

(G) outpatient treatment;

(H) domestic violence treatment;

(I) child-placing services;

(J) social detoxification; or

(K) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Licensee" means an individual or a human services program licensed by the office.

(28) "Local government" means a city, town, metro township, or county.

(29) "Minor" has the same meaning as "child."

(30) "Office" means the Office of Licensing within the Department of Human Services.

(31) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(32) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(33) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse

disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(34) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(35) (a) "Residential support" means arranging for or providing the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support" includes providing a supervised living environment for persons with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of residential support.

(d) "Residential support" does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(36) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment,

behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(37) "Residential treatment program" means a human services program that provides:

(a) residential treatment; or

(b) secure treatment.

(38) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.

(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.

(39) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(40) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

(41) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (40)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(42) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;
 (b) that serves students who have a history of failing to function:

- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to:
 - (I) a disability;
 - (II) emotional development;
 - (III) behavioral development;
 - (IV) familial development; or
 - (V) social development.

(43) “Unrelated persons” means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(44) “Vulnerable adult” means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person’s ability to:

- (a) provide personal protection;
- (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- (c) obtain services necessary for health, safety, or welfare;
- (d) carry out the activities of daily living;
- (e) manage the adult’s own resources; or
- (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(45) (a) “Youth program” means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

- (i) serves adjudicated or nonadjudicated youth;
- (ii) charges a fee for its services;
- (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
- (iv) may or may not provide all or part of its services in the outdoors;
- (v) may or may not limit or censor access to parents or guardians; and
- (vi) prohibits or restricts a minor’s ability to leave the program at any time of the minor’s own free will.

(b) “Youth program” does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 62. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing,

certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution

within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the

Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint

regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(54) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(55) records contained in the Management Information System created in Section 62A-4a-1003;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in

Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

- (a) depict the commission of an alleged crime;
 - (b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
 - (c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
 - (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or
 - (e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;
- (66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and
- (67) an audio recording that is:
- (a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;
 - (b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:
 - (i) is responding to an individual needing resuscitation or with a life-threatening condition; and
 - (ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and - (c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;
- (68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;
- (69) work papers as defined in Section 31A-2-204; ~~and~~
- (70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206~~[-]~~;

~~(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201; and~~

~~(72) a record described in Section 31A-37-503.~~

Section 63. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates, Title 36.

(1) Section 36-12-20 is repealed June 30, 2023.

(2) Section 36-29-106 is repealed June 1, 2021.

~~(2)]~~ (3) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2021.

Section 64. Section 76-6-521 is amended to read:

76-6-521. Fraudulent insurance act.

(1) A person commits a fraudulent insurance act if that person with intent to defraud:

(a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract~~[-]~~, as part of or in support of:

(i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to the person;

(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person; or

(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

(b) presents, or causes to be presented, any oral or written statement or representation:

(i) (A) as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or

(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and

(ii) knowing that the statement or representation contains false, incomplete, or fraudulent information concerning any fact or thing material to the claim;

(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;

(e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;

(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act; ~~or~~

(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance~~[-];~~ or

(h) knowingly fails to forward a premium to an insurer in violation of Section 31A-23a-411.1.

(2) (a) A violation of Subsection (1)(a) (i) is a class ~~[B]~~ A misdemeanor.

(b) A violation of Subsections (1)(a)(ii) or (1)(b) through (1)~~(g)~~ (h) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.

(c) A violation of Subsection (1)(a)(iii):

(i) is a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be determined; or

(ii) if the value of the loss is \$1,500 or more, is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.

(3) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.

(4) The determination of the degree of any offense under Subsections (1)(a)(ii) and (1)(b) through ~~[(1)(g)]~~ (1)(h) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections (1)(a)(ii) and (1)(b) through ~~[(1)(g)]~~ (1)(h).

Section 65. Repealer.

This bill repeals:

Section 31A-16a-102, Definitions.

Section 66. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2019.

(2) The actions affecting the following sections take effect on January 1, 2020:

(a) Section 31A-16b-101;

(b) Section 31A-16b-102;

(c) Section 31A-16b-103;

(d) Section 31A-16b-104;

(e) Section 31A-16b-105;

(f) Section 31A-16b-106;

(g) Section 31A-16b-107; and

(h) Section 31A-16b-108.

Section 67. Coordinating H.B. 55 with H.B. 249 -- Superseding technical and substantive amendments.

If this H.B. 55 and H.B. 249, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 62A-2-101 in this bill supersede the amendments to Section 62A-2-101 in H.B. 249, when the Office of Legislative Research

and General Counsel prepares the Utah Code database for publication.

CHAPTER 194**H. B. 56**

Passed February 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**EMPLOYERS' REINSURANCE
 FUND AMENDMENTS**

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies provisions related to the Employers' Reinsurance Fund.

Highlighted Provisions:

This bill:

- ▶ provides that after the state pays all liabilities to be paid from the Employers' Reinsurance Fund, the Division of Finance shall transfer any remaining assets to the Uninsured Employers' Fund; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 34A-2-206, as last amended by Laws of Utah 2018, Chapter 156
 34A-2-701, as last amended by Laws of Utah 2009, Chapter 85
 34A-2-702, as last amended by Laws of Utah 2018, Chapter 207
 34A-2-704, as last amended by Laws of Utah 2018, Chapter 207

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-206 is amended to read:

34A-2-206. Furnishing information to division -- Employers' annual report -- Rights of division -- Examination of employers under oath -- Penalties.

(1) (a) Every employer shall furnish the division, upon request, all information required by it to carry out the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) In the month of July of each year every employer shall prepare and mail to the division a statement containing the following information:

- (i) the number of persons employed during the preceding year from July 1, to June 30, inclusive;
- (ii) the number of the persons employed at each kind of employment;
- (iii) the scale of wages paid in each class of employment, showing the minimum and maximum wages paid; and

(iv) the aggregate amount of wages paid to all employees.

(2) (a) The information required under Subsection (1) shall be furnished in the form prescribed by the division.

(b) Every employer shall:

(i) answer fully and correctly all questions and give all the information sought by the division under Subsection (1); or

(ii) if unable to comply with Subsection (2)(b)(i), give to the division, in writing, good and sufficient reasons for the failure.

(3) (a) The division may require the information required to be furnished by this chapter or Chapter 3, Utah Occupational Disease Act, to be made under oath and returned to the division within the period fixed by it or by law.

(b) The division, or any person employed by the division for that purpose, shall have the right to examine, under oath, any employer, or the employer's agents or employees, for the purpose of ascertaining any information that the employer is required by this chapter or Chapter 3, Utah Occupational Disease Act, to furnish to the division.

(4) (a) The division may seek a penalty of not to exceed \$500 for each offense to be recovered in a civil action brought by the commission or the division on behalf of the commission against an employer who:

(i) within a reasonable time to be fixed by the division and after the receipt of written notice signed by the director or the director's designee specifying the information demanded and served by certified mail or personal service, refuses to furnish to the division:

(A) the annual statement required by this section; or

(B) other information as may be required by the division under this section; or

(ii) willfully furnishes a false or untrue statement.

(b) All penalties collected under Subsection (4)(a) shall be paid into:

(i) the Employers' Reinsurance Fund created in Section 34A-2-702[-]; or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

Section 2. Section 34A-2-701 is amended to read:

34A-2-701. Premium assessment restricted account for safety.

(1) There is created in the General Fund a restricted account known as the "Workplace Safety Account."

(2) (a) An amount equal to 0.25% of the premium income remitted to the state treasurer pursuant to

Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety Account in the General Fund for use as provided in this section.

(b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

(i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1)[-]; or

(ii) if the commissioner has made the notification described in Subsection 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.

(3) The Legislature shall appropriate from the restricted account money to one or both of the following:

(a) money to the commission for use by the commission to:

(i) improve safety consultation services available to Utah employers; or

(ii) provide for electronic or print media advertising campaigns designed to promote workplace safety; and

(b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety and Occupational Health Funding Program":

(i) to an institution within the state system of higher education, as defined in Section 53B-1-102; and

(ii) to be expended by an education and research center that is:

(A) affiliated with the institution described in Subsection (3)(b)(i); and

(B) designated as an education and research center by the National Institute for Occupational Safety and Health.

(4) From money appropriated by the Legislature from the restricted account to the commission for use by the commission, the commission may fund other safety programs or initiatives recommended to it by its state workers' compensation advisory council created under Section 34A-2-107.

(5) (a) The commission shall annually report to the governor, the Legislature, and its state council regarding:

(i) the use of the money appropriated to the commission under Subsection (3) or (4); and

(ii) the impact of the use of the money on the safety of Utah's workplaces.

(b) By no later than August 15 following a fiscal year in which an education and research center receives money from an appropriation under Subsection (3)(b), the education and research center shall report:

(i) to:

(A) the governor;

(B) the Legislature;

(C) the commission; and

(D) the state workers' compensation advisory council created under Section 34A-2-107; and

(ii) regarding:

(A) the use of the money appropriated under Subsection (3)(b); and

(B) the impact of the use of the money on the safety of Utah's workplaces.

(6) The money deposited in the restricted account:

(a) shall be:

(i) used only for the activities described in Subsection (3) or (4); and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used by the commission for:

(i) administrative costs unrelated to the restricted account; or

(ii) any activity of the commission other than the activities of the commission described in Subsection (3) or (4).

(7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year an amount equal to 20% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous fiscal year.

Section 3. Section 34A-2-702 is amended to read:

34A-2-702. Employers' Reinsurance Fund
-- Injury causing death -- Burial expenses
-- Payments to dependents.

(1) (a) There is created an Employers' Reinsurance Fund for the purpose of making a payment for an industrial accident or occupational disease occurring on or before June 30, 1994. A payment made under this section shall be made in accordance with this chapter or Chapter 3, Utah Occupational Disease Act. The Employers' Reinsurance Fund has no liability for an industrial accident or occupational disease occurring on or after July 1, 1994.

(b) The Employers' Reinsurance Fund succeeds to all money previously held in the "Special Fund," the "Combined Injury Fund," or the "Second Injury Fund."

(c) The commissioner shall appoint an administrator of the Employers' Reinsurance Fund.

(d) The state treasurer shall be the custodian of the Employers' Reinsurance Fund.

(e) The administrator shall make provisions for and direct a distribution from the Employers' Reinsurance Fund.

(f) Reasonable costs of administering the Employers' Reinsurance Fund or other fees may be paid from the Employers' Reinsurance Fund.

(2) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Employers' Reinsurance Fund to ensure maximum investment return for both long and short term investments in accordance with Section 34A-2-706.

(3) (a) The administrator may employ, retain, or appoint counsel to represent the Employers' Reinsurance Fund in a proceeding brought to enforce a claim against or on behalf of the Employers' Reinsurance Fund.

(b) If requested by the commission, the attorney general shall aid in representation of the Employers' Reinsurance Fund.

(4) The liability of the state, its departments, agencies, instrumentalities, elected or appointed officials, or other duly authorized agents, with respect to payment of compensation benefits, expenses, fees, medical expenses, or disbursement properly chargeable against the Employers' Reinsurance Fund, is limited to the cash or assets in the Employers' Reinsurance Fund, and they are not otherwise, in any way, liable for the operation, debts, or obligations of the Employers' Reinsurance Fund.

(5) (a) If injury causes death within a period of 312 weeks from the date of the accident, the employer or insurance carrier shall pay:

(i) the burial expenses of the deceased as provided in Section 34A-2-418; and

(ii) benefits in the amount and to a person provided for in this Subsection (5).

(b) (i) If there is a wholly dependent person at the time of the death, the payment by the employer or the employer's insurance carrier shall be:

(A) subject to Subsections (5)(b)(i)(B) and (C), 66-2/3% of the decedent's average weekly wage at the time of the injury;

(B) not more than a maximum of 85% of the state average weekly wage at the time of the injury per week; and

(C) (I) not less than a minimum of \$45 per week, plus:

(Aa) \$20 for a dependent spouse; and

(Bb) \$20 for each dependent minor child under the age of 18 years, up to a maximum of four such dependent minor children; and

(II) not exceeding:

(Aa) the average weekly wage of the employee at the time of the injury; and

(Bb) 85% of the state average weekly wage at the time of the injury per week.

(ii) Compensation shall continue during dependency for the remainder of the period between the date of the death and the expiration of 312 weeks after the date of the injury.

(iii) (A) The payment by the employer or the employer's insurance carrier to a wholly dependent person during dependency following the expiration of the first 312-week period described in Subsection (5)(b)(ii) shall be an amount equal to the weekly benefits paid to the wholly dependent person during the initial 312-week period, reduced by 50% of the federal social security death benefits the wholly dependent person:

(I) is eligible to receive for a week as of the first day the employee is eligible to receive a Social Security death benefit; and

(II) receives.

(B) An employer or the employer's insurance carrier may not reduce compensation payable under this Subsection (5)(b)(iii) on or after May 5, 2008, to a wholly dependent person by an amount related to a cost-of-living increase to the social security death benefits that the wholly dependent person is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a wholly dependent person whose compensation payable is reduced under this Subsection (5)(b)(iii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(iv) The issue of dependency is subject to review at the end of the initial 312-week period and annually after the initial 312-week period. If in a review it is determined that, under the facts and circumstances existing at that time, the applicant is no longer a wholly dependent person, the applicant:

(A) may be considered a partly dependent or nondependent person; and

(B) shall be paid the benefits as may be determined under Subsection (5)(d)(iii).

(c) (i) For purposes of a dependency determination, a surviving spouse of a deceased employee is conclusively presumed to be wholly dependent for a 312-week period from the date of death of the employee. This presumption does not apply after the initial 312-week period.

(ii) (A) In determining the annual income of the surviving spouse after the initial 312-week period, there shall be excluded 50% of a federal social security death benefit that the surviving spouse:

(I) is eligible to receive for a week as of the first day the surviving spouse is eligible to receive a Social Security death benefit; and

(II) receives.

(B) An employer or the employer's insurance carrier may not reduce compensation payable under this Subsection (5)(c)(ii) on or after May 5, 2008, to a surviving spouse by an amount related to a cost-of-living increase to the social security death

benefits that the surviving spouse is first eligible to receive for a week, notwithstanding whether the employee is injured on or before May 4, 2008.

(C) For purposes of a surviving spouse whose compensation payable is reduced under this Subsection (5)(c)(ii) on or before May 4, 2008, the reduction is limited to the amount of the reduction as of May 4, 2008.

(d) (i) If there is a partly dependent person at the time of the death, the payment shall be:

(A) subject to Subsections (5)(d)(i)(B) and (C), 66-2/3% of the decedent's average weekly wage at the time of the injury;

(B) not more than a maximum of 85% of the state average weekly wage at the time of the injury per week; and

(C) not less than a minimum of \$45 per week.

(ii) Compensation shall continue during dependency for the remainder of the period between the date of death and the expiration of 312 weeks after the date of injury. Compensation may not amount to more than a maximum of \$30,000.

(iii) The benefits provided for in this Subsection (5)(d) shall be in keeping with the circumstances and conditions of dependency existing at the date of injury, and any amount paid under this Subsection (5)(d) shall be consistent with the general provisions of this chapter and Chapter 3, Utah Occupational Disease Act.

(iv) Benefits to a person determined to be partly dependent under Subsection (5)(c):

(A) shall be determined in keeping with the circumstances and conditions of dependency existing at the time of the dependency review; and

(B) may be paid in an amount not exceeding the maximum weekly rate that a partly dependent person would receive if wholly dependent.

(v) A payment under this section shall be paid to a person during a person's dependency by the employer or the employer's insurance carrier.

(e) (i) Subject to Subsection (5)(e)(ii), if there is a wholly dependent person and also a partly dependent person at the time of death, the benefits may be apportioned in a manner consistent with Section 34A-2-414.

(ii) The total benefits awarded to all parties concerned may not exceed the maximum provided for by law.

(6) The Employers' Reinsurance Fund:

(a) shall be:

(i) used only in accordance with Subsection (1) for:

(A) the purpose of making a payment for an industrial accident or occupational disease occurring on or before June 30, 1994, in accordance with this section and Section 34A-2-703; and

(B) payment of:

(I) reasonable costs of administering the Employers' Reinsurance Fund; or

(II) fees required to be paid by the Employers' Reinsurance Fund;

(ii) expended according to processes that can be verified by audit; and

(b) may not be used for:

(i) administrative costs unrelated to the Employers' Reinsurance Fund; or

(ii) an activity of the commission other than an activity described in Subsection (6)(a).

(7) (a) After the commissioner determines that all liabilities to be paid from the Employers' Reinsurance Fund have been paid, the commissioner shall notify the Division of Finance.

(b) Upon notification from the commissioner in accordance with Subsection (7)(a), the Division of Finance shall transfer any residual assets in the Employers' Reinsurance Fund into the Uninsured Employers' Fund.

Section 4. Section 34A-2-704 is amended to read:

34A-2-704. Uninsured Employers' Fund.

(1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers' Fund has the purpose of assisting in the payment of workers' compensation benefits to a person entitled to the benefits, if:

(i) that person's employer:

(A) is individually, jointly, or severally liable to pay the benefits; and

(B) (I) becomes or is insolvent;

(II) appoints or has appointed a receiver; or

(III) otherwise does not have sufficient funds, insurance, sureties, or other security to cover workers' compensation liabilities; and

(ii) the employment relationship between that person and the person's employer is localized within the state as provided in Subsection (20).

(b) The Uninsured Employers' Fund succeeds to money previously held in the Default Indemnity Fund.

(c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational Disease Act, with the exception of a penalty on those obligations.

(2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured Employers' Fund in accordance with this chapter[, and Subsection 59-9-101(2)] ~~and Subsection 34A-2-213(3)~~.

(b) The commissioner shall appoint an administrator of the Uninsured Employers' Fund.

(c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

(ii) The administrator shall make provisions for and direct distribution from the Uninsured Employers' Fund.

(3) Reasonable costs of administering the Uninsured Employers' Fund or other fees required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured Employers' Fund.

(4) The state treasurer shall:

(a) receive workers' compensation premium assessments from the State Tax Commission; and

(b) invest the Uninsured Employers' Fund to ensure maximum investment return for both long and short term investments in accordance with Section 34A-2-706.

(5) (a) The administrator may employ, retain, or appoint counsel to represent the Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of the Uninsured Employers' Fund.

(b) If requested by the commission, the following shall aid in the representation of the Uninsured Employers' Fund:

(i) the attorney general; or

(ii) the city attorney, or county attorney of the locality in which:

(A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah Occupational Disease Act, is pending;

(B) the employee resides; or

(C) an employer:

(I) resides; or

(II) is doing business.

(c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection, the administrator shall provide for the collection of money required to be deposited in the Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.

(ii) To comply with Subsection (5)(c)(i), the administrator may:

(A) take appropriate action, including docketing an award in a manner consistent with Section 34A-2-212; and

(B) employ counsel and other personnel necessary to collect the money described in Subsection (5)(c)(i).

(6) To the extent of the compensation and other benefits paid or payable to or on behalf of an employee or the employee's dependents from the Uninsured Employers' Fund, the Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the employee or the employee's dependents against the employer failing to make the compensation payments.

(7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a

condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the Uninsured Employers' Fund.

(b) A court with jurisdiction shall grant a payment made under this section a priority equal to that to which the claimant would have been entitled in the absence of this section against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

(c) The expenses of the Uninsured Employers' Fund in handling a claim shall be accorded the same priority as the liquidator's expenses.

(8) (a) The administrator shall periodically file the information described in Subsection (8)(b) with the receiver, trustee, or liquidator of:

(i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

(ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a condition listed in Subsection (1)(a)(i)(B); or

(iii) an insolvent insurance carrier.

(b) The information required to be filed under Subsection (8)(a) is:

(i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

(ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

(c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers' Fund for claims against the assets of the employer that meets a condition listed in Subsection (1)(a)(i)(B).

(9) When an injury or death for which compensation is payable from the Uninsured Employers' Fund has been caused by the wrongful act or neglect of another person not in the same employment, the Uninsured Employers' Fund has the same rights as allowed under Section 34A-2-106.

(10) The Uninsured Employers' Fund, subject to approval of the administrator, shall discharge its obligations by:

(a) adjusting its own claims; or

(b) contracting with an adjusting company, risk management company, insurance company, or other company that has expertise and capabilities in adjusting and paying workers' compensation claims.

(11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an administrative law judge, upon rendering a decision with respect to a claim for workers' compensation benefits in which an employer that meets a condition listed in Subsection (1)(a)(i)(B) is duly joined as a party, shall:

(i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

(ii) impose a penalty against the employer that meets a condition listed in Subsection (1)(a)(i)(B):

(A) of 15% of the value of the total award in connection with the claim; and

(B) that shall be deposited into the Uninsured Employers' Fund.

(b) An award under this Subsection (11) shall be collected by the administrator in accordance with Subsection (5)(c).

(12) The state, the commission, and the state treasurer, with respect to payment of compensation benefits, expenses, fees, or disbursement properly chargeable against the Uninsured Employers' Fund:

(a) are liable only to the assets in the Uninsured Employers' Fund; and

(b) are not otherwise in any way liable for the making of a payment.

(13) The commission may make reasonable rules for the processing and payment of a claim for compensation from the Uninsured Employers' Fund.

(14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers' Fund may assess all other self-insured employers amounts necessary to pay:

(A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(B) the expenses of handling covered a claim subsequent to a condition listed in Subsection (1)(a)(i)(B) occurring;

(C) the cost of an examination under Subsection (15); and

(D) other expenses authorized by this section.

(ii) This Subsection (14) applies to benefits paid to an employee of:

(A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition listed in Subsection (1)(a)(i)(B); or

(B) if the self-insured employer that meets a condition described in Subsection (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) The assessments of a self-insured employer shall be in the proportion that the manual premium of the self-insured employer for the preceding calendar year bears to the manual premium of all self-insured employers for the preceding calendar year.

(c) A self-insured employer shall be notified of the self-insured employer's assessment not later than 30 days before the day on which the assessment is due.

(d) (i) A self-insured employer may not be assessed in any year an amount greater than 2% of that self-insured employer's manual premium for the preceding calendar year.

(ii) If the maximum assessment does not provide in a year an amount sufficient to make all necessary payments from the Uninsured Employers' Fund for one or more self-insured employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be paid as soon as money becomes available.

(e) A self-insured employer is liable under this section for a period not to exceed three years after the day on which the Uninsured Employers' Fund first pays benefits to an employee described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B).

(f) This Subsection (14) does not apply to a claim made against a self-insured employer that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection (1)(a)(i)(B) occurred before July 1, 1986.

(15) (a) The following shall notify the division of any information indicating that any of the following may be insolvent or in a financial condition hazardous to its employees or the public:

(i) a self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency insurance mutual.

(b) Upon receipt of the notification described in Subsection (15)(a) and with good cause appearing, the division may order an examination of:

(i) that self-insured employer; or

(ii) if the self-insured employer is a public agency insurance mutual, a member of the public agency mutual.

(c) The cost of the examination ordered under Subsection (15)(b) shall be assessed against all self-insured employers as provided in Subsection (14).

(d) The results of the examination ordered under Subsection (15)(b) shall be kept confidential.

(16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on behalf of the employee to whom or to whose dependents compensation and other benefits are paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or other party in interest objecting to the claim.

(b) A claim described in Subsection (16)(a) is presumed to be valid up to the full amount of workers' compensation benefits claimed by the employee or the employee's dependents.

(c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative proceeding under the authority of the commission.

(17) A partner in a partnership or an owner of a sole proprietorship may not recover compensation

or other benefits from the Uninsured Employers' Fund if:

(a) the person is not included as an employee under Subsection 34A-2-104(3); or

(b) the person is included as an employee under Subsection 34A-2-104(3), but:

(i) the person's employer fails to insure or otherwise provide adequate payment of direct compensation; and

(ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission over which the person had or shared control or responsibility.

(18) A director or officer of a corporation may not recover compensation or other benefits from the Uninsured Employers' Fund if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(19) The Uninsured Employers' Fund:

(a) shall be:

(i) used in accordance with this section only for:

(A) the purpose of assisting in the payment of workers' compensation benefits in accordance with Subsection (1); and

(B) in accordance with Subsection (3), payment of:

(I) reasonable costs of administering the Uninsured Employers' Fund; or

(II) fees required to be paid by the Uninsured Employers' Fund; and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used for:

(i) administrative costs unrelated to the Uninsured Employers' Fund; or

(ii) an activity of the commission other than an activity described in Subsection (19)(a).

(20) (a) For purposes of Subsection (1), an employment relationship is localized in the state if:

(i) (A) the employer who is liable for the benefits has a business premise in the state; and

(B) (I) the contract for hire is entered into in the state; or

(II) the employee regularly performs work duties in the state for the employer who is liable for the benefits; or

(ii) the employee is:

(A) a resident of the state; and

(B) regularly performs work duties in the state for the employer who is liable for the benefits.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define what constitutes regularly performing work duties in the state.

CHAPTER 195**H. B. 60**

Passed February 15, 2019

Approved March 25, 2019

Effective May 14, 2019

**DIVISION OF FACILITIES CONSTRUCTION
AND MANAGEMENT PROPERTY
AMENDMENTS**

Chief Sponsor: Walt Brooks

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to real property owned by the Division of Facilities Construction and Management.

Highlighted Provisions:

This bill:

- ▶ provides a process for the Division of Facilities Construction and Management to change the occupancy or use of, transfer the ownership of, or lease vacant division-owned real property;
- ▶ modifies a provision relating to the application of division rules on determining the value of real property under certain circumstances;
- ▶ provides a process for a person to submit to the division a written proposal for the use of vacant division-owned property;
- ▶ requires the division to provide notice relating to vacant division-owned property if the division receives a qualified proposal;
- ▶ provides for priority among competing applicants for vacant division-owned property;
- ▶ provides for the approval of the State Building Board or the director of the Department of Administrative Services, with the recommendation of the Executive Appropriations Committee, under certain circumstances, relating to vacant division-owned property;
- ▶ authorizes the Division of Facilities Construction and Management to refer vacant division-owned property to the Department of Transportation for public auction, under certain circumstances;
- ▶ modifies a provision relating to the compliance agency role of the director of the Division of Facilities Construction and Management; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-5-103, as last amended by Laws of Utah 2017, Chapter 355

63A-5-204, as last amended by Laws of Utah 2018, Chapter 401

63A-5-206, as last amended by Laws of Utah 2017, Chapter 463

63A-5-401, as last amended by Laws of Utah 2011, Chapter 289

65A-4-1, as enacted by Laws of Utah 1988, Chapter 121

ENACTS:

63A-5a-101, Utah Code Annotated 1953

63A-5a-102, Utah Code Annotated 1953

63A-5a-103, Utah Code Annotated 1953

63A-5a-104, Utah Code Annotated 1953

63A-5a-201, Utah Code Annotated 1953

63A-5a-202, Utah Code Annotated 1953

63A-5a-203, Utah Code Annotated 1953

63A-5a-204, Utah Code Annotated 1953

63A-5a-205, Utah Code Annotated 1953

63A-5a-206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5-103 is amended to read:**63A-5-103. Board -- Powers.**

(1) The State Building Board shall:

(a) in cooperation with agencies, prepare a master plan of structures built or contemplated;

(b) submit to the governor and the Legislature a comprehensive five-year building plan for the state containing the information required by Subsection (6);

(c) amend and keep current the five-year building program that complies with the requirements described in Subsection (6), for submission to the governor and subsequent legislatures; [and]

(d) as a part of the long-range plan, recommend to the governor and Legislature any changes in the law that are necessary to ensure an effective, well-coordinated building program for all agencies[-]; and

(e) fulfill the duties given to the board under Chapter 5a, Division-Owned Real Property Act.

(2) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that are necessary to discharge its duties and the duties of the Division of Facilities Construction and Management;

(b) that establish standards and requirements for life cycle cost-effectiveness of state facility projects;

(c) that govern the disposition of real property by the division and establish factors, including appraised value and historical significance, in evaluating the disposition;

(d) that establish standards and requirements for a capital development project request and feasibility study described in Subsection 63A-5-104(2)(b), including:

(i) a deadline by which a state agency is required to submit a capital development project request; and

(ii) conditions and requirements by which a state agency may modify the state agency's capital development project request after the agency submits the request;

(e) for the monitoring of a state agency's operations and maintenance expenditures for a state-owned facility, that:

(i) establish standards and requirements for utility metering;

(ii) create an operations and maintenance program for a state agency's facilities;

(iii) establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(e)(ii); and

(iv) require an agency to report the amount the agency receives and expends on operations and maintenance; and

(f) determining the actual cost for operations and management requests for a new facility.

(3) The board shall:

(a) with support from the Division of Facilities Construction and Management, establish design criteria, standards, and procedures for planning, design, and construction of new state facilities and for improvements to existing state facilities, including life-cycle costing, cost-effectiveness studies, and other methods and procedures that address:

(i) the need for the building or facility;

(ii) the effectiveness of its design;

(iii) the efficiency of energy use; and

(iv) the usefulness of the building or facility over its lifetime;

(b) prepare and submit a yearly request to the governor and the Legislature for a designated amount of square footage by type of space to be leased by the Division of Facilities Construction and Management in that fiscal year;

(c) assure the efficient use of all building space; and

(d) conduct ongoing facilities maintenance audits for state-owned facilities.

(4) (a) An agency shall comply with the rules made under Subsection (2)(f) for new facility requests submitted to the Legislature for the 2017 General Session or any session of the Legislature after the 2017 General Session.

~~(b) On or before September 1, 2016, each agency shall revise the agency's budget to comply with the rules made under Subsection (2)(e)(ii).-~~

~~(e)~~ (b) Beginning on December 1, 2016, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall, for each agency with operating and maintenance expenses, ensure that each required budget for that agency is adjusted in accordance with the rules described in Subsection (2)(e)(iii).

(5) In order to provide adequate information upon which the State Building Board may make a recommendation described in Subsection (1), any state agency requesting new full-time employees for the next fiscal year shall report those

anticipated requests to the building board at least 90 days before the annual general session in which the request is made.

(6) (a) The State Building Board shall ensure that the five-year building plan required by Subsection (1)(c) includes:

(i) a list that prioritizes construction of new buildings for all structures built or contemplated based upon each agency's present and future needs;

(ii) information, and space use data for all state-owned and leased facilities;

(iii) substantiating data to support the adequacy of any projected plans;

(iv) a summary of all statewide contingency reserve and project reserve balances as of the end of the most recent fiscal year;

(v) a list of buildings that have completed a comprehensive facility evaluation by an architect/engineer or are scheduled to have an evaluation;

(vi) for those buildings that have completed the evaluation, the estimated costs of needed improvements; and

(vii) for projects recommended in the first two years of the five-year building plan:

(A) detailed estimates of the cost of each project;

(B) the estimated cost to operate and maintain the building or facility on an annual basis;

(C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement cost of the building or facility, on an annual basis;

(D) the estimated number of new agency full-time employees expected to be housed in the building or facility;

(E) the estimated cost of new or expanded programs and personnel expected to be housed in the building or facility;

(F) the estimated lifespan of the building with associated costs for major component replacement over the life of the building; and

(G) the estimated cost of any required support facilities.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules prescribing the format for submitting the information required by this Subsection (6).

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Building Board may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as certified by the director.

(b) In making the rules described in Subsection (7)(a), the State Building Board shall provide for the fair and equitable treatment of bidders.

(8) (a) A person who violates a rule that the board makes under Subsection (2) is subject to a civil penalty not to exceed \$2,500 for each violation plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(b) The board may take any other action allowed by law.

(c) If any violation of a rule that the board makes is also an offense under Title 76, Utah Criminal Code, the violation is subject to the civil penalty, damages, expenses, and costs allowed under Subsection (2) in addition to any criminal prosecution.

Section 2. Section 63A-5-204 is amended to read:

63A-5-204. Specific powers and duties of director.

(1) As used in this section[, “capitol hill facilities” and “capitol hill grounds” have the same meaning as provided in Section 63C-9-102.];

(a) “Capitol hill facilities” means the same as that term is defined in Section 63C-9-102.

(b) “Capitol hill grounds” means the same as that term is defined in Section 63C-9-102.

(2) (a) The director shall:

(i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(ii) subject to Chapter 5a, Division-Owned Real Property Act, supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;

(iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher education and the School and Institutional Trust Lands Administration;

(vi) report all properties acquired by the state, except those acquired by institutions of higher education, to the director of the Division of Finance for inclusion in the state’s financial records;

(vii) before charging a rate, fee, or other amount for services provided by the division’s internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63J-1-410;

(viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division’s rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available;

(ix) implement the State Building Energy Efficiency Program under Section 63A-5-701;

(x) convey, lease, or dispose of the real property or water rights associated with the Utah State Developmental Center according to the Utah State Developmental Center Board’s determination, as described in [~~Subsection 62A-5-206.6(5)~~] Section 62A-5-206.6;

(xi) after receiving the notice required under Subsection 10-2-419(2)(d), file a written protest at or before the public hearing required under Subsection 10-2-419(2)(b), if:

(A) it is in the best interest of the state to protest the boundary adjustment; or

(B) the Legislature instructs the director to protest the boundary adjustment; and

(xii) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

(3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any agency, except:

(i) the State Capitol Preservation Board; and

(ii) state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

(i) the agency has requested the responsibility;

(ii) the agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and

(iii) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and state institutions of higher education are exempt from Division of Facilities Construction and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

(i) prescribe a standard format for reporting compliance with the facility maintenance standards;

(ii) report agency compliance or noncompliance with the standards to the Legislature; and

(iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(4) (a) In making any allocations of space under Subsection (2), the director shall:

(i) conduct studies to determine the actual needs of each agency; and

(ii) comply with the restrictions contained in this Subsection (4).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(5) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; [and]

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties[-]; and

(d) as provided in Chapter 5a, Division-Owned Real Property Act, fulfill duties and exercise authority with respect to division-owned property, as defined in Section 63A-5a-102, on behalf of the division.

(6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and

appurtenances held by them for purposes other than administration that are under their control and management:

(a) the Office of Trust Administrator;

(b) the Department of Transportation;

(c) the Division of Forestry, Fire, and State Lands;

(d) the Department of Natural Resources;

(e) the Utah National Guard;

(f) any area vocational center or other institution administered by the State Board of Education;

(g) any institution of higher education; and

(h) the Utah Science Technology and Research Governing Authority.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

(b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

Section 3. Section 63A-5-206 is amended to read:

63A-5-206. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Notification to local governments for construction or modification of certain facilities.

(1) As used in this section:

(a) "Capital developments" and "capital improvements" have the same meaning as provided in Section 63A-5-104.

(b) "Compliance agency" has the same meaning as provided in Section 15A-1-202.

(c) (i) "Facility" means any building, structure, or other improvement that is constructed on property owned by the state, its departments, commissions, institutions, or agencies.

(ii) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(d) "Life cycle cost-effective" means, as provided for in rules adopted by the State Building Board, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the most prudent cost of owning and operating a facility, including the

initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and renewable energy systems.

(e) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the property on which the project is being constructed were not owned by the state.

(f) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity to a building.

(2) (a) (i) Except as provided in Subsections (3) and (4), the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities if the total project construction cost, regardless of the funding source, is greater than \$100,000, unless there is memorandum of understanding between the director and an institution of higher education or the State Board of Education that permits the institution of higher education or the State Board of Education to exercise direct supervision for a project with a total project construction cost of not greater than \$250,000.

(ii) A state entity may exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities if:

(A) the total project construction cost, regardless of the funding sources, is \$100,000 or less; and

(B) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvements, and code inspection standards.

(b) The director shall prepare or have prepared by private firms or individuals designs, plans, and specifications for the projects administered by the division.

(c) Before proceeding with construction, the director and the officials charged with the administration of the affairs of the particular agency shall approve the location, design, plans, and specifications.

(3) Projects for the construction of new facilities and alterations, repairs, and improvements to existing facilities are not subject to Subsection (2) if the project:

(a) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(b) is within a designated research park at the University of Utah or Utah State University;

(c) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation except that This is the Place Foundation may request the director to administer the design and construction; or

(d) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(4) (a) (i) The State Building Board may authorize the delegation of control over design, construction, and all other aspects of any project to entities of state government on a project-by-project basis or for projects within a particular dollar range and a particular project type.

(ii) The state entity to whom control is delegated shall assume fiduciary control over project finances, shall assume all responsibility for project budgets and expenditures, and shall receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(iii) Delegation of project control does not exempt the state entity from complying with the codes and guidelines for design and construction adopted by the division and the State Building Board.

(iv) State entities that receive a delegated project may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5-209.

(b) For facilities that will be owned, operated, maintained, and repaired by an entity that is not a state agency and that are located on state property, the State Building Board may authorize the owner to administer the design and construction of the project instead of the division.

(5) Notwithstanding any other provision of this section, if a donor donates land to an eligible institution of higher education and commits to build a building or buildings on that land, and the institution agrees to provide funds for the operations and maintenance costs from sources other than state funds, and agrees that the building or buildings will not be eligible for state capital improvement funding, the higher education institution may:

(a) oversee and manage the construction without involvement, oversight, or management from the division; or

(b) arrange for management of the project by the division.

(6) (a) The role of compliance agency as provided in Title 15A, State Construction and Fire Codes Act, shall be provided by:

(i) the director, for [projects] facilities administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for projects under Subsection (3)(a);

(iii) the local government, for projects exempt from the division's administration under Subsection (3)(b) or administered by This is the Place Foundation under Subsection (3)(c);

(iv) the state entity or local government designated by the State Building Board, for projects under Subsection (4); or

(v) the institution, for projects exempt from the division's administration under Subsection (5)(a).

(b) For the installation of art under Subsection (3)(d), the role of compliance agency shall be provided by the entity that is acting in this capacity for the balance of the project as provided in Subsection (6)(a).

(c) The local government acting as the compliance agency under Subsection (6)(a)(iii) may:

(i) only review plans and inspect construction to enforce the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act; and

(ii) charge a building permit fee of no more than the amount it could have charged if the land upon which the improvements are located were not owned by the state.

(d) (i) The use of state property and any improvements constructed on state property, including improvements constructed by nonstate entities, is not subject to the zoning authority of local governments as provided in Sections 10-9a-304 and 17-27a-304.

(ii) The state entity controlling the use of the state property shall consider any input received from the local government in determining how the property shall be used.

(7) Before construction may begin, the director shall review the design of projects exempted from the division's administration under Subsection (4) to determine if the design:

(a) complies with any restrictions placed on the project by the State Building Board; and

(b) is appropriate for the purpose and setting of the project.

(8) The director shall ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective.

(9) The director may expend appropriations for statewide projects from funds provided by the Legislature for those specific purposes and within guidelines established by the State Building Board.

(10) (a) The director, with the approval of the Office of Legislative Fiscal Analyst, shall develop standard forms to present capital development and capital improvement cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of Legislative Fiscal Analyst on the standard form.

(11) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, the director may:

(a) accelerate the design of projects funded by any appropriation act passed by the Legislature in its annual general session;

(b) use any unencumbered existing account balances to fund that design work; and

(c) reimburse those account balances from the amount funded for those projects when the appropriation act funding the project becomes effective.

(12) (a) The director, the director's designee, or the state entity to whom control has been designated under Subsection (4), shall notify in writing the elected representatives of local government entities directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding \$250,000, if:

(i) the nature of the project has been significantly altered since prior notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of either the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss these issues.

(13) (a) (i) Before beginning the construction of student housing on property owned by the state or a public institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (13)(a)(ii), if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(ii) Each notice under Subsection (13)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:

(A) the county in whose unincorporated area the privately owned residential property is located; or

(B) the municipality in whose boundaries the privately owned residential property is located.

(b) (i) Within 21 days after receiving the notice required by Subsection (13)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.

(ii) If a county or municipality requests a hearing under Subsection (13)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

Section 4. Section 63A-5-401 is amended to read:

63A-5-401. Division rules on the value of property bought, sold, or exchanged -- Exception.

(1) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if] If the division buys, sells, or exchanges real property, the division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.~~

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102.

(3) Subsection (1) does not apply to:

~~(a) the purchase, sale, or exchange of real property, or to an interest in real property [:(a) that is under a contract or other written agreement before May 5, 2008; or (b)] with a value of less than \$100,000, as estimated by the [state agency.] division; or~~

(b) a transfer of ownership or lease of vacant division-owned property, as defined in Section 63A-5a-102, at below fair market value under Chapter 5a, Division-Owned Real Property Act.

Section 5. Section 63A-5a-101 is enacted to read:

CHAPTER 5a. DIVISION-OWNED REAL PROPERTY ACT

Part 1. General Provisions

63A-5a-101. Title.

This chapter is known as the "Division-Owned Real Property Act."

Section 6. Section 63A-5a-102 is enacted to read:

63A-5a-102. Definitions.

As used in this chapter:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Board" means the State Building Board, created in Section 63A-5-101.

(3) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

(4) "Convey" means:

(a) to provide for a primary state agency's occupancy or use of vacant division-owned property; or

(b) to effect a transfer of ownership or lease of vacant division-owned property to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

(5) "Director" means the division director, appointed under Section 63A-5-203.

(6) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5-201.

(7) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

(8) "Local government entity" means a county, city, town, metro township, local district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

(9) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5-204(2)(a)(iv).

(10) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.

(11) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

(12) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

(13) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Subsection 63A-5-204(6); and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

(14) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(15) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

(16) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency has discontinued to occupy or use; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

(17) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Section 7. Section 63A-5a-103 is enacted to read:

63A-5a-103. Application of chapter.

(1) The provisions of this chapter, other than this section, do not apply to:

(a) a conveyance, lease, or disposal under Subsection 63A-5-204(2)(a)(x); or

(b) the division's disposal or lease of division-owned property with a value under \$100,000, as estimated by the division.

(2) Nothing in Subsection (1)(b) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Section 8. Section 63A-5a-104 is enacted to read:

63A-5a-104. Rules adopted by the division.

The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and

(2) define criteria that the director will consider in making a determination whether a proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

Section 9. Section 63A-5a-201 is enacted to read:

Part 2. Disposition of Vacant Division-Owned Property

63A-5a-201. Division authority with respect to vacant division-owned property -- Limitations.

(1) Subject to Section 63A-5a-206, the division may, as provided in this chapter:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property;

(b) effect a transfer of ownership or lease of vacant division-owned property to a secondary state agency, local government entity, public purpose nonprofit entity, or private party; or

(c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section 63A-5a-205.

(2) The division may not effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return unless:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

(3) (a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, as provided in this chapter, the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5a-205.

Section 10. Section 63A-5a-202 is enacted to read:

63A-5a-202. Notice required before division may convey division-owned property.

(1) Before the division may convey vacant division-owned property, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section 63F-1-701 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section 11. Section 63A-5a-203 is enacted to read:

63A-5a-203. Submitting a written proposal for vacant division-owned property.

(1) A person may submit to the division a written proposal:

(a) in response to the division's notice under Section 63A-5a-202; or

(b) with respect to vacant division-owned property as to which the division has not given notice under Section 63A-5a-202.

(2) The division is not required to consider a written proposal or provide notice under Section 63A-5a-202 if the director determines that the written proposal is not a qualified proposal.

(3) If a person submits a qualified proposal to the division under Subsection (1)(b):

(a) the division shall:

(i) give notice as provided in Section 63A-5a-202; and

(ii) treat the qualified proposal as though it were submitted in response to the notice; and

(b) the person may, within the time provided for the submission of written proposals, modify the qualified proposal to the extent necessary to address matters raised in the notice that were not addressed in the initial qualified proposal.

(4) A person who fails to submit a qualified proposal to the division within 60 days after the date of the notice under Section 63A-5a-202 may not be considered for the vacant division-owned property.

Section 12. Section 63A-5a-204 is enacted to read:

63A-5a-204. Priorities for vacant division-owned property -- Division to convey vacant division-owned property.

(1) (a) A state agency has priority for vacant division-owned property over a local government entity, a public purpose nonprofit entity, and a private party.

(b) A local government entity and a public purpose nonprofit entity have:

(i) priority for vacant division-owned property over a private party; and

(ii) between them the same priority for vacant division-owned property.

(2) If the division receives multiple timely qualified proposals from applicants with the highest and same priority, the division shall:

(a) notify the board of:

(i) the availability of the vacant division-owned property; and

(ii) the applicants with the highest and same priority that have submitted qualified proposals; and

(b) provide the board with a copy of the timely qualified proposals submitted by the applicants with the highest and same priority.

(3) Within 30 days after being notified under Subsection (2), the board shall:

(a) determine which applicant's qualified proposal is most likely to result in the highest and best public benefit; and

(b) notify the division of the board's decision under Subsection (3)(a).

(4) The division shall convey the vacant division-owned property to:

(a) the applicant with the highest priority under Subsection (1), if the division receives a timely qualified proposal from a single applicant with the highest priority; or

(b) the applicant whose qualified proposal was determined by the board under Subsection (3) to be most likely to result in the highest and best public benefit, if the division receives multiple timely qualified proposals from applicants with the highest and same priority.

(5) (a) If the division leases vacant division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:

(i) the municipality in which the vacant division-owned property is located, if the vacant division-owned property is within a municipality; or

(ii) the county in whose unincorporated area the vacant division-owned property is located, if the vacant division-owned property is not located within a municipality.

(b) Nothing in this chapter may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.

Section 13. Section 63A-5a-205 is enacted to read:

63A-5a-205. Referring vacant division-owned property to the Department of Transportation for auction.

(1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:

(a) (i) the division has provided notice under Section 63A-5a-202 with respect to the vacant division-owned property; and

(ii) the division receives no qualified proposals in response to the notice under Section 63A-5a-202;

(b) the director determines that:

(i) there is no reasonable likelihood that within the foreseeable future:

(A) a primary state agency will use or occupy the vacant division-owned property; or

(B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and

(ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;

(c) the director requests and receives a recommendation on the proposed public auction from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the public auction.

(2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same

manner that apply to a public auction of Department of Transportation property.

(3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.

(4) The division and the Department of Transportation shall coordinate together to:

(a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and

(b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.

(5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

Section 14. Section 63A-5a-206 is enacted to read:

63A-5a-206. State real property subject to right of first refusal.

(1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).

(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:

(i) comply with the requirements of Section 78B-6-520.3; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.

(2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsection 78B-6-521(2).

(b) If the original grantor or the original grantor's assignee accepts an offer for sale as provided in Subsection 78B-6-521(2)(a)(i), the division shall:

(i) sell the vacant division-owned property to the original grantor or the original grantor's assignee, as provided in Section 78B-6-521; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or the original grantor's assignee may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the

same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Section 15. Section 65A-4-1 is amended to read:

65A-4-1. Acquisition and disposition of land by state agencies.

(1) All state agencies may acquire land by gift, devise, bequest, exchange, compensation for public resource value loss, or in satisfaction of a debt and are authorized to sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise provided by law.

(2) The proceeds from the sale, lease, or other disposition of land shall go to the state agency using or holding the land unless:

(a) the governor or the Legislature order its deposit in the fund from which the state agency receives its appropriations; or

(b) the use or disposition of the proceeds is specified elsewhere in law.

(3) Subsections (1) and (2) do not apply to division-owned property, as defined in Section 63A-5a-102.

CHAPTER 196**H. B. 71**

Passed March 11, 2019
 Approved March 25, 2019
 Effective May 14, 2019

HEALTH EDUCATION AMENDMENTS

Chief Sponsor: Raymond P. Ward
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions regarding instruction in health.

Highlighted Provisions:

This bill:

- ▶ provides that health education instruction may include information about the medical characteristics, effectiveness, limitations, and risks of contraceptive methods or devices;
- ▶ reorganizes provisions related to instruction in health;
- ▶ requires the State Board of Education to make administrative rules; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-10-402, as last amended by Laws of Utah 2018, Chapter 224 and renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-402 is amended to read:**53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

~~[(b) "Local school board" means:]~~

~~[(i) a local board of education elected in accordance with Section 53G-4-201; or]~~

~~[(ii) a charter school governing board, as defined in Section 53G-5-102.]~~

(b) "LEA governing board" means a local school board or charter school governing board.

(c) "Parent" means a parent or legal guardian.

(d) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; and

(vi) the harmful effects of pornography.

~~[(b) (i) That instruction shall stress:]~~

(b) The state board shall make rules that, and instruction shall:

~~[(A)] (i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; ~~and~~~~

~~[(B)] (ii) stress personal skills that encourage individual choice of abstinence and fidelity[-];~~

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) The state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

~~[(ii) (A)] (e) (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.~~

~~[(B)] (ii) Subsection [(2)(b)(ii)(A)] (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.~~

~~[(e)–(i)] (f) The board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.~~

~~[(ii)] (g) [A local school] An LEA governing board may choose to adopt:~~

~~[(A)] (i) the instructional materials recommended under Subsection [(2)(e)(i)] (2)(f); or~~

~~[(B)] (ii) other instructional materials [as provided in board rule] in accordance with Subsection (2)(h).~~

~~[(iii)] The board rule made under Subsection (2)(e)(ii)(B) shall include, at a minimum:~~

~~[(A) that the materials adopted by a local school board under Subsection (2)(e)(ii)(B) shall be based upon recommendations of the school district's or charter school's Curriculum Materials Review Committee that comply with state law and board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:]~~

~~[(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;]~~

~~[(II) the advocacy of premarital or extramarital sexual activity; or]~~

~~[(III) the advocacy or encouragement of the use of contraceptive methods or devices;]~~

~~(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:~~

~~(i) ensure that the materials comply with state law and board rules;~~

~~(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and~~

~~[(B)] (iii) [that the adoption of] adopt the instructional materials [shall take place] in an open and regular meeting of the [local school] LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting[;].~~

~~[(C) provision for an appeal and review process of the local school board's decision; and]~~

~~[(D) provision for a report by the local school board to the board of the action taken and the~~

~~materials adopted by the local school board under Subsections (2)(e)(ii)(B) and (2)(c)(iii).]~~

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(4) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The board or [a local school] an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The board shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the board or [a local school] an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) [A local school] An LEA governing board and [a local school] an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) ~~[A local school]~~ An LEA governing board shall provide appropriate professional development for the ~~[local school]~~ LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) ~~[A local school]~~ An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist ~~[a local school]~~ an LEA governing board in providing the professional development required under Subsection (7)(b), the board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that ~~[a local school]~~ an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) ~~[A local school]~~ An LEA governing board shall review every two years:

(a) ~~[local school]~~ LEA governing board policies on instruction described in this section;

(b) for a local board of education of a school district, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the ~~[local school]~~ LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

CHAPTER 197**H. B. 79**

Passed March 6, 2019

Approved March 25, 2019

Effective May 14, 2019

**INTERLOCAL PROVISION
OF LAW ENFORCEMENT SERVICE**

Chief Sponsor: Mike Winder
 Senate Sponsor: Daniel McCay
 Cosponsors: Cheryl K. Acton
 Kim F. Coleman
 James A. Dunnigan
 Stephen G. Handy
 Merrill F. Nelson
 Val K. Potter
 Marie H. Poulson
 Lawanna Shurtliff
 Elizabeth Weight
 Logan Wilde

LONG TITLE**General Description:**

This bill addresses an interlocal agreement between a county and one or more municipalities to provide law enforcement service.

Highlighted Provisions:

This bill:

- ▶ requires that an interlocal agreement between a county and one or more municipalities to provide law enforcement service requires or appoints a certain individual to provide or direct law enforcement service, depending on the county classification; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-13-202, as last amended by Laws of Utah 2018, Chapter 424

17-22-2, as last amended by Laws of Utah 2017, Chapter 459

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-202 is amended to read:

11-13-202. Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services -- Effective date of agreement -- Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

- (a) for joint or cooperative action;
- (b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services;

(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

(f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until [it has been approved] each public agency that is a party to the agreement approves the agreement, as provided in Section 11-13-202.5[~~, by each public agency that is a party to it~~].

(3) (a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

- (i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and
- (ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) [An] In an interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county [shall require], each county and municipality that is a party to the agreement shall ensure that the agreement requires:

(a) in a county of the second through sixth class, the county sheriff to provide or direct the law enforcement service provided under the agreement [to be provided by or under the direction of the county sheriff.]; or

(b) in a county of the first class, the chief executive for law enforcement services to be appointed to provide or direct the law enforcement service provided under the agreement.

Section 2. Section 17-22-2 is amended to read:**17-22-2. Sheriff -- General duties.**

(1) The sheriff shall:

- (a) preserve the peace;
- (b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or

when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) create a child protection unit, as defined in Section 62A-4a-101, if the sheriff determines that creation of a child protection unit is warranted; and

(t) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police local district" has the same meaning as defined in Section 17-30-3.

(b) [A] Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police local district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff.

(c) [If] Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

CHAPTER 198**H. B. 90**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**OCCUPATIONAL
 LICENSING MODIFICATIONS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Karen Mayne
 Cosponsors: Walt Brooks
 Brad M. Daw
 Sandra Hollins
 Lee B. Perry
 Adam Robertson
 Christine F. Watkins
 Mark A. Wheatley
 Mike Winder

LONG TITLE**General Description:**

This bill modifies the Division of Occupational and Professional Licensing (DOPL) Act.

Highlighted Provisions:

This bill:

- ▶ provides for an individual with a criminal conviction to apply to the Division of Occupational and Professional Licensing for a determination of whether the individual's criminal history would disqualify the individual from receiving a specific occupational or professional license if all other requirements were met;
- ▶ describes the contents of such an application;
- ▶ describes DOPL's responsibilities in responding to such an application; and
- ▶ modifies the definition of "unprofessional conduct."

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-1-501, as last amended by Laws of Utah 2018, Chapter 318

ENACTS:

58-1-310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-310 is enacted to read:**58-1-310. Application for division determination regarding criminal conviction.**

(1) An individual with a criminal record may apply to the division at any time for a determination of whether the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession regulated by this title if the individual has completed or were to complete all other licensing requirements for the occupation or profession.

(2) To receive a determination, the individual shall submit the application described in this section in a form prescribed by the division and shall include information regarding:

(a) the individual's complete criminal conviction history;

(b) what occupational or professional license the individual is interested in seeking;

(c) what licensing requirements have been met by the individual;

(d) what licensing requirements have not yet been met by the individual; and

(e) any other information required by the division as established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The division may charge the individual a fee, established in accordance with Section 63J-1-504, to submit an application under this section.

(4) Within 30 days of the day on which the division receives a completed application from an individual for a determination under this section, based on the statutory authority and administrative rules governing the occupation or profession at the time of the application, the division shall provide a written determination to the individual of whether the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession regulated by this title if the individual were to complete all other licensing requirements.

(5) If the individual's criminal record would disqualify the individual from obtaining a license in an occupation or profession regulated by this title, the written determination described in Subsection (4) may also include information regarding additional steps the individual could take to qualify for licensure.

Section 2. Section 58-1-501 is amended to read:**58-1-501. Unlawful and unprofessional conduct.**

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any occupation or profession requiring licensure under this title if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b) (i) impersonating another licensee or practicing an occupation or profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action,

practicing the same occupation or profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any occupation or profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission; or

(f) (i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title.

(2) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;

(b) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a [reasonable] substantial relationship to the licensee's or

applicant's ability to safely or competently practice the occupation or profession;

(d) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(e) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the occupation or profession;

(f) practicing or attempting to practice an occupation or profession regulated under this title despite being physically or mentally unfit to do so;

(g) practicing or attempting to practice an occupation or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(h) practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(i) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(j) practicing or attempting to practice an occupation or profession regulated under this title beyond the scope of the licensee's license;

(k) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(l) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(m) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(n) violating a provision of Section 58-1-501.5; or

(o) violating the terms of an order governing a license.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

CHAPTER 199**H. B. 95**

Passed February 14, 2019

Approved March 25, 2019

Effective May 14, 2019

BAD CHECK FEE AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to dishonored checks.

Highlighted Provisions:

This bill:

- ▶ increases the amount of collection costs for which the issuer of a dishonored check is liable; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-15-1, as last amended by Laws of Utah 2017, Chapter 198

7-15-2, as last amended by Laws of Utah 2017, Chapter 198

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-15-1 is amended to read:**7-15-1. Definitions -- Civil liability of issuer -- Notice of action -- Collection costs -- Exemptions.**

(1) As used in this chapter:

(a) "Check" means a payment instrument on a depository institution including a:

- (i) check;
- (ii) draft;
- (iii) order; or
- (iv) other instrument.

(b) "Issuer" means a person who makes, draws, signs, or issues a check, whether as corporate agent or otherwise, for the purpose of:

- (i) obtaining from any person any money, merchandise, property, or other thing of value; or
- (ii) paying for any service, wages, salary, or rent.
- (c) "Mailed" means the day that a notice is properly deposited in the United States mail.

(2) (a) An issuer of a check is liable to the holder of the check if:

- (i) the check:
 - (A) is not honored upon presentment; and

(B) is marked "refer to maker";

(ii) the account upon which the check is made or drawn:

- (A) does not exist;
- (B) has been closed; or

(C) does not have sufficient funds or sufficient credit for payment in full of the check; or

(iii) (A) the check is issued in partial or complete fulfillment of a valid and legally binding obligation; and

(B) the issuer stops payment on the check with the intent to:

- (I) fraudulently defeat a possessory lien; or
- (II) otherwise defraud the holder of the check.

(b) If an issuer of a check is liable under Subsection (2)(a), the issuer is liable for:

- (i) the check amount; and
- (ii) a service charge of \$20.

(3) (a) The holder of a check that has been dishonored may:

(i) give written or oral notice of dishonor to the issuer of the check; and

(ii) waive all or part of the service charge imposed under Subsection (2)(b).

(b) Notwithstanding Subsection (2)(b), a holder of a check that has been dishonored may not collect and the issuer is not liable for the service charge imposed under Subsection (2)(b) if:

- (i) the holder redeposits the check; and
- (ii) that check is honored.

(4) If the issuer does not pay the amount owed under Subsection (2)(b) within 15 calendar days from the day on which the notice required under Subsection (5) is mailed, the issuer is liable for:

- (a) the amount owed under Subsection (2)(b); and
- (b) collection costs not to exceed ~~[\$20]~~ \$35.

(5) (a) A holder shall provide written notice to an issuer before:

(i) charging collection costs under Subsection (4) in addition to the amount owed under Subsection (2)(b); or

(ii) commencing an action based upon this section.

(b) The written notice required under Subsection (5)(a) shall notify the issuer of the dishonored check that:

(i) if the amount owed under Subsection (2)(b) is not paid within 15 calendar days from the day on which the notice is mailed, the issuer is liable for:

- (A) the amount owed under Subsection (2)(b); and
- (B) collection costs under Subsection (4); and

(ii) the holder may commence a civil action if the issuer does not pay to the holder the amount owed

under Subsection (4) within 30 calendar days from the day on which the notice is mailed.

(6) (a) Except as provided in Section 7-23-401, if the issuer has not paid the holder the amounts owed under Subsection (4) within 30 calendar days from the day on which the notice required by Subsection (5) is mailed, the holder may offer to not commence a civil action under this section if the issuer pays the holder:

- (i) the amount owed under Subsection (2)(b);
- (ii) the collection costs under Subsection (4);
- (iii) an amount that:

(A) is equal to the greater of:

- (I) \$50; or
- (II) triple the check amount; and

(B) does not exceed the check amount plus \$250; and

(iv) if the holder retains an attorney to recover on the dishonored check, reasonable attorney's fees not to exceed \$50.

(b) (i) Notwithstanding Subsection (6)(a), all amounts charged or collected under Subsection (6)(a)(iii) shall be paid to and be the property of the original payee of the check.

(ii) A person who is not the original payee may not retain any amounts charged or collected under Subsection (6)(a)(iii).

(iii) The original payee of a check may not contract for a person to retain any amounts charged or collected under Subsection (6)(a)(iii).

(7) (a) A holder may not commence a civil action under this section unless the issuer fails to pay the amounts owed:

- (i) under Subsection (4); and
- (ii) within 30 calendar days from the day on which the notice required by Subsection (5) is mailed.

(b) Subject to Subsections (7)(c) and (d) and except as provided in Section 7-23-401, in a civil action the issuer of the check is liable to the holder for:

- (i) the amount owed under Subsection (2)(b);
 - (ii) the collection costs under Subsection (4);
 - (iii) interest;
 - (iv) court costs;
 - (v) reasonable attorney fees; and
 - (vi) damages:
- (A) equal to the greater of:
- (I) \$100; or
 - (II) triple the check amount; and
- (B) not to exceed the check amount plus \$500.

(c) If an issuer is held liable under Subsection (7)(b), notwithstanding Subsection (7)(b), a court may waive any amount owed under Subsections (7)(b)(iii) through (vi) upon a finding of good cause.

(d) If a holder of a check violates this section by commencing a civil action under this section before 31 calendar days from the day on which the notice required by Subsection (5) is mailed, an issuer may not be held liable for an amount in excess of the check amount.

(e) (i) Notwithstanding Subsection (7)(b), all amounts charged or collected under Subsection (7)(b)(vi) shall be paid to and be the property of the original payee of the check.

(ii) A person who is not the original payee may not retain any amounts charged or collected under Subsection (7)(b)(vi).

(iii) The original payee of a check may not contract for a person to retain any amounts charged or collected under Subsection (7)(b)(vi).

(8) This section may not be construed to prohibit the holder of the check from seeking relief under any other applicable statute or cause of action.

(9) (a) Notwithstanding the other provisions of this section, a holder of a check is exempt from this section if the holder is:

- (i) a depository institution; or
- (ii) a person that receives a payment on behalf of a depository institution.

(b) A holder exempt under Subsection (9)(a) may contract with an issuer for the collection of fees or charges for the dishonor of a check.

Section 2. Section 7-15-2 is amended to read:

7-15-2. Notice -- Form.

(1) (a) "Notice" means notice given to the issuer of a check either orally or in writing.

(b) Written notice may be given by United States mail that is:

- (i) first class; and
- (ii) postage prepaid.

(c) Notwithstanding Subsection (1)(b), written notice is conclusively presumed to have been given when the notice is:

- (i) properly deposited in the United States mail;
- (ii) postage prepaid;
- (iii) certified or registered mail;
- (iv) return receipt requested; and
- (v) addressed to the signer at the signer's:
 - (A) address as it appears on the check; or
 - (B) last-known address.

(2) Written notice under Subsection 7-15-1(5) shall take substantially the following form:

"Date: ____

To: _____

You are hereby notified that the check(s) described below issued by you has (have) been returned to us unpaid:

Check date: _____

Check number: _____

Originating institution: _____

Amount: _____

Reason for dishonor (marked on check): _____

In accordance with Section 7-15-1, Utah Code Annotated, you are liable for this check together with a service charge of \$20, which must be paid to the undersigned.

If you do not pay the check amount and the \$20 service charge within 15 calendar days from the day on which this notice was mailed, you are required to pay within 30 calendar days from the day on which this notice is mailed:

- (1) the check amount;
- (2) the \$20 service charge; and
- (3) collection costs not to exceed [~~\$20~~] \$35.

If you do not pay the check amount, the \$20 service charge, and the collection costs within 30 calendar days from the day on which this notice is mailed, in accordance with Section 7-15-1, Utah Code Annotated, an appropriate civil legal action may be commenced against you for:

- (1) the check amount;
- (2) interest;
- (3) court costs;
- (4) attorneys' fees;
- (5) actual costs of collection as provided by law; and
- (6) damages in an amount equal to the greater of \$100 or triple the check amount, except:
 - (a) that damages recovered under this Subsection (6) may not exceed the check amount by more than \$500; and
 - (b) you are not liable for these damages for a check used to obtain a deferred deposit loan.

In addition, the criminal code provides in Section 76-6-505, Utah Code Annotated, that any person who issues or passes a check for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check.

The civil action referred to in this notice does not preclude the right to prosecute under the criminal code of the state.

(Signed) _____

Name of Holder: _____

Address of Holder: _____

Telephone Number: _____

(3) Notwithstanding the other provisions of this section, a holder exempt under Subsection 7-15-1(9) is exempt from this section.

CHAPTER 200**H. B. 108**

Passed February 22, 2019

Approved March 25, 2019

Effective May 14, 2019

HUMAN TRAFFICKING REVISIONS

Chief Sponsor: Angela Romero
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill clarifies that children who are engaged in commercial sex should be treated as victims.

Highlighted Provisions:

This bill:

- ▶ provides that children engaged in commercial sex or sexual solicitation should be treated as victims;
- ▶ requires law enforcement officers who encounter a child engaged in commercial sex or sexual solicitation to conduct an investigation into whether the child is being trafficked;
- ▶ incorporates human trafficking of a child into the racketeering statute; and
- ▶ creates a pathway for human trafficking victims to have adjudications for crimes committed while being trafficked vacated.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-4-401, as last amended by Laws of Utah 2018, Chapter 394

76-10-1302, as last amended by Laws of Utah 2017, Chapter 433

76-10-1313, as last amended by Laws of Utah 2018, Chapter 308

76-10-1602, as last amended by Laws of Utah 2014, Chapter 167

ENACTS:

78A-6-1114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-4-401 is amended to read:**76-4-401. Enticing a minor -- Elements -- Penalties.**

(1) As used in this section:

(a) "Minor" means a person who is under the age of 18.

(b) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or other electronic communication device by addressing the communication to the person's telephone number or

other electronic communication access code or number.

(2) (a) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in any sexual activity which is a violation of state criminal law.

(b) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to:

(i) initiate contact with a minor or a person the actor believes to be a minor; and

(ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in any sexual activity which is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection (2)(a) or (b) is punishable as follows:

(a) enticement to engage in sexual activity which would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);

(b) enticement to engage in sexual activity which would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity which would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity which would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity which would be a class B misdemeanor for the actor is a class C misdemeanor.

(5) (a) When a person who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) Subsection 76-5-403(2), forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) Section 76-5-308.5, human trafficking of a child;

~~(xii)~~ (xiii) any offense in any other state or federal jurisdiction which constitutes or would constitute a crime in Subsections (5)(b)(i) through ~~(xi)~~ (xii); or

~~(xiii)~~ (xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through ~~(xii)~~ (xiii).

Section 2. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An individual is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) or Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Child" means the same as that term is defined in Section 76-10-1301.

(ii) "Child engaged in [~~prostitution~~] commercial sex" means a child who engages in conduct described in Subsection (1).

(iii) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(iv) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(v) "Receiving center" means the same as that term is defined in Section 62A-7-101.

(b) Upon encountering a child engaged in [~~prostitution~~] commercial sex or sexual solicitation, a law enforcement officer shall:

(i) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(ii) refer the child to the division;

(iii) [~~if an arrest is made,~~] bring the child to a receiving center, if available; and

(iv) contact the child's parent or guardian, if practicable.

(c) When law enforcement [~~has referred the~~] refers a child to the division under Subsection (3)(b)(i) [~~-(i)~~] the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services; ~~and~~.

~~(iii)~~ (4) [~~the~~] A child may not be subjected to delinquency proceedings under Title 62A, Chapter 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704.

Section 3. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) An individual is guilty of sexual solicitation when the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) (a) Sexual solicitation is a class A misdemeanor, except under Subsection (4).

(b) An individual who is convicted a second time under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

(5) If an individual commits an act of sexual solicitation and the individual solicited is a child, the offense is a third degree felony if the solicitation does not amount to:

(a) a violation of Section 76-5-308, human trafficking or human smuggling, ~~a violation of Section 76-5-308,];~~ or

(b) a violation of Section 76-5-310, aggravated human trafficking or aggravated human smuggling, ~~a violation of Section 76-5-310].~~

(6) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-10-1302(3)(b). A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

Section 4. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred

within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(ccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 5. Section 78A-6-1114 is enacted to read:

78A-6-1114. Vacatur of convictions.

(1) (a) A person who has been adjudicated under this chapter may petition the court for vacatur of the person's juvenile court record and any related records in the custody of the state agency if:

(i) the petitioner was adjudicated under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation; or

(ii) the adjudication was based on conduct the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition, the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(C) notify the county attorney or district attorney and the agency with records the petitioner is asking the court to vacate of the date of the hearing.

(ii) The court shall provide a victim with the opportunity to request notice of a petition for vacatur. A victim shall receive notice of a petition for vacatur at least 30 days prior to the hearing if, prior to the entry of a vacatur order, the victim or, in the case of a child or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered. The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(2) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) If the court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the court shall grant vacatur. If the court does not find sufficient evidence, the court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, prostitution, Section 76-10-1304, aiding prostitution, or Section 76-10-1313, sex solicitation, the court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the court shall order sealed all of the petitioner's records under the

control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the petitioner's adjudicated juvenile court cases, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005.

(3) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials. To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the petitioner's adjudicated juvenile court cases.

(4) Upon the entry of the order, the proceedings in the petitioner's case shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter. Inspection of the records may thereafter only be permitted by the court upon petition by the person who is the subject of the records, and only to persons named in the petition.

(5) The court may not vacate a juvenile court record if the record contains an adjudication of:

- (a) Section 76-5-202, aggravated murder; or
- (b) Section 76-5-203, murder.

CHAPTER 201**H. B. 114**

Passed March 7, 2019

Approved March 25, 2019

Effective May 14, 2019

SELF-DEFENSE AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill clarifies that an individual is not required to retreat from an aggressor.

Highlighted Provisions:

This bill:

- ▶ provides that an individual is not required to retreat from an aggressor;
- ▶ provides that an individual's failure to retreat is not relevant when determining whether the individual acted reasonably; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-402, as last amended by Laws of Utah 2018, Chapter 324

76-10-506, as last amended by Laws of Utah 2014, Chapter 248

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-2-402 is amended to read:**76-2-402. Force in defense of person -- Forcible felony defined.**

(1) As used in this section:

(a) "Forcible felony" means aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.

(b) "Forcible felony" includes any other felony offense that involves the use of force or violence against an individual that poses a substantial danger of death or serious bodily injury.

(c) "Forcible felony" does not include burglary of a vehicle, as defined in Section 76-6-204, unless the vehicle is occupied at the time unlawful entry is made or attempted.

(1) (2) (a) [A person] An individual is justified in threatening or using force against another individual when and to the extent that the [person]

individual reasonably believes that force or a threat of force is necessary to defend the [person or a third person against another person's] individual or another individual against the imminent use of unlawful force.

(b) [A person] An individual is justified in using force intended or likely to cause death or serious bodily injury only if the [person] individual reasonably believes that force is necessary to prevent death or serious bodily injury to the [person or a third person as a result of another person's] individual or another individual as a result of imminent use of unlawful force, or to prevent the commission of a forcible felony.

[(2)] (3) (a) [A person] An individual is not justified in using force under the circumstances specified in Subsection [(1)] (2) if the [person] individual:

(i) initially provokes the use of force against [the person] another individual with the intent to use force as an excuse to inflict bodily harm upon the [assailant] other individual;

(ii) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony, unless the use of force is a reasonable response to factors unrelated to the commission, attempted commission, or fleeing after the commission of that felony; or

(iii) was the aggressor or was engaged in a combat by agreement, unless the [person] individual withdraws from the encounter and effectively communicates to the other [person his intent to do so] individual the intent to withdraw from the encounter and, notwithstanding, the other [person] individual continues or threatens to continue the use of unlawful force.

(b) For purposes of Subsection [(2)] (3)(a)(iii) the following do not, [by themselves] alone, constitute "combat by agreement":

(i) voluntarily entering into or remaining in an ongoing relationship; or

(ii) entering or remaining in a place where one has a legal right to be.

[(3) A person does not have a duty to retreat from the force or threatened force described in Subsection (1) in a place where that person has lawfully entered or remained, except as provided in Subsection (2)(a)(iii).]

[(4) (a) For purposes of this section, a forcible felony includes aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping, and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person, and arson, robbery, and burglary as defined in Title 76, Chapter 6, Offenses Against Property.]

[(b) Any other felony offense which involves the use of force or violence against a person so as to create a substantial danger of death or serious bodily injury also constitutes a forcible felony.]

~~[(c) Burglary of a vehicle, defined in Section 76-6-204, does not constitute a forcible felony except when the vehicle is occupied at the time unlawful entry is made or attempted.]~~

(4) Except as provided in Subsection (3)(a)(iii):

(a) an individual does not have a duty to retreat from the force or threatened force described in Subsection (2) in a place where that individual has lawfully entered or remained; and

(b) the failure of an individual to retreat under the provisions of Subsection (4)(a) is not a relevant factor in determining whether the individual who used or threatened force acted reasonably.

(5) In determining imminence or reasonableness under Subsection ~~[(4)]~~ (2), the trier of fact may consider~~[, but is not limited to, any of the following factors]:~~

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the unlawful force would result in death or serious bodily injury;

(d) the ~~other's~~ other individual's prior violent acts or violent propensities; ~~and]~~

(e) any patterns of abuse or violence in the parties' relationship~~[-]; and~~

(f) any other relevant factors.

Section 2. Section 76-10-506 is amended to read:

76-10-506. Threatening with or using dangerous weapon in fight or quarrel.

(1) As used in this section:

(a) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

(i) the character of the instrument, object, or thing;

(ii) the character of the wound produced, if any; and

(iii) the manner in which the instrument, object, or thing was exhibited or used.

(b) "Threatening manner" does not include:

(i) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

(ii) informing another of the actor's possession of a deadly weapon in order to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection ~~[76-2-402(2)(a)]~~ 76-2-402(3)(a).

(2) Except as otherwise provided in Section 76-2-402 and for ~~[those persons]~~ an individual described in Section 76-10-503, ~~[a person]~~ an individual who, in the presence of two or more ~~[persons]~~ individuals, and not amounting to a violation of Section 76-5-103, draws or exhibits a dangerous weapon in an angry and threatening manner or unlawfully uses a dangerous weapon in a fight or quarrel is guilty of a class A misdemeanor.

(3) This section does not apply to ~~[a person]~~ an individual who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

(a) threatens the use of a dangerous weapon; or

(b) draws or exhibits a dangerous weapon.

(4) This section does not apply to ~~[a person]~~ an individual listed in Subsections 76-10-523(1)(a) through (e) in performance of the ~~[person's]~~ individual's duties.

CHAPTER 202**H. B. 118**

Passed February 28, 2019

Approved March 25, 2019

Effective May 14, 2019

**INCENTIVES FOR STATEWIDE
ASSESSMENT PERFORMANCE**

Chief Sponsor: Mike Winder

Senate Sponsor: Keith Grover

Cosponsors: Melissa G. Ballard

Steve Eliason

Dan N. Johnson

Bradley G. Last

Lee B. Perry

Marie H. Poulson

Susan Pulsipher

Steve Waldrip

Christine F. Watkins

LONG TITLE**General Description:**

This bill amends provisions related to the use of student assessments.

Highlighted Provisions:

This bill:

- ▶ allows a teacher to use a student's score on certain assessments to improve the student's academic grade or demonstrate the student's competency;
- ▶ prohibits a local education agency from providing a nonacademic reward to a student for taking certain assessments; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-4-303, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-4-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-4-305, as renumbered and amended by Laws of Utah 2018, Chapter 1

53G-6-803, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-303 is amended to read:**53E-4-303. Utah standards assessments -- Administration -- Review committee.**

(1) As used in this section, "computer adaptive assessment" means an assessment that measures the range of a student's ability by adapting to the student's responses, selecting more difficult or less difficult questions based on the student's responses.

(2) The board shall:

(a) adopt a standards assessment that:

(i) measures a student's proficiency in:

(A) mathematics for students in each of grades 3 through 8;

(B) English language arts for students in each of grades 3 through 8;

(C) science for students in each of grades 4 through 8; and

(D) writing for students in at least grades 5 and 8; and

(ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and

(b) ensure that an assessment described in Subsection (2)(a) is:

(i) a criterion referenced assessment;

(ii) administered online;

(iii) aligned with the core standards for Utah public schools; and

(iv) adaptable to competency-based education as defined in Section 53F-5-501.

(3) A school district or charter school shall annually administer the standards assessment adopted by the board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).

(4) ~~[A]~~ (a) Except as provided in Subsection (4)(b), a student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:

~~[(a)]~~ (i) the student's academic grade for a course; or

~~[(b)]~~ (ii) whether the student may advance to the next grade level.

(b) A teacher may use a student's score on the standards assessment adopted under Subsection (2) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.

(5) (a) The board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.

(b) The committee established in Subsection (5)(a) shall include the following parent members:

(i) five members appointed by the chair of the board;

(ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and

(iii) five members appointed by the president of the Senate or the president's designee.

(c) The board shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (5)(b) is four years.

(e) The chair of the board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

Section 2. Section 53E-4-304 is amended to read:

53E-4-304. High school assessments.

(1) The board shall adopt a high school assessment that:

(a) is predictive of a student's college readiness as measured by the college readiness assessment described in Section 53E-4-305; and

(b) provides a growth score for a student from grade 9 to 10.

(2) A school district or charter school shall annually administer the high school assessment adopted by the board under Subsection (1) to all students in grades 9 and 10.

(3) A teacher may use a student's score on the high school assessment adopted under Subsection (1) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.

Section 3. Section 53E-4-305 is amended to read:

53E-4-305. College readiness assessments.

(1) The Legislature recognizes the need for the board to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.

(2) The board shall adopt a college readiness assessment for secondary students that:

(a) is the college readiness assessment most commonly submitted to local universities; and

(b) may include:

(i) the Armed Services Vocational Aptitude Battery; or

(ii) a battery of assessments that are predictive of success in higher education.

(3) (a) Except as provided in Subsection (3)(b), a school district or charter school shall annually administer the college readiness assessment adopted under Subsection (2) to all students in grade 11.

(b) A student with an IEP may take an appropriate college readiness assessment other than the assessment adopted by the board under Subsection (2), as determined by the student's IEP.

(4) A teacher may use a student's score on the college readiness assessment adopted under Subsection (2) to improve the student's academic

grade for or demonstrate the student's competency within a relevant course.

[(4)] (5) In accordance with Section 53F-4-202, the board shall contract with a provider to provide an online college readiness diagnostic tool.

Section 4. Section 53G-6-803 is amended to read:

53G-6-803. Parental right to academic accommodations.

(1) (a) A student's parent or guardian is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent or guardian. As such, a student's parent or guardian has the right to reasonable academic accommodations from the student's LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent or guardian as a user of the public education system.

(d) An accommodation under this section may only be provided if the accommodation is:

(i) consistent with federal law; and

(ii) consistent with a student's IEP if the student already has an IEP.

(2) An LEA shall reasonably accommodate a parent's or guardian's written request to retain a student in kindergarten through grade 8 on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.

(3) An LEA shall reasonably accommodate a parent's or guardian's initial selection of a teacher or request for a change of teacher.

(4) An LEA shall reasonably accommodate the request of a student's parent or guardian to visit and observe any class the student attends.

(5) Notwithstanding Part 2, Compulsory Education, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:

(a) the parent or guardian submits a written statement at least one school day before the scheduled absence; and

(b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.

(6) (a) An LEA shall reasonably accommodate a parent's or guardian's written request to place a student in a specialized class, a specialized program, or an advanced course.

(b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).

(7) Consistent with Section 53E-4-204, which requires the State Board of Education to establish

graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit ~~towards~~ toward high school graduation without completing a course in school by:

- (a) testing out of the course; or
- (b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent's or guardian's request to meet with a teacher at a mutually agreeable time if the parent or guardian is unable to attend a regularly scheduled parent teacher conference.

(9) (a) At the request of a student's parent or guardian, an LEA shall excuse a student from taking an assessment that:

- (i) is federally mandated;
- (ii) is mandated by the state under this public education code; or
- (iii) requires the use of:
 - (A) a state assessment system; or
 - (B) software that is provided or paid for by the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

(i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:

- (A) does not place an undue burden on a parent or guardian; and
- (B) may be completed online; and
- (ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school ~~grading~~ accountability or employee evaluations due to a student not taking ~~a test~~ an assessment under Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the State Board of Education under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the State Board of Education under Subsection (9)(b); and

(iii) may not ~~reward~~ provide a nonacademic reward to a student for taking an assessment described in Subsection (9)(a).

(d) The State Board of Education shall:

(i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and

(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53G-8-204; and

(ii) a parent's or guardian's signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent or guardian of a student's violation of a school's discipline and conduct policy and allow a parent or guardian to respond to the notice in accordance with Chapter 8, Part 2, School Discipline and Conduct Plans.

CHAPTER 203**H. B. 119**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**INITIATIVES, REFERENDA,
 AND OTHER POLITICAL ACTIVITIES**

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to initiatives, referenda, and political activities of public entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the publication of a proposition information pamphlet to inform voters of arguments for and against proposed and pending local initiatives and referenda;
- ▶ amends provisions relating to a local voter information pamphlet;
- ▶ enacts provisions for holding a public hearing to discuss and present arguments relating to a proposed or pending local initiative or referendum;
- ▶ requires the lieutenant governor to create instructional materials regarding local initiatives and referenda;
- ▶ modifies requirements relating to local initiatives and referenda, including:
 - petition, petition circulation, and petition signature requirements;
 - timelines; and
 - appeals and other challenges;
- ▶ enacts provisions relating to determining whether a proposed local initiative or referendum is legally referable to voters;
- ▶ amends provisions regarding the use of email, and the expenditure of public funds, for political purposes relating to proposed and pending initiatives and referenda;
- ▶ requires certain municipalities to establish voter participation areas;
- ▶ modifies signature requirements for a local initiative or referendum;
- ▶ establishes procedures and requirements relating to a referendum for a local land use law;
- ▶ modifies a referendum petition and signature sheets for a local referendum;
- ▶ amends provisions relating to unlawful verification of a local referendum packet;
- ▶ modifies signature submission requirements, and signature removal procedures and requirements, relating to a local referendum;
- ▶ amends provisions regarding the use of email, and the expenditure of public funds, for political purposes relating to proposed and pending local initiatives and referenda;
- ▶ regulates the dissemination of information regarding a proposed or pending initiative or referendum by a county or municipality; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.
 This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 11-14-301, as last amended by Laws of Utah 2018, Chapter 284
- 20A-7-101, as last amended by Laws of Utah 2017, Chapter 291
- 20A-7-402, as last amended by Laws of Utah 2017, Chapters 91, 147, and 291
- 20A-7-501, as last amended by Laws of Utah 2016, Chapter 176
- 20A-7-502, as last amended by Laws of Utah 2017, Chapter 291
- 20A-7-502.5, as last amended by Laws of Utah 2017, Chapter 291
- 20A-7-504, as last amended by Laws of Utah 2016, Chapter 365
- 20A-7-505, as last amended by Laws of Utah 2012, Chapter 72
- 20A-7-506, as last amended by Laws of Utah 2012, Chapter 72
- 20A-7-506.3, as last amended by Laws of Utah 2011, Chapter 17
- 20A-7-507, as last amended by Laws of Utah 2011, Chapter 17
- 20A-7-508, as last amended by Laws of Utah 2017, Chapter 291
- 20A-7-509, as last amended by Laws of Utah 2009, Chapter 202
- 20A-7-510, as last amended by Laws of Utah 2010, Chapter 367
- 20A-7-512, as last amended by Laws of Utah 2013, Chapter 253
- 20A-7-513, as last amended by Laws of Utah 2017, Chapter 291
- 20A-7-601, as last amended by Laws of Utah 2016, Chapter 365
- 20A-7-602, as last amended by Laws of Utah 2016, Chapter 365
- 20A-7-602.5, as enacted by Laws of Utah 2014, Chapter 364
- 20A-7-603, as last amended by Laws of Utah 2016, Chapter 365
- 20A-7-604, as last amended by Laws of Utah 2016, Chapter 365
- 20A-7-605, as last amended by Laws of Utah 2012, Chapter 72
- 20A-7-606.3, as last amended by Laws of Utah 2011, Chapter 17
- 20A-7-607, as last amended by Laws of Utah 2014, Chapter 396
- 20A-7-608, as last amended by Laws of Utah 2008, Chapter 315
- 20A-7-609.5, as enacted by Laws of Utah 2014, Chapter 396
- 20A-7-610, as last amended by Laws of Utah 2010, Chapter 367
- 20A-7-612, as last amended by Laws of Utah 2001, Chapter 20
- 20A-7-613, as last amended by Laws of Utah 2016, Chapters 350, 365, and 367
- 20A-11-1202, as last amended by Laws of Utah 2017, Chapter 68

20A-11-1203, as last amended by Laws of Utah 2015, Chapter 435
 20A-11-1205, as last amended by Laws of Utah 2018, Chapter 44
 20A-11-1206, as enacted by Laws of Utah 2015, Chapter 435
 63I-2-220, as last amended by Laws of Utah 2018, Chapters 187 and 458

ENACTS:

20A-7-401.3, Utah Code Annotated 1953
 20A-7-401.5, Utah Code Annotated 1953
 20A-7-405, Utah Code Annotated 1953
 20A-7-406, Utah Code Annotated 1953
 20A-7-407, Utah Code Annotated 1953
 20A-7-502.7, Utah Code Annotated 1953
 20A-7-602.7, Utah Code Annotated 1953
 20A-7-602.8, Utah Code Annotated 1953 Utah Code Sections Affected by Revisor Instructions:
 20A-7-407, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

20A-7-402, as last amended by Laws of Utah 2017, Chapters 91, 147, and 291

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-301 is amended to read:**11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.**

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602 ~~[and Subsection 20A-7-601(3)(a)]~~, with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as

determined by the individual or body that holds the executive powers of the local political subdivision.

(c) ~~[A]~~ For a bond described in this section that is approved by voters on or after May 8, 2002, but before May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is made to ~~[the Supreme Court]~~ a court;

(ii) ~~[the Supreme Court]~~ a court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) For a bond described in this section that was approved by voters on or after May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends:

(i) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is not legally referable to voters, the later of:

(A) the day on which the county, city, town, or metro township provides the notice described in Subsection 20A-7-602.7(1)(b)(ii); or

(B) if a sponsor appeals, under Subsection 20A-7-602.7(4), the day on which a court decision that the proposed referendum is not legally referable to voters becomes final; or

(ii) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is legally referable to voters, the later of:

(A) the day on which the local clerk determines, under Section 20A-7-607, that the number of certified names is insufficient for the proposed referendum to appear on the ballot; or

(B) if the local clerk determines, under Section 20A-7-607, that the number of certified names is sufficient for the proposed referendum to appear on the ballot, the day on which the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

~~[(d)]~~ (e) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

~~[(e)]~~ (f) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2)

and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

~~[(4)]~~ (g) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an

amount within the applicable limitation at the time the bonds are issued.

(7) (a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Section 2. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(5);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(9) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, or a comprehensive zoning ordinance or resolution.

(b) “Land use law” does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

~~[(9)]~~ (10) “Legal signatures” means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

~~[(10)]~~ (11) “Legal voter” means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(12) “Legally referable to voters” means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

~~[(11)]~~ (13) “Local attorney” means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

~~[(12)]~~ (14) “Local clerk” means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

~~[(13)]~~ (15) (a) “Local law” includes:

(i) an ordinance;

(ii) a resolution;

~~[(iii) a master plan;]~~

~~[(iv) a comprehensive zoning regulation adopted by ordinance or resolution; or]~~

(iii) a land use law; or

~~[(v)]~~ (iv) other legislative action of a local legislative body.

(b) “Local law” does not include an individual property zoning decision.

~~[(14)]~~ (16) “Local legislative body” means the legislative body of a county, city, town, or metro township.

~~[(15)]~~ (17) “Local obligation law” means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

~~[(16)]~~ (18) “Local tax law” means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

~~[(17)]~~ (19) “Measure” means a proposed constitutional amendment, an initiative, or referendum.

~~[(18)]~~ (20) “Referendum” means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

~~[(19)]~~ (21) “Referendum packet” means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

~~[(20)]~~ (22) (a) “Signature” means a holographic signature.

(b) “Signature” does not mean an electronic signature.

~~[(21)]~~ (23) “Signature sheets” means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(24) “Special local ballot proposition” means a local ballot proposition that is not a standard local ballot proposition.

~~[(22)]~~ (25) “Sponsors” means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(26) (a) “Standard local ballot proposition” means a local ballot proposition for an initiative or a referendum.

(b) “Standard local ballot proposition” does not include a property tax referendum described in Section 20A-7-613.

~~[(23)]~~ (27) “Sufficient” means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.

~~[(24)]~~ (28) “Tax percentage difference” means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

~~[(25)]~~ (29) “Tax percentage increase” means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

~~[(26)]~~ (30) “Verified” means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 3. Section 20A-7-401.3 is enacted to read:

20A-7-401.3. Voter participation areas.

(1) (a) Except as provided in Subsection (2):

(i) a metro township with a population of 65,000 or more, a city of the first or second class, or a county of the first or second class shall, no later than January 1, 2020, again on January 1, 2022, and January 1 each 10 years after 2022, divide the metro township, city, or county into eight contiguous and compact voter participation areas of substantially equal population; and

(ii) a metro township with a population of 10,000 or more, a city of the third or fourth class, or a

county of the third or fourth class shall, no later than January 1, 2020, again on January 1, 2022, and January 1 each 10 years after 2022, divide the metro township, city, or county into four contiguous and compact voter participation areas of substantially equal population.

(b) A metro township, city, or county shall use the voter participation areas described in Subsection (1)(a) or (2)(b) for the purpose described in Sections 20A-7-501 and 20A-7-601.

(2) (a) This section does not apply to a metro township with a population of less than 10,000, a county of the fifth or sixth class, a city of the fifth class, or a town.

(b) A metro township, city, or county that has established council districts that are not at-large districts may, regardless of the number of council districts that are not at-large districts, use the council districts as voter participation areas under this section.

Section 4. Section 20A-7-401.5 is enacted to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may submit a revised version of the

written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may submit a revised version of the written argument to the county's or municipality's election officer within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

- (i) complies with Subsection (4)(b); or
- (ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63F-1-701, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for

which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63F-1-701, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 5. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

~~[(2) The arguments for or against a ballot proposition shall conform to the requirements of this section.]~~

~~[(3) (2) (a) Within the time requirements described in Subsection [(3)] (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the~~

requirements of Subsection ~~[(3)]~~ (2)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection ~~[(3)]~~ (2)(d) has passed, on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a special local ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection ~~[(3)]~~ (2)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection ~~[(3)]~~ (2)(d) has passed, post a notice that complies with the requirements of Subsection ~~[(3)]~~ (2)(c)(ii) on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection ~~[(3)]~~ (2)(a) or (b) shall:

(i) mail, send, or post the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection ~~[(3)]~~ (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection ~~[(3)]~~ (2)(d); and

(C) the deadline described in Subsection ~~[(3)]~~ (2)(d).

(d) To prepare ~~[an]~~ a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer at least 65 days before the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare ~~[an]~~ a written argument for or against a special local ballot proposition, the election officer shall make the final designation

~~[according to the following criteria]~~ in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) (i) ~~[Except as provided in Subsection (3)(g), a]~~ A sponsor of a special local ballot proposition may prepare ~~[an]~~ a written argument in favor of the special local ballot proposition.

(ii) ~~[Except as provided in Subsection (3)(g), and subject]~~ Subject to Subsection ~~[(3)]~~ (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection ~~[(3)]~~ (2)(d) may prepare ~~[an]~~ a written argument against the special local ballot proposition.

~~[(g) (i) For a referendum, subject to Subsection (3)(e), an eligible voter who is in favor of a law that is referred to the voters and who submits a request under Subsection (3)(d) may prepare an argument for adoption of the law.]~~

~~[(ii) The sponsors of a referendum may prepare an argument against the adoption of a law that is referred to the voters.]~~

~~[(h) (g) An eligible voter who submits [an] a written argument under this section in relation to a special local ballot proposition shall:~~

(i) ensure that the written argument does not exceed 500 words in length;

(ii) ensure that the written argument does not list more than five names as sponsors;

(iii) submit the written argument to the election officer no later than 60 days before the election day on which the ballot proposition will be submitted to the voters; and

(iv) include with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

~~[(4) (h) An election officer shall refuse to accept and publish an argument that is submitted after the deadline described in Subsection [(3)(h)] (2)(g)(iii).~~

~~[(4) (3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:~~

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection [(4)] (3)(b)(iii) or [(4)] (3)(c)(iii).

[(5)] (4) (a) Except as provided in Subsection [(5)] (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify [an] a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection [(5)] (4)(a)(i) may not modify [an] a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits [an] a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify [an] a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish [an] a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the

written argument or written rebuttal argument in accordance with Subsection [(5)] (4)(b).

[(6)] (5) [An] In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

[(7)] (11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

“This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

[(8)] (12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

“The arguments for or against a ballot proposition are the opinions of the authors.”;

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or

carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection [(8)] (12)(c).

(b) (i) If the [proposed measure] language of the ballot proposition exceeds 500 words in length, the election officer may summarize the [measure] ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection [(8)] (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 6. Section 20A-7-405 is enacted to read:

20A-7-405. Public meeting.

(1) A county or municipality may not discuss a proposed initiative, an initiative, a proposed referendum, or a referendum at a public meeting unless the county or municipality complies with the requirements of this section.

(2) The legislative body of a county or municipality may hold a public meeting to discuss a proposed initiative, an initiative, a proposed referendum, or a referendum if the legislative body:

(a) allows equal time, within a reasonable limit, for presentations on both sides of the proposed initiative, initiative, proposed referendum, or referendum;

(b) provides interested parties an opportunity to present oral testimony within reasonable time limits; and

(c) holds the public meeting:

(i) during the legislative body's normal meeting time; or

(ii) for a meeting time other than the legislative body's normal meeting time, beginning at or after 6 p.m.

(3) This section does not prohibit a working group meeting from being held before 6 p.m.

Section 7. Section 20A-7-406 is enacted to read:

20A-7-406. Informational materials.

The lieutenant governor shall create and publish to the lieutenant governor's website instructions on how a person may:

(1) qualify a local initiative for the ballot under Part 5, Local Initiatives - Procedures; or

(2) qualify a local referendum for the ballot under Part 6, Local Referenda - Procedures.

Section 8. Section 20A-7-407 is enacted to read:

20A-7-407. Applicability of statute to pending processes.

(1) If a local initiative or local referendum process is pending as described in Subsection (2), that local initiative or local referendum process:

(a) is subject to the provisions of law that were in effect on May 13, 2019; and

(b) is not subject to the provisions of this bill.

(2) A local initiative or local referendum process is pending under Subsection (1) if, on or before May 13, 2019:

(a) (i) sponsors have filed an application to circulate the initiative petition under Section 20A-7-502; or

(ii) sponsors have filed an application to circulate the referendum petition under Section 20A-7-602; and

(b) the process described in Subsection (2)(a) has not concluded.

Section 9. Section 20A-7-501 is amended to read:

20A-7-501. Initiatives -- Signature requirements -- Time requirements.

~~[(1) (a) Except as provided in Subsection (1)(b), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall obtain legal signatures equal to:]~~

~~[(i) 10% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes exceeds 25,000;]~~

~~[(ii) 12-1/2% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;]~~

~~[(iii) 15% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;]~~

~~[(iv) 20% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;]~~

~~[(v) 25% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and]~~

~~[(vi) 30% of all the votes cast in the county, city, town, or metro township for all candidates for President of the United States at the last election at which a President of the United States was elected if the total number of votes does not exceed 250.]~~

~~[(b) In addition to the signature requirements of Subsection (1)(a), a person seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection in a county, city, town, or metro township where the local legislative body is elected from council districts shall obtain, from each of a majority of council districts, legal signatures equal to the percentages established in Subsection (1)(a).]~~

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) An eligible voter seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

- (e) for a county of the third class:
 - (i) 9.5% of the number of active voters in the county; and
 - (ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;
- (f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:
 - (i) 10% of the number of active voters in the metro township or city; and
 - (ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;
- (g) for a county of the fourth class:
 - (i) 11.5% of the number of active voters in the county; and
 - (ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;
- (h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:
 - (i) 11.5% of the number of active voters in the metro township or city; and
 - (ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;
- (i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or
- (j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

[2] (3) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at [its] the local legislative body's next meeting.

[3] (4) (a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 days [of receipt of] after the day on which the local legislative body receives the proposed law under Subsection (3).

- (b) The local legislative body may:
 - (i) adopt the proposed law and refer [it] the proposed law to the people;
 - (ii) adopt the proposed law without referring [it] the proposed law to the people; or
 - (iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer [it] the proposed law to the people, [it] the proposed law is subject to referendum as with other local laws.

(d) (i) If a county legislative body rejects a proposed [county ordinance or amendment] law, or takes no action on [it] a proposed law, the county clerk shall submit [it] the proposed law to the voters of the county at the next regular general election immediately after the petition for the proposed law is filed under Section 20A-7-502.

(ii) If a local legislative body of a municipality rejects a proposed [municipal ordinance or amendment] law, or takes no action on [it] a proposed law, the municipal recorder or clerk shall submit [it] the proposed law to the voters of the municipality at the next municipal general election immediately after the petition is filed under Section 20A-7-502.

(e) (i) If [the] a local legislative body rejects [the] a proposed [ordinance or amendment] law, or takes no action on [it] a proposed law, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the [30 days allowed for its action on the measure proposed by initiative petition] 30-day period described in Subsection (4)(a).

(iii) If [the] a local legislative body adopts a competing local law, the clerk or recorder shall [submit it] refer the competing local law to the voters of the county or municipality at the same election at which the initiative proposal is submitted under Subsection (4)(d).

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, [then] the measure that receives the greatest number of affirmative votes shall control all conflicts.

Section 10. Section 20A-7-502 is amended to read:

20A-7-502. Local initiative process -- Application procedures.

(1) [Persons] An eligible voter wishing to circulate an initiative petition shall file an application with the local clerk.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors [:(i)] is a registered voter; [and]

[(ii) (A) if the initiative seeks to enact a county ordinance, has voted in a regular general election in Utah within the last three years; or]

[(B) if the initiative seeks to enact a municipal ordinance, has voted in a regular municipal election in Utah;]

[4] except as provided in Subsection (2)(b)(i)(B)(II), within the last three years; or]

~~[(H) within the last five years, if the sponsor's failure to vote within the last three years is due to the sponsor's residing in a municipal district that participates in a municipal election every four years;]~~

~~(c) a statement indicating that each of the sponsors has voted in an election in Utah in the last three years;~~

~~[(e)] (d) the signature of each of the sponsors, [attested to] acknowledged by a notary public;~~

~~[(d)] (e) a copy of the proposed law that includes:~~

(i) the title of the proposed law, which clearly expresses the subject of the law; and

(ii) the text of the proposed law; and

~~[(e)] (f) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."~~

(3) A proposed law submitted under this section may not contain more than one subject to the same extent a bill may not pass containing more than one subject as provided in Utah Constitution, Article VI, Section 22.

Section 11. Section 20A-7-502.5 is amended to read:

20A-7-502.5. Initial fiscal and legal impact estimate -- Preparation of estimate.

(1) Within three ~~[working days of receipt of an application for an initiative petition]~~ business days after the day on which the local clerk receives an application for an initiative petition, the local clerk shall submit a copy of the [application] proposed law to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith estimate of the fiscal and legal impact of the law proposed by the initiative that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase taxes, the tax percentage difference and the tax percentage increase;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a listing of all sources of funding for the estimated costs associated with the proposed law

showing each source of funding and the percentage of total funding provided from each source;

(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law;

(vii) the proposed law's legal impact, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(viii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, under the proposed law.

(b) (i) If the proposed law is estimated to have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would result in a total fiscal expense/savings of \$ _____, which includes a (type of tax or taxes) tax increase/decrease of \$ _____ and a \$ _____ increase/decrease in public debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(iv) If the proposed law would increase taxes, the local budget officer shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(3) The budget officer shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in the voter information pamphlet as required by Section 20A-7-402.

(4) Within ~~[25]~~ 20 calendar days ~~[from the date that the local clerk delivers a copy of the application] after the day on which the local clerk submits a copy of the proposed law under Subsection (1), the budget officer shall:~~

(a) deliver a copy of the initial fiscal impact estimate, including the legal impact estimate, to the local clerk's office; and

(b) mail a copy of the initial fiscal impact estimate, including the legal impact estimate, to the first ~~[five]~~ three sponsors named in the application.

~~[(5) (a) Three or more of the sponsors of the petition may, within 20 calendar days of the date of delivery of the initial fiscal impact estimate to the local clerk's office, file a petition with the Supreme Court, alleging that the initial fiscal impact estimate, including the legal impact estimate, taken as a whole, is an inaccurate estimate of the fiscal or legal impact of the initiative.]~~

~~[(b) (i) There is a presumption that the initial fiscal impact estimate, including the legal impact estimate, prepared by the budget officer and legal counsel is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal and legal impact of the initiative.]~~

~~[(ii) The Supreme Court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate, including the legal impact estimate, unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the fiscal estimate, including the legal impact estimate, taken as a whole, is an inaccurate statement of the estimated fiscal or legal impact of the initiative.]~~

~~[(iii) The Supreme Court may refer an issue related to the initial fiscal impact estimate, including the legal impact estimate, to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.]~~

~~[(c) The Supreme Court shall certify to the local clerk an initial fiscal impact estimate, including the legal impact estimate, for the measure that meets the requirements of this section.]~~

Section 12. Section 20A-7-502.7 is enacted to read:

20A-7-502.7. Referability to voters.

(1) Within 20 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502, the county, city, town, or metro township to which the initiative pertains shall:

(a) review the proposed law in the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law in an initiative application is legally referable to voters unless:

(a) the proposed law is patently unconstitutional;

(b) the proposed law is nonsensical;

(c) the proposed law is administrative, rather than legislative, in nature;

(d) the proposed law could not become law if passed;

(e) the proposed law contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3);

(f) the subject of the proposed law is not clearly expressed in the law's title;

(g) the proposed law is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the application for the current proposed initiative is filed; or

(h) the application for the proposed law was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, town, or metro township rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed in the initiative petition is legally referable to voters, the local clerk shall comply with Subsection 20A-7-504(2) within five days after the day on which the determination, and any appeal of the determination, is final.

Section 13. Section 20A-7-504 is amended to read:

20A-7-504. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall, after the sponsors receive the documents described in Subsections (2)(a) and (b) and Subsection 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(2) Within five days after the day on which a ~~local clerk receives an application that complies with the~~

requirements of Section 20A-7-502] county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall furnish to the sponsors:

- (a) one copy of the initiative petition; and
- (b) one signature sheet.
- (3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors shall create those packets by binding a copy of the initiative petition, a copy of the proposed law, and no more than 50 signature sheets together at the top in such a way that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each initiative packet.

(d) The sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

~~[(5) (a) After the sponsors have prepared sufficient initiative packets, they shall return them to the local clerk.]~~

~~[(b) The local clerk shall:]~~

~~[(i) number each of the initiative packets and return them to the sponsors within five working days; and]~~

~~[(ii) keep a record of the numbers assigned to each packet.]~~

Section 14. Section 20A-7-505 is amended to read:

20A-7-505. Obtaining signatures -- Verification -- Removal of signature.

(1) Any Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the [person] individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet.

(b) [A person] An individual may not sign the verification printed on the last page of the initiative

packet if the [person] individual signed a signature sheet in the initiative packet.

(3) (a) (i) Any voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting a notarized statement to that effect to the [local] county clerk.

(ii) In order for the signature to be removed, the statement must be received by the [local] county clerk ~~[before he delivers the petition to the county clerk to be certified]~~ no later than seven days after the day on which the sponsors submit the last signature packet to the county clerk.

(b) Upon timely receipt of the statement, the [local] county clerk shall remove the signature of the [person] individual submitting the statement from the initiative petition.

~~[(c) No one may remove signatures from an initiative petition after the petition is submitted to the county clerk to be certified.]~~

Section 15. Section 20A-7-506 is amended to read:

20A-7-506. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated on or before the sooner of:

(i) for county initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(ii) for municipal initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

~~[(2) (a) No later than May 1, the county clerk shall:]~~

~~[(i) check the names of all persons completing the verification on the last page of each initiative packet to determine whether those persons are residents of Utah and are at least 18 years old; and]~~

~~[(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.]~~

~~[(b)] (2) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.~~

(3) No later than May 15, the county clerk shall:

(a) determine whether or not each signer is a voter according to the requirements of Section 20A-7-506.3;

(b) certify on the petition whether or not each name is that of a voter; and

(c) deliver all of the verified packets to the local clerk.

Section 16. Section 20A-7-506.3 is amended to read:

20A-7-506.3. Verification of petition signatures.

(1) (a) For the purposes of this section, “substantially similar name” means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) For the purposes of this section, “substantially similar name” does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether or not a signer is a registered voter:

(a) When a signer’s name and address shown on the petition exactly match a name and address shown on the official register and the signer’s signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of [a person] an individual on the official register with a substantially similar name; and

(ii) the signer’s signature appears substantially similar to the signature on the statewide voter

registration database of the [person] individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of [a person] an individual on the official register with a substantially similar name; and

(ii) the signer’s signature appears substantially similar to the signature on the statewide voter registration database of the [person] individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (2)(b), or (2)(c), the county clerk shall declare the signature to be invalid.

Section 17. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) When each initiative packet is received from a county clerk, the local clerk shall check off from the local clerk’s record the number of each initiative packet filed.

(2) (a) After all of the initiative packets have been received by the local clerk, the local clerk shall count the number of the names certified by the county clerk that appear on each verified signature sheet.

(b) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word “sufficient.”

(c) If the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word “insufficient.”

(d) The local clerk shall immediately notify any one of the sponsors of the local clerk’s finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the initiative petition in the presence of any sponsor.

(4) Once a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

~~(5) (a) If the local clerk refuses to accept and file any initiative petition, any voter may apply to the supreme court for an extraordinary writ to compel him to do so within 10 days after the refusal.~~

~~(b) If the supreme court determines that the initiative petition is legally sufficient, the local clerk shall file it, with a verified copy of the judgment attached to it, as of the date on which it~~

was originally offered for filing in the local clerk's office.]

~~[(e) If the supreme court determines that any petition filed is not legally sufficient, the supreme court may enjoin the local clerk and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.]~~

~~[(6)]~~ (5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 18. Section 20A-7-508 is amended to read:

20A-7-508. Ballot title -- Duties of local clerk and local attorney.

(1) ~~[Whenever an initiative petition is declared sufficient for submission to a vote of the people]~~ Upon receipt of an initiative petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number ___" and give it a number as assigned under Section 20A-6-107;

(b) prepare a proposed ballot title for the initiative;

(c) file the proposed ballot title and the numbered initiative titles with the local clerk within ~~[15]~~ 20 days after the ~~[date the initiative petition is declared sufficient for submission to a vote of the people]~~ day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed ballot title to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and shall express, in not exceeding 100 words, the purpose of the measure.

(b) In preparing a ballot title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial statement of the purpose of the measure.

(c) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(d) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the ballot title:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) Within five calendar days after the date the local attorney files a proposed ballot title under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the petition may file written comments in response to the proposed ballot title with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final ballot title that meets the requirements of Subsection (3); and

(iii) return the petition and file the ballot title with the local clerk.

(c) Subject to Subsection (6), the ballot title, as determined by the local attorney, shall be printed on the official ballot.

(5) Immediately after the local attorney files a copy of the ballot title with the local clerk, the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the ballot title furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed ~~[by a petition]~~ to the district court, or, if the Supreme Court has original jurisdiction, to the Supreme Court ~~[that is]~~, brought by:

(i) at least three sponsors of the initiative petition; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The ~~[Supreme Court]~~ court:

(i) shall examine the measures and consider arguments~~[, and, in its decision,]~~; and

(ii) may certify to the local clerk a ballot title for the measure that fulfills the intent of this section.

(c) The local clerk shall print the title certified by the ~~[Supreme Court]~~ court on the official ballot.

Section 19. Section 20A-7-509 is amended to read:

20A-7-509. Form of ballot -- Manner of voting.

(1) The local clerk shall ensure that the number and ballot title are presented upon the official ballot with, immediately adjacent to them, the words "For" and "Against," each word presented with an adjacent square in which the ~~[elector]~~ voter may indicate ~~[his]~~ the voter's vote.

(2) ~~[Electors]~~ Voters desiring to vote in favor of enacting the law proposed by the initiative petition shall mark the square adjacent to the word "For," and ~~[those]~~ voters desiring to vote against enacting

the law proposed by the initiative petition shall mark the square adjacent to the word "Against."

Section 20. Section 20A-7-510 is amended to read:

20A-7-510. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes its canvass, the local clerk shall certify to the local legislative body the vote for and against the law proposed by the initiative petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that were approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, they shall proclaim that measure to be law that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(c) (i) Within 10 days after the local legislative body's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the local legislative body to be superseded by another measure approved at the same election may ~~[apply to the]~~ bring an action in district court, or, if the Supreme Court has original jurisdiction, the Supreme Court to review the decision.

(ii) The court shall:

(A) consider the matter and decide whether ~~[or not]~~ the proposed laws are entirely in conflict; and

(B) ~~[certify its]~~ issue an order, consistent with the court's decision, to the local legislative body.

(4) Within 10 days after the ~~[Supreme Court certifies its]~~ day on which the court certifies the decision, the local legislative body shall:

(a) proclaim as law all ~~[those]~~ measures approved by the people ~~[as law]~~ that the ~~[Supreme Court has determined]~~ court determines are not in conflict; and

(b) ~~[of all those]~~ for the measures approved by the people as law that the ~~[Supreme Court has determined]~~ court determines to be in conflict, proclaim as law the ~~[one]~~ measure that received the

greatest number of affirmative votes, regardless of the difference in majorities.

Section 21. Section 20A-7-512 is amended to read:

20A-7-512. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any ~~[person]~~ individual to:

(a) sign any name other than the ~~[person's own]~~ individual's own name to any initiative petition;

~~[(b) knowingly sign the person's name more than once for the same measure at one election];~~

~~[(e)]~~ (b) sign an initiative knowing the ~~[person]~~ individual is not a legal voter; or

~~[(d)]~~ (c) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any ~~[person]~~ individual to sign the verification for an initiative packet knowing that:

(a) the ~~[person]~~ individual does not meet the residency requirements of Section 20A-2-105;

(b) the ~~[person]~~ individual has not witnessed the signatures of ~~[those persons]~~ the individuals whose names appear in the initiative packet; or

(c) one or more ~~[persons]~~ individuals whose signatures appear in the initiative packet is either:

(i) not registered to vote in Utah; or

(ii) does not intend to become registered to vote in Utah.

(3) ~~[Any person violating]~~ An individual who violates this part is guilty of a class A misdemeanor.

Section 22. Section 20A-7-513 is amended to read:

20A-7-513. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative petition, the budget officer shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-502.5(2), except for the information required by Subsection 20A-7-502.5(2)(a)(vii); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the local legislative body of the jurisdiction where the initiative was circulated;

(ii) the local clerk; and

(iii) the first ~~[five]~~ three sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25% or more, the local legislative body shall review the final fiscal impact statement and may, by a majority vote:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by the passage of the initiative; or

(c) pass a resolution informing the voters that they may file an initiative petition to repeal the law enacted by the passage of the initiative.

Section 23. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws and subjurisdictional laws -- Time requirements.

~~[(1) Except as provided in Subsection (2) or (3), a person seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:]~~

~~[(a) 10% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;]~~

~~[(b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;]~~

~~[(c) 15% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;]~~

~~[(d) 20% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;]~~

~~[(e) 25% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and]~~

~~[(f) 30% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.]~~

~~[(2) (a) As used in this Subsection (2), "land use law" includes a land use development code, an annexation ordinance, and comprehensive zoning ordinances.]~~

~~[(b) Except as provided in Subsection (3), a person seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:]~~

~~[(i) in a county or in a city of the first or second class, 20% of all votes cast in the county or city for all candidates for president of the United States at the last election at which a president of the United States was elected; and]~~

~~[(ii) in a city of the third, fourth, or fifth class or a town, 35% of all the votes cast in the city or town for all candidates for president of the United States at the last election at which a president of the United States was elected.]~~

~~[(3) (a) As used in this Subsection (3):]~~

~~[(i) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.]~~

~~[(ii) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town.]~~

~~[(b) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:]~~

~~[(i) 10% of the total votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;]~~

~~[(ii) 12-1/2% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;]~~

~~[(iii) 15% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;]~~

~~[(iv) 20% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;]~~

~~[(v) 25% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and]~~

~~[(vi) 30% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.]~~

~~(1) As used in this section:~~

~~(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.~~

(b) “Subjurisdiction” means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(c) (i) “Subjurisdictional law” means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) “Subjurisdictional law” does not include a land use law.

(d) “Voter participation area” means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsection (3) or (4), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county’s voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township’s or city’s voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county’s voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township’s or city’s voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county’s voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township’s or city’s voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county’s voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township’s or city’s voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county’s voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county’s voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township’s or city’s voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12-1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

~~[(4)]~~ (5) (a) Sponsors of any referendum petition challenging, under Subsection ~~[(1), (2), or (3)]~~ (2), (3), or (4), any local law passed by a local legislative body shall file the application within ~~[five]~~ seven days after the ~~[passage of]~~ day on which the local law was passed.

(b) Except as provided in Subsection ~~[(4)]~~ (5)(c), when a referendum petition has been declared sufficient, the local law that is the subject of the petition does not take effect unless and until the local law is approved by a vote of the people.

(c) When a referendum petition challenging a subjurisdictional law has been declared sufficient, the subjurisdictional law that is the subject of the petition does not take effect unless and until the subjurisdictional law is approved by a vote of the people who reside in the subjurisdiction.

~~[(5)]~~ (6) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.

~~[(6)]~~ (7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 24. Section 20A-7-602 is amended to read:

20A-7-602. Local referendum process -- Application procedures.

(1) ~~[Persons]~~ An eligible voter wishing to circulate a referendum petition shall file an application with the local clerk.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a certification indicating that each of the sponsors~~[(4)]~~ is a resident of Utah; ~~[and]~~

~~[(ii) (A) if the referendum challenges a county local law, has voted in a regular general election in Utah within the last three years; or]~~

~~[(B) if the referendum challenges a municipal local law, has voted in a regular municipal election in Utah within the last three years;]~~

(c) a statement indicating that each of the sponsors has voted in an election in Utah in the last three years;

~~[(e)]~~ (d) the signature of each of the sponsors, ~~[attested to]~~ acknowledged by a notary public; and

~~[(d)]~~ (e) (i) if the referendum challenges an ordinance or resolution, one copy of the law; or

(ii) if the referendum challenges a local law that is not an ordinance or resolution, a written description of the local law, including the result of the vote on the local law.

Section 25. Section 20A-7-602.5 is amended to read:

20A-7-602.5. Initial fiscal and legal impact estimate -- Preparation of estimate.

(1) Within three ~~[working]~~ business days after the day on which the local clerk receives an application for a referendum petition, the local clerk shall submit a copy of the application to the county, city, or town's budget officer.

(2) (a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith

estimate of the fiscal and legal impact of repealing the law the referendum proposes to repeal that contains:

(i) a dollar amount representing the total estimated fiscal impact of repealing the law;

(ii) if repealing the law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax that would be impacted by the law's repeal and a dollar amount representing the total estimated increase or decrease in taxes that would result from the law's repeal;

(iii) if repealing the law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt that would result;

(iv) a listing of all sources of funding for the estimated costs that would be associated with the law's repeal, showing each source of funding and the percentage of total funding that would be provided from each source;

(v) a dollar amount representing the estimated costs or savings, if any, to state and local government entities if the law were repealed;

(vi) the legal impacts that would result from repealing the law, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws and ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(vii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, if the law were repealed.

(b) (i) If repealing the law would have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The (title of the local budget officer) estimates that repealing the law this referendum proposes to repeal would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If repealing the law is estimated to have a fiscal impact, the local budget officer shall include a summary statement describing the fiscal impact.

(iii) If the estimated fiscal impact of repealing the law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those

factors impacting the variability or difficulty of the estimate.

(3) Within [25] 20 calendar days after the day on which the local clerk submits a copy of the application under Subsection (1), the budget officer shall:

(a) deliver a copy of the initial fiscal impact estimate, including the legal impact estimate, to the local clerk's office; and

(b) [mail] deliver a copy of the initial fiscal impact estimate, including the legal impact estimate, to the first [five] three sponsors named in the application.

Section 26. Section 20A-7-602.7 is enacted to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a local law other than a land use law, the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If, under Subsection (1)(b)(ii), a county, city, town, or metro township rejects a proposed referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(2) within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 27. Section 20A-7-602.8 is enacted to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(c) the proposed referendum challenges more than one law passed by the local legislative body; or

(d) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land

use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(2) within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 28. Section 20A-7-603 is amended to read:

20A-7-603. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

“REFERENDUM PETITION To the Honorable _____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the _____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____ (month \ day \ year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.”

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line;

(d) contain the word “Warning” printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:

"It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines three-eighths inch apart under the "Warning" statement required by this section;

(g) be vertically divided into columns as follows:

(i) the edge of the first column shall appear ~~at~~ .5 inch from the extreme left of the sheet, be ~~five-eighths~~ .25 inch wide, and be headed, together with the second column, "For Office Use Only[;]" ~~and be subdivided with a light vertical line down the middle~~;

(ii) the second column shall be .25 inch wide;

~~[(ii)]~~ (iii) the ~~next~~ third column shall be ~~2-1/2~~ 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

~~[(iii)]~~ (iv) the ~~next~~ fourth column shall be ~~2-1/2~~ 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

~~[(iv)]~~ (vi) the ~~next~~ sixth column shall be ~~one inch~~ three inches wide, headed~~["Birth Date or Age (Optional)"]~~ "Street Address, City, Zip Code"; and

~~[(v)]~~ (vii) the ~~final~~ seventh column shall be ~~4-3/8 inches~~ .75 inch wide, headed~~["Street Address, City, Zip Code"]~~; "Birth Date or Age (Optional)";

(h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;

~~[(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(g),]~~

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than eight-point, single-leaded type: "By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and

(i) at the bottom of the sheet, contain the following statement: "Birth date or age information

is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this referendum packet were signed by ~~[persons]~~ individuals who professed to be the ~~[persons]~~ individuals whose names appear in it, and each of ~~[them signed his]~~ the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed ~~[his]~~ the individual's name and written ~~[his]~~ the individual's post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

"

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 29. Section 20A-7-604 is amended to read:

20A-7-604. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall, after the sponsors receive the documents described in Subsection (2) and Subsection 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(2) Within five days after the day on which a ~~local clerk receives an application that complies with the requirements of Section 20A-7-602~~ county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall furnish to the sponsors~~[(a) five copies]~~ a copy of the referendum petition~~[;]~~ and a signature sheet.

~~[(b) five signature sheets.]~~

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors shall create those packets by binding a copy of the referendum petition, a copy of the law that is the subject of the referendum, and no more than 50 signature sheets together at the top in such a way that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each referendum packet.

~~[(5) (a) After the sponsors have prepared sufficient referendum packets, they shall return them to the local clerk.]~~

~~[(b) The local clerk shall:]~~

~~[(i) number each of the referendum packets and return them to the sponsors within five working days; and]~~

~~[(ii) keep a record of the numbers assigned to each packet.]~~

(d) The sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

Section 30. Section 20A-7-605 is amended to read:

20A-7-605. Obtaining signatures -- Verification -- Removal of signature.

(1) Any Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the ~~[person]~~ individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet.

(b) ~~[A person]~~ An individual may not sign the verification printed on the last page of the referendum packet if the ~~[person]~~ individual signed a signature sheet in the referendum packet.

(3) (a) Any voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting a ~~[notarized]~~ statement to that effect to the ~~[local]~~ county clerk.

(b) Except as provided in Subsection (3)(c), upon receipt of the statement, the ~~[local]~~ county clerk shall remove the signature of the ~~[person]~~ individual submitting the statement from the referendum petition.

(c) A ~~[local]~~ county clerk may not remove signatures from a referendum petition later than seven days after the ~~[petition has been submitted to the county clerk to be certified]~~ day on which the sponsors timely submit the last signature packet to the county clerk.

(4) The sponsors of a referendum petition:

(a) shall, for each signature packet:

(i) within seven days after the day on which the first individual signs the signature packet, provide a clear, legible image of all signatures on the signature packet to the county clerk via email or other electronic means; and

(ii) immediately send a new image if the county clerk informs the sponsors that the image is not clear and legible;

(b) may not permit additional signatures on a signature packet of which the sponsors have sent an image under Subsection (4)(a); and

(c) may not submit a signature packet to the county clerk unless the sponsors timely comply with the requirements of Subsection (4)(a) in relation to the signature packet.

(5) Each person who gathers a signature removal statement described in Subsection (3):

(a) shall, within seven days after the day on which the individual signs the signature removal statement, provide a clear, legible image of the statement to the county clerk via email or other electronic means; and

(b) shall, immediately send a new image if the local clerk informs the sender that the image is not clear and legible; and

(c) may not submit a signature removal statement to the county clerk, unless the sender timely complies with the requirements of Subsections (5)(a) and (b) in relation to the signature removal statement.

(6) (a) The county clerk shall provide to an individual, upon request:

(i) an image of a signature packet or signature removal statement with the dates of birth redacted; or

(ii) instead of providing an image described in Subsection (6)(a)(i), a document or electronic list containing the name and other information, other than the dates of birth, that appear on an image described in this Subsection (6)(a).

(b) Subject to Subsection 20A-7-606.3(4), the local clerk may begin certifying, removing, and tallying signatures upon receipt of an image described in Subsection (4) or (5).

Section 31. Section 20A-7-606.3 is amended to read:

20A-7-606.3. Verification of petition signatures.

(1) (a) For the purposes of this section, "substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) For the purposes of this section, “substantially similar name” does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether or not a signer is a registered voter:

(a) When a signer’s name and address shown on the petition exactly match a name and address shown on the official register and the signer’s signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of ~~[a person]~~ an individual on the official register with a substantially similar name; and

(ii) the signer’s signature appears substantially similar to the signature on the statewide voter registration database of the ~~[person]~~ individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of ~~[a person]~~ an individual on the official register with a substantially similar name; and

(ii) the signer’s signature appears substantially similar to the signature on the statewide voter registration database of the ~~[person]~~ individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(4) The county clerk may not provide a final verification of the signature packets submitted for a proposed referendum until eight days after the day on which a sponsor submits the final, timely signature packet to the county clerk to be certified.

Section 32. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) When each referendum packet is received from a county clerk, the local clerk shall check off from the local clerk’s record the number of each referendum packet filed.

(2) Within ~~[15]~~ two days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:

(a) count the number of the names certified by the county clerks that appear on each verified signature sheet;

(b) if the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-601 and the requirements of this part are met, mark upon the front of the petition the word “sufficient”;

(c) if the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-601 or a requirement of this part is not met, mark upon the front of the petition the word “insufficient”; and

(d) notify any one of the sponsors of the local clerk’s finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.

(4) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to ~~[the Supreme Court]~~ a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If ~~[the Supreme Court]~~ a court determines that the referendum petition is legally sufficient, the local clerk shall file it, with a verified copy of the judgment attached to it, as of the date on which it was originally offered for filing in the local clerk’s office.

(c) If ~~[the Supreme Court]~~ a court determines that any petition filed is not legally sufficient, the ~~[Supreme Court]~~ court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by absentee ballot, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(6) (a) If a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for the next general election.

Section 33. Section 20A-7-608 is amended to read:

20A-7-608. Ballot title -- Duties of local clerk and local attorney.

(1) ~~[Whenever a referendum petition is declared sufficient for submission to a vote of the people,] Upon receipt of a referendum petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.~~

(2) The local attorney shall:

(a) entitle each county or municipal referendum that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare a proposed ballot title for the referendum;

(c) file the proposed ballot title and the numbered referendum titles with the local clerk within ~~[15]~~ 20 days after the ~~[date the referendum petition is declared sufficient for submission to a vote of the people]~~ day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed ballot title to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The ballot title may be distinct from the title of the law that is the subject of the petition, and shall express, in not exceeding 100 words, the purpose of the measure.

(b) In preparing a ballot title, the local attorney shall, to the best of ~~[his]~~ the local attorney's ability, give a true and impartial statement of the purpose of the measure.

(c) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(4) (a) Within five calendar days after the date the local attorney files a proposed ballot title under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was

circulated and the sponsors of the petition may file written comments in response to the proposed ballot title with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final ballot title that meets the requirements of Subsection (3); and

(iii) return the petition and file the ballot title with the local clerk.

(c) Subject to Subsection (6), the ballot title, as determined by the local attorney, shall be printed on the official ballot.

(5) Immediately after the local attorney files a copy of the ballot title with the local clerk, the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the ballot title furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed ~~[by a petition]~~ to the district court, or, if the Supreme Court has original jurisdiction, to the Supreme Court ~~[that is]~~, brought by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The ~~[Supreme Court]~~ court:

(i) shall examine the measures and consider the arguments~~[, and, in its decision,]~~; and

(ii) may ~~[certify]~~ issue an order to the local clerk that includes a ballot title for the measure that fulfills the intent of this section.

(c) The local clerk shall print the title certified by the ~~[Supreme Court]~~ court on the official ballot.

Section 34. Section 20A-7-609.5 is amended to read:

20A-7-609.5. Election on referendum challenging local tax law conducted entirely by absentee ballot.

(1) An election officer may administer an election on a referendum challenging a local tax law entirely by absentee ballot.

(2) For purposes of an election conducted under this section, the election officer shall:

(a) designate as the election day the day that is 30 days after the day on which the election officer complies with Subsection (2)(b); and

(b) within 30 days after the day on which the referendum described in Subsection (1) qualifies for

the ballot, mail to each registered voter within the voting precincts to which the local tax law applies:

- (i) an absentee ballot;
- (ii) a statement that there will be no polling place in the voting precinct for the election;
- (iii) a statement specifying the election day described in Subsection (2)(a);
- (iv) a business reply mail envelope;
- (v) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; ~~and~~
- (vi) a warning, on a separate page of colored paper in boldface print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election~~[-]; and~~
- (vii) (A) a copy of the proposition information pamphlet relating to the referendum if a proposition information pamphlet relating to the referendum was published under Section 20A-7-401.5; or

(B) a website address where an individual may view a copy of the proposition information pamphlet described in Subsection (2)(b)(vii)(A).

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election under this section shall:

- (a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or
- (ii) obtain the signature of each voter within the voting precinct from the county clerk; and
- (b) maintain the signatures on file in the election officer's office.

(5) (a) Upon receiving the returned absentee ballots under this section, the election officer shall compare the signature on each absentee ballot with the voter's signature that is maintained on file and verify that the signatures are the same.

(b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.

(c) If the election officer determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:

- (i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and
- (ii) disqualify the initial absentee ballot.

Section 35. Section 20A-7-610 is amended to read:

20A-7-610. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the ~~[law proposed by]~~ proposed law that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes ~~[its]~~ the canvass, the local clerk shall certify to the local legislative body the vote for and against the ~~[law proposed by]~~ proposed law that is the subject of the referendum petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each ~~[law proposed by]~~ proposed law that is the subject of a referendum petition; and

(ii) declares those laws ~~[proposed by]~~ that are the subject of a referendum petition that were approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, they shall proclaim that measure to be law that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(4) (a) Within 10 days after the local legislative body's proclamation, any qualified voter ~~[who signed the referendum petition proposing the]~~ residing in the jurisdiction for a law that is declared by the local legislative body to be superseded by another measure approved at the same election may ~~[apply to the]~~ bring an action in a district court, or, if the Supreme Court has original jurisdiction, the Supreme Court to review the decision.

(b) The ~~[Supreme Court]~~ court shall:

(i) consider the matter and decide whether ~~[or not]~~ the proposed laws are entirely in conflict; and

(ii) ~~[certify its]~~ issue an order, consistent with the court's decision, to the local legislative body.

(5) Within 10 days after the ~~[Supreme Court certifies its]~~ day on which the court certifies the decision, the local legislative body shall:

(a) proclaim ~~[all those]~~ as law all measures approved by the people ~~[as law]~~ that the ~~[Supreme Court has determined]~~ court determines are not in conflict; and

(b) ~~[of all those]~~ for the measures approved by the people as law that the ~~[Supreme Court has determined]~~ court determines to be in conflict, proclaim as law the ~~[one]~~ measure that received the greatest number of affirmative votes, regardless of the difference in majorities.

Section 36. Section 20A-7-612 is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for ~~[any person]~~ an individual to:

(a) sign any name other than [his own] the individual's own name to any referendum petition;

~~[(b) knowingly sign his name more than once for the same measure at one election;]~~

~~[(e)]~~ (b) sign a referendum knowing [he] that the individual is not a legal voter; [or]

(c) in connection with circulating a referendum petition, represent that a document is an official government document if the individual knows or has reason to know that the document is not an official government document; or

(d) knowingly and willfully violate any provision of this part.

(2) It is unlawful for ~~[any person]~~ an individual to sign the verification for a referendum packet knowing that:

(a) [he] the individual does not meet the residency requirements of Section 20A-2-105;

(b) [he] the individual has not witnessed the signatures of [those persons] the individuals whose names appear in the referendum packet; or

(c) one or more [persons] individuals whose signatures appear in the referendum packet;

(i) is either:

[(i)] (A) not registered to vote in Utah; or

[(ii)] (B) does not intend to become registered to vote in Utah[-]; or

(ii) appears next to an inaccurate date of signature.

(3) ~~[Any person violating]~~ An individual who violates this part is guilty of a class A misdemeanor.

(4) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 37. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

~~[(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.]~~

~~[(4)]~~ (3) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated no later than 40 days after the day on which the local clerk complies with Subsection ~~[(3)]~~ 20A-7-604(2).

~~[(5)]~~ (4) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection ~~[(4)]~~ (3).

~~[(6)]~~ (5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

~~[(7)]~~ (6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

~~[(8)]~~ (7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

~~[(9)]~~ (8) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection ~~[(7)]~~ (6); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

~~[(10)]~~ (9) Section 20A-7-402 does not apply to a referendum described in this section.

~~[(11)]~~ (10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection ~~[(11)]~~ (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing

entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection [(41)] (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

[(42)] (11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

[(43)] (12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

[(44)] (13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection [(44)] (13)(a), the ballot title shall comply with Subsection [(42)] (11).

(c) If an election officer includes on a ballot a referendum described in Subsection [(44)] (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 38. Section 20A-11-1202 is amended to read:

20A-11-1202. Definitions.

As used in this part:

(1) "Applicable election officer" means:

(a) a county clerk, if the email relates only to a local election; or

(b) the lieutenant governor, if the email relates to an election other than a local election.

(2) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond

approvals, or other questions submitted to the voters for their approval or rejection.

(3) "Campaign contribution" means any of the following when done for a political purpose or to advocate for or against a ballot proposition:

(a) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to a filing entity;

(b) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to a filing entity;

(c) any transfer of funds from another reporting entity to a filing entity;

(d) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(e) remuneration from:

(i) any organization or the organization's directly affiliated organization that has a registered lobbyist; or

(ii) any agency or subdivision of the state, including a school district; or

(f) an in-kind contribution.

(4) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation agency that receives its revenues from conduct of its commercial operations.

(b) "Commercial interlocal cooperation agency" does not mean an interlocal cooperation agency that receives some or all of its revenues from:

(i) government appropriations;

(ii) taxes;

(iii) government fees imposed for regulatory or revenue raising purposes; or

(iv) interest earned on public funds or other returns on investment of public funds.

(5) "Expenditure" means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

(c) a transfer of funds between a public entity and a candidate's personal campaign committee;

(d) a transfer of funds between a public entity and a political issues committee; or

(e) goods or services provided to or for the benefit of a candidate, a candidate's personal campaign committee, or a political issues committee for political purposes at less than fair market value.

(6) “Filing entity” means the same as that term is defined in Section 20A-11-101.

(7) “Governmental interlocal cooperation agency” means an interlocal cooperation agency that receives some or all of its revenues from:

- (a) government appropriations;
- (b) taxes;
- (c) government fees imposed for regulatory or revenue raising purposes; or
- (d) interest earned on public funds or other returns on investment of public funds.

(8) ~~[(a)]~~ “Influence” means to campaign or advocate for or against a ballot proposition.

~~[(b) “Influence” does not mean providing a brief statement about a public entity’s position on a ballot proposition and the reason for that position.]~~

(9) “Interlocal cooperation agency” means an entity created by interlocal agreement under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(10) “Local district” means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(11) “Political purposes” means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

- (a) candidate for public office at any caucus, political convention, primary, or election; or
- (b) judge standing for retention at any election.

(12) “Proposed initiative” means an initiative proposed in an application filed under Section 20A-7-202 or 20A-7-502.

(13) “Proposed referendum” means a referendum proposed in an application filed under Section 20A-7-302 or 20A-7-602.

~~[(12)]~~ (14) (a) “Public entity” includes the state, each state agency, each county, municipality, school district, local district, governmental interlocal cooperation agency, and each administrative subunit of each of them.

(b) “Public entity” does not include a commercial interlocal cooperation agency.

(c) “Public entity” includes local health departments created under Title 26, Chapter 1, Department of Health Organization.

~~[(13)]~~ (15) (a) “Public funds” means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(b) “Public funds” does not include money donated to a public entity by a person or entity.

~~[(14)]~~ (16) (a) “Public official” means an elected or appointed member of government with authority to make or determine public policy.

(b) “Public official” includes the person or group that:

- (i) has supervisory authority over the personnel and affairs of a public entity; and
- (ii) approves the expenditure of funds for the public entity.

~~[(15)]~~ (17) “Reporting entity” means the same as that term is defined in Section 20A-11-101.

~~[(16)]~~ (18) (a) “State agency” means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) “State agency” includes the legislative branch, the Board of Regents, the institutional councils of each higher education institution, and each higher education institution.

Section 39. Section 20A-11-1203 is amended to read:

20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.

(1) Unless specifically required by law, and except as provided in Section 20A-11-1206, a public entity may not:

(a) make an expenditure from public funds for political purposes [øE], to influence a ballot proposition[-], or to influence a proposed initiative or proposed referendum; or

(b) publish on the public entity’s website an argument for or against a ballot proposition, a proposed initiative, or a proposed referendum.

(2) A violation of this section does not invalidate an otherwise valid election.

(3) This section does not prohibit the reasonable expenditure of public funds to gather information for, and respond directly to, an individual who makes an inquiry regarding a ballot proposition, a proposed initiative, or a proposed referendum.

(4) This section does not prohibit:

(a) a public entity from conducting research, or collecting and compiling information or arguments in relation to, a ballot proposition, a proposed initiative, or a proposed referendum;

(b) an elected or appointed official of the public entity described in Subsection (4)(a) from using the research, information, or arguments described in Subsection (4)(a) for the purpose of advocating for or against a ballot proposition, proposed initiative, or proposed referendum via a website, or another medium, not owned or controlled by the public entity;

(c) a public entity from posting on the public entity’s website a link to another website, with a

brief description, that is not owned or controlled by a public entity, or from publishing in any medium owned, controlled, or paid for by a public entity a website address, with a brief description, where an individual may view research, information, and arguments for or against a ballot proposition, proposed initiative, or proposed referendum if the public entity:

(i) before posting the link or publishing the address, provides at least seven days written notice to the sponsors of the ballot proposition, proposed initiative, or proposed referendum:

(A) of the public entity's intent to post the link or publish the address;

(B) a description of each medium in which the public entity intends to post the link or publish the address; and

(C) the dates of the publication or posting; and

(ii) posts, immediately adjacent to the link or address, and brief description described in Subsection (4)(c)(i), a link to, or an address for, a website, with a brief description, containing the sponsors' research, information, and arguments for or against the ballot proposition, proposed initiative, or proposed referendum, if the sponsors provide a link or address within seven days after the day on which the sponsors receive the notice described in Subsection (4)(c)(i); or

(d) a public entity from posting on the public entity's website, or any medium, a complete copy of a proposition information pamphlet described in Section 20A-7-401.5 or a voter information pamphlet.

Section 40. Section 20A-11-1205 is amended to read:

20A-11-1205. Use of public email for a political purpose.

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:

(a) for a political purpose;

(b) to advocate for or against a ~~ballot proposition~~ proposed initiative, initiative, proposed referendum, or referendum; or

(c) to solicit a campaign contribution.

(2) (a) The ~~[applicable election officer shall]~~ lieutenant governor shall, after giving the person and the complainant notice and an opportunity to be heard, impose a civil fine against a person who violates Subsection (1) as follows:

~~[(a)]~~ (i) up to \$250 for a first violation; and

~~[(b)]~~ (ii) except as provided in Subsection (3), for each subsequent violation committed after ~~[any applicable election officer]~~ the lieutenant governor imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.

(b) A person may, within 30 days after the day on which the lieutenant governor imposes a fine against the person under this Subsection (2), appeal the fine to a district court.

(3) The ~~[applicable election officer]~~ lieutenant governor shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.

(4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.

(5) A person does not violate this section if:

(a) the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person ~~[described in Subsection (1),]~~ using the email of a public entity~~[:];~~

(b) the person is directly providing information solely to another person or a group of people in response to a question asked by the other person or group of people;

(c) the information the person emails is an argument or rebuttal argument prepared under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing argument and rebuttal argument that:

(i) relates to the same proposed initiative, initiative, proposed referendum, or referendum; and

(ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or

(d) the person is engaging in:

(i) an internal communication solely within the public entity;

(ii) a communication solely with another public entity;

(iii) a communication solely with legal counsel;

(iv) a communication solely with the sponsors of an initiative or referendum;

(v) a communication solely with a land developer for a project permitted by a local land use law that is challenged by a proposed referendum or a referendum; or

(vi) a communication solely with a person involved in a business transaction directly relating to a project described in Subsection (5)(d)(v).

(6) A violation of this section does not invalidate an otherwise valid election.

(7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection 63G-2-103(22)(b)(i).

Section 41. Section 20A-11-1206 is amended to read:

20A-11-1206. Exclusions.

(1) Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes.

(2) (a) [Nothing] Subject to Subsection (2)(b), nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.

(b) A county or municipality may not provide any information to the public about a proposed initiative, initiative, proposed referendum, or referendum unless the county or municipality:

(i) provides the information in a manner required, or expressly permitted, by law; or

(ii) is directly providing information solely to a person or a group of people in response to a question asked by the person or group of people.

(3) Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.

(4) Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition.

(5) Subject to Subsection (6), a county or municipality may expend a reasonable amount of public funds to:

(a) prepare and publish a written argument or written rebuttal argument in accordance with Section 20A-7-401.5, 20A-7-402, or 59-1-1604; or

(b) prepare an argument for, and present an argument at, a public meeting under Section 20A-7-405 or 59-1-1605.

(6) A county or municipality may not:

(a) publish an argument or rebuttal argument prepared under Section 20A-7-401.5 or 20A-7-402, unless, at the same time and in the same manner, the county or municipality publishes each opposing argument and rebuttal argument that:

(i) relates to the same proposed initiative, initiative, proposed referendum, or referendum; and

(ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402;

(b) publish an argument or rebuttal argument for or against a proposed initiative, initiative, proposed referendum, or referendum that was not prepared and submitted in accordance with Section 20A-7-401.5 or 20A-7-402; or

(c) present an argument or rebuttal argument for or against a proposed initiative, initiative, proposed referendum, or referendum at a public meeting, unless the county or municipality provides equal opportunity for persons to present opposing

arguments and rebuttal arguments at the public meeting.

Section 42. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates, Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

(3) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.

(4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states “, 10-2a-302,” is repealed.

(5) On January 1, 2026:

(a) In Subsection 20A-1-102[(23)] (22)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101[(4)] (3) is repealed and replaced with the following:

“[(4)] (3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”.

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(x) Section 20A-6-203.5 is repealed.

(y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(z) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6,

Municipal Alternate Voting Methods Pilot Project” is repealed.

(aa) In Subsection 20A-9-404(2), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(6) Section 20A-7-407 is repealed January 1, 2021.

Section 43. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Subsection 20A-7-407(1)(b) from “this bill” to the bill’s designated chapter number in the Laws of Utah.

Section 44. Coordinating H.B. 119 with S.B. 33 -- Substantive and technical amendments.

If this H.B. 119 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsections 20A-7-402(3)(f) through (i) to read:

“~~[(f)] (g)~~ (i) ~~[Except as provided in Subsection (3)(g), a]~~ A sponsor of a special local ballot proposition may prepare ~~[an]~~ a written argument in favor of the special local ballot proposition.

(ii) ~~[Except as provided in Subsection (3)(g), and subject]~~ Subject to Subsection ~~[(3)]~~ (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection ~~[(3)]~~ (2)(d) may prepare ~~[an]~~ a written argument against the special local ballot proposition.

~~[(g) (i) For a referendum, subject to Subsection (3)(e), an eligible voter who is in favor of a law that is referred to the voters and who submits a request under Subsection (3)(d) may prepare an argument for adoption of the law.]~~

~~[(ii) The sponsors of a referendum may prepare an argument against the adoption of a law that is referred to the voters.]~~

(h) An eligible voter who submits ~~[an]~~ a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) ~~[ensure that the argument does not]~~ list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the written argument to the election officer before 5 p.m. no later than 60 days before the election day on which the ballot proposition will be submitted to the voters; ~~[and]~~

(iv) list in the argument, immediately after the eligible voter’s name, the eligible voter’s residential address; and

~~[(iv)]~~ (v) ~~[include]~~ submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument ~~[that is]~~ submitted after the deadline described in Subsection ~~[(3)]~~(2)(h)(iii).”.

CHAPTER 204**H. B. 129**

Passed February 12, 2019

Approved March 25, 2019

Effective May 14, 2019

CAMPAIGN AMENDMENTS

Chief Sponsor: Craig Hall
 Senate Sponsor: Deidre M. Henderson
 Cosponsor: Stephanie Pitcher

LONG TITLE**General Description:**

This bill amends code provisions relating to the use of campaign funds.

Highlighted Provisions:

This bill:

- ▶ permits a candidate for public office to use campaign funds to pay childcare expenses while the candidate is engaging in campaign activity; and
- ▶ permits an officeholder to use campaign funds to pay childcare expenses while the officeholder is engaging in officeholder activities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-209, as enacted by Laws of Utah 2015, Chapter 247

17-16-202, as enacted by Laws of Utah 2016, Chapter 50

20A-11-104, as last amended by Laws of Utah 2013, Chapter 320

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-209 is amended to read:**10-3-209. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.**

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for the purposes of this section:

- (a) "Candidate" means a person who:
 - (i) files a declaration of candidacy for municipal office; or
 - (ii) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.
- (b) "Officeholder" means a person who is elected to and currently holds a municipal office.
- (c) (i) "Personal use expenditure" means an expenditure that:

(A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.

(ii) "Personal use expenditure" includes:

- (A) a mortgage, rent, utility, or vehicle payment;
 - (B) a household food item or supply;
 - (C) clothing, except for clothing bearing the candidate's name or campaign slogan or logo and that is used in the candidate's campaign;
 - (D) an admission to a sporting, artistic, or recreational event or other form of entertainment;
 - (E) dues, fees, or gratuities at a country club, health club, or recreational facility;
 - (F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;
 - (G) a vacation;
 - (H) a vehicle expense;
 - (I) a meal expense;
 - (J) a travel expense;
 - (K) a payment of an administrative, civil, or criminal penalty;
 - (L) a satisfaction of a personal debt;
 - (M) a personal service, including the service of an attorney, accountant, physician, or other professional person;
 - (N) a membership fee for a professional or service organization; and
 - (O) a payment in excess of the fair market value of the item or service purchased.
- (2) As used in this section, "personal use expenditure" does not mean an expenditure made:
- (a) for a political purpose;
 - (b) for candidacy for public office;
 - (c) to fulfill a duty or activity of an officeholder;
 - (d) for a donation to a registered political party;
 - (e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (f) to return all or a portion of a contribution to a donor;
 - (g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i) (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(ii) a meal expense;

(iii) a travel expense, including an expense incurred for airfare or a rental vehicle;

(iv) a payment for a service provided by an attorney or accountant;

(v) a tuition payment or registration fee for participation in a meeting or conference;

(vi) a gift;

(vii) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

(viii) a booth at a meeting or event; or

(ix) educational material;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; [ø];

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2)[-]; or

(n) to pay childcare expenses of:

(A) a candidate while the candidate is engaging in campaign activity; or

(B) an officeholder while the officeholder is engaging in the duties of an officeholder.

(3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).

(c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).

(4) A candidate or an officeholder may not use money deposited into a campaign account for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) A municipality may enforce this section by adopting an ordinance:

(a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and

(b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.

(6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:

(a) may require the candidate or officeholder to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and

(ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and

(b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.

Section 2. Section 17-16-202 is amended to read:

17-16-202. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b), "contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

(2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.

(3) "County office candidate" means an individual who:

(a) files a declaration of candidacy for a county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.

(4) "County officer" means an individual who holds a county office.

(5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section 17-16-6.5;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

(6) "Filing entity" means:

(a) a county office candidate;

(b) a county officer;

(c) a local school board candidate;

(d) a local school board member; or

(e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section 17-16-6.5.

(7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(8) "Local school board candidate" means an individual who:

(a) files a declaration of candidacy for local school board; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

(9) (a) "Personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and

(B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or

(ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) clothing, except for clothing:

(A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and

(B) used in the county office candidate's or local school board member's campaign;

(iv) admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a county office candidate, county officer, local school board candidate, or local school board member; or

(B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) payment of an administrative, civil, or criminal penalty;

(xii) satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(c) "Personal use expenditure" does not include an expenditure made:

(i) for a political purpose;

(ii) for candidacy for county office or local school board;

(iii) to fulfill a duty or activity of a county officer or local school board member;

(iv) for a donation to a registered political party;

(v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(vi) to return all or a portion of a contribution to a contributor;

(vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:

(A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(C) a meal expense;

(D) a travel expense, including an expense incurred for airfare or a rental vehicle;

(E) a payment for a service provided by an attorney or accountant;

(F) a tuition payment or registration fee for participation in a meeting or conference;

(G) a gift;

(H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;

(I) a booth at a meeting or event; or

(J) educational material;

(viii) to purchase or mail informational material, a survey, or a greeting card;

(ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

(xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;

(xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c); ~~or~~

(xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member~~[-]; or~~

(xv) to pay childcare expenses of:

(A) a candidate while the candidate is engaging in campaign activity; or

(B) an officeholder while the officeholder is engaging in the duties of an officeholder.

(10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.

(11) "Reporting entity":

(a) means the same as that term is defined in Subsection 20A-11-101(52); and

(b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section 3. Section 20A-11-104 is amended to read:

20A-11-104. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

(1) (a) As used in this chapter, "personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection (2); and

(B) primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(ii) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) clothing, except for clothing:

(A) bearing the candidate's name or campaign slogan or logo; and

(B) used in the candidate's campaign;

(iv) an admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a candidate or officeholder; or

(B) a person who has not provided a bona fide service to a candidate or officeholder;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) a payment of an administrative, civil, or criminal penalty;

(xii) a satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this chapter, "personal use expenditure" does not mean an expenditure made:

(a) for a political purpose;

(b) for candidacy for public office;

(c) to fulfill a duty or activity of an officeholder;

(d) for a donation to a registered political party;

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(f) to return all or a portion of a contribution to a contributor;

(g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i) (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(ii) a meal expense;

(iii) a travel expense, including an expense incurred for airfare or a rental vehicle;

(iv) a payment for a service provided by an attorney or accountant;

(v) a tuition payment or registration fee for participation in a meeting or conference;

(vi) a gift;

(vii) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

(viii) a booth at a meeting or event; or

(ix) educational material;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; [ø]

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2)[-]; or

(n) to pay childcare expenses of:

(A) a candidate while the candidate is engaging in campaign activity; or

(B) an officeholder while the officeholder is engaging in the duties of an officeholder.

(3) (a) The lieutenant governor shall enforce this chapter prohibiting a personal use expenditure by:

(i) evaluating a financial statement to identify a personal use expenditure; and

(ii) commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to believe a candidate or officeholder has made a personal use expenditure.

(b) Following the proceeding, the lieutenant governor may issue a signed order requiring a candidate or officeholder who has made a personal use expenditure to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the lieutenant governor; and

(ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The lieutenant governor shall deposit money received under Subsection (3)(b)(i) in the General Fund.

CHAPTER 205**H. B. 130**

Passed March 11, 2019
 Approved March 25, 2019
 Effective May 14, 2019

PUBLIC EDUCATION EXIT SURVEY

Chief Sponsor: Carol Spackman Moss
 Senate Sponsor: Kathleen Riebe
 Cosponsor: Suzanne Harrison

LONG TITLE**General Description:**

This bill enacts provisions related to exit surveys for licensed public education employees.

Highlighted Provisions:

This bill:

- ▶ defines a term;
- ▶ requires the State Board of Education to make certain rules regarding exit surveys for licensed public education employees;
- ▶ requires a local education agency to:
 - create an exit survey; and
 - make certain effort to administer an exit survey under certain circumstances; and
- ▶ requires reports related to exit surveys.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53G-11-301, as enacted by Laws of Utah 2018, Chapter 3

ENACTS:

53G-11-304, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53E-1-201, as enacted by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-11-301 is amended to read:**53G-11-301. Definitions.**

[Reserved]

As used in this part, "educator" means the same as that term is defined in Section 53E-6-102.

Section 2. Section 53G-11-304 is enacted to read:**53G-11-304. Educator exit survey -- Rulemaking -- Local education agencies to create and administer exit surveys -- Reporting.**

(1) The state board shall make rules that establish:

(a) minimum standards for an exit survey described in Subsection (2), including a model exit survey; and

(b) LEA exit survey reporting requirements.

(2) An LEA shall, in accordance with the rules described in Subsection (1):

(a) for an educator who is leaving employment at the LEA:

(i) create an exit survey; and

(ii) make the LEA's best effort to administer the exit survey to the educator before the educator leaves employment at the LEA; and

(b) report the results of an administered exit survey to the state board.

(3) The state board shall:

(a) before taking final action on the rules described in Subsection (1), report the proposed rules to the Education Interim Committee and consider recommendations from the committee regarding the proposed rules; and

(b) on or before November 30, 2020, and as requested by the Education Interim Committee, report to the committee on the results described in Subsection (2)(b).

Section 3. Coordinating H.B. 130 with S.B. 14 -- Substantive amendment.

If this H.B. 130 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) inserting the following language as a new Subsection 53E-1-201(2)(i):

"(i) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;" and

(2) renumbering remaining subsections accordingly.

CHAPTER 206**H. B. 133**

Passed March 13, 2019
Approved March 25, 2019
Effective May 14, 2019

INITIATIVE AMENDMENTS

Chief Sponsor: Brad M. Daw
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions relating to statewide initiatives.

Highlighted Provisions:

This bill:

- ▶ modifies the effective date of laws enacted by statewide initiative;
- ▶ modifies appeal provisions relating to conflicting initiatives; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-7-211, as last amended by Laws of Utah 2010, Chapter 367
20A-7-212, as last amended by Laws of Utah 2001, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-211 is amended to read:**20A-7-211. Return and canvass -- Conflicting measures -- Law effective on proclamation.**

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes its canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that were approved by majority vote to be in full force and effect [as the law of Utah] on the date described in Subsection 20A-7-212(2).

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, he shall proclaim that measure to be law

that has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(c) ~~[(4)]~~ Within 10 days after the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another measure approved at the same election may ~~[apply to the Supreme Court]~~ bring an action in the appropriate court to review the governor's decision.

~~[(ii) The court shall:]~~

~~[(A) consider the matter and decide whether or not the proposed laws are in conflict; and]~~

~~[(B) certify its decision to the governor.]~~

(4) Within 10 days after the ~~[Supreme Court certifies its decision]~~ day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim all those measures approved by the people as law that the ~~[Supreme Court] court~~ has determined are not entirely in conflict; and

(b) of all those measures approved by the people as law that the ~~[Supreme Court has determined]~~ court determines to be entirely in conflict, proclaim as law ~~[the one]~~, regardless of the difference in majorities, the law that received the greatest number of affirmative votes, ~~[regardless of difference in majorities]~~ to be in full force and effect on the date described in Subsection 20A-7-212(2).

Section 2. Section 20A-7-212 is amended to read:**20A-7-212. Effective date.**

(1) A proposed law submitted to the Legislature by initiative petition and ~~[enacted by them]~~ passed by the Legislature takes effect 60 days after the ~~[final adjournment of the session of the Legislature that passed it, unless a different]~~ last day of the session of the Legislature in which the law passed, unless:

(a) a later effective date is included in the proposed law; or

(b) an earlier effective date is included in the proposed law and the proposed law passes the Legislature by a two-thirds vote of the members elected to each house of the Legislature.

(2) ~~[(a) Any]~~ A proposed law submitted to the people by initiative petition that is approved by the voters at ~~[any election does not take effect until at least five days after the date of the official proclamation of the vote by the governor.]~~ an election takes effect:

(a) except as provided in Subsections (2)(b) through (e), on the day that is 60 days after the last day of the general session of the Legislature next following the election;

(b) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax increase:

(i) except as provided in Subsection (2)(b)(ii), January 1 of the year after the general session of the Legislature next following the election; or

(ii) at the beginning of the applicable taxable year that begins on or after January 1 of the year after the general session of the Legislature next following the election, for a tax described in:

(A) Title 59, Chapter 6, Mineral Production Tax Withholding;

(B) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(C) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or

(D) Title 59, Chapter 10, Individual Income Tax Act;

(c) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax decrease:

(i) except as provided in Subsection (2)(c)(ii), April 1 immediately following the election; or

(ii) for a tax described in Subsection (2)(b)(ii)(A) through (D), at the beginning of the applicable taxable year that begins on or after January 1 immediately following the election;

(d) except as provided in Subsection (2)(e), January 1 of the year after the general session of the Legislature next following the election, if the proposed law effectuates a change in a tax described in:

(i) Title 59, Chapter 2, Property Tax Act;

(ii) Title 59, Chapter 3, Tax Equivalent Property Act; or

(iii) Title 59, Chapter 4, Privilege Tax; or

(e) if the proposed law specifies a special effective date that is after the otherwise applicable effective date described in Subsections (2)(a) through (d), the date specified in the proposed law.

~~[(b) Any act or law submitted to the people by initiative that is approved by the voters at any election takes effect on the date specified in the initiative petition.]~~

~~[(c) If the initiative petition does not specify an effective date, a law approved by the voters at any election takes effect five days after the date of the official proclamation of the vote by the governor.]~~

(3) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any initiative approved by the people at any legislative session.

CHAPTER 207**H. B. 134**

Passed February 22, 2019

Approved March 25, 2019

Effective May 14, 2019

AREA ASSESSMENT CHARGES

Chief Sponsor: Joel Ferry
Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill addresses required language in a property tax notice regarding charges.

Highlighted Provisions:

This bill:

- ▶ adds a precondition to an existing requirement that a property tax notice include certain language regarding charges; and
- ▶ limits the amended language requirement to area assessment charges.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-1317, as last amended by Laws of Utah 2018, Chapter 197

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1317 is amended to read:**59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.**

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

- (a) collect the taxes and tax notice charges; and
- (b) provide a notice to each taxpayer that contains the following:
 - (i) the kind and value of property assessed to the taxpayer;
 - (ii) the street address of the property, if available to the county;
 - (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;
 - (iv) the amount of taxes levied;
 - (v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;
 - (vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506; and

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

CHAPTER 208**H. B. 136**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

ABORTION AMENDMENTS

Chief Sponsor: Cheryl K. Acton
 Senate Sponsor: Deidre M. Henderson
 Cosponsors: Carl R. Albrecht
 Kyle R. Andersen
 Melissa G. Ballard
 Stewart E. Barlow
 Brady Brammer
 Walt Brooks
 Kay J. Christofferson
 Kim F. Coleman
 Brad M. Daw
 Steve Eliason
 Timothy D. Hawkes
 Jon Hawkins
 Ken Ivory
 Dan N. Johnson
 Marsha Judkins
 Karianne Lisonbee
 Phil Lyman
 A. Cory Maloy
 Merrill F. Nelson
 Susan Pulsipher
 Adam Robertson
 Douglas V. Sagers
 Travis M. Seegmiller
 Rex P. Shipp
 Keven J. Stratton
 Mark A. Strong
 Norman K. Thurston

LONG TITLE**General Description:**

This bill enacts and modifies provisions relating to abortion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits an abortion from being performed after the unborn child reaches 18 weeks gestational age except under certain circumstances;
- ▶ modifies the circumstances under which an abortion may be performed after the unborn child reaches 18 weeks gestational age;
- ▶ modifies provisions that require a physician to report certain information to the Department of Health relating to an abortion; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-7-301, as last amended by Laws of Utah 2018, Chapter 282
 76-7-302, as last amended by Laws of Utah 2018, Chapter 282
 76-7-313, as last amended by Laws of Utah 2018, Chapter 282
 76-7-314, as last amended by Laws of Utah 2018, Chapter 282

ENACTS:

76-7-302.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-7-301 is amended to read:**76-7-301. Definitions.**

As used in this part:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.

(3) "Abuse" means the same as that term is defined in Section 78A-6-105.

(4) "Department" means the Department of Health.

(5) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

[~~5~~] (6) "Hospital" means:

(a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.

[46] (7) “Information module” means the pregnancy termination information module prepared by the department.

[47] (8) “Medical emergency” means that condition which, on the basis of the physician’s good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

[48] (9) “Minor” means an individual who is:

- (a) under 18 years of age;
- (b) unmarried; and
- (c) not emancipated.

[49] (10) (a) “Partial birth abortion” means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) “Partial birth abortion” does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

[40] (11) “Physician” means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to a person described in Subsection [40] (11)(a) or (b).

(12) (a) “Severe brain abnormality” means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) “Severe brain abnormality” does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 2. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, “viable” means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child is not viable; or

(b) the unborn child is viable, if:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient’s medical record that the fetus:

(A) has a defect that is uniformly diagnosable and uniformly lethal; or

(B) has a severe brain abnormality that is uniformly diagnosable; or

(iii) (A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(10) or Section 76-7-102; and

(B) before the abortion is performed, the physician who performs the abortion:

(I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and

(II) complies with the requirements of Section 62A-4a-403.

(4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

Section 3. Section 76-7-302.5 is enacted to read:

76-7-302.5. Circumstances under which abortion prohibited.

Notwithstanding any other provision of this part, a person may not perform or attempt to perform an abortion after the unborn child reaches 18 weeks gestational age unless the abortion is permissible for a reason described in Subsection 76-7-302(3)(b).

Section 4. Section 76-7-313 is amended to read:

76-7-313. Department's enforcement responsibility -- Physician's report to department.

(1) In order for the department to maintain necessary statistical information and ensure enforcement of the provisions of this part:

(a) any physician performing an abortion must obtain and record in writing:

(i) the age, marital status, and county of residence of the woman on whom the abortion was performed;

(ii) the number of previous abortions performed on the woman described in Subsection (1)(a)(i);

(iii) the hospital or other facility where the abortion was performed;

(iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;

(v) the pathological description of the unborn child;

(vi) the given ~~menstrual~~ gestational age of the unborn child;

(vii) the date the abortion was performed;

~~(vii)~~ (viii) the measurements of the unborn child, if possible to ascertain; and

~~(viii)~~ (ix) the medical procedure used to abort the unborn child; and

(b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Each physician who performs an abortion shall provide the following to the department within 30 days after the day on which the abortion is performed:

(a) the information described in Subsection (1);

(b) a copy of the pathologist's report described in Section 76-7-309;

(c) an affidavit:

(i) that the required consent was obtained pursuant to Sections 76-7-305 and 76-7-305.5; and

(ii) described in Subsection (3), if applicable; and

(d) a certificate indicating:

(i) whether the unborn child was or was not viable, as defined in Subsection 76-7-302(1), at the time of the abortion; ~~and~~

(ii) whether the unborn child was older than 18 weeks gestational age at the time of the abortion; and

~~(iii)~~ (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than 18 weeks gestational age at the time of the abortion, the reason for the abortion.

(3) If the information module or the address to the website is not provided to a pregnant woman, the physician who performs the abortion on the woman shall, within 10 days after the day on which the abortion is performed, provide to the department an affidavit that:

(a) specifies the information that was not provided to the woman; and

(b) states the reason that the information was not provided to the woman.

(4) All information supplied to the department shall be confidential and privileged pursuant to Title 26, Chapter 25, Confidential Information Release.

(5) The department shall pursue all administrative and legal remedies when the department determines that a physician or a facility has not complied with the provisions of this part.

Section 5. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) A willful violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-302.5 or 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The Department of Health shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section 26-21-11 against an abortion clinic if a violation of this chapter occurs at the abortion clinic.

**CHAPTER 209
H. B. 138**

Passed March 4, 2019
Approved March 25, 2019
Effective May 14, 2019

SPECIAL DESIGNATION OF HIGHWAY 6

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill enacts and amends provisions related to the name designations of Highway 6.

Highlighted Provisions:

This bill:

- ▶ reinstates the name of Highway 6 as the Grand Army of the Republic Highway; and
- ▶ requires the Department of Transportation to install signs to indicate the designation of the Mike Dmitrich Highway.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Department of Transportation -- Operations/Maintenance Management -- Maintenance Administration, as a one-time appropriation:
 - from the General Fund, One-time, \$7,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-4-211, as enacted by Laws of Utah 2009, Chapter 375

ENACTS:

72-4-218, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-4-211 is amended to read:

72-4-211. Mike Dmitrich Highway.

(1) There is established the Mike Dmitrich Highway composed of the existing Highway 6 from Interstate 15 to Interstate 70.

(2) In addition to other official designations, the Department of Transportation shall designate the portions of the highway identified in Subsection (1) as the Mike Dmitrich Highway on future state highway maps.

(3) As soon as practicable, the Department of Transportation shall install appropriate signs along portions of the highway indicating the designation as the Mike Dmitrich Highway as described in Subsection (1).

Section 2. Section 72-4-218 is enacted to read:

72-4-218. Grand Army of the Republic Highway.

(1) There is established the Grand Army of the Republic Highway composed of the existing Highway 6 within the state.

(2) In addition to other official designations, the Department of Transportation shall designate the highway identified in Subsection (1) as the Grand Army of the Republic Highway on future state highway maps.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of government of the state of Utah.

ITEM 1

To Department of Transportation - Operations/Maintenance Management

<u>From General Fund, One-time</u>	<u>\$7,000</u>
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Schedule of Programs:

<u>Maintenance Administration</u>	<u>\$7,000</u>
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The Legislature intends that the use of these funds is limited to the costs of procuring and installing road signs for the Mike Dmitrich Highway.

CHAPTER 210**H. B. 145**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**CITIZEN POLITICAL
 PROCESS AMENDMENTS**

Chief Sponsor: Norman K. Thurston
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends initiative and referendum provisions and nomination petition provisions.

Highlighted Provisions:

This bill:

- ▶ modifies signature sheets for initiative and referendum petitions;
- ▶ modifies the required contents of, and the deadline for submitting, a statement requesting removal of a signature on an initiative or referendum petition;
- ▶ requires initiative and referendum signature packets to be submitted, and the signatures certified, on an ongoing basis during the signature-gathering process;
- ▶ requires a county clerk to post the names of initiative and referendum petition signers on the county's website;
- ▶ modifies appeal provisions for an initiative or referendum petition that is declared insufficient;
- ▶ makes it a crime to knowingly place or verify a false signature date on an initiative or referendum signature packet;
- ▶ makes it a crime for a person to pay or accept payment in exchange for a person signing a referendum petition or removing a person's signature from a referendum petition;
- ▶ modifies the deadline for a filing officer to verify candidate nomination signatures; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

20A-1-609, as last amended by Laws of Utah 2018, Chapter 19
 20A-7-101, as last amended by Laws of Utah 2017, Chapter 291
 20A-7-203, as last amended by Laws of Utah 2017, Chapter 291
 20A-7-205, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-206, as last amended by Laws of Utah 2013, Chapter 231
 20A-7-206.3, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-207, as last amended by Laws of Utah 2011, Chapter 17

20A-7-213, as last amended by Laws of Utah 2013, Chapter 253
 20A-7-303, as last amended by Laws of Utah 2014, Chapter 329
 20A-7-305, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-306, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-307, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-312, as last amended by Laws of Utah 2013, Chapter 253
 20A-9-403, as last amended by Laws of Utah 2018, Chapter 80
 20A-9-408, as last amended by Laws of Utah 2018, Chapter 11

Utah Code Sections Affected by Coordination Clause:

20A-7-205, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-206, as last amended by Laws of Utah 2013, Chapter 231
 20A-7-207, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-305, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-306, as last amended by Laws of Utah 2011, Chapter 17

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-609 is amended to read:**20A-1-609. Omnibus penalties.**

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to a provision of this title for which another penalty is expressly stated.

(c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)(e)(ii), 20A-7-303(2)(h)(ii), 20A-7-503(2)(e), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which the individual was elected; and

(c) receive the emoluments of the office to which the individual was elected.

(3) (a) Any individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following

the procedures and requirements of Section 20A-3-202.

Section 2. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

- (1) "Budget officer" means:
 - (a) for a county, the person designated as budget officer in Section 17-19a-203;
 - (b) for a city, the person designated as budget officer in Subsection 10-6-106(5);
 - (c) for a town, the town council; or
 - (d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.
- (2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.
- (3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.
- (4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.
- (5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).
- (6) "Initial fiscal impact estimate" means:
 - (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or
 - (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.
- (7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.
- (8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.
- (9) "Legal signatures" means the number of signatures of legal voters that:
 - (a) meet the numerical requirements of this chapter; and
 - (b) have been certified and verified as provided in this chapter.
- (10) "Legal voter" means a person who:
 - (a) is registered to vote; or
 - (b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(11) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(12) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(13) (a) "Local law" includes:

- (i) an ordinance;
- (ii) a resolution;
- (iii) a master plan;
- (iv) a comprehensive zoning regulation adopted by ordinance or resolution; or
- (v) other legislative action of a local legislative body.

(b) "Local law" does not include an individual property zoning decision.

(14) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(15) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(16) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(17) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(18) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(19) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(20) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(21) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(22) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

~~[(23) "Sufficient" means that the signatures submitted in support of an initiative or referendum petition have been certified and verified as required by this chapter.]~~

[(24)] (23) "Tax percentage difference" means the difference between the tax rate proposed by an

initiative or an initiative petition and the current tax rate.

[~~(25)~~] (24) “Tax percentage increase” means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

[~~(26)~~] (25) “Verified” means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 3. Section 20A-7-203 is amended to read:

20A-7-203. Form of initiative petition and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

“INITIATIVE PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____ (month\day\year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)”

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) be vertically divided into columns as follows:

(i) the edge of the first column shall appear [at] .5 inch from the extreme left of the sheet, be [~~five-eighths~~] .25 inch wide, and be headed, together with the second column, “For Office Use Only[;]” [~~and be subdivided with a light vertical line down the middle with the left subdivision entitled “Registered” and the right subdivision left untitled~~];

(ii) the second column shall be .25 inch wide;

[~~(ii)~~] (iii) the [~~next~~] third column shall be [~~2-1/2~~] 2.5 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

[~~(iii)~~] (iv) the [~~next~~] fourth column shall be [~~2-1/2~~] 2.5 inches wide, headed “Signature of Registered Voter”;

(v) the fifth column shall be .75 inch wide, headed “Date Signed”;

[~~(iv)~~] (vi) the [~~next~~] sixth column shall be [~~one inch~~] three inches wide, headed[~~“Birth Date or Age (Optional)”~~] “Street Address, City, Zip Code”; and

[~~(v)~~] (vii) the [~~final~~] seventh column shall be [~~4-3/8 inches~~] .75 inch wide, headed[~~“Street Address, City, Zip Code”~~] “Birth Date or Age (Optional)”;

[~~(e)~~] ~~spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(d),]~~

(e) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(d), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than [eight] 12-point type:

“By signing this petition, you are stating that you have read and understand the law proposed by this petition.”; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, contain in the following order:

(i) the title of the initiative, in at least 14-point, bold type;

(ii) the initial fiscal impact estimate’s summary statement issued by the Governor’s Office of Management and Budget in accordance with Subsection 20A-7-202.5(2)(b), including any update in accordance with Subsection 20A-7-204.1(4), and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-202.5(3), in not less than 12-point, bold type;

(iii) the word “Warning,” followed by the following statement in not less than eight-point type:

“It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual’s own name, or to knowingly sign the individual’s name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.”;

(iv) the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”; and

(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14–point, bold type, the following statement:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(3) The final page of each initiative packet shall contain the following printed or typed statement:

“Verification

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual’s name on it in my presence;

I believe that each individual has printed and signed the individual’s name and written the individual’s post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual’s name.

I have not paid or given anything of value to any [person] individual who signed this petition to encourage that [person] individual to sign it.

(Name Residence Address Date)”

~~(4) [The forms prescribed in this section are not mandatory, and, if] If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.~~

Section 4. Section 20A-7-205 is amended to read:

20A-7-205. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign an initiative petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the [person] individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; ~~and]~~

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet[-]; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) A person may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(3) (a) A voter who has signed an initiative petition may have the voter’s signature removed from the petition by submitting to the county clerk a statement requesting that the voter’s signature be removed[-] before 5 p.m. no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the county clerk posts the voter’s name under Subsection 20A-7-206(2)(c); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the county clerk posts the voter’s name under Subsection 20A-7-206(3)(c);

(b) (i) The statement shall include:

~~(i)]~~ (A) the name of the voter;

~~(ii)]~~ (B) the resident address at which the voter is registered to vote;

~~(iii) the last four digits of the voter’s Social Security number;]~~

~~(iv) the driver license or identification card number; and]~~

~~(v)]~~ (C) the signature of the voter[-]; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

~~[(d) In order for the signature to be removed, the statement must be received by the county clerk before May 15.]~~

~~[(e) The county clerk shall deliver all statements received under this Subsection (3).]~~

~~[(f) with the initiative petition packets delivered to the lieutenant governor; or]~~

~~[(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the initiative packets.]~~

~~[(4)] (d) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).~~

~~(e) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-206.3.~~

Section 5. Section 20A-7-206 is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver ~~[each]~~ a signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~[on or before the sooner]~~ before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

~~[(4)]~~ (ii) 316 days after the day on which the application for the initiative petition is filed; or

~~[(4)]~~ (iii) the ~~[April]~~ February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline ~~[established]~~ described in ~~[this]~~ Subsection (1)(a).

(2) ~~[(a) No later than May 1 before the regular general election,]~~ For an initiative packet received by the county clerk before December 1, the county clerk shall, within 30 days after the day on which the county clerk receives the packet:

~~[(4)] check the names of all persons completing the verification for the initiative packet to determine whether those persons are residents of Utah and are at least 18 years old; and]~~

~~[(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney;]~~

~~[(b) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-205.]~~

~~[(3) No later than May 15 before the regular general election, the county clerk shall:]~~

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; ~~[and]~~

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 90 days; and

~~[(e)]~~ (d) deliver ~~[all of]~~ the verified initiative ~~[packets]~~ packet to the lieutenant governor.

~~[(4) Upon receipt of an initiative packet under Subsection (3) and any statement submitted under Subsection 20A-7-205(3), the lieutenant governor shall remove from the initiative petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-205(3).]~~

(3) For an initiative packet received by the county clerk on or after December 1, the county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and precinct of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:

(a) remove the voter's signature from the posting described in Subsection (2)(e) or (3)(e); and

(b) (i) remove the voter's signature from the signature packet totals; and

(ii) inform the lieutenant governor of the removal.

(5) The county clerk may not certify a signature under Subsection (2) or (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

~~[(5)]~~ (6) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~[by]~~ before 5 p.m. no later

than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

~~[(6) (a) No later than December 1 before the annual general session of the Legislature, the county clerk shall:]~~

~~[(i) check the names of all persons completing the verification for the initiative packet to determine whether those persons are Utah residents and are at least 18 years old; and]~~

~~[(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.]~~

~~[(b) (7) The county clerk may not certify a signature under Subsection [(7)] (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.~~

~~[(7) (8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):~~

~~(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;~~

~~(b) certify on the petition whether each name is that of a registered voter; and~~

~~(c) deliver all of the verified initiative packets to the lieutenant governor.~~

~~[(8) The sponsor or their representatives may not retrieve initiative packets from the county clerks once they have submitted them.]~~

~~(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.~~

Section 6. Section 20A-7-206.3 is amended to read:

20A-7-206.3. Verification of petition signatures.

(1) ~~[(a) For the purposes of]~~ As used in this section, "substantially":

(a) "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or

middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

~~(b) [For the purposes of this section,~~ "substantially" "Substantially similar name" does not ~~[mean]~~ include a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether ~~[or not]~~ a signer is a registered voter:

(a) ~~[When]~~ if a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid[-];

(b) ~~[When]~~ if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of ~~[a person]~~ an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the ~~[person]~~ individual described in Subsection (2)(b)(i)[-];

(c) ~~[When]~~ if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of ~~[a person]~~ an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the ~~[person]~~ individual described in Subsection (2)(c)(i)[-]; and

(d) ~~[If]~~ if a signature is not declared valid under Subsection (2)(a), [(2)](b), or [(2)](c), the county clerk shall declare the signature to be invalid.

(3) The county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 7. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) When [each] an initiative packet is received from a county clerk, the lieutenant governor shall check off from the record the number of [each] the initiative packet [filed] received.

(2) (a) [After all of the initiative packets have been received by the lieutenant governor and the lieutenant governor has removed the signatures as required by Section 20A-7-206, the] The lieutenant governor shall, within 14 days after the day on which the lieutenant governor receives an initiative packet from a county clerk:

(i) count the number of the names certified by the county clerks [~~that remain~~] on each verified signature sheet; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

[~~(ii)~~] (b) The lieutenant governor shall declare the petition to be sufficient or insufficient [~~by June 1~~] on or before April 30 before the regular general election described in Subsection 20A-7-201(2)(b).

[~~(b)~~] (c) If the total number of names [~~counted~~] certified under this Subsection (2)[~~(a)~~](i) equals or exceeds the number of names required [~~by~~] under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

[~~(e)~~] (d) If the total number of names [~~counted~~] certified under this Subsection (2)[~~(a)~~](i) does not

equal or exceed the number of names required [~~by~~] under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

[~~(d)~~] (e) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(3) [~~Once~~] After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(4) (a) If the lieutenant governor refuses to accept and file [~~any~~] an initiative petition that a sponsor believes is legally sufficient, any voter may, [~~by June~~] not later than May 15, apply to the [~~supreme~~] appropriate court for an extraordinary writ to compel the lieutenant governor to [~~do so~~] accept and file the initiative petition.

[~~(b) The supreme court shall:~~]

[~~(i) determine whether or not the initiative petition is legally sufficient; and]~~

[~~(ii) certify its findings to the lieutenant governor.]~~

[~~(e)~~] (b) If the [~~supreme~~] court certifies that the initiative petition is legally sufficient, the lieutenant governor shall file [~~it~~] the initiative petition, with a verified copy of the judgment attached to [~~it~~] the initiative petition, as of the date on which [~~it~~] the initiative petition was originally offered for filing in the lieutenant governor's office.

[~~(d)~~] (c) If the [~~supreme~~] court determines that [~~any~~] a petition filed is not legally sufficient, the [~~supreme~~] court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 8. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to [~~any~~] an initiative petition or a statement described in Subsection 20A-7-205(3);

(b) knowingly sign the person's name more than once for the same measure at one election;

(c) knowingly indicate on an initiative packet that a person who signed the packet signed the packet on a date other than the date that the person signed the packet;

[~~(e)~~] (d) sign an initiative knowing the person is not a legal voter; or

[~~(d)~~] (e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for an initiative packet knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date next to the person's name on the initiative packet is not the date that the person signed the packet;

(c) the person has not witnessed the signatures of those persons whose names appear in the initiative packet; or

(d) one or more persons whose signatures appear in the initiative packet is either:

- (i) not registered to vote in Utah; or
- (ii) does not intend to become registered to vote in Utah.
- (3) It is unlawful for any person to:

- (a) pay a person to sign an initiative petition;
- (b) pay a person to remove the person's signature from an initiative petition;
- (c) accept payment to sign an initiative petition; or
- (d) accept payment to have the person's name removed from an initiative petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 9. Section 20A-7-303 is amended to read:
20A-7-303. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. _____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the _____ Session of the Legislature of the state of Utah, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:

"It is a class A misdemeanor for [anyone] an individual to sign [any] a referendum petition with any other name than [his own] the individual's own name, or knowingly to sign [his] the individual's name more than once for the same measure, or to sign a referendum petition when [he] the individual knows [he] that the individual is not a registered voter and knows that [he] the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, three-eighths inch apart under the "Warning" statement required by this section; and

(g) be vertically divided into columns as follows:

(i) the edge of the first column shall appear [at] .5 inch from the extreme left of the sheet, be [five-eighths] .25 inch wide, and be headed, together with the second column, "For Office Use Only[.]" [and be subdivided with a light vertical line down the middle];

(ii) the second column shall be .25 inch wide;

(iii) the [next] third column shall be [2-1/2] 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iv) the [next] fourth column shall be [2-1/2] 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

(vi) the [next] sixth column shall be [one inch] three inches wide, headed["Birth Date or Age (Optional)"] "Street Address, City, Zip Code"; and

(vii) the [final] seventh column shall be [4-3/8 inches] .75 inch wide, headed["Street Address, City, Zip Code";] "Birth Date or Age (Optional)";

(h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;

(h) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(g);

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than ~~[eight-point, single-leaded]~~ 12-point type:

“By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn.”; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and

(i) at the bottom of the sheet, contain the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”

(3) The final page of each referendum packet shall contain the following printed or typed statement:

“Verification

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this packet were signed by ~~[persons]~~ individuals who professed to be the ~~[persons]~~ individuals whose names appear in it, and each of ~~[them]~~ the individuals signed ~~[his]~~ the individual’s name on it in my presence;

I believe that each individual has printed and signed ~~[his]~~ the individual’s name and written ~~[his]~~ the individual’s post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual’s name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

(Name) (Residence Address) (Date)”

(4) ~~[The forms prescribed in this section are not mandatory, and, if]~~ If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 10. Section 20A-7-305 is amended to read:

20A-7-305. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign a referendum petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the ~~[person]~~ individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; ~~[and]~~

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet~~[.]; and~~

~~(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.~~

(b) A person may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(3) (a) ~~(i)~~ A voter who has signed a referendum petition may have the voter’s signature removed from the petition by submitting to the county clerk a statement requesting that the voter’s signature be removed~~[.]~~ no later than the earlier of:

(i) 14 days after the day on which the voter signs the statement; or

(ii) 45 days after the day on which the county clerk posts the voter’s name under Subsection 20A-7-306(3)(c).

(b) (i) The statement shall include:

~~(i)~~ (A) the name of the voter;

~~(ii)~~ (B) the resident address at which the voter is registered to vote;

~~(iii) the last four digits of the voter’s Social Security number;~~

~~(iv) the driver license or identification card number; and]~~

~~(v)~~ (C) the signature of the voter~~[.]; and~~

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter’s signature being identified and removed, the statement may include the voter’s birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement ~~[must be received by the county clerk before the day which is 55 days after the end of the legislative session at which the law passed]~~ before 5 p.m. no later than 45 days after the day on which the county clerk posts the voter’s name under Subsection 20A-7-306(3)(c).

~~[(e) The county clerk shall deliver all statements received under this Subsection (3).]~~

~~[(i) with the referendum petition packets to the lieutenant governor; or]~~

~~[(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the referendum petition packets.]~~

~~[(f) (e) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).~~

~~(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-206.3.~~

Section 11. Section 20A-7-306 is amended to read:

20A-7-306. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) ~~[No later than 40 days after the end of the legislative session at which the law passed, the]~~ The sponsors shall deliver ~~[each]~~ a signed and verified referendum packet to the county clerk of the county in which the packet was circulated~~[-] before 5 p.m. no later than the earlier of:~~

(i) 14 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the end of the legislative session at which the law passed.

(b) A sponsor may not submit a referendum packet after the deadline ~~[established in this]~~ described in Subsection (1)(a).

(2) (a) ~~No later than [55 days after the end of the legislative session at which the law passed] 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:~~

(i) ~~check the [names of all persons completing] name of each individual who completes the verification on the last page of each referendum packet to determine whether [or not those persons are Utah residents and are] the individual is a resident of Utah and is at least 18 years old; and~~

(ii) ~~submit the name of each [of those persons] individual who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.~~

(b) The county clerk may not certify a signature under Subsection (3):

(i) on a referendum packet that is not verified in accordance with Section 20A-7-305~~[-]; or~~

(ii) that does not have a date of signature next to the signature.

(3) ~~No later than [55 days after the end of the legislative session at which the law passed] 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:~~

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the referendum petition whether each name is that of a registered voter; ~~[and]~~

(c) post the name and voter identification number of each registered voter certified under Subsection (3)(b) in a conspicuous location on the county's website for at least 45 days; and

~~[(e) (d) deliver [all of] the verified referendum [packets] packet to the lieutenant governor.~~

~~[(4) Upon receipt of a referendum packet under Subsection (3) and any statement submitted under Subsection 20A-7-305(3), the lieutenant governor shall remove from the referendum petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-305(3).]~~

(4) Within two business days after timely receipt of a statement described in Subsection 20A-7-305(3), the county clerk shall:

(a) remove the voter's signature from the posting described in Subsection (3)(c); and

(b) inform the lieutenant governor of the removal.

(5) The sponsor or a sponsor's representative may not retrieve a referendum packet from a county clerk after the referendum packet is submitted to the county clerk.

Section 12. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) When ~~[each]~~ a referendum packet is received from a county clerk, the lieutenant governor shall check off from the record the number of ~~[each]~~ the referendum packet ~~[filed]~~ received.

(2) (a) ~~[After all of the referendum packets have been received by the lieutenant governor and the lieutenant governor has removed the signatures as required by Section 20A-7-306, the]~~ The lieutenant governor shall, within 14 days after the day on which the lieutenant governor receives a referendum packet from a county clerk:

(i) count the number of the names certified by the county clerks ~~[that remain]~~ on each verified signature sheet; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(b) The lieutenant governor shall:

(i) within one business day after the day on which the lieutenant governor provides the notification described in Subsection 20A-7-306(4)(a)(ii), subtract the number of signatures removed from the number of signatures certified and update the number on the lieutenant governor's website accordingly; and

(ii) declare the petition to be sufficient or insufficient [no later than 60] 95 days after the end of the legislative session at which the law passed.

~~[(b)]~~ (c) If the total number of names ~~[counted]~~ certified under this Subsection (2)~~[(a)(i)]~~ equals or exceeds the number of names required ~~[by]~~ under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

~~[(e)]~~ (d) If the total number of names ~~[counted]~~ certified under this Subsection (2)~~[(a)(i)]~~ does not equal or exceed the number of names required ~~[by]~~ under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

~~[(d)]~~ (e) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(f) After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the lieutenant governor refuses to accept and file ~~[any]~~ a referendum petition, any voter may, not later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the ~~[supreme]~~ appropriate court for an extraordinary writ to compel the lieutenant governor to ~~[do so within 10 days after the refusal.]~~ accept and file the referendum petition.

(b) If the ~~[supreme]~~ court determines that the referendum petition is legally sufficient, the lieutenant governor shall file ~~[it]~~ the referendum petition, with a verified copy of the judgment attached to ~~[it]~~ the referendum petition, as of the date on which ~~[it]~~ the referendum petition was originally offered for filing in the lieutenant governor's office.

(c) If the ~~[supreme]~~ court determines that ~~[any]~~ a petition filed is not legally sufficient, the ~~[supreme]~~ court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 13. Section 20A-7-312 is amended to read:

20A-7-312. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to ~~[any]~~ a referendum petition;

(b) knowingly sign the person's name more than once for the same measure at one election;

(c) knowingly indicate on a referendum packet that a person who signed the packet signed the packet on a date other than the date that the person signed the packet;

~~[(e)]~~ (d) sign a referendum knowing the person is not a legal voter; or

~~[(d)]~~ (e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date next to the person's name on the referendum packet is not the date that the person signed the packet;

~~[(b)]~~ (c) the person has not witnessed the signatures of those persons whose names appear in the referendum packet; or

~~[(e)]~~ (d) one or more persons whose signatures appear in the referendum packet is either:

(i) not registered to vote in Utah; or

(ii) does not intend to become registered to vote in Utah.

(3) It is unlawful for any person to:

(a) pay a person to sign a referendum petition;

(b) pay a person to remove the person's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the person's name removed from a referendum petition.

~~[(3)]~~ (4) Any person violating this section is guilty of a class A misdemeanor.

Section 14. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in

the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration

forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of

education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ____ (year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate, other than a presidential candidate, who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates, other than presidential candidates, are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 15. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an

elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer no later than 14 days before the day on which the qualified political party holds its convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet[~~;~~ and].

~~(v)~~ (e) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

~~(e)~~ (f) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 16. Coordinating H.B. 145 with H.B. 195 and S.B. 33 -- Substantive and technical amendments.

(1) If this H.B. 145, H.B. 195, Initiative and Referendum Amendments, and S.B. 33, Political Procedures Amendments, all pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(a) the changes to Section 20A-7-205 in H.B. 145 supercede the changes to Section 20A-7-205 in H.B. 195 and S.B. 33; and

(b) the changes to Section 20A-7-206 in H.B. 145 supercede the changes to Section 20A-7-206 in H.B. 195 and S.B. 33.

(2) If this H.B. 145 and H.B. 195, Initiative and Referendum Amendments, both pass and become law, but S.B. 33, Political Procedures Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(a) the changes to Section 20A-7-205 in H.B. 145 supercede the changes to Section 20A-7-205 in H.B. 195; and

(b) the changes to Section 20A-7-206 in H.B. 145 supercede the changes to Section 20A-7-206 in H.B. 195.

(3) If this H.B. 145 and S.B. 33, Political Procedures Amendments, both pass and become law, but H.B. 195, Initiative and Referendum Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(a) the changes to Section 20A-7-205 in H.B. 145 supercede the changes to Section 20A-7-205 in S.B. 33; and

(b) the changes to Section 20A-7-206 in H.B. 145 supercede the changes to Section 20A-7-206 in S.B. 33.

Section 17. Coordinating H.B. 145 with H.B. 195 -- Substantive and technical amendments.

If this H.B. 145 and H.B. 195, Initiative and Referendum Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication so that the changes to Section 20A-7-207 in H.B. 145 supercede the changes to Section 20A-7-207 in H.B. 195..

Section 18. Coordinating H.B. 145 with S.B. 33 -- Substantive and technical amendments.

If this H.B. 145 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(1) the changes to Section 20A-7-305 in H.B. 145 supercede the changes to Section 20A-7-305 in S.B. 33; and

(2) the changes to Section 20A-7-306 in H.B. 145 supercede the changes to Section 20A-7-306 in S.B. 33.

CHAPTER 211**H. B. 163**

Passed March 1, 2019

Approved March 25, 2019

Effective July 1, 2019

**OFFENSES AGAINST THE
ADMINISTRATION OF
GOVERNMENT AMENDMENTS**

Chief Sponsor: Craig Hall

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions relating to offenses against the administration of government.

Highlighted Provisions:

This bill:

- ▶ defines terms in the Utah Criminal Code in relation to public entities;
- ▶ modifies the crime of misusing public money;
- ▶ makes it a crime to misuse public property;
- ▶ describes the type of personal use of public property that is permitted; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 11-57-104, as enacted by Laws of Utah 2017, Chapter 354
 53B-7-106, as enacted by Laws of Utah 2017, Chapter 354
 63A-3-110, as last amended by Laws of Utah 2018, Chapter 25
 76-1-601, as last amended by Laws of Utah 2007, Chapter 339
 76-5-413, as last amended by Laws of Utah 2018, Chapter 192
 76-6-513, as last amended by Laws of Utah 2010, Chapter 193
 76-8-101, as last amended by Laws of Utah 1993, Chapter 42
 76-8-402, as last amended by Laws of Utah 2017, Chapter 354
 76-8-404, as last amended by Laws of Utah 1999, Chapter 106
 77-23a-8, as last amended by Laws of Utah 2016, Chapter 399

REPEALS:

- 76-8-401, as last amended by Laws of Utah 2012, Chapter 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-57-104 is amended to read:**11-57-104. Relation to other actions --
Prohibition on disbursing funds and
accessing accounts.**

- (1) Nothing in this chapter:

(a) immunizes a political subdivision officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure; or

(b) limits or supersedes the authority of a political subdivision to set compensation in accordance with Section 10-3-818.

(2) A political subdivision officer or employee who ~~has been~~ is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Section 2. Section 53B-7-106 is amended to read:**53B-7-106. Personal use expenditures for officers and employees of institutions of higher education.**

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by an institution of higher education.

(b) "Institution of higher education" means an institution that is part of the state system of higher education as described in Section 53B-1-102.

(c) "Officer" means a person who is elected or appointed to an office or position within an institution of higher education.

(d) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as an officer or employee of an institution of higher education;

(B) primarily furthers a personal interest of an officer or employee of an institution of higher education or the family, a friend, or an associate of an officer or employee of an institution of higher education; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the institution of higher education.

(e) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) An officer or employee of an institution of higher education may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, an institution of higher education for a personal use expenditure.

(3) If the institution of higher education determines that an officer or employee of an

institution of higher education has intentionally made a personal use expenditure in violation of Subsection (2), the institution of higher education shall:

(a) require the officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the institution of higher education; and

(c) deposit the money received under Subsection (3)(b) into the operating fund of the institution of higher education.

(4) (a) Any officer or employee of an institution of higher education who has been found by the institution of higher education to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the institution of higher education.

(b) The institution of higher education shall establish an appeal process for an appeal made under Subsection (4)(a).

(5) (a) Subject to Subsection (5)(b), an institution of higher education may withhold all or a portion of the wages of an officer or employee of the institution of higher education who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the officer or employee has requested an appeal under Subsection (4), the institution of higher education may only withhold the wages of the officer or employee after the appeal process has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes an officer or employee of an institution of higher education from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) An officer or employee of an institution of higher education who ~~[has been]~~ is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Section 3. Section 63A-3-110 is amended to read:

63A-3-110. Personal use expenditures for state officers and employees.

(1) As used in this section:

(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.

(b) "Governmental entity" means:

(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the State Board of Regents;

(ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) independent state entities created under Title 63H, Independent State Entities; or

(v) the Utah Science Technology and Research Governing Authority created under Section 63M-2-301.

(c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(d) (i) "Personal use expenditure" means an expenditure made without the authority of law that:

(A) is not directly related to the performance of an activity as a state officer or employee;

(B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and

(C) would constitute taxable income under federal law.

(ii) "Personal use expenditure" does not include:

(A) a de minimis or incidental expenditure; or

(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.

(e) "Public funds" means the same as that term is defined in Section 51-7-3.

(2) A state officer or employee may not:

(a) use public funds for a personal use expenditure; or

(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity shall:

(a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:

(i) the personal use expenditure was disbursed; or

(ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;

(b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and

(c) deposit the money received under Subsection (3)(b) into the General Fund.

(4) (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.

(5) (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.

(b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).

(6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.

(7) A state officer or employee who has been is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Section 4. Section 76-1-601 is amended to read:

76-1-601. Definitions.

Unless otherwise provided, [the following terms apply to] as used in this title:

(1) "Act" means a voluntary bodily movement and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Conduct" means an act or omission.

(5) "Dangerous weapon" means:

(a) any item capable of causing death or serious bodily injury; or

(b) a facsimile or representation of the item, if:

(i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

(ii) the actor represents to the victim verbally or in any other manner that he is in control of such an item.

(6) "Grievous sexual offense" means:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);

(h) aggravated sexual assault, Section 76-5-405;

(i) any felony attempt to commit an offense described in Subsections (6)(a) through (h); or

(j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (6)(a) through (i).

(7) "Offense" means a violation of any penal statute of this state.

(8) "Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

(9) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

(10) "Possess" means to have physical possession of or to exercise dominion or control over tangible property.

(11) "Public entity" means:

(a) the state, or an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of the state;

(b) a political subdivision of the state, including a county, municipality, interlocal entity, local district, special service district, school district, or school board;

(c) an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

(ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

(12) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections (11)(a) through (c); or

(ii) are in the possession of an entity described in Subsection (11)(d)(i) for the purpose of performing a public function.

(b) “Public money” or “public funds” includes money, funds, or accounts described in Subsection (12)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.

(c) “Public money” or “public funds” remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

(13) “Public officer” means:

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

(14) (a) “Public servant” means:

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in Subsection (14)(a) upon the person’s election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

(15) “Serious bodily injury” means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

(16) “Substantial bodily injury” means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

(17) “Writing” or “written” includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

Section 5. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations or misconduct with youth receiving state services -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

(a) “Actor” means:

(i) an individual employed by the Department of Human Services, as created in Section 62A-1-102,

or an employee of a private provider or contractor; or

(ii) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(b) “Department” means the Department of Human Services created in Section 62A-1-102.

(c) “Juvenile court” means the juvenile court of the state created in Section 78A-6-102.

(d) “Private provider or contractor” means any individual or entity that contracts with the:

(i) department to provide services or functions that are part of the operation of the department; or

(ii) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(e) “Youth receiving state services” means an individual:

(i) younger than 18 years of age, except as provided under Subsection (1)(e)(ii), who is:

(A) in the custody of the department under Subsection 78A-6-117(2)(c); or

(B) receiving services from any division of the department if any portion of the costs of these services is covered by public money [as defined in Section 76-8-401]; or

(ii) younger than 21 years of age who is:

(A) in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

(B) under the jurisdiction of the juvenile court.

(2) (a) An actor commits custodial sexual relations with a youth receiving state services if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor’s position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving state services is younger than 18 years of age, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a youth receiving state services;

(b) engaging in any sexual act with a youth receiving state services involving the genitals of one

individual and the mouth or anus of another individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:

(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(b) touching the breast of a female youth receiving state services; or

(c) otherwise taking indecent liberties with a youth receiving state services.

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations with a youth receiving state services under Subsection (2) or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses, if the youth receiving state services is younger than 18 years of age, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years of age or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 6. Section 76-6-513 is amended to read:

76-6-513. Definitions -- Unlawful dealing of property by a fiduciary -- Penalties.

(1) As used in this section:

(a) "Fiduciary" [~~is as~~] means the same as that term is defined in Section 22-1-1.

(b) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(c) "Governmental entity" is as defined in Section 63G-7-102.

(d) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(e) "Property" [~~is as~~] means the same as that term is defined in Section 76-6-401.

[~~(f) "Public money" is as defined in Section 76-8-401.~~]

(2) A person is guilty of unlawfully dealing with property by a fiduciary if the person deals with property that has been entrusted to him as a fiduciary, or property of a governmental entity, public money, or of a financial institution, in a manner which the person knows is a violation of the person's duty and which involves substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted. A violation of this Subsection (2) is punishable under Section 76-6-412.

(3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if, without permission of the owner of the property or some other person with authority to give permission, the person pledges as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.

(b) An offense under Subsection (3)(a) is punishable as:

(i) a felony of the second degree if the value of the property wrongfully pledged is or exceeds \$5,000;

(ii) a felony of the third degree if the value of the property wrongfully pledged is or exceeds \$1,500 but is less than \$5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than \$500.

Section 7. Section 76-8-101 is amended to read:

76-8-101. Definitions.

~~[For the purposes of]~~ As used in this chapter:

(1) "Candidate for electoral office" means a person who ~~has filed~~ files as a candidate for office under the laws of the state.

(2) "Party official" means ~~any~~ a person holding any post in a political party whether by election, appointment, or otherwise.

(3) "Peace officer" means ~~any~~ an employee of a police or law enforcement agency that is part of or administered by the state or any of its political subdivisions, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(4) (a) "Pecuniary benefit" means any advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

(b) "Pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

~~[(5) (a) "Public servant" means any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, and persons otherwise performing a governmental function.]~~

~~[(b) A person is considered a public servant upon his election, appointment, or other designation as such, although he may not yet officially occupy that position.]~~

(5) (a) "Public property" means real or personal property that is owned, held, or managed by a public entity.

(b) "Public property" includes real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity.

(c) "Public property" remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

Section 8. Section 76-8-402 is amended to read:

76-8-402. Misusing public money or public property.

~~[(1) Every public officer of this state or a political subdivision, or of any county, city, town, precinct, or district of this state, and every other person charged, either by law or under contract, with the receipt, safekeeping, transfer, disbursement, or use of public money commits an offense if the officer or other charged person:]~~

(1) As used in this section, "authorized personal use" means:

(a) the use of public property, for a personal matter, by a public servant if:

(i) the public servant is authorized to use or possess the public property to fulfill the public servant's duties as a public servant;

(ii) the primary purpose of the public servant using or possessing the public property is to fulfill the public servant's duties as a public servant;

(iii) at the time the public servant uses the public property for a personal matter, a written policy of the public servant's public entity is in effect that authorizes the public servant to use or possess the public property for personal use in addition to the primary purpose of fulfilling the public servant's duties as a public servant; and

(iv) the public servant uses and possesses the public property in a lawful manner and in accordance with the policy described in Subsection (1)(a)(iii); or

(b) incidental use of public property for a personal matter by a public servant, if:

(i) the value provided to the public servant's public entity by the public servant's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the employee from the incidental use of the public property for a personal matter; and

(ii) the incidental use of the public property for a personal matter is not prohibited by law or by the public servant's public entity.

(2) It is unlawful for a public servant to:

(a) [appropriates the money or any portion of it to his] appropriate public money or public property to

the public servant's own use or benefit or to the use or benefit of another without authority of law;

(b) ~~loans or transfers the money or any portion of it~~ loan or transfer public money or public property without authority of law;

(c) ~~fails to keep the money in his~~ fail to keep public money or public property in the public servant's possession until disbursed ~~or paid out~~ by authority of law;

(d) unlawfully ~~deposits the money or any portion in any~~ deposit public money in a bank or with ~~any other~~ another person;

(e) knowingly ~~keeps any~~ keep a false account or ~~makes any false~~ make a false entry or erasure in ~~any~~ an account of, or relating to ~~the~~, public money;

(f) fraudulently ~~alters, falsifies, conceals, destroys, or obliterates any such account~~ alter, falsify, conceal, or destroy an account described in Subsection (2)(e);

(g) willfully ~~refuses or omits~~ refuse or omit to pay over, on demand, any public money in ~~his hands~~ the public servant's custody or control, upon the presentation of a draft, order, or warrant drawn upon ~~such money~~ the public money by competent authority;

(h) willfully ~~omits to transfer the~~ omit to transfer public money when the transfer is required by law; or

(i) willfully ~~omits or refuses~~ omit or refuse to pay over, to any officer or person authorized by law to receive ~~it, any money received by him~~ public money, public money received by the public servant under any duty imposed ~~by law so to pay over the same~~ on the public servant by law.

~~(2)~~ (3) ~~[A]~~ Except as provided in Subsection (4), a violation of Subsection ~~(1)~~ (2) is a felony of the third degree, ~~except it~~.

(4) A violation of Subsection (2) is a felony of the second degree if:

(a) the value of the public money or the value of the use of the public property exceeds \$5,000;

(b) the amount of the false account exceeds \$5,000;

(c) the amount falsely entered exceeds \$5,000;

(d) the amount that is the difference between the original amount and the fraudulently altered amount exceeds \$5,000; or

(e) the amount falsely erased, fraudulently concealed, destroyed, ~~obliterated~~, or falsified in the account exceeds \$5,000.

~~(3)~~ (5) In addition to the penalty described in Subsection ~~(2)~~ (3) or (4), a public officer who violates Subsection ~~(1)~~ (2):

(a) is subject to the penalties described in Section 76-8-404; and

(b) may not disburse public funds or access public accounts.

(6) (a) A public servant is not guilty of a violation of this section for authorized personal use of public property.

(b) Subsection (6)(a) does not apply if:

(i) the public servant's personal use of the public property does not constitute authorized personal use at the time of the personal use; and

(ii) a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize or approve the personal use of the public property by the public servant.

Section 9. Section 76-8-404 is amended to read:

76-8-404. Making profit from or misusing public money or public property -- Disqualification from office -- Criminal penalty.

A public officer, regardless of whether ~~or not~~ the public officer receives, safekeeps, transfers, disburses, or has a fiduciary relationship with public money, who makes a profit from or out of public money or public property, or who uses public money or public property in a manner or for a purpose not authorized by law, is guilty of a felony as provided in Section 76-8-402 and ~~shall~~ is, in addition to the punishment provided by law, ~~be~~ disqualified ~~to hold~~ from holding public office.

Section 10. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt, Section 76-4-101;

(B) conspiracy, Section 76-4-201;

(C) solicitation, Section 76-4-203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107.3;

(e) (i) aggravated murder, Section 76-5-202;

(ii) murder, Section 76-5-203; or

(iii) manslaughter, Section 76-5-205;

(f) (i) kidnapping, Section 76-5-301;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302;

(iv) human trafficking or human smuggling, Section 76-5-308; or

(v) aggravated human trafficking or aggravated human smuggling, Section 76-5-310;

(g) (i) arson, Section 76-6-102; or

(ii) aggravated arson, Section 76-6-103;

(h) (i) burglary, Section 76-6-202; or

(ii) aggravated burglary, Section 76-6-203;

(i) (i) robbery, Section 76-6-301; or

(ii) aggravated robbery, Section 76-6-302;

(j) an offense:

(i) of:

(A) theft, Section 76-6-404;

(B) theft by deception, Section 76-6-405; or

(C) theft by extortion, Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year, Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) a fraudulent insurance act offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public money or public property, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) an attempt to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

Section 11. Repealer.

This bill repeals:

Section 76-8-401, “Public funds,” “public money,” and “public officer” defined.

Section 12. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 212**H. B. 171**

Passed March 6, 2019
Approved March 25, 2019
Effective May 14, 2019

**TEMPORARY REPLACEMENTS
FOR COUNTY OFFICES**

Chief Sponsor: Val K. Potter
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions related to the processes to fill a vacancy in a county office.

Highlighted Provisions:

This bill:

- ▶ exempts the offices of county legislative body member and a certain type of county executive from provisions that allow a temporary manager to fill the office in the event of a vacancy;
- ▶ establishes deadlines by which certain actions must be completed in the process to fill a vacancy in a county office;
- ▶ establishes provisions related to an unaffiliated or write-in candidate's access to the ballot to fill a vacancy in a county office; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

20A-1-508, as last amended by Laws of Utah 2018, Chapters 68 and 199

Utah Code Sections Affected by Coordination Clause:

20A-1-508, as last amended by Laws of Utah 2018, Chapters 68 and 199

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) ~~Until~~ Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily ~~fill~~ discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily ~~fills~~ discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily ~~fills~~ discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office ~~[that]~~ for which the temporary manager [fills] discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of [a person] an individual to fill the vacancy.

~~[(ii) That party liaison shall, within 30 days, submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.]~~

(ii) That party liaison shall, within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the ~~[person for]~~ individual to serve as the interim replacement, appoint the [person] individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the ~~[person to fill the vacancy]~~ individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the ~~[person]~~ individual named by the party liaison as an interim replacement to fill the vacancy [within 30 days after receipt of the letter].

(d) ~~[A person]~~ An individual appointed as interim replacement under this Subsection (3) shall hold office until [their] a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the ~~[person]~~ officeholder was elected but before [April 10] the second Friday in March of the next even-numbered year.

(b) (i) When the conditions ~~[established]~~ described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate ~~[for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office], who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.~~

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs ~~[after April 9]~~ on or after the second Friday in March of the next even-numbered year but more than 75 days before the regular primary election.

(b) ~~[(i)]~~ When the conditions [established] described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party [that]:

~~[(A)]~~ (i) that the vacancy exists; and

~~[(B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.]~~

~~(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).~~

~~[(iii) (c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the [date that the notice is made] day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:~~

~~(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and~~

~~(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.~~

~~[(iii) (ii) The county central committee of each party shall:~~

~~(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and~~

~~(B) certify the name of the candidate or candidates to the county clerk [at least] as soon as practicable, but no later than 60 days before the regular primary election.~~

~~(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.~~

~~(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is not later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).~~

~~(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.~~

~~(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.~~

~~(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:~~

~~(i) if the vacant office has an unexpired term of two years or more; and~~

~~(ii) when 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.~~

~~(b) When the conditions [established] described in Subsection (6)(a) are met, the county [central committees] clerk shall, as soon as practicable, notify the public and each registered political party:~~

~~(i) that the vacancy exists; and~~

~~(ii) of the deadlines established under Subsection (6)(d).~~

~~(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party [registered under this title] that wishes to submit a candidate for the office shall [summarily] certify the name of one candidate to the county clerk for placement on the regular general election ballot.~~

~~(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.~~

~~(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.~~

~~(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are not later than 65 days before the day of the next regular general election by which:~~

~~(A) a registered political party is required to certify a name under Subsection (6)(c)(i);~~

~~(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and~~

~~(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).~~

~~(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.~~

~~(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.~~

~~(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:~~

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) (i) When the conditions [established] described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of [a person] an individual to fill the vacancy.

(ii) That party liaison shall, within 30 days, submit the name of the person to fill the vacancy to the county legislative body after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the [person] individual to fill the vacancy, appoint the [person] individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint [a person] an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint [a person] an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the [person] individual submitted by the party liaison to fill the vacancy [submitted by the party liaison].

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the [person] individual named by the party liaison to fill the vacancy [within 30 days after receipt of the letter].

(d) [A person] An individual appointed to fill the vacancy under this Subsection (7) shall hold office until [their] a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

[(9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.]

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant

office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each [person] individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the [person] individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 2. Coordinating H.B. 171 with S.B. 33 -- Substantive and technical amendments.

If this H.B. 171 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(1) Subsection 20A-1-508(3)(b)(ii) in this H.B. 171 is amended to read:

“(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party’s constitution or bylaws to serve as the interim replacement.”;

(2) Subsection 20A-1-508(5)(c)(ii)(B) in this H.B. 171 is amended to read:

“(B) certify the name of the candidate or candidates to the county clerk [at least] as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.”;

(3) Subsection 20A-1-508(5)(d)(ii)(A) in this H.B. 171 is amended to read:

“(ii) (A) The county clerk shall establish, in the clerk’s reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).”;

(4) Subsection 20A-1-508(6)(d)(i) in this H.B. 171 is amended to read:

“(d) (i) The county clerk shall establish, in the clerk’s reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).”; and

(5) Subsection 20A-1-508(7)(b)(ii) in this H.B. 171 is amended to read:

“(ii) That party liaison shall, before 5 p.m. within 30 days, submit the name of the person to fill the vacancy to the county legislative body after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.”.

CHAPTER 213**H. B. 175**

Passed February 25, 2019

Approved March 25, 2019

Effective October 1, 2019

**TRANSPORTATION OF VETERANS
TO MEMORIALS SUPPORT SPECIAL
GROUP LICENSE PLATE**

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill creates a support special group license plate to support programs to transport veterans to Washington D.C. to visit veterans memorials.

Highlighted Provisions:

This bill:

- ▶ creates a support special group license plate to support programs to transport veterans to Washington D.C. to visit veterans memorials;
- ▶ creates a restricted account to receive funds and facilitate distribution; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2018, Chapters 39, 99, and 260

41-1a-422, as last amended by Laws of Utah 2018, Chapters 39, 260, and 415

63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

71-14-101, Utah Code Annotated 1953

71-14-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-418 is amended to read:**41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State; or

(ix) an individual supporting commemoration and recognition of women's suffrage; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that create or support civil rights education and awareness;
- (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
- (xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
- (xxiv) programs that support children with heart disease;
- (xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;
- (xxvi) programs that provide assistance to children with cancer;
- (xxvii) programs that promote leadership and career development through agricultural education; [ø]
- (xxviii) the Utah State Historical Society[-]; or
- (xxix) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

- (i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the

production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support

special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Prostate Cancer Support Restricted Account created in Section 26-21a-303 for programs that conduct or support prostate cancer awareness, screening, detection, or prevention until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102;

(V) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(W) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(X) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(Y) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Z) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(AA) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(BB) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges

Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges; [ø]

(CC) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society[-]; or

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Martin Luther King, Jr. Civil Rights Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(G) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

- (i) snowmobile license plates; or
- (ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(37) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security

Personnel Licensing Act, as provided in Section 58-63-103.

(38) The Relative Value Study Restricted Account created in Section 59-9-105.

(39) The Cigarette Tax Restricted Account created in Section 59-14-204.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(41) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(42) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(43) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(44) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(45) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(46) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(47) The Immigration Act Restricted Account created in Section 63G-12-103.

(48) Money received by the military installation development authority, as provided in Section 63H-1-504.

(49) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(50) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(51) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(52) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(53) The Motion Picture Incentive Account created in Section 63N-8-103.

(54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(57) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

~~[(57)]~~ (58) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

~~[(58)]~~ (59) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

~~[(59)]~~ (60) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

~~[(60)]~~ (61) Fees for certificate of admission created under Section 78A-9-102.

~~[(61)]~~ (62) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(62)]~~ (63) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

~~[(63)]~~ (64) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

~~[(64)]~~ (65) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 4. Section 71-14-101 is enacted to read:

CHAPTER 14. TRANSPORTATION OF VETERANS TO MEMORIALS SUPPORT RESTRICTED ACCOUNT ACT

71-14-101. Title.

This chapter is known as the "Transportation of Veterans to Memorials Support Restricted Account Act."

Section 5. Section 71-14-102 is enacted to read:

71-14-102. Restricted Account.

(1) As used in this section, "department" means the Department of Veterans and Military Affairs created in Section 71-8-2.

(2) There is created in the General Fund a restricted account known as the "Transportation of Veterans to Memorials Support Restricted Account."

(3) The account shall be funded by contributions deposited into the account in accordance with Section 41-1a-422.

(4) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(b) have as a primary mission the transportation of veterans to Washington D.C. to visit memorials dedicated to honor the service and sacrifice of veterans.

(5) (a) An organization described in Subsection (4) may apply to the department to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the department in accordance with Subsection (4) shall expend the distribution only:

(i) to facilitate, coordinate, and cover costs of travel to visit veterans memorials in Washington D.C.; and

(ii) pay the costs of issuing or reordering Transportation of Veterans to Memorials Support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution as provided in this section.

(6) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 6. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 214**H. B. 177**

Passed March 11, 2019
 Approved March 25, 2019
 Effective May 14, 2019

FUND OF FUNDS AMENDMENTS

Chief Sponsor: Steve Waldrip
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to the Utah Capital Investment Corporation.

Highlighted Provisions:

This bill:

- ▶ amends the information the Utah Capital Investment Corporation must provide to the Utah Public Finance Website; and
- ▶ modifies provisions related to the refinancing of loans to the Utah Capital Investment Corporation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-3-402, as last amended by Laws of Utah 2018, Chapter 415
- 63N-6-103, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-6-203, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-6-406, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-402 is amended to read:**63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.**

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(3) The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

~~[(i) the Utah Capital Investment Corporation, created in Section 63N-6-301;]~~

~~[(ii)] (i) the Utah Housing Corporation, created in Section 63H-8-201; and~~

~~[(iii)] (ii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.~~

(b) The Utah Capital Investment Corporation, an independent entity created in Section 63N-6-301, shall provide the following information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity for each fiscal year ending on or after June 30, 2015:

(i) aggregate compensation information for full-time and part-time employees, including benefit information;

(ii) aggregate business travel expenses;

(iii) aggregate expenses related to the Utah Capital Investment Corporation's allocation manager; and

(iv) aggregate administrative, operating, and finance costs.

~~[(b)] (c) For purposes of this part, an independent entity described in [Subsection (6)(a)] Subsection (6)(a) or (b) is not required to submit to the division, or provide a link to, other financial information, including:~~

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means:

(A) the construction of a school or school facility that did not previously exist in a local education agency; or

(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.

(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the

preparation or publication of the Utah Public Finance Website.

Section 2. Section 63N-6-103 is amended to read:

63N-6-103. Definitions.

As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63N-6-408(3)(b).

(6) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.

(7) "Designated investor" means:

(a) a person who makes a private investment; or

(b) a transferee of a certificate or contingent tax credit.

(8) "Designated purchaser" means:

(a) a person who enters into a written undertaking with the board to purchase a commitment; or

(b) a transferee who assumes the obligations to make the purchase described in the commitment.

(9) "Estate" means a nonresident estate or a resident estate.

(10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.

(11) "Private investment" means:

(a) an equity interest in the Utah fund of funds; or

(b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan that was originated before July 1, 2014, and that is

refinanced one or more times on or after July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(13) "Taxpayer" means a taxpayer:

(a) of an investor; and

(b) if that taxpayer is a:

(i) claimant;

(ii) estate; or

(iii) trust.

(14) "Trust" means a nonresident trust or a resident trust.

(15) "Utah fund of funds" means a limited partnership or limited liability company established under Section 63N-6-401 in which a designated investor purchases an equity interest.

Section 3. Section 63N-6-203 is amended to read:

63N-6-203. Board duties and powers.

(1) The board shall, by rule:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for issuing, calculating, registering, and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:

(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall include the contingencies that must be met for a certificate and its related tax credits to be:

(i) issued by the board;

(ii) transferred by a designated investor; and

(iii) redeemed by a designated investor in order to receive a contingent tax credit.

(b) The board shall tie the contingencies for redemption of certificates to:

(i) for a private investment initiated before July 1, 2015:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds; or

(ii) for an equity-based private investment initiated on or after July 1, 2015, the positive impact on economic development in the state that is related to the fund's investments or the success of the corporation's economic development plan in the state, including:

(A) encouraging the availability of a wide variety of venture capital in the state;

(B) strengthening the state's economy;

(C) helping business in the state gain access to sources of capital;

(D) helping build a significant, permanent source of capital available for businesses in the state; and

(E) creating benefits for the state while minimizing the use of contingent tax credits.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a

certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63N-6-409.

Section 4. Section 63N-6-406 is amended to read:

63N-6-406. Certificates and contingent tax credits.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the application for, form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of:

(i) \$130,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds initiated before July 1, 2014, or \$120,000,000 of contingent tax credits for a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and

(ii) \$100,000,000 used as an incentive for equity investments in the Utah fund of funds;

(b) the board shall issue a certificate contemporaneously with a debt-based investment in the Utah fund of funds by a designated investor, including a refinanced loan as described in Subsection (2)(e);

(c) the board shall issue contingent tax credits in a manner that not more than \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;

(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not

exercise its other options under Subsection 63N-6-408(3)(b);

(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan refinanced one or more times using debt- or equity-based financing on or after July 1, 2014, that was originated before July 1, 2014; and

(f) after July 1, 2014, the board may issue certificates that represent no more than 100% of the principal of each equity investment in the Utah fund of funds.

(3) For an equity-based private investment initiated on or after July 1, 2015, the applicable designated investor may apply for a tax credit if the following criteria are met:

(a) the Utah fund of funds has received payment from the designated investor as set forth in the investor's agreement with the Utah fund of funds;

(b) the designated investor has not received a return of the initial equity investment in the time established in the investor's agreement with the Utah fund of funds;

(c) there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63N-6-408(3)(b); and

(d) there is a demonstrated positive impact on economic development in the state related to the Utah fund of funds' investments or the success of the corporation's economic development plan in the state, which shall be measured by:

(i) a method to calculate the impact on economic development in the state, established by rule; and

(ii) the corporation, with approval of the board, engaging an independent third party to evaluate the Utah fund of funds and determine the economic impact of the Utah fund of funds and the activities of the corporation as further described in Section 63N-6-203 and board rules.

(4) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection (2)(b):

(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;

(b) certificates and related contingent tax credits that have expired may not be included; and

(c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.

(5) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate as established in the agreement with the Utah fund of funds;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

(6) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, may be equal to no more than the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.

(7) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity interest;

(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014;

(c) the amount of the initial private investment;

(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and

(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(8) Once a certificate is issued, a certificate:

(a) is binding on the board; and

(b) may not be modified, terminated, or rescinded.

(9) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

(10) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

CHAPTER 215**H. B. 187**

Passed March 1, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**PROFESSIONAL
 LICENSING AMENDMENTS**

Chief Sponsor: Mike Schultz
 Senate Sponsor: Daniel Hemmert
 Cosponsor: Mike Winder

LONG TITLE**General Description:**

This bill modifies provisions of the Division of Occupational and Professional Licensing Act (the act).

Highlighted Provisions:

This bill:

- ▶ modifies licensing by endorsement provisions of the act;
- ▶ modifies testing, course work, experience, and continuing education requirements for certain contractor licenses;
- ▶ modifies direct supervision requirements and other licensing requirements for apprentice plumbers and electricians;
- ▶ authorizes certain surcharge fees for applying for, renewing, or reinstating certain licenses; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-1-302, as last amended by Laws of Utah 2018, Chapter 198
 58-55-102, as last amended by Laws of Utah 2018, Chapter 281
 58-55-201, as last amended by Laws of Utah 2008, Chapter 215
 58-55-302, as last amended by Laws of Utah 2017, Chapter 411
 58-55-302.5, as last amended by Laws of Utah 2017, Chapters 363 and 411
 58-55-305, as last amended by Laws of Utah 2018, Chapter 318
 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

- 58-3a-105, Utah Code Annotated 1953
 58-22-104, Utah Code Annotated 1953
 58-55-104, Utah Code Annotated 1953
 58-55-105, Utah Code Annotated 1953
 58-55-106, Utah Code Annotated 1953
 58-56-3.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-302 is amended to read:**58-1-302. License by endorsement.**

~~[(1) As used in this section:]~~

~~[(a) "Domicile" means the place where an individual has a fixed permanent home.]~~

~~[(b) "Resident" means an individual who:]~~

~~[(i) has established a domicile in this state;]~~

~~[(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state; and]~~

~~[(iii) holds an unexpired Utah driver license issued under Title 53, Chapter 3, Part 2, Driver Licensing Act, or an unexpired Utah identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.]~~

~~[(2)]~~ (1) Subject to Subsections ~~[(3), (4), and (5)]~~ (2), (3), and (4), the division may issue a license without examination to a ~~[resident]~~ person who has been licensed in a state, district, or territory of the United States or in a foreign country if:

(a) the division determines the education, experience, and examination requirements of the state, district, or territory of the United States or the foreign country, at the time the license was issued, were substantially equal to the current requirements of this state; or

(b) after being licensed outside of this state, the ~~[resident]~~ person has at least one year of experience in the state, district, or territory of the United States where the license was issued, and the division determines the ~~[resident]~~ person has the education, experience, and skills necessary to demonstrate competency in the occupation or profession for which licensure is sought.

~~[(3)]~~ (2) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the requirements of Subsection ~~[(2)]~~ (1).

~~[(4)]~~ (3) Before a resident may be issued a license under this section, the resident shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the resident's identity, qualifications, and good standing in the occupation or profession for which licensure is sought.

~~[(5)]~~ (4) In accordance with Section 58-1-107, licensure endorsement provisions in this section may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 2. Section 58-3a-105 is enacted to read:**58-3a-105. Surcharge fee.**

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

Section 3. Section 58-22-104 is enacted to read:

58-22-104. Surcharge fee.

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

Section 4. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) (a) "Approved preclicensure course provider" means a provider that is ~~approved by the commission with the concurrence of the director~~ the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved preclicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(8) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(9) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(10) “Commission” means the Construction Services Commission created under Section 58-55-103.

(11) “Construction trade” means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(12) “Construction trades instructor” means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(13) (a) “Contractor” means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person’s own property for the purpose of sale or who builds any structure intended for public use on the person’s own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (13), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of “construction trade”;

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) “Contractor” does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier’s products.

(14) (a) “Electrical trade” means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) “Electrical trade” does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring; ~~or~~

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities[-];

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

~~[(e) For purposes of Subsection (14)(b):]~~

~~[(i) no more than one unlicensed person may be so employed unless more than five licensed electricians are employed by the shop; and]~~

~~[(ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio permitted by this Subsection (14)(e).]~~

(15) “Elevator” means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(16) “Elevator contractor” means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(17) “Elevator mechanic” means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(18) “Employee” means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(19) “Engage in a construction trade” means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name “contractor” or “builder” or in any other way lead a reasonable person to believe one is or will act as a contractor.

(20) (a) “Financial responsibility” means a demonstration of a current and expected future

condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(21) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(22) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(23) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering

knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(25) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(27) "Individual" means a natural person.

(28) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(29) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(30) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(31) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(32) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited

liability company, association, or organization of any type.

(33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

- (i) delivery of the water supply;
- (ii) discharge of liquid and water carried waste;
- (iii) building drainage system within the walls of the building; and
- (iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(34) [(a)] "Ratio of apprentices" means ~~for the purpose of determining compliance with the requirements for planned programs of training and electrician apprentice licensing applications, the shop ratio of apprentice electricians to journeyman or master electricians shall be one journeyman or master electrician to one apprentice on industrial and commercial work, and one journeyman or master electrician to three apprentices on residential work. (b) On the job training shall be under circumstances in which the ratio of apprentices to supervisors is in accordance with a ratio of one to one on nonresidential work and up to three apprentices to one supervisor on residential projects.] the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

(35) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four

units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(36) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(37) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(38) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(39) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(40) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(41) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(42) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(44) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(45) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(46) "Unincorporated entity" means an entity that is not:

- (a) an individual;
- (b) a corporation; or
- (c) publicly traded.

(47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(48) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(49) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 5. Section 58-55-104 is enacted to read:

58-55-104. Electrician Education Fund.

(1) There is created an expendable special revenue fund known as the Electrician Education Fund.

(2) The fund consists of money from a surcharge fee, established by the division in accordance with Section 63J-1-504, placed on initial, renewal, and reinstatement licensure fees for an apprentice electrician, journeyman electrician, master electrician, residential journeyman electrician, and residential master electrician.

(3) The surcharge fee described in Subsection (2) may not be more than \$5.

(4) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.

(5) The director may, with the concurrence of the commission, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter who are practicing in the electrical trade; and

(b) education and training of other licensees under this chapter or the public in matters concerning electrical laws and practices.

(6) If the balance in the fund is more than \$100,000 at the end of any fiscal year, the excess amount shall be transferred to the General Fund.

(7) The division shall report annually to the Business, Economic Development, and Labor Appropriations Subcommittee regarding the balance in the fund and how the fund is being used.

Section 6. Section 58-55-105 is enacted to read:

58-55-105. Plumber Education Fund.

(1) There is created an expendable special revenue fund known as the Plumber Education Fund.

(2) The fund consists of money from a surcharge fee, established by the division in accordance with Section 63J-1-504, placed on initial, renewal, and reinstatement licensure fees for apprentice plumbers, journeyman plumbers, master plumbers, residential journeyman plumbers, and residential master plumbers.

(3) The surcharge fee described in Subsection (2) may not be more than \$5.

(4) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.

(5) The director may, with the concurrence of the commission, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter who are licensed in the professions described in Subsection (2); and

(b) education and training of other licensees under this chapter or the public in matters concerning plumbing laws and practices.

(6) If the balance in the fund is more than \$100,000 at the end of any fiscal year, the excess amount shall be transferred to the General Fund.

(7) The division shall report annually to the Business, Economic Development, and Labor Appropriations Subcommittee regarding the balance in the fund and how the fund is being used.

Section 7. Section 58-55-106 is enacted to read:

58-55-106. Surcharge fee.

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

Section 8. Section 58-55-201 is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created a Plumbers Licensing Board, an Alarm System Security and Licensing Board, and an Electricians Licensing Board. Members of the boards shall be selected to provide representation as follows:

(a) The Plumbers Licensing Board consists of five members as follows:

(i) two members shall be licensed from among the license classifications of master or journeyman plumber;

(ii) two members shall be licensed plumbing contractors; and

(iii) one member shall be from the public at large with no history of involvement in the construction trades.

(b) (i) The Alarm System Security and Licensing Board consists of five members as follows:

(A) three individuals who are officers or owners of a licensed alarm business;

(B) one individual from among nominees of the Utah Peace Officers Association; and

(C) one individual representing the general public.

(ii) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(A) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(B) advise the division in its investigation of these complaints.

(iii) A board member who has, under this Subsection (1)(b)(iii), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(c) The Electricians Licensing Board consists of five members as follows:

(i) two members shall be licensed from among the license classifications of master or journeyman electrician, of whom one shall represent a union organization and one shall be selected having no union affiliation;

(ii) two shall be licensed electrical contractors of whom one shall represent a union organization and one shall be selected having no union affiliation; and

(iii) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.

(2) The duties, functions, and responsibilities of each board include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

(3) The division in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.

Section 9. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) ~~[(i)]~~ meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, ~~[except that no examination, other than an examination as part of a 25-hour course described in Subsection (1)(e)(iii), is required for licensure as an apprentice electrician, apprentice plumber, or specialty contractor; or]~~ which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

~~[(iii)]~~ (iii) if required in Section 58-55-304, ~~[the]~~ an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience ~~[may be related to any contracting classification unless more specifically described in this section], unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and~~

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director,

complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prec licensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, ~~[an]~~ a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prec licensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

~~[(iv)]~~ (v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

~~[(v)]~~ (vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) After approval of an applicant for a contractor's license by the applicable board and the division, the applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) ~~meets the qualifications [determined by the division in collaboration with the board to be equivalent to Subsection (3)(a)(i)(A) or (B).] for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.~~

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) ~~[meets the qualifications determined by the division in collaboration with the board to be equivalent to Subsection (3)(b)(i).] meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.~~

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) ~~[satisfactory evidence of meeting the qualifications determined by the board to be equivalent to Subsection (3)(c)(i) or (c)(ii).] meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.~~

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed

residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) ~~meeting the qualifications determined by the board to be equivalent to Subsection (3)(d)(i) or (d)(ii).~~ meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or [a] licensed residential journeyman plumber; ~~and]~~

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber [in the fourth through tenth year of training] may work without supervision for a period not to exceed eight hours in any 24-hour period; ~~but if the apprentice does not become a licensed journeyman plumber or licensed residential journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer applies.]; and~~

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) ~~meets the qualifications determined by the board to be equivalent to Subsection (3)(f)(i), (ii), or~~

~~(iii).~~ meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) ~~meets the qualifications determined by the board to be equivalent to this practical experience.~~ meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) ~~meets the qualifications determined by the board to be equivalent to Subsection (3)(h)(i) or (ii).~~ meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) ~~meets the qualifications determined by the division and applicable board to be equivalent to Subsection (3)(i)(i) or (ii).~~ meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and

skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician~~[-An apprentice in the fourth year of training];~~

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period[-];

~~(ii) A licensed master, journeyman, residential master, or residential journeyman electrician may have under immediate supervision on a residential project up to three licensed apprentice electricians.]~~

~~(iii) A licensed master or journeyman electrician may have under immediate supervision on nonresidential projects only one licensed apprentice electrician.]~~

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(ix) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(x) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(xi) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing

similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection(1)(e)(~~v~~)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(v)(vi) is a private record under Subsection 63G-2-302(1)(i).

Section 10. Section 58-55-302.5 is amended to read:

58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.

(1) (a) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(b) Each contractor licensee who has a renewal cycle that ends on or after January 1, 2020, shall complete one hour of approved continuing education on energy conservation as part of the six required hours.

(2) (a) The commission shall, with the concurrence of the division, establish by rule a

program of approved continuing education for contractor licensees.

(b) Except as provided in Subsection (2)(e), beginning on or after June 1, 2015, only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:

(i) the Associated General Contractors of Utah;

(ii) Associated Builders and Contractors, Utah Chapter;

(iii) the Home Builders Association of Utah;

(iv) the National Electrical Contractors Association Intermountain Chapter;

(v) the Utah Plumbing & Heating Contractors Association;

(vi) the Independent Electrical Contractors of Utah;

(vii) the Rocky Mountain Gas Association;

(viii) the Utah Mechanical Contractors Association;

(ix) the Sheet Metal Contractors Association;

(x) the Intermountain Electrical Association;

(xi) the Builders Bid Service of Utah; or

(xii) Utah Roofing Contractors Association.

(c) An approved continuing education program for a contractor licensee may include a course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.

(ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

(iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.

(e) On or after June 1, 2015, an approved continuing education program for a contractor licensee may include a course offered and taught by:

(i) a state executive branch agency;

(ii) the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001; or

(iii) a nationally or regionally accredited college or university that has a physical campus in the state.

(f) On or after June 1, 2017, for a contractor licensee that is licensed in the specialty contractor classification of HVAC contractor, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

(a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and

(b) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

Section 11. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) sole owners of property engaged in building:

(i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in

building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) must be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to

in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project must be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than \$1,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbecue; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Subsection 58-55-102[(14)](15), if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section 12. Section 58-56-3.5 is enacted to read:

58-56-3.5. Surcharge fee.

(1) In addition to any other fees authorized by this chapter or by the division in accordance with Section 63J-1-504, the division shall require each applicant for an initial license, renewal of a license, or reinstatement of a license under this chapter to pay a \$1 surcharge fee.

(2) The surcharge fee shall be used by the division to provide each licensee under this chapter with access to an electronic reference library that provides web-based access to national, state, and local building codes and standards.

Section 13. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[36] (37) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[37] (41) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[38] (42) The Relative Value Study Restricted Account created in Section 59-9-105.

[39] (43) The Cigarette Tax Restricted Account created in Section 59-14-204.

[40] (44) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[41] (45) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[42] (46) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[43] (47) The National Professional Men's Basketball Team Support of Women and Children

Issues Restricted Account created in Section 62A-1-202.

[44] (48) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[45] (49) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[46] (50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[47] (51) The Immigration Act Restricted Account created in Section 63G-12-103.

[48] (52) Money received by the military installation development authority, as provided in Section 63H-1-504.

[49] (53) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[50] (54) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[51] (55) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[52] (56) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[53] (57) The Motion Picture Incentive Account created in Section 63N-8-103.

[54] (58) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[55] (59) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[56] (60) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[57] (61) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[58] (62) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[59] (63) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[60] (64) Fees for certificate of admission created under Section 78A-9-102.

[61] (65) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[62] (66) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[63] (67) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~64~~] (68) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

CHAPTER 216**H. B. 192**

Passed March 1, 2019

Approved March 25, 2019

Effective May 14, 2019

STATUTE OF LIMITATIONS AMENDMENTS

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends the statute of limitations for criminal offenses.

Highlighted Provisions:

This bill:

- ▶ increases the statute of limitations for a criminal offense when the identification of a perpetrator is made through DNA.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-1-302, as last amended by Laws of Utah 2011, Chapter 320

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-1-302 is amended to read:**76-1-302. Time limitations for prosecution of offenses -- Provisions if DNA evidence would identify the defendant -- Commencement of prosecution.**

(1) Except as otherwise provided, a prosecution for:

(a) a felony or negligent homicide shall be commenced within four years after it is committed, except that prosecution for:

(i) forcible sexual abuse shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency; and

(ii) incest shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency;

(b) a misdemeanor other than negligent homicide shall be commenced within two years after it is committed; and

(c) any infraction shall be commenced within one year after it is committed.

(2) (a) Notwithstanding Subsection (1), prosecution for the offenses listed in Subsections 76-3-203.5(1)(c)(i)(A) through (BB) may be commenced at any time if the identity of the person who committed the crime is unknown but DNA evidence is collected that would identify the person at a later date.

(b) Subsection (2)(a) does not apply if the statute of limitations on a crime has run as of May 5, 2003, and no charges have been filed.

(3) If the statute of limitations would have run but for the provisions of Subsection (2) and identification of a perpetrator is made through DNA, a prosecution shall be commenced within ~~one year of the discovery of~~ four years of confirmation of the identity of the perpetrator.

(4) A prosecution is commenced upon:

(a) the finding and filing of an indictment by a grand jury;

(b) the filing of a complaint or information; or

(c) the issuance of a citation.

CHAPTER 217**H. B. 195**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**INITIATIVE AND
 REFERENDUM AMENDMENTS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions relating to a statewide initiative or referendum.

Highlighted Provisions:

This bill:

- ▶ modifies signature thresholds for statewide initiatives and referenda and bases the thresholds on a percentage of active voters rather than the number of voters in a previous presidential election;
- ▶ clarifies that an initiative that is identical or substantially similar to a previous initiative is barred if signatures for the preceding initiative were submitted within the preceding two years;
- ▶ modifies deadlines relating to statewide initiative petitions;
- ▶ requires county clerks to process signature removal requests for initiatives;
- ▶ removes the provision that legal challenges for initiative signatures declared insufficient may only be filed in the Utah Supreme Court;
- ▶ establishes procedures for the lieutenant governor to follow if an argument relating to an initiative or referendum petition mischaracterizes the position of a state agency; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

20A-7-201, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-202, as last amended by Laws of Utah 2017, Chapter 291
 20A-7-205, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-206, as last amended by Laws of Utah 2013, Chapter 231
 20A-7-207, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-301, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-704, as last amended by Laws of Utah 2017, Chapter 147
 20A-7-705, as last amended by Laws of Utah 2017, Chapter 147

Utah Code Sections Affected by Coordination Clause:

20A-7-205, as last amended by Laws of Utah 2011, Chapter 17
 20A-7-206, as last amended by Laws of Utah 2013, Chapter 231

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-201 is amended to read:**20A-7-201. Statewide initiatives -- Signature requirements -- Submission to the Legislature or to a vote of the people.**

(1) (a) A person seeking to have an initiative submitted to the Legislature for approval or rejection shall obtain:

~~(i) legal signatures equal to 5% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 26 Utah State Senate districts, legal signatures equal to 5% of the total of all votes cast in that district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected.]~~

(i) legal signatures equal to 4% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 4% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If, at any time not less than 10 days before the beginning of the next annual general session of the Legislature, immediately after the application is filed under Section 20A-7-202 and specified on the petition under Section 20A-7-203 the lieutenant governor declares sufficient any initiative petition that is signed by enough voters to meet the requirements of this Subsection (1), the lieutenant governor shall deliver a copy of the petition and the cover sheet required by Subsection (1)(c) to the president of the Senate, the speaker of the House, and the director of the Office of Legislative Research and General Counsel.

(c) In delivering a copy of the petition, the lieutenant governor shall include a cover sheet that contains:

~~[(i) the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

~~[(ii) the total of all votes cast in each Utah State Senate district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected;]~~

(i) the number of active voters in the state on January 1 immediately following the last regular general election;

(ii) the number of active voters in each Utah State Senate district on January 1 immediately following the last regular general election;

(iii) the total number of certified signatures received for the submitted initiative; and

(iv) the total number of certified signatures received from each Utah State Senate district for the submitted initiative.

(2) (a) A person seeking to have an initiative submitted to a vote of the people for approval or rejection shall obtain:

~~[(i) legal signatures equal to 10% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 26 Utah State Senate districts, legal signatures equal to 10% of the total of all votes cast in that district for all candidates for President of the United States at the last regular general election at which a President of the United States was elected.]~~

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 26 Utah State Senate districts, legal signatures equal to 8% of the number of active voters in that district on January 1 immediately following the last regular general election.

(b) If an initiative petition meets the requirements of this part and the lieutenant governor declares the initiative petition to be sufficient, the lieutenant governor shall submit the proposed law to a vote of the people at the next regular general election:

(i) immediately after the application is filed under Section 20A-7-202; and

(ii) specified on the petition under Section 20A-7-203.

~~[(3) The lieutenant governor shall provide the following information from the official canvass of the last regular general election at which a President of the United States was elected to any interested person:]~~

~~[(a) the cumulative total of all votes cast by voters in this state for all candidates for President of the United States; and]~~

~~[(b) for each Utah State Senate district, the total of all votes cast in that district for all candidates for President of the United States.]~~

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each Utah State Senate district, the number of active voters in that district on January 1

immediately following the last regular general election.

Section 2. Section 20A-7-202 is amended to read:

20A-7-202. Statewide initiative process -- Application procedures -- Time to gather signatures -- Grounds for rejection.

(1) Persons wishing to circulate an initiative petition shall file an application with the lieutenant governor.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors:

(i) is a resident of Utah; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public;

(d) a copy of the proposed law that includes:

(i) the title of the proposed law, which clearly expresses the subject of the law; and

(ii) the text of the proposed law;

(e) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the petition may be paid for doing so.

(3) The application and its contents are public when filed with the lieutenant governor.

(4) If the petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject the application or application addendum filed under Subsection 20A-7-204.1(5) and not issue circulation sheets if:

(a) the law proposed by the initiative is patently unconstitutional;

(b) the law proposed by the initiative is nonsensical;

(c) the proposed law could not become law if passed;

(d) the proposed law contains more than one subject as evaluated in accordance with Subsection (6);

(e) the subject of the proposed law is not clearly expressed in the law's title; or

(f) the law proposed by the initiative is identical or substantially similar to a law proposed by an initiative ~~[that was]~~ for which signatures were submitted to the county clerks and lieutenant governor for certification ~~[and evaluation]~~ within two years preceding the date on which the application for ~~[this]~~ the new initiative ~~[was]~~ is filed.

(6) To evaluate whether the proposed law contains more than one subject under Subsection (5)(d), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 3. Section 20A-7-205 is amended to read:

20A-7-205. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign an initiative petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the person in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet.

(b) A person may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(3) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the last four digits of the voter's ~~[Social Security]~~ social security number;

(iv) the driver license or identification card number; and

(v) the signature of the voter.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the statement must be received by the county clerk before ~~[May]~~ 5 p.m. no later than March 15.

~~[(e) The county clerk shall deliver all statements received under this Subsection (3).]~~

~~[(4) with the initiative petition packets delivered to the lieutenant governor; or]~~

~~[(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the initiative packets.]~~

~~[(4)]~~ (e) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).

Section 4. Section 20A-7-206 is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~[on or]~~ before 5 p.m. no later than the sooner of:

(i) 316 days after the day on which the application for the initiative petition is filed; or

(ii) the ~~[April]~~ February 15 immediately before the next regular general election ~~[immediately]~~ after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

(2) ~~[(a)]~~ No later than ~~[May 1]~~ April 1 before the regular general election, the county clerk shall:

~~[(4)]~~ (a) check the names of all persons completing the verification for the initiative packet to determine whether those persons are residents of Utah and are at least 18 years old; ~~[and]~~

~~[(4)]~~ (b) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney~~[-];~~

~~[(b) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-205.]~~

~~[(3) No later than May 15 before the regular general election, the county clerk shall:]~~

(c) remove signatures in accordance with Subsection (4);

~~[(a)]~~ (d) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

~~[(b)]~~ (e) certify on the petition whether each name is that of a registered voter; and

~~[(e)]~~ (f) deliver all of the verified initiative packets to the lieutenant governor.

(3) The county clerk may not certify a signature under Subsection (2) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(4) Upon receipt of an initiative packet under Subsection ~~[(3)]~~ (1) and any statement submitted under Subsection 20A-7-205(3), the ~~[lieutenant governor shall]~~ county clerk shall, before complying with Subsections (2)(d) through (f), remove from the

initiative petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-205(3).

(5) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~[by]~~ before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(6) (a) No later than December 1 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (5):

(i) check the names of all persons completing the verification for the initiative packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (7) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(7) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (5):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

~~[(8) The sponsor or their representatives may not retrieve initiative packets from the county clerks once they have submitted them.]~~

(8) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

Section 5. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) When each initiative packet is received from a county clerk, the lieutenant governor shall check off from the record the number of each initiative packet filed.

(2) (a) After all of the initiative packets have been received by the lieutenant governor and the ~~[lieutenant governor]~~ county clerk has removed the signatures as required by Section 20A-7-206, the lieutenant governor shall:

(i) count the number of the names certified by the county clerks that remain on each verified signature sheet; and

(ii) declare the petition to be sufficient or insufficient ~~[by June 1]~~ no later than April 15 before the regular general election described in Subsection 20A-7-201(2)(b).

(b) If the total number of names counted under Subsection (2)(a)(i) equals or exceeds the number of names required by Section 20A-7-201 and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(c) If the total number of names counted under Subsection (2)(a)(i) does not equal or exceed the number of names required by Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(d) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(3) ~~[Once]~~ After a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.

(4) (a) If the lieutenant governor refuses to accept and file ~~[any]~~ an initiative petition that a sponsor believes is legally sufficient, any voter may, ~~[by June 15]~~ no later than April 30, apply to the ~~[supreme]~~ appropriate court for an extraordinary writ to compel the lieutenant governor to ~~[do so]~~ accept and file the initiative petition.

(b) The ~~[supreme]~~ court shall:

(i) determine whether ~~[or not]~~ the initiative petition is legally sufficient; and

(ii) certify ~~[its]~~ the court's findings to the lieutenant governor.

(c) If the ~~[supreme]~~ court certifies that the initiative petition is legally sufficient, the lieutenant governor shall file ~~[it]~~ the initiative petition, with a verified copy of the judgment attached to ~~[it]~~ the initiative petition, as of the date on which ~~[it]~~ the initiative petition was originally offered for filing in the lieutenant governor's office.

(d) If the ~~[supreme]~~ court determines that ~~[any]~~ a petition filed is not legally sufficient, the ~~[supreme]~~ court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 6. Section 20A-7-301 is amended to read:

20A-7-301. Referendum -- Signature requirements -- Submission to voters.

(1) (a) A person seeking to have a law passed by the Legislature submitted to a vote of the people shall obtain:

~~(i) legal signatures equal to 10% of the cumulative total of all votes cast by voters of this state for all candidates for President of the United States at the last regular general election at which a President of the United States was elected; and]~~

~~[(ii) from each of at least 15 counties, legal signatures equal to 10% of the total of all votes cast in that county for all candidates for President of the United States at the last regular general election at which a President of the United States was elected.]~~

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 15 counties, legal signatures equal to 8% of the number of active voters in that county on January 1 immediately following the last regular general election.

(b) When the lieutenant governor declares a referendum petition sufficient under this part, the governor shall issue an executive order that:

(i) directs that the referendum be submitted to the voters at the next regular general election; or

(ii) calls a special election according to the requirements of Section 20A-1-203 and directs that the referendum be submitted to the voters at that special election.

(2) When a referendum petition has been declared sufficient, the law that is the subject of the petition does not take effect unless and until it is approved by a vote of the people at a regular general election or a statewide special election.

~~[(3) The lieutenant governor shall provide to any interested person from the official canvass of the last regular general election at which a President of the United States was elected:]~~

~~[(a) the cumulative total of all votes cast by voters of this state for all candidates for President of the United States; and]~~

~~[(b) for each county, the total of all votes cast in that county for all candidates for President of the United States.]~~

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each county, the number of active voters in that county on January 1 immediately following the last regular general election.

Section 7. Section 20A-7-704 is amended to read:

20A-7-704. Initiative measures -- Arguments for and against -- Voters' requests for argument -- Ballot arguments.

(1) (a) (i) (A) By July 10 of the regular general election year, the sponsors of any initiative petition that has been declared sufficient by the lieutenant

governor may deliver to the lieutenant governor an argument for the adoption of the measure.

(B) If two or more sponsors wish to submit arguments for the measure, the lieutenant governor shall designate one of the sponsors to submit the argument for the sponsor's side of the measure.

(ii) (A) Any member of the Legislature may request permission to submit an argument against the adoption of the measure.

(B) If two or more legislators wish to submit an argument against the measure, the presiding officers of the Senate and House of Representatives shall jointly designate one of the legislators to submit the argument to the lieutenant governor.

(b) The sponsors and the legislators submitting arguments shall ensure that each argument:

(i) does not exceed 500 words in length; and

(ii) is delivered by July 10.

(2) (a) If an argument for or against a measure to be submitted to the voters by initiative petition has not been filed within the time required under Subsection (1):

(i) the Office of the Lieutenant Governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (2)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (2)(b) on the home page of the lieutenant governor's website;

(ii) any voter may request the lieutenant governor for permission to prepare an argument for the side on which no argument has been filed; and

(iii) if two or more voters request permission to submit arguments on the same side of a measure, the lieutenant governor shall designate one of the voters to write the argument.

(b) A notice described in Subsection (2)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (2)(a)(ii); and

(iii) the deadline described in Subsection (2)(c).

(c) Any argument prepared under this Subsection (2) shall be submitted to the lieutenant governor by July 20.

(3) The lieutenant governor may not accept a ballot argument submitted under this section unless it is accompanied by:

(a) the name and address of the person submitting it, if it is submitted by an individual voter; or

(b) the name and address of the organization and the names and addresses of at least two of its

principal officers, if it is submitted on behalf of an organization.

(4) (a) Except as provided in Subsection (4)(c) or (d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(b) Except as provided in Subsection (4)(c) or (d), the lieutenant governor may not alter the arguments in any way.

(c) The lieutenant governor and the authors of an argument described in this section may jointly modify ~~the~~ the argument after ~~it~~ the argument is submitted if:

(i) ~~they~~ the lieutenant governor and the authors jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; ~~and~~ or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(d) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the position of the state entity.

Section 8. Section 20A-7-705 is amended to read:

20A-7-705. Measures to be submitted to voters and referendum measures -- Preparation of argument of adoption.

(1) (a) Whenever the Legislature submits any measure to the voters or whenever an act of the Legislature is referred to the voters by referendum petition, the presiding officer of the house of origin of the measure shall appoint the sponsor of the measure or act and one member of either house who voted with the majority to pass the act or submit the measure to draft an argument for the adoption of the measure.

(b) (i) The argument may not exceed 500 words in length.

(ii) If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments may be written but the combined length of the two arguments may not exceed 500 words.

(2) (a) If a measure or act submitted to the voters by the Legislature or by referendum petition was

not adopted unanimously by the Legislature, the presiding officer of each house shall, at the same time as appointments to an argument in its favor are made, appoint one member who voted against the measure or act from their house to write an argument against the measure or act.

(b) (i) The argument may not exceed 500 words.

(ii) If those members appointed to write an argument against the measure or act desire separate arguments to be written in opposition to the measure or act by each person appointed, separate arguments may be written, but the combined length of the two arguments may not exceed 500 words.

(3) (a) The legislators appointed by the presiding officer of the Senate or House of Representatives to submit arguments shall submit ~~them~~ the arguments to the lieutenant governor not later than the day that falls 150 days before the date of the election.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

(4) (a) If an argument for or an argument against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the time required by this section:

(i) the ~~Office of the Lieutenant Governor~~ lieutenant governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (4)(b) on the home page of the lieutenant governor's website; and

(ii) any voter may request the presiding officer of the house in which the measure originated for permission to prepare and file an argument for the side on which no argument has been filed by a member of the Legislature.

(b) A notice described in Subsection (4)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (4)(a)(ii); and

(iii) the deadline described in Subsection (4)(d).

(c) (i) The presiding officer of the house of origin shall grant permission unless two or more voters request permission to submit arguments on the same side of a measure.

(ii) If two or more voters request permission to submit arguments on the same side of a measure, the presiding officer shall designate one of the voters to write the argument.

(d) Any argument prepared under this Subsection (4) shall be submitted to the lieutenant governor not later than 135 days before the date of the election.

(e) The lieutenant governor may not accept a ballot argument submitted under this section unless [it] the ballot argument is accompanied by:

(i) the name and address of the [person submitting it, if it] individual submitting the argument, if the argument is submitted by an individual voter; or

(ii) the name and address of the organization and the names and addresses of at least two of [its] the organization's principal officers, if [it] the argument is submitted on behalf of an organization.

(f) Except as provided in Subsection (4)(h), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(g) Except as provided in Subsection (4)(h), the lieutenant governor may not alter the arguments in any way.

(h) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; [and]
or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(i) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the position of the state entity.

Section 9. Coordinating H.B. 195 with S.B. 33 -- Substantive and technical amendments.

If this H.B. 195 and S.B. 33, Political Procedures Amendments, both pass and become law, but

H.B. 145, Citizen Political Process Amendments, does not pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication, as follows:

(1) the changes to Section 20A-7-205 in H.B. 195 supercede the changes to Section 20A-7-205 in S.B. 33; and

(2) the changes to Section 20A-7-206 in H.B. 195 supercede the changes to Section 20A-7-206 in S.B. 33.

CHAPTER 218**H. B. 200**

Passed March 11, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**APPOINTMENT OF
CONSTABLES AMENDMENTS**

Chief Sponsor: Logan Wilde
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill enacts authority for certain counties and cities to appoint constables.

Highlighted Provisions:

This bill:

- ▶ enacts authority and provides a process for counties of the third through sixth class and cities of the third through sixth class to appoint constables;
- ▶ amends the term of constables;
- ▶ allows certain currently serving constables to complete the current term under the amended term limit; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-25a-1, as last amended by Laws of Utah 1993, Chapters 38 and 234
 17-25a-3, as last amended by Laws of Utah 2012, Chapter 48

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-25a-1 is amended to read:**17-25a-1. Constables -- Nomination -- Appointment -- Authority.**

(1) (a) (i) The legislative governing bodies of counties and cities ~~[of the first or second class]~~ shall determine whether to appoint constables.

(ii) If a county or city ~~[of the first or second class]~~ decides to appoint constables, ~~[they]~~ the county or city shall ~~[be nominated and appointed under]~~ nominate and appoint constables in accordance with this chapter.

(b) (i) ~~[However]~~ Notwithstanding Subsection (1)(a), a constable holding office on ~~[April 23, 1990]~~ July 1, 2019, may complete ~~[his]~~ the constable's term.

(ii) ~~[Any]~~ A constable shall serve any subsequent terms ~~[he]~~ the constable may serve ~~[shall be]~~ in accordance with this chapter.

(2) To nominate a constable, the legislative body of a county of the first or second class or the

legislative body of a city of the first or second class shall establish a nominating commission.

(a) The county nominating commission shall consist of:

(i) one member of the county legislative governing body~~[s]~~ or the member's designee;

(ii) one judge~~[s]~~ or the judge's designee;

(iii) the county attorney~~[s]~~ or the county attorney's designee;

(iv) the district attorney~~[s]~~ or the district attorney's designee;

(v) the sheriff of the county~~[, or their designees,]~~ or the sheriff's designee; and

(vi) one private citizen.

(b) The city nominating commission shall consist of:

(i) one member of the city legislative governing body~~[s]~~;

(ii) one judge~~[s]~~;

(iii) the city attorney~~[s]~~;

(iv) the chief of police~~[, or their designees,]~~; and

(v) one private citizen.

(c) The nominating commission described in this Subsection (2) shall review each applicant's credentials and, by majority vote, recommend to the legislative governing body of the county or city the nominees ~~[it]~~ the nominating commission finds most qualified ~~[by majority vote]~~.

~~[(3)]~~ (d) The county or city legislative governing body shall either appoint or reject any nominee that the nominating commission recommends under Subsection (2)(c).

(3) The legislative body of a county of the third, fourth, fifth, or sixth class or the legislative body of a city of the third, fourth, or fifth class may appoint a constable on a recommendation from:

(a) the county sheriff and the county attorney; or

(b) the chief of police.

(4) ~~[The]~~ A county or city legislative governing body that appoints a constable under this section may withdraw the authority of ~~[a]~~ the constable ~~[may be withdrawn by the county or city legislative governing body]~~ for cause, including if the constable's peace officer certification is suspended or revoked under Section 53-6-211.

Section 2. Section 17-25a-3 is amended to read:**17-25a-3. County and city constables -- Terms -- Authority -- Deputies.**

(1) (a) Constables appointed by a county or city are appointed for terms of ~~[four]~~ six years and may serve more than one term if reappointed by the appointing body.

(b) Notwithstanding the law in place at the time a constable was appointed, the term of a constable

appointed on or after July 1, 2018, expires six years after the day on which the term began.

(2) (a) Constables serving process outside the county in which they are appointed shall contact the sheriff's office or police department of the jurisdiction prior to serving executions or seizing any property.

(b) A constable or deputy constable shall notify the agency of jurisdiction by contacting the sheriff's office or police department of jurisdiction before serving a warrant of arrest.

(3) The appointed constable may, upon approval of the appointing county or city, employ and deputize persons who are certified as special function peace officers to function as deputy constables.

(4) If the county or city appointing body withdraws the authority of a constable, the authority of all deputy constables is also withdrawn.

(5) If the authority of a constable or deputy constable is withdrawn, notification of the Peace Officer Standards and Training Division of the Department of Public Safety shall be made pursuant to Section 53-6-209.

CHAPTER 219**H. B. 208**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

SAFE ROUTES TO SCHOOL PROGRAM

Chief Sponsor: Suzanne Harrison
 Senate Sponsor: Daniel Hemmert
 Cosponsors: Kyle R. Andersen
 Patrice M. Arent
 Eric K. Hutchings
 Dan N. Johnson
 Karen Kwan
 Raymond P. Ward
 Mike Winder

LONG TITLE**General Description:**

This bill requires the Department of Transportation to implement a program to provide safe routes to school.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Transportation to establish a program to promote safe routes for walking and bicycling to schools;
- ▶ allows the department to use available funds as prioritized by the Transportation Commission;
- ▶ allows the Department of Transportation to give priority to routes in areas of low income schools; and
- ▶ grants rulemaking authority to the Department of Transportation to implement the program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-8-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-8-109 is enacted to read:**72-8-109. Safe Routes to School Program.**

(1) As part of providing for the safety of the state transportation system, the department shall establish a program that promotes walking and bicycling to school through infrastructure improvements and noninfrastructure efforts such as safety awareness education.

(2) In addition to any federal funds made available to the department for the program, the department may fund the program from money made available to the department by the Legislature and as prioritized by the commission.

(3) The department, in consultation with the State Board of Education, may give priority consideration to a project located in an area of a school that receives funding under the Elementary

and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301, et seq.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement this section.

CHAPTER 220**H. B. 213**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**PROMOTION OF
 STUDENT LOAN FORGIVENESS**

Chief Sponsor: Susan Duckworth
 Senate Sponsor: Ann Millner
 Cosponsors: Melissa G. Ballard
 Dan N. Johnson
 Carol Spackman Moss
 Derrin R. Owens
 Lee B. Perry
 Marie H. Poulson
 Susan Pulsipher
 Robert M. Spendlove
 Steve Waldrip
 Christine F. Watkins
 Elizabeth Weight
 Mark A. Wheatley

LONG TITLE**General Description:**

This bill enacts the Promotion of Student Loan Forgiveness Programs Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ instructs the Division of Antidiscrimination and Labor to develop and make publicly available informational materials that describe the Public Service Loan Forgiveness Program and the Teacher Loan Forgiveness Program;
- ▶ requires each employer that is a public service organization to annually provide an electronic copy of the Public Service Loan Forgiveness Program informational materials to each of the employer's employees; and
- ▶ requires each LEA to annually provide an electronic copy of the Teacher Loan Forgiveness Program informational materials to each of the LEA's teachers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

34-54-101, Utah Code Annotated 1953
 34-54-102, Utah Code Annotated 1953
 34-54-201, Utah Code Annotated 1953
 34-54-202, Utah Code Annotated 1953
 34-54-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-54-101 is enacted to read:

**CHAPTER 54. PROMOTION OF STUDENT
 LOANFORGIVENESS PROGRAMS ACT**

Part 1. General Provisions

34-54-101. Title.

This chapter is known as "Promotion of Student Loan Forgiveness Programs Act."

Section 2. Section 34-54-102 is enacted to read:

34-54-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Antidiscrimination and Labor in the commission.

(2) (a) "Employer" means, except as provided in Subsection (2)(b), a public service organization in the state that employs one or more individuals.

(b) "Employer" does not include:

(i) a federal or tribal government organization, agency, or entity; or

(ii) a tribal college or university.

(3) "Employment certification form" means the form provided by the United States Department of Education, in part, to verify that an individual's employment qualifies for participation in a student loan forgiveness program.

(4) "LEA" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(5) "Public Service Loan Forgiveness Program" means the Public Service Loan Forgiveness Program described in 34 C.F.R. 685.219.

(6) "Public service organization" means the same as that term is defined in 34 C.F.R. 685.219.

(7) "Student loan forgiveness program" means:

(a) the Public Service Loan Forgiveness Program; or

(b) the Teacher Loan Forgiveness Program.

(8) "Teacher" means the same as that term is defined in 34 C.F.R. 685.217.

(9) "Teacher Loan Forgiveness Program" means the Teacher Loan Forgiveness Program described in 34 C.F.R. 685.217.

Section 3. Section 34-54-201 is enacted to read:

Part 2. Promotion of Student Loan Forgiveness Programs

34-54-201. Division duties.

(1) For each student loan forgiveness program, the division shall develop a set of informational materials designed to increase awareness of the program among eligible residents of the state.

(2) In each set of informational materials described in Subsection (1), the division shall include:

(a) a one-page form letter for an employer to give to an employee who may be eligible for the loan forgiveness program that:

(i) briefly summarizes the loan forgiveness program;

(ii) describes each step the employee must take to participate in the loan forgiveness program; and

(iii) recommends the employee contact the employee's student loan servicer for additional information about the loan forgiveness program; and

(b) a document that contains answers to frequently asked questions about the loan forgiveness program.

(3) The division may use information published by a federal agency to satisfy any requirement of Subsection (1) or (2).

(4) The division shall:

(a) make each set of informational materials described in this section available on the division's website; and

(b) ensure that each set of informational materials described in this section contains current and accurate information.

Section 4. Section 34-54-202 is enacted to read:

34-54-202. Employer obligations.

(1) (a) At least once each calendar year, an employer shall give each of the employer's employees an electronic copy of the set of informational materials that the division develops in accordance with Section 34-54-201 for the Public Service Loan Forgiveness Program.

(b) An employer shall give each employee hired on or after July 1, 2019, an electronic copy of the materials described in Subsection (1)(a) within 14 days after the day on which the employee begins work for the employer.

(2) Upon request from an employee, an employer shall complete the employer portions of an employment certification form and provide a copy of the employment certification form to the employee.

Section 5. Section 34-54-203 is enacted to read:

34-54-203. Additional LEA obligations.

(1) (a) At least once each calendar year, an LEA shall give each of the LEA's teachers an electronic copy of the set of informational materials that the division develops in accordance with Section 34-54-201 for the Teacher Loan Forgiveness Program.

(b) An LEA shall give each teacher hired on or after July 1, 2019, an electronic copy of the materials described in Subsection (1)(a) within 14

days after the day on which the teacher begins work for the LEA.

(2) An LEA's obligations under this section are in addition to the other requirements of this chapter.

CHAPTER 221**H. B. 224**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**DEPARTMENT OF HERITAGE
AND ARTS AMENDMENTS**

Chief Sponsor: Mike Winder
 Senate Sponsor: Derek L. Kitchen
 Cosponsor: Karen Kwan

LONG TITLE**General Description:**

This bill modifies provisions related to the Department of Heritage and Arts (the department).

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions related to the department's requirements for pass-through funding;
- ▶ renumbers and modifies provisions related to the Utah Commission on Service and Volunteerism;
- ▶ modifies provisions related to the State Library Board, county library boards, and city library boards;
- ▶ modifies provisions related to historic sites;
- ▶ creates the Division of Multicultural Affairs within the department and describes the division's responsibilities;
- ▶ creates the Utah Multicultural Commission and describes the commission's membership and responsibilities;
- ▶ creates the Utah Martin Luther King, Jr. Human Rights Commission and describes the commission's membership and responsibilities; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-1-201, as last amended by Laws of Utah 2018, Chapter 200
 9-7-101, as last amended by Laws of Utah 2017, Chapter 48
 9-7-202, as enacted by Laws of Utah 1992, Chapter 241
 9-7-204, as last amended by Laws of Utah 2016, Chapter 144
 9-7-402, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-7-403, as last amended by Laws of Utah 1997, Chapter 10
 9-7-404, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-7-405, as last amended by Laws of Utah 2005, Chapter 48
 9-7-406, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-7-407, as renumbered and amended by Laws of Utah 1992, Chapter 241

9-7-408, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-7-409, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-7-502, as last amended by Laws of Utah 1994, Chapter 45
 9-7-503, as last amended by Laws of Utah 1993, Chapters 4, 78, and 227
 9-7-504, as last amended by Laws of Utah 2010, Chapter 378
 9-7-505, as last amended by Laws of Utah 2003, Chapter 47
 9-7-506, as last amended by Laws of Utah 1993, Chapter 227
 9-7-507, as last amended by Laws of Utah 2003, Chapter 47
 9-7-509, as last amended by Laws of Utah 2003, Chapter 47
 9-8-102, as last amended by Laws of Utah 2017, Chapter 48
 9-8-202, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-8-204, as last amended by Laws of Utah 2010, Chapter 286
 9-8-206, as renumbered and amended by Laws of Utah 1992, Chapter 241
 9-8-402, as last amended by Laws of Utah 1995, Chapter 170
 9-8-404, as last amended by Laws of Utah 2016, Chapter 348
 9-8-805, as last amended by Laws of Utah 2009, Chapter 388

ENACTS:

9-21-101, Utah Code Annotated 1953
 9-21-102, Utah Code Annotated 1953
 9-21-201, Utah Code Annotated 1953
 9-21-202, Utah Code Annotated 1953
 9-21-203, Utah Code Annotated 1953
 9-21-301, Utah Code Annotated 1953
 9-21-302, Utah Code Annotated 1953
 9-21-401, Utah Code Annotated 1953
 9-21-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

9-20-101, (Renumbered from 9-1-801, as last amended by Laws of Utah 2014, Chapter 189)
 9-20-102, (Renumbered from 9-1-802, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-201, (Renumbered from 9-1-803, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-202, (Renumbered from 9-1-805, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-203, (Renumbered from 9-1-806, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-204, (Renumbered from 9-1-808, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-205, (Renumbered from 9-1-809, as last amended by Laws of Utah 2013, Chapter 38)
 9-20-206, (Renumbered from 9-1-810, as last amended by Laws of Utah 2013, Chapter 38)

9-20-207, (Renumbered from 9-1-811, as repealed and reenacted by Laws of Utah 2013, Chapter 38)

REPEALS:

- 9-8-601, as enacted by Laws of Utah 1991, Chapter 30
 9-8-602, as enacted by Laws of Utah 1991, Chapter 30
 9-8-603, as enacted by Laws of Utah 1991, Chapter 30

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-1-201 is amended to read:

9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.

(1) There is created the Department of Heritage and Arts.

(2) The department shall:

(a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;

(b) perform heritage, arts, and cultural development planning for the state;

(c) coordinate the program plans of the various divisions within the department;

(d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;

(e) administer any other programs over which the department is given administrative supervision by the governor;

(f) submit an annual written report to the governor and the Legislature as described in Section 9-1-208;

(g) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(h) perform any other duties as provided by the Legislature.

(3) The department may solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor.

(4) Money received under Subsection (3) shall be deposited in the General Fund as ~~restricted revenues of the department~~ dedicated credits.

(5) (a) For a pass-through funding grant of ~~[\$25,000 or more]~~ \$50,000 or less, the department shall make ~~[quarterly disbursements]~~ an annual disbursement to the pass-through funding grant recipient~~[, contingent upon the department receiving a quarterly progress report from the pass-through funding grant recipient].~~

(b) For a pass-through funding grant of more than \$50,000, the department shall make a semiannual disbursement to the pass-through funding grant recipient, contingent upon the department receiving a semiannual progress report from the pass-through funding grant recipient.

~~[(b)]~~ (c) The department shall:

(i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection (5)~~[(a)]~~(b); and

(ii) include reporting requirement instructions with the form.

Section 2. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

~~[(1)]~~ (2) "Division" means the State Library Division.

~~[(2)]~~ (3) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

~~[(3)]~~ (4) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

~~[(4)]~~ (5) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

~~[(5)]~~ (6) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

~~[(6)]~~ (7) "State agency" means:

(a) the state[;]; or

(b) an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

~~[(7)]~~ (8) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc

recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.

(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Section 3. Section 9-7-202 is amended to read:

9-7-202. Appointment of director.

~~[(1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.]~~

~~[(2) The director shall have a degree from an institution approved by the American Library Association in library science and shall have demonstrated administrative ability.]~~

The executive director, in consultation with the board, shall appoint a director of the division:

(1) to serve as the chief administrative officer of the division; and

(2) who has a degree from an accredited institution in library science and has demonstrated administrative ability.

Section 4. Section 9-7-204 is amended to read:

9-7-204. State Library Board -- Members -- Meetings -- Expenses.

(1) There is created within the department the State Library Board.

(2) (a) The board shall consist of nine members appointed by the governor.

(b) One member shall be appointed on recommendation from each of the following:

(i) the State Board of Education; and

~~[(ii) the Board of Control of the State Law Library;]~~

~~[(iii) the Office of Legislative Research and General Counsel; and]~~

~~[(iv)]~~ (ii) the Utah System of Higher Education.

(c) Of the ~~[five]~~ seven remaining members at least two shall be appointed from rural areas.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The members may not serve more than two full consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.

(6) ~~[Five members]~~ A simple majority of the members of the board ~~[constitute]~~ constitutes a quorum for conducting board business.

(7) The governor shall select one of the board members as chair who shall serve for a period of two years.

(8) The director of the State Library Division ~~[shall be]~~ is the executive officer of the board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 5. Section 9-7-402 is amended to read:

9-7-402. Library board of directors -- Expenses.

(1) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.

(2) Only one member of the city governing body may be, at any one time, a member of the library board.

(3) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Section 6. Section 9-7-403 is amended to read:

9-7-403. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director of a library board shall be appointed for a three-year term, or until the successor to that director is appointed. Initially, appointments shall be made for one-, two-, and three-year terms. Annually thereafter, the city governing body shall, before the first day of July of each year, appoint for a three-year term directors to take the place of the retiring directors.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The city governing body may remove any director for misconduct or neglect of duty.

(5) Vacancies in ~~[the]~~ a library board of directors shall be filled for the unexpired term in the same manner as original appointments.

Section 7. Section 9-7-404 is amended to read:

9-7-404. Board powers and duties -- Library fund deposits and disbursements.

(1) The library board of directors may, with the approval of the city governing body:

(a) have control of the expenditure of the library fund, of construction, lease, or sale of library buildings and land, and of the operation and care of the library; and

(b) purchase, lease, or sell land, and purchase, lease, erect, or sell buildings for the benefit of the library.

(2) The library board shall:

(a) maintain and care for the library;

(b) establish policies for its operation; and

(c) in general, carry out the spirit and intent of the provisions of this part.

(3) All tax money received for the library shall be deposited in the city treasury to the credit of the library fund, and may not be used for any purpose except that of the city library. These funds shall be drawn upon by the authorized officers of the city upon presentation of the properly authenticated vouchers of the library board. All money collected by the library shall be deposited to the credit of the library fund.

Section 8. Section 9-7-405 is amended to read:

9-7-405. Rules -- Use of library.

(1) The library board of directors shall make, amend, and repeal rules, not inconsistent with law, for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the city where located, subject to the rules adopted by the library board. The library board may exclude from the use of the library any person who willfully violates these rules. The library board may extend the privileges and use of the library to persons residing outside of the city upon terms and conditions it may prescribe by rule.

Section 9. Section 9-7-406 is amended to read:

9-7-406. Reports to governing body and director of the division.

The library board of directors shall:

(1) ~~[make]~~ provide an annual report to the city governing body on the condition and operation of the library, including a financial statement; and

~~[(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.]~~

(2) provide an annual report to the director of the division that contains the information required by the State Library Board.

Section 10. Section 9-7-407 is amended to read:

9-7-407. Librarian and other personnel.

(1) The library board of directors shall appoint a competent person as librarian to have immediate charge of the library with those duties and compensation for services that it determines. The librarian shall act as the executive officer for the library board.

(2) The library board shall appoint, upon the recommendation of the librarian, other personnel as needed.

Section 11. Section 9-7-408 is amended to read:

9-7-408. Donations of money or property.

Any person desiring to make donations of money, personal property, or real estate for the benefit of any library shall have the right to vest the title to the money, personal property, or real estate in the library board of directors. The donation shall be held and controlled by the library board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property, and the library board shall be held and considered to be trustees of the property.

Section 12. Section 9-7-409 is amended to read:

9-7-409. Entities may cooperate, merge, or consolidate in providing library services.

[Boards] Library boards of directors of city libraries, library boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate, merge, or consolidate in providing library services.

Section 13. Section 9-7-502 is amended to read:

9-7-502. Library board of directors -- Expenses.

(1) (a) When the county legislative body decides to establish and maintain a county public library under the provisions of this part, the county executive shall, with the advice and consent of the county legislative body, appoint a library board of not less than five and not more than nine directors chosen from the citizens of the county and based upon their fitness for the office.

(b) When increasing membership on an existing library board, the county legislative body:

(i) may not add more than two positions in any year; and

(ii) when adding members, shall ensure that the terms of library board members are staggered so that approximately 1/4 of the board is selected each year.

(2) Only one member of the county legislative body may be, at any one time, a member of the library board.

(3) Each director shall serve without compensation, but the actual and necessary

expenses incurred in the performance of the director's official duties may be paid from library funds.

Section 14. Section 9-7-503 is amended to read:

9-7-503. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director of a library board shall be appointed for a four-year term, or until the director's successor is appointed. Initially, appointments shall be made for one-, two-, three-, and four-year terms, and one member of the county legislative body for the term of his elected office. Annually thereafter, the county executive body shall, before the first day of July of each year, appoint, with the advice and consent of the county legislative body, for a four-year term, one director to take the place of the retiring director.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The county executive body may remove any director for misconduct or neglect of duty.

(5) Vacancies in [the] a library board of directors shall be filled for the unexpired terms in the same manner as original appointments.

Section 15. Section 9-7-504 is amended to read:

9-7-504. Library board duties -- Library fund deposits.

(1) The library board of directors shall, with the approval of the county executive and in accordance with county ordinances, policies, and procedures:

- (a) be responsible for:
 - (i) the expenditure of the library fund;
 - (ii) the construction, lease, or sale of library buildings and land; and
 - (iii) the operation and care of the library; and
- (b) purchase, lease, or sell land, and purchase, lease, construct, or sell buildings, for the benefit of the library.

(2) The library board has those powers and duties as prescribed by county ordinance, including establishing policies for collections and information resources that are consistent with state and federal law.

(3) (a) All tax money received for the library shall be deposited in the county treasury to the credit of the library fund, and may not be used for any purpose except that of the county library.

(b) All money collected by the library shall be deposited to the credit of the library fund.

Section 16. Section 9-7-505 is amended to read:

9-7-505. Rules -- Use of library.

(1) [The] Each library board shall make library rules in a manner consistent with county ordinances, policies, and procedures for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the area taxed for the support of the library, subject to the rules made as prescribed by county ordinance.

Section 17. Section 9-7-506 is amended to read:

9-7-506. Annual reports.

The library board of directors shall:

(1) [make] provide an annual report to the county executive and county legislative body on the condition and operation of the library, including a financial statement; and

~~[(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.]~~

(2) provide an annual report to the director of the division that contains the information required by the State Library Board.

Section 18. Section 9-7-507 is amended to read:

9-7-507. Librarian and other personnel.

(1) (a) The library board of directors shall recommend to the county executive for appointment a competent person to serve as librarian.

(b) The county executive shall, within 30 days of the recommendation, either make the appointment or request that the library board submit another recommendation.

(c) The librarian shall be an employee of the county subject to the personnel policies, procedures, and compensation plans approved by the county executive and county legislative body.

(d) The librarian shall act as the executive officer for the library board.

(2) (a) All library personnel are employees of the county.

(b) The librarian or the librarian's designee shall hire library personnel in accordance with the county merit system, personnel policies and procedures, and compensation plans approved by the county executive and county legislative body.

(3) As used in this section "librarian" means the county library director.

Section 19. Section 9-7-509 is amended to read:

9-7-509. Entities may cooperate, merge, or consolidate in providing library services.

~~[Boards]~~ Library boards of directors of city libraries, library boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies,

and local political subdivisions may cooperate in providing library services or merge or consolidate under an interlocal agreement approved and implemented in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

Section 20. Section 9-8-102 is amended to read:

9-8-102. Definitions.

As used in this chapter:

- (1) "Board" means the Board of State History.
- (2) "Director" means the director of the Division of State History.
- (3) "Division" means the Division of State History.
- (4) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.
- (5) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.
- (6) "Society" means the Utah State Historical Society created in Section 9-8-207.

Section 21. Section 9-8-202 is amended to read:

9-8-202. Appointment of director.

~~[(1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.]~~

~~[(2) The director shall be experienced in administration and qualified by education or training in the field of state history.]~~

The executive director, in consultation with the board, shall appoint a director of the division:

- (1) to serve as the chief administrative officer of the division; and
- (2) who is experienced in administration and is qualified by education or training in the field of state history.

Section 22. Section 9-8-204 is amended to read:

9-8-204. Board of State History.

- (1) There is created within the department the Board of State History.
- (2) The board shall consist of 11 members appointed by the governor with the consent of the Senate as follows:

(a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and

(b) other persons with an interest in the subject matter of the division's responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) ~~[Six members]~~ A simple majority of the board ~~[are]~~ constitutes a quorum for ~~[the transaction of]~~ conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 23. Section 9-8-206 is amended to read:

9-8-206. Historical magazine, books, documents, and microfilms -- Proceeds.

(1) The division shall, under the direction of the board:

(a) compile and publish an historical magazine to be furnished to supporting members of the society in accordance with membership subscriptions or to be sold independently of membership; and

(b) publish and sell other books, documents, and microfilms at reasonable prices to be approved by the director.

(2) Proceeds from sales under this section shall be ~~[retained in the treasury of the society]~~ deposited into the General Fund as a dedicated credit.

Section 24. Section 9-8-402 is amended to read:

9-8-402. Definitions -- Division duties.

(1) ~~[As]~~ In addition to the definitions described in Section 9-8-302, as used in this part^[s]:

(a) "Effect" means an alteration to one or more characteristics of a historic property that qualify the historic property for inclusion in, or that make the historic property eligible for inclusion in, the National Register of Historic Places.

(b) "Historic property" means any historic or prehistoric district, site, building, structure, or object that is at least 50 years old and that is included in, or that is eligible for inclusion in, the National Register of Historic Places.

(c) "State register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

(d) "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a state agency, including a project, activity, or program:

- (i) carried out by or on behalf of a state agency;
 - (ii) carried out with financial assistance from the state; or
 - (iii) that requires a state permit, license, or approval.
- (2) The division shall:

- (a) constitute the historic preservation agency for this state;
- (b) establish a state register for the orderly identification and recognition of the state's cultural resources; and
- (c) provide for participation in the National Historic Preservation Program.

Section 25. Section 9-8-404 is amended to read:

9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

~~[(1) (a) Before expending any state funds or approving any undertaking, each agency shall:]~~

~~[(i) take into account the effect of the expenditure or undertaking on any historic property; and]~~

~~[(ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property.]~~

(1) (a) Before making a final agency decision authorizing the expenditure of state funds or providing financial assistance for an undertaking, an agency shall:

- (i) take into account the effect of the undertaking on any historic property; and
- (ii) provide the state historic preservation officer with a written evaluation of the undertaking's effect on any historic property.

(b) The state historic preservation officer shall provide to the agency a written comment on the agency's determination of effect within 30 days after the day on which the state historic

preservation officer receives a written evaluation described in Subsection (1)(a)(ii).

(c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency shall enter into a formal written agreement with the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.

~~[(b)] (d) [Once per month, the] The state historic preservation officer shall [provide] make available to the Public Lands Policy Coordinating Office [with] a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.~~

~~[(e)] (e) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.~~

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic preservation officer informs the Public Lands Policy Coordinating Office of the objections.

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

- (i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;
- (ii) the ownership of the land involved;
- (iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and
- (iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

- (i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of [specimens] artifacts and the reporting of archaeological information at current standards of scientific rigor.

~~[(4) (a) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of comments the state historic preservation officer intends to make or has made as required or authorized by the National Historic Preservation Act, 54 U.S.C. Sec. 300101 et seq.]~~

~~[(b) At the request of the Public Lands Policy Coordinating Office, the state historic preservation officer shall discuss the comments with the Public Lands Policy Coordinating Office.]~~

Section 26. Section 9-8-805 is amended to read:

9-8-805. Collecting institutions -- Perfecting title -- Notice.

(1) (a) [Any] A collecting institution wishing to perfect title in any reposed materials held by it shall send, by registered mail, a notice containing the information required by [this section] Subsection (2) to the last-known address of the last-known owner of the property.

~~[(b) The collecting institution shall publish a notice containing the information required by this section:]~~

~~[(i) if:]~~

~~[(A) the owner or the address of the owner of the reposed materials is unknown;]~~

~~[(B) the mailed notice is returned to the collecting institution without a forwarding address; or]~~

~~[(C) the owner does not claim the reposed materials within 90 days after the notice was mailed; and]~~

~~[(ii) (A) by publication at least once per week for two consecutive weeks in a newspaper of general circulation in the county where the collection institution is located; and]~~

~~[(B) by publication in accordance with Section 45-1-101 for two weeks.]~~

(b) In addition to the requirements of Subsection (1)(a), a collecting institution shall publish a notice containing the information required by Subsection (2) if:

(i) the owner or the address of the owner of the reposed materials is unknown;

(ii) the mailed notice is returned to the collecting institution without a forwarding address; or

(iii) the owner does not claim the reposed materials within 90 days after the day on which the notice was mailed.

(c) If required to publish a notice under Subsection (1)(b), the collecting institution, in accordance with Section 45-1-101, shall publish the notice:

(i) at least once per week for two consecutive weeks in a newspaper of general circulation in the county where the collecting institution is located; and

(ii) on the public legal notice website for at least two weeks.

(2) [The notices] Each notice required by this section shall include:

(a) the name, if known, and the last-known address, if any, of the last-known owner of the reposed materials;

(b) a description of the reposed materials;

(c) the name of the collecting institution that has possession of the reposed materials and a person within that institution whom the owner may contact; and

(d) a statement that if the reposed materials are not claimed within 90 days from the [date that] day on which the notice is published in accordance with Subsection (1)(b), the reposed materials are considered [to be] abandoned and become the property of the collecting institution.

(3) If no one [has claimed the] claims reposed materials within 90 days after the [date that the] day on which notice is published in accordance with Subsection (1)(b), the reposed materials are considered [to be] abandoned and are the property of the collecting institution.

Section 27. Section 9-20-101, which is renumbered from Section 9-1-801 is renumbered and amended to read:

CHAPTER 20. UTAH COMMISSION ON SERVICE AND VOLUNTEERISM ACT

Part 1. General Provisions

[9-1-801]. 9-20-101. Title.

This ~~part~~ chapter is known as the "Utah Commission on Service and Volunteerism Act."

Section 28. Section 9-20-102, which is renumbered from Section 9-1-802 is renumbered and amended to read:

[9-1-802]. 9-20-102. Definitions.

As used in this chapter:

(1) "Act" means the National Community and Service Trust Act of 1993, 42 U.S.C. 12501 et seq.

(2) "Commission" means the Utah Commission on Service and Volunteerism created in Section ~~[9-1-803]~~ 9-20-201.

(3) "Corporation" means the Corporation for National and Community Service described in the act.

Section 29. Section 9-20-201, which is renumbered from Section 9-1-803 is renumbered and amended to read:

Part 2. Utah Commission on Service and Volunteerism

[9-1-803]. 9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

(1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.

(2) The 19 voting members of the commission are:

(a) the lieutenant governor;

(b) the commissioner of higher education or the commissioner's designee;

(c) the state superintendent of public instruction or the superintendent's designee;

(d) the executive director of the Department of Heritage and Arts or the executive director's designee;

(e) nine members appointed by the governor as follows:

(i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;

(ii) an individual with experience in promoting the involvement of older adults in volunteer service;

(iii) a representative of a community-based agency or organization within the state;

(iv) a representative of local government;

(v) a representative of a local labor organization in the state;

(vi) a representative of business;

(vii) an individual between the ages of 16 and 25 who participates in a volunteer or service program;

(viii) a representative of a national service program; and

(ix) a representative of the volunteer sector; and

(f) six members appointed by the governor from among the following groups:

(i) local educators;

(ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;

(iii) representatives of Native American tribes;

(iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or

(v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.

(3) The nonvoting member of the commission is the state representative of the corporation.

(4) (a) In appointing persons to serve on the commission, the governor shall ensure that:

(i) no more than 10 voting members of the commission are members of the same political party; and

(ii) no more than five voting members of the commission are state government employees.

(b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, and disability characteristics.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a three-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately one-third of the commission is appointed every year.

(6) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.

(7) A member appointed by the governor may not serve more than two consecutive terms.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 30. Section 9-20-202, which is renumbered from Section 9-1-805 is renumbered and amended to read:

[9-1-805]. 9-20-202. Election of commission chair and vice chair.

(1) ~~[The]~~ Subject to Subsection (2), the voting members of the commission shall elect a chair and a ~~[vice chair]~~ vice chair from among the voting members of the commission.

(2) The voting members of the commission may not elect the lieutenant governor as chair or vice chair of the commission.

~~[(2)]~~ (3) The chair and ~~[vice chair]~~ vice chair shall serve for a term of one year.

Section 31. Section 9-20-203, which is renumbered from Section 9-1-806 is renumbered and amended to read:

[9-1-806]. 9-20-203. Commission chair and vice chair duties.

(1) The chair shall:

- (a) preside at meetings of the commission; and
- (b) authorize and execute the actions of the commission.

(2) The ~~[vice chair]~~ vice chair shall:

- (a) assist the chair;
- (b) if the chair is absent, perform the duties of the chair;
- (c) accept special assignments from the chair; and
- (d) perform other duties as delegated by the commission.

Section 32. Section 9-20-204, which is renumbered from Section 9-1-808 is renumbered and amended to read:

[9-1-808]. 9-20-204. Meetings -- Quorum.

- (1) The commission shall meet at least quarterly.
- (2) A voting member of the commission who fails to attend at least 75% of called meetings in a calendar year is automatically removed from the commission.
- (3) A commission quorum is a simple majority of the voting members.

Section 33. Section 9-20-205, which is renumbered from Section 9-1-809 is renumbered and amended to read:

[9-1-809]. 9-20-205. Commission duties.

- (1) The commission shall:
 - (a) ~~[assist in]~~ administer the selection, development, and oversight of programs funded and established by the act;

(b) pursue opportunities for sustainable and high-impact community service;

(c) develop and annually update a three-year community service plan for the state, including the establishment of state priorities; and

(d) stimulate increased community awareness of the impact of volunteer service in the state.

(2) (a) The commission may, subject to Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept private gifts, donations, or funds from any source.

(b) Money received under this Subsection (2) shall be deposited with the state and shall be available to the commission to carry out the purposes of this part.

Section 34. Section 9-20-206, which is renumbered from Section 9-1-810 is renumbered and amended to read:

[9-1-810]. 9-20-206. Reporting and administration.

(1) The executive director, in consultation with the commission, shall appoint a director of the commission who is:

- (a) experienced in administration; and
- (b) qualified by education or training in the field of public administration.

(2) The director of the commission shall report to the executive director.

~~[(4)]~~ (3) The commission shall:

- (a) report to the office of the lieutenant governor[-]; and
- (b) by January 1, provide an annual written report to the lieutenant governor on service and volunteerism in the state.

~~[(2)]~~ (4) The ~~[Department of Heritage and Arts]~~ department shall provide administrative and staff support services to the commission.

Section 35. Section 9-20-207, which is renumbered from Section 9-1-811 is renumbered and amended to read:

[9-1-811]. 9-20-207. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the Department of Heritage and Arts may make rules to:

- (1) implement this ~~[part]~~ chapter; and
- (2) ensure the commission complies with the act and related federal requirements.

Section 36. Section 9-21-101 is enacted to read:

CHAPTER 21. DIVISION OF MULTICULTURAL AFFAIRS ACT

Part 1. General Provisions

9-21-101. Title.

This chapter is known as the “Division of Multicultural Affairs Act.”

Section 37. Section 9-21-102 is enacted to read:

9-21-102. Definitions.

As used in this chapter:

(1) “Commission” means the Utah Multicultural Commission created in Section 9-21-301.

(2) “Director” means the director of the Division of Multicultural Affairs.

(3) “Division” means the Division of Multicultural Affairs created in Section 9-21-201.

(4) “Human rights commission” means the Utah Martin Luther King, Jr. Human Rights Commission created in Section 9-21-401.

Section 38. Section 9-21-201 is enacted to read:

Part 2. Division of Multicultural Affairs

9-21-201. Creation.

(1) There is created within the department the Division of Multicultural Affairs under the administration and general supervision of the executive director.

(2) The division shall be under the policy direction of the executive director in consultation with the director and the commission.

Section 39. Section 9-21-202 is enacted to read:

9-21-202. Responsibilities of the division.

The responsibilities of the division include:

(1) identifying the needs of the state’s multicultural communities;

(2) promoting inclusiveness and cultivating trust and cooperation between the state, nonprofit entities receiving state funds, and the state’s multicultural communities; and

(3) working with state agencies to ensure the state provides equitable resources, services, and programs to address the needs of the state’s multicultural communities.

Section 40. Section 9-21-203 is enacted to read:

9-21-203. Reporting requirements.

The division shall submit an annual written report to the department for inclusion in the department’s annual report described in Section 9-1-208, which shall describe the activities and recommendations of:

(1) the division in meeting the division’s responsibilities as described in this chapter;

(2) the commission in meeting the commission’s responsibilities as described in this chapter, including the strategic plan described in Section 9-21-302; and

(3) the human rights commission in meeting the human rights commission’s responsibilities as described in this chapter.

Section 41. Section 9-21-301 is enacted to read:

Part 3. Utah Multicultural Commission

9-21-301. Creation of commission -- Membership -- Rulemaking.

(1) There is created within the division the Utah Multicultural Commission.

(2) The commission shall consist of:

(a) the lieutenant governor, who shall serve as chair of the commission; and

(b) at least 14 additional members appointed by the governor to two-year terms.

(3) Notwithstanding the requirements of Subsection (2)(b), the governor shall at the time of appointment adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(4) The commission shall meet at least six times per year.

(5) A majority of the members of the commission constitutes a quorum of the commission at any meeting, and the action of the majority of members present is the action of the commission.

(6) A member appointed by the governor may be reappointed for one or more additional terms.

(7) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.

(8) A member may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall make rules establishing the membership, duties, and procedures of the commission in accordance with the requirements of:

(a) this chapter; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) The department shall provide administrative support to the commission.

Section 42. Section 9-21-302 is enacted to read:

9-21-302. Commission duties.

The commission shall:

(1) cooperate with the division and state agencies to ensure access to culturally competent programs and services that meet the needs of the state’s multicultural communities;

(2) make recommendations to the director regarding policies, practices, and procedures to

ensure the proper delivery of state resources, services, and programs to the state's multicultural communities;

(3) cooperate with the division and state agencies to ensure proper outreach to the state's multicultural communities regarding state resources, services, and programs; and

(4) develop a strategic plan to identify needs, goals, and deliverables that will directly impact the most significant and urgent needs of the state's multicultural communities.

Section 43. Section 9-21-401 is enacted to read:

Part 4. Utah Martin Luther King, Jr. Human Rights Commission

9-21-401. Creation of human rights commission -- Membership -- Rulemaking.

(1) There is created within the division the Utah Martin Luther King, Jr. Human Rights Commission.

(2) (a) The human rights commission shall consist of 13 members appointed by the governor to two-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall at the time of appointment adjust the length of terms to ensure that the terms of human rights commission members are staggered so that approximately half of the human rights commission is appointed every two years.

(3) The governor shall appoint one of the members as chair of the human rights commission.

(4) The human rights commission shall meet at least quarterly.

(5) A majority of the members of the human rights commission constitutes a quorum of the human rights commission at any meeting, and the action of the majority of members present is the action of the human rights commission.

(6) A member appointed by the governor may not serve more than two consecutive terms.

(7) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall make rules establishing the membership, duties, and procedures of the human rights commission in accordance with the requirements of:

(a) this chapter; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) The department shall provide administrative support to the commission.

Section 44. Section 9-21-402 is enacted to read:

9-21-402. Human rights commission duties.

The human rights commission shall:

(1) promote Dr. Martin Luther King, Jr. Day by:

(a) encouraging appropriate ceremonies and activities commemorating the federal and state holiday, which occurs on the third Monday of January each year;

(b) seeking to involve the public and private sectors in promoting diversity, equality, and human rights;

(c) providing recommendations and assistance to government entities and private organizations regarding the observance of the holiday;

(d) coordinating efforts with state residents of diverse backgrounds and with private organizations regarding the observance of the holiday; and

(e) partnering with educational institutions to assist schools in promoting appropriate events to honor human rights and the holiday; and

(2) report annually to the division regarding the activities of the commission.

Section 45. Repealer.

This bill repeals:

Section 9-8-601, Definitions.

Section 9-8-602, Authority to write and publish county history -- Administration of project.

Section 9-8-603, Standards -- Publication.

CHAPTER 222**H. B. 244**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**MISDEMEANOR SENTENCING
 TIMELINE CLARIFICATIONS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill reduces the maximum penalty for a misdemeanor conviction by one day to 364 days.

Highlighted Provisions:

This bill:

- ▶ reduces the maximum incarceration time for a misdemeanor by one day to 364 days; and
- ▶ exempts from the reduction, the provision for persons serving a felony sentence in the Utah Prison.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-3-204, as enacted by Laws of Utah 1973,
 Chapter 196
 76-3-208, as last amended by Laws of Utah 2011,
 Chapter 56

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-204 is amended to read:**76-3-204. Misdemeanor conviction -- Term of imprisonment.**

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- (1) In the case of a class A misdemeanor, for a term not exceeding ~~[one year;]~~ 364 days.
- (2) In the case of a class B misdemeanor, for a term not exceeding six months[;].
- (3) In the case of a class C misdemeanor, for a term not exceeding 90 days.

Section 2. Section 76-3-208 is amended to read:**76-3-208. Imprisonment -- Custodial authorities.**

(1) Persons sentenced to imprisonment shall be committed to the following custodial authorities:

- (a) felony commitments shall be to the Utah State Prison;
- (b) (i) notwithstanding Section 76-3-204, class A misdemeanor commitments shall be to the jail, or other facility designated by the town, city, or county

where the defendant was convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at the commencement of the class A misdemeanor conviction, in which case, the class A misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to exceed one year with a credit for one day; and

(ii) the court may not order the imprisonment of a defendant to the Utah State Prison for a fixed term or other term that is inconsistent with this section and Section 77-18-4; and

(c) all other misdemeanor commitments shall be to the jail or other facility designated by the town, city or county where the defendant was convicted.

(2) Custodial authorities may place a prisoner in a facility other than the one to which the prisoner was committed when:

- (a) it does not have space to accommodate the prisoner; or
- (b) the security of the institution or inmate requires it.

CHAPTER 223**H. B. 250**

Passed March 12, 2019
Approved March 25, 2019
Effective July 1, 2019

SCHOOL FEE REVISIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Deidre M. Henderson
Cosponsors: Cheryl K. Acton
Kyle R. Andersen
Kay J. Christofferson
Francis D. Gibson
Craig Hall
Marsha Judkins
Jefferson Moss
Tim Quinn
Mike Schultz
Jeffrey D. Stenquist
Raymond P. Ward
Mike Winder

LONG TITLE**General Description:**

This bill amends provisions related to school fees.

Highlighted Provisions:

This bill:

- ▶ requires the State Board of Education (state board) to report recommendations on activity based costing;
- ▶ defines “fee” and other related terms;
- ▶ enacts conditions for a local education agency (LEA) to charge a fee;
- ▶ requires the state board to take certain actions against an LEA that fails to comply with fee provisions;
- ▶ grants the state board rulemaking authority for fee provisions;
- ▶ amends fee waiver provisions, including requiring an LEA to inform a student of procedures to appeal a waiver denial;
- ▶ requires an LEA governing board to adopt a fee policy and fee schedule;
- ▶ amends the definition of “textbook” and other provisions related to textbooks;
- ▶ repeals provisions authorizing citizens to petition a local school board to provide free textbooks;
- ▶ prohibits an LEA from charging a fee for a school uniform but permits a fee for school activity clothing; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53E-10-204, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-10-305, as last amended by Laws of Utah 2018, Chapter 410 and renumbered and amended by Laws of Utah 2018, Chapter 1

53G-7-501, as enacted by Laws of Utah 2018, Chapter 3
53G-7-502, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-503, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-504, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-505, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-601, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-602, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-606, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-801, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-802, as renumbered and amended by Laws of Utah 2018, Chapter 3
63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

ENACTS:

53E-3-518, Utah Code Annotated 1953

REPEALS AND REENACTS:

53G-7-603, as renumbered and amended by Laws of Utah 2018, Chapter 3

REPEALS:

53G-7-604, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-7-605, as renumbered and amended by Laws of Utah 2018, Chapter 3

Utah Code Sections Affected by Coordination Clause:

53E-1-201, as enacted by Laws of Utah 2018, Chapter 1
53E-1-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-518 is enacted to read:**53E-3-518. Recommendations on activity based costing.**

(1) The state board shall create a working group, including LEA representatives, to evaluate and present recommendations to the state board and Legislature on LEA efforts to establish cost centers and implement activity based costing.

(2) The state board shall report the recommendations described in Subsection (1) to the Education Interim Committee and Public Education Appropriations Subcommittee no later than November 30, 2020.

Section 2. Section 53E-10-204 is amended to read:**53E-10-204. Local school boards' authority to direct adult education programs.**

A local school board may do the following:

(1) establish and maintain classes for adult education, with classes being held at times and places convenient and accessible to the members of the class;

(2) raise and appropriate funds for an adult education program;

(3) subject to [Sections] Section 53E-10-202 [and 53G-7-502], determine fees for participation in an adult education program; and

(4) hire persons to instruct adult education classes.

Section 3. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2) (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3) (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4) (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(c); or

(iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.

Section 4. Section 53G-7-501 is amended to read:

53G-7-501. Definitions.

[Reserved] As used in this part:

(1) "Co-curricular activity" means an activity, a course, or a program that:

(a) is conducted outside of regular school hours;

(b) is provided, sponsored, or supported by an LEA; and

(c) includes a required regular school day activity, course, or program.

(2) "Curricular activity" means an activity, a course, or a program that is:

(a) provided, sponsored, or supported by an LEA; and

(b) conducted only during school hours.

(3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.

(4) (a) "Elementary school student" means a student enrolled in an elementary school.

(b) "Elementary school student" does not include a secondary school student.

(5) (a) "Extracurricular activity" means an activity, a course, or a program that is:

(i) not directly related to delivering instruction;

(ii) not a curricular activity or co-curricular activity; and

(iii) provided, sponsored, or supported by an LEA.

(b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.

(6) (a) "Fee" means a charge, expense, deposit, rental, or payment:

(i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.

(b) "Fee" includes:

(i) money or something of monetary value raised by a student or the student's family through fundraising;

(ii) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

(iii) payments made to a third party that provides a part of a school activity, class, or program;

(iv) charges or expenditures for classroom:

(A) textbooks;

(B) supplies; or

(C) materials;

(v) charges or expenditures for school activity clothing; and

(vi) a fine other than a fine described in Subsection (6)(c)(i).

(c) "Fee" does not include:

(i) a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or

(C) improper use of school property, including a parking violation;

(ii) a payment for school breakfast or lunch;

(iii) a deposit that is:

(A) a pledge securing the return of school property; and

(B) refunded upon the return of the school property; or

(iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program.

(7) (a) "Fundraising" means an activity or event provided, sponsored, or supported by an LEA that uses students to generate funds or raise money to:

(i) provide financial support to a school or a school's class, group, team, or program; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraising" does not include an alternative method of raising revenue without students.

(8) (a) "School activity clothing" means special shoes or items of clothing:

(i) (A) that meet specific requirements, including requesting a specific color, style, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a co-curricular or extracurricular activity.

(b) "School activity clothing" does not include a school uniform.

(9) (a) "School uniform" means special shoes or an item of clothing:

(i) (A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a curricular activity.

(b) "School uniform" does not include school activity clothing.

(10) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(11) "Secondary school student":

(a) means a student enrolled in a secondary school; and

(b) includes a student in grade 6 if the student attends a secondary school.

(12) "Textbook" means the same as that term is defined in Section 53G-7-601.

(13) "Waiver" means a full or partial release from a requirement to pay a fee and from any provision in lieu of fee payment.

Section 5. Section 53G-7-502 is amended to read:

53G-7-502. Schools to be free.

~~[(4)] Except as otherwise provided in this public education code, [in each school district the public schools] the public education system shall be free to [all children] an individual:~~

(1) between five and 18 years of age who ~~[are residents of the district,] is a resident; and [also to persons]~~

(2) over 18 who ~~[are] is~~ domiciled in the state of Utah and ~~[have] has~~ not completed requirements for a high school diploma.

~~[(2) A person over the age of 18 taking courses under this section must declare an intent to complete requirements for a high school diploma. All courses taken must lead toward that diploma and must be approved by those directly responsible for administering the program.]~~

~~[(3) A person required to pay tuition under this section may have the tuition waived under Section 53E-10-205.]~~

Section 6. Section 53G-7-503 is amended to read:

53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement.

~~[(1) For purposes of this part:]~~

~~[(a) "Board" means the State Board of Education.]~~

~~[(b) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.]~~

~~[(c) "Secondary school student":]~~

~~[(i) means a student enrolled in a secondary school; and]~~

~~[(ii) includes a student in grade 6 if the student attends a secondary school.]~~

~~[(2) (a) A secondary school may impose fees on secondary school students.]~~

~~[(b) The board shall adopt rules regarding the imposition of fees in secondary schools in accordance with the requirements of this part.]~~

~~[(3) A fee, deposit, or other charge may not be made, or any expenditure required of a student or the student's parent or guardian, as a condition for student participation in an activity, class, or~~

program provided, sponsored, or supported by or through a public school or school district, unless authorized by the local school board or charter school governing board under rules adopted by the board.]

(1) An LEA may only charge a fee if the fee is authorized and noticed by the LEA governing board in accordance with Section 53G-7-505.

~~[(4)] (2) (a) [A fee, deposit, charge, or expenditure may not be required.] An LEA may not require a fee for elementary school activities [which] that are part of the regular school day or for supplies used during the regular school day.~~

(b) An elementary school or elementary school teacher may compile and provide to a student's parent ~~[or guardian]~~ a suggested list of supplies for use during the regular school day so that a parent ~~[or guardian]~~ may furnish on a voluntary basis those supplies for student use.

(c) A list provided to ~~[a]~~ an elementary student's parent ~~[or guardian pursuant to]~~ in accordance with Subsection ~~[(4)] (2)(b)~~ shall include and be preceded by the following language:

“NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL.”

(3) (a) Beginning with or after the 2021-2022 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee.

(4) (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part or Part 6, Textbook Fees, the state board shall impose corrective action against the LEA, which may include:

(i) requiring an LEA to repay improperly charged fees;

(ii) withholding state funds; and

(iii) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

(b) The state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in Subsection (4)(a); and

(ii) to administer this Subsection (4).

Section 7. Section 53G-7-504 is amended to read:

53G-7-504. Waiver of fees -- Appeal of decision.

~~[(1) (a) A local school board shall require, as part of an authorization granted under Section 53G-7-503, that adequate waivers or other provisions are available to ensure that no student is denied the opportunity to participate because of an inability to pay the required fee, deposit, or charge.]~~

~~[(b) (i) If, however, a student must repeat a course or requires remediation to advance or graduate and a fee is associated with the course or the remediation program, it is presumed that the student will pay the fee.]~~

~~[(ii) If the student or the student's parent or guardian is financially unable to pay the fee, the board shall provide for alternatives to waiving the fee, which may include installment payments and school or community service or work projects for the student.]~~

~~[(iii) In cases of extreme financial hardship or where the student has suffered a long-term illness, or death in the family, or other major emergency and where installment payments and the imposition of a service or work requirement would not be reasonable, the student may receive a partial or full waiver of the fee required under Subsection (1)(b)(i).]~~

~~[(iv) The waiver provisions in Subsections (2) and (3) apply to all other fees, deposits, and charges made in the secondary schools.]~~

(1) (a) If an LEA or a school within an LEA charges one or more fees, the LEA shall grant a waiver to a student if charging the fee would deny the student the opportunity to fully participate or complete a requirement because of an inability to pay the fee.

(b) An LEA governing board shall:

(i) adopt policies for granting a waiver; and

(ii) in accordance with Section 53G-7-505, give notice of waiver eligibility and policies.

(2) (a) ~~[The board shall require each school in the district] An LEA that charges a fee under this part and Part 6, Textbook Fees, [te] may provide a variety of alternatives for [satisfying the fee requirement to those who qualify for fee waivers, in addition to the outright waiver of the fee. (b) The board shall develop and provide a list of alternatives for the schools, including such options as] a student or family to satisfy a fee requirement, including allowing [the] a student to provide:~~

(i) tutorial assistance to other students;

(ii) assistance before or after school to teachers and other school personnel on school related matters; and

(iii) general community or home service.

~~[(e) (b) Each [school] LEA governing board may add to the list of alternatives provided by the state board, subject to approval by the state board.~~

~~[(3) A local school board may establish policies providing for partial fee waivers or other alternatives for those students who, because of extenuating circumstances, are not in a financial position to pay the entire fee.]~~

~~[(4)] (3) With regard to [children who are] a student who is in the custody of the Division of Child and Family Services who [are] is also eligible under Title IV-E of the federal Social Security Act, [local school boards] an LEA governing board shall require fee waivers or alternatives in accordance with [Subsections (1) through (3)] this section.~~

~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~

(4) The state board shall make rules:

(a) requiring a parent [or guardian] of a student applying for a fee waiver to provide documentation and certification to the school verifying:

(i) the student's eligibility to receive the waiver; and

(ii) if applicable, that the student has complied with alternatives for satisfying the fee requirements under Subsection (2) [have been complied with] to the fullest extent reasonably possible according to the individual circumstances of [both the fee waiver applicant and the school] the student and the LEA; and

(b) specifying the acceptable forms of documentation for the requirement under Subsection ~~[(5)]~~ (4)(a), which shall include verification based on income tax returns or current pay stubs.

~~[(6)] (5) Notwithstanding the requirements under Subsection ~~[(5), a school]~~ (4), an LEA is not required to keep documentation on file after the verification is completed.~~

(6) If a school denies a student or parent request for a fee waiver, the school shall provide the student or parent:

(a) the school's written decision to deny a waiver; and

(b) the procedure to appeal in accordance with LEA policy.

Section 8. Section 53G-7-505 is amended to read:

53G-7-505. Approval and notice of student fees and waivers.

~~[A local school board shall annually give written notice of its student fee schedules and fee waiver policies to the parent or guardian of a child who attends a public school within the district.]~~

(1) An LEA governing board shall annually:

(a) adopt fee policies and a fee schedule; and

(b) provide the fee schedule to each student and parent.

(2) For the fee schedule, the LEA governing board shall:

(a) before approving the fee schedule, provide at least two opportunities for the public to comment on the proposed fee schedule;

(b) encourage public participation in the development of the fee schedule; and

(c) approve the fee schedule in a regularly scheduled public meeting.

(3) (a) The fee schedule shall include the following:

(i) a specific amount for each fee on the fee schedule;

(ii) if a student is responsible for multiple fees related to one activity, class, or program, a clear and easy to understand delineation of each fee and the fee total for each activity, class, or program;

(iii) the LEA's fee waiver policy, including an easily understandable statement informing a parent that a student:

(A) may be eligible to have one or more fees waived; and

(B) may appeal the LEA's decision if the LEA denies a request for a fee waiver; and

(iv) a corresponding spending plan for each fee.

(b) The LEA shall:

(i) publish the fee schedule on each of the LEA's school's websites; and

(ii) include a copy of the LEA's fee schedule with the LEA's registration materials.

Section 9. Section 53G-7-601 is amended to read:

53G-7-601. Definitions.

~~[For the purposes of Sections 53G-7-602 through 53G-7-605, "textbooks" includes textbooks and workbooks necessary for participation in any instructional course. Textbooks shall not include personal or consumable items, such as pencils, papers, pens, erasers, notebooks, other items of personal use, or products which a student may purchase at his option, such as school publications, class rings, annuals, and similar items.]~~

As used in this part:

(1) "Fee" means the same as that term is defined in Section 53G-7-501.

(2) "Textbook" means instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

Section 10. Section 53G-7-602 is amended to read:

53G-7-602. State policy on providing free textbooks.

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

~~[(3) A school board may not sell textbooks or otherwise charge textbook fees or deposits except as provided in this public education code.]~~

(3) (a) Beginning with the 2022-23 school year, an LEA:

(i) except as provided in Subsection (3)(a)(ii), may not sell textbooks or otherwise charge a textbook fee; and

(ii) may only charge a fee for a textbook required for an Advanced Placement or, as described in Section 53E-10-302, a concurrent enrollment course.

(b) The LEA shall waive a fee described in Subsection (3)(a)(ii) in full or in part if a student qualifies for a waiver in accordance with Section 53G-7-504.

Section 11. Section 53G-7-603 is repealed and reenacted to read:

53G-7-603. Purchase of textbooks -- Textbooks provided to teachers.

(1) An LEA governing board may purchase textbooks directly from the textbook publisher at prices and terms approved by the state board.

(2) An LEA governing board shall purchase each textbook necessary for a teacher to conduct his or her class.

(3) An LEA may pay the LEA's cost of furnishing textbooks from school operating funds, the textbook fund, or from other available funds.

(4) A textbook remains the property of the LEA.

Section 12. Section 53G-7-606 is amended to read:

53G-7-606. Disposal of textbooks.

(1) ~~[For a school year beginning with or after the 2012-13 school year, a local school district]~~ An LEA may not dispose of textbooks [used in its public schools] without first notifying all other [school districts] LEAs in the state of [its] the LEA's intent to dispose of the textbooks.

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) ~~The [State Board of Education]~~ state board shall develop rules and procedures directing the disposal of textbooks.

Section 13. Section 53G-7-801 is amended to read:

53G-7-801. Definitions.

As used in this part:

(1) "Principal" includes the chief administrator of a school that does not have a principal.

(2) "School" means a public school, including a charter school.

(3) "School official" means the principal of a school or the local school board for a school district.

(4) "School uniform" means ~~[student clothing conforming to a school uniform policy under this part, which may include a dress code, dress of~~

~~designated colors, or a reasonable designated uniform of a particular style. A school uniform policy may not include very expensive or prescriptive clothing requirements.] the same as that term is defined in Section 53G-7-501.~~

Section 14. Section 53G-7-802 is amended to read:

53G-7-802. Uniforms in schools -- Legislative finding -- Policies.

(1) The Legislature finds that:

(a) each student should be allowed to learn in a safe environment which fosters the learning process and is free from unnecessary disruptions;

(b) the wearing of certain types of clothing may identify students as members of youth gangs and contribute to disruptive behavior and violence in the schools;

(c) school uniform policies may be part of an overall program to:

(i) improve school safety and discipline; and

(ii) help avoid the disruption of the classroom atmosphere and decorum and prevent disturbances among students; and

(d) school uniforms may:

(i) decrease violence and theft among students; and

(ii) foster and promote desirable school operating conditions and a positive educational environment in accordance with this part.

(2) (a) In accordance with Section 53G-7-803, a school may adopt a school uniform policy that requires students enrolled at that school to wear a designated school uniform during the school day.

(b) Except as provided in Subsection (4)(b), a school uniform policy may not require clothing that is prescriptive or expensive.

(3) A school uniform policy shall:

(a) protect students' free exercise of religious beliefs;

(b) specify whether the uniform policy is voluntary or mandatory for students;

(c) specify whether or not the uniform policy has an opt-out provision in addition to the provisions under Subsection (5); and

(d) include a provision for financial assistance to families who cannot afford to purchase a required uniform, which may include:

(i) the school providing school uniforms to students;

(ii) the school making used school uniforms available to students; or

(iii) other programs to make school uniforms available to economically disadvantaged students.

(4) (a) [A] Except as provided in Subsection (4)(b), a school uniform policy under this part is not

considered a fee for either an elementary or a secondary school.

(b) (i) Subject to Subsection (4)(b)(ii), a secondary school may adopt a school uniform policy that requires clothing that is expensive or prescriptive.

(ii) A school uniform policy described in Subsection (4)(b)(i) is considered a fee, as defined in Section 53G-7-501, and is subject to Part 5, Student Fees.

(5) A school uniform policy shall include a provision allowing a principal at any time during the school year to grant an exemption from wearing a school uniform to a student because of extenuating circumstances.

(6) (a) If a school adopts a school uniform policy under this part, that school's governing body or local school board shall adopt local appellate procedures for school actions under this part, including a denial of an exemption requested under Subsection (5).

(b) A person may seek judicial review of an action under this part only after exhausting the remedies provided under this Subsection (6).

Section 15. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53A-24-602 is repealed July 1, 2018.

(2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(4)(a)(ii), the language that states "Except as provided in Subsection (4)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

(6) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Section 53E-3-518 is repealed July 1, 2021.

[(8)] (9) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

[(9)] (10) Section 53E-5-307 is repealed July 1, 2020.

[(10)] (11) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(11)] (12) Subsection 53F-2-301(1) is repealed July 1, 2023.

[(12)] (13) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(13)] (14) Section 53F-4-204 is repealed July 1, 2019.

[(14)] (15) Section 53F-6-202 is repealed July 1, 2020.

[(15)] (16) Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(16)] (17) Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(17)] (18) Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(18)] (19) Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[(19)] (20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 16. Repealer.

This bill repeals:

Section 53G-7-604, Free textbook system.

Section 53G-7-605, Repurchase and resale of textbooks.

Section 17. Effective date.

This bill takes effect July 1, 2019.

Section 18. Coordinating H.B. 250 with S.B. 14 -- Substantive language.

If this H.B. 250 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) (a) inserting the following language as a new Subsection 53E-1-201(2)(a):

“(a) the reports described in Section 53E-3-518 by the state board regarding cost centers and implementing activity based costing;”; and

(b) renumbering remaining subsections accordingly; and

(2) inserting the following language as Subsection 53E-1-202(2):

“(2)(a) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-518.

(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.”.

CHAPTER 224**H. B. 280**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**APPRENTICESHIP
 OPPORTUNITY AWARENESS**

Chief Sponsor: Mike Winder
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies provisions of the Apprenticeship Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the position of Commissioner of Apprenticeship Programs within the Department of Workforce Services;
- ▶ describes the duties of the commissioner; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-6-102, as renumbered and amended by Laws of Utah 1997, Chapter 375

ENACTS:

35A-6-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-6-102 is amended to read:

35A-6-102. Definitions.

As used in this chapter and in Title 34, Labor in General:

(1) "Apprentice" means an individual [at least 16 years of age] who has entered into:

(a) a written agreement approved by the [~~Bureau of Apprenticeship and Training~~] Office of Apprenticeship with an employer or the employer's agent, an association of employers, an organization of employees, or a joint committee representing employers and employees; [or]

(b) an apprenticeship that meets [~~Bureau of Apprenticeship and Training Standards.~~] Office of Apprenticeship standards; or

(c) an apprenticeship that can be completed at no charge to the participant where the participant learns and works with registered standards to learn a set of skills that result in the participant qualifying for a state license or certification or earning industry recognized credentials at the completion of the apprenticeship.

(2) "Commissioner" means the Commissioner of Apprenticeship Programs described in Section 35A-6-105.

[~~(2)~~] (3) [~~"Bureau of Apprenticeship and Training"~~] "Office of Apprenticeship" means the federal agency designated by the United States Department of Labor to oversee apprenticeship programs.

Section 2. Section 35A-6-105 is enacted to read:

35A-6-105. Commissioner of Apprenticeship Programs.

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship programs offered in the state, including apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including the Utah System of Technical Colleges, union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah System of Higher Education, the Department of Commerce, the Division of Occupational and Professional Licensing, and the Governor's Office of Economic Development to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship programs in the state;

(b) the number of apprentices participating in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship programs.

CHAPTER 225**H. B. 281**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

PROSECUTION REVIEW AMENDMENTS

Chief Sponsor: Karianne Lisonbee
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill grants the attorney general authority to review an investigation and prosecute any first degree felony under certain conditions.

Highlighted Provisions:

This bill:

- ▶ adds a provision that authorizes the attorney general to review an investigation and prosecute any first degree felony that a district or county attorney declines or fails to prosecute.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5-1, as last amended by Laws of Utah 2018, Chapters 200, 473, and 474

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-1 is amended to read:**67-5-1. General duties.**

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a

memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, [~~and from time to time require of them reports of the condition of public business entrusted to their charge;~~] including the authority to:

(a) require a district or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge; or

(b) review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county or district attorney of the jurisdiction where the incident occurred and the county or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months of the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county or district attorney of the jurisdiction where the incident occurred;

(7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(a) in accordance with Section 67-5-1.1, to the Legislature or either house;

(b) to any state officer, board, or commission; and

(c) to any county attorney or district attorney;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any

judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; or

(iii) judgments issued; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee;

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(24) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(25) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(a) the constitutionality of a state statute;

(b) the validity of legislation; or

(c) any action of the Legislature.

CHAPTER 226

H. B. 286

Passed March 8, 2019
 Approved March 25, 2019
 Effective May 14, 2019

FINANCIAL AND ECONOMIC LITERACY EDUCATION AMENDMENTS

Chief Sponsor: Jefferson Moss
 Senate Sponsor: Todd Weiler
 Cosponsors: Val L. Peterson
 Steve Waldrip

LONG TITLE

General Description:

This bill amends provisions related to financial and economic literacy education.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “financial and economic literacy concepts”;
- ▶ amends provisions related to standards related to financial literacy;
- ▶ repeals and reenacts provisions related to:
 - a general financial literacy course; and
 - professional development related to financial literacy education;
- ▶ repeals provisions related to a financial and economic literacy passport;
- ▶ amends provisions related to the convening of a task force; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-505, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 1

53E-4-204, as renumbered and amended by Laws of Utah 2018, Chapter 1

53G-10-305, as enacted by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-505 is amended to read:

53E-3-505. Financial and economic literacy education.

(1) As used in this section:

(a) “Financial and economic activities” include activities related to the topics listed in Subsection (1)(b).

(b) “Financial and economic literacy concepts” include concepts related to the following topics:

- (i) basic budgeting;
- (ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

~~[(xi) online commerce;]~~

~~[(xii) (xi) identity fraud and theft;~~

~~[(xiii) (xii) negative financial consequences of gambling;~~

~~[(xiv) (xiii) bankruptcy;~~

~~[(xv) free markets and prices;] (xiv) economic systems, including a description of:~~

(A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and

(B) historic and current examples of the effects of each economic system on economic growth;

~~[(xvi) (xv) supply and demand;~~

~~[(xvii) (xvi) monetary and fiscal policy;~~

~~[(xviii) (xvii) effective business plan creation, including using economic analysis in creating a plan;~~

~~[(xix) (xviii) scarcity and choices;~~

~~[(xx) (xix) opportunity cost and tradeoffs;~~

~~[(xxi) (xx) productivity;~~

~~[(xxii) (xxi) entrepreneurship; and~~

~~[(xxiii) (xxii) economic reasoning.~~

~~[(c) “Financial and economic literacy passport” means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.]~~

~~[(d) (c) “General financial literacy course” means the course of instruction [described in Section 53E-4-204] administered by the state board under Subsection (3).~~

(2) The State Board of Education shall:

~~[(a) in cooperation with interested private and nonprofit entities;]~~

~~[(i) develop a financial and economic literacy passport that students may elect to complete;]~~

~~[(ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and]~~

~~[(iii) — develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:]~~

~~[(A) — a financial and economic literacy endorsement on the student's diploma of graduation;]~~

~~[(B) — a specific designation on the student's official transcript; and]~~

~~[(C) — any incentives offered by community partners;]~~

~~[(b)] (a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:~~

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

~~[(e)] (b) work with interested public, private, and nonprofit entities to:~~

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

~~[(d)] (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate~~

financial and economic literacy education into other core standards for Utah public schools courses; and

(d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education.

(3) The state board shall:

(a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;

(b) adopt standards and objectives for the general financial literacy course that address:

(i) financial and economic literacy concepts;

(ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;

(iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and

(iv) technology that relates to banking, savings, and financial products; and

~~[(e)] (c) (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;~~

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school~~[-and]~~.

~~[(f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:]~~

~~[(i) — a statewide learning community for financial and economic literacy;]~~

~~[(ii) — summer workshops; and]~~

~~[(iii) — online videos of experts in the field of financial and economic literacy education.]~~

~~[(3)] (4) (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve~~

financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

- (i) the State Board of Education;
- (ii) school districts and charter schools;
- (iii) the State Board of Regents; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) The state board shall convene the task force [~~shall reconvene~~] at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

Section 2. Section 53E-4-204 is amended to read:

53E-4-204. Standards and graduation requirements.

(1) The State Board of Education shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:

(a) are consistent with state law and federal regulations; [~~and~~]

~~[(b) beginning no later than with the graduating class of 2008;]~~

~~[(i)]~~ (b) use competency-based standards and assessments;

~~[(ii)]~~ (c) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and

~~[(iii)]~~ (d) [~~increase~~] include graduation requirements in language arts, mathematics, and science [~~to exceed the existing credit requirements of~~] that exceed 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.

(2) The State Board of Education shall [~~also~~] establish competency-based standards and assessments for elective courses.

~~[(3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:]~~

~~[(a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and]~~

~~[(b) technology that relates to banking, savings, and financial products.]~~

~~[(4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core standards for Utah~~

public schools courses for grades 9 through 12 are administered.]

Section 3. Section 53G-10-305 is amended to read:

53G-10-305. Higher education savings information.

A public school shall provide [~~the following~~], to the parents or guardian of a kindergarten student during kindergarten enrollment[~~:(1) a financial and economic literacy passport, as defined in Section 53E-3-505; and (2)~~], information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

CHAPTER 227**H. B. 288**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

CRITICAL INFRASTRUCTURE MATERIALS

Chief Sponsor: Logan Wilde
 Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill addresses critical infrastructure materials.

Highlighted Provisions:

This bill:

- ▶ enacts provisions related to vested critical infrastructure materials operations;
- ▶ amends a definition provision;
- ▶ addresses advisory boards;
- ▶ provides for the creation of critical infrastructure materials protection areas;
- ▶ addresses adding land to or removing land from a critical infrastructure materials protection area;
- ▶ requires review of a critical infrastructure materials protection area;
- ▶ limits local regulation of a critical infrastructure materials protection area;
- ▶ addresses nuisances;
- ▶ requires certain recordings with the county recorder;
- ▶ addresses actions of state agencies related to critical infrastructure materials protection areas;
- ▶ restricts eminent domain; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-41-101, as last amended by Laws of Utah 2015, Chapter 352
 17-41-201, as last amended by Laws of Utah 2007, Chapter 179
 17-41-301, as last amended by Laws of Utah 2011, Chapter 297
 17-41-302, as last amended by Laws of Utah 2009, Chapter 388
 17-41-303, as last amended by Laws of Utah 2006, Chapter 194
 17-41-304, as last amended by Laws of Utah 2010, Chapter 90
 17-41-305, as last amended by Laws of Utah 2006, Chapter 194
 17-41-306, as last amended by Laws of Utah 2009, Chapter 376
 17-41-307, as last amended by Laws of Utah 2017, Chapter 92
 17-41-402, as last amended by Laws of Utah 2009, Chapter 376

- 17-41-403, as last amended by Laws of Utah 2009, Chapter 376
 17-41-404, as last amended by Laws of Utah 2006, Chapter 194
 17-41-405, as last amended by Laws of Utah 2010, Chapter 90
 17-41-406, as last amended by Laws of Utah 2008, Chapter 168
 76-10-803, as last amended by Laws of Utah 2009, Chapter 21
 78B-6-1101, as last amended by Laws of Utah 2010, Chapter 193

ENACTS:

- 10-9a-901, Utah Code Annotated 1953
 10-9a-902, Utah Code Annotated 1953
 10-9a-903, Utah Code Annotated 1953
 10-9a-904, Utah Code Annotated 1953
 10-9a-905, Utah Code Annotated 1953
 17-27a-1001, Utah Code Annotated 1953
 17-27a-1002, Utah Code Annotated 1953
 17-27a-1003, Utah Code Annotated 1953
 17-27a-1004, Utah Code Annotated 1953
 17-27a-1005, Utah Code Annotated 1953
 78B-6-1115, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-901 is enacted to read:**Part 9. Vested Critical Infrastructure Materials Operations****10-9a-901. Definitions.**

As used in this part:

(1) “Critical infrastructure materials” means sand, gravel, or rock aggregate.

(2) “Critical infrastructure materials operations” means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(3) “Critical infrastructure materials operator” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operations; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(4) “Vested critical infrastructure materials operations” means critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality that existed or was conducted or otherwise engaged in before:

(a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and

(b) January 1, 2019.

Section 2. Section 10-9a-902 is enacted to read:

10-9a-902. Vested critical infrastructure materials operations -- Conclusive presumption.

(1) (a) Critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality are conclusively presumed to be vested critical infrastructure materials operations if the critical infrastructure materials operations permitted by the municipality, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

(b) A person claiming that a vested critical infrastructure materials operations has been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials operations has been established.

(2) A vested critical infrastructure materials operations:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations without losing its status as a vested critical infrastructure materials operations.

Section 3. Section 10-9a-903 is enacted to read:

10-9a-903. Rights of a critical infrastructure materials operator with a vested critical infrastructure materials operations.

Notwithstanding a political subdivision's prohibition, restriction, or other limitation on a critical infrastructure materials operations adopted after the establishment of the critical infrastructure materials operations, the rights of a critical infrastructure materials operator with vested critical infrastructure materials operations include the right to:

(1) use, operate, construct, reconstruct, restore, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings; and

(2) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials operations.

Section 4. Section 10-9a-904 is enacted to read:

10-9a-904. Notice.

For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a vested critical infrastructure materials operations, the owner of the development shall

provide notice on any plat filed with the county recorder the following notice:

"Vested Critical Infrastructure Materials Operations

This property is located in the vicinity of an established vested critical infrastructure materials operations in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from such normal critical infrastructure materials operations."

Section 5. Section 10-9a-905 is enacted to read:

10-9a-905. Abandonment of a vested critical infrastructure materials operations.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials operations use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials operations, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials operations being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials operations or the portion of the vested critical infrastructure materials operations being abandoned.

Section 6. Section 17-27a-1001 is enacted to read:

Part 10. Vested Critical Infrastructure Materials Operations

17-27a-1001. Definitions.

As used in this part:

(1) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(2) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(3) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operations; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(4) “Vested critical infrastructure materials operations” means critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the county that existed or was conducted or otherwise engaged in before:

(a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and

(b) January 1, 2019.

Section 7. Section 17-27a-1002 is enacted to read:

17-27a-1002. Vested critical infrastructure materials operations -- Conclusive presumption.

(1) (a) Critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the county are conclusively presumed to be vested critical infrastructure materials operations if the critical infrastructure materials operations permitted by the county, existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

(b) A person claiming that a vested critical infrastructure materials operations has been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials operations has been established.

(2) A vested critical infrastructure materials operations:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations without losing its status as a vested critical infrastructure materials operations.

Section 8. Section 17-27a-1003 is enacted to read:

17-27a-1003. Rights of a critical infrastructure materials operator with a vested critical infrastructure materials operations.

Notwithstanding a political subdivision’s prohibition, restriction, or other limitation on a critical infrastructure materials operations adopted after the establishment of the critical infrastructure materials operations, the rights of a critical infrastructure materials operator with vested critical infrastructure materials operations include the right to:

(1) use, operate, construct, reconstruct, restore, maintain, repair, alter, substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings; and

(2) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily or permanently, all or any part of the critical infrastructure materials operations.

Section 9. Section 17-27a-1004 is enacted to read:

17-27a-1004. Notice.

For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a vested critical infrastructure materials operations, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Vested Critical Infrastructure Materials Operations

This property is located in the vicinity of an established vested critical infrastructure materials operations in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from such normal critical infrastructure materials operations.”

Section 10. Section 17-27a-1005 is enacted to read:

17-27a-1005. Abandonment of a vested critical infrastructure materials operations.

(1) A critical infrastructure materials operator may abandon some or all of a vested critical infrastructure materials operations use only as provided in this section.

(2) To abandon some or all of a vested critical infrastructure materials operations, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the vested critical infrastructure materials operations being abandoned is located.

(3) The written declaration of abandonment under Subsection (2) shall specify the vested critical infrastructure materials operations or the portion of the vested critical infrastructure materials operations being abandoned.

Section 11. Section 17-41-101 is amended to read:

**CHAPTER 41. AGRICULTURE,
INDUSTRIAL, OR CRITICAL
INFRASTRUCTURE MATERIALS
PROTECTION AREAS**

17-41-101. Definitions.

As used in this chapter:

(1) “Advisory board” means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201; ~~and~~

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201[-]; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2) (a) “Agriculture production” means production for commercial purposes of crops, livestock, and livestock products.

(b) “Agriculture production” includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) “Agriculture protection area” means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) “Applicable legislative body” means:

(a) with respect to a proposed agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in [~~an agriculture protection area or industrial~~] the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in [~~an agriculture protection area or industrial~~] the relevant protection area is located; and

(b) with respect to an existing agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the [~~agriculture protection area or industrial~~] relevant protection area is located, if the [~~agriculture protection area or industrial~~] relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the [~~agriculture protection area or industrial~~] relevant protection area is located.

(5) “Board” means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) “Critical infrastructure materials” means sand, gravel, or rock aggregate.

(7) “Critical infrastructure materials operations” means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) “Critical infrastructure materials operator” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) “Critical infrastructure materials protection area” means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

[~~6~~] (10) “Crops, livestock, and livestock products” includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

[~~7~~] (11) “Division” means the Division of Oil, Gas, and Mining created in Section 40-6-15.

[~~8~~] (12) “Industrial protection area” means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

[~~9~~] (13) “Mine operator” means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2009:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

[~~10~~] (14) “Mineral deposit” has the same meaning as defined in Section 40-8-4, but excludes:

(a) building stone, decorative rock, and landscaping rock; and

(b) consolidated rock that:

(i) is not associated with another deposit of minerals;

(ii) is or may be extracted from land; and

(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.

[~~11~~] (15) “Mining protection area” means land where a vested mining use occurs, including each

surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

~~[(42)]~~ (16) “Mining use”:

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection ~~[(12)]~~ (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) any activity described in Subsection 40-8-4(14)(a).

~~[(13)]~~ (17) (a) “Municipal” means of or relating to a city or town.

(b) “Municipality” means a city or town.

~~[(14)]~~ (18) “New land” means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether ~~[øø nøø]~~ that land or mineral estate is included in the mine operator’s large mine permit.

~~[(15)]~~ (19) “Off-site” has the same meaning as provided in Section 40-8-4.

~~[(16)]~~ (20) “On-site” has the same meaning as provided in Section 40-8-4.

~~[(17)]~~ (21) “Planning commission” means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area ~~[øø]~~, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area ~~[øø]~~, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area ~~[øø]~~, industrial protection area, or critical infrastructure materials protection area is within a city or town.

~~[(18)]~~ (22) “Political subdivision” means a county, city, town, school district, local district, or special service district.

~~[(19)]~~ (23) “Proposal sponsors” means the owners of land in agricultural production ~~[øø]~~, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area ~~[øø]~~, industrial protection area~~],—respectively]~~, or critical infrastructure materials protection area.

~~[(20)]~~ (24) “State agency” means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

~~[(21)]~~ (25) “Unincorporated” means not within a city or town.

~~[(22)]~~ (26) “Vested mining use” means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 12. Section 17-41-201 is amended to read:

17-41-201. Protection area advisory board.

(1) (a) (i) ~~[Eæh]~~ A county legislative body shall appoint no more than five members from the county’s conservation district board of supervisors to serve as the ~~[Agriculture Protection Area Advisory Board]~~ agriculture protection area advisory board.

(ii) ~~[Eæh]~~ A county legislative body shall appoint an industrial protection area advisory board.

(iii) Subject to Subsection (1)(b), a county legislative body shall form a critical infrastructure

materials protection area advisory board that consists of:

(A) the executive director of the Department of Transportation, or the executive director's designee;

(B) a local government elected official appointed by the county legislative body;

(C) a representative of a local highway authority appointed by the county legislative body;

(D) a representative of the critical infrastructure materials industry appointed by the county legislative body; and

(E) a representative of the construction industry appointed by the county legislative body.

(b) A county legislative body may appoint ~~the~~ an advisory board before or after a proposal to create an agriculture protection area or industrial protection area is filed. A county legislative body shall appoint a critical infrastructure materials protection area advisory board only after a proposal to create a critical infrastructure materials protection area is filed.

(2) ~~Each~~ A member of an advisory board shall serve without salary, but a county legislative body may reimburse members for expenses incurred in the performance of their duties.

(3) ~~Each~~ An advisory board shall:

(a) evaluate proposals for the establishment of ~~agriculture protection areas or industrial~~ the relevant protection areas and make recommendations to the applicable legislative body about whether ~~or not~~ the proposal should be accepted;

(b) provide expert advice to the planning commission and to the applicable legislative body about:

(i) the desirability of the proposal;

(ii) the nature of agricultural production ~~or~~, industrial use, or critical infrastructure materials operations, as the case may be, within the proposed area;

(iii) the relation of agricultural production ~~or~~, industrial use, or critical infrastructure materials operations, as the case may be, in the area to the county as a whole; and

(iv) which agriculture production ~~or~~, industrial use, or critical infrastructure materials operations, should be allowed within the ~~agriculture~~ relevant protection area ~~or industrial protection area, respectively~~; and

(c) perform ~~all~~ the other duties required by this chapter.

Section 13. Section 17-41-301 is amended to read:

17-41-301. Proposal for creation of a protection area.

(1) (a) A proposal to create an agriculture protection area ~~or~~, an industrial protection area, or critical infrastructure materials protection area may be filed with:

(i) the legislative body of the county in which the area is located, if the area is within the unincorporated part of a county; or

(ii) the legislative body of the city or town in which the area is located, if the area is within a city or town.

(b) A proposal to create a critical infrastructure protection area can only be initiated by the legislative body of the municipality or county. Creation of a critical infrastructure materials protection area is a legislative act.

~~(b)~~ (c) (i) To be accepted for processing by the applicable legislative body, a proposal under Subsection (1)(a) shall be signed by a majority in number of all owners of real property and the owners of a majority of the land area in agricultural production ~~or~~, industrial use, or critical infrastructure materials operations within the proposed ~~agriculture protection area or industrial~~ relevant protection area~~, respectively~~.

(ii) For purposes of Subsection (1)~~(b)~~(c)(i), the owners of real property shall be determined by the records of the county recorder.

(2) The proposal shall identify:

(a) the boundaries of the land proposed to become part of ~~an agriculture protection area or industrial~~ the relevant protection area;

(b) any limits on the types of agriculture production ~~or~~, industrial use, or critical infrastructure materials operations to be allowed within the ~~agriculture protection area or industrial~~ relevant protection area~~, respectively~~; and

(c) for each parcel of land:

(i) the names of the owners of record of the land proposed to be included within the ~~agriculture protection area or industrial~~ relevant protection area;

(ii) the tax parcel number or account number identifying each parcel; and

(iii) the number of acres of each parcel.

(3) An agriculture protection area ~~or~~, industrial protection area, or critical infrastructure materials protection area may include within its boundaries land used for a roadway, dwelling site, park, or other nonagricultural ~~or~~ use, in the case of an industrial protection area, nonindustrial use, or in the case of a critical infrastructure materials protection area, use unrelated to critical infrastructure materials operations, if that land constitutes a minority of the total acreage within the ~~agriculture protection area or industrial~~ the relevant protection area~~, respectively~~.

(4) A county or municipal legislative body may establish:

(a) the manner and form for submission of proposals; and

(b) reasonable fees for accepting and processing the proposal.

(5) ~~[Each]~~ A county and municipal legislative body shall establish the minimum number of continuous acres that shall be included in an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area.

Section 14. Section 17-41-302 is amended to read:

17-41-302. Notice of proposal for creation of protection area -- Responses.

(1) ~~[Each]~~ An applicable legislative body shall provide notice of the proposal by:

(a) (i) publishing notice~~[(A)]~~ in a newspaper having general circulation within:

~~[(4)]~~ (A) the same county as the land proposed for inclusion within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, if the land is within the unincorporated part of the county; or

~~[(4)]~~ (B) the same city or town as the land proposed for inclusion within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, if the land is within a city or town; and

(ii) as required in Section 45-1-101;

(b) posting notice at five public places, designated by the county or municipal legislative body, within or near the proposed agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area; and

(c) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area.

(2) The notice shall contain:

(a) a statement that a proposal for the creation of an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area has been filed with the applicable legislative body;

(b) a statement that the proposal will be open to public inspection in the office of the applicable legislative body;

(c) a statement that any person ~~[or entity]~~ affected by the establishment of the area may, within 15 days of the date of the notice, file with the applicable legislative body:

(i) written objections to the proposal; or

(ii) a written request to modify the proposal to exclude land from or add land to the proposed

~~[agriculture protection area or industrial] protection area~~, as the case may be;

(d) a statement that the applicable legislative body will submit the proposal to the advisory committee and to the planning commission for review and recommendations;

(e) a statement that the applicable legislative body will hold a public hearing to discuss and hear public comment on:

(i) the proposal to create the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area;

(ii) the recommendations of the advisory committee and planning commission; and

(iii) any requests for modification of the proposal and any objections to the proposal; and

(f) a statement indicating the date, time, and place of the public hearing.

(3) (a) ~~[Any]~~ A person wishing to modify the proposal for the creation of the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written request for modification of the proposal, which identifies specifically the land that should be added to or removed from the proposal.

(b) ~~[Any]~~ A person wishing to object to the proposal for the creation of the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written objection to the creation of the ~~[agriculture protection area or industrial] relevant protection area.~~

Section 15. Section 17-41-303 is amended to read:

17-41-303. Review of proposal for creation of protection area.

(1) After 15 days from the date of the notice, the applicable legislative body shall refer the proposal and any objections and proposed modifications to the proposal to the advisory committee and planning commission for their review, comments, and recommendations.

(2) (a) Within 45 days after receipt of the proposal, the planning commission shall submit a written report to the applicable legislative body that:

(i) analyzes and evaluates the effect of the creation of the proposed area on the planning policies and objectives of the county or municipality, as the case may be;

(ii) analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;

(iii) recommends any modifications to the land to be included in the proposed agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area;

(iv) analyzes and evaluates any objections to the proposal; and

(v) includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

(b) Within 45 days after receipt of the proposal, the advisory board shall submit a written report to the applicable legislative body that:

(i) recommends any modifications to the land to be included in the proposed agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area;

(ii) analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;

(iii) analyzes and evaluates any objections to the proposal; and

(iv) includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

(c) The applicable legislative body shall consider a failure of the planning commission or advisory committee to submit a written report within the 45 days under Subsection (2)(a) or (b) as a recommendation of that committee to approve the proposal as submitted.

Section 16. Section 17-41-304 is amended to read:

17-41-304. Public hearing -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the 45 days have expired, whichever is earlier, the county or municipal legislative body shall:

- (a) schedule a public hearing;
- (b) provide notice of the public hearing by:
 - (i) publishing notice:

(A) in a newspaper having general circulation within:

(I) the same county as the land proposed for inclusion within the agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area, if the land is within the unincorporated part of the county; or

(II) the same city or town as the land proposed for inclusion within an agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area, if the land is within a city or town; and

(B) on the Utah Public Notice Website created in Section 63F-1-701;

(ii) posting notice at five public places, designated by the applicable legislative body, within or near the proposed agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area; and

(iii) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area; and

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take ~~verbal~~ oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at its discretion, approves a proposal or modified proposal.

(4) (a) ~~[In order to]~~ To give constructive notice of the existence of the agriculture protection area [ø], industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the ~~[agriculture protection area or industrial]~~ relevant protection area[, respectively,] within 10 days of the creation of ~~[an agriculture protection area or industrial]~~ the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the ~~[agriculture protection area or industrial]~~ relevant protection area[, as the case may be,] with:

- (i) the county recorder of deeds; and
- (ii) the affected planning commission.

(b) If the legal description of the property to be included in the ~~[agriculture protection area or industrial]~~ relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in its executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 17. Section 17-41-305 is amended to read:

17-41-305. Criteria to be applied in evaluating a proposal for the creation of a protection area.

In evaluating a proposal and in determining whether or not to create or recommend the creation of an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, the advisory committee, planning commission, and applicable legislative body shall apply the following criteria:

(1) whether or not the land is currently being used for agriculture production ~~[or for an]~~, industrial use, or critical infrastructure materials operations, as the case may be;

(2) whether or not the land is zoned for agriculture use ~~[or]~~, industrial use, or critical infrastructure materials operations, as the case may be;

(3) whether or not the land is viable for agriculture production ~~[or]~~, industrial use, or critical infrastructure materials operations, as the case may be;

(4) the extent and nature of existing or proposed farm improvements ~~[or]~~, the extent and nature of

existing or proposed improvements to or expansion of the industrial use, or the extent and nature of existing or proposed improvements to or expansion of critical infrastructure materials operations, as the case may be; and

(5) (a) in the case of an agriculture protection area, anticipated trends in agricultural and technological conditions; ~~[or]~~

(b) in the case of an industrial protection area, anticipated trends in technological conditions applicable to the industrial use of the land in question~~[-]~~; or

(c) in the case of a critical infrastructure materials protection area, anticipated trends in technological conditions applicable to the critical infrastructure materials operations of the land in question.

Section 18. Section 17-41-306 is amended to read:

17-41-306. Adding land to or removing land from a protection area -- Removing land from a mining protection area.

(1) (a) Any owner may add land to an existing agriculture protection area ~~[or]~~, industrial protection area, critical infrastructure materials protection area, as the case may be, by:

(i) filing a proposal with:

(A) the county legislative body, if the ~~[agriculture protection area or industrial]~~ relevant protection area and the land to be added are within the unincorporated part of the county; or

(B) the municipal legislative body, if the ~~[agriculture protection area or industrial]~~ relevant protection area and the land to be added are within a city or town; and

(ii) obtaining the approval of the applicable legislative body for the addition of the land to the relevant protection area.

(b) The applicable legislative body shall:

(i) comply with the provisions for creating an agriculture protection area ~~[or]~~, industrial protection area, critical infrastructure materials protection area, as the case may be, in determining whether ~~[or not]~~ to accept the proposal~~[-]~~; and

(ii) for purposes of a critical infrastructure materials protection area, request a copy of the applicable Division of Air Quality approval order.

(c) The applicable legislative body may deny the expansion if it is contrary to the Division of Air Quality's approval order.

(2) (a) ~~[Any]~~ An owner of land within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area may remove any or all of the land from the ~~[agriculture protection area or industrial]~~ relevant protection area, ~~[respectively,]~~ by filing a petition for removal with the applicable legislative body.

(b) (i) The applicable legislative body:

(A) shall:

(I) grant the petition for removal of land from ~~an agriculture protection area or industrial~~ the relevant protection area, ~~[as the case may be,]~~ even if removal of the land would result in an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area of less than the number of acres established by the applicable legislative body as the minimum under Section 17-41-301; and

(II) ~~[in order]~~ to give constructive notice of the removal to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area and the land removed from the ~~[agriculture protection area or industrial]~~ relevant protection area, file a legal description of the revised boundaries of the ~~[agriculture protection area or industrial]~~ relevant protection area with the county recorder of deeds and the affected planning commission; and

(B) may not charge a fee in connection with a petition to remove land from an agriculture protection area ~~[or]~~, an industrial protection area, or critical infrastructure materials protection area.

(i) The remaining land in the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area is still an agriculture protection area ~~[or]~~, industrial protection area ~~[, respectively]~~, or critical infrastructure materials protection area.

(iii) (A) A critical infrastructure materials operator may abandon some or all of its critical infrastructure materials operations use only as provided in this Subsection (2)(b)(iii).

(B) To abandon some or all of a critical infrastructure materials operations, a critical infrastructure materials operator shall record a written declaration of abandonment with the recorder of the county in which the critical infrastructure materials operations being abandoned is located.

(C) The written declaration of abandonment under this Subsection (2)(b)(iii) shall specify the critical infrastructure materials operations or the portion of the critical infrastructure materials operations being abandoned.

(3) (a) If a municipality annexes any land that is part of an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area located in the unincorporated part of the county, the county legislative body shall, within 30 days after the land is annexed, review the feasibility of that land remaining in the ~~[agriculture protection area or industrial]~~ relevant protection area according to the procedures and requirements of Section 17-41-307.

(b) The county legislative body shall remove the annexed land from the ~~[agriculture protection area~~

~~or industrial]~~ relevant protection area ~~[, as the case may be,]~~ if:

(i) the county legislative body concludes, after the review under Section 17-41-307, that removal is appropriate; and

(ii) the owners of all the annexed land that is within the ~~[agriculture protection area or industrial]~~ relevant protection area consent in writing to the removal.

(c) Removal of land from an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area under this Subsection (3) does not affect whether that land may be:

(i) included in a proposal under Section 17-41-301 to create an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area within the municipality; or

(ii) added to an existing agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area within the municipality under Subsection (1).

(4) A mine operator that owns or controls land within a mining protection area may remove any or all of the land from the mining protection area by filing a notice of removal with the legislative body of the county in which the land is located.

Section 19. Section 17-41-307 is amended to read:

17-41-307. Review of protection areas.

(1) In the 20th calendar year after its creation under this part, ~~[each]~~ an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, shall be reviewed, under the provisions of this section, by:

(a) the county legislative body, if the ~~[agriculture protection area or industrial]~~ relevant protection area is within the unincorporated part of the county; or

(b) the municipal legislative body, if the ~~[agriculture protection area or industrial]~~ relevant protection area is within the municipality.

(2) (a) In the 20th year, the applicable legislative body may:

(i) request the planning commission and advisory board to submit recommendations about whether the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, should be continued, modified, or terminated;

(ii) at least 120 days before the end of the calendar year, hold a public hearing to discuss whether the ~~[agriculture protection area or industrial]~~ relevant protection area, ~~[as the case may be,]~~ should be continued, modified, or terminated;

(iii) give notice of the hearing using the same procedures required by Section 17-41-302; and

(iv) after the public hearing, continue, modify, or terminate the ~~agriculture protection area or industrial~~ relevant protection area.

(b) If the applicable legislative body modifies or terminates the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, ~~[it]~~ the applicable legislative body shall file an executed document containing the legal description of the ~~agriculture protection area or industrial~~ relevant protection area, ~~[respectively,]~~ with the county recorder of deeds.

(3) If the applicable legislative body fails affirmatively to continue, modify, or terminate the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, in the 20th calendar year, the ~~agriculture protection area or industrial~~ relevant protection area is considered to be reauthorized for another 20 years.

Section 20. Section 17-41-402 is amended to read:

17-41-402. Limitations on local regulations.

(1) A political subdivision within which an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area is created or with a mining protection area within its boundary shall encourage the continuity, development, and viability of agriculture use, industrial use, critical infrastructure materials operations, or mining use, ~~[respectively,]~~ within the relevant protection area by not enacting a local law, ordinance, or regulation that, unless the law, ordinance, or regulation bears a direct relationship to public health or safety, would unreasonably restrict:

(a) in the case of an agriculture protection area, a farm structure or farm practice ~~[or]~~;

(b) in the case of an industrial protection area, an industrial use of the land within the area ~~[or]~~;

(c) in the case of a critical infrastructure materials protection area, critical infrastructure materials operations; or

(d) in the case of a mining protection area, a mining use within the protection area ~~[unless the law, ordinance, or regulation bears a direct relationship to public health or safety].~~

(2) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.

(3) Except as provided by Section 19-4-113, a political subdivision may not change the zoning designation of or a zoning regulation affecting land within an industrial protection area unless the political subdivision receives written approval for

the change from all the landowners within the industrial protection area affected by the change.

~~(4) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a critical infrastructure materials protection area unless the political subdivision receives written approval for the change from each critical infrastructure materials operator within the relevant area.~~

~~(4)~~ (5) A political subdivision may not change the zoning designation of or a zoning regulation affecting land within a mining protection area unless the political subdivision receives written approval for the change from each mine operator within the area.

(6) A county, city, or town may not:

(a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations, including vested critical infrastructure materials operations as defined in Section 10-9a-901 or 17-27a-1001; or

(b) initiate proceedings to amend the county's, city's, or town's land use ordinances as described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).

Section 21. Section 17-41-403 is amended to read:

17-41-403. Nuisances.

(1) ~~[Each]~~ A political subdivision shall ensure that any of ~~[its]~~ the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety; ~~[or]~~

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety~~[-]; or~~

(c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action involves agricultural activities and those agricultural activities were:

(a) conducted within an agriculture protection area; and

(b) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices.

(3) (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section 76-10-803.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4) (a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.”

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities.”

(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations.”

[(e)] (d) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

“This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities.”

Section 22. Section 17-41-404 is amended to read:

17-41-404. Policy of state agencies.

[Eaeh] A state agency shall encourage the continuity, development, and viability of agriculture within agriculture protection areas [and], industrial uses with industrial protection areas, and critical infrastructure materials operations within critical infrastructure protection areas by:

(1) not enacting rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area [or], on industrial uses and practices within the industrial protection area, or on critical infrastructure materials operations with a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law; and

(2) modifying existing rules that would impose unreasonable restrictions on farm structures or farm practices within the agriculture protection area [or], on industrial uses and activities within the industrial protection area, or on critical infrastructure materials operations within a critical infrastructure materials protection area, unless those laws, ordinances, or regulations bear a direct relationship to public health or safety or are required by federal law.

Section 23. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any

purpose any land within an agriculture protection area that is being used for agricultural production ~~[or any]~~, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless ~~[it has obtained]~~ the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the ~~[agriculture protection area or industrial]~~ relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the ~~[agriculture protection area or industrial]~~ relevant protection area is located;

(b) publish notice of the time, date, place, and purpose of the public hearing:

(i) in a newspaper of general circulation within the ~~[agriculture protection area or industrial]~~ relevant protection area~~[, as the case may be]~~; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701; and

(c) post notice of the time, date, place, and purpose of the public hearing in five conspicuous public places, designated by the applicable legislative body, within or near the ~~[agriculture protection area or industrial]~~ relevant protection area~~[, as the case may be]~~.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area ~~[or of]~~;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the ~~[agriculture protection area or industrial]~~ the relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 24. Section 17-41-406 is amended to read:

17-41-406. Restrictions on state development projects.

(1) ~~[Each]~~ A state agency that plans any development project that might affect land within an agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, shall submit ~~[its]~~ the state agency's development plan to:

(a) the advisory board of the ~~[agriculture protection area or industrial]~~ relevant protection area~~[, respectively]~~; and

(b) in the case of an agriculture protection area, the commissioner of agriculture and food.

(2) The commissioner of agriculture and food, in the case of an agriculture protection area, and the advisory board shall:

(a) review the state agency's proposed development plan; and

(b) recommend any modifications to the development project that would protect the integrity of the agriculture protection area ~~[or]~~, industrial protection area, or critical infrastructure materials protection area, as the case may be, or that would protect the agriculture protection area from nonfarm encroachment ~~[or]~~, the industrial protection area from nonindustrial encroachment, or the critical infrastructure materials protection area from encroachment of uses unrelated to critical infrastructure materials operations.

(3) ~~[Each]~~ A state agency and political subdivision of the state that designates or proposes to designate a transportation corridor shall:

(a) consider:

(i) whether the transportation corridor would:

(A) be located on land that is included within an agriculture protection area; or

(B) interfere with agriculture production activities on land within an agriculture protection area; and

(ii) each other reasonably comparable alternative to the placement of the corridor on land within an agriculture protection area; and

(b) make reasonable efforts to minimize or eliminate any detrimental impact on agriculture that may result from the designation of a transportation corridor.

Section 25. Section 76-10-803 is amended to read:

76-10-803. "Public nuisance" defined -- Agricultural operations -- Critical infrastructure materials operations.

(1) A public nuisance is a crime against the order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

(a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons;

(b) offends public decency;

(c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;

(d) is a nuisance as ~~defined~~ described in Section 78B-6-1107; or

(e) in any way renders three or more persons insecure in life or the use of property.

(2) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

(3) (a) Activities conducted in the normal and ordinary course of agricultural operations, as defined in Subsection 78B-6-1101(7), and conducted in accordance with sound agricultural practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(4) (a) Activities conducted in the normal and ordinary course of critical infrastructure materials operations, as defined in Subsection 78B-6-1101(8), and conducted in accordance with sound critical infrastructure materials practices are presumed to be reasonable and not constitute a public nuisance under Subsection (1).

(b) Critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound critical infrastructure materials operations.

Section 26. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action.

(1) A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with two or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses which frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into any residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) residential rental units available for temporary rental, such as for vacations, or available for only 30 or fewer days at a time; or

(b) hotel or motel rooms.

(5) Subsection (3) does not apply to any unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) "Agricultural operation" means any activity engaged in the commercial production of crops, orchards, aquaculture, livestock, poultry, livestock products, poultry products, and the facilities, equipment, and property used to facilitate the activity.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

[~~(8)~~] (9) "Manufacturing facility" means any factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 27. Section 78B-6-1115 is enacted to read:

78B-6-1115. Critical infrastructure materials operations -- Nuisance liability.

(1) Activities conducted in the normal and ordinary course of critical infrastructure materials operations or conducted in accordance with sound practices are presumed to be reasonable and not constitute a nuisance.

(2) Critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound critical infrastructure materials practices.

CHAPTER 228**H. B. 307**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**UTILITY ONLINE
 USAGE DATA AMENDMENTS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill requires an electrical corporation to provide each nonresidential customer online access to usage data in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ if available and requested by the customer, requires an electrical corporation to provide the nonresidential customer access to the customer's usage data in:
 - 15 minute intervals; or
 - the shortest requested interval available through existing meters; and
- ▶ allows the electrical corporation to charge the customer the costs associated with providing the usage data to the customer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-3-2, as last amended by Laws of Utah 1996,
 Chapter 170

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-3-2 is amended to read:

54-3-2. Schedules of rates and classification -- Right of inspection -- Changes by commission -- Online consumer access to usage data.

(1) Under the rules and regulations made by the commission, [every] each public utility, shall file with the commission within the time and in the form as the commission may designate, and shall print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected or enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, charges, classifications, or service.

(2) Except for motor carriers exempted under federal law, nothing in this section shall prevent the commission from approving or fixing rates, tolls, rentals, or charges from time to time greater, or less, than those shown by the schedules.

(3) The commission shall have power, in its discretion, to determine and prescribe, by order,

changes in the form of the schedules referred to in this section as it may find expedient, and to modify the requirements of any of its orders or rules or regulations in respect to any matters described in this section.

(4) (a) If requested by a nonresidential customer, and to the extent available through existing meters, each electrical corporation shall provide the nonresidential customer access to the customer's usage data.

(b) Each electrical corporation shall provide the access described in Subsection (4)(a) broken down into:

(i) 15 minute intervals; or

(ii) the shortest requested interval available through existing meters.

(c) If incremental costs are associated with providing the access described in this Subsection (4), the electrical corporation may charge the customer an amount determined by the electrical corporation's governing authority, as defined in Section 54-15-102.

CHAPTER 229**H. B. 311**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

GOVERNMENTAL IMMUNITY REVISIONS

Chief Sponsor: Michael K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions relating to governmental immunity.

Highlighted Provisions:

This bill:

- ▶ waives governmental immunity for injury resulting from certain claims of sexual battery;
- ▶ provides an additional basis for disallowing a governmental entity to challenge the timeliness of a notice of claim;
- ▶ modifies the time for filing an action against a governmental entity;
- ▶ modifies provisions relating to a governmental entity's response to a notice of claim;
- ▶ modifies a provision relating to a plaintiff's filing of an undertaking in an action under the Governmental Immunity Act of Utah;
- ▶ increases the aggregate limit on injury claims against governmental entities;
- ▶ provides for the board of examiners to require a special master proceeding for excess damages claims that the board of examiners considers;
- ▶ authorizes the use of money in the General Fund Budget Reserve Account to pay for claims approved by the board of examiners; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-201, as last amended by Laws of Utah 2016, Chapter 181
 63G-7-301, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018
 63G-7-401, as last amended by Laws of Utah 2014, Chapter 210
 63G-7-403, as last amended by Laws of Utah 2017, Chapter 300
 63G-7-601, as last amended by Laws of Utah 2017, Chapter 300
 63G-7-604, as last amended by Laws of Utah 2017, Chapter 151
 63J-1-312, as last amended by Laws of Utah 2017, Chapter 474

ENACTS:

63G-9-302.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-201 is amended to read:**63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

- (i) an emergency shelter;
- (ii) housing;
- (iii) a staging place; or
- (iv) a medical facility; and

(d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

- (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or
- (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a

negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsection 63G-7-301(2)(k), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

Section 2. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment; ~~and~~

(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5)[,]; and

(k) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402.

Section 3. Section 63G-7-401 is amended to read:

63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.

(1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or ~~its~~ the governmental entity's employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

(2) Any person having a claim against a governmental entity, or against ~~its~~ the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as ~~they~~ the damages are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian; and

(ii) directed and delivered by hand or by mail according to the requirements of Section 68-3-8.5 to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or ~~secretary/clerk~~ secretary or clerk of the board, when the claim is against a local district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection (5)(e).

(4) (a) If an injury that may reasonably be expected to result in a claim against a governmental entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

(5) (a) ~~Each~~ A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) the office or agent designated to receive a notice of claim; and

(iii) the address at which ~~it~~ the notice of claim is to be directed and delivered.

(b) ~~Each~~ A governmental entity shall update ~~its~~ the governmental entity's statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required by Subsection (5)(a).

(d) (i) A newly incorporated municipality shall file the statement required by Subsection (5)(a) promptly after the lieutenant governor issues a

certificate of incorporation under Section 67-1a-6.5.

(ii) A newly incorporated local district shall file the statement required by Subsection (5)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in ~~its~~ the governmental entity's statement, identify an agent authorized ~~by the entity~~ to accept notices of claim on ~~its~~ behalf of the governmental entity.

(6) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

(7) A governmental entity may not challenge the validity of a notice of claim on the grounds that it was not directed and delivered to the proper office or agent if the error is caused by the governmental entity's failure to file or update the statement required by Subsection (5).

(8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) (i) the claimant files a notice of claim with the governmental entity:

(~~i~~) (A) in accordance with the requirements of this section; and

(~~ii~~) (B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(~~ii~~) (ii) the claimant demonstrates that the claimant previously filed a notice of claim:

(~~i~~) (A) in accordance with the requirements of this section;

(~~ii~~) (B) with an incorrect governmental entity;

(~~iii~~) (C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(~~iv~~) (D) within the time for filing a notice of claim under Section 63G-7-402; and

(~~v~~) (E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(~~e~~) (iii) the claimant submits with the notice of claim:

(~~i~~) (A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(~~ii~~) (B) proof of the date the previous notice of claim was filed[-]; or

(b) (i) the claimant delivers by hand or by mail a notice of claim:

(A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection (3)(b)(ii); and

(B) that otherwise meets the requirements of Subsection (3); and

(ii) (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or

(B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection (8)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

Section 4. Section 63G-7-403 is amended to read:

63G-7-403. Notifying of the receipt of a notice of claim -- Action in district court -- Time for commencing action -- Commencing action after time limit.

(1) ~~[(a)]~~ Within 60 days ~~[of]~~ after the filing of a notice of claim, the governmental entity or its insurance carrier shall inform the claimant in writing:

(a) that the notice of claim has [either] been [approved or denied.] received; and

(b) if applicable, that the governmental entity believes it is not the correct governmental entity with which the notice of claim should have been filed.

~~[(b) A claim is considered to be denied if, at the end of the 60-day period, the governmental entity or its insurance carrier has failed to approve or deny the claim.]~~

~~(2) (a) [If the claim is denied, a]~~ (i) Subject to Subsections (2)(a)(ii) and (b), a claimant may pursue an action in the district court against the governmental entity or an employee of the entity.

(ii) A claimant may not file an action before the date that is 60 days after the claimant's notice of claim is filed.

(b) Subject to Subsection (3), a claimant shall commence the action within [one year after denial of] two years after the claim [or within one year after the denial period specified in this chapter has expired] arises, as provided in Subsection 63G-7-401(1), regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) As used in this Subsection (3), "claimant" includes a representative of an individual:

(i) who dies before an action is begun under this section; and

(ii) whose cause of action survives the individual's death.

(b) A claimant may commence an action after the time limit described in Subsection (2)(b) if:

(i) the claimant had commenced a previous action within the time limit of Subsection (2)(b);

(ii) the previous action failed or was dismissed for a reason other than on the merits; and

(iii) the claimant commences the new action within one year after the previous action failed or was dismissed.

(c) A claimant may commence a new action under Subsection (3)(b) only once.

Section 5. Section 63G-7-601 is amended to read:

63G-7-601. Actions governed by Utah Rules of Civil Procedure -- Undertaking required.

(1) An action brought under this chapter shall be governed by the Utah Rules of Civil Procedure to the extent that they are consistent with this chapter.

(2) [At the time the action is filed, the] A plaintiff who files an action under this chapter shall file an undertaking within 20 days after commencement of the action:

(a) in the amount of \$300, unless otherwise ordered by the court; and

(b) conditioned upon payment by the plaintiff of taxable costs incurred by the governmental entity in the action if the plaintiff fails to prosecute the action or fails to recover judgment.

(3) If a plaintiff does not file an undertaking as required in Subsection (2), a court may, sua sponte or pursuant to a motion, order the plaintiff to file an undertaking in an amount and by a deadline that the court establishes.

(4) A defendant waives a defense based on the plaintiff's failure to file an undertaking under this section if the defendant does not raise the plaintiff's failure to file an undertaking as an affirmative defense in the defendant's initial responsive pleading.

Section 6. Section 63G-7-604 is amended to read:

63G-7-604. Limitation of judgments against governmental entity or employee -- Process for adjustment of limits.

(1) (a) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for damages for personal injury against a governmental entity, or an employee whom a governmental entity has a duty to indemnify, exceeds \$583,900 for one person in any one occurrence, the court shall reduce the judgment to that amount.

(b) A court may not award judgment of more than the amount in effect under Subsection (1)(a) for injury or death to one person regardless of whether or not the function giving rise to the injury is characterized as governmental.

(c) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment for property damage against a governmental entity, or an

employee whom a governmental entity has a duty to indemnify, exceeds \$233,600 in any one occurrence, the court shall reduce the judgment to that amount, regardless of whether or not the function giving rise to the damage is characterized as governmental.

(d) Subject to Subsection (3), there is a [~~\$2,000,000~~] \$3,000,000 limit to the aggregate amount of individual awards that may be awarded in relation to a single occurrence.

(2) The damage limits established in this section do not apply to damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation.

(3) The limitations of judgments established in Subsection (1) shall be adjusted according to the methodology set forth in Section 63G-7-605.

Section 7. Section 63G-9-302.5 is enacted to read:

63G-9-302.5. Special master proceeding for damages cap claims.

(1) As used in this section:

(a) “Claimant” means an individual who submits an excess damages claim to the board of examiners.

(b) “Damages cap” means the amount to which a personal injury claim is or would be reduced because of the operation of Subsection 63G-7-604(1)(a) or (d).

(c) “Damages cap settlement” means a settlement:

(i) between an individual with a personal injury claim that exceeds the damages cap and the governmental entity against which the personal injury claim is asserted; and

(ii) that provides for the governmental entity to pay the individual an amount equal to the damages cap to settle the personal injury claim.

(d) “Excess damages amount” means the amount of a personal injury claim that:

(i) exceeds the damages cap; and

(ii) a governmental entity would be liable to pay except for the operation of Subsection 63G-7-604(1)(a) or (d).

(e) “Excess damages claim” means a claim for an excess damages amount.

(f) “Government attorney” means:

(i) an attorney representing a political subdivision, if the personal injury claim that results in an excess damages claim was asserted against the political subdivision; or

(ii) the attorney general, if:

(A) the personal injury claim that results in an excess damages claim was asserted against the state; or

(B) the attorney general chooses to participate on behalf of a political subdivision, as provided in Subsection (9)(b).

(g) “Personal injury claim” means a claim for damages for personal injury that is subject to the operation of Subsection 63G-7-604(1)(a) or (d).

(h) “Responsible governmental entity” means:

(i) the political subdivision against which the personal injury claim was asserted, if an excess damages claim results from a personal injury claim against a political subdivision; or

(ii) the state, if an excess damages claim results from a personal injury claim against the state.

(i) “Special master list” means a list compiled under Subsection (7).

(j) “Statement of claim” means a statement detailing an excess damages claim.

(k) “Third party claim” means a personal injury claim that:

(i) arises out of the same underlying facts as the facts that provide the basis for an individual’s personal injury claim against a governmental entity; and

(ii) the individual asserts against a person who the individual claims is also liable, in addition to the governmental entity, for the individual’s personal injury claim.

(2) An individual may seek payment of an excess damages claim by submitting a written statement of claim to the board of examiners after, but no later than 180 days after, as applicable:

(a) (i) the date of a final, nonappealable judgment in favor of the individual on a personal injury claim in an amount that would have exceeded the damages cap except for the operation of Subsection 63G-7-604(1)(a) or (d); or

(ii) the date of a damages cap settlement; or

(b) the date that all third party claims the individual has asserted are resolved by final, nonappealable judgment or settlement, if that date is later than the applicable date under Subsection (2)(a).

(3) A statement of claim shall include:

(a) a recitation of the facts and explanation of the evidence supporting the excess damages claim;

(b) the excess damages amount;

(c) if applicable, a list and description of each third party claim the individual has asserted and an explanation of the disposition of the third party claim, including the amount of any judgment or settlement and the amount actually recovered;

(d) if applicable, a summary of a damages cap settlement; and

(e) if applicable, the amount of a final judgment awarded to the claimant against the governmental entity with:

(i) the amount of the judgment before operation of Subsection 63G-7-604(1)(a) or (d); and

(ii) a description of each element of damages awarded and the amount awarded for each element.

(4) A claimant shall submit with a statement of claim a copy of:

(a) a final judgment in favor of the claimant on the claimant's personal injury claim that forms the basis of the claimant's excess damages claim, together with any findings of fact and conclusions of law entered by the court, if the claimant has recovered a judgment that exceeds the damages cap; or

(b) the agreement memorializing the damages cap settlement, if the claimant is asserting an excess damages claim following a damages cap settlement.

(5) An excess damages claim may not include an amount recovered by a claimant from any source as compensation for damages for the claimant's personal injury claim.

(6) A claimant with a personal injury claim that is subject to the aggregate limit under Subsection 63G-7-604(1)(d) may not submit a statement of claim under this section before the amount of the personal injury claim has been determined after application of Subsection 63G-7-604(1)(d).

(7) (a) The board of examiners shall compile a list of at least five retired Utah judges to serve as a special master under this section.

(b) A retired judge included in the special master list shall meet qualifications established by the board of examiners.

(8) (a) Except as provided in Subsection (8)(b), the board of examiners may require a claimant's excess damages claim to be submitted to a special master, as provided in this section, to make a recommendation concerning:

(i) the governmental entity's liability for the personal injury claim that forms the basis of the excess damages claim;

(ii) the amount of the claimant's damages and excess damages claim; or

(iii) both the governmental entity's liability and the amount of the claimant's damages and excess damages claim.

(b) The board of examiners may not require a claimant's excess damages claim to be submitted to a special master to the extent that the excess damages claim is based on a court judgment following a verdict by a trier of fact determining the governmental entity's liability or the amount of damages or both.

(9) (a) A political subdivision that is the responsible governmental entity may choose whether to have an attorney representing the political subdivision participate in proceedings under this section to represent the interests opposing approval of the excess damages claim.

(b) The attorney general may choose to participate in proceedings under this section to represent the interests opposing approval of the excess damages claim, whether or not the state is the responsible governmental entity.

(10) (a) If the board of examiners requires a claimant's excess damages claim to be submitted to a special master under this section, the claimant and the government attorney shall together select an individual from the special master list to act as special master.

(b) If the claimant and the government attorney are unable to agree on an individual to act as special master, or if there is no government attorney participating in the proceedings before the board of examiners, the board of examiners shall randomly select an individual from the special master list to act as special master.

(11) (a) Within 20 days after appointment under Subsection (10), a special master shall:

(i) prepare a written budget of the special master's estimated fees and costs relating to the special master's anticipated services under this section; and

(ii) provide the budget to the claimant.

(b) Within 20 days after receiving the special master's budget under Subsection (11)(a), the claimant shall:

(i) approve or reject the special master's budget; and

(ii) notify the board of examiners in writing of the approval or rejection.

(c) If the claimant rejects the special master's budget, the claimant's excess damages claim is considered withdrawn.

(d) If the claimant approves the special master's budget, the claimant shall pay all fees and costs of the special master in a special master proceeding under this section.

(12) Within 30 days after the approval of a special master's budget, the claimant shall provide the special master a written statement that includes:

(a) (i) a list of the name and last known address of each health care provider that has provided health care services to the claimant at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement;

(ii) a description of the health care services provided by each health care provider listed in Subsection (12)(a)(i); and

(iii) a statement describing and explaining any health care services described under Subsection (12)(a)(ii) that the claimant claims are immaterial to the claimant's personal injury claim;

(b) (i) a list of the name and last known address of each health care insurer or other entity to which a health care or other similar benefit claim has been

submitted on the claimant's behalf at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement;

(ii) a description of the health care or other similar benefits claimed under claims submitted to health care insurers or other entities listed under Subsection (12)(b)(i); and

(iii) a statement describing and explaining any health care or other similar benefit described under Subsection (12)(b)(ii) that the claimant claims is immaterial to the claimant's personal injury claim;

(c) a list of the name and address of each employer that employed the claimant at any time during the period beginning five years before the event giving rise to the claimant's personal injury claim and ending on the date that the claimant submits the written statement, if the claimant's personal injury claim includes a claim for lost wages or diminished earning capacity;

(d) a list of the name and address of each state or federal entity holding a statutory lien on any recovery obtained by the claimant through the claimant's personal injury claim; and

(e) a statement as to whether the claimant has received any Medicare or Medicaid benefits and, if so, a description of those benefits, including the amount.

(13) The claimant shall submit with the statement required under Subsection (12):

(a) a copy of all documentary evidence supporting the claimant's excess damages claim; and

(b) a signed authorization from the claimant allowing the special master to obtain all documents, including any billing statements, relevant to the claimant's excess damages claim from each person listed under Subsections (12)(a)(i), (b)(i), and (c).

(14) The special master:

(a) shall objectively consider evidence related to the claimant's excess damages claim;

(b) may hold a hearing in connection with the special master recommendation regarding the excess damages claim;

(c) may request or allow a responsible governmental entity or government attorney voluntarily to provide information or argument to help the special master understand the factors weighing against an excess damages claim; and

(d) after considering the relevant evidence, shall make a recommendation concerning, as directed by the board of examiners:

(i) the governmental entity's liability for the personal injury claim that forms the basis of the claimant's excess damages claim;

(ii) the amount of the excess damages claim; or

(iii) both the governmental entity's liability and the amount of the claimant's damages and excess damages claim.

(15) (a) Within 30 days after a hearing under Subsection (14)(b) or, if no hearing is held, after the special master's determination not to hold a hearing, the special master shall:

(i) prepare a written recommendation, including a brief, informal discussion of the factual and legal basis for the recommendation; and

(ii) deliver a copy of the written recommendation to the claimant, the attorney general, and the board of examiners.

(b) A written recommendation under Subsection (15)(a) may, but need not, contain findings of fact and conclusions of law.

Section 8. Section 63J-1-312 is amended to read:

63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the

Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the General Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless otherwise specified in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the General Fund Budget Reserve Account within the past 10 years and have not yet been replaced.

(4) The Legislature may appropriate money from the General Fund Budget Reserve Account only to:

(a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund budget deficit occurs;

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay claims approved under Section 63G-9-304;

~~[(e)]~~ (d) pay retroactive tax refunds;

~~[(d)]~~ (e) resolve an Education Fund budget deficit; or

~~[(e)]~~ (f) finance an existing federally funded program or activity when:

(i) the federal funds expected to fund the federal program or activity are not available to fund the program or activity; and

(ii) the Legislature and governor concurrently determine that the program or activity is essential.

(5) Interest generated from investments of money in the General Fund Budget Reserve Account shall be deposited into the General Fund.

CHAPTER 230**H. B. 321**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**PUBLIC IMPROVEMENTS
 TO PROVIDE SEWER SERVICES**

Chief Sponsor: Logan Wilde
 Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill amends the process for protesting the designation of a sewer assessment area.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends a definition relating to the number of protests required to prevent the designation of a sewer assessment area; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-42-102, as last amended by Laws of Utah 2017, Chapter 470

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

~~[(a)]~~ (i) protests relating to:

~~[(i)]~~ (A) property that has been deleted from a proposed assessment area; or

~~[(ii)]~~ (B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

~~[(b)]~~ (ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair

market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

- (a) issued under Section 11-42-605; and
- (b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities,

regardless of whether the purpose or activity is for profit:

- (i) commercial;
 - (ii) mining;
 - (iii) industrial;
 - (iv) manufacturing;
 - (v) governmental;
 - (vi) trade;
 - (vii) professional;
 - (viii) a private or public club;
 - (ix) a lodge;
 - (x) a business; or
 - (xi) a similar purpose.
- (b) “Commercial or industrial real property” includes real property that:
- (i) is used as or held for dwelling purposes; and
 - (ii) contains more than four rental units.
- (14) “Connection fee” means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.
- (15) “Contract price” means:
- (a) the cost of acquiring an improvement, if the improvement is acquired; or
 - (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.
- (16) “Designation ordinance” means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.
- (17) “Designation resolution” means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.
- (18) “Economic promotion activities” means activities that promote economic growth in a commercial area of a local entity, including:
- (a) sponsoring festivals and markets;
 - (b) promoting business investment or activities;
 - (c) helping to coordinate public and private actions; and
 - (d) developing and issuing publications designed to improve the economic well-being of the commercial area.
- (19) “Environmental remediation activity” means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use,

function, aesthetics, or environmental condition of publicly owned property.

(20) “Equivalent residential unit” means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(21) “Governing body” means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(d) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102.

(22) “Guaranty fund” means the fund established by a local entity under Section 11-42-701.

(23) “Improved property” means property upon which a residential, commercial, or other building has been built.

(24) “Improvement”:

(a) (i) means a publicly owned infrastructure, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(25) “Improvement revenues”:

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(26) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means a county, city, town, special service district, local district, an interlocal entity as defined in Section 11-13-103, a military installation development authority created in Section 63H-1-201, or other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) “Reduced payment obligation” means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) “Refunding assessment bonds” means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) “Reserve fund” means a fund established by a local entity under Section 11-42-702.

(48) “Service” means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49) (a) “Sewer assessment area” means an assessment area that has as the assessment area’s primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) “Sewer assessment area” does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).

~~[(49)]~~ (50) “Special service district” means the same as that term is defined in Section 17D-1-102.

~~[(50)]~~ (51) “Unassessed benefitted government property” means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

~~[(51)]~~ (52) “Unimproved property” means property upon which no residential, commercial, or other building has been built.

~~[(52)]~~ (53) “Voluntary assessment area” means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

CHAPTER 231**H. B. 322**

Passed March 7, 2019

Approved March 25, 2019

Effective May 14, 2019

TITLE INSURANCE AMENDMENTS

Chief Sponsor: Michael K. McKell
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to title insurance producers.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a title insurance producer when doing an escrow involving the transfer of real property from the School and Institutional Trust Lands Administration; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-406, as last amended by Laws of Utah 2018, Chapter 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-23a-406 is amended to read:**31A-23a-406. Title insurance producer's business.**

(1) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

- (i) the title line of authority; and
- (ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) except as provided in Subsection (3), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

- (i) an owner's policy of title insurance;
- (ii) a lender's policy of title insurance; or

(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy of title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow:

(i) is deposited:

(A) in a federally insured financial institution; and

(B) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

(ii) is the property of the one or more persons entitled to the money under the provisions of the escrow; and

(iii) is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

(e) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;

(f) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

(i) construction money; or

(ii) money held for exchange under Section 1031, Internal Revenue Code; and

(g) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

(2) Notwithstanding Subsection (1), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

- (i) a mobile home;
- (ii) a grazing right;
- (iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (1)(c).

(3) (a) Subsection (1)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (1)(c) as part of a transaction described in Subsection (3)(a).

[3] (4) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

[44] (5) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

[45] (6) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection [45] (6), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; and

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than \$10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;

(C) a personal check not to exceed \$500 per closing; or

(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time

of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction.

(c) A check or deposit not described in Subsection [45] (6)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

[46] (7) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

[47] (8) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.

[48] (9) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

CHAPTER 232**H. B. 324**

Passed March 13, 2019
Approved March 25, 2019
Effective July 1, 2020

TOBACCO AGE AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble
Cosponsors: Cheryl K. Acton
Kyle R. Andersen
Melissa G. Ballard
Stewart E. Barlow
Joel K. Briscoe
Kay J. Christofferson
Jennifer Dailey-Provost
Brad M. Daw
Susan Duckworth
James A. Dunnigan
Stephen G. Handy
Suzanne Harrison
Jon Hawkins
Sandra Hollins
Eric K. Hutchings
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Bradley G. Last
Kelly B. Miles
Carol Spackman Moss
Merrill F. Nelson
Derrin R. Owens
Lee B. Perry
Val K. Potter
Marie H. Poulson
Susan Pulsipher
Douglas V. Sagers
Lawanna Shurtliff
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Keven J. Stratton
Norman K. Thurston
Steve Waldrip
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Mike Winder

LONG TITLE**General Description:**

This bill modifies provisions related to an individual's age and tobacco, tobacco paraphernalia, or electronic cigarettes.

Highlighted Provisions:

This bill:

- ▶ tiers the minimum age for obtaining, possessing, using, providing, or furnishing of tobacco products, paraphernalia, and under certain circumstances, electronic cigarettes from 19 to 20, then to 21 years old;
- ▶ preempts certain local government regulation relating to cigarettes, electronic cigarettes, or tobacco;

- ▶ provides exceptions for military members, their spouses, and dependents;
- ▶ addresses identification documents; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 10-8-47, as last amended by Laws of Utah 2018, Chapter 189
- 26-62-205, as enacted by Laws of Utah 2018, Chapter 231
- 26-62-304, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 26-62-305, as renumbered and amended by Laws of Utah 2018, Chapter 231
- 51-9-203, as last amended by Laws of Utah 2012, Chapter 242
- 53-3-207, as last amended by Laws of Utah 2016, Chapter 350
- 53-3-806, as last amended by Laws of Utah 2010, Chapter 276
- 59-14-703, as enacted by Laws of Utah 2013, Chapter 148
- 76-10-103, as enacted by Laws of Utah 1973, Chapter 196
- 76-10-104, as last amended by Laws of Utah 2010, Chapter 114
- 76-10-104.1, as last amended by Laws of Utah 2013, Chapter 278
- 76-10-105, as last amended by Laws of Utah 2018, Chapter 415
- 76-10-105.1, as last amended by Laws of Utah 2018, Chapter 231
- 77-39-101, as last amended by Laws of Utah 2018, Chapter 231

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-47 is amended to read:

10-8-47. Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, or tobacco to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in [all] the cases [where] when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of \$500; [and]

(e) prohibit the sale, giving away, or furnishing of narcotics~~[-]~~ or alcoholic beverages to [a person] an individual younger than 21 years [of age, or tobacco to any person younger than 19 years of age.] old; or

(f) prohibit the sale, giving away, or furnishing of tobacco or e-cigarettes to an individual younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony; and

(b) provide for treatment of alcoholics, narcotic addicts, and other [persons] individuals who are addicted to the use of drugs or intoxicants such that [a person] an individual substantially lacks the capacity to control the [person's] individual's use of the drugs or intoxicants, and judicial supervision may be imposed as a means of effecting [their] the individual's rehabilitation.

Section 2. Section 26-62-205 is amended to read:

26-62-205. Permit requirements for a retail tobacco specialty business.

A retail tobacco specialty business shall:

(1) except as provided in Subsection 76-10-105.1(4), prohibit any individual [under 19 years of age] from entering the business if the individual is:

(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

(b) beginning July 1, 2021, under 21 years old; and

(2) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates the prohibition in Subsection 76-10-105.1(4).

Section 3. Section 26-62-304 is amended to read:

26-62-304. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer or employee for violation of Section 76-10-104 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this

chapter for sale of tobacco products to [a person] an individual under [the age of 19] the following ages is prima facie evidence of a violation of this chapter~~[-]~~:

(a) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

(b) beginning July 1, 2021, under 21 years old.

(2) If the tobacco retailer is convicted of violating Section 76-10-104, the enforcing agency:

(a) may not assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and

(b) may revoke or suspend a permit in accordance with Section 26-62-305.

Section 4. Section 26-62-305 is amended to read:

26-62-305. Penalties.

(1) (a) If, following an inspection by an enforcing agency, or an investigation or issuance of a citation or information under Section 77-39-101, an enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection or investigation, only one violation shall count toward the penalties described in this section.

(2) (a) The administrative penalty for a first violation at a retail location is a penalty of not more than \$500.

(b) The administrative penalty for a second violation at the same retail location that occurs within one year of a previous violation is a penalty of not more than \$750.

(c) The administrative penalty for a third or subsequent violation at the same retail location that occurs within two years after two or more previous violations is:

(i) a suspension of the retail tobacco business permit for 30 consecutive business days within 60 days after the day on which the third or subsequent violation occurs; or

(ii) a penalty of not more than \$1,000.

(3) The department or a local health department may:

(a) revoke a permit if a fourth violation occurs within two years of three previous violations;

(b) in addition to a monetary penalty imposed under Subsection (2), suspend the permit if the violation is due to a sale of tobacco products to [a person] an individual under [19 years of age]:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old; and

(c) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(4) (a) Except when a transfer described in Subsection (5) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (3); or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (3).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(5) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 5. Section 51-9-203 is amended to read:

51-9-203. Requirements for tobacco programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are available to individuals under [the age of 19] the following ages:

(A) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(B) beginning July 1, 2021, 21 years old;

(b) agree, by contract, to file an annual written report with the Department of Health ~~[-The report shall contain]~~ that contains the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(C) Title 26, Chapter ~~[42, Civil Penalties for Tobacco Sales to Underage Persons]~~ 62, Part 3, Enforcement; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) The Department of Health shall annually report to the Social Services Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

(4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 6. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state ~~and its political subdivisions as defined in this Subsection (1)~~ or a political subdivision of the state.

(c) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(d) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every ~~person~~ individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the ~~person~~ individual may drive.

(b) ~~A person~~ An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the ~~person~~ individual by the division;

(ii) the name, birth date, and Utah residence address of the ~~person~~ individual;

(iii) a brief description of the ~~person~~ individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the ~~person~~ individual;

(vi) a photograph or other facsimile of the person's signature;

(vii) an indication whether the ~~person~~ individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the ~~person~~ individual states that the ~~person~~ individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the ~~person~~ individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the ~~person~~ individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to ~~any person~~ an individual younger than 21 years on a portrait-style format as required in Subsection (5)(b)(4) is not required to include an indication that the ~~person~~ individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the ~~person's Social Security~~ individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the [person] individual to drive a motor vehicle while the division is completing its investigation to determine whether the [person] individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection (4) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the [person's] individual's immediate possession while driving a motor vehicle, and it is invalid when the [person's] individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which it is not valid as a temporary license.

(d) (i) Except as provided in Subsection (4)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any [person] individual younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to [any person: (i)] an individual younger than 21 years of age by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or

driving privilege card holder is 21 years of age, ~~which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and]~~

~~[(ii) younger than 19 years of age, by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104].~~

(6) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

- (a) that it is temporary; and
- (b) its expiration date.

(7) (a) The division shall only issue a driving privilege card to [a person] an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

- (i) use of a format, color, font, or other means; and
- (ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(8) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

(9) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(10) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of [a person's] an individual's age for any government required purpose.

(11) A person who violates Subsection (2)(b) is guilty of an infraction.

(12) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

- (a) driving privilege in the same way as a license or limited-term license issued under this chapter; and
- (b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 7. Section 53-3-806 is amended to read:

53-3-806. Portrait-style format -- Minor's card distinguishable.

(1) The division shall use a portrait-style format for all identification cards, similar to the format used for license certificates issued to ~~[a person]~~ an individual younger than 21 years ~~[of age]~~ old under Section 53-3-207.

(2) The identification card issued to ~~[a person]~~ an individual younger than 21 years ~~[of age]~~ old shall be distinguished by use of plainly printed information or by the use of a color or other means not used for the identification card issued to ~~[a person]~~ an individual 21 years ~~[of age]~~ old or older.

(3) The division shall distinguish an identification card issued to ~~any person: (a) an individual younger than 21 years~~ ~~[of age]~~ old by plainly printing the date the identification card holder is 21 years ~~[of age, which is the legal age for purchasing an alcoholic beverage or alcoholic product under Section 32B-4-403; and]~~ old.

~~[(b) younger than 19 years of age by plainly printing the date the identification card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.]~~

(4) The division shall distinguish a limited-term identification card by clearly indicating on the card:

- (a) that it is temporary; and
- (b) its expiration date.

Section 8. Section 59-14-703 is amended to read:

59-14-703. Certification of cigarette rolling machine operators -- Renewal of certification -- Requirements for certification or renewal of certification -- Denial.

(1) A cigarette rolling machine operator may not perform the following without first obtaining certification from the commission as provided in this part:

- (a) locate a cigarette rolling machine within this state;
- (b) make or offer to make a cigarette rolling machine available for use within this state; or
- (c) offer a cigarette for sale within this state if the cigarette is produced by:

- (i) the cigarette rolling machine operator; or
- (ii) another person at the location of the cigarette rolling machine operator's cigarette rolling machine.

(2) A cigarette rolling machine operator shall renew its certification as provided in this section.

(3) The commission shall prescribe a form for certifying a cigarette rolling machine operator under this part.

(4) (a) A cigarette rolling machine operator shall apply to the commission for certification before the cigarette rolling machine operator performs an act described in Subsection (1) within the state for the first time.

(b) A cigarette rolling machine operator shall apply to the commission for a renewal of certification on or before the earlier of:

- (i) December 31 of each year; or

(ii) the day on which there is a change in any of the information the cigarette rolling machine operator provides on the form described in Subsection (3).

(5) To obtain certification or renewal of certification under this section from the commission, a cigarette rolling machine operator shall:

- (a) identify:

(i) the cigarette rolling machine operator's name and address;

(ii) the location, make, and brand of the cigarette rolling machine operator's cigarette rolling machine; and

(iii) each person from whom the cigarette rolling machine operator will purchase or be provided tobacco products that the cigarette rolling machine operator will use to produce cigarettes; and

- (b) certify, under penalty of perjury, that:

(i) the tobacco to be used in the cigarette rolling machine operator's cigarette rolling machine, regardless of the tobacco's label or description, shall be only of a:

(A) brand family listed on the commission's directory listing required by Section 59-14-603; and

(B) tobacco product manufacturer listed on the commission's directory listing required by Section 59-14-603;

(ii) the cigarette rolling machine operator shall prohibit another person who uses the cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

(iii) the cigarette rolling machine operator holds a current license issued in accordance with this chapter;

(iv) the cigarettes produced from the cigarette rolling machine shall comply with Title 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection Act;

(v) the cigarette rolling machine shall be located in a separate and defined area where the cigarette rolling machine operator ensures that ~~[a person]~~ an individual younger than ~~[19 years of]~~ the age specified in Subsection (6) may not be:

- (A) present at any time; or

- (B) permitted to enter at any time; and

(vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer, or sell cigarettes produced from a cigarette rolling

machine in a quantity of less than 20 cigarettes per retail transaction.

(6) For purposes of Subsection (5), an individual is younger than:

(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(b) beginning July 1, 2021, 21 years old.

[46] (7) If the commission determines that a cigarette rolling machine operator meets the requirements for certification or renewal of certification under this section, the commission shall grant the certification or renewal of certification.

[47] (8) If the commission determines that a cigarette rolling machine operator does not meet the requirements for certification or renewal of certification under this section, the commission shall:

(a) deny the certification or renewal of certification; and

(b) provide the cigarette rolling machine operator the grounds for denial of the certification or renewal of certification in writing.

Section 9. Section 76-10-103 is amended to read:

76-10-103. Permitting minors to use tobacco in place of business.

It is a class C misdemeanor for the proprietor of any place of business to knowingly permit ~~persons~~ an individual under ~~age 19~~ the following ages to frequent a place of business while ~~they are~~ the individual is using tobacco[-]:

(1) beginning July 1, 2020, and ending June 30, 2021, under 20 years old; and

(2) beginning July 1, 2021, under 21 years old.

Section 10. Section 76-10-104 is amended to read:

76-10-104. Providing a cigar, cigarette, electronic cigarette, or tobacco to a minor -- Penalties.

(1) ~~Any~~ A person violates this section who knowingly, intentionally, recklessly, or with criminal negligence provides ~~any~~ a cigar, cigarette, electronic cigarette, or tobacco in any form, to ~~any person under 19 years of age~~ an individual under the following ages, is guilty of a class C misdemeanor on the first offense, a class B misdemeanor on the second offense, and a class A misdemeanor on subsequent offenses[-]:

(a) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(b) beginning July 1, 2021, 21 years old.

(2) ~~For purposes of~~ As used in this section "provides":

(a) includes selling, giving, furnishing, sending, or causing to be sent; and

(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

Section 11. Section 76-10-104.1 is amended to read:

76-10-104.1. Providing tobacco paraphernalia to minors -- Penalties.

(1) For purposes of this section:

(a) "Provides":

(i) includes selling, giving, furnishing, sending, or causing to be sent; and

(ii) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

(b) "Tobacco paraphernalia":

(i) means ~~any~~ equipment, product, or material of any kind ~~which~~ that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a cigar, cigarette, or tobacco in any form into the human body, including:

(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(B) water pipes;

(C) carburetion tubes and devices;

(D) smoking and carburetion masks;

(E) roach clips[-], meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(F) chamber pipes;

(G) carburetor pipes;

(H) electric pipes;

(I) air-driven pipes;

(J) chillums;

(K) bongs; and

(L) ice pipes or chillers; and

(ii) does not include matches or lighters.

(2) (a) It is unlawful for a person to knowingly, intentionally, recklessly, or with criminal negligence provide ~~any~~ tobacco paraphernalia to ~~any person~~ an individual under ~~19 years of age~~:-

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(b) A person who violates this section is guilty of a class C misdemeanor on the first offense and a class B misdemeanor on subsequent offenses.

Section 12. Section 76-10-105 is amended to read:

76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.

(1) ~~[Any 18 year old person]~~ (a) An individual who is 18 years or older, but younger than the age specified in Subsection (1)(b), and buys or attempts to buy, accepts, or has in the ~~[person's]~~ individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of ~~[a class C misdemeanor]~~ an infraction and subject to:

~~(a)~~ (i) a minimum fine or penalty of \$60; and

~~(b)~~ (ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(b) For purposes of Subsection (1)(a), the individual is younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(2) ~~[Any person]~~ An individual under the age of 18 who buys or attempts to buy, accepts, or has in the ~~[person's]~~ individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation is committed on school property. If a violation under this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

(a) a fine or penalty, in accordance with Section 78A-6-117; and

(b) participation in a court-approved tobacco education program, which may include a participation fee.

(3) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property. A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

(4) (a) This section does not apply to the purchase or possession of a cigar, cigarette, electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years or older and is:

(i) on active duty in the United States Armed Forces; or

(ii) a spouse or dependent of an individual who is on active duty in the United States Armed Forces.

(b) A valid, government-issued military identification card is required to verify proof of age under Subsection (4)(a).

Section 13. Section 76-10-105.1 is amended to read:

76-10-105.1. Requirement of direct, face-to-face sale of cigarettes, tobacco, and electronic cigarettes -- Minors not allowed in tobacco specialty shop -- Penalties.

(1) As used in this section:

(a) "Cigarette" means the same as that term is defined in Section 59-14-102.

(b) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(c) "Retailer" means a person who:

(i) sells a cigarette, tobacco, or an electronic cigarette to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a cigarette, tobacco, or an electronic cigarette.

(d) "Self-service display" means a display of a cigarette, tobacco, or an electronic cigarette to which the public has access without the intervention of a retailer or retailer's employee.

(e) "Tobacco" means any product, except a cigarette, made of or containing tobacco.

(f) "Tobacco specialty shop" means a "retail tobacco specialty business" as that term is defined:

(i) as it relates to a municipality, in Section 10-8-41.6; and

(ii) as it relates to a county, in Section 17-50-333.

(2) Except as provided in Subsection (3), a retailer may sell a cigarette, tobacco, or an electronic cigarette only in a face-to-face exchange.

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a tobacco specialty shop.

(4) (a) An individual who is less than ~~[19 years old]~~ the age specified in Subsection (4)(b) may not

enter or be present at a tobacco specialty shop unless the individual is:

~~(a)~~ (i) accompanied by a parent or legal guardian;

~~(b)~~ (ii) present at the tobacco shop for a bona fide commercial purpose other than to purchase a cigarette, tobacco, or an electronic cigarette; or

~~(c)~~ (iii) 18 years old or older and an active duty member of the United States Armed Forces, as demonstrated by a valid, government-issued military identification card.

(b) For purposes of Subsection (4)(a), the individual is younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(5) A parent or legal guardian who accompanies, under Subsection (4)(a)(i), an individual into an area described in Subsection (3)(b), or into a tobacco specialty shop, may not allow the individual to purchase a cigarette, tobacco, or an electronic cigarette.

(6) A violation of Subsection (2) or (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on the third and all subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of providing tobacco to a minor under Section 76-10-104.

(8) (a) ~~Any~~ An ordinance, regulation, or rule adopted by the governing body of a political subdivision of the state or by a state agency that affects the sale, minimum age of sale, placement, or display of cigarettes, tobacco, or electronic cigarettes that is not essentially identical to ~~the provisions of~~ this section and Section 76-10-102 is superseded.

(b) Subsection (8)(a) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Section 14. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco, and electronic cigarettes to underage individuals.

(1) As used in this section, "electronic cigarette" is as defined in Section 76-10-101.

(2) (a) A peace officer, as defined by Title 53, Chapter 13, Peace Officer Classifications, may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under ~~the age of~~ 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

(ii) Section 76-10-104 by requesting an individual under the age ~~of 19 years~~ specified in Subsection (2)(e) to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a cigar;

(B) a cigarette;

(C) tobacco in any form; or

(D) an electronic cigarette.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; or

(ii) (A) a cigar;

(B) a cigarette;

(C) tobacco in any form; or

(D) an electronic cigarette.

(d) If a citation or information is issued, it shall be issued within seven days of the purchase.

(e) For purposes of Subsection (2)(a)(ii), the individual is younger than:

(i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

(ii) beginning July 1, 2021, 21 years old.

(3) (a) If an individual under the age of 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained prior to that individual participating in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco, or an electronic cigarette.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may not during the attempted purchase misrepresent the age of the individual by false or misleading identification documentation in attempting the purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a cigar, a cigarette, tobacco in any form, or an electronic cigarette if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted:

- (i) on a random basis; and
- (ii) within a 12-month period at any one retail establishment location not more often than:
 - (A) two times for the attempted purchase of:
 - (I) a cigar;
 - (II) a cigarette;
 - (III) tobacco in any form; or
 - (IV) an electronic cigarette; and
 - (B) four times for the attempted purchase of alcohol.

(b) ~~[Nothing in this section shall]~~ This section does not prohibit an investigation or an attempt to purchase tobacco under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a cigar, a cigarette, tobacco in any form, or an electronic cigarette to an individual under the age established by Section 32B-4-403 or 76-10-104; and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

- (i) the name of the supervising peace officer;
- (ii) the name of the individual attempting the purchase;
- (iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;
- (iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;
- (v) the name and address of the retail establishment; and
- (vi) the date and time of the attempted purchase.

Section 15. Effective date.

This bill takes effect on July 1, 2020.

CHAPTER 233**H. B. 336**

Passed March 6, 2019

Approved March 25, 2019

Effective May 14, 2019

NURSE PRACTICE ACT AMENDMENTS

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to the prescriptive authority of certain licensed nurse practitioners.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ permits certain licensed nurse practitioners to prescribe a Schedule II controlled substance; and
- ▶ amends certain requirements for advanced practice nurse practitioners to have prescriptive authority for controlled substances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-31b-102, as last amended by Laws of Utah 2016, Chapters 26 and 127

58-31b-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

58-31b-803, as enacted by Laws of Utah 2016, Chapter 127

58-31d-103, as last amended by Laws of Utah 2016, Chapter 127

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-31b-102 is amended to read:**58-31b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means a person who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is

approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Consultation and referral plan" means a written plan jointly developed by an advanced practice registered nurse and, except as provided in Subsection 58-31b-803(4), a consulting physician that permits the advanced practice registered nurse to prescribe Schedule II controlled substances in consultation with the consulting physician.

(6) "Consulting physician" means a physician and surgeon or osteopathic physician and surgeon licensed in accordance with this title who has agreed to consult with an advanced practice registered nurse with a controlled substance license, a DEA registration number, and who will be prescribing Schedule II controlled substances.

(7) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(8) "Examinee" means a person who applies to take or does take any examination required under this chapter for licensure.

(9) "Licensee" means a person who is licensed or certified under this chapter.

(10) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an intermediate care facility for people with an intellectual disability;
- (d) an assisted living facility Type I or II; or
- (e) a designated swing bed unit in a general hospital.

(11) "Medication aide certified" means a certified nurse aide who:

- (a) has a minimum of 2,000 hours experience working as a certified nurse aide;
- (b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and
- (c) is certified by the division as a medication aide certified.

(12) "Pain clinic" means the same as that term is defined in Section 58-1-102.

(13) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by administrative rule, of a licensed nurse, involving

routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by administrative rule.

(14) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. Advanced practice registered nursing includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral for common health problems;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) Subject to Section 58-31b-803, Schedule II controlled substances~~[-in accordance with Section 58-31b-803];~~ or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in Subsection (14)(d); and

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of Subsection (14)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to enter into a consultation and referral plan or obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(15) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment. The practice of nursing requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences, and includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee; and

(g) delegating nurse interventions that may be performed by others and are not in conflict with this chapter.

(16) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by rule and as provided in this Subsection (16) by a person licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by rule. Practical nursing acts include:

- (a) contributing to the assessment of the health status of individuals and groups;
- (b) participating in the development and modification of the strategy of care;
- (c) implementing appropriate aspects of the strategy of care;
- (d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and
- (e) participating in the evaluation of responses to interventions.

(17) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (17) by a person licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by rule. Registered nursing acts include:

- (a) assessing the health status of individuals and groups;
- (b) identifying health care needs;
- (c) establishing goals to meet identified health care needs;
- (d) planning a strategy of care;
- (e) prescribing nursing interventions to implement the strategy of care;
- (f) implementing the strategy of care;
- (g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;
- (h) evaluating responses to interventions;
- (i) teaching the theory and practice of nursing; and
- (j) managing and supervising the practice of nursing.

(18) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

- (i) oral;
- (ii) sublingual;
- (iii) buccal;
- (iv) eye;
- (v) ear;

- (vi) nasal;
- (vii) rectal;
- (viii) vaginal;
- (ix) skin ointments, topical including patches and transdermal;
- (x) premeasured medication delivered by aerosol/nebulizer; and
- (xi) medications delivered by metered hand-held inhalers.

(19) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(20) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with the standards of the profession.

(21) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by rule.

Section 2. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;

(i) unlawful or inappropriate delegation of nursing care;

(j) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(k) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(l) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(m) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(n) failure to pay a penalty imposed by the division;

(o) prescribing a Schedule II ~~or III~~ controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(p) violating Section 58-31b-801;

(q) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; and

(r) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 3. Section 58-31b-803 is amended to read:

58-31b-803. Limitations on prescriptive authority for advanced practice registered nurses.

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(14)(d).

~~[(2) Except as provided in Subsection (3), an advanced practice registered nurse shall prescribe or administer a Schedule II controlled substance in accordance with a consultation and referral plan.]~~

~~[(3) (2) Except as provided [by Subsection] in Subsections (3) and 58-31b-502[(18)](1)(r), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance without a consultation and referral plan [if the advanced practice registered nurse:].~~

~~[(a) has the lesser of:]~~

~~[(i) two years of licensure as a nurse practicing advanced practice registered nursing; or]~~

~~[(ii) 2,000 hours of experience practicing advanced practice registered nursing;]~~

~~[(b) (i) prior to the first time prescribing or administering a Schedule III controlled substance for chronic pain, or a Schedule II controlled substance to a particular patient, unless treating the patient in a licensed general acute hospital, checks information about the patient in the Controlled Substance Database created in Section 58-37f-201; and]~~

~~[(ii) periodically, thereafter, checks information about the patient in the Controlled Substance Database created in Section 58-37f-201; and]~~

~~[(c) follows the health care provider prescribing guidelines for the treatment of an injured worker, developed by the Labor Commission under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, if:]~~

~~[(i) the patient is an injured worker; and]~~

~~[(ii) the Schedule II or III controlled substance is prescribed for chronic pain.]~~

(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse prescribes or administers Schedule II controlled substances in accordance with a consultation and referral plan.

(4) Subsection (3) applies to an advanced practice registered nurse who:

(a) (i) is engaged in independent solo practice; and

(ii) (A) has been licensed as an advanced practice registered nurse for less than one year; or

(B) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse; or

(b) owns or operates a pain clinic.

(5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse with at least three years of experience as a licensed advanced practice registered nurse may supervise a consultation and referral plan for an advanced practice registered nurse described in Subsection 4(a).

Section 4. Section 58-31d-103 is amended to read:

58-31d-103. Rulemaking authority -- Enabling provisions.

(1) The division may adopt rules necessary to implement Section 58-31d-102.

(2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact, “head of the licensing board” means the executive administrator of the Utah Board of Nursing.

(3) For purposes of the Advanced Practice Registered Nurse Compact, “APRN” as defined in Article II (1) of the compact includes an individual who is:

(a) licensed to practice under Subsection 58-31b-301(2) as an advanced practice registered nurse; or

(b) licensed to practice under Section 58-44a-301 as a certified nurse midwife.

(4) An APRN practicing in this state under a multistate licensure privilege may only be granted prescriptive authority if that individual can document completion of graduate level course work in the following areas:

- (a) advanced health assessment;
- (b) pharmacotherapeutics; and
- (c) diagnosis and treatment.

(5) (a) An APRN practicing in this state under a multistate privilege who seeks to obtain prescriptive authority must:

(i) meet all the requirements of Subsection (4) and this Subsection (5); and

(ii) be placed on a registry with the division.

(b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:

- (i) submit a form prescribed by the division;
- (ii) pay a fee; and
- (iii) if prescribing a controlled substance:

(A) obtain a controlled substance license as required under Section 58-37-6; and

(B) that is a Schedule II controlled substance, comply with the requirements of Section 58-31b-803, if applicable.

CHAPTER 234**H. B. 342**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**HOMELESS PROVIDER
 OVERSIGHT AMENDMENTS**

Chief Sponsor: Brian S. King
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill modifies provisions related to the Homeless Coordinating Committee.

Highlighted Provisions:

This bill:

- ▶ requires the Homeless Coordinating Committee to prepare and implement a statewide strategy for minimizing homelessness in the state;
- ▶ describes requirements for evaluating and reporting on progress toward the strategic plan goals;
- ▶ describes requirements related to awarding contracts from the Pamela Atkinson Homeless Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-602, as last amended by Laws of Utah 2016, Chapter 157
 35A-8-604, as last amended by Laws of Utah 2018, Chapter 251

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-602 is amended to read:

35A-8-602. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.

(1) [(a)] The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective and service efficient manner[.] by:

(a) preparing and implementing a statewide strategic plan to minimize homelessness in the state that:

(i) outlines specific goals and measurable benchmarks for progress;

(ii) identifies gaps in service delivery to the variety of homeless populations;

(iii) provides recommendations to the governor and the Legislature on strategies, policies, procedures, and programs to address the needs of the homeless populations in the state; and

(iv) identifies best practices and recommends improvements in coordinating service delivery to the variety of homeless populations through the use of electronic databases and through data sharing among service providers;

(b) evaluating annually the progress made toward achieving the goals outlined in the plan described in Subsection (1)(a); and

(c) designating local oversight bodies that are responsible to:

(i) develop a common agenda and vision for reducing homelessness in the local oversight bodies' respective region;

(ii) develop a spending plan that coordinates the funding supplied to local stakeholders;

(iii) monitor the progress toward achieving state and local goals; and

(iv) align local funding to projects that are improving outcomes and targeting specific needs in the community.

[(b)] (2) (a) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who:

(i) have families with children;

(ii) have a disability or a mental illness; or

(iii) suffer from other serious challenges to employment and self-sufficiency.

[(e)] (b) The committee may also fund treatment programs to ameliorate the effects of substance abuse or a disability.

[(d) Before October 1, 2016, the committee shall conduct a needs assessment or contract with another state agency or private entity to conduct a needs assessment that:]

(i) identifies desired statewide outcomes related to minimizing homelessness;

(ii) reviews technology used for data gathering by state, county and local governments and private organizations for reporting information about, and providing service to, homeless individuals in the state, including an evaluation of:]

[(A) the functionality of existing databases;]

[(B) the ability to expand and tailor existing databases to better serve the needs of homeless individuals; and]

[(C) the ability of the technology to ensure proper privacy restrictions and sharing between reporting entities, including those addressing domestic violence, as allowed by federal privacy regulations;]

[(iii) identifies gaps between the data described in Subsection (1)(d)(i) and the data needed to implement best practices in minimizing homelessness and achieve the outcomes identified in accordance with this Subsection (1)(d);]

~~[(iv) evaluates the technical capacity of existing databases and information technology systems used to gather and report data related to homelessness and identifies improvements needed to better serve the homeless population and meet the needs of all stakeholders;]~~

~~[(v) identifies opportunities to align data gathering and reporting related to homelessness with state efforts to reduce intergenerational poverty, incarceration, and recidivism rates; and]~~

~~[(vi) makes recommendations regarding the needed improvements related to this Subsection (1)(d) and outlines steps for implementing the recommendations.]~~

~~[(e) Before October 1, 2016, the committee shall report to the department the findings and recommendations of the needs assessment described in Subsection (1)(d) for inclusion in the annual written report described in Section 35A-1-109.]~~

~~[(2)] (3) The committee members designated in Subsection 35A-8-601(2) shall:~~

~~(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 35A-8-601(3);~~

~~[(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers in awarding contracts described in Subsection (2)(a); and]~~

~~[(c) give priority for funding to programs that serve the homeless who have a mental illness and who are in families with children.]~~

~~(b) in the evaluation of contract awards, consider whether:~~

~~(i) the proposed award addresses the needs identified in the strategic plan described in Subsection (1);~~

~~(ii) the proposed award is aligned with the process described in Subsection (1); and~~

~~(iii) the proposed contractor has a policy to share client-level service information with other entities in accordance with state and federal law to enhance coordinated services for those experiencing homelessness; and~~

~~(c) identify specific targets and benchmarks for each contract that align with the strategic plan described in Subsection (1).~~

~~[(3)] (4) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson Homeless Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.~~

~~(b) The committee may:~~

~~(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Pamela Atkinson Homeless~~

Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

~~(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-1306 from the account.~~

~~[(4)] (5) If there are decreases in contributions to the account, the committee may expend money held in the account to provide program stability, but the committee shall reimburse the amount of those expenditures to the account.~~

~~[(5)] (6) The committee shall make an annual report to the department regarding the [programs and services funded by contributions to the Pamela Atkinson Homeless Account] progress made implementing the strategic plan described in Subsection (1) for inclusion in the annual written report described in Section 35A-1-109.~~

~~(7) The committee shall update the strategic plan described in Subsection (1)(a) on an annual basis.~~

~~[(6)] (8) The state treasurer shall invest the money in the Pamela Atkinson Homeless Account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.~~

Section 2. Section 35A-8-604 is amended to read:

35A-8-604. Uses of Homeless to Housing Reform Restricted Account.

(1) With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2) may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-8-605.

(2) Before final approval of a grant or contract awarded under this section, the Homeless Coordinating Committee and the division shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the division and the Homeless Coordinating Committee that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the Homeless Coordinating Committee before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) consider the advice of committee members designated in Subsection 35A-8-601(3);

(c) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(d) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

- (i) families with children;
- (ii) transitional-aged youth;
- (iii) single men or single women;
- (iv) veterans;
- (v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter; ~~and~~

(e) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults; ~~and~~

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness~~[-]; and~~

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(f) address the needs identified in the strategic plan described in Subsection 35A-8-602(1)(a) for inclusion in the annual written report described in Section 35A-1-109.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, the Homeless Coordinating Committee, with the concurrence of the division, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval of the Homeless Coordinating Committee with the concurrence of the division, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the Homeless Coordinating Committee with the concurrence of the division; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

~~[(7) Subject to the requirements of Subsections (5) and (6), on or before March 30, 2017, the county executive of a county of the first class shall make a recommendation to the Homeless Coordinating Committee identifying a site location for one facility within the county of the first class that will provide shelter for the homeless in a location other than Salt Lake City.]~~

~~[(8)] (7) (a) As used in this Subsection [(8)] (7) and in Subsection [(9)] (8), "homeless shelter" means a facility that:~~

(i) is located within a municipality; and

(ii) provides temporary shelter year-round to homeless individuals~~[-]; and~~, including an emergency shelter or medical respite facility.

~~[(iii)] has the capacity to provide temporary shelter to at least 50 individuals per night.]~~

(b) In addition to the other provisions of this section, the Homeless Coordinating Committee, with the concurrence of the division, may award a grant or contract:

(i) to a municipality to improve sidewalks, pathways, or roadways near a homeless shelter to provide greater safety to homeless individuals; and

(ii) to a municipality to hire one or more peace officers to provide greater safety to homeless individuals.

~~[(9)] (8) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection [(9)] (8), the Homeless Coordinating Committee, with the concurrence of the division, may award a grant for the ongoing operations of the homeless shelter.~~

(b) In awarding a grant under this Subsection ~~[(9)] (8)~~, the Homeless Coordinating Committee, with the concurrence of the division, shall:

(i) give priority to a homeless shelter located in a county of the first class that has the capacity to provide temporary shelter to at least 200 individuals per night; and

(ii) consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

~~[(10)] (9) The division may expend money from the restricted account to offset actual division and Homeless Coordinating Committee expenses related to administering this section.~~

CHAPTER 235**H. B. 343**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**DEVELOPMENT
 ADVERTISING AMENDMENTS**

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill enacts provisions related to notice and hearing requirements by a municipality or county for certain sign regulations.

Highlighted Provisions:

This bill:

- ▶ requires a municipality or county to provide certain notice to political subdivisions and owners of parcels within a 500 foot radius of the proposed illuminated sign, as well as certain other parties with an outdoor advertising permit; and
- ▶ requires certain construction related to certain signs to commence within one year after the installation of the illuminated sign.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

10-9a-213, Utah Code Annotated 1953
 17-27a-213, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-213 is enacted to read:

10-9a-213. Hearing and notice procedures for modifying sign regulations.

(1) (a) Prior to any hearing or public meeting to consider a proposed land use regulation or land use application modifying sign regulations for an illuminated sign within any unified commercial development, as defined in Section 72-7-504.6, or within any planned unit development, a municipality shall give written notice of the proposed illuminated sign to:

- (i) each property owner within a 500 foot radius of the sign site;
- (ii) a municipality or county within a 500 foot radius of the sign site; and
- (iii) any outdoor advertising permit holder described in Subsection 72-7-506(2)(b).

(b) The notice described in Subsection (1)(a) shall include the schedule of public meetings at which the proposed changes to land use regulations or land use application will be discussed.

(2) A municipality shall require the property owner or applicant to commence in good faith the

construction of the commercial or industrial development within one year after the installation of the illuminated sign.

Section 2. Section 17-27a-213 is enacted to read:

17-27a-213. Hearing and notice procedures for modifying sign regulations.

(1) (a) Prior to any hearing or public meeting to consider a proposed land use regulation or land use application modifying sign regulations for an illuminated sign within any unified commercial development, as defined in Section 72-7-504.6, or within any planned unit development, a county shall give written notice of the proposed illuminated sign to:

- (i) each property owner within a 500 foot radius of the sign site;
- (ii) a municipality or county within a 500 foot radius of the sign site; and
- (iii) any outdoor advertising permit holder described in Subsection 72-7-506(2)(b).

(b) The notice described in Subsection (1)(a) shall include the schedule of public meetings at which the proposed changes to land use regulations or land use application will be discussed.

(2) A county shall require the property owner or applicant to commence in good faith the construction of the commercial or industrial development within one year after the installation of the illuminated sign.

CHAPTER 236**H. B. 344**

Passed March 13, 2019
Approved March 25, 2019
Effective July 1, 2020

**STUDENT ASTHMA
RELIEF AMENDMENTS**

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Ronald Winterton

LONG TITLE**General Description:**

This bill enacts provisions governing the administration of stock albuterol by certain entities to an individual.

Highlighted Provisions:

This bill:

- ▶ enacts definitions;
- ▶ permits a school to make stock albuterol available to certain employees for administering to certain students;
- ▶ enacts provisions governing training provided by the Department of Health on the use and storage of stock albuterol;
- ▶ authorizes a qualified adult to obtain a prescription for stock albuterol and administer stock albuterol to certain individuals;
- ▶ enacts immunity provisions for a qualified stock albuterol entity;
- ▶ requires the Department of Health to adopt rules establishing the storage of stock albuterol by a qualified stock albuterol entity; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 26-41-101, as enacted by Laws of Utah 1998, Chapter 17
26-41-102, as last amended by Laws of Utah 2017, Chapter 106
26-41-103, as last amended by Laws of Utah 2015, Chapter 332
26-41-104, as last amended by Laws of Utah 2015, Chapter 332
26-41-105, as last amended by Laws of Utah 2015, Chapter 332
26-41-106, as last amended by Laws of Utah 2018, Chapter 415
26-41-107, as enacted by Laws of Utah 2015, Chapter 332

ENACTS:

26-41-104.1, Utah Code Annotated 1953

REPEALS:

53G-9-503, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-41-101 is amended to read:

**CHAPTER 41. EMERGENCY RESPONSE
FOR LIFE-THREATENING CONDITIONS**

26-41-101. Title.

This chapter is known as [~~the “Emergency Injection for Anaphylactic Reaction Act.”~~] “Emergency Response for Life-threatening Conditions.”

Section 2. Section 26-41-102 is amended to read:

26-41-102. Definitions.

As used in this chapter:

(1) “Anaphylaxis” means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(2) “Asthma action plan” means a written plan:

(a) developed with a school nurse, a student’s parent or guardian, and the student’s health care provider to help control the student’s asthma; and

(b) signed by the student’s:

(i) parent or guardian; and

(ii) health care provider.

(3) “Asthma emergency” means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

[(2)] (4) “Epinephrine auto-injector” means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

(5) “Health care provider” means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or

(d) a physician assistant under Title 58, Chapter 70a, Physician Assistant Act.

[(3)] (6) “Qualified adult” means a person who:

(a) is 18 years of age or older; and

(b) (i) for purposes of administering an epinephrine auto-injector, has successfully

completed the training program established in Section 26-41-104[.]; and

(ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26-41-104.1.

[44] (7) “Qualified epinephrine auto-injector entity”:

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

(8) “Qualified stock albuterol entity” means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

(9) “Stock albuterol” means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

Section 3. Section 26-41-103 is amended to read:

26-41-103. Voluntary participation.

(1) This chapter does not create a duty or standard of care for:

(a) a person to be trained in the use and storage of epinephrine auto-injectors or stock albuterol; or

(b) except as provided in Subsection (5), a qualified epinephrine auto-injector entity to store epinephrine auto-injectors or a qualified stock albuterol entity to store stock albuterol on its premises.

(2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26-41-104 or 26-41-104.1 and to make emergency epinephrine auto-injectors or stock albuterol available under the provisions of this chapter is voluntary.

(3) A school, school board, or school official may not prohibit or dissuade a teacher or other school

employee at a primary or secondary school in the state, either public or private, from:

(a) completing a training program under Section 26-41-104 or 26-41-104.1;

(b) possessing or storing an epinephrine auto-injector or stock albuterol on school property if:

(i) the teacher or school employee is a qualified adult; and

(ii) the possession and storage is in accordance with the training received under Section 26-41-104 or 26-41-104.1; or

(c) administering an epinephrine auto-injector or stock albuterol to any person, if:

(i) the teacher or school employee is a qualified adult; and

(ii) the administration is in accordance with the training received under Section 26-41-104 or 26-41-104.1.

(4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.

(5) (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.

(6) (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:

(i) is employed at the school; and

(ii) is a qualified adult.

(b) A qualified adult may administer stock albuterol to a student who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan.

(c) This Subsection (6) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.

[46] (7) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:

- (a) volunteering under Subsection (2);
- (b) engaging in conduct described in Subsection (3); or
- (c) failing or refusing to become a qualified adult.

Section 4. Section 26-41-104 is amended to read:

26-41-104. Training in use and storage of epinephrine auto-injector.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training, regarding the storage and emergency use of an epinephrine auto-injector, available to any teacher or other school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the medical director of the local health department, or the local emergency medical services director.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

- (a) techniques for recognizing symptoms of anaphylaxis;
- (b) standards and procedures for the storage and emergency use of epinephrine auto-injectors;
- (c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) A public school shall permit a student to possess an epinephrine auto-injector or possess and self-administer an epinephrine auto-injector if:

- (a) the student's parent or guardian signs a statement:
 - (i) authorizing the student to possess or possess and self-administer an epinephrine auto-injector; and
 - (ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an epinephrine auto-injector; and
- (b) the student's health care provider provides a written statement that states that:

(i) it is medically appropriate for the student to possess or possess and self-administer an epinephrine auto-injector; and

(ii) the student should be in possession of the epinephrine auto-injector at all times.

(5) ~~The [Utah Department of Health] department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care providers statements described in Subsection (4).~~

(6) (a) The department:

(i) shall approve educational programs conducted by other persons, to train:

(A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency epinephrine auto-injectors; and

(B) a qualified epinephrine auto-injector entity regarding the proper storage and emergency use of epinephrine auto-injectors; and

(ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency epinephrine auto-injectors.

(b) A person who volunteers to receive training as a qualified adult to administer an epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:

- (i) camp counselors;
- (ii) scout leaders;
- (iii) forest rangers;
- (iv) tour guides; and

(v) other persons who have or reasonably expect to have contact with at least one other person as a result of the person's occupational or volunteer status.

Section 5. Section 26-41-104.1 is enacted to read:

26-41-104.1. Training in use and storage of stock albuterol.

(1) (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training regarding the storage and emergency use of stock albuterol available to a teacher or school employee who volunteers to become a qualified adult.

(b) The training described in Subsection (1)(a) shall be provided by the department.

(2) A person who provides training under Subsection (1) or (6) shall include in the training:

- (a) techniques for recognizing symptoms of an asthma emergency;
- (b) standards and procedures for the storage and emergency use of stock albuterol;
- (c) emergency follow-up procedures, and contacting, if possible, the student's parent; and

(d) written materials covering the information required under this Subsection (2).

(3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).

(4) (a) A public or private school shall permit a student to possess and self-administer asthma medication if:

(i) the student's parent or guardian signs a statement:

(A) authorizing the student to self-administer asthma medication; and

(B) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and

(ii) the student's health care provider provides a written statement that states:

(A) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and

(B) the name of the asthma medication prescribed or authorized for the student's use.

(b) Section 53G-8-205 does not apply to the possession and self-administration of asthma medication in accordance with this section.

(5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care provider statements described in Subsection (4).

(6) The department:

(a) shall approve educational programs conducted by other persons to train:

(i) people under Subsection (6)(b), regarding the proper use and storage of stock albuterol; and

(ii) a qualified stock albuterol entity regarding the proper storage and emergency use of stock albuterol; and

(b) may conduct educational programs to train people regarding the use of and storage of stock albuterol.

Section 6. Section 26-41-105 is amended to read:

26-41-105. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for epinephrine auto-injectors or stock albuterol.

(2) A qualified adult may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription

drugs, a prescription for an epinephrine auto-injector or stock albuterol.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104.1 after administering stock albuterol.

[(4)] (5) (a) A qualified entity that complies with Subsection [(4)] (5)(b) or (c), may obtain from a physician, pharmacist, or any other person [or entity] authorized to prescribe or dispense prescription drugs, a prescription for a supply of epinephrine auto-injectors or stock albuterol, respectively, for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26-41-107.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26-41-107.

Section 7. Section 26-41-106 is amended to read:

26-41-106. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of this chapter with respect to an anaphylactic reaction or asthma emergency:

- (a) a qualified adult;
- (b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;
- (c) a person who conducts training described in Section 26-41-104[; and] or 26-41-104.1;
- (d) a qualified epinephrine auto-injector entity[.]; and
- (e) a qualified stock albuterol entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this chapter.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 8. Section 26-41-107 is amended to read:

26-41-107. Administrative rulemaking authority.

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) establish and approve training programs in accordance with [~~Section~~] Sections 26-41-104 and 26-41-104.1;
- (2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26-41-104(6)(b)(v); and
- (3) establish standards for storage of:
 - (a) emergency auto-injectors by a qualified epinephrine auto-injector entity under Section 26-41-104[.]; and
 - (b) stock albuterol by a qualified stock albuterol entity under Section 26-41-104.1.

Section 9. Repealer.

This bill repeals:

Section 53G-9-503, Self-administration of asthma medication.

Section 10. Effective date.

This bill takes effect July 1, 2020.

CHAPTER 237**H. B. 345**

Passed March 8, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**TOURISM MARKETING
 PERFORMANCE ACCOUNT AMENDMENTS**

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions related to the Tourism Marketing Performance Account.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “sports organization”; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-7-301, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-7-301 is amended to read:

63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by GOED for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director of GOED's Office of Tourism shall use account money appropriated to GOED to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by GOED.

(6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually allocate 10% of the account money appropriated to GOED to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to GOED that gives an accounting of the use of ~~[money]~~ funds the sports organization receives under this Subsection (6); and

(ii) ~~[partner with GOED to]~~ promote the state and ~~[to]~~ encourage economic growth in the state.

(c) For purposes of this Subsection (6), “sports organization” means an organization that ~~[is]~~:

(i) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; ~~[and]~~

(ii) maintains its principal location in the state;

(iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and

~~[(iv)]~~ (iv) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting ~~[Utah]~~ the state for the purpose of attracting~~], expanding, and retaining]~~ sporting events in the state.

(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of

tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than \$3,000,000.

(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) 80% of the sales from each business under NAICS Codes:

(A) 532111 Passenger Car Rental;

(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

(C) 5615 Travel Arrangement and Reservation Services;

(D) 7211 Traveler Accommodation; and

(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

(A) 51213 Motion Picture and Video Exhibition;

(B) 532292 Recreational Goods Rental;

(C) 711 Performing Arts, Spectator Sports, and Related Industries;

(D) 712 Museums, Historical Sites, and Similar Institutions; and

(E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

(A) 447 Gasoline Stations; and

(B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

(A) 445 Food and Beverage Stores;

(B) 446 Health and Personal Care Stores;

(C) 448 Clothing and Clothing Accessories Stores;

(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

(E) 452 General Merchandise Stores; and

(F) 453 Miscellaneous Store Retailers.

CHAPTER 238**H. B. 358**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

RIGHT OF WAY EQUITY AMENDMENTS

Chief Sponsor: Francis D. Gibson

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill adds “crude oil” and “petroleum products” to the definition of “utility” in the Construction, Maintenance, and Operations Act within the Transportation Code.

Highlighted Provisions:

This bill:

- ▶ adds “crude oil” and “petroleum products” to the definition of “utility” in the Construction, Maintenance, and Operations Act within the Transportation Code; and
- ▶ establishes the cost a crude oil or petroleum products pipeline pays if relocated to accommodate construction of a state highway project.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-6-116, as last amended by Laws of Utah 2018, Chapter 299

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-6-116 is amended to read:**72-6-116. Regulation of utilities --
Relocation of utilities.**

(1) As used in this section:

(a) “Cost of relocation” includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new utility and any salvage value derived from the old utility.

(b) “Utility” includes telecommunication, crude oil, petroleum products, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private, or cooperatively owned.

(c) “Utility company” means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, the utility company owning or operating the utilities shall relocate the utilities in accordance with this section and the order of the department.

(3) (a) The department shall pay 100% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway if the:

(i) utility is owned or operated by a political subdivision of the state;

(ii) utility company owns the easement or fee title to the right-of-way in which the utility is located; or

(iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a) ~~or~~, (c), or (d) or Section 54-21-603, the department shall pay 50% of the cost of relocation of a utility to accommodate construction of a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway, and the utility company shall pay the remainder of the cost of relocation.

(c) If the utility described in Subsection (3)(b) is a crude oil or petroleum products pipeline, unless the utility meets the conditions described in Subsection (3)(a):

(i) the utility company shall pay the lesser of:

(A) 50% of the cost of relocation of the pipeline to accommodate construction of a proposed state highway and the improvement, widening, and modification of an existing highway; or

(B) 50% of the cost of any structure or facility necessary to avoid impinging on the pipeline, and the department shall pay the remainder of the cost of the structure or facility; and

(ii) the department shall pay the remainder of the cost.

[(e)] (d) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any project on a highway is a cost of highway construction.

(6) (a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a reconstruction project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) A utility company notified under this Subsection (6) shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations.

CHAPTER 239**H. B. 361**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

HORSE RACING AMENDMENTS

Chief Sponsor: Michael K. McKell

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill addresses licensing related to horse racing.

Highlighted Provisions:

This bill:

- ▶ addresses powers and duties of the commission, including permitting the commission to contract with a person to issue licenses related to horse racing;
- ▶ provides for exclusion of horses and owners under certain circumstances;
- ▶ addresses powers of stewards;
- ▶ modifies harboring or employing an unlicensed person;
- ▶ addresses fines;
- ▶ directs the commission to make rules regarding money; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-38-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-201, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-202, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-203, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-301, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 4-38-401, as renumbered and amended by Laws of Utah 2017, Chapter 345

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 4-38-102 is amended to read:****4-38-102. Definitions.**

As used in this chapter:

- (1) "Commission" means the Utah Horse Racing Commission created by this chapter.
- (2) "Executive director" means the executive director of the commission.
- (3) "Mixed meet" means a race meet that includes races by more than one breed of horse.

(4) "Race meet" means the entire period of time for which a licensee has been approved [~~by the commission~~] to hold horse races.

(5) "Racetrack facility" means a racetrack within Utah approved by the commission for the racing of horses, including the track surface, grandstands, clubhouse, all animal housing and handling areas, and other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials.

(6) "Recognized race meet" means a race meet recognized by a national horse breed association.

(7) "Utah bred horse" means a horse that is sired by a stallion standing in Utah at the time the dam was bred.

Section 2. Section 4-38-104 is amended to read:**4-38-104. Powers and duties of commission.**

(1) The commission shall:

(a) license, regulate, and supervise [~~all~~] the persons involved in the racing of horses as provided in this chapter;

(b) license, regulate, and supervise [~~all~~] the recognized race meets held in this state under the terms of this chapter;

(c) cause the various places where recognized race meets are held to be visited and inspected at least once a year;

(d) assist in procuring public liability insurance coverage from a private insurance company for those licensees unable to otherwise obtain the insurance required under this chapter;

(e) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern race meets, including rules:

(i) to resolve scheduling conflicts and settle disputes among licensees;

(ii) to supervise, discipline, suspend, fine, and bar from events [~~all persons~~] a person required to be licensed by this chapter; [~~and~~]

(iii) to exclude a horse from a racetrack facility in this state, or prohibit a horse from participating in a horse race or race meet; and

[~~(iii)~~] (iv) to hold, conduct, and operate all recognized race meets conducted pursuant to this chapter;

(f) determine which persons participating, directly or indirectly, in recognized race meets require licenses;

(g) announce the time, place, and duration of a recognized race [~~meets~~] meet for which [~~licenses shall be~~] a license is required; and

(h) establish reasonable fees for all licenses provided for under this chapter.

(2) The commission may:

(a) grant, suspend, or revoke licenses issued under this chapter;

- (b) impose fines as provided in this chapter;
- (c) access criminal history record information for [all] the licensees and commission or contracted employees; [and]
- (d) exclude from any racetrack facility in this state [any] a person, including an owner, who:
- (i) the commission considers detrimental to the best interests of racing; or [any person who violates any provisions of]
- (ii) violates this chapter or any rule or order of the commission[-]; and
- (e) exclude from a racetrack facility in this state, or prohibit from participating in a horse race or race meet, a horse that is owned, in full or part by a person:
- (i) who the commission considers detrimental to the best interests of racing; or
- (ii) who violates this chapter or a rule or order of the commission.
- (3) (a) For purposes of Subsection (2)(e), ownership includes a horse for which an individual or entity has a beneficial or other interest, as defined by rule.
- (b) The period of time a horse may be excluded or prohibited from racing under Subsection (2)(e) may not exceed one calendar year from the date of the initial oral or written ruling by the stewards.
- (c) A change in ownership or beneficial interest in a horse excluded or prohibited from racing under Subsection (2)(e) does not affect the horse's exclusion from a racetrack or prohibition from racing unless otherwise determined by the commission.
- (4) The commission may contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a person to issue a license required under Subsection (1)(a) or (b).

Section 3. Section 4-38-201 is amended to read:

4-38-201. Licenses -- Fees -- Duties of licensees.

- (1) The commission may grant [licenses], or contract under Subsection 4-38-104(4) for the granting of a license, for participation in racing and other activities associated with [racetracks] a racetrack.
- (2) The commission shall establish a schedule of fees for the application for and renewal and reinstatement of [all] licenses issued under this chapter.
- (3) [Each] A person holding a license under this chapter shall comply with this chapter and with [all] the rules issued and [all] the orders issued by the commission under this chapter.
- (4) [Any] A person who holds a recognized race meet or who participates directly or indirectly in a recognized race meet without being first licensed

[by the commission] as required under this chapter and any person violating [any provisions of] this chapter is subject to penalties under Section [4-2-305] 4-2-304.

Section 4. Section 4-38-202 is amended to read:

4-38-202. Stewards.

- (1) (a) The commission may delegate authority to enforce commission rules and this chapter to three stewards [employed by the commission] at each recognized race meet. At least one of the stewards shall be selected by the commission.
- (b) For the purpose of enforcing this chapter and the rules and orders of the commission, a decision by the stewards shall be passed by a majority vote.
- [4b] (c) Stewards shall exercise reasonable and necessary authority as designated by rules of the commission including the following:
- (i) enforce rules of the commission;
- (ii) rule on the outcome of events;
- (iii) evict from an event any person who has been convicted of bookmaking, bribery, or attempts to alter the outcome of any race through tampering with any animal that is not in accordance with this chapter or the rules of the commission;
- (iv) levy fines not to exceed \$2,500 for violations of rules of the commission, which fines shall be reported daily and paid to the commission within 48 hours of imposition and notice;
- (v) suspend licenses not to exceed one year for violations of rules of the commission, which suspension shall be reported to the commission daily; [and]
- (vi) recommend that the commission impose fines or suspensions greater than permitted by Subsections ~~(1)(b)(iv)~~ (1)(c)(iv) and (v)[-]; and
- (vii) exclude a horse from a racetrack facility in this state, or prohibit a horse from participating in a horse race or race meet.

(2) If a majority of the stewards agree, they may impose fines or suspend licenses.

(3) (a) [Any] A fine or license suspension imposed by a steward may be appealed in writing to the commission within five days after the fine or license suspension imposition. The commission may affirm or reverse the decision of a steward or may increase or decrease any fine or suspension.

(b) A fine imposed by the commission under this section or Section 4-38-301 may not exceed ~~[\$10,000] \$5,000.~~

(c) Suspensions of a license may be for any period of time but shall be commensurate with the seriousness of the offense.

Section 5. Section 4-38-203 is amended to read:

4-38-203. Race meets -- Licenses -- Fairs.

- (1) [Each] A person making application for a license to hold a race meet under this chapter shall

file an application ~~[with the commission which shall set]~~ that sets forth the time, place, and number of days the race meet will continue, and other information the commission may require.

(2) A person who has been convicted of a crime involving moral turpitude may not be issued a license to hold a race meet.

(3) (a) The license issued shall specify the kind and character of the race meet to be held, the number of days the race meet shall continue, and the number of races per day.

(b) The licensee shall pay in advance of the scheduled race meet to the commission a fee of not less than \$25. If unforeseen obstacles arise ~~[which]~~ that prevent the holding or completion of any race meet, the license fee held may be refunded to the licensee if the commission considers the reason for failure to hold or complete the race meet sufficient.

(4) (a) ~~[Any]~~ An unexpired license held by any person who violates ~~[any of the provisions of]~~ this chapter, or fails to pay to the commission any fees required under this chapter, ~~[shall be]~~ is subject to cancellation and revocation by the commission.

(b) This cancellation shall be made only after a summary hearing before the commission, of which seven days notice in writing shall be given the licensee, specifying the grounds for the proposed cancellation. At the hearing, the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

(5) (a) ~~[Fair boards or fair districts that conduct race meets]~~ A fair board or fair district that conducts a race meet in connection with a regularly scheduled annual [fairs shall be] fair is exempt from payment of the fees provided in this section, unless ~~[they sponsor]~~ the fair board or fair district sponsors a race in which the speed indexes are officially recognized under breed requirements.

(b) ~~[All fair boards and fair meets shall be]~~ A race meet in connection with a fair is limited to 14 race days, unless otherwise permitted by a unanimous vote of the commission.

(6) The exemption from the payment of fees under Subsection (5)(a) does not apply to ~~[those]~~ a race meet qualifying for official speed index races.

Section 6. Section 4-38-301 is amended to read:

4-38-301. Investigation -- License denial and suspension -- Grounds for revocation -- Fines.

(1) The commission or board of stewards of a recognized race meet, upon their own motion may, and upon verified complaint in writing of any person shall, investigate the activities of ~~[any]~~ a licensee within the state or ~~[any]~~ a licensed person upon the premises of a racetrack facility.

(2) The commission or board of stewards may fine, suspend a license, or deny an application for a license.

(3) A person with whom the commission contracts under Subsection 4-38-104(4) may deny an application for a license.

~~[(3)]~~ (4) The commission may revoke a license, if the licensee has committed any of the following violations:

(a) substantial or willful misrepresentation;

(b) disregard for or violation of ~~[any provisions of]~~ this chapter or of ~~[any]~~ a rule issued by the commission;

(c) conviction of a felony under the laws of this or any other state or of the United States, a ~~[certified]~~ true and correct copy of the judgment of the court of conviction of which shall be presumptive evidence of the conviction in any hearing held under this section;

(d) fraud, willful misrepresentation, or deceit in racing;

(e) falsification, misrepresentation, or omission of required information in a license application ~~[to the commission];~~

(f) failure to disclose to the commission a complete ownership or beneficial interest in a horse entered to be raced;

(g) misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of racing animals;

(h) failure to comply with ~~[any]~~ an order or ~~[rulings]~~ ruling of the commission, the stewards, or a racing ~~[official]~~ pertaining to a racing matter;

(i) ownership of any interest in or participation by any manner in any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise;

(j) being unqualified by experience or competence to perform the activity permitted by the license possessed or being applied for;

(k) employment or harboring of any unlicensed person on the premises of a racetrack facility if a license is required by this chapter or rule;

(l) discontinuance of or ineligibility for the activity for which the license was issued;

(m) being currently under suspension or revocation of a racing license in another racing jurisdiction;

(n) possession on the premises of a racetrack facility of:

(i) firearms; or

(ii) a battery, buzzer, electrical device, or other appliance other than a whip which could be used to alter the speed of a horse in a race or while working out or schooling;

(o) possession, on the premises of a racetrack facility, by a person other than a licensed veterinarian of a hypodermic needle, hypodermic syringe, or other similar device that may be used in administering medicine internally in a horse, or any

substance, compound items, or combination of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a horse unless:

(i) specifically authorized by a commission-approved veterinarian; or

(ii) as otherwise allowed by the stewards for the conditions of that horse race or race meet;

(p) cruelty to or neglect of a horse;

(q) offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;

(r) causing, attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of such act immediately to the stewards, the patrol judges, or the commission;

(s) entering, or aiding and abetting the entry of, a horse ineligible or unqualified for the race entered;

(t) willfully or unjustifiably entering or racing any horse in any race under any name or designation other than the name or designation assigned to the animal by and registered with the official recognized registry for that breed of animal, or willfully setting on foot, instigating, engaging in, or in any way furthering any act by which any horse is entered or raced in any race under any name or designation other than the name or designation duly assigned by and registered with the official recognized registry for the breed of animal; or

(u) racing at a racetrack facility without having that horse registered to race at that racetrack facility.

~~(4)~~ (5) (a) ~~[Any]~~ A person who fails to pay in a timely manner ~~[any]~~ a fine imposed pursuant to this chapter shall pay, in addition to the fine due, a penalty amount equal to the fine.

(b) ~~[Any]~~ A person who submits to the commission a check in payment of a fine or license fee requirement imposed pursuant to this chapter, which is not honored by the financial institution upon which ~~[it]~~ the check is drawn, shall pay, in addition to the fine or fee due, a penalty amount equal to the fine.

Section 7. Section 4-38-401 is amended to read:

4-38-401. Race meet money.

(1) ~~[Each race meet licensee shall deposit in escrow all added money and money from payment races in a FDIC bank that has received prior approval from the commission.]~~ The commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to determine how all the added money and money from payment races shall be collected and disbursed.

(2) ~~[All payment]~~ Payment deposits shall be made in a timely manner determined by the commission, and each licensee shall provide proof of deposits as required by the commission.

CHAPTER 240**H. B. 369**

Passed March 13, 2019
 Approved March 25, 2019
 Effective March 25, 2019

WORLD WAR II MEMORIAL COMMISSION

Chief Sponsor: Jennifer Dailey-Provost
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill creates the World War II Memorial Commission and establishes the commission's duties.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the World War II Memorial Commission;
- ▶ provides for the term and appointment of commission members;
- ▶ requires the commission to:
 - issue a request for designs for a World War II Memorial;
 - hold hearings regarding site options and design proposals; and
 - make a certain report and recommendation to the House Government Operations Standing Committee and the Senate Government Operations and Political Subdivisions Standing Committee;
- ▶ establishes a repeal date for the commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469

ENACTS:

63G-1-801, Utah Code Annotated 1953
 63G-1-802, Utah Code Annotated 1953
 63G-1-803, Utah Code Annotated 1953
 63G-1-804, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-801 is enacted to read:**63G-1-801. Definitions.**

As used in this part:

(1) "Commission" means the World War II Memorial Commission created in Section 63G-1-802.

(2) "Memorial" means the World War II Memorial to honor veterans of World War II and celebrate Utahns' significant contribution and sacrifice to American success in World War II.

Section 2. Section 63G-1-802 is enacted to read:**63G-1-802. World War II Memorial****Commission -- Creation -- Membership -- Meetings -- Staff.**

(1) There is created the World War II Memorial Commission.

(2) The commission consists of the following nine members:

(a) a member of the Senate that the president of the Senate appoints;

(b) two members of the House of Representatives that the speaker of the House of Representatives appoints;

(c) the following three individuals that the governor appoints:

(i) one individual from among three proposed individuals that the state commander of the Veterans of Foreign Wars recommends;

(ii) one individual from among three proposed individuals that the state commander of the American Legion recommends; and

(iii) one individual from among three proposed individuals that the state commander of the Disabled American Veterans recommends;

(d) the executive director of the Department of Veterans and Military Affairs or the executive director's designee;

(e) the executive director of the State Capitol Preservation Board or the executive director's designee; and

(f) the director of the Division of State History or the director's designee.

(3) Each individual with authority to appoint an individual under Subsection (2) shall make the appointment before July 1, 2019.

(4) The commission shall select a chair and a vice chair from among the members described in Subsection (2) during the commission's initial meeting.

(5) A majority of the commission constitutes a quorum for the transaction of commission business.

(6) The commission shall ensure that each meeting of the commission complies with Title 52, Chapter 4, Open and Public Meetings Act.

(7) The Division of State History shall provide staff support to the commission.

Section 3. Section 63G-1-803 is enacted to read:**63G-1-803. Commission vacancies -- Salaries and expenses.**

(1) (a) The individual who appointed a commission member may remove the member from the commission.

(b) If a commission member described in Subsection 63G-1-802(2)(a) or (b) leaves the

member's legislative office, the individual may not continue to serve as a commission member.

(c) Within 14 days after the day on which a vacancy occurs under Subsection (1)(a) or (b) or the day on which another event occurs that causes a vacancy, the individual who originally appointed the member to the subsequently vacant position shall fill the vacancy in accordance with Subsection 63G-1-802(2).

(2) (a) A commission member may not receive compensation or benefits for the member's service on the commission but may receive per diem and reimbursement for travel expenses incurred as a commission member as allowed in Sections 63A-3-106 and 63A-3-107 and rules that the Division of Finance makes in accordance with Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 4. Section 63G-1-804 is enacted to read:

63G-1-804. Commission duties.

The commission shall:

(1) convene the commission's initial meeting on or before July 12, 2019;

(2) before August 1, 2019, issue a request for designs for the memorial;

(3) before November 1, 2019, hold at least three public hearings regarding potential site options for the memorial;

(4) no later than the November interim meeting in 2019, make a report and recommendation to the Government Operations Interim Committee regarding:

(a) potential site options for the memorial; and

(b) public input that the commission received under Subsection (3); and

(5) before February 1, 2020:

(a) hold at least three public hearings regarding potential designs for the memorial; and

(b) provide a formal written proposal to the House Government Operations Standing Committee and the Senate Government Operations and Political Subdivisions Standing Committee regarding:

(i) the design and location of the memorial; and

(ii) the anticipated schedule and costs for construction of the memorial.

Section 5. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(3) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2020:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~3~~] (4) Section 63H-7a-303 is repealed on July 1, 2022.

[~~4~~] (5) On July 1, 2019:

(a) in Subsection 63J-1-206(2)(c)(i), the language that states "Subsection (2)(c)(ii) and" is repealed; and

(b) Subsection 63J-1-206(2)(c)(ii) is repealed.

[~~5~~] (6) Section 63J-4-708 is repealed January 1, 2023.

[~~6~~] (7) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

[~~7~~] (8) Section 63N-3-110 is repealed July 1, 2020.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 241**H. B. 370**

Passed March 14, 2019
 Approved March 25, 2019
 Effective July 1, 2019

**PHARMACY BENEFIT
 MANAGER AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Patrice M. Arent
 Melissa G. Ballard
 Stewart E. Barlow
 Walt Brooks
 Kay J. Christofferson
 Brad M. Daw
 Steve Eliason
 Francis D. Gibson
 Stephen G. Handy
 Jon Hawkins
 Sandra Hollins
 Dan N. Johnson
 Brian S. King
 Karen Kwan
 Kelly B. Miles
 Carol Spackman Moss
 Merrill F. Nelson
 Lee B. Perry
 Val K. Potter
 Marie H. Poulson
 Susan Pulsipher
 Tim Quinn
 Angela Romero
 Douglas V. Sagers
 Mike Schultz
 Lawanna Shurtliff
 Casey Snider
 Norman K. Thurston
 Christine F. Watkins
 Elizabeth Weight
 Mark A. Wheatley
 Mike Winder

LONG TITLE**General Description:**

This bill amends and creates requirements for pharmacy benefit managers.

Highlighted Provisions:

This bill:

- ▶ creates a pharmacy benefit manager license;
- ▶ requires a person who acts as a pharmacy benefit manager in the state to be licensed by the Insurance Department; and
- ▶ creates certain operating and reporting requirements for pharmacy benefit managers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-2-201.2, as last amended by Laws of Utah 2018, Chapter 319

ENACTS:

31A-46-101, Utah Code Annotated 1953
 31A-46-102, Utah Code Annotated 1953
 31A-46-201, Utah Code Annotated 1953
 31A-46-202, Utah Code Annotated 1953
 31A-46-301, Utah Code Annotated 1953
 31A-46-304, Utah Code Annotated 1953
 31A-46-401, Utah Code Annotated 1953
 31A-46-402, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

31A-46-302, (Renumbered from 58-17b-626, as enacted by Laws of Utah 2018, Chapter 305)
 31A-46-303, (Renumbered from 31A-22-640, as last amended by Laws of Utah 2015, Chapter 258)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-2-201.2 is amended to read:**31A-2-201.2. Evaluation of health insurance market.**

- (1) Each year the commissioner shall:
- (a) conduct an evaluation of the state's health insurance market;
 - (b) report the findings of the evaluation to the Health and Human Services Interim Committee before December 1 of each year; and
 - (c) publish the findings of the evaluation on the department website.
- (2) The evaluation required by this section shall:
- (a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the state, and includes an analysis of:
 - (i) the availability and marketing of individual and group products;
 - (ii) rate changes;
 - (iii) coverage and demographic changes;
 - (iv) benefit trends;
 - (v) market share changes; and
 - (vi) accessibility;
 - (b) assess complaint ratios and trends within the health insurance market, which assessment shall include complaint data from the Office of Consumer Health Assistance within the department;
 - (c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes; [and]
 - (d) include claims loss ratio data for each health insurance company doing business in the state[-]; and
 - (e) include information about pharmacy benefit managers collected under Section 31A-46-301.
- (3) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured

persons, providers, and others with an interest in the health insurance market.

(4) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.

(5) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 31A-46-101 is enacted to read:

CHAPTER 46. PHARMACY BENEFIT MANAGER LICENSING ACT

Part 1. General Provisions

31A-46-101. Title.

This chapter is known as the “Pharmacy Benefit Manager Licensing Act.”

Section 3. Section 31A-46-102 is enacted to read:

31A-46-102. Definitions.

As used in this chapter:

(1) “Administrative fee” means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

(2) “Contracting insurer” means an insurer as defined in Section 31A-22-636 with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.

(3) “Pharmacist” means the same as that term is defined in Section 58-17b-102.

(4) “Pharmacy” means the same as that term is defined in Section 58-17b-102.

(5) “Pharmacy benefits management service” means any of the following services provided to a health benefit plan, or to a participant of a health benefit plan:

(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

(b) administering or managing a prescription drug benefit provided by the health benefit plan for the benefit of a participant of the health benefit plan, including administering or managing:

- (i) a mail service pharmacy;
- (ii) a specialty pharmacy;
- (iii) claims processing;
- (iv) payment of a claim;
- (v) retail network management;
- (vi) clinical formulary development;
- (vii) clinical formulary management services;
- (viii) rebate contracting;

(ix) rebate administration;

(x) a participant compliance program;

(xi) a therapeutic intervention program;

(xii) a disease management program; or

(xiii) a service that is similar to, or related to, a service described in Subsection (5)(a) or (5)(b)(i) through (xii).

(6) “Pharmacy benefit manager” means a person licensed under this chapter to provide a pharmacy benefits management service.

(7) “Pharmacy service” means a product, good, or service provided to an individual by a pharmacy or pharmacist.

(8) (a) “Rebate” means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug’s utilization or effectiveness.

(b) “Rebate” does not include an administrative fee.

Section 4. Section 31A-46-201 is enacted to read:

Part 2. Licensure

31A-46-201. License required.

(1) A person may not perform, offer to perform, or advertise any pharmacy benefits management service in the state unless the person is licensed as a pharmacy benefit manager under this chapter.

(2) A person may not utilize the services of another person as a pharmacy benefit manager if the person knows or has reason to know that the other person does not have a license under this chapter.

Section 5. Section 31A-46-202 is enacted to read:

31A-46-202. Application for licensure.

(1) To obtain or renew a license as a pharmacy benefit manager, a person shall:

(a) submit an application to the commissioner on forms and in a manner established by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) pay a licensure fee established by the department in accordance with Section 31A-3-103.

(2) (a) The commissioner may require an applicant to submit information or documentation regarding the management and ownership of the pharmacy benefit manager in the application described in Subsection (1)(a).

(b) Any material change in the information submitted in an application described in Subsection (1)(a) shall be reported to the department within 30 days after the day on which the information changes.

(3) The term of a license issued under this section is one year.

Section 6. Section 31A-46-301 is enacted to read:

Part 3. Operating Requirements

31A-46-301. Reporting requirements.

(1) Before April 1 of each year, a pharmacy benefit manager operating in the state shall report to the department, for the previous calendar year:

(a) any insurer, pharmacy, or pharmacist in the state with which the pharmacy benefit manager had a contract;

(b) the total value, in the aggregate, of all rebates and administrative fees that are attributable to enrollees of a contracting insurer; and

(c) the percentage of aggregate rebates that the pharmacy benefit manager retained under the pharmacy benefit manager's agreement to provide pharmacy benefits management services to a contracting insurer.

(2) Records submitted to the commissioner under Subsections (1)(b) and (c) are a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(3) (a) The department shall publish the information provided by a pharmacy benefit manager under Subsection (1)(c) in the annual report described in Section 31A-2-201.2.

(b) The department may not publish information submitted under Subsection (1)(b) or (c) in a manner that:

(i) makes a specific submission from a contracting insurer or pharmacy benefit manager identifiable; or

(ii) is likely to disclose information that is a trade secret as defined in Section 13-24-2.

(c) At least 30 days before the day on which the department publishes the data, the department shall provide a pharmacy benefit manager that submitted data under Subsection (1)(b) or (c) with:

(i) a general description of the data that will be published by the department;

(ii) an opportunity to submit to the department, within a reasonable period of time and in a manner established by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) any correction of errors, with supporting evidence and comments; and

(B) information that demonstrates that the publication of the data will violate Subsection (3)(b), with supporting evidence and comments.

Section 7. Section 31A-46-302, which is renumbered from Section 58-17b-626 is renumbered and amended to read:

[58-17b-626]. 31A-46-302. Direct or indirect remuneration by pharmacy benefit managers -- Disclosure of customer costs -- Limit on customer payment for prescription drugs.

(1) As used in this section:

(a) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.

~~(a)~~ (b) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.

~~(b)~~ (c) "Direct or indirect remuneration" means any adjustment in the total compensation:

(i) received by a pharmacy from a pharmacy ~~[benefits manager or coordinator]~~ benefit manager for the sale of a drug, device, or other product or service; and

(ii) that is determined after the sale of the product or service.

~~(c)~~ (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(e) "Pharmacy reimbursement" means the amount paid to a pharmacy by a pharmacy benefit manager for a dispensed prescription drug.

~~(d)~~ (f) "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

(i) contracting with a pharmacy ~~[benefits manager or coordinator]~~ benefit manager on behalf of the pharmacy; and

(ii) managing a pharmacy's claims payments from third-party payers.

~~(e)~~ (g) "Pharmacy service entity" means:

(i) a pharmacy services administration organization; or

(ii) a pharmacy ~~[benefits manager or coordinator]~~ benefit manager.

~~(f)~~ (h) (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

(ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

~~(g)~~ (i) "Sale" means a prescription drug claim covered by a health benefit plan.

(2) If a pharmacy service entity engages in direct or indirect remuneration with a pharmacy, the pharmacy service entity shall make a reimbursement report available to the pharmacy upon the pharmacy's request.

(3) For the reimbursement report described in Subsection (2), the pharmacy service entity shall:

(a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and

(b) provide the reimbursement report:

(i) in accordance with the contract between the pharmacy and the pharmacy service entity;

(ii) in an electronic format that is easily accessible; and

(iii) within 120 days after the day on which the pharmacy [~~benefits manager or coordinator~~] benefit manager receives a report of a sale of a product or service by the pharmacy.

(4) A pharmacy service entity shall, upon a pharmacy's request, provide the pharmacy with:

(a) the reasons for any adjustments contained in a reimbursement report; and

(b) an explanation of the reasons provided in Subsection (4)(a).

(5) (a) A pharmacy [~~benefits manager or coordinator~~] benefit manager may not prohibit or penalize the disclosure by a pharmacist of:

(i) an insured customer's cost share for a covered prescription drug;

(ii) the availability of any therapeutically equivalent alternative medications; or

(iii) alternative methods of paying for the prescription medication, including paying the cash price, that are less expensive than the cost share of the prescription drug.

(b) Penalties that are prohibited under Subsection (5)(a) include increased utilization review, reduced payments, and other financial disincentives.

(6) A pharmacy [~~benefits manager or coordinator~~] benefit manager may not require an insured customer to pay, for a covered prescription drug, more than the lesser of:

(a) the applicable cost share of the prescription drug being dispensed; ~~or~~

(b) the applicable allowable claim amount of the prescription drug being dispensed;

(c) the applicable pharmacy reimbursement of the prescription drug being dispensed; or

~~(d)~~ (d) the retail price of the drug without prescription drug coverage.

Section 8. Section 31A-46-303, which is renumbered from Section 31A-22-640 is renumbered and amended to read:

[31A-22-640]. 31A-46-303. Insurer and pharmacy benefit management services -- Registration -- Maximum allowable cost -- Audit restrictions.

(1) [~~For purposes of~~] As used in this section:

(a) "Maximum allowable cost" means:

(i) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or

(ii) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.

(b) "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

(c) "Pharmacy benefit manager" means a person or entity that provides pharmacy benefit management services as defined in Section 49-20-502 on behalf of an insurer as defined in Subsection 31A-22-636(1).

(2) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy audit provisions of Section 58-17b-622.

(3) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to a pharmacy unless:

(a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalent evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; and

(b) the drug is:

(i) generally available for purchase in this state from a national or regional wholesaler; and

(ii) not obsolete.

(4) The maximum allowable cost may be determined using comparable and current data on drug prices obtained from multiple nationally recognized, comprehensive data sources, including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by pharmacies in the state.

(5) For every drug for which the pharmacy benefit manager uses maximum allowable cost to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

(a) include in the contract with the pharmacy information identifying the national drug pricing compendia and other data sources used to obtain the drug price data;

(b) review and make necessary adjustments to the maximum allowable cost, using the most recent data sources identified in Subsection (5)(a), at least once per week;

(c) provide a process for the contracted pharmacy to appeal the maximum allowable cost in accordance with Subsection (6); and

(d) include in each contract with a contracted pharmacy a process to obtain an update to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available and accessible.

(6) (a) The right to appeal in Subsection (5)(c) shall be:

(i) limited to 21 days following the initial claim adjudication; and

(ii) investigated and resolved by the pharmacy benefit manager within 14 business days.

(b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy with the reason for the denial and the identification of the national drug code of the drug that may be purchased by the pharmacy at a price at or below the price determined by the pharmacy benefit manager.

(7) The contract with each pharmacy shall contain a dispute resolution mechanism in the event either party breaches the terms or conditions of the contract.

~~[(8) (a) To conduct business in the state, a pharmacy benefit manager shall register with the Division of Corporations and Commercial Code within the Department of Commerce and annually renew the registration. To register under this section, the pharmacy benefit manager shall submit an application which shall contain only the following information:]~~

~~[(i) the name of the pharmacy benefit manager;]~~

~~[(ii) the name and contact information for the registered agent for the pharmacy benefit manager; and]~~

~~[(iii) if applicable, the federal employer identification number for the pharmacy benefit manager.]~~

~~[(b) The Department of Commerce may establish a fee in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, for the initial registration and the annual renewal of the registration, which may not exceed \$100 per year.]~~

~~[(c) The following entities do not have to register as a pharmacy benefit manager under Subsection (8)(a) when the entity is providing formulary services to its own patients, employees, members, or beneficiaries:]~~

~~[(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;]~~

~~[(ii) a pharmacy licensed under Title 58, Chapter 17b, Pharmacy Practice Act;]~~

~~[(iii) a health care professional licensed under Title 58, Occupations and Professions;]~~

~~[(iv) a health insurer; and]~~

~~[(v) a labor union.]~~

~~[(9)] (8) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the state Medicaid program.~~

Section 9. Section 31A-46-304 is enacted to read:

31A-46-304. Claims practices.

(1) A pharmacy benefit manager shall permit a pharmacy to collect the amount of a customer's cost share from any source.

(2) A pharmacy benefit manager may not deny or reduce a reimbursement to a pharmacy or a

pharmacist after the adjudication of the claim, unless:

(a) the pharmacy or pharmacist submitted the original claim fraudulently;

(b) the original reimbursement was incorrect because:

(i) the pharmacy or pharmacist had already been paid for the pharmacy service; or

(ii) an unintentional error resulted in an incorrect reimbursement; or

(c) the pharmacy service was not rendered by the pharmacy or pharmacist.

(3) Subsection (2) does not apply if:

(a) an investigative audit of pharmacy records for fraud, waste, abuse, or other intentional misrepresentation indicates that the pharmacy or pharmacist engaged in criminal wrongdoing, fraud, or other intentional misrepresentation; or

(b) the reimbursement is reduced as the result of the reconciliation of a reimbursement amount under a performance contract if:

(i) the performance contract lays out clear performance standards under which the reimbursement for a specific drug may be increased or decreased; and

(ii) the agreement between the pharmacy benefit manager and the pharmacy or pharmacist explicitly states, in a separate document that is signed by the pharmacy benefit manager and the pharmacy or pharmacist, that the provisions of Subsection (2) do not apply.

Section 10. Section 31A-46-401 is enacted to read:

Part 4. Miscellaneous

31A-46-401. Penalties.

A person that violates a provision of this chapter is subject to the penalties described in Section 31A-2-308.

Section 11. Section 31A-46-402 is enacted to read:

31A-46-402. Severability.

If any provision of this chapter or the application of any provision of this chapter is found invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Section 12. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 242**H. B. 371**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**CONSENT TO SERVICES
FOR HOMELESS YOUTH**

Chief Sponsor: Elizabeth Weight
 Senate Sponsor: Luz Escamilla
 Cosponsors: Patrice M. Arent
 Melissa G. Ballard
 Joel K. Briscoe
 Jennifer Dailey-Provost
 Brad M. Daw
 Susan Duckworth
 Craig Hall
 Stephen G. Handy
 Suzanne Harrison
 Sandra Hollins
 Marsha Judkins
 Brian S. King
 Karen Kwan
 Carol Spackman Moss
 Derrin R. Owens
 Stephanie Pitcher
 Val K. Potter
 Marie H. Poulson
 Susan Pulsipher
 Paul Ray
 Angela Romero
 Lawanna Shurtliff
 Andrew Stoddard
 Christine F. Watkins
 Mark A. Wheatley
 Logan Wilde

LONG TITLE**General Description:**

This bill relates to a homeless youth's ability to consent to temporary shelter, care, or services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ waives the fee for a certified copy of a birth certificate and an identification card for a youth who can show that the youth is homeless;
- ▶ modifies the circumstances under which a person who provides temporary shelter to a homeless youth is subject to a criminal penalty;
- ▶ provides that a homeless youth may consent to temporary shelter, care, or services under certain circumstances;
- ▶ requires a person who provides temporary shelter, care, or services, to a consenting homeless youth to keep certain records and report to the Division of Child and Family Services; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-2-12.6, as enacted by Laws of Utah 2018, Chapter 301
 53-3-105, as last amended by Laws of Utah 2018, Chapters 301 and 417
 62A-4a-501, as last amended by Laws of Utah 2018, Chapter 235

ENACTS:

62A-4a-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-12.6 is amended to read:**26-2-12.6. Fee waived for certified copy of birth certificate.**

(1) Notwithstanding Section 26-1-6 and Section 26-2-12.5, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

- (a) the individual requesting the certified copy of the birth certificate; and
- (b) (i) homeless, as defined in Section 26-18-411;
- (ii) a person who is homeless, as defined in Section 35A-5-302; [øf]
- (iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual[-]; or
- (iv) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

- (a) a homeless shelter, as defined in Section 10-9a-526;
- (b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;
- (c) the Department of Workforce Services; [øf]
- (d) a facility that serves an individual described in Subsection (1)(b) and maintains data on an individual described in Subsection (1)(b) through the Homeless Management Information System[-]; or
- (e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Section 2. Section 53-3-105 is amended to read:**53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.**

The following fees apply under this chapter:

- (1) An original class D license application under Section 53-3-205 is \$32.

(2) An original provisional license application for a class D license under Section 53-3-205 is \$39.

(3) An original application for a motorcycle endorsement under Section 53-3-205 is \$11.

(4) An original application for a taxicab endorsement under Section 53-3-205 is \$9.

(5) A learner permit application under Section 53-3-210.5 is \$19.

(6) A renewal of a class D license under Section 53-3-214 is \$32 unless Subsection (10) applies.

(7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$32.

(8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$11.

(9) A renewal of a taxicab endorsement under Section 53-3-214 is \$9.

(10) A renewal of a class D license for a person 65 and older under Section 53-3-214 is \$17.

(11) An extension of a class D license under Section 53-3-214 is \$26 unless Subsection (15) applies.

(12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$26.

(13) An extension of a motorcycle endorsement under Section 53-3-214 is \$11.

(14) An extension of a taxicab endorsement under Section 53-3-214 is \$9.

(15) An extension of a class D license for a person 65 and older under Section 53-3-214 is \$14.

(16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is \$52.

(17) A commercial class A, B, or C license skills test is \$78.

(18) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$9.

(19) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$9.

(20) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$9.

(21) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

(22) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

(23) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

(24) (a) A license reinstatement application under Section 53-3-205 is \$40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$45 in addition to the fee under Subsection (24)(a).

(25) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$255.

(b) This administrative fee is in addition to the fees under Subsection (24).

(26) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(27) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(28) (a) Except as provided under Subsections (28)(b) and (c), an identification card application under Section 53-3-808 is \$23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years of age; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, ~~or~~ a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; ~~or~~

(C) the Department of Workforce Services~~[-];~~ or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(29) (a) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(b) The fee described in Subsection (29)(a) shall be waived if the applicant submits written verification that the individual is homeless, as defined in

Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; ~~or~~

(iii) the Department of Workforce Services~~[-]; or~~

(iv) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(30) (a) An extension of a regular identification card under Subsection 53-3-807(6) is \$23.

(b) The fee described in Subsection (30)(a) shall be waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

(31) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(32) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

(33) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

(34) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

Section 3. Section 62A-4a-501 is amended to read:

62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to provide assistance -- Affirmative defense -- Providing shelter after notice.

(1) As used in this section:

(a) "Harbor" means to provide shelter in:

(i) the home of the person who is providing the shelter; or

(ii) any structure over which the person providing the shelter has any control.

(b) "Homeless youth" means a child, other than an emancipated minor:

(i) who is a runaway; or

(ii) who is not accompanied by the child's parent or legal guardian.

~~(b)~~ (c) "Receiving center" means the same as that term is defined in Section 62A-7-101.

~~(e)~~ (d) "Runaway" means a child, other than an emancipated minor, who is absent from the home or lawfully prescribed residence of the child's parent or legal guardian ~~[of the child]~~ without the permission of the parent or legal guardian.

~~(d)~~ (e) "Temporary homeless youth shelter" means a facility that:

(i) provides temporary shelter to a ~~runaway~~ homeless youth; and

(ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a residential support program.

~~(e)~~ (f) "Youth services center" means a center established by, or under contract with, the Division of Juvenile Justice Services, created in Section 62A-1-105, to provide youth services, as defined in Section 62A-7-101.

(2) Except as provided in Subsection (3), a person, including a temporary homeless youth shelter, is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a child;

(b) knows at the time of harboring the child that the child is a runaway;

(c) fails to notify one of the following, by telephone or other reasonable means, of the location of the child:

(i) the parent or legal guardian of the child;

(ii) the division; or

(iii) a youth services center; and

(d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:

(i) the time that the person becomes aware that the child is a runaway; or

(ii) the time that the person begins harboring the child.

(3) A person described in Subsection (2), including a temporary homeless youth shelter, is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:

(a) (i) a court order is issued authorizing a peace officer to take the child into custody; and

~~(b)~~ (ii) the person notifies a peace officer or the nearest detention center, as defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the child, within eight hours after the later of:

~~(4)~~ (A) the time that the person becomes aware that the child is a runaway; or

~~(4ii)~~ (B) the time that the person begins harboring the child~~[-]; or~~

(b) (i) the child is a runaway who consents to shelter, care, or licensed services under Section 62A-4a-502; and

(ii) (A) the person is unable to locate the child's parent or legal guardian; or

(B) the child refuses to disclose the contact information for the child's parent or legal guardian.

(4) A person described in Subsection (2), including a temporary homeless youth shelter, shall provide a report to the division:

(a) if the person has an obligation under Section 62A-4a-403 to report child abuse or neglect; or

(b) if, within 48 hours after the person begins harboring the child:

(i) the person continues to harbor the child; and

(ii) the person does not make direct contact with:

(A) a parent or legal guardian of the child;

(B) the division;

(C) a youth services center; or

(D) a peace officer or the nearest detention center, as defined in Section 62A-7-101, if a court order is issued authorizing a peace officer to take the ~~minor~~ child into custody.

(5) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.

(6) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the parent or legal guardian that a report has been made; and

(ii) inform the parent or legal guardian of assistance available from the youth services center; or

(b) the division shall:

(i) determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

(7) (a) A parent or legal guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway.

(b) The local law enforcement agency may assist the parent or legal guardian in retrieving the runaway.

(8) Nothing in this section prohibits a person, including a temporary homeless youth shelter, from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through (4), if:

(a) a parent or legal guardian of the child consents to the continued provision of shelter; or

(b) a peace officer or a parent or legal guardian of the child fails to retrieve the runaway.

(9) Nothing in this section prohibits a person or a temporary homeless youth shelter from providing shelter to a child whose ~~parents~~ parent or legal guardians have guardian has intentionally:

(a) ceased to maintain physical custody of the child; and

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the child; ~~and~~.

~~[(c) failed to provide the child with food, shelter, or clothing.]~~

(10) Nothing in this section prohibits:

(a) a receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of Title 62A, Chapter 7, Juvenile Justice Services, and the rules relating to a receiving center or a youth services center; or

(b) a government agency from taking custody of a child as otherwise provided by law.

Section 4. Section 62A-4a-502 is enacted to read:

62A-4a-502. Consent to shelter, care, or services by a child.

(1) As used in this section:

(a) "Care" means providing:

(i) assistance to obtain food, clothing, hygiene products, or other basic necessities;

(ii) access to a bed, showering facility, or transportation; or

(iii) assistance with school enrollment or attendance.

(b) "Homeless youth" means the same as that term is defined in Section 62A-4a-501.

(c) "Licensed services" means a service provided by a temporary homeless youth shelter, a youth services center, or other facility that is licensed to provide the service to a homeless youth.

(d) "Service" means:

(i) youth services, as defined in Section 62A-7-101;

(ii) child welfare or juvenile court case management or advocacy;

(iii) aftercare services, as defined in 45 C.F.R. 1351.1; or

(iv) independent living skills training.

(e) "Temporary homeless youth shelter" means the same as that term is defined in Section 62A-4a-501.

(f) "Youth services center" means the same as that term is defined in Section 62A-4a-501.

(2) A homeless youth may consent to temporary shelter, care, or licensed services if the homeless youth:

(a) is at least 15 years old; and

(b) manages the homeless youth's own financial affairs, regardless of the source of income.

(3) In determining consent under Subsection (2), a person may rely on the homeless youth's verbal or written statement describing the homeless youth's ability to consent to temporary shelter, care, or licensed services.

(4) A person who provides shelter, care, or licensed services to a homeless youth who consents to the shelter, care, or licensed services under Subsection (2):

(a) shall report to the division as required under Section 62A-4a-403 and Subsection 62A-4a-501(4); and

(b) may provide the homeless youth a referral to safe permanent housing, employment services, medical or dental care, or counseling.

CHAPTER 243**H. B. 378**

Passed March 12, 2019
Approved March 25, 2019
Effective May 14, 2019

REGULATORY SANDBOX

Chief Sponsor: Marc K. Roberts
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill modifies provisions related to the Department of Commerce.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a regulatory sandbox program in the Department of Commerce, which allows a participant to temporarily test innovative financial products or services on a limited basis without otherwise being licensed or authorized to act under the laws of the state;
- ▶ describes who may participate in the program;
- ▶ describes how the Department of Commerce shall administer the program; and
- ▶ describes reporting requirements for participants in the program and for the Department of Commerce.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

13-55-101, Utah Code Annotated 1953
13-55-102, Utah Code Annotated 1953
13-55-103, Utah Code Annotated 1953
13-55-104, Utah Code Annotated 1953
13-55-105, Utah Code Annotated 1953
13-55-106, Utah Code Annotated 1953
13-55-107, Utah Code Annotated 1953
13-55-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-55-101 is enacted to read:**CHAPTER 55. REGULATORY SANDBOX PROGRAM****13-55-101. Title.**

This chapter is known as the "Regulatory Sandbox Program."

Section 2. Section 13-55-102 is enacted to read:**13-55-102. Definitions.**

As used in this chapter:

(1) "Applicable agency" means a department or agency of the state, including the department and the Department of Financial Institutions, that by

law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate a sandbox participant.

(2) "Applicant" means an individual or entity that is applying to participate in the regulatory sandbox.

(3) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

(4) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a sandbox participant.

(5) "Department" means the Department of Commerce.

(6) (a) "Financial product or service" means:

(i) a financial product or financial service that requires state licensure or registration; or

(ii) a financial product or financial service that includes a business model, delivery mechanism, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related provisions.

(b) "Financial product or service" does not include a product or service that is governed by:

(i) Title 31A, Insurance Code; or

(ii) Title 61, Chapter 1, Utah Uniform Securities Act.

(7) "Innovation" means the use or incorporation of a new or emerging technology or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism that is not known by the department to have a comparable widespread offering in the state.

(8) "Innovative product or service" means a financial product or service that includes an innovation.

(9) "Regulatory sandbox" means the Regulatory Sandbox Program created by Section 13-55-103, which allows a person to temporarily test an innovative product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

(10) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.

(11) "Test" means to provide an innovative product or service in accordance with the provisions of this chapter.

Section 3. Section 13-55-103 is enacted to read:

13-55-103. Regulatory Sandbox Program -- Application requirements.

(1) There is created in the department the Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the department:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain limited access to the market in the state to test an innovative product or service without obtaining a license or other authorization that might otherwise be required; and

(c) may enter into agreements with or follow the best practices of the Consumer Financial Protection Bureau or other states that are administering similar programs.

(3) An applicant for the regulatory sandbox shall provide to the department an application in a form prescribed by the department that:

(a) demonstrates the applicant is subject to the jurisdiction of the state;

(b) demonstrates the applicant has established a physical location in the state, from which testing will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the department;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) demonstrates that the applicant has the necessary personnel, financial and technical expertise, access to capital, and developed plan to test, monitor, and assess the innovative product or service;

(f) contains a description of the innovative product or service to be tested, including statements regarding all of the following:

(i) how the innovative product or service is subject to licensing or other authorization requirements outside of the regulatory sandbox;

(ii) how the innovative product or service would benefit consumers;

(iii) how the innovative product or service is different from other products or services available in the state;

(iv) what risks may confront consumers that use or purchase the innovative product or service;

(v) how participating in the regulatory sandbox would enable a successful test of the innovative product or service;

(vi) a description of the proposed testing plan, including estimated time periods for beginning the test, ending the test, and obtaining necessary licensure or authorizations after the testing is complete;

(vii) a description of how the applicant will perform ongoing duties after the test; and

(viii) how the applicant will end the test and protect consumers if the test fails; and

(g) provides any other required information as determined by the department.

(4) The department may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(5) An applicant shall file a separate application for each innovative product or service that the applicant wants to test.

(6) After an application is filed, the department may seek additional information from the applicant that the department determines is necessary.

(7) Subject to Subsection (8), not later than 90 days after the day on which a complete application is received by the department, the department shall inform the applicant as to whether the application is approved for entry into the regulatory sandbox.

(8) The department and an applicant may mutually agree to extend the 90-day time period described in Subsection (7) for the department to determine whether an application is approved for entry into the regulatory sandbox.

(9) (a) In reviewing an application under this section, the department shall consult with, and get approval from, each applicable agency before admitting an applicant into the regulatory sandbox.

(b) The consultation with an applicable agency may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant;

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant;

(iii) whether the applicant could obtain a license or other authorization from the applicable agency after exiting the regulatory sandbox; and

(iv) whether certain licensure or other regulations should not be waived even if the applicant is accepted into the regulatory sandbox.

(10) In reviewing an application under this section, the department shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(11) If the department and each applicable agency approve admitting an applicant into the regulatory sandbox an applicant may become a sandbox participant.

(12) (a) The department may deny any application submitted under this section, for any reason, at the department's discretion.

(b) If the department denies an application submitted under this section, the department shall provide to the applicant a written description of the reasons for the denial as a sandbox participant.

Section 4. Section 13-55-104 is enacted to read:

13-55-104. Scope of the regulatory sandbox.

(1) If the department approves an application under Section 13-55-103, the sandbox participant has 24 months after the day on which the application was approved to test the innovative product or service described in the sandbox participant's application.

(2) An innovative product or service that is tested within the regulatory sandbox is subject to the following:

(a) consumers shall be residents of the state;

(b) the department may, on a case by case basis, specify the maximum number of consumers that may transact through or enter into an agreement to use the innovative product or service;

(c) for a sandbox participant testing a consumer loan the department may, on a case by case basis, specify the maximum amount of an individual loan that may be issued to an individual consumer and the maximum amount of aggregate loans that may be issued to an individual consumer; and

(d) for a sandbox participant testing an innovative product or service that would normally require a money transmission license under Section 7-25-201, the department may, on a case by case basis, specify the maximum amount of a single transaction for an individual consumer and the maximum aggregate amount of transactions for an individual consumer.

(3) This section does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(4) A sandbox participant is deemed to possess an appropriate license under the laws of the state for the purposes of any provision of federal law requiring state licensure or authorization.

(5) Except as otherwise provided in this chapter, including in Subsections (6) and (7), a sandbox participant that is testing an innovative product or service is not subject to state laws that regulate financial products or services.

(6) (a) The department may only determine that certain state laws that regulate a financial product or service apply to a sandbox participant if the department, at the department's sole discretion, determines that:

(i) an applicant's plan to protect consumers will not adequately protect consumers from the harm the state law addresses; and

(ii) the benefits to consumers of applying the law outweigh the potential benefits to consumers from increased competition, innovation, and consumer

access that waiving the law, in conjunction with the applicant's ability to compensate consumers who may be harmed, would provide.

(b) If the department determines that certain state laws that regulate a financial product or service apply to a sandbox participant, the department shall notify the sandbox participant of the specific regulatory provisions that apply to the sandbox participant.

(7) Notwithstanding any other provision of this chapter, a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.

(8) By written notice, the department may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the department determines a sandbox participant is not operating in good faith to bring an innovative product or service to market.

Section 5. Section 13-55-105 is enacted to read:

13-55-105. Consumer protection for regulatory sandbox.

(1) Before providing an innovative product or service to a consumer, a sandbox participant shall disclose the following to the consumer:

(a) the name and contact information of the sandbox participant;

(b) that the innovative product or service is authorized pursuant to the regulatory sandbox and, if applicable, that the sandbox participant does not have a license or other authorization to provide a product or service under state laws that regulate products or services outside the regulatory sandbox;

(c) that the innovative product or service is undergoing testing and may not function as intended and may expose the customer to financial risk;

(d) that the provider of the innovative product or service is not immune from civil liability for any losses or damages caused by the innovative product or service;

(e) that the state does not endorse or recommend the innovative product or service;

(f) that the innovative product or service is a temporary test that may be discontinued at the end of the testing period;

(g) the expected end date of the testing period; and

(h) that a consumer may contact the department to file a complaint regarding the innovative product or service being tested and provide the department's telephone number and website address where a complaint may be filed.

(2) The disclosures required by Subsection (1) shall be provided to a consumer in a clear and conspicuous form and, for an internet or

application-based innovative product or service, a consumer shall acknowledge receipt of the disclosure before a transaction may be completed.

(3) The department may require that a sandbox participant make additional disclosures to a consumer.

Section 6. Section 13-55-106 is enacted to read:

13-55-106. Requirements for exiting regulatory sandbox.

(1) At least 30 days before the end of the 24-month regulatory sandbox testing period, a sandbox participant shall:

(a) notify the department that the sandbox participant will exit the regulatory sandbox, discontinue the sandbox participant's test, and will stop offering any innovative product or service in the regulatory sandbox within 60 days after the day on which the 24-month testing period ends; or

(b) seek an extension in accordance with Section 13-55-107.

(2) Subject to Subsection (3), if the department does not receive notification as required by Subsection (1), the regulatory sandbox testing period ends at the end of the 24-month testing period and the sandbox participant shall immediately stop offering each innovative product or service being tested.

(3) If a test includes offering an innovative product or service that requires ongoing duties, such as servicing a loan, the sandbox participant shall continue to fulfill those duties or arrange for another person to fulfill those duties after the date on which the sandbox participant exits the regulatory sandbox.

Section 7. Section 13-55-107 is enacted to read:

13-55-107. Extensions.

(1) Not later than 30-days before the end of the 24-month regulatory sandbox testing period, a sandbox participant may request an extension of the regulatory sandbox testing period for the purpose of obtaining a license or other authorization required by law.

(2) The department shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 24-month regulatory sandbox testing period.

(3) The department may grant an extension in accordance with this section for not more than six months after the end of the regulatory sandbox testing period.

(4) A sandbox participant that obtains an extension in accordance with this section shall provide the department with a written report every three months that provides an update on efforts to obtain a license or other authorization required by law, including any submitted applications for licensure or other authorization, rejected

applications, or issued licenses or other authorization.

Section 8. Section 13-55-108 is enacted to read:

13-55-108. Record keeping and reporting requirements.

(1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an innovative product or service tested in the regulatory sandbox.

(2) If an innovative product or service fails before the end of a testing period, the sandbox participant shall notify the department and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result of the failure.

(3) The department may establish periodic reporting requirements for a sandbox participant.

(4) The department may request records, documents, and data from a sandbox participant and, upon the department's request, a sandbox participant shall make such records, documents, and data available for inspection by the department.

(5) If the department determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a state or federal criminal law, the department may remove a sandbox participant from the regulatory sandbox.

(6) By October 1, the department shall provide an annual written report to the Business and Labor Interim Committee that provides information regarding each sandbox participant and that provides recommendations regarding the effectiveness of the Regulatory Sandbox Program.

CHAPTER 244**H. B. 381**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

AMUSEMENT RIDE SAFETY

Chief Sponsor: Val K. Potter
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill enacts provisions related to amusement ride safety.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Amusement Ride Safety Committee within the Department of Transportation;
- ▶ provides for the appointment of a director of the Utah Amusement Ride Safety Committee;
- ▶ establishes the Amusement Ride Safety Restricted Account;
- ▶ grants the Utah Amusement Ride Safety Committee certain rulemaking authority to administer the provisions of this bill;
- ▶ provides for establishing safety standards for amusement rides;
- ▶ instructs the director of the Utah Amusement Ride Safety Committee shall certify qualified safety inspectors to perform in-person inspections of amusement rides;
- ▶ requires an owner-operator of an amusement ride to:
 - cause a qualified safety inspector to perform an annual in-person inspection of the amusement ride;
 - perform or cause to be performed a daily inspection of the amusement ride; and
 - obtain an annual amusement ride permit;
- ▶ establishes minimum liability insurance requirements;
- ▶ enacts reporting requirements when a fatality or certain types of injuries occur when there is a failure or malfunction of an amusement ride;
- ▶ addresses enforcement of the provisions of this bill;
- ▶ classifies certain records as protected for purposes of the Government Records Access and Management Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2018, Chapters 81, 159, 285, 315, 316, 319, 352, 409, and 425
 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

72-16-101, Utah Code Annotated 1953
 72-16-102, Utah Code Annotated 1953
 72-16-103, Utah Code Annotated 1953
 72-16-201, Utah Code Annotated 1953
 72-16-202, Utah Code Annotated 1953
 72-16-203, Utah Code Annotated 1953
 72-16-204, Utah Code Annotated 1953
 72-16-301, Utah Code Annotated 1953
 72-16-302, Utah Code Annotated 1953
 72-16-303, Utah Code Annotated 1953
 72-16-304, Utah Code Annotated 1953
 72-16-305, Utah Code Annotated 1953
 72-16-306, Utah Code Annotated 1953
 72-16-401, Utah Code Annotated 1953
 72-16-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:**63G-2-305. Protected records.**

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of

a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to

completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

- (i) governmental property;
- (ii) governmental programs; or
- (iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(53) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(54) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires

disclosure of, or makes public, the information or report;

(55) records contained in the Management Information System created in Section 62A-4a-1003;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for

treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204; ~~and~~

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206~~[-]~~; and

(71) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride.

Section 2. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(37) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(38) The Relative Value Study Restricted Account created in Section 59-9-105.

(39) The Cigarette Tax Restricted Account created in Section 59-14-204.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(41) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(42) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(43) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(44) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(45) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(46) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(47) The Immigration Act Restricted Account created in Section 63G-12-103.

(48) Money received by the military installation development authority, as provided in Section 63H-1-504.

(49) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(50) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(51) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(52) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(53) The Motion Picture Incentive Account created in Section 63N-8-103.

(54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(57) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[457] (58) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[458] (59) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[459] (60) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[460] (61) Fees for certificate of admission created under Section 78A-9-102.

[461] (62) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[462] (63) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[463] (64) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[464] (65) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 3. Section 72-16-101 is enacted to read:

CHAPTER 16. AMUSEMENT RIDE SAFETY ACT

Part 1. General Provisions

72-16-101. Title.

This chapter is known as the "Amusement Ride Safety Act."

Section 4. Section 72-16-102 is enacted to read:

72-16-102. Definitions.

As used in this chapter:

(1) "Account" means the Amusement Ride Safety Restricted Account created in Section 72-16-204.

(2) (a) "Amusement park" means a permanent indoor or outdoor facility or park where one or more amusement rides are available for use by the general public.

(b) "Amusement park" does not include a traveling show, carnival, or public fairground.

(3) (a) "Amusement ride" means a device or attraction that carries or conveys one or more riders along, around, or over a fixed or restricted route or course or allows the riders to steer or guide the device or attraction within an established area for the purpose of giving the riders amusement, pleasure, thrills, or excitement.

(b) "Amusement ride" includes a roller coaster, whip, ferris wheel, merry-go-round, and zipline.

(c) "Amusement ride" does not include:

(i) a coin-operated ride that:

(A) is manually, mechanically, or electrically operated;

(B) is customarily placed in a public location; and

(C) does not normally require the supervision or services of an operator;

(ii) nonmechanized playground equipment, including a swing, seesaw, stationary spring-mounted animal feature, rider-propelled merry-go-round, climber, playground slide, trampoline, or physical fitness device;

(iii) an inflatable device;

(iv) a water-based recreational attraction where complete or partial immersion is intended, including a water slide, wave pool, or water park;

(v) a challenge, exercise, or obstacle course;

(vi) a passenger ropeway as defined in Section 72-11-102;

(vii) a device or attraction that involves one or more live animals; or

(viii) a tractor ride or wagon ride.

(4) "Committee" means the Utah Amusement Ride Safety Committee created in Section 72-16-201.

(5) "Director" means the director of the committee, appointed under Section 72-16-202.

(6) "Mobile amusement ride" means an amusement ride that is:

(a) designed or adapted to be moved from one location to another;

(b) not fixed at a single location; and

(c) relocated at least once each calendar year.

(7) "Operator" means the individual who controls the starting, stopping, or speed of an amusement ride.

(8) "Owner-operator" means the person who has control over and responsibility for the maintenance, setup, and operation of an amusement ride.

(9) "Permanent amusement ride" means an amusement ride that is not a mobile amusement ride.

(10) "Qualified safety inspector" means an individual who holds a valid qualified safety inspector certification.

(11) "Qualified safety inspector certification" means a certification issued by the director under Section 72-16-303.

(12) "Reportable serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) results in death, dismemberment, permanent loss of the use of a body organ, member, function, or system, or a compound fracture.

(13) "Safety inspection certification" means a written document that:

(a) is signed by a qualified safety inspector certifying that:

(i) the qualified safety inspector performed an in-person inspection of an amusement ride to check compliance with the safety standards described in Section 72-16-304 and established by rule; and

(ii) at the time the qualified safety inspector performed the in-person inspection, the amusement ride:

(A) was set up in the state for use by the general public; and

(B) satisfied the safety standards described in Section 72-16-304 and established by rule; and

(b) includes the date on which the qualified safety inspector performed the in-person inspection.

(14) "Serious injury" means an injury to a rider that:

(a) occurs when there is a failure or malfunction of an amusement ride; and

(b) requires immediate admission to a hospital and overnight hospitalization and observation by a licensed physician.

Section 5. Section 72-16-103 is enacted to read:

72-16-103. Scope and administration.

(1) The provisions of this chapter apply to any amusement ride in the state.

(2) In accordance with the provisions of this chapter, the committee:

(a) shall administer this chapter; and

(b) has jurisdiction over any amusement ride in the state.

Section 6. Section 72-16-201 is enacted to read:

Part 2. Utah Amusement Ride Safety Committee

72-16-201. Creation of Utah Amusement Ride Safety Committee.

(1) There is created within the department the Utah Amusement Ride Safety Committee.

(2) The committee is comprised of the following members:

(a) six members as follows, appointed by the governor:

(i) one member who represents fairs in the state that employ 25 or more employees;

(ii) one member who represents mobile ride operators;

(iii) one member who represents permanent ride operators;

(iv) one member who represents large amusement parks in the state;

(v) one member who represents the public at large; and

(vi) one member who represents a nationally recognized amusement ride safety or regulatory organization; and

(b) one ex officio member appointed by the executive director.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member described in Subsection (2)(a) to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of the committee members appointed under Subsection (2)(a) are staggered so that approximately half of the committee is appointed every two years.

(4) In making an appointment under Subsection (2)(a), the governor shall request and consider recommendations from:

(a) the membership of the interest from which the appointment is to be made; and

(b) the department.

(5) When a vacancy occurs in the membership of the committee, the governor shall appoint a replacement for the remainder of the unexpired term.

(6) A member of the committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The department shall supply the committee with office space, equipment, and staff the executive director finds appropriate.

(8) (a) The committee shall select a chair annually from the committee members.

(b) Four members constitute a quorum for conducting committee business.

(c) A majority vote of a quorum present at a meeting constitutes an action of the committee.

(9) The committee shall meet at least quarterly and at the call of the chair or of a majority of the members.

Section 7. Section 72-16-202 is enacted to read:

72-16-202. Appointment of director.

(1) (a) The committee, subject to approval by the executive director, shall appoint a director.

(b) The executive director may remove the director at the executive director's will.

(2) The director shall:

(a) be experienced in administration and possess additional qualifications as determined by the committee and the executive director; and

(b) receive compensation in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

Section 8. Section 72-16-203 is enacted to read:

72-16-203. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(iii) standards for a daily inspection under Section 72-16-302;

(iv) the form of a report of a reportable serious injury to the director;

(v) the procedure for reporting a reportable serious injury to the director;

(vi) the procedure to suspend and revoke:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(vii) a retention schedule that applies to each qualified safety inspector for records related to a qualified safety inspector's duties under this chapter; and

(viii) a retention schedule that applies to each owner-operator for records related to an owner-operator's duties under this chapter;

(b) regarding the experience required to obtain a qualified safety inspector certification under Subsection 72-16-303(3)(a); and

(c) adopting nationally recognized:

(i) amusement ride inspection standards; and

(ii) qualified safety inspector qualification standards.

(2) Notwithstanding Subsection 63G-3-301(13), the committee shall initiate rulemaking proceedings, as defined in Section 63G-3-301, to make rules under this section no later than December 1, 2020.

Section 9. Section 72-16-204 is enacted to read:

72-16-204. Amusement Ride Safety Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Amusement Ride Safety Restricted Account."

(2) (a) The account is funded from:

(i) fees collected by the committee under this chapter;

(ii) money appropriated by the Legislature; and

(iii) interest earned on money in the account.

(b) Appropriations made from the account are nonlapsing.

(3) Subject to appropriation, the committee may use the money deposited into the account to pay for the administration of this chapter.

Section 10. Section 72-16-301 is enacted to read:

Part 3. Amusement Ride Safety

72-16-301. Requirements for amusement ride operation.

(1) Beginning on April 1, 2021, a person may not operate an amusement ride in the state that is open to the public, unless the person obtains:

(a) an annual amusement ride permit for the amusement ride in accordance with this section; or

(b) a multi-ride annual amusement ride permit that includes the amusement ride, in accordance with this section.

(2) To obtain or renew an annual amusement ride permit for a mobile amusement ride, the owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the mobile amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) each known location in the state where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid, updated in accordance with Subsection (5);

(d) for each location identified under Subsection (2)(c), the name and contact information of the fair, show, landlord, or property owner;

(e) the date on which the owner-operator intends to set up the mobile amusement ride at each location identified under Subsection (2)(c);

(f) the dates on which the owner-operator intends to operate the mobile amusement ride for use by the general public at each location identified under Subsection (2)(c);

(g) proof of compliance with the insurance requirement described in Section 72-16-305;

(h) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(i) a fee established by the committee in accordance with Section 63J-1-504.

(3) To obtain or renew an annual amusement ride permit for a permanent amusement ride, the owner-operator shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the permanent amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) the location in the state where the owner-operator will operate the permanent amusement ride;

(d) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the general public;

(e) proof of compliance with the insurance requirement described in Section 72-16-305;

(f) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(g) a fee established by the committee in accordance with Section 63J-1-504.

(4) To obtain or renew a multi-ride annual amusement ride permit for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year, the amusement park shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the amusement park's name and address;

(b) a list of each amusement ride located at the amusement park, including a description of each amusement ride;

(c) the first date on which the amusement park will operate each amusement ride identified in Subsection (4)(b);

(d) proof of compliance with the insurance requirement described in Section 72-16-305;

(e) a safety inspection certification for each amusement ride identified in Subsection (4)(b) that is dated no more than 30 days before the day on which the amusement park submits the application; and

(f) a fee for each amusement ride identified under Subsection (4)(b) established by the committee in accordance with Section 63J-1-504.

(5) (a) In accordance with committee rule, an owner-operator of a mobile amusement ride shall update the information described in Subsection (2)(c) if the owner-operator learns of a new location where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid.

(b) An owner-operator may not operate a mobile amusement ride that is open to the public at a location in the state, unless the owner-operator includes the location:

(i) in the owner-operator's application or renewal for an annual amusement ride permit for the mobile amusement ride in accordance with Subsection (2)(c); or

(ii) in an update described in Subsection (5)(a) that the owner-operator submits to the director at least 30 days before the day on which the owner-operator sets up the mobile amusement ride at the location.

(6) The director shall issue:

(a) an annual amusement ride permit for each amusement ride for which the owner-operator submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules; and

(b) a multi-ride annual amusement ride permit to each amusement park that employs more than 1,000 individuals in a calendar year and submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules.

(7) An annual amusement ride permit or a multi-ride annual amusement ride permit expires one year after the day on which the director issues the annual amusement ride permit or the multi-ride annual amusement ride permit.

(8) An owner-operator or amusement park shall maintain a copy of a current annual amusement ride permit or multi-ride annual amusement ride permit and upon request, reasonable notice, and payment of reasonable copying expense, if applicable:

(a) make the copy available for examination; or

(b) provide a copy of the annual amusement ride permit or multi-ride annual amusement ride permit.

Section 11. Section 72-16-302 is enacted to read:

72-16-302. Daily inspection required.

(1) (a) Each day an owner-operator operates an amusement ride for use by the general public, the owner-operator or the owner-operator's designee shall inspect and operate the amusement ride in accordance with this section and rules established under this chapter.

(b) The owner-operator or the owner-operator's designee shall complete the inspection and operation described in Subsection (1)(a):

(i) before the owner-operator begins operation for use by the general public; and

(ii) in accordance with rule made under this chapter.

(2) The owner-operator shall:

(a) make a record of each daily inspection that is signed by the individual who performed the inspection; and

(b) maintain each record described in Subsection (2)(a) for at least 90 days after the day on which the inspection is performed.

Section 12. Section 72-16-303 is enacted to read:

72-16-303. Certification of inspectors.

(1) To become a qualified safety inspector, an individual shall obtain and maintain a qualified safety inspector certification from the director in accordance with this section.

(2) To obtain a qualified safety inspector certification from the director, an individual shall submit an application described in Subsection (3) and a fee established by the committee in accordance with Section 63J-1-504.

(3) An application for a qualified safety inspector certification shall be in a form prescribed by the director and include information that demonstrates the applicant:

(a) (i) (A) is a professional engineer, licensed in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or an engineer with a comparable license from another state as determined by the committee; and

(B) has at least three years of experience in the amusement ride industry, at least two of which include actual inspection of amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer;

(ii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is certified by a nationally recognized organization in the amusement ride safety industry approved by the committee; or

(iii) (A) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and

(B) is employed by an amusement park that employs more than 1,000 individuals in a calendar year;

(b) (i) has insurance for errors or omissions; or

(ii) is an employee or authorized agent of an insurance company; and

(c) is a member of and actively participates in an entity that develops standards applicable to the operation of amusement rides.

(4) To obtain a renewal of a qualified safety inspector certification, a qualified safety inspector shall submit to the director a fee established by the committee in accordance with Section 63J-1-504 and a renewal application that demonstrates that the qualified safety inspector:

(a) satisfies the requirements described in Subsection (3); and

(b) during the previous 12-month period, completed at least six hours of continuing education instruction provided by:

(i) a nationally recognized amusement industry organization;

(ii) a nationally recognized organization in a relevant technical field;

(iii) an owner-operator, through an owner-operator-run safety program approved by the committee; or

(iv) an amusement park that employs more than 1,000 individuals in a calendar year.

(5) The director shall issue a qualified safety inspector certification to each individual who submits an application or a renewal application that is in a form prescribed by the director and complies with the requirements of this section and any applicable rules.

(6) A qualified safety inspector certification expires two years after the day on which the director issues the qualified inspector certification.

(7) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may deny, suspend, or revoke a qualified safety inspector certification if an individual fails to satisfy a requirement of this chapter or any applicable rule.

(8) A qualified safety inspector who is employed by the owner-operator of an amusement ride may complete an inspection of the amusement ride.

Section 13. Section 72-16-304 is enacted to read:

72-16-304. Safety standards.

(1) Subject to Subsections (2) and (3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules adopting the relevant safety standards developed by the ASTM International Committee F24.

(2) The committee may modify or update the safety standards described in Subsection (1), consistent with nationally recognized amusement ride standards.

(3) The committee may, upon application, amend or exempt a safety standard adopted under this

section based upon unique circumstances, if appropriate to ensure public safety.

Section 14. Section 72-16-305 is enacted to read:

72-16-305. Insurance required.

(1) An owner-operator of an amusement ride shall carry liability insurance coverage in at least the following amounts:

- (a) \$1,000,000 for bodily injury per occurrence;
- (b) \$250,000 for property damage per occurrence; and
- (c) \$3,000,000 per occurrence combined single limit.

(2) An owner-operator of an amusement ride located in an amusement park that employs more than 1,000 individuals in a calendar year shall carry liability insurance coverage in at least the following amounts:

- (a) \$5,000,000 for bodily injury per occurrence;
- (b) \$1,000,000 for property damage per occurrence; and
- (c) \$10,000,000 per occurrence combined single limit.

Section 15. Section 72-16-306 is enacted to read:

72-16-306. Reporting and shutdown for certain injuries.

(1) (a) An owner-operator shall report each known reportable serious injury to the director within eight hours after the owner-operator learns of the reportable serious injury.

(b) An owner-operator shall include the following information in a report described in Subsection (1)(a):

- (i) the owner-operator's name and contract information;
- (ii) the location of the amusement ride at the time the reportable serious injury occurred;
- (iii) a description of:
 - (A) the amusement ride; and
 - (B) the nature of the reportable serious injury; and
- (iv) any other information required by rule made under this chapter.

(2) (a) In addition to the requirement described in Subsection (1), an owner-operator of a mobile amusement ride shall report each known serious injury to the fair, show, landlord, or owner of the property upon which the mobile amusement ride was located at the time the serious injury occurred.

(b) After a serious injury, the owner-operator may not operate the mobile amusement ride until the owner-operator receives written authorization from:

(i) the fair, show, landlord, or owner of the property upon which the amusement ride was located at the time the serious injury occurred; or

(ii) the director.

(3) For purposes of Title 63G, Chapter 2, Government Records Access and Management Act, a report to the director described in this section and any record related to the report is a protected record as defined in Section 63G-2-103, except the ride description, the owner-operator, the location of the amusement ride at the time the reportable injury occurred, and the general nature of the reportable injury.

Section 16. Section 72-16-401 is enacted to read:

Part 4. Enforcement

72-16-401. Penalty for violation.

(1) If an owner-operator or operator violates a provision of this chapter with respect to an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may deny, suspend, or revoke the owner-operator's annual amusement ride permit for the amusement ride.

(2) Upon a violation of a provision of this chapter, the director may file an action in district court to enjoin the operation of an amusement ride.

Section 17. Section 72-16-402 is enacted to read:

72-16-402. Audit -- Right of entry.

The director or the director's representative, upon presenting appropriate credentials to the owner-operator, operator, or agent in charge, may enter a premises where an amusement ride is located for the purpose of auditing compliance with the provisions of this chapter.

CHAPTER 245**H. B. 382**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**RESORT COMMUNITIES
 TAX AMENDMENTS**

Chief Sponsor: Mark A. Strong
 Senate Sponsor: Ronald Winterton

LONG TITLE**General Description:**

This bill modifies the resort communities tax.

Highlighted Provisions:

This bill:

- ▶ increases the number of notices that the State Tax Commission must send to a municipality that no longer qualifies to impose a resort communities tax;
- ▶ modifies the time frame for when a municipality that no longer qualifies to impose the resort communities tax must stop imposing the tax; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-405, as enacted by Laws of Utah 2004, Chapter 224

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-405 is amended to read:

59-12-405. Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

- (1) As used in this section:
- (a) [~~“high-occupancy”~~] “High-occupancy lodging unit” means each bedroom in a:
- (i) hostel; or
 - (ii) a unit similar to a hostel as determined by the commission by rule[;].
- (b) [~~“high-occupancy”~~] “High-occupancy lodging unit capacity of a municipality” means the product of:
- (i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) four[;].
- (c) [~~“recreational”~~] “Recreational lodging unit” means each site in a:

(i) campground that:

(A) is issued a business license by the municipality in which the campground is located; and

(B) provides the following hookups:

- (I) water;
- (II) sewer; and
- (III) electricity; or

(ii) recreational vehicle park that provides the following hookups:

- (A) water;
- (B) sewer; and
- (C) electricity; or

(iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule[;].

(d) [~~“recreational”~~] “Recreational lodging unit capacity of a municipality” means the product of:

(i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four[;].

(e) [~~“special”~~] “Special lodging unit” means a lodging unit:

- (i) that is a:
 - (A) high-occupancy lodging unit;
 - (B) recreational lodging unit; or
 - (C) standard lodging unit;
- (ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:

(A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);

(B) for a recreational lodging unit, Subsection (1)(d)(ii); or

(C) for a standard lodging unit, Subsection (1)(i)(ii); and

(iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii)[;].

(f) [~~“special”~~] “Special lodging unit capacity of a municipality” means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3)[;].

(g) [~~“special”~~] “Special lodging unit number” means the number by which the commission finds that a special lodging unit should be multiplied in

determining the capacity of the special lodging unit^[§].

(h) [~~“standard”~~] “Standard lodging unit” means each bedroom in:

- (i) a hotel;
- (ii) a motel;
- (iii) a bed and breakfast establishment;
- (iv) an inn;
- (v) a condominium that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days;

(vi) a property used as a residence that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days; or

(vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule^[§].

(i) [~~“standard”~~] “Standard lodging unit capacity of a municipality” means the product of:

(i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) three~~;~~ and.

(j) [~~“transient”~~] “Transient room capacity” means the sum of:

(i) the high-occupancy lodging unit capacity of a municipality;

(ii) the recreational lodging unit capacity of a municipality;

(iii) the special lodging unit capacity of a municipality; and

(iv) the standard lodging unit capacity of a municipality.

(2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

(a) the high-occupancy lodging unit capacity of the municipality;

(b) the recreational lodging unit capacity of the municipality;

(c) the special lodging unit capacity of the municipality; and

(d) the standard lodging unit capacity of the municipality.

(3) A municipality shall file with the commission the information required by Subsection [~~(1)~~] (2):

(a) on a form provided by the commission; and

(b) on or before:

(i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.

(4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent census population, the commission shall notify the municipality in writing:

(a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and

(b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.

(5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.

(b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for ~~two~~ three consecutive calendar years, the municipality may not impose a tax under this part:

(i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):

(A) to the municipality; and

(B) for the ~~second~~ third consecutive calendar year; and

(ii) until the municipality meets the requirements of this part to enact the tax.

CHAPTER 246**H. B. 387**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

(Exception clause in Section 90)

**BOARDS AND
COMMISSIONS AMENDMENTS**Chief Sponsor: John Knotwell
Senate Sponsor: Daniel Hemmert**LONG TITLE****General Description:**

This bill addresses provisions related to certain boards and commissions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires each executive branch board or commission to submit an annual report to the governor's office and requires the governor's office to provide a summary report to the Legislature;
- ▶ requires each legislative branch board or commission to submit an annual report to the Office of Legislative Research and General Counsel and requires the Office of Legislative Research and General Counsel to provide a summary report to the Legislature;
- ▶ requires the governor to review and provide certain recommendations regarding each newly created board or commission;
- ▶ requires the Government Operations Interim Committee to receive and consider taking action on recommendations made by the governor;
- ▶ repeals the following entities and provisions related to the following entities:
 - the Advisory Board on Children's Justice;
 - the American Indian-Alaskan Native Education Commission;
 - the Board of Juvenile Justice Services;
 - the Commission on Civic and Character Education;
 - the Economic Development Legislative Liaison Committee;
 - the Free Market Protection and Privatization Board;
 - the Governing Board of a Utah Interlocal Entity for Alternative Fuel Vehicles or Facilities;
 - the Judicial Rules Review Committee;
 - the Legislative IT Steering Committee;
 - the Online Court Assistance Program Policy Board;
 - the Prison Development Commission;
 - the State Council on Military Children;
 - the Technology Advisory Board;
 - the Towing Advisory Board; and
 - the Utah Tax Review Commission;
- ▶ combines the Commission for the Stewardship of Public Lands, the Commission on Federalism, and the Federal Funds Commission into the

Federalism Commission and provides that the Federalism Commission subsumes the responsibilities of those entities;

- ▶ eliminates the Utah Futures Steering Committee and transfers responsibility for the Utah Futures program to the Talent Ready Utah Board;
- ▶ removes some legislators from the Native American Legislative Liaison Committee;
- ▶ removes all legislators from the following:
 - the Utah Commission on Aging;
 - the Utah State Scenic Byway Committee; and
 - the Utah Substance Use and Mental Health Advisory Council;
- ▶ prohibits a legislator from being appointed to the following:
 - the Committee on Children and Family Law;
 - the Employability to Careers Program Board;
 - the Governor's Child and Family Cabinet Council;
 - the School Readiness Board;
 - the Utah Commission on Literacy;
 - the Utah Communications Authority Board;
 - the Utah Developmental Disabilities Council;
 - the Utah Lake Commission Governing Board;
 - the Utah Multicultural Commission; and
 - the Utah Science, Technology, and Research Initiative Governing Authority Board;
- ▶ adds a sunset date to the following entities and provisions related to the following entities:
 - the Air Quality Policy Advisory Board;
 - the Criminal Code Evaluation Task Force;
 - the Legislative Process Committee;
 - the Legislative Water Development Commission;
 - the Native American Legislative Liaison Committee;
 - the Point of the Mountain State Land Authority Board;
 - the School Safety and Crisis Line Commission;
 - the Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee;
 - the Standards Review Committee;
 - the Talent Ready Utah Board;
 - the Utah Seismic Safety Commission;
 - the Utah State Scenic Byway Committee;
 - the Utah Substance Use and Mental Health Advisory Council;
 - the Utah Transparency Advisory Board;
 - the Veterans and Military Affairs Commission; and
 - the Women in the Economy Commission;
- ▶ modifies sunset provisions related to the following:
 - the Mental Health Crisis Line Commission; and
 - the Utah Commission on Aging;
- ▶ adds a sunset date to the legislative membership of the following entities:
 - the Pete Suazo Athletic Commission; and

- the Utah State Fair Corporation Board of Directors;
- ▶ adds provisions to automatically repeal the following:
 - the Clean Air Act Compliance Advisory Panel;
 - the Employability to Careers Program Board;
 - the Road Usage Charge Advisory Committee; and
 - the State Fair Park Committee;
- ▶ repeals obsolete provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 9-9-104.6, as last amended by Laws of Utah 2018, Chapter 415
- 9-9-408, as enacted by Laws of Utah 2017, Chapter 88
- 35A-3-209, as renumbered and amended by Laws of Utah 2018, Chapter 389
- 36-22-1, as last amended by Laws of Utah 2014, Chapter 387
- 40-6-16, as last amended by Laws of Utah 2016, Chapter 317
- 52-4-103, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018
- 53F-5-601, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-602, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-604, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53G-10-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 54-1-13, as last amended by Laws of Utah 2016, Chapter 13
- 62A-1-105, as last amended by Laws of Utah 2016, Chapter 300
- 62A-1-107, as last amended by Laws of Utah 2016, Chapter 300
- 62A-1-109, as enacted by Laws of Utah 1988, Chapter 1
- 62A-7-101, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-102, as last amended by Laws of Utah 2008, Chapter 3
- 62A-7-103, as last amended by Laws of Utah 1992, Chapter 104
- 62A-7-104, as last amended by Laws of Utah 2017, Chapters 282 and 330
- 62A-7-106.5, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-201, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-401.5, as renumbered and amended by Laws of Utah 2005, Chapter 13
- 62A-7-501, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-502, as renumbered and amended by Laws of Utah 2005, Chapter 13

- 62A-7-506, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-601, as last amended by Laws of Utah 2017, Chapter 330
- 62A-7-701, as last amended by Laws of Utah 2017, Chapter 330
- 63A-5-225, as enacted by Laws of Utah 2015, Chapter 182
- 63B-25-101, as last amended by Laws of Utah 2018, Chapter 280
- 63C-4a-101, as enacted by Laws of Utah 2013, Chapter 101
- 63C-4a-102, as enacted by Laws of Utah 2013, Chapter 101
- 63C-4a-301, as enacted by Laws of Utah 2013, Chapter 101
- 63C-4a-302, as last amended by Laws of Utah 2014, Chapter 387
- 63C-4a-303, as last amended by Laws of Utah 2018, Chapters 81 and 338
- 63C-4a-306, as enacted by Laws of Utah 2014, Chapter 221
- 63C-4a-307, as enacted by Laws of Utah 2018, Chapter 338
- 63F-1-102, as last amended by Laws of Utah 2017, Chapter 238
- 63F-1-203, as last amended by Laws of Utah 2017, Chapter 238
- 63F-1-303, as last amended by Laws of Utah 2012, Chapter 369
- 63F-4-201, as enacted by Laws of Utah 2018, Chapter 144
- 63F-4-202, as enacted by Laws of Utah 2018, Chapter 144
- 63H-7a-203, as last amended by Laws of Utah 2017, Chapter 430
- 63I-1-209, as last amended by Laws of Utah 2014, Chapter 117
- 63I-1-211, as enacted by Laws of Utah 2011, Second Special Session, Chapter 1
- 63I-1-219, as last amended by Laws of Utah 2018, Chapter 31
- 63I-1-223, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63I-1-226, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 63I-1-232, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63I-1-235, as last amended by Laws of Utah 2018, Chapters 232 and 392
- 63I-1-236, as last amended by Laws of Utah 2018, Chapters 33, 170, and 342
- 63I-1-241, as last amended by Laws of Utah 2015, Chapter 109
- 63I-1-251, as enacted by Laws of Utah 2015, Chapter 275
- 63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453
- 63I-1-262, as last amended by Laws of Utah 2018, Chapters 74, 220, 281, and 347
- 63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469
- 63I-1-267, as last amended by Laws of Utah 2017, Chapter 192
- 63I-1-272, as renumbered and amended by Laws of Utah 2008, Chapter 382

63I-1-273, as last amended by Laws of Utah 2018, Chapters 344 and 418
 63I-2-219, as last amended by Laws of Utah 2018, Chapters 241 and 281
 63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469
 63I-2-272, as last amended by Laws of Utah 2017, Chapter 427
 63J-4-606, as last amended by Laws of Utah 2014, Chapter 319
 63J-4-607, as last amended by Laws of Utah 2018, Chapter 411
 63J-4-702, as enacted by Laws of Utah 2017, Chapter 253
 63L-10-102, as enacted by Laws of Utah 2018, Chapter 411
 63L-10-103, as enacted by Laws of Utah 2018, Chapter 411
 63L-10-104, as enacted by Laws of Utah 2018, Chapter 411
 63M-2-301, as last amended by Laws of Utah 2016, Chapter 240
 63M-7-301, as last amended by Laws of Utah 2018, Chapter 414
 63M-7-302, as last amended by Laws of Utah 2016, Chapter 158
 63M-7-601, as last amended by Laws of Utah 2016, Chapter 32
 63M-11-201, as last amended by Laws of Utah 2017, Chapter 95
 63M-11-206, as last amended by Laws of Utah 2014, Chapter 387
 63N-1-201, as last amended by Laws of Utah 2017, Chapters 277 and 310
 67-1-2.5, as last amended by Laws of Utah 2002, Chapter 176
 67-5b-102, as last amended by Laws of Utah 2018, Chapters 94 and 200
 67-5b-105, as last amended by Laws of Utah 2016, Chapter 290
 72-4-302, as last amended by Laws of Utah 2015, Chapter 258
 73-10g-105, as last amended by Laws of Utah 2016, Chapter 309
 78A-2-501, as last amended by Laws of Utah 2017, Chapter 115

ENACTS:

36-12-21, Utah Code Annotated 1953
 36-12-22, Utah Code Annotated 1953
 53E-3-920.1, Utah Code Annotated 1953
 63I-1-204, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63C-4a-308, (Renumbered from 63C-4b-104, as enacted by Laws of Utah 2016, Chapter 408)
 63C-4a-309, (Renumbered from 63C-14-301, as last amended by Laws of Utah 2018, Chapter 81)
 63C-4a-404, (Renumbered from 63C-4b-105, as enacted by Laws of Utah 2016, Chapter 408)
 63C-4a-405, (Renumbered from 63C-4b-106, as enacted by Laws of Utah 2016, Chapter 408)
 63N-12-505, (Renumbered from 53B-17-108, as last amended by Laws of Utah 2017, Chapter 370)

REPEALS:

10-1-119, as last amended by Laws of Utah 2014, Chapter 189
 11-13-224, as last amended by Laws of Utah 2015, Chapter 265
 17-50-107, as last amended by Laws of Utah 2013, Chapter 325
 36-20-1, as last amended by Laws of Utah 2008, Chapter 3
 36-20-2, as last amended by Laws of Utah 2010, Chapter 324
 36-20-3, as enacted by Laws of Utah 1993, Chapter 282
 36-20-4, as enacted by Laws of Utah 1993, Chapter 282
 36-20-5, as enacted by Laws of Utah 1993, Chapter 282
 36-20-6, as last amended by Laws of Utah 1996, Chapter 36
 36-20-7, as enacted by Laws of Utah 1993, Chapter 282
 36-20-8, as enacted by Laws of Utah 1993, Chapter 282
 36-30-101, as enacted by Laws of Utah 2017, Chapter 277
 36-30-102, as enacted by Laws of Utah 2017, Chapter 277
 36-30-201, as enacted by Laws of Utah 2017, Chapter 277
 36-30-202, as enacted by Laws of Utah 2017, Chapter 277
 36-30-203, as enacted by Laws of Utah 2017, Chapter 277
 53E-3-920, as last amended by Laws of Utah 2018, Chapter 39 and renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-401, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-402, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-403, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-404, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-405, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-406, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-407, as enacted by Laws of Utah 2018, Chapter 1
 59-1-901, as last amended by Laws of Utah 2007, Chapter 288
 59-1-902, as enacted by Laws of Utah 1990, Chapter 237
 59-1-903, as last amended by Laws of Utah 2011, Chapter 384
 59-1-904, as last amended by Laws of Utah 2011, Chapter 384
 59-1-905, as last amended by Laws of Utah 2014, Chapter 387
 59-1-907, as enacted by Laws of Utah 1990, Chapter 237
 59-1-908, as enacted by Laws of Utah 1990, Chapter 237
 63C-4b-101, as enacted by Laws of Utah 2016, Chapter 408

63C-4b-102, as enacted by Laws of Utah 2016, Chapter 408

63C-4b-103, as enacted by Laws of Utah 2016, Chapter 408

63C-4b-107, as enacted by Laws of Utah 2016, Chapter 408

63C-14-101, as enacted by Laws of Utah 2013, Chapter 62

63C-14-102, as enacted by Laws of Utah 2013, Chapter 62

63C-14-201, as enacted by Laws of Utah 2013, Chapter 62

63C-14-202, as last amended by Laws of Utah 2014, Chapter 387

63C-14-302, as last amended by Laws of Utah 2015, Chapter 409

63C-16-101, as enacted by Laws of Utah 2015, Chapter 182

63C-16-102, as enacted by Laws of Utah 2015, Chapter 182

63C-16-201, as enacted by Laws of Utah 2015, Chapter 182

63C-16-202, as enacted by Laws of Utah 2015, Chapter 182

63C-16-203, as enacted by Laws of Utah 2015, Chapter 182

63C-16-204, as enacted by Laws of Utah 2015, Chapter 182

63F-1-202, as last amended by Laws of Utah 2017, Chapter 238

63I-4a-101, as renumbered and amended by Laws of Utah 2013, Chapter 325

63I-4a-102, as last amended by Laws of Utah 2018, Chapter 415

63I-4a-201, as enacted by Laws of Utah 2013, Chapter 325

63I-4a-202, as last amended by Laws of Utah 2014, Chapters 189 and 387

63I-4a-203, as last amended by Laws of Utah 2018, Chapter 81

63I-4a-204, as enacted by Laws of Utah 2013, Chapter 325

63I-4a-205, as renumbered and amended by Laws of Utah 2013, Chapter 325

63I-4a-301, as enacted by Laws of Utah 2013, Chapter 325

63I-4a-302, as renumbered and amended by Laws of Utah 2013, Chapter 325

63I-4a-303, as last amended by Laws of Utah 2013, Chapter 310 and renumbered and amended by Laws of Utah 2013, Chapter 325

63I-4a-304, as renumbered and amended by Laws of Utah 2013, Chapter 325

63I-4a-401, as enacted by Laws of Utah 2013, Chapter 325

63I-4a-402, as renumbered and amended by Laws of Utah 2013, Chapter 325

67-1a-10, as last amended by Laws of Utah 2014, Chapter 387

67-1a-11, as last amended by Laws of Utah 2018, Chapter 415

67-5b-106, as last amended by Laws of Utah 2016, Chapter 290

72-9-606, as enacted by Laws of Utah 2017, Chapter 298

78A-2-502, as last amended by Laws of Utah 2017, Chapter 115

Utah Code Sections Affected by Coordination Clause:

53G-10-204, as renumbered and amended by Laws of Utah 2018, Chapter 3

63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

63I-1-226, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

63I-1-262, as last amended by Laws of Utah 2018, Chapters 74, 220, 281, and 347

63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469

63I-2-226, as last amended by Laws of Utah 2018, Chapters 38 and 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health;

(d) the American Indian-Alaskan Native Public Education Liaison appointed in accordance with Section ~~53E-10-402~~ 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Development;

(v) the State Board of Education; and

(vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Heritage and Arts;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 2. Section 9-9-408 is amended to read:

9-9-408. Burial of ancient Native American remains in state parks.

(1) As used in this section:

(a) "Ancient Native American remains" means ancient human remains, as defined in Section 9-8-302, that are Native American remains, as defined in Section 9-9-402.

(b) "Antiquities Section" means the Antiquities Section of the Division of State History created in Section 9-8-304.

(2) (a) The division, the Antiquities Section, and the Division of Parks and Recreation shall cooperate in a study of the feasibility of burying ancient Native American remains in state parks.

(b) The study shall include:

(i) the process and criteria for determining which state parks would have land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains;

(ii) the process for burying the ancient Native American remains on the lands within state parks, including the responsibilities of state agencies and the assurance of cultural sensitivity;

(iii) how to keep a record of the locations in which specific ancient Native American remains are buried;

(iv) how to account for the costs of:

(A) burying the ancient Native American remains on lands found within state parks; and

(B) securing and maintaining burial sites in state parks; and

(v) any issues related to burying ancient Native American remains in state parks.

~~[(3) The division, the Antiquities Section, and the Division of Parks and Recreation shall report to the Native American Legislative Liaison Committee by no later than November 1, 2017, regarding the study required by Subsection (2).]~~

Section 3. Section 35A-3-209 is amended to read:

35A-3-209. Establishment of the School Readiness Board -- Membership -- Program intermediary -- Funding prioritization.

(1) The terms defined in Section 53F-6-301 apply to this section.

(2) There is created the School Readiness Board within the Department of Workforce Services composed of:

(a) the director of the Department of Workforce Services or the director's designee;

(b) one member appointed by the State Board of Education;

(c) one member appointed by the chair of the State Charter School Board;

(d) one member, appointed by the speaker of the House of Representatives, who:

(i) has research experience in the area of early childhood development, including special education [~~, appointed by the speaker of the House of Representatives]; and~~

(ii) is not a legislator; and

(e) one member, appointed by the president of the Senate, who:

(i) (A) has expertise in pay for success programs; or

~~[(ii)]~~ (B) represents a financial institution that has experience managing a portfolio that meets the requirements of the Community Reinvestment Act, 12 U.S.C. Sec. 2901 et seq[.]; and

(ii) is not a legislator.

(3) (a) A member described in Subsection (2)(c), (d), or (e) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection (2)(c), (d), or (e), the person appointing the member shall appoint a replacement to serve the remainder of the member's term.

(4) A member may not receive compensation or benefits for the member's service.

(5) The department shall provide staff support to the board.

(6) (a) The board members shall elect a chair of the board from the board's membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

(7) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and subject to Subsection (8), the board shall:

(a) select a program intermediary that:

(i) is a nonprofit entity; and

(ii) has experience:

(A) developing and executing contracts;

(B) structuring the terms and conditions of a pay for success program;

(C) coordinating the funding and management of a pay for success program; and

(D) raising private investment capital necessary to fund program services related to a pay for success program; and

(b) enter into a contract with the program intermediary.

(8) The board may not enter into a contract described in Subsection (7) without the consent of the department regarding:

(a) the program intermediary selected; and

(b) the terms of the contract.

(9) A contract described in Subsection (7)(b) shall:

(a) require the program intermediary to:

(i) seek out participants for results-based contracts;

(ii) advise the board on results-based contracts; and

(iii) make recommendations directly to the board on:

(A) when to enter a results-based contract; and

(B) the terms of a results-based contract; and

(b) include a provision that the program intermediary is not eligible to receive or view personally identifiable student data of eligible students funded under the School Readiness Initiative described in this part and Title 53F, Chapter 6, Part 3, School Readiness Initiative.

(10) In allocating funding, the board shall:

(a) give first priority to a results-based contract described in Subsection 53F-6-309(3) to fund a high quality school readiness program directly;

(b) give second priority to a results-based contract that includes an investor; and

(c) give third priority to a grant described in Section 53F-6-305.

(11) Other powers and duties of the board are described in Title 53F, Chapter 6, Part 3, School Readiness Initiative.

Section 4. Section 36-12-21 is enacted to read:

36-12-21. Legislators serving in organizations without legislative sanction -- Prohibited participation.

(1) The Legislative IT Steering Committee created by the Legislative Management Committee on July 17, 2007, is dissolved.

(2) (a) Except as provided in Subsection (2)(b):

(i) a legislator may not serve on:

(A) the Committee on Children and Family Law created under Judicial Rule 1-205;

(B) the Governor's Child and Family Cabinet Council created under Executive Order 2007-0005;

(C) the Utah Commission on Literacy created under Executive Order 2004-0011;

(D) the Utah Developmental Disabilities Council created under Executive Order 2006-0001; or

(E) the Utah Multicultural Commission created under Executive Order EO/007/2013; and

(ii) the speaker of the House of Representatives or the president of the Senate may not appoint a legislator, and a legislator may not serve in the legislator's capacity as a legislator, on the Utah Lake Commission.

(b) The Legislative Management Committee may, on a case-by-case basis, approve:

(i) a legislator to serve on an entity described in Subsection (2)(a)(i); or

(ii) an action that is otherwise prohibited under Subsection (2)(a)(ii).

Section 5. Section 36-12-22 is enacted to read:

36-12-22. Review of legislative workload -- Reports from committees with legislators.

(1) As used in this section:

(a) "Legislative board or commission" means a board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined, limited membership;

(ii) that has a member who is required to be:

(A) a member of the Legislature; or

(B) appointed by a member of the Legislature; and

(iii) that has operated or is intended to operate for more than six months.

(b) "Legislative board or commission" does not include:

(i) a standing, ethics, interim, appropriations, confirmation, or rules committee of the Legislature;

(ii) the Legislative Management Committee or a subcommittee of the Legislative Management Committee; or

(iii) an organization that is prohibited from having a member that is a member of the Legislature.

(2) (a) Before September 1 of each year, each legislative board or commission shall prepare and submit to the Office of Legislative Research and General Counsel an annual report that includes:

(i) the name of the legislative board or commission;

(ii) a description of the legislative board's or commission's official function and purpose;

(iii) the total number of members of the legislative board or commission;

(iv) the number of the legislative board's or commission's members who are legislators;

(v) the compensation, if any, paid to the members of the legislative board or commission;

(vi) a description of the actual work performed by the legislative board or commission since the last report the legislative board or commission submitted to the Office of Legislative Research and General Counsel under this section;

(vii) a description of actions taken by the legislative board or commission since the last report the legislative board or commission submitted to the Office of Legislative Research and General Counsel under this section;

(viii) recommendations on whether any statutory, rule, or other changes are needed to make the legislative board or commission more effective; and

(ix) an indication of whether the legislative board or commission should continue to exist.

(b) The Office of Legislative Research and General Counsel shall compile and post the reports described in Subsection (2)(a) to the Legislature's website before October 1 of each year.

(3) (a) The Office of Legislative Research and General Counsel shall prepare an annual report by October 1 of each year that includes, as of September 1 of that year:

(i) the total number of legislative boards and commissions that exist in the state;

(ii) a summary of the reports submitted to the Office of Legislative Research and General Counsel under Subsection (2), including:

(A) a list of each legislative board or commission that submitted a report under Subsection (2);

(B) a list of each legislative board or commission that did not submit a report under Subsection (2);

(C) an indication of any recommendations made under Subsection (2)(a)(viii); and

(D) a list of any legislative boards or commissions that indicated under Subsection (2)(a)(ix) that the legislative board or commission should no longer exist.

(b) The Office of Legislative Research and General Counsel shall:

(i) distribute copies of the report described in Subsection (3)(a) to:

(A) the president of the Senate;

(B) the speaker of the House;

(C) the Legislative Management Committee; and

(D) the Government Operations Interim Committee; and

(ii) post the report described in Subsection (3)(a) to the Legislature's website.

(c) Each year, the Government Operations Interim Committee shall prepare legislation making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (3)(b), including:

(i) repealing a legislative board or commission that is no longer functional or necessary; and

(ii) making appropriate changes to make a legislative board or commission more effective.

Section 6. Section 36-22-1 is amended to read:

36-22-1. Native American Legislative Liaison Committee -- Creation -- Membership -- Chairs -- Salaries and expenses.

(1) There is created the Native American Legislative Liaison Committee.

(2) The committee [~~shall consist of 11~~] consists of eight members:

(a) [~~seven~~] five members from the House of Representatives appointed by the speaker, no more than [~~four~~] three of whom [~~shall~~] may be members of the same political party; and

(b) [~~four~~] three members of the Senate appointed by the president, no more than two of whom [~~shall~~] may be members of the same political party.

(3) The speaker of the House shall select one of the members from the House of Representatives to act as cochair of the committee.

(4) The president of the Senate shall select one of the members from the Senate to act as cochair of the committee.

(5) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and

Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 7. Section 40-6-16 is amended to read:

40-6-16. Duties of division.

[1] In addition to the duties assigned by the board, the division shall:

[a] (1) develop and implement an inspection program that will include but not be limited to production data, pre-drilling checks, and site security reviews;

[b] (2) publish a monthly production report;

[c] (3) publish a monthly gas processing plant report;

[d] (4) review and evaluate, prior to a hearing, evidence submitted with the petition to be presented to the board;

[e] (5) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5; and

[f] (6) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit.

~~[(2) The director shall, by October 30, 2016, report to the Commission for the Stewardship of Public Lands regarding the division's recommendations for how the state shall deal with oil, gas, and mining issues in the Utah Public Land Management Act.]~~

Section 8. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging, as that term is defined in Section 76-4-401; or
- (e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering;
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or
- (iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

- (i) no public funds are appropriated for expenditure during the time the public body is convened; and
- (ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:
 - (A) for which no formal action by the public body is required; or
 - (B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

- (i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102; and

(iii) the Utah Independent Redistricting Commission.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

~~[(iv) the Economic Development Legislative Liaison Committee created in Section 36-30-201;]~~

~~[(v)]~~ (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602; or

~~[(vi)]~~ (v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body

with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(vi).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 9. Section 53E-3-920.1 is enacted to read:

53E-3-920.1. State council -- Creation.

The State Board of Education shall create a state council described in Section 53E-3-909 to accomplish the duties described in Section 53E-3-909.

Section 10. Section 53F-5-601 is amended to read:

53F-5-601. Definitions.

~~[(1) The terms defined in Section 53E-10-401 apply to this section.]~~

~~[(2)]~~ As used in this part:

~~[(a)]~~ (1) "American Indian and Alaskan Native concentrated school" means a school where at least 29% of [its] the school's students are American Indian or Alaskan Native.

~~[(b)]~~ (2) "Board" means the State Board of Education.

(3) "Native American Legislative Liaison Committee" means the committee created in Section 36-22-1.

(4) "State plan" means the state plan adopted under Laws of Utah 2015, Chapter 53, Section 7.

~~[(e)]~~ (5) "Teacher" means an individual employed by a school district or charter school who is required

to hold an educator license issued by the board and who has an assignment to teach in a classroom.

Section 11. Section 53F-5-602 is amended to read:

53F-5-602. Pilot programs created.

(1) (a) In addition to the state plan ~~[described in Title 53E, Chapter 10, Part 4, American Indian-Alaskan Native Education State Plan] adopted under Laws of Utah 2015, Chapter 53, Section 7, beginning with fiscal year 2016-2017, there is created a five-year pilot program administered by the board to provide grants targeted to address the needs of American Indian and Alaskan Native students.~~

(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(2) (a) Beginning with fiscal year 2017-2018, there is created a four-year pilot program administered by the board to provide grants targeted to address the needs of American Indian and Alaskan Native students.

(b) The pilot program shall consist of a grant program to school districts and charter schools to be used to fund stipends, recruitment, retention, and professional development of teachers who teach in American Indian and Alaskan Native concentrated schools.

(c) In determining grant recipients under this Subsection (2), the board shall give priority to American Indian and Alaskan Native concentrated schools located in a county of the fourth, fifth, or sixth class with significant populations of American Indians and Alaskan Natives.

(3) Up to 3% of the money appropriated to a grant program under this part may be used by the board for costs in implementing the pilot program.

Section 12. Section 53F-5-604 is amended to read:

53F-5-604. Liaison -- Reporting -- Meeting.

(1) Subject to budget constraints, the superintendent of public instruction appointed under Section 53E-3-301 shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.

~~[(4)]~~ (2) The liaison shall:

(a) work under the direction of the superintendent in the development and implementation of the state plan; and

(b) annually report to the Native American Legislative Liaison Committee created under Section 36-22-1 during the term of a pilot program under this part regarding:

[(a)] (i) what entities receive a grant under this part;

~~[(b)]~~ (ii) the effectiveness of the expenditures of grant money; and

~~[(e)]~~ (iii) recommendations, if any, for additional legislative action.

~~[(2)]~~ (3) The Native American Legislative Liaison Committee shall annually schedule at least one meeting at which education is discussed with selected stakeholders.

Section 13. Section 53G-10-204 is amended to read:

53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

~~[(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by December 30 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.]~~

~~[(7)] (6) Each year, the State Board of Education shall report to the Education Interim Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.~~

Section 14. Section 54-1-13 is amended to read:

54-1-13. Commission exploration and development of cleaner air options.

~~[(4)]~~ The commission shall immediately initiate and conduct proceedings to explore and develop options and opportunities for advancing and promoting measures designed to result in cleaner air in the state through the enhanced use of alternative fuel vehicles, including:

~~[(a)] (1)~~ consideration of the role that gas corporations should play in the enhancement and expansion of the infrastructure and maintenance and other facilities for alternative fuel vehicles;

~~[(b)] (2)~~ the potential funding options available to pay for the enhancement and expansion of infrastructure and facilities for alternative fuel vehicles;

~~[(e)] (3)~~ the role local government, including any local government entity established for the purpose of facilitating conversion to alternative fuel vehicles and of promoting the enhancement and expansion of the infrastructure and facilities for those vehicles, can or should play; and

~~[(d)] (4)~~ the most effective ways to overcome any obstacles to converting to alternative fuel vehicles and to enhancing and expanding the infrastructure and facilities for alternative fuel vehicles.

~~[(2) As soon as an interlocal entity described in Subsection 11-13-224(2) is created, the commission shall seek, encourage, and accept the interlocal entity's participation in the commission's proceedings under this section.]~~

~~[(3) By September 30, 2013, the commission and the interlocal entity described in Subsection 11-13-224(2) shall report to the governor, the Legislative Management Committee, and the Public Utilities, Energy, and Technology Interim Committee.]~~

~~[(a) the results of the commission proceedings under Subsection (1); and]~~

~~[(b) recommendations for specific actions to implement mechanisms to provide funding for the enhancement and expansion of the infrastructure and facilities for alternative fuel vehicles.]~~

Section 15. Section 62A-1-105 is amended to read:

62A-1-105. Creation of boards, divisions, and offices.

(1) The following policymaking boards are created within the Department of Human Services:

(a) the Board of Aging and Adult Services;

~~[(b) the Board of Juvenile Justice Services;]~~ and

~~[(e)]~~ (b) the Utah State Developmental Center Board.

(2) The following divisions are created within the Department of Human Services:

(a) the Division of Aging and Adult Services;

(b) the Division of Child and Family Services;

(c) the Division of Services for People with Disabilities;

(d) the Division of Substance Abuse and Mental Health; and

(e) the Division of Juvenile Justice Services.

(3) The following offices are created within the Department of Human Services:

- (a) the Office of Licensing;
- (b) the Office of Public Guardian; and
- (c) the Office of Recovery Services.

Section 16. Section 62A-1-107 is amended to read:

62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) ~~[(a) This section applies only to the]~~ The Board of Aging and Adult Services ~~[and the Board of Juvenile Justice Services]~~ described in ~~[Subsections]~~ Subsection 62A-1-105(1)(a) ~~[and (b). (b) Each board]~~ shall have seven members who are appointed by the governor with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of ~~[any]~~ the board may be from the same political party. ~~[Each]~~ The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to ~~[their specific boards]~~ the Board of Aging and Adult Services.

(4) ~~[Each]~~ The board shall annually elect a chairperson from ~~[its]~~ the board's membership. ~~[Each]~~ The board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of ~~[any]~~ the board. Four members of ~~[a]~~ the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~(6) [Each]~~ The board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of ~~[his]~~ the board member's appointment.

(7) The board has program policymaking authority for the division over which ~~[it]~~ the board presides.

Section 17. Section 62A-1-109 is amended to read:

62A-1-109. Division directors -- Appointment -- Compensation -- Qualifications.

(1) The chief officer of each division and office enumerated in Section 62A-1-105 shall be a director who shall serve as the executive and administrative head of the division or office.

(2) Each division director shall be appointed by the executive director with the concurrence of the division's board, if the division has a board.

(3) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.

(4) Each office director shall be appointed by the executive director.

(5) Directors of divisions and offices shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

(6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Section 18. Section 62A-7-101 is amended to read:

62A-7-101. Definitions.

As used in this chapter:

(1) "Authority" means the Youth Parole Authority, established in accordance with Section 62A-7-501.

~~[(2) "Board" means the Board of Juvenile Justice Services established in accordance with Section 62A-1-105.]~~

~~[(3)]~~ (2) "Community-based program" means a nonsecure residential or nonresidential program designated to supervise and rehabilitate youth offenders in accordance with Subsection 78A-6-117(2) that prioritizes the least restrictive nonresidential setting, consistent with public safety, and designated or operated by or under contract with the division.

~~[(4)]~~ (3) "Control" means the authority to detain, restrict, and supervise a youth in a manner consistent with public safety and the well being of the youth and division employees.

~~[(5)]~~ (4) "Court" means the juvenile court.

~~[(6)]~~ (5) "Delinquent act" is an act which would constitute a felony or a misdemeanor if committed by an adult.

[47] (6) “Detention” means secure detention or home detention.

[48] (7) “Detention center” means a facility established in accordance with Title 62A, Chapter 7, Part 2, Detention Facilities.

[49] (8) “Director” means the director of the Division of Juvenile Justice Services.

[410] (9) “Discharge” means a written order of the Youth Parole Authority that removes a youth offender from its jurisdiction.

[411] (10) “Division” means the Division of Juvenile Justice Services.

[412] (11) “Home detention” means predispositional placement of a child in the child’s home or a surrogate home with the consent of the child’s parent, guardian, or custodian for conduct by a child who is alleged to have committed a delinquent act or postdispositional placement pursuant to Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

[413] (12) “Observation and assessment program” means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

[414] (13) “Parole” means a conditional release of a youth offender from residency in a secure facility to live outside that facility under the supervision of the Division of Juvenile Justice Services or other person designated by the division.

[415] (14) “Performance-based contracting” means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool pursuant to Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

[416] (15) “Receiving center” means a nonsecure, nonresidential program established by the division or under contract with the division that is responsible for juveniles taken into custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

[417] (16) “Rescission” means a written order of the Youth Parole Authority that rescinds a parole date.

[418] (17) “Revocation of parole” means a written order of the Youth Parole Authority that terminates parole supervision of a youth offender and directs return of the youth offender to the custody of a secure facility after a hearing and a determination that there has been a violation of law or of a

condition of parole that warrants a return to a secure facility in accordance with Section 62A-7-504.

[419] (18) “Runaway” means a youth who willfully leaves the residence of a parent or guardian without the permission of the parent or guardian.

[420] (19) “Secure detention” means predisposition placement in a facility operated by or under contract with the division, for conduct by a child who is alleged to have committed a delinquent act.

[421] (20) “Secure facility” means any facility operated by or under contract with the division, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation.

[422] (21) “Shelter” means the temporary care of children in physically unrestricted facilities pending court disposition or transfer to another jurisdiction.

[423] (22) (a) “Temporary custody” means control and responsibility of nonadjudicated youth until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate agency.

(b) “Temporary custody” does not include a placement in a secure facility, including secure detention, or a residential community-based program operated or contracted by the division, except pursuant to Subsection 78A-6-117(2).

[424] (23) “Termination” means a written order of the Youth Parole Authority that terminates a youth offender from parole.

[425] (24) “Ungovernable” means a youth in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the youth, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the youth, the family, or others; or

(c) results in the situations in both Subsections [425] (24)(a) and (b).

[426] (25) “Work program” means a nonresidential public or private service work project established and administered by the division for youth offenders for the purpose of rehabilitation, education, and restitution to victims.

[427] (26) “Youth offender” means a person 12 years of age or older, and who has not reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and jurisdiction of the division, for confinement in a secure facility or supervision in the community, following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult in accordance with Section 78A-6-117.

[428] (27) (a) “Youth services” means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) These services include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with their families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) The services may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time out placement; and

(iv) family counseling.

Section 19. Section 62A-7-102 is amended to read:

62A-7-102. Creation of division -- Jurisdiction.

(1) There is created the Division of Juvenile Justice Services within the department, under the administration and supervision of the executive director, ~~and under the policy direction of the board~~.

(2) The division has jurisdiction over all youth committed to ~~it pursuant to~~ the division under Section 78A-6-117.

Section 20. Section 62A-7-103 is amended to read:

62A-7-103. Division director -- Qualifications -- Responsibility.

(1) The director of the division shall be appointed by the executive director ~~[with the concurrence of the board]~~.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in youth corrections.

(3) The director is the administrative head of the division.

Section 21. Section 62A-7-104 is amended to read:

62A-7-104. Division responsibilities.

(1) The division is responsible for all youth offenders committed to the division by juvenile courts for secure confinement or supervision and treatment in the community in accordance with Section 78A-6-117.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all youth offenders committed to the division;

(b) establish and maintain all detention and secure facilities and set minimum standards for those facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated youth placed with the division; and

(d) establish observation and assessment programs necessary to serve youth offenders in a nonresidential setting under Subsection 78A-6-117(2)(e).

(3) The division shall place youth offenders committed to it in the most appropriate program for supervision and treatment.

(4) In any order committing a youth offender to the division, the juvenile court shall find whether the youth offender is being committed for secure confinement under Subsection 78A-6-117(2)(c), or placement in a community-based program under Subsection 78A-6-117(2)(c), and specify the criteria under Subsection 78A-6-117(2)(c) or (d) underlying the commitment. The division shall place the youth offender in the most appropriate program within the category specified by the court.

(5) The division shall employ staff necessary to:

(a) supervise and control youth offenders in secure facilities or in the community;

(b) supervise and coordinate treatment of youth offenders committed to the division for placement in community-based programs; and

(c) control and supervise adjudicated and nonadjudicated youth placed with the division for temporary services in receiving centers, youth services, and other programs established by the division.

(6) (a) Youth in the custody or temporary custody of the division are controlled or detained in a manner consistent with public safety and rules made by the division. In the event of an unauthorized leave from a secure facility, detention center, community-based program, receiving center, home, or any other designated placement, division employees have the authority and duty to locate and apprehend the youth, or to initiate action with local law enforcement agencies for assistance.

(b) A rule made by the division under this Subsection (6) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions alleged in the same criminal episode.

(7) The division shall establish and operate compensatory-service work programs for youth offenders committed to the division by the juvenile court. The compensatory-service work program may not be residential and shall:

(a) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(b) provide educational and prevocational programs in cooperation with the State Board of Education for youth offenders placed in the program; and

(c) provide counseling to youth offenders.

(8) The division shall establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to juveniles who have committed a delinquent act or infraction in this state or in any other state.

(9) ~~In accordance with policies established by the board, the~~ The division shall provide regular training for staff of secure facilities, detention staff, case management staff, and staff of the community-based programs.

(10) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to locate and apprehend minors who have absconded from division custody, transport minors taken into custody pursuant to division policy, investigate cases, and carry out other duties as assigned by the division.

(b) Special function officers may be employed through contract with the Department of Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

(11) The division shall designate employees to obtain the saliva DNA specimens required under Section 53-10-403. The division shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(12) The division shall register with the Department of Corrections any person who:

(a) has been adjudicated delinquent based on an offense listed in Subsection 77-41-102(17)(a) or 77-43-102(2);

(b) has been committed to the division for secure confinement; and

(c) remains in the division's custody 30 days before the person's 21st birthday.

(13) The division shall ensure that a program delivered to a youth offender under this section is evidence based in accordance with Section 63M-7-208.

Section 22. Section 62A-7-106.5 is amended to read:

62A-7-106.5. Annual review of programs and facilities.

(1) (a) The division shall annually review all programs and facilities that provide services to juveniles who have committed a delinquent act, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult, and license those programs and facilities that are in compliance with standards ~~approved by the board~~ established by the division. The division shall provide written reviews to the managers of those programs and facilities.

(b) ~~Based upon policies established by the board, programs~~ Programs or facilities that are unable or unwilling to comply with the ~~approved~~ standards established by the division may not be licensed.

(2) Any private facility or program providing services under this chapter that willfully fails to comply with the standards established by the division is guilty of a class B misdemeanor.

Section 23. Section 62A-7-201 is amended to read:

62A-7-201. Confinement -- Facilities -- Restrictions.

(1) Children under 18 years of age, who are apprehended by any officer or brought before any court for examination under any provision of state law, may not be confined in jails, lockups, or cells used for persons 18 years of age or older who are charged with crime, or in secure postadjudication correctional facilities operated by the division, except as provided in Subsection (2)~~], or other specific statute~~~~, or in conformance with standards approved by the board~~.

(2) (a) Children charged with crimes under Section 78A-6-701, as a serious youth offender under Section 78A-6-702 and bound over to the jurisdiction of the district court, or certified to stand trial as an adult pursuant to Section 78A-6-703, if detained, shall be detained as provided in these sections.

(b) Children detained in adult facilities under Section 78A-6-702 or 78A-6-703 before a hearing before a magistrate, or under Subsection 78A-6-113(3), may only be held in certified juvenile detention accommodations in accordance with rules made by the Commission on Criminal and Juvenile Justice. Those rules shall include standards for acceptable sight and sound separation from adult inmates. The Commission on Criminal and Juvenile Justice certifies facilities that are in compliance with the Commission on Criminal and Juvenile Justice's standards. This Subsection (2)(b) does not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(3) In areas of low density population, the Commission on Criminal and Juvenile Justice may, by rule, approve juvenile holding accommodations within adult facilities that have acceptable sight and sound separation. Those facilities shall be used only for short-term holding purposes, with a maximum confinement of six hours, for children alleged to have committed an act which would be a criminal offense if committed by an adult. Acceptable short-term holding purposes are: identification, notification of juvenile court officials, processing, and allowance of adequate time for evaluation of needs and circumstances regarding release or transfer to a shelter or detention facility. This Subsection (3) does not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(4) Children who are alleged to have committed an act that would be a criminal offense if committed by an adult, may be detained in holding rooms in local law enforcement agency facilities for a maximum of two hours, for identification or interrogation, or while awaiting release to a parent or other responsible adult. Those rooms shall be

certified by the Commission on Criminal and Juvenile Justice, according to the Commission on Criminal and Juvenile Justice's rules. Those rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

(5) Willful failure to comply with this section is a class B misdemeanor.

(6) (a) The division is responsible for the custody and detention of children under 18 years of age who require detention care before trial or examination, or while awaiting assignment to a home or facility, as a dispositional placement under Subsection 78A-6-117(2)(f)(i), and of youth offenders under Subsection 62A-7-504(9). This Subsection (6)(a) does not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

(b) (i) The Commission on Criminal and Juvenile Justice shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).

(ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.

(c) All other custody or detention shall be provided by the division, or by contract with a public or private agency willing to undertake temporary custody or detention upon agreed terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems. This Subsection (6)(c) does not apply to juveniles held in an adult detention facility in accordance with Subsection (2)(a).

Section 24. Section 62A-7-401.5 is amended to read:

62A-7-401.5. Secure facilities.

(1) The division shall maintain and operate secure facilities for the custody and rehabilitation of youth offenders who pose a danger of serious bodily harm to others, who cannot be controlled in a less secure setting, or who have engaged in a pattern of conduct characterized by persistent and serious criminal offenses which, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.

(2) The director shall appoint an administrator for each secure facility. An administrator of a secure facility shall have experience in social work, law, criminology, corrections, or a related field, and also in administration.

(3) (a) The division, in cooperation with the State Board of Education, shall provide instruction, or make instruction available, to youth offenders in secure facilities. The instruction shall be appropriate to the age, needs, and range of abilities of the youth offender.

(b) An assessment shall be made of each youth offender by the appropriate secure facility to determine the offender's abilities, possible learning

disabilities, interests, attitudes, and other attributes related to appropriate educational programs.

(c) Prevocational education shall be provided to acquaint youth offenders with vocations, and vocational requirements and opportunities.

(4) The division shall place youth offenders who have been committed to the division for secure confinement and rehabilitation in a secure facility, operated by the division or by a private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are afforded to the youth offender.

(5) The division shall adopt~~[, subject to approval by the board,]~~ standards, policies, and procedures for the regulation and operation of secure facilities, consistent with state and federal law.

Section 25. Section 62A-7-501 is amended to read:

62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.

(1) There is created within the division a Youth Parole Authority.

(2) (a) The authority is composed of 10 part-time members and five pro tempore members who are residents of this state. No more than three pro tempore members may serve on the authority at any one time.

(b) Throughout this section, the term "member" refers to both part-time and pro tempore members of the Youth Parole Authority.

(3) (a) Except as required by Subsection (3)(b), members shall be appointed to four-year terms by the governor with the consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(4) Each member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(5) When a vacancy occurs in the membership for any reason, the replacement member shall be appointed for the unexpired term.

(6) During the tenure of the member's appointment, a member may not:

(a) be an employee of the department, other than in the member's capacity as a member of the authority;

(b) hold any public office;

(c) hold any position in the state's juvenile justice system; or

(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor.

(7) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The authority shall determine appropriate parole dates for youth offenders [~~based on guidelines established by the board and~~] in accordance with Section 62A-7-404. [~~The board shall review and update policy guidelines annually.~~]

(10) Youth offenders may be paroled to their own homes, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 62A-7-404.

(11) The division's case management staff shall implement parole release plans and shall supervise youth offenders while on parole.

(12) The division shall permit the authority to have reasonable access to youth offenders in secure facilities and shall furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.

Section 26. Section 62A-7-502 is amended to read:

62A-7-502. Youth Parole Authority -- Parole procedures.

(1) The authority has responsibility for parole release, rescission, revocation, and termination for youth offenders who have been committed to the division for secure confinement. The authority shall determine when and under what conditions youth offenders who have been committed to a secure facility are eligible for parole.

(2) Each youth offender shall be served with notice of parole hearings, and has the right to personally appear before the authority for parole consideration.

(3) Orders and decisions of the authority shall be in writing, and each youth offender shall be provided written notice of the authority's reasoning and decision in ~~his~~ the youth offender's case.

(4) The authority shall establish policies and procedures [~~subject to board approval,~~] for the authority's governance, meetings, hearings, the conduct of proceedings before it, the parole of youth offenders, and the general conditions under which parole may be granted, rescinded, revoked, modified, and terminated.

Section 27. Section 62A-7-506 is amended to read:

62A-7-506. Discharge of youth offender.

(1) A youth offender may be discharged from the jurisdiction of the division at any time, by written order of the Youth Parole Authority, upon a finding that no further purpose would be served by secure confinement or supervision in a community setting.

(2) [~~Discharge of a~~] A youth offender shall be discharged in accordance with [~~policies approved by the board and~~] Section 62A-7-404.

(3) Discharge of a youth offender is a complete release of all penalties incurred by adjudication of the offense for which the youth offender was committed.

Section 28. Section 62A-7-601 is amended to read:

62A-7-601. Youth services for prevention and early intervention -- Program standards -- Program services.

(1) The division shall establish and operate prevention and early intervention youth services programs.

(2) The division shall adopt [~~with the approval of the board~~] statewide policies and procedures, including minimum standards for the organization and operation of youth services programs.

(3) The division shall establish housing, programs, and procedures to ensure that youth who are receiving services under this section and who are not in the custody of the division are served separately from youth who are in custody of the division.

(4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.

(5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated youth placed with the division.

(6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

Section 29. Section 62A-7-701 is amended to read:

62A-7-701. Community-based programs.

(1) (a) The division shall operate residential and nonresidential community-based programs to provide care, treatment, and supervision for youth offenders committed to the division by juvenile courts.

(b) The division shall operate or contract for nonresidential community-based programs and independent living programs to provide care, treatment, and supervision of paroled youth offenders.

(2) The division shall adopt~~[, with the approval of the board,]~~ minimum standards for the organization and operation of community-based corrections programs for youth offenders.

(3) The division shall place youth offenders committed to it for community-based programs in the most appropriate program based upon the division's evaluation of the youth offender's needs and the division's available resources in accordance with Sections 62A-7-404 and 78A-6-117.

Section 30. Section 63A-5-225 is amended to read:

63A-5-225. Development of new correctional facilities.

(1) As used in this section:

~~[(a) "Commission" means the Prison Development Commission, created in Section 63C-16-201.]~~

(a) "Committee" means the Legislative Management Committee created in Section 36-12-6.

(b) "New correctional facilities" means a new prison and related facilities to be constructed to replace the state prison located in Draper.

(c) "Prison project" means all aspects of a project for the design and construction of new correctional facilities on the selected site, including:

(i) the acquisition of land, interests in land, easements, or rights-of-way;

(ii) site improvement; and

(iii) the acquisition, construction, equipping, or furnishing of facilities, structures, infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the selected site, that are necessary, incidental, or convenient to the development of new correctional facilities on the selected site.

~~(d) "Selected site" means [the same as that term is defined in Section 63C-16-102] the site selected under Subsection 63C-15-203(2) as the site for new correctional facilities.~~

(2) In consultation with the ~~[commission] committee~~, the division shall oversee the prison project, as provided in this section.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section, the division shall:

(i) enter into contracts with persons providing professional and construction services for the prison project;

~~[(ii) in determining contract types for the prison project, consult with and consider recommendations from the commission or the commission's designee;]~~

~~[(iii)]~~ (ii) provide reports to the ~~[commission] committee~~ regarding the prison project, as requested by the commission; and

~~[(iv)]~~ (iii) consider input from the ~~[commission] committee~~ on the prison project, subject to Subsection (3)(b).

(b) The division may not consult with or receive input from the ~~[commission] committee~~ regarding:

(i) the evaluation of proposals from persons seeking to provide professional and construction services for the prison project; or

(ii) the selection of persons to provide professional and construction services for the prison project.

(c) A contract with a project manager or person with a comparable position on the prison project shall include a provision that requires the project manager or other person to provide reports to the ~~[commission] committee~~ regarding the prison project, as requested by the ~~[commission] committee~~.

(4) All contracts associated with the design or construction of new correctional facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this section.

(5) The division shall coordinate with the Department of Corrections, created in Section 64-13-2, and the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, during the prison project to help ensure that the design and construction of new correctional facilities are conducive to and consistent with, and help to implement any reforms of or changes to, the state's corrections system and corrections programs.

(6) (a) There is created within the General Fund a restricted account known as the "Prison Development Restricted Account."

(b) The account created in Subsection (6)(a) is funded by legislative appropriations.

(c) (i) The account shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of account funds into the account.

(d) Upon appropriation from the Legislature, money from the account shall be used to fund the Prison Project Fund created in Subsection (7).

(7) (a) There is created a capital projects fund known as the "Prison Project Fund."

(b) The fund consists of:

(i) money appropriated to the fund by the Legislature; and

(ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide funding for the prison project.

(c) (i) The fund shall earn interest or other earnings.

(ii) The Division of Finance shall deposit interest or other earnings derived from the investment of fund money into the fund.

(d) Money in the fund shall be used by the division to fund the prison project.

Section 31. Section 63B-25-101 is amended to read:

63B-25-101. General obligation bonds for prison project -- Maximum amount -- Use of proceeds.

(1) As used in this section:

(a) "Prison project" means the same as that term is defined in Section ~~[63C-16-102]~~ 63A-5-225.

(b) "Prison project fund" means the capital projects fund created in Subsection 63A-5-225(7).

(2) The commission may issue general obligation bonds as provided in this section.

(3) (a) The total amount of bonds to be issued under this section may not exceed \$570,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$575,700,000.

(b) The maturity of bonds issued under this section may not exceed 10 years.

(4) The commission shall ensure that proceeds from the issuance of bonds under this section are deposited into the Prison Project Fund for use by the division to pay all or part of the cost of the prison project, including:

(a) interest estimated to accrue on the bonds authorized in this section until the completion of construction of the prison project, plus a period of 12 months after the end of construction; and

(b) all related engineering, architectural, and legal fees.

(5) (a) The division may enter into agreements related to the prison project before the receipt of proceeds of bonds issued under this section.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Prison Project Fund.

(c) The division shall reimburse the Prison Project Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The state intends to use proceeds of tax-exempt bonds to reimburse itself for expenditures for costs of the prison project.

(6) Before issuing bonds authorized under this section, the commission shall request and consider a recommendation from the ~~[Prison Development Commission]~~ Legislative Management Committee, created in ~~Section [63C-16-201]~~ 36-12-6, regarding the timing and amount of the issuance.

Section 32. Section 63C-4a-101 is amended to read:

63C-4a-101. Title.

~~[(4)]~~ This chapter is known as the "Constitutional and Federalism Defense Act."

~~[(2)]~~ This part is known as "General Provisions."

Section 33. Section 63C-4a-102 is amended to read:

63C-4a-102. Definitions.

As used in this chapter:

(1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.

(2) "Commission" means the ~~[Commission on]~~ Federalism Commission, created in Section 63C-4a-302.

(3) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.

(4) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.

(5) "Federal governmental entity" means:

(a) the president of the United States;

(b) the United States Congress;

(c) a United States agency; or

(d) an employee or official appointed by the president of the United States.

(6) "Federal issue" means a matter relating to the federal government's dealings with the state, including a matter described in Section 63C-4a-309.

~~[(6)]~~ (7) "Federal law" means:

(a) an executive order by the president of the United States;

(b) a statute passed by the United States Congress;

(c) a regulation adopted by a United States agency; or

(d) a policy statement, order, guidance, or action by:

(i) a United States agency; or

(ii) an employee or official appointed by the president of the United States.

~~[(7)]~~ (8) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.

~~[(8)]~~ (9) "R.S. 2477 plan" means a guiding document that:

(a) is developed jointly by the Utah Association of Counties and the state;

(b) is approved by the council; and

(c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.

~~[(9)]~~ (10) "United States agency" means a department, agency, authority, commission,

council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

Section 34. Section 63C-4a-301 is amended to read:

63C-4a-301. Title.

This part is known as “[~~Commission on~~ Federalism Commission.”

Section 35. Section 63C-4a-302 is amended to read:

63C-4a-302. Creation of Federalism

Commission -- Membership -- Meetings -- Staff -- Expenses.

(1) There is created the [~~Commission on~~ Federalism Commission, comprised of the following [~~seven~~ nine members:

(a) the president of the Senate or the president of the Senate’s designee who shall serve as cochair of the commission;

(b) [~~another member~~] two other members of the Senate, appointed by the president of the Senate;

(c) the speaker of the House or the speaker of the House’s designee who shall serve as cochair of the commission;

(d) [~~two~~] three other members of the House, appointed by the speaker of the House;

(e) the minority leader of the Senate or the minority leader of the Senate’s designee; and

(f) the minority leader of the House or the minority leader of the House’s designee.

(2) (a) A majority of the members of the commission constitute a quorum of the commission.

(b) Action by a majority of the members of a quorum constitutes action by the commission.

(3) The commission [~~shall meet six~~] may meet up to nine times each year, unless additional meetings are approved by the Legislative Management Committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

(7) The commission may, in the commission’s discretion, elect to succeed to the position of any of the following under a contract that any of the following are party to, subject to applicable contractual provisions:

(a) the Commission on Federalism;

(b) the Commission for the Stewardship of Public Lands; and

(c) the Federal Funds Commission.

Section 36. Section 63C-4a-303 is amended to read:

63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on federalism.

(1) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(a) as agreed by a majority of the commission; or
(b) submitted to the commission by a council member.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission’s evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

~~[(6) Each year, the commission shall submit a report by electronic mail to the Legislative Management Committee and the Government Operations Interim Committee that summarizes:]~~

~~[(a) action taken by the commission in accordance with this section; and]~~

~~[(b) action taken by, or communication received from, any of the following in response to a request or~~

~~inquiry made, or other action taken, by the commission;]~~

~~[(i) a United States senator or representative elected from the state;]~~

~~[(ii) a representative of another state; or]~~

~~[(iii) a federal entity, official, or employee.]~~

~~[(7)] (6) The commission shall keep a current list on the Legislature's website of:~~

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

~~[(8)] (7) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:~~

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

~~[(9)] (8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.~~

~~[(10) Before the final meeting of 2019, the commission shall conduct the activities described in Section 63C-4a-307.]~~

(9) The commission shall submit a report on or before November 30 of each year to the Government

Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

Section 37. Section 63C-4a-306 is amended to read:

63C-4a-306. Course on federalism required.

(1) This section ~~[shall apply]~~ applies to:

(a) all political subdivisions of the state;

(b) all agencies of the state;

(c) the Attorney General's office; and

(d) the Office of Legislative Research and General Counsel.

(2) ~~[Beginning January 1, 2015, an]~~ An employing entity listed in Subsection (1) shall appoint at least one designee to which all questions and inquiries regarding federalism shall be directed. The designee shall be required to attend a seminar on the principles of federalism developed pursuant to Subsection 63C-4a-303~~[(8)](7)~~ at least once in every two-year period.

(3) The designee may complete the requirements of this section by attending a seminar in person or online.

Section 38. Section 63C-4a-307 is amended to read:

63C-4a-307. Commission to evaluate foregone property tax -- Evaluation procedures.

(1) As used in this section:

(a) (i) "Federally controlled land" means any land within the exterior boundaries of the state that is controlled by the United States government for the entire taxable year.

(ii) "Federally controlled land" does not include:

(A) a military installation;

(B) a federal enclave as described in United States Constitution, Article I, Section 8, clause 17; or

(C) land owned by an Indian tribe as described in 18 U.S.C. Sec. 1151.

(b) (i) "Payments in lieu of tax" means payments made by the federal government to a county, municipality, or school district of the state.

(ii) "Payments in lieu of tax" includes a payment under:

(A) the in lieu of property taxes program, 31 U.S.C. Sec. 6901, et seq., commonly referred to as PILT; and

(B) the impact aid program, 20 U.S.C. Sec. 7701, et seq.

(2) (a) The commission shall hold a hearing regarding the impact on the state from the failure of the federal government to make payments in lieu of tax that are equivalent to the property tax revenue that the state would generate but for federally controlled land.

(b) The commission shall invite and accept testimony on the information described in Subsection (2)(a) and the impact on the ability and the duty of the state to fund education and to protect and promote the health, safety, and welfare of the state, the state's political subdivisions, and the residents of the state from the following:

(i) representatives from:

(A) the office of each United States senator or representative elected from the state;

(B) any federal government entity administering the payments in lieu of tax;

(C) the Legislative Management Committee;

(D) the Office of the Governor;

(E) the Office of the Attorney General;

(F) the State Tax Commission;

(G) the Public Lands Policy Coordinating Office, created in Section 63J-4-602;

(H) the school districts;

(I) the association of school districts;

(J) the superintendents' association;

(K) the charter schools;

(L) school community councils;

(M) the counties;

(N) the municipalities; and

(O) nonpartisan entities serving state governments;

(ii) other states' officials or agencies; and

(iii) other interested individuals or entities.

(3) In accordance with this part, the commission may engage each United States senator or representative elected from the state in coordinating with the federal government to secure payments in lieu of tax that are equivalent to the property tax revenue the state would generate but for federally controlled land.

(4) The commission shall communicate the information received during the hearing described in Subsection (2) and any action taken under Subsection (3) to the individuals and entities described in Subsection (2)(b).

(5) The commission shall conduct the activities described in this section before the commission's final meeting in 2019.

Section 39. Section 63C-4a-308, which is renumbered from Section 63C-4b-104 is renumbered and amended to read:

[63C-4b-104]. 63C-4a-308. Commission duties with regards to federal lands.

(1) The commission shall:

~~(a) convene at least eight times each year;~~

~~(b) (1) review and make recommendations on the transfer of federally controlled public lands to the state;~~

~~(c) (2) review and make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands, including recommendations concerning the use of funds in the account created in Section [63C-4b-105] 63C-4a-404;~~

~~(d) (3) study and evaluate the recommendations of the public lands transfer study and economic analysis conducted by the Public Lands Policy Coordinating Office in accordance with Section 63J-4-606;~~

~~(e) (4) coordinate with and report on the efforts of the executive branch, the counties and political subdivisions of the state, the state congressional delegation, western governors, other states, and other stakeholders concerning the transfer of federally controlled public lands to the state including convening working groups, such as a working group composed of members of the Utah Association of Counties;~~

~~(f) (5) study and make recommendations regarding the appropriate designation of public lands transferred to the state, including stewardship of the land and appropriate uses of the land;~~

~~(g) (6) study and make recommendations regarding the use of funds received by the state from the public lands transferred to the state; and~~

~~(h) (7) receive reports from and make recommendations to the attorney general, the Legislature, and other stakeholders involved in litigation on behalf of the state's interest in the transfer of public lands to the state, regarding:~~

~~(i) (a) preparation for potential litigation;~~

~~(ii) (b) selection of outside legal counsel;~~

~~(iii) (c) ongoing legal strategy for the transfer of public lands; and~~

~~(iv) (d) use of money.~~

~~(A) (i) appropriated by the Legislature for the purpose of securing the transfer of public lands to the state under Section [63C-4b-105] 63C-4a-404; and~~

~~(B) (ii) disbursed from the Public Lands Litigation Expendable Special Revenue Fund created in Section [63C-4b-106] 63C-4a-405.~~

~~(2) The commission shall prepare an annual report, including any proposed legislation, and present the report to the Natural Resources,~~

~~Agriculture, and Environment Interim Committee on or before November 30, 2016, and on or before November 30 each year thereafter.]~~

Section 40. Section 63C-4a-309, which is renumbered from Section 63C-14-301 is renumbered and amended to read:

[63C-14-301]. 63C-4a-309. Commission duties in relation to federal funds.

[4] Until November 30, 2019, the commission shall:

[4a] (1) study and assess:

[4i] (a) the financial stability of the federal government;

[4ii] (b) the level of dependency that the state and local governments have on the receipt of federal funds;

[4iii] (c) the risk that the state and local governments in the state will experience a reduction in the amount or value of federal funds they receive, in both the near and distant future;

[4iv] (d) the likely and potential impact on the state and its citizens from a reduction in the amount or value of federal funds received by the state and by local governments in the state, in both the near and distant future; and

[4v] (e) the likely and potential national impact from a reduction in the amount or value of federal funds paid to the states, in both the near and distant future; and

[4b] (2) make recommendations to the governor and Legislature on methods to:

[4i] (a) avoid or minimize the risk of a reduction in the amount or value of federal funds by the state and by local governments in the state;

[4ii] (b) reduce the dependency of the state and of local governments in the state on federal funds; and

[4iii] (c) prepare for and respond to a reduction in the amount or value of federal funds by the state and by local governments in the state.

~~[(2) After November 30, 2019, the commission shall study, assess, and provide recommendations on any federal issue that the governor, the Legislature through a joint resolution of the Legislature, or the Legislative Management Committee directs the commission to study, assess, and make recommendations on.]~~

~~[(3) The commission shall present a report to the Government Operations Interim Committee of the Legislature each year on the commission's findings and recommendations.]~~

Section 41. Section 63C-4a-404, which is renumbered from Section 63C-4b-105 is renumbered and amended to read:

[63C-4b-105]. 63C-4a-404. Creation of Public Lands Litigation Restricted Account -- Sources of funds -- Uses of funds -- Reports.

(1) There is created a restricted account within the General Fund known as the Public Lands Litigation Restricted Account.

(2) The account created in Subsection (1) consists of money from the following revenue sources:

(a) money received by the commission from other state agencies; and

(b) appropriations made by the Legislature.

(3) The Legislature may annually appropriate money from the account for the purposes of asserting, defending, or litigating state and local government rights to the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law.

(4) (a) Any entity that receives money from the account shall, before disbursing the money to another person for the purposes described in Subsection (3), or before spending the money appropriated, report to the commission regarding:

(i) the amount of the disbursement;

(ii) who will receive the disbursement; and

(iii) the planned use for the disbursement.

(b) The commission may, upon receiving the report under Subsection (4)(a):

(i) advise the Legislature and the entity of the commission finding that the disbursement is consistent with the purposes in Subsection (3); or

(ii) advise the Legislature and the entity of the commission finding that the disbursement is not consistent with the purposes in Subsection (3).

Section 42. Section 63C-4a-405, which is renumbered from Section 63C-4b-106 is renumbered and amended to read:

[63C-4b-106]. 63C-4a-405. Public Lands Litigation Expendable Special Revenue Fund -- Creation -- Source of funds -- Use of funds -- Reports.

(1) There is created an expendable special revenue fund known as the Public Lands Litigation Expendable Special Revenue Fund.

(2) The fund shall consist of gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources and other states.

(3) The fund shall be administered by the Division of Finance in accordance with Subsection (4).

(4) (a) The fund may be used only for the purpose of asserting, defending, or litigating state and local government rights to the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law.

(b) Before each disbursement from the fund, the Division of Finance shall report to the commission regarding:

- (i) the sources of the money in the fund;
- (ii) who will receive the disbursement;
- (iii) the planned use of the disbursement; and
- (iv) the amount of the disbursement.

(c) The commission may, upon receiving the report under Subsection (4)(b):

(i) advise the Legislature and the Division of Finance of the commission finding that the disbursement is consistent with the purposes in Subsection (4)(a); or

(ii) advise the Legislature and the Division of Finance of the commission finding that the disbursement is not consistent with the purposes in Subsection (4)(a).

Section 43. Section 63F-1-102 is amended to read:

63F-1-102. Definitions.

As used in this title:

~~[(1) “Board” means the Technology Advisory Board created in Section 63F-1-202.]~~

~~[(2)] (1) “Chief information officer” means the chief information officer appointed under Section 63F-1-201.~~

~~[(3)] (2) “Data center” means a centralized repository for the storage, management, and dissemination of data.~~

~~[(4)] (3) “Department” means the Department of Technology Services.~~

~~[(5)] (4) “Enterprise architecture” means:~~

(a) information technology that can be applied across state government; and

(b) support for information technology that can be applied across state government, including:

- (i) technical support;
- (ii) master software licenses; and
- (iii) hardware and software standards.

~~[(6)] (5) (a) [Except as provided in Subsection (6)(b), “executive] “Executive branch agency” means an agency or administrative subunit of state government.~~

(b) “Executive branch agency” does not include:

- (i) the legislative branch;
- (ii) the judicial branch;
- (iii) the State Board of Education;
- (iv) the Board of Regents;
- (v) institutions of higher education;
- (vi) independent entities as defined in Section 63E-1-102; and

(vii) elective constitutional offices of the executive department which includes:

- (A) the state auditor;
- (B) the state treasurer; and
- (C) the attorney general.

~~[(7)] (6) “Executive branch strategic plan” means the executive branch strategic plan created under Section 63F-1-203.~~

~~[(8)] (7) “Individual with a disability” means an individual with a condition that meets the definition of “disability” in 42 U.S.C. Sec. 12102.~~

~~[(9)] (8) “Information technology” means all computerized and auxiliary automated information handling, including:~~

- (a) systems design and analysis;
- (b) acquisition, storage, and conversion of data;
- (c) computer programming;
- (d) information storage and retrieval;
- (e) voice, video, and data communications;
- (f) requisite systems controls;
- (g) simulation; and
- (h) all related interactions between people and machines.

~~[(10)] (9) “State information architecture” means a logically consistent set of principles, policies, and standards that guide the engineering of state government’s information technology and infrastructure in a way that ensures alignment with state government’s business and service needs.~~

Section 44. Section 63F-1-203 is amended to read:

63F-1-203. Executive branch information technology strategic plan.

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:

- (a) that complies with this chapter; and
- (b) that includes:
 - (i) a strategic plan for the:

(A) interchange of information related to information technology between executive branch agencies;

(B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section 63F-1-204; and

(C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security;

(ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:

(A) the importance of the information technology or information system; and

(B) the time sequencing of the information technology or information system; and

(iii) maximizing the use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with~~[(a)]~~ all cabinet level officials~~;~~ and~~].~~

~~[(b) the advisory board created in Section 63F-1-202.]~~

(3) (a) Unless withdrawn by the chief information officer or the governor in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

(i) the governor; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:

(i) should be modified; or

(ii) for any other reason should not take effect.

(c) The Public Utilities, Energy, and Technology Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.

(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the Public Utilities, Energy, and Technology Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4) (a) The chief information officer shall, on or before January 1, 2014, and each year thereafter, modify the executive branch information technology strategic plan to incorporate security standards that:

(i) are identified as industry best practices in accordance with Subsections 63F-1-104(3) and (4); and

(ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section 63F-1-204.

Section 45. Section 63F-1-303 is amended to read:

63F-1-303. Executive branch agencies -- Subscription by institutions.

(1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:

(a) subscribe to the information technology services provided by the department; or

(b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:

(i) result in:

(A) cost savings;

(B) increased efficiency; or

(C) improved quality of services; and

(ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the department if:

(a) the president of the institution recommends that the institution subscribe to the services of the department; and

(b) the Board of Regents determines that subscription to the services of the department will result in cost savings or increased efficiency to the institution.

(3) The following may subscribe to information technology services by requesting that the services be provided from the department:

(a) the legislative branch;

(b) the judicial branch;

(c) the State Board of Education;

(d) a political subdivision of the state;

(e) an agency of the federal government;

(f) an independent entity as defined in Section 63E-1-102; and

(g) an elective constitutional officer of the executive department as defined in Subsection 63F-1-102~~[(6)(b)]~~(5)(b)(vii).

Section 46. Section 63F-4-201 is amended to read:

63F-4-201. Submitting a technology proposal -- Review process.

(1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the department.

(2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the department.

(3) The review board shall:

(a) conduct a technical review of a technology proposal transmitted by the chief information officer;

(b) determine whether the technology proposal merits further review and consideration ~~by the board~~ by the chief information officer, based on the technology proposal's likelihood to:

(i) be capable of being implemented effectively; and

(ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) transmit a technology proposal to the ~~board~~ chief information officer and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration ~~by the board~~ by the chief information officer.

Section 47. Section 63F-4-202 is amended to read:

63F-4-202. Chief information officer review and approval of technology proposals.

(1) The ~~board~~ chief information officer shall review and evaluate each technology proposal that the review board transmits to the ~~board~~ chief information officer.

(2) The ~~board~~ chief information officer may approve and recommend that the department provide funding from legislative appropriations for a technology proposal if, after the ~~board's~~ chief information officer's review and evaluation of the technology proposal:

(a) the ~~board~~ chief information officer determines that there is a reasonably good likelihood that the technology proposal:

(i) is capable of being implemented effectively; and

(ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(b) the ~~board~~ chief information officer receives approval from the governor's budget office for the technology proposal.

(3) The ~~board~~ chief information officer may:

(a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the ~~board's~~ chief information officer's prioritization under Subsection (3)(a).

(4) The department shall:

(a) track the implementation and success of a technology proposal approved by the ~~board~~ chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the department's tracking and evaluation:

(i) to the ~~board~~ chief information officer, as frequently as the ~~board~~ chief information officer requests; and

(ii) at least annually to the Public Utilities, Energy, and Technology Interim Committee.

(5) The department may, ~~upon recommendation by the board,~~ expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the ~~board~~ chief information officer has approved.

Section 48. Section 63H-7a-203 is amended to read:

63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the Utah Communications Authority Board.

(2) The board shall consist of nine board members as follows:

(a) three individuals appointed by the governor with the advice and consent of the Senate;

(b) one individual who is not a legislator appointed by the speaker of the House of Representatives;

(c) one individual who is not a legislator appointed by the president of the Senate;

(d) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and

(e) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate.

(3) Subject to this section, an individual is eligible for appointment under Subsection (2) if the individual has knowledge of at least one of the following:

(a) law enforcement;

(b) public safety;

(c) fire service;

(d) telecommunications;

(e) finance;

(f) management; and

(g) government.

(4) An individual may not serve as a board member if the individual is a current public safety communications network:

(a) user; or

(b) vendor.

(5) (a) (i) Five of the board members appointed under Subsection (2) shall serve an initial term of two years and four of the board members appointed under Subsection (2) shall serve an initial term of four years.

(ii) Successor board members shall each serve a term of four years.

(b) (i) The governor may remove a board member with cause.

(ii) If the governor removes a board member the entity that appointed the board member under Subsection (2) shall appoint a replacement board member in the same manner as described in Subsection (2).

(6) (a) The governor shall, after consultation with the board, appoint a board member as chair of the board with the advice and consent of the Senate.

(b) The chair shall serve a two-year term.

(7) The board shall meet on an as-needed basis and as provided in the bylaws.

(8) (a) The board shall elect one of the board members to serve as vice chair.

(b) (i) The board may elect a secretary and treasurer who are not members of the board.

(ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.

(c) A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer.

(9) Each board member, including the chair, has one vote.

(10) A vote of a majority of the board members is necessary to take action on behalf of the board.

(11) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 49. Section 63I-1-204 is enacted to read:

63I-1-204. Repeal dates, Title 4.

Subsection 4-41a-105(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

Section 50. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates, Title 9.

(1) In relation to the Native American Legislative Liaison Committee, on July 1, 2022:

(a) Subsection 9-9-104.6(2)(a) is repealed;

(b) Subsection 9-9-104.6(4)(a), the language that states "who is not a legislator" is repealed; and

(c) Subsection 9-9-104.6(4)(b), related to compensation of legislative members, is repealed.

(2) In relation to the American Indian and Alaska Native Education State Plan Pilot Program, on July 1, 2022:

(a) Subsection 26-7-2.5(4), related to the American Indian-Alaskan Native Public Education Liaison, is repealed; and

(b) Subsection 9-9-104.6(2)(d) is repealed.

Section 51. Section 63I-1-211 is amended to read:

63I-1-211. Repeal dates, Title 11.

(1) Section 11-14-308 is repealed December 31, 2020.

(2) Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed January 1, 2029.

Section 52. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Section 19-2a-102 is repealed July 1, 2021.

[2] (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

[3] (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

[4] (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

[5] (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

[6] (7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[7] (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[8] (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

[9] (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

[10] (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 53. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates, Title 23.

Subsection 23-13-12.5(2)(f)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

Section 54. Section 63I-1-226 is amended to read:**63I-1-226. Repeal dates, Title 26.**

- (1) Section 26-1-40 is repealed July 1, 2019.
- (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.
- (3) Section 26-10-11 is repealed July 1, 2020.
- (4) Subsection 26-18-417(3) is repealed July 1, 2020.
- (5) Subsection 26-18-418(2), the language that states “and the Mental Health Crisis Line Commission created in Section 63C-18-202” is repealed July 1, 2023.

~~[(5)]~~ (6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

~~[(6)]~~ (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

~~[(7)]~~ (8) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(8)]~~ (9) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.

(10) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

~~[(9)]~~ (11) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.

(12) Subsection 26-61a-108(2)(e)(i), related to the Native American Legislative Liaison Committee, is repealed July 1, 2022.

~~[(40)]~~ (13) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 55. Section 63I-1-232 is amended to read:**63I-1-232. Repeal dates, Title 32A.**

In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

- (1) Subsection 32B-2-306(1)(a) is repealed;
- (2) Subsection 32B-2-306(4), the language that states “advisory council” is repealed and replaced with “department”;
- (3) Subsections 32B-2-306(4)(b) and (e) are repealed;
- (4) Subsection 32B-2-306(5)(a), the language that states “in cooperation with the advisory council” is repealed;
- (5) Subsection 32B-2-306(5)(b) is amended to read:

“(b) The department shall:

- (i) prepare a plan detailing the intended use of the money appropriated under this section; and

(ii) conduct the media and education campaign in accordance with the guidelines created by the department under Subsection (4)(c).”;

(6) Subsection 32B-2-402(1)(b) is repealed;

(7) Sections 32B-2-404 and 32B-2-405, the language that states “advisory council” is repealed and replaced with “department”;

(8) Subsection 32B-2-405(2), the language that states “by a majority vote” is repealed; and

(9) Subsection 32B-2-405(4)(a)(i), the language that states “majority vote of” is repealed.

Section 56. Section 63I-1-235 is amended to read:**63I-1-235. Repeal dates, Title 35A.**

(1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

~~[(4)]~~ (2) Subsection 35A-4-312(5)(p) is repealed July 1, 2019.

~~[(2)]~~ (3) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

~~[(3)]~~ (4) Section 35A-9-501 is repealed January 1, 2021.

(5) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

Section 57. Section 63I-1-236 is amended to read:**63I-1-236. Repeal dates, Title 36.**

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.

~~[(4)]~~ (2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 22, Native American Legislative Liaison Committee, is repealed July 1, 2022.

(4) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(5) Section 36-29-105 is repealed on December 31, 2020.

~~[(2)]~~ (6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2021.

Section 58. Section 63I-1-241 is amended to read:**63I-1-241. Repeal dates, Title 41.**

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

(2) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

(3) Subsection 41-12a-806(5) is repealed on July 1, 2020.

(4) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2023.

Section 59. Section 63I-1-251 is amended to read:

63I-1-251. Repeal dates, Title 51.

(1) Subsection 51-2a-202(3) is repealed on June 30, 2020.

(2) Subsections 51-10-201(5)(iv) and 51-10-204(1)(k)(i)(C), related to the Native American Legislative Liaison Committee, are repealed July 1, 2022.

Section 60. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language that states "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(10) (a) Sections 53E-10-503 and 53E-10-504 are repealed January 1, 2023.

(b) Subsection 53E-10-501(1), related to the School Safety and Crisis Line Commission, is repealed January 1, 2023.

[(9)] (11) Section 53F-2-514 is repealed July 1, 2020.

[(10)] (12) Section 53F-5-203 is repealed July 1, 2019.

[(11)] (13) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

[(12)] (14) Section 53F-6-201 is repealed July 1, 2019.

[(13)] (15) Section 53F-9-501 is repealed January 1, 2023.

(16) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[(14)] (17) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 61. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2019.

(4) Section 62A-4a-213 is repealed July 1, 2019.

(5) Section 62A-15-114 is repealed December 31, 2021.

(6) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the Crisis Line Commission, established in Section 53E-10-503," is repealed January 1, 2023.

(7) Subsections 62A-15-1100(1) and 62A-15-1101(8), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[(6)] (8) Subsection 62A-15-1101(7) is repealed July 1, 2018.

(9) In relation to the Mental Health Crisis Line Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(1) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "in consultation with the commission" is repealed;

(c) Section 62A-15-1303, the language that states "In consultation with the commission," is repealed; and

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed.

Section 62. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-3-403 is repealed;

(b) Subsection 63A-3-401(1) is repealed;

(c) Subsection 63A-3-402(2)(c), the language that states “using criteria established by the board” is repealed;

(d) Subsections 63A-3-404(1) and (2), the language that states “After consultation with the board, and” is repealed; and

(e) Subsection 63A-3-404(1)(b), the language that states “using the standards provided in Subsection 63A-3-403(3)(c)” is repealed.

[41] (2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

[42] (3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

[43] (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[44] ~~Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.]~~

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[45] (6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

[46] (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

[47] (8) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

[48] (9) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

[49] (10) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(11) In relation to the State Fair Corporation Board of Directors, on January 1, 2025:

(a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

(b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

(c) in Subsection 63H-6-104(2)(e), the language that states “, of whom only one may be a legislator, in accordance with Subsection (3)(e),” is repealed;

(d) Subsection 63H-6-104(3)(a)(i) is amended to read:

“(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.”;

(e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states “the president of the Senate, the speaker of the House, the governor,” is repealed and replaced with “the governor”; and

(f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is repealed.

[40] (12) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[41] (13) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

[42] (14) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

[43] (15) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[44] (16) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(17) Subsection 63J-1-602.2(23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(18) Subsection 63J-4-708(1), in relation to the Talent Ready Utah Board, on January 1, 2023, is amended to read:

”(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee and the Economic Development and Workforce Services Interim Committee.”.

(19) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states “council” is replaced with “commission”;

(c) Subsection 63M-7-305(1) is repealed and replaced with:

“(1) “Commission” means the Commission on Criminal and Juvenile Justice.”; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

“(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).”.

[45] (20) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[46] (21) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, [2027] 2021.

(22) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed on January 1, 2023.

[47] (23) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[48] (24) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [(48)] (24)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [(48)] (24)(b) and (c), a person may carry forward a tax credit in

accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[49] (25) Section 63N-2-512 is repealed on July 1, 2021.

[(20)] (26) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(20)] (26)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[42] (27) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

[42] (28) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[(23)] (29) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(30) In relation to the Pete Suazo Utah Athletic Commission, on January 1, 2021:

(a) Subsection 63N-10-201(2)(a) is amended to read:

“(2)(a) The governor shall appoint five commission members with the advice and consent of the Senate.”;

(b) Subsection 63N-10-201(2)(b), related to legislative appointments, is repealed;

(c) in Subsection 63N-10-201(3)(a), the language that states “, president, or speaker, respectively,” is repealed; and

(d) Subsection 63N-10-201(3)(d) is amended to read:

“(d) The governor may remove a commission member for any reason and replace the commission member in accordance with this section.”.

(31) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 63N-12-202(17) is repealed;

(b) in Subsection 63N-12-214(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 63N-12-214(5), the language that states “representatives of Talent Ready Utah,” is repealed.

[24] (32) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

(33) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 63. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates, Title 67.

[4] Section 67-1-15 is repealed December 31, 2027.

[2] Sections 67-1a-10 and 67-1a-11 creating the Commission on Civic and Character Education and establishing its duties are repealed on July 1, 2021.

Section 64. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates, Title 72.

Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

Section 65. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

(1) The instream flow water right for trout habitat established in Subsection 73-3-30(3) is repealed December 31, 2019.

(2) In relation to the Legislative Water Development Commission, on January 1, 2021:

(a) in Subsection 73-10g-105(3), the language that states “and in consultation with the State Water Development Commission created in Section 73-27-102” is repealed;

(b) Subsection 73-10g-203(4)(a) is repealed; and

(c) Title 73, Chapter 27, State Water Development Commission, is repealed.

Section 66. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

(1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.

(b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2021.

[2] (3) Section 19-6-126 is repealed on January 1, 2020.

Section 67. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states “appointed on or after May 8, 2018,” is repealed.

(2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

[2] (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(4) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

[3] (5) Section 63H-7a-303 is repealed on July 1, 2022.

[4] (6) On July 1, 2019:

(a) in Subsection 63J-1-206(2)(c)(i), the language that states “ Subsection(2)(c)(ii) and” is repealed; and

(b) Subsection 63J-1-206(2)(c)(ii) is repealed.

(7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(52) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

[5] (8) Section 63J-4-708 is repealed January 1, 2023.

[6] (9) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

[7] (10) Section 63N-3-110 is repealed July 1, 2020.

Section 68. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

[4] (2) On July 1, 2018:

(a) in Subsection 72-2-108(2), the language that states “and except as provided in Subsection (10)” is repealed;

(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states “, excluding any amounts appropriated as additional support for class B and

class C roads under Subsection (10),” is repealed; and

(c) Subsection 72-2-108(10) is repealed.

~~(2)~~ (3) Section 72-3-113 is repealed January 1, 2020.

~~(3)~~ (4) Section 72-15-101 is repealed on March 31, 2018.

Section 69. Section 63J-4-606 is amended to read:

63J-4-606. Public lands transfer study and economic analysis -- Report.

(1) As used in this section:

(a) “Public lands” [is-as] means the same as that term is defined in Section 63L-6-102.

(b) “Transfer of public lands” means the transfer of public lands from federal ownership to state ownership.

~~(2) (a) The coordinator and the office shall:~~

~~(i) conduct a study and economic analysis of the ramifications and economic impacts of the transfer of public lands;~~

~~(ii) during the study and economic analysis, consult with county representatives on an ongoing basis regarding how to consider and incorporate county land use plans and planning processes into the analysis; and~~

~~(iii) on an ongoing basis, report on the progress and findings of the study to the Commission for the Stewardship of Public Lands.~~

~~(b) The study and economic analysis shall:~~

~~(i) inventory public lands;~~

~~(ii) examine public lands’:~~

~~(A) ownership;~~

~~(B) management;~~

~~(C) jurisdiction;~~

~~(D) resource characteristics;~~

~~(E) federal management requirements related to national forests, national recreation areas, or other public lands administered by the United States; and~~

~~(F) current and potential future uses and ways that socioeconomic conditions are influenced by those uses;~~

~~(iii) determine:~~

~~(A) public lands’ ongoing and deferred maintenance costs, revenue production, and funding sources;~~

~~(B) whether historical federal funding levels have been sufficient to manage, maintain, preserve, and restore public lands and whether that funding level is likely to continue;~~

~~(C) the amount of public lands revenue paid to state, county, and local governments and other recipients designated by law from payments in lieu of taxes, timber receipts, secure rural school receipts, severance taxes, and mineral lease royalties;~~

~~(D) historical trends of the revenue sources listed in Subsection (2)(b)(iii)(C);]~~

~~(E) ways that the payments listed in Subsection (2)(b)(iii)(C) can be maintained or replaced following the transfer of public lands; and]~~

~~(F) ways that, following the transfer of public lands, revenue from public lands can be increased while mitigating environmental impact;]~~

~~(iv) identify:~~

~~(A) existing oil and gas, mining, grazing, hunting, fishing, recreation, and other rights and interests on public lands;]~~

~~(B) the economic impact of those rights and interests on state, county, and local economies;]~~

~~(C) actions necessary to secure, preserve, and protect those rights and interests; and]~~

~~(D) how those rights and interests may be affected in the event the federal government does not complete the transfer of public lands;]~~

~~(v) evaluate the impact of federal land ownership on:~~

~~(A) the Utah School and Institutional Trust Lands Administration’s ability to administer trust lands for the benefit of Utah schoolchildren;]~~

~~(B) the state’s ability to fund education; and]~~

~~(C) state and local government tax bases;]~~

~~(vi) identify a process for the state to:~~

~~(A) transfer and receive title to public lands from the United States;]~~

~~(B) utilize state agencies with jurisdiction over land, natural resources, environmental quality, and water to facilitate the transfer of public lands;]~~

~~(C) create a permanent state framework to oversee the transfer of public lands;]~~

~~(D) transition to state ownership and management of public lands using existing state and local government resources; and]~~

~~(E) indemnify political subdivisions of the state for actions taken in connection with the transfer of public lands;]~~

~~(vii) examine ways that multiple use of public lands through tourism and outdoor recreation contributes to:]~~

~~(A) the economic growth of state and local economies; and]~~

~~(B) the quality of life of Utah citizens;]~~

~~(viii) using theoretical modeling of various levels of land transfer, usage, and development, evaluate~~

~~the potential economic impact of the transfer of public lands on state, county, and local governments; and]~~

~~[(ix) recommend the optimal use of public lands following the transfer of public lands.]~~

(2) The coordinator and the office shall, on an ongoing basis, report to the Federalism Commission regarding the ramifications and economic impacts of the transfer of public lands.

(3) The coordinator and office shall:

(a) on an ongoing basis, discuss issues related to the transfer of public lands with:

(i) the School and Institutional Trust Lands Administration;

(ii) local governments;

(iii) water managers;

(iv) environmental advocates;

(v) outdoor recreation advocates;

(vi) nonconventional and renewable energy producers;

(vii) tourism representatives;

(viii) wilderness advocates;

(ix) ranchers and agriculture advocates;

(x) oil, gas, and mining producers;

(xi) fishing, hunting, and other wildlife interests;

(xii) timber producers;

(xiii) other interested parties; and

~~[(xiv) the Commission for the Stewardship of Public Lands; and]~~

(xiv) the Federalism Commission; and

(b) develop ways to obtain input from Utah citizens regarding the transfer of public lands and the future care and use of public lands.

~~[(4) The coordinator may contract with another state agency or private entity to assist the coordinator and office with the study and economic analysis required by Subsection (2)(a).]~~

~~[(5) The coordinator shall submit a final report on the study and economic analysis described in Subsection (2)(a), including proposed legislation and recommendations, to the governor, the Natural Resources, Agriculture, and Environment Interim Committee, and the Commission for the Stewardship of Public Lands before November 30, 2014.]~~

Section 70. Section 63J-4-607 is amended to read:

63J-4-607. Resource management plan administration.

(1) The office shall consult with the [Commission for the Stewardship of Public Lands] Federalism Commission before expending funds appropriated

by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) \$25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than \$25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404(6)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) \$50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(6)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the ~~[Commission for the Stewardship of Public Lands]~~ Federalism Commission for review.

(6) Following review of the statewide resource management plan, the ~~[Commission for the Stewardship of Public Lands]~~ Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 71. Section 63J-4-702 is amended to read:

63J-4-702. Employability to Careers Program Board.

(1) There is created within the office the Employability to Careers Program Board composed of the following members:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the executive director of the Department of Human Services or the executive director's designee; and

(c) three members appointed by the governor with the consent of the Senate as follows:

(i) one member from the private or nonprofit sector with expertise in finance;

(ii) one member who is not a legislator from the private or nonprofit sector chosen from among two individuals recommended by the president of the Senate; and

(iii) one member who is not a legislator from the private or nonprofit sector chosen from among two individuals recommended by the speaker of the House of Representatives.

(2) (a) An appointed member of the board shall serve for a term of three years, but may be reappointed for one additional term.

(b) If a vacancy occurs in the board for any reason, the governor with the consent of the Senate shall appoint a replacement to serve the remainder of the board member's term.

(3) The board shall elect a chair from among the board's membership.

(4) The board shall meet at least quarterly upon the call of the chair.

(5) Four members of the board constitute a quorum.

(6) Action by a majority present constitutes the action of the board.

(7) A board member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The office shall provide staff support to the board.

Section 72. Section 63L-10-102 is amended to read:

63L-10-102. Definitions.

As used in this chapter:

(1) "Commission" means the ~~[Commission for the Stewardship of Public Lands]~~ Federalism Commission.

(2) “Office” means the Public Lands Policy Coordinating Office established in Section 63J-4-602.

(3) “Plan” means the statewide resource management plan, created pursuant to Section 63J-4-607 and adopted in Section 63L-10-103.

(4) “Public lands” means:

(a) land other than a national park that is managed by the United States Parks Service;

(b) land that is managed by the United States Forest Service; and

(c) land that is managed by the Bureau of Land Management.

Section 73. Section 63L-10-103 is amended to read:

63L-10-103. Statewide resource management plan adopted.

(1) The statewide resource management plan, dated January 2, 2018, and on file with the office, is hereby adopted.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) If the office modifies the plan, the office shall notify the commission of the modification and the office’s reasoning for the modification within 30 days of the day on which the modification is made.

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing what changes, if any, are recommended for the plan and deliver the report to the commission [~~by October 31~~] August 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission [~~by October 31~~] August 31.

(6) If the commission makes a recommendation that the Legislature approve a modification, the commission shall prepare a bill in anticipation of the annual general session of the Legislature to implement the change.

Section 74. Section 63L-10-104 is amended to read:

63L-10-104. Policy statement.

(1) Except as provided in Subsection (2), state agencies and political subdivisions shall refer to and substantially conform with the statewide resource management plan when making plans for public lands or other public resources in the state.

(2) (a) The office shall, as funding allows, maintain a record of all state agency and political subdivision resource management plans and relevant documentation.

(b) On an ongoing basis, state agencies and political subdivisions shall keep the office informed of any substantive modifications to their resource management plans.

(c) On or before [~~October~~] August 31 of each year, the office shall provide a report to the commission that includes the following:

(i) any modifications to the state agency or political subdivision resource management plans that are inconsistent with the statewide resource management plan;

(ii) a recommendation as to how an inconsistency identified under Subsection (2)(c)(i), if any, should be addressed; and

(iii) a recommendation:

(A) as to whether the statewide resource management plan should be modified to address any inconsistency identified under Subsection (2)(c)(i); or

(B) on any other modification to the statewide resource management plan the office determines is necessary.

(3) (a) Subject to Subsection (3)(b), nothing in this section preempts the authority granted to a political subdivision under:

(i) Title 10, Chapter 8, Powers and Duties of Municipalities, or Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

(b) Federal regulations state that, when state and local government policies, plans, and programs conflict, those of higher authority will normally be followed.

Section 75. Section 63M-2-301 is amended to read:

63M-2-301. The Utah Science Technology and Research Initiative -- Governing authority -- Executive director.

(1) There is created the Utah Science Technology and Research Initiative.

(2) To oversee USTAR, there is created the Utah Science Technology and Research Governing Authority consisting of:

(a) the state treasurer or the state treasurer’s designee;

(b) the executive director of the Governor’s Office of Economic Development;

(c) three members appointed by the governor, with the consent of the Senate;

(d) two members who are not legislators appointed by the president of the Senate;

(e) two members who are not legislators appointed by the speaker of the House of Representatives; and

(f) one member appointed by the commissioner of higher education.

(3) (a) The eight appointed members under Subsections (2)(c) through (f) shall serve four-year staggered terms.

(b) An appointed member under Subsection (2)(c), (d), (e), or (f):

(i) may not serve more than two full consecutive terms; and

(ii) may be removed from the governing authority for any reason before the member's term is completed:

(A) at the discretion of the original appointing authority; and

(B) after the original appointing authority consults with the governing authority.

(4) A vacancy on the governing authority in an appointed position under Subsection (2)(c), (d), (e), or (f) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.

(5) (a) Except as provided in Subsection (5)(b), the governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance:

(i) pursuant to Sections 63A-3-106 and 63A-3-107; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) After consultation with the governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the governing authority.

(b) The executive director is an at-will employee who may be terminated with or without cause by:

(i) the governor; or

(ii) majority vote of the governing authority.

Section 76. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) an elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health or the executive director's designee;

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) a district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) a district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) a juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) a prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-11(2)(b);

~~[(u) the following members appointed to serve four-year terms:]~~

~~[(i) a member of the House of Representatives appointed by the speaker of the House of Representatives;]~~

~~[(ii) a member of the Senate appointed by the president of the Senate; and]~~

~~[(iii) (u) a representative appointed by the Utah League of Cities and Towns to serve a four-year term;~~

(v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents prevention professionals;

(iv) one resident of the state who represents treatment professionals;

(v) one resident of the state who represents the physical health care field;

(vi) one resident of the state who is a criminal defense attorney;

(vii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(viii) one resident of the state who represents local law enforcement agencies; and

(ix) one representative of private service providers that serve youth with substance use disorders or mental health disorders.

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 77. Section 63M-7-302 is amended to read:

63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.

(1) The Utah Substance Use and Mental Health Advisory Council shall annually select one of its members to serve as chair and one of its members to serve as vice chair.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.

(3) A majority of the members of the council constitutes a quorum.

(4) ~~[(a)]~~ A member ~~[who is not a legislator]~~ may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

~~[(i)]~~ (a) Section 63A-3-106;

~~[(ii)]~~ (b) Section 63A-3-107; and

~~[(iii)]~~ (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

~~[(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.]~~

(5) The council may establish committees as needed to assist in accomplishing its duties under Section 63M-7-303.

Section 78. Section 63M-7-601 is amended to read:

63M-7-601. Creation -- Members -- Chair.

(1) There is created within the governor's office the Utah Council on Victims of Crime.

(2) The Utah Council on Victims of Crime shall be composed of 25 voting members as follows:

(a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the Division of Juvenile Justice Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) the chair of each judicial district's victims' rights committee;

(l) the following members appointed to serve four-year terms:

(i) a representative of the Statewide Association of Public Attorneys appointed by that association;

(ii) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(iii) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(iv) a representative of a Children's Justice Center appointed by the ~~[Advisory Board on Children's Justice]~~ attorney general; and

(v) a citizen representative appointed by the governor; and

(m) the following members appointed by the members in Subsections (2)(a) through (2)(k) to serve four-year terms:

(i) an individual who works professionally with victims of crime; and

(ii) a victim of crime.

(3) The council shall annually elect one member to serve as chair.

Section 79. Section 63M-11-201 is amended to read:

63M-11-201. Composition -- Appointments -- Terms -- Removal.

(1) The commission shall be composed of ~~[22]~~ 20 voting members as follows:

~~[(a) one senator, appointed by the president of the Senate;]~~

~~[(b) one representative, appointed by the speaker of the House of Representatives;]~~

~~[(e)]~~ (a) the executive director of the Department of Health;

~~[(d)]~~ (b) the executive director of the Department of Human Services;

~~[(e)]~~ (c) the executive director of the Governor's Office of Economic Development;

~~[(f)]~~ (d) the executive director of the Department of Workforce Services; and

~~[(g)]~~ (e) 16 voting members, appointed by the governor, representing each of the following:

(i) the Utah Association of Area Agencies on Aging;

(ii) higher education in Utah;

(iii) the business community;

(iv) the Utah Association of Counties;

(v) the Utah League of Cities and Towns;

(vi) charitable organizations;

(vii) the health care provider industry;

(viii) financial institutions;

(ix) the legal profession;

(x) the public safety sector;

(xi) public transportation;

(xii) ethnic minorities;

(xiii) the industry that provides long-term care for the elderly;

(xiv) organizations or associations that advocate for the aging population;

(xv) the Alzheimer's Association; and

(xvi) the general public.

(2) (a) A member appointed under Subsection (1)~~[(g)]~~(e) shall serve a two-year term.

(b) Notwithstanding the term requirements of Subsection (2)(a), the governor may adjust the length of the initial commission members' terms to ensure that the terms are staggered so that approximately 1/2 of the members appointed under Subsection (1)(g) are appointed each year.

(c) When, for any reason, a vacancy occurs in a position appointed by the governor under Subsection (1)~~[(g)]~~(e), the governor shall appoint a person to fill the vacancy for the unexpired term of the commission member being replaced.

(d) Members appointed under Subsection (1)~~[(g)]~~(e) may be removed by the governor for cause.

(e) A member appointed under Subsection (1)~~[(g)]~~(e) shall be removed from the commission and replaced by the governor if the member is absent for three consecutive meetings of the commission without being excused by the chair of the commission.

(3) In appointing the members under Subsection (1)~~[(g)]~~(e), the governor shall:

(a) take into account the geographical makeup of the commission; and

(b) strive to appoint members who are knowledgeable or have an interest in issues relating to the aging population.

Section 80. Section 63M-11-206 is amended to read:

63M-11-206. Members serve without pay -- Reimbursement for expenses.

~~[(1)]~~ A member ~~[who is not a legislator]~~ may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

~~[(a)]~~ (1) Section 63A-3-106;

~~[(b)]~~ (2) Section 63A-3-107; and

~~[(e)]~~ (3) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

~~[(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title JR5, Legislative Compensation and Expenses.]~~

Section 81. Section 63N-1-201 is amended to read:

63N-1-201. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Development.

(2) The office is:

(a) responsible for economic development and economic development planning in the state; and

(b) the industrial promotion authority of the state.

(3) The office shall:

(a) administer and coordinate state and federal economic development grant programs;

(b) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(c) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

(d) act to create, develop, attract, and retain business, industry, and commerce in the state;

(e) act to enhance the state's economy;

(f) administer programs over which the office is given administrative supervision by the governor;

(g) submit an annual written report as described in Section 63N-1-301; and

~~[(h) comply with the requirements of Section 36-30-202; and]~~

~~[(i)]~~ (h) perform other duties as provided by the Legislature.

(4) In order to perform its duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited in the General Fund as dedicated credits of the office.

(6) (a) The office shall obtain the advice of the board before implementing a change to a policy, priority, or objective under which the office operates.

(b) Subsection (6)(a) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 82. Section 63N-12-505, which is renumbered from Section 53B-17-108 is renumbered and amended to read:

~~53B-17-108~~. 63N-12-505. Utah Futures.

(1) As used in this section:

(a) "Education provider" means:

(i) a Utah institution of higher education as defined in Section 53B-2-101; or

(ii) a nonprofit Utah provider of postsecondary education.

(b) "Student user" means:

(i) a Utah student in kindergarten through grade 12;

(ii) a Utah post secondary education student;

(iii) a parent or guardian of a Utah public education student; or

(iv) a Utah potential post secondary education student.

(c) "Utah Futures" means a career planning program developed and administered by the ~~[Utah Futures Steering Committee]~~ talent ready board.

~~[(d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures.]~~

(2) The ~~[Utah Futures Steering Committee]~~ talent ready board shall ensure, as funding allows and is feasible, that Utah Futures will:

(a) allow a student user to:

(i) access, subject to Subsection (3), information about an education provider or a scholarship provider;

(ii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iii) access information about education providers;

(iv) access up to date information about entrance requirements to education providers;

(v) apply for entrance to multiple schools without having to fully replicate the application process;

(vi) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(vii) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) allow all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers;

(iii) access up-to-date information about entrance requirements to education providers;

(iv) apply for entrance to multiple schools without having to fully replicate the application process;

(v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and

(vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(c) allow an education provider to:

(i) request that Utah Futures send information to student users who are interested in various educational opportunities;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the Utah Futures website;

(d) allow a Utah business to:

(i) request that Utah Futures send information to student users who are pursuing educational opportunities that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the Utah Futures website as allowed by law;

(e) provide analysis and reporting on student user interests and education paths within the education system; and

(f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.

(3) A student may access information described in Subsection (2)(a)(i) only if Utah Futures obtains written consent:

(a) of a student's parent or legal guardian through the student's school or LEA; or

(b) for a student who is age 18 or older or an emancipated minor, from the student.

(4) The ~~[Utah Futures Steering Committee]~~ talent ready board:

(a) may charge a fee to a Utah business for services provided by Utah Futures under this section; and

(b) shall establish a fee described in Subsection (4)(a) in accordance with Section 63J-1-504.

Section 83. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards.

(1) As used in this section[, "executive board"]:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (2).

(b) "Executive board" means any executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government.

(2) (a) Before September 1 of the calendar year following the year in which the Legislature creates a new executive board, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review under Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation and making the report described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) Upon receipt of a report from the governor under Subsection (2)(a)(iii), the Government Operations Interim Committee shall vote on whether to address the recommendations made by the governor in the report and prepare legislation accordingly.

[(2)] (3) (a) The governor shall designate [a person from his] a board and commissions administrator from the governor's staff to maintain a computerized [data base] database containing information about all executive boards.

[(3)] (b) The [person designated to maintain the data base] administrator shall ensure that the [data base] database contains:

[(a)] (i) the name of each executive board;

[(b)] (ii) the statutory or constitutional authority for the creation of the executive board;

[(c)] (iii) the sunset date on which each executive board's statutory authority expires;

[(d)] (iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

[(e)] (v) the name, address, gender, telephone number, and county of each [person] individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

[(f)] (vi) the title of the position held by the person who appointed each member of the executive board;

[(g)] (vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

[(h)] (viii) whether or not members appointed to the executive board require consent of the Senate;

[(i)] (ix) the organization, interest group, profession, local government entity, or geographic area that [the person] an individual appointed to an executive board represents, if any;

[(j)] (x) the [person's] party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

[(k)] (xi) whether [the] each executive board is a policy board or an advisory board;

[(l)] (xii) whether [or not] the executive board has or exercises rulemaking authority; and

[(m)] (xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

[(4) The person designated to maintain the data base shall:]

(4) The administrator shall place the following on the governor's website:

(a) [make] the information contained in the [data base available to the public upon request; and] database;

[(b) cooperate with other entities of state government to publish the data or useful summaries of the data.]

(b) each report the administrator receives under Subsection (5); and

(c) the summary report described in Subsection (6).

(5) (a) Before August 1 of each year, each executive board shall prepare and submit to the administrator an annual report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actual work performed by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) a description of actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(v) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(vi) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of each year.

(c) An executive board is not required to submit a report under this Subsection (5) if the executive board:

(i) is also a legislative board under Section 36-12-22; and

(ii) submits a report under Section 36-12-22.

[(5)] (6) (a) The [person designated to maintain the data base] administrator shall prepare, publish, and distribute an annual report by [December] September 1 of each year that includes[, as of November 1]:

(i) as of August 1 of that year:

[(4)] (A) the total number of executive boards;

[(4)] (B) the name of each of those executive boards and the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

~~[(iii)]~~ (C) for each state officer and each department and division, the total number of executive boards under the jurisdiction of or affiliated with that officer, department, and division;

~~[(iv)]~~ (D) the total number of members for each of those executive boards;

~~[(v)]~~ (E) whether or not some or all of the members of each of those executive boards are approved by the Senate;

~~[(vi)]~~ (F) whether each board is a policymaking board or an advisory board and the total number of policy boards and the total number of advisory boards; and

~~[(vii)]~~ (G) the compensation, if any, paid to the members of each of those executive boards[-]; and

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(v); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(vi) that the executive board should no longer exist.

(b) The ~~[person designated to maintain the databases]~~ administrator shall distribute copies of the report described in Subsection (6)(a) to:

- (i) the governor;
- (ii) the president of the Senate;
- (iii) the speaker of the House;
- (iv) the Office of Legislative Research and General Counsel; ~~and~~
- (v) the Government Operations Interim Committee; and

~~[(v)]~~ (vi) any other persons who request a copy of the annual report.

(c) Each year, the Government Operations Interim Committee shall prepare legislation making any changes the committee determines are suitable with respect to the report the committee receives under Subsection (6)(b), including:

- (i) repealing an executive board that is no longer functional or necessary; and
- (ii) making appropriate changes to make an executive board more effective.

Section 84. Section 67-5b-102 is amended to read:

67-5b-102. Children's Justice Center -- Requirements of center -- Purposes of center.

(1) (a) There is established the Children's Justice Center Program to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center.

(b) The attorney general shall administer the program.

(c) The attorney general shall:

(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;

(ii) administer applications for state and federal grants and subgrants;

~~[(iii) staff the Advisory Board on Children's Justice;]~~

(iii) maintain an advisory board that is associated with the program to comply with requirements of grants that are associated with the program;

(iv) assist in the development of new centers;

(v) coordinate services between centers;

(vi) contract with counties and other entities for the provision of services;

(vii) (A) provide training, technical assistance, and evaluation to centers; and

(B) ensure that any training described in Subsection (1)(c)(vii)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.

(2) (a) The attorney general shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Juab County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.

(3) The attorney general and each center shall:

(a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

(b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;

(c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;

(d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;

(e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;

(f) hold regularly scheduled case reviews with the multidisciplinary team;

(g) coordinate and track:

(i) investigation of the alleged offense; and

(ii) preparation of prosecution;

(h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;

(i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;

(j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;

(k) enhance community understanding of child abuse cases; and

(l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

Section 85. Section 67-5b-105 is amended to read:

67-5b-105. Local advisory boards -- Membership.

(1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:

(a) the local center director or the director's designee;

(b) a district attorney or county attorney having criminal jurisdiction or any designee;

(c) a representative of the attorney general's office, designated by the attorney general;

(d) at least one official from a local law enforcement agency or the local law enforcement agency's designee;

(e) the county executive or the county executive's designee;

(f) a licensed nurse practitioner or physician;

(g) a licensed mental health professional;

(h) a criminal defense attorney;

(i) at least four members of the community at large [~~provided, however, that the Advisory Board on Children's Justice may authorize fewer members, although not less than two, if the local advisory board so requests~~];

(j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director;

(k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center;

(l) if a center serves more than one county, one representative from each county served, appointed by the county executive; and

(m) additional members appointed as needed by the county executive.

(2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members on each local advisory board shall select a chair of the local advisory board.

(3) The local advisory board may not supersede the authority of the contracting county as designated in Section 67-5b-104.

(4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.

Section 86. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following [~~15~~] 13 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor; and

(iv) three local elected officials from a county, city, or town within the state appointed by the governor[;].

~~[(v) a member from the House of Representatives appointed by the speaker of the House of Representatives; and]~~

~~[(vi) a member from the Senate appointed by the president of the Senate.]~~

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

~~[(d) (i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of the House and the president of the Senate may not be from the same political party.]~~

~~[(ii) The speaker of the House and the president of the Senate shall alternate the appointments made under Subsections (2)(a)(v) and (vi) as follows:]~~

~~[(A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment made by the speaker following the expiration of the existing member's four-year term of office shall be from a different political party; and]~~

~~[(B) if the president appoints a member under Subsection (2)(a)(vi), the next appointment made by the president following the expiration of the existing member's four-year term of office shall be from a different political party.]~~

(3) (a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) ~~[(a)]~~ A member ~~[who is not a legislator]~~ may not receive compensation or benefits for the

member's service, but may receive per diem and travel expenses as allowed in:

~~[(4)] (a)~~ Section 63A-3-106;

~~[(4)] (b)~~ Section 63A-3-107; and

~~[(4)] (c)~~ rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

~~[(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.]~~

Section 87. Section 73-10g-105 is amended to read:

73-10g-105. Loans -- Rulemaking.

(1) (a) The division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to repair, replace, or improve underfunded federal water infrastructure projects.

(b) Subject to Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act, the division and the board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in preparation to make loans from available funds to develop the state's undeveloped share of the Bear and Colorado rivers.

(2) The rules described in Subsection (1) shall:

(a) specify the amount of money that may be loaned;

(b) specify the criteria the division and the board shall consider in prioritizing and awarding loans;

(c) specify the minimum qualifications for an individual who, or entity that, receives a loan, including the amount of cost-sharing to be the responsibility of the individual or entity applying for a loan;

(d) specify the terms of the loan, including the terms of repayment; and

(e) require all applicants for a loan to apply on forms provided by the division and in a manner required by the division.

(3) The division and the board shall, in making the rules described in Subsection (1) and in consultation with the State Water Development Commission created in Section 73-27-102:

(a) establish criteria for better water data and data reporting;

(b) establish new conservation targets based on the data described in Subsection (3)(a);

(c) institute a process for the independent verification of the data described in Subsection (3)(a);

(d) establish a plan for an independent review of:

(i) the proposed construction plan for an applicant's qualifying water infrastructure project; and

(ii) the applicant's plan to repay the loan for the construction of the proposed water infrastructure project;

(e) invite and recommend public involvement; and

(f) set appropriate financing and repayment terms.

~~[(4) (a) The division, board, and State Water Development Commission shall, no later than October 30, 2016, report to the Natural Resources, Agriculture, and Environment Interim Committee and Legislative Management Committee on the rules established pursuant to Subsections (1) and (3).]~~

~~[(b) After October 30, 2016, the]~~

(4) The division and the board shall provide regular updates to the Legislative Management Committee on the progress made under this section, including whether the division and board intend to issue a request for proposals.

Section 88. Section 78A-2-501 is amended to read:

78A-2-501. Definitions -- Online Court Assistance Program -- Purpose of program -- Online Court Assistance Account -- User's fee.

(1) As used in this part:

(a) "Account" means the Online Court Assistance Account created in this section.

~~[(b) "Board" means the Online Court Assistance Program Policy Board created in Section 78A-2-502.]~~

~~[(e)]~~ (b) "Program" means the Online Court Assistance Program created in this section.

(2) There is created the "Online Court Assistance Program" administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

- (a) uncontested divorces;
- (b) enforcement of orders in the divorce decree;
- (c) landlord and tenant actions;
- (d) guardianship actions; and
- (e) other types of proceedings approved by the board.

(3) The purpose of the program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(4) (a) An additional \$20 shall be added to the filing fee established by Sections 78A-2-301 and 78A-2-301.5 if a person files a complaint, petition,

answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fees collected under this Subsection (4) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

(5) The Administrative Office of the Courts shall provide on the front page of the program website a listing of all forms and proceedings available to all pro se litigants within the program.

Section 89. Repealer.

This bill repeals:

Section 10-1-119, Inventory of competitive activities.

Section 11-13-224, Utah interlocal entity for alternative fuel vehicles and facilities.

Section 17-50-107, Inventory of competitive activities.

Section 36-20-1, Definitions.

Section 36-20-2, Judicial Rules Review Committee.

Section 36-20-3, Submission of court rules or proposals for court rules.

Section 36-20-4, Review of rules -- Criteria.

Section 36-20-5, Committee review -- Fiscal analyst -- Powers of committee.

Section 36-20-6, Findings -- Report -- Distribution of copies.

Section 36-20-7, Court rules or proposals for court rules -- Publication in bulletin.

Section 36-20-8, Duties of staff.

Section 36-30-101, Title.

Section 36-30-102, Definitions.

Section 36-30-201, Economic Development Legislative Liaison Committee -- Creation -- Membership -- Chairs -- Per diem and expenses.

Section 36-30-202, Duties -- Confidential information -- Records.

Section 36-30-203, Staff support.

Section 53E-3-920, Creation of State Council on Military Children.

Section 53E-10-401, Definitions.

Section 53E-10-402, American Indian-Alaskan Native Public Education Liaison.

Section 53E-10-403, Commission created.

Section 53E-10-404, Duties of the commission.

Section 53E-10-405, Adoption of state plan.

Section 53E-10-406, Changes to state plan.

Section 53E-10-407, Pilot program.

Section 59-1-901, Creation -- Members -- Terms.

Section 59-1-902, Organization -- Vacancies.

Section 59-1-903, Duties.

Section 59-1-904, Public hearings.

Section 59-1-905, Per diem and travel expenses.

Section 59-1-907, Staff.

Section 59-1-908, Reports.

Section 63C-4b-101, Title.

Section 63C-4b-102, Definitions.

Section 63C-4b-103, Commission for the Stewardship of Public Lands -- Creation -- Membership -- Interim rules followed -- Compensation -- Staff.

Section 63C-4b-107, Repeal of commission.

Section 63C-14-101, Title.

Section 63C-14-102, Definitions.

Section 63C-14-201, Creation of Federal Funds Commission -- Membership -- Chairs.

Section 63C-14-202, Terms of commission members -- Removal -- Vacancies -- Salaries and expenses.

Section 63C-14-302, Commission meetings -- Quorum -- Bylaws -- Staff support.

Section 63C-16-101, Title.

Section 63C-16-102, Definitions.

Section 63C-16-201, Commission created -- Membership -- Cochairs -- Removal -- Vacancy.

Section 63C-16-202, Quorum and voting requirements -- Bylaws -- Per diem and expenses -- Staff.

Section 63C-16-203, Commission duties and responsibilities.

Section 63C-16-204, Other agencies' cooperation and actions.

Section 63F-1-202, Technology Advisory Board -- Membership -- Duties.

Section 63I-4a-101, Title.

Section 63I-4a-102, Definitions.

Section 63I-4a-201, Title.

Section 63I-4a-202, Free Market Protection and Privatization Board -- Created -- Membership -- Operations -- Expenses.

Section 63I-4a-203, Free Market Protection and Privatization Board -- Duties.

Section 63I-4a-204, Staff support -- Assistance to an agency or local entity.

Section 63I-4a-205, Board accounting method.

Section 63I-4a-301, Title.

Section 63I-4a-302, Board to create inventory.

Section 63I-4a-303, Governor to require review of commercial activities.

Section 63I-4a-304, Duties of the Governor's Office of Management and Budget.

Section 63I-4a-401, Title.

Section 63I-4a-402, Government immunity.

Section 67-1a-10, Commission on Civic and Character Education -- Membership -- Chair -- Expenses.

Section 67-1a-11, Commission on Civic and Character Education -- Duties and responsibilities.

Section 67-5b-106, Advisory Board on Children's Justice -- Membership -- Terms -- Duties -- Authority.

Section 72-9-606, Towing Advisory Board created -- Appointment -- Terms -- Meetings -- Per diem and expenses -- Duties.

Section 78A-2-502, Creation of policy board -- Membership -- Terms -- Chair -- Quorum -- Expenses.

Section 90. Effective date.

This bill takes effect May 14, 2019, except that the amendments to Section 63N-12-505 take effect July 1, 2020.

Section 91. Coordinating H.B. 387 with H.B. 140 -- Substantive amendments.

If this H.B. 387 and H.B. 140, Civic and Character Education Reports Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 53G-10-204(7) to read:

“(7) Each year, the [State Board of Education] state board shall report to the Education Interim Committee[, on or before the October meeting,] the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated

curriculum taught in connection with regular school work as required in this section.”.

Section 92. Coordinating H.B. 387 with H.B. 373 -- Substantive amendments.

If this H.B. 387 and H.B. 373, Student Support Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Subsection 63I-1-253(10) in this bill to read:

“(10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

(a) Subsection 53B-17-1201(1) is repealed;

(b) Section 53B-17-1203 is repealed;

(c) Subsection 53B-17-1204(2) is repealed;

(d) Subsection 53B-17-1204(4)(a), the language that states “in accordance with the method described in Subsection (4)(c)” is repealed; and

(e) Subsection 53B-17-1204(4)(c) is repealed.”; and

(2) amending Subsection 63I-1-262(5) in this bill to read:

“(5) Subsections 62A-15-116(1) and (4), the language that states “In consultation with the SafeUT and School Safety Commission, established in Section 53B-17-1203,” is repealed January 1, 2023.”

Section 93. Coordinating H.B. 387 with H.B. 461 -- Substantive and technical amendments -- Omitting substantive changes.

If this H.B. 387 and H.B. 461, Pediatric Neuro-Rehabilitation Fund, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database as follows:

(1) amend Subsection 63I-1-226(10) in this bill to read:

“(10) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2023.”; and

(2) not make the changes in H.B. 461 to Section 63I-2-226.

Section 94. Coordinating H.B. 387 with S.B. 172 -- Technical amendments -- Changing technical cross references.

If this H.B. 387 and S.B. 172, Economic Development Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) change the references in Subsection 63I-1-263(30) of this bill from Section 63N-10-201 to Section 53-19-201; and

(2) amend Subsection 63I-1-263(31) of this bill to read as follows:

“(30) In relation to the Talent Ready Utah Board, on January 1, 2023:

(a) Subsection 9-20-102(16) is repealed;

(b) in Subsection 9-20-115(2), the language that states “Talent Ready Utah,” is repealed; and

(c) in Subsection 9-20-115(5), the language that states “representatives of Talent Ready Utah,” is repealed.”

CHAPTER 247**H. B. 389**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

(Retrospective operation to January 1, 2019)

INCENTIVE PROGRAM AMENDMENTS

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill modifies and repeals provisions related to tax credits.

Highlighted Provisions:

This bill:

- ▶ creates an independent audit and certification process for the severance tax credit for well recompletion or workover;
- ▶ creates a verification process for the severance tax credit for conversion of natural gas to hydrogen fuel for use in a zero emission motor vehicle;
- ▶ creates a tax credit certificate process for the qualifying solar project individual income tax credit;
- ▶ codifies the contents of a tax credit certification and requires the Governor's Office of Economic Development to report certain information from a tax credit certification that the Governor's Office of Economic Development issues for a taxpayer to claim the recycling market development zone tax credit;
- ▶ requires the Office of Energy Development to report to the State Tax Commission certain information from a tax credit certification that the Office of Energy Development issues for a taxpayer to claim the renewable energy systems tax credit;
- ▶ codifies the targeted business income tax credit in the corporate and individual tax codes;
- ▶ repeals the expired income tax credits for the purchase or lease of an energy efficient vehicle; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 40-6-16, as last amended by Laws of Utah 2016, Chapter 317
- 59-5-102, as last amended by Laws of Utah 2017, Chapter 262
- 59-7-159, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-7-610, as last amended by Laws of Utah 2015, Chapter 283
- 59-7-614, as last amended by Laws of Utah 2018, Chapters 426 and 436
- 59-7-614.10, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

- 59-10-137, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-10-210, as last amended by Laws of Utah 2015, Chapter 283
- 59-10-1007, as last amended by Laws of Utah 2015, Chapter 283
- 59-10-1014, as last amended by Laws of Utah 2018, Chapters 426 and 436
- 59-10-1024, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-10-1037, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63M-4-401, as last amended by Laws of Utah 2017, Chapters 227 and 470
- 63N-2-213, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63N-2-304, as last amended by Laws of Utah 2017, Chapter 352

ENACTS:

- 59-7-624, Utah Code Annotated 1953
- 59-10-1112, Utah Code Annotated 1953

REPEALS:

- 59-7-605, as last amended by Laws of Utah 2016, Chapters 369 and 375
- 59-10-1009, as last amended by Laws of Utah 2016, Chapters 369 and 375
- 63N-2-305, as last amended by Laws of Utah 2017, Chapter 352

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 40-6-16 is amended to read:**40-6-16. Duties of division.**

[(1)] In addition to the duties assigned by the board, the division shall:

[(a)] (1) develop and implement an inspection program that will include but not be limited to production data, pre-drilling checks, and site security reviews;

[(b)] (2) publish a monthly production report;

[(e)] (3) publish a monthly gas processing plant report;

[(d)] (4) review and evaluate, prior to a hearing, evidence submitted with the petition to be presented to the board;

[(e)] (5) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5; [and]

[(f)] (6) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit[.]; and

[(2) The director shall, by October 30, 2016, report to the Commission for the Stewardship of Public Lands regarding the division's recommendations for how the state shall deal with oil, gas, and mining issues in the Utah Public Land Management Act.]

(7) complete the verification of natural gas to hydrogen conversion plants required by Section 59-5-102.

Section 2. Section 59-5-102 is amended to read:

59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credit -- Tax rate reduction.

(1) As used in this section:

(a) “Division” means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(b) “Office” means the Office of Energy Development created in Section 63M-4-401.

~~[(a)]~~ (c) “Royalty rate” means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.

~~[(b)]~~ (d) “Taxable value” means the total value of the oil or gas minus:

(i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and

(ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

~~[(c)]~~ (e) “Taxable volume” means:

(i) for oil, the total volume of barrels minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and

(B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

(ii) for natural gas, the total volume of MCFs minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and

(B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

~~[(d)]~~ (f) “Total value” means the value, as determined by Section 59-5-103.1, of all oil or gas that is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the oil or gas was produced.

~~[(e)]~~ (g) “Total volume” means:

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the oil was produced; and

(ii) for natural gas, the number of MCFs:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the natural gas was produced.

~~[(f)]~~ (h) “Value of oil or gas taken in kind” means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.

(2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the owner’s interest in the taxable value of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) The severance tax imposed by Subsection (2)(a) does not apply to:

(i) an interest of:

(A) the United States in oil or gas or in the proceeds of the production of oil or gas;

(B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and

(C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States; and

(ii) the value of:

(A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and

(C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.

(3) (a) The severance tax on oil shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and

(B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in

Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

(iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

(b) The severance tax on natural gas shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and

(B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

(iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

(c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

(4) Subject to Subsection (9):

(a) the severance tax rate for oil is as follows:

(i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil; and

(ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;

(b) the severance tax rate for natural gas is as follows:

(i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per MCF for gas; and

(ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas; and

(c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.

(5) If oil or gas is shipped outside the state:

(a) the shipment constitutes a sale; and

(b) the oil or gas is subject to the tax imposed by this section.

(6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

(7) (a) Subject to ~~Subsections (7)(b) and (c)~~ other provisions of this Subsection (7), a taxpayer ~~[who]~~ that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to ~~[20% of the amount paid]~~ the amount stated on a tax credit certificate that the office issues to the taxpayer.

~~(b) The tax credit under Subsection (7)(a) for each recompletion or workover may not exceed \$30,000 per well during each calendar year.]~~

(b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

(i) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar year; and

(ii) \$30,000.

(c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar year in which the taxpayer claims the tax credit.

(d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the procedures and requirements of this Subsection (7)(d).

(ii) The taxpayer shall prepare a report of the taxpayer's expenses of a recompletion or well workover during the calendar year.

(iii) An independent certified public accountant shall:

(A) review the report from the taxpayer; and

(B) attest to the accuracy and validity of the report, including the amount of expenses of a recompletion or well workover.

(iv) The taxpayer shall submit the taxpayer's report and the attestation to the division to verify that the expenses certified by the independent certified accountant are well recompletion or workover expenses.

(v) The division shall return to the taxpayer:

(i) the taxpayer's report;

(ii) the attestation by the certified public accountant; and

(iii) a report that includes the amount of approved well recompletion or workover expenses.

(vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form approved by the commission, that includes:

(A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the calendar year; and

(B) the amount of the taxpayer's tax credit.

(vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for

the same time period that a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a certificate; and

(ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to govern the application process for receiving a tax credit certification under this Subsection (7).

(8) (a) [A] Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a severance tax owing on natural gas under this section if:

(i) the taxpayer is required to pay a severance tax on natural gas under this section;

(ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and

(iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.

(b) The [tax credit a] taxpayer may claim [under Subsection (8)(a) is] a tax credit equal to the [amount of tax that the taxpayer owes under this section, subject to a maximum of \$5,000,000 per year.] lesser of:

(i) the amount of tax that the taxpayer owes under this section; and

(ii) \$5,000,000.

(c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and requirements of this Subsection (8)(c).

(ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:

(A) that converts natural gas to hydrogen fuel; and

(B) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.

(d) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (8)(c).

(9) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

(10) The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and

(b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

(11) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(12) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(13) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

Section 3. Section 59-7-159 is amended to read:

59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

- (A) the cost of the tax credit to the state;
- (B) the purpose and effectiveness of the tax credit; and
- (C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-7-601;
- (ii) Section 59-7-607;
- (iii) Section 59-7-612;
- (iv) Section 59-7-614.1; and
- (v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-7-609;
- (ii) Section 59-7-614.2;
- (iii) Section 59-7-614.10;
- ~~(iv) Section 59-7-617;~~
- ~~(v) Section 59-7-619;~~ ~~and~~
- ~~(vi) Section 59-7-620;~~ ~~and~~
- (vii) Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- ~~(i) Section 59-7-605;~~
- ~~(ii) Section 59-7-610;~~
- ~~(iii) Section 59-7-614;~~
- ~~(iv) Section 59-7-614.7;~~
- ~~(v) Section 59-7-614.8; and~~
- ~~(vi) Section 59-7-618.~~

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 4. Section 59-7-610 is amended to read:

59-7-610. Recycling market development zones tax credits.

(1) ~~[For taxable years beginning on or after January 1, 1996, a] Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim ~~[a tax credit as provided in this section.]~~ the following nonrefundable tax credits:~~

(a) ~~[(i) There shall be allowed a nonrefundable] a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:~~

- ~~[(A)] (i) commercial composting; or~~
- ~~[(B)] (ii) manufacturing facilities or plant units that:~~

~~[(C)] (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or~~

~~[(D)] (B) reduce or reuse postconsumer waste material[.]; and~~

~~(b) a tax credit equal to the lesser of:~~

~~(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and~~

~~(ii) \$2,000.~~

~~[(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:]~~

~~[(A) on a form provided by the commission; and]~~

~~[(B) before a taxpayer is allowed a tax credit under this section.]~~

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for claims of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

~~(iii)~~ (b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under ~~this section~~ Subsection (1) with a copy of the ~~form described in Subsection (1)(a)(ii)~~ written certification.

~~(iv)~~ (ii) The taxpayer ~~described in Subsection (1)(a)(iii)~~ shall retain a copy of the ~~form received under Subsection (1)(a)(iii)~~ written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

~~(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.]~~

~~(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.]~~

~~(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.]~~

~~(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.]~~

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claiming a tax credit authorized by this section.

(4) The commission shall make rules governing what information ~~shall be filed~~ a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

~~(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a]~~

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

~~(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):]~~

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and]

(ii) subject to Subsections (3) and (4).]

~~(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a]~~

(7) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

~~(7) (8) A taxpayer may not claim or carry forward a tax credit [available] under this section for a taxable year during which the taxpayer [has claimed] claims the targeted business income tax credit [available] under Section [63N-2-305] 59-7-624.~~

Section 5. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) “Biomass system” means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) “Commercial energy system” means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) “Commercial enterprise” means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) “Commercial unit” means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) “Direct use geothermal system” means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) “Geothermal electricity” means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) “Geothermal energy” means energy generated by heat that is contained in the earth.

(i) “Geothermal heat pump system” means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) “Hydroenergy system” means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) “Office” means the Office of Energy Development created in Section 63M-4-401.

(l) (i) “Passive solar system” means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) “Passive solar system” includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) “Photovoltaic system” means an active solar system that generates electricity from sunlight.

(n) (i) “Principal recovery portion” means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) “Principal recovery portion” does not include:

(A) an interest charge; or

(B) a maintenance expense.

(o) “Residential energy system” means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(p) (i) “Residential unit” means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) “Residential unit” does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

- (C) Section 59-2-405.2;
- (D) Section 59-2-405.3; or
- (E) Section 72-10-110.5.
- (q) "Wind system" means a system of apparatus and equipment that is capable of:
- (i) intercepting and converting wind energy into mechanical or electrical energy; and
 - (ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.
- (2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.
- (3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:
- (i) the taxpayer:
 - (A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
 - (B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;
 - (i) the residential energy system is completed and placed in service on or after January 1, 2007; and
 - (iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).
 - (b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.
 - (ii) A tax credit under this Subsection (3) may include installation costs.
 - (iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.
 - (iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.
 - (c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed \$2,000 per residential unit.
 - (d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:
 - (i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;
 - (ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;
 - (iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;
 - (iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and
 - (v) for a system installed on or after January 1, 2024, \$0.
 - (e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):
 - (i) the taxpayer may assign the tax credit to the other person; and
 - (ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or
 - (B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.
 - (4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:
 - (i) the commercial energy system does not use:
 - (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or
 - (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
 - (ii) the taxpayer purchases or participates in the financing of the commercial energy system;
 - (iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or
 - (B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and
 - (v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).
 - (b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.
 - (ii) A tax credit under this Subsection (4) may include installation costs.
 - (iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.
 - (iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 6. Section 59-7-614.10 is amended to read:

59-7-614.10. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section ~~63N-2-305~~ 59-7-624.

(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 7. Section 59-7-624 is enacted to read:

59-7-624. Targeted business income tax credit.

(1) As used in this section, “business applicant” means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the office under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit available under this section, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 8. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, “committee” means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor’s Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor’s Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee’s recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

~~(iv) Section 59-10-1013;~~

~~(v)~~ (iv) Section 59-10-1022;

~~(vi)~~ (v) Section 59-10-1023;

~~(vii)~~ (vi) Section 59-10-1028;

~~(viii)~~ (vii) Section 59-10-1034;

~~(ix)~~ (viii) Section 59-10-1037; ~~and~~

~~(x)~~ (ix) Section 59-10-1107[-]; and

(x) Section 59-10-1112.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

~~(ii) Section 59-10-1009;~~

~~(iii)~~ (ii) Section 59-10-1014;

~~(iv)~~ (iii) Section 59-10-1017;

~~(v)~~ (iv) Section 59-10-1018;

~~(vi)~~ (v) Section 59-10-1019;

~~(vii)~~ (vi) Section 59-10-1024;

~~(viii)~~ (vii) Section 59-10-1029;

~~(ix)~~ (viii) Section 59-10-1030;

~~(x)~~ (ix) Section 59-10-1033;

~~[(xi)]~~ (x) Section 59-10-1036;

~~[(xii)]~~ (xi) Section 59-10-1106; and

~~[(xiii)]~~ (xii) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 9. Section 59-10-210 is amended to read:

59-10-210. Fiduciary adjustments.

(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

(v) Section 63N-2-213; or

(vi) Section ~~[63N-2-305]~~ 59-10-1112.

(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Section 10. Section 59-10-1007 is amended to read:

59-10-1007. Recycling market development zones tax credits.

(1) ~~[For taxable years beginning on or after January 1, 1996, a]~~ Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim ~~[a nonrefundable tax credit as provided in this section.]~~ the following nonrefundable tax credits:

(a) ~~[(i) There shall be allowed]~~ a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

~~[(A)]~~ (i) commercial composting; or

~~[(B)]~~ (ii) manufacturing facilities or plant units that:

~~[(1)]~~ (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

~~[(2)]~~ (B) reduce or reuse postconsumer waste material~~[-]~~; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

~~[(iii) The Governor's Office of Economic Development shall certify that the machinery and~~

~~equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:]~~

~~[(A) on a form provided by the commission; and]~~

~~[(B) before a claimant, estate, or trust is allowed a tax credit under this section.]~~

~~(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:~~

~~(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;~~

~~(ii) for claims of the tax credit described in Subsection (1)(a):~~

~~(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;~~

~~(B) the date that the claimant, estate, or trust purchased the machinery and equipment;~~

~~(C) the purchase price for the machinery and equipment;~~

~~(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;~~

~~(E) the amount of the claimant's, estate's, or trust's tax credit; and~~

~~(F) a statement that the machinery and equipment are integral to the composting or recycling process; and~~

~~(iii) for claims of the tax credit described in Subsection (1)(b):~~

~~(A) the type of net expenditure that the claimant, estate, or trust made to a third party;~~

~~(B) the date that the claimant, estate, or trust made the payment to a third party;~~

~~(C) the amount that the claimant, estate, or trust paid to each third party;~~

~~(D) the total amount that the claimant, estate, or trust paid to all third parties;~~

~~(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and~~

~~(F) the amount of the claimant's, estate's, or trust's tax credit.~~

~~[(iii)] (b) (i) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under [this section] Subsection (1) with a copy of the [form described in Subsection (1)(a)(ii)] written certification.~~

~~[(iv)] (ii) The claimant, estate, or trust [described in Subsection (1)(a)(iii)] shall retain a copy of the [form received under Subsection (1)(a)(iii)] written certification for the same period of time that a~~

person is required to keep books and records under Section 59-1-1406.

~~[(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.]~~

~~[(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.]~~

~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trust's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.]~~

~~[(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.]~~

~~(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:~~

~~(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and~~

~~(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.~~

~~(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:~~

~~(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;~~

~~(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and~~

~~(c) before the claimant, estate, or trust claiming a tax credit authorized by this section.~~

~~(4) The commission shall make rules governing what information [shall be filed] a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.~~

~~(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.~~

~~[(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a]~~

~~(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection~~

(1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

~~[(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):]~~

~~[(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and]~~

~~[(ii) subject to Subsections (3) and (4).]~~

~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a]~~

~~(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.~~

~~[(7)] (8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust [has claimed] claims the targeted business income tax credit [available] under Section [63N-2-305] 59-10-1112.~~

Section 11. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 63M-4-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and
 (B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

- (A) Section 59-2-405;
- (B) Section 59-2-405.1;
- (C) Section 59-2-405.2;
- (D) Section 59-2-405.3; or
- (E) Section 72-10-110.5.

(n) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) \$2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(F) for a system installed on or after January 1, 2024, \$0.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 12. Section 59-10-1024 is amended to read:

59-10-1024. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Office" means the Office of Energy Development created in Section 63M-4-401.

~~(b)~~ (c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.

~~(c)~~ (d) "Qualifying political subdivision" means:

(i) a city or town in this state;

(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.

~~(d)~~ (e) "Qualifying solar project" means the portion of an active solar system:

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision ~~[described in Subsection (1)(c)(i)]~~ sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

(B) for the benefit of one or more residential units.

~~(e)~~ (f) "Residential unit" means the same as that term is defined in Section 59-10-1014.

~~(f)~~ (g) "Solar unit" means a portion of the electrical output:

(i) of a qualifying solar project;

(ii) that a qualifying political subdivision sells to a purchaser; and

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;

(B) in exchange for a credit on the purchaser's electrical bill; and

(C) as determined by a formula established by the qualifying political subdivision.

~~[(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:]~~

~~[(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and]~~

~~[(b) 25%.]~~

~~[(3) For a taxable year, a tax credit under this section may not exceed \$2,000 on a return.]~~

(2) (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate issued by the office.

(b) The maximum tax credit per taxpayer per taxable year is the lesser of:

(i) 25% of the amount that the purchaser pays to purchase one or more solar units during the taxable year; and

(ii) \$2,000.

(3) (a) To claim a tax credit under this section, a purchaser shall receive a tax credit certificate from the office.

(b) The purchaser shall submit, with the purchaser's application for a tax credit certificate, proof of the purchaser's purchase of one or more solar units.

(c) If the office determines that the purchaser purchased one or more solar units during the taxable year, the office shall:

(i) determine the amount of the purchaser's tax credit; and

(ii) issue, on a form approved by the commission, a tax credit certificate to the purchaser that states the amount of the purchaser's tax credit.

(d) If the office determines that a claimant, estate, or trust requesting a tax credit certificate is not eligible for a tax credit certificate under this section but may be eligible for a tax credit certificate under Section 59-10-1014, the office shall treat the claimant, estate, or trust as applying for a written certification in accordance with Section 59-10-1014.

(e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each purchaser to whom the office issued a certificate; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date or dates the claimant, estate, or trust purchased one or more solar units.

(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to govern the application process for receiving a tax credit certificate.

Section 13. Section 59-10-1037 is amended to read:

59-10-1037. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section ~~[63N-2-305]~~ 59-10-1112.

(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the

office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

- (i) the cost of the tax credit to the state;
- (ii) the purpose and effectiveness of the tax credit; and
- (iii) the extent to which the state benefits from the tax credit.

Section 14. Section 59-10-1112 is enacted to read:

59-10-1112. Targeted business income tax credit.

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the office under Section 63N-2-304 may claim a refundable tax credit in the amount

specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit available under this section, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 15. Section 63M-4-401 is amended to read:

63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees.

(1) There is created an Office of Energy Development.

(2) (a) The governor's energy advisor shall serve as the director of the office or appoint a director of the office.

(b) The director:

(i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a), report to the governor's energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 63M-4-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7,

59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

Section 16. Section 63N-2-213 is amended to read:

63N-2-213. State tax credits.

(1) The office shall certify a business entity's eligibility for a tax credit described in this section.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

(7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of full-time employee positions that existed at the business entity in the previous three taxable years.

(c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).

(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(11) A business entity that has no employees:

(a) may not claim tax credits under Subsections (7)(a) through (d); and

(b) may claim tax credits under Subsections (7)(e) through (f).

(12) (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section ~~[63N-2-305]~~ 63N-2-304.

(b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.

(13) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credits to the state;

(B) the purpose and effectiveness of the tax credits; and

(C) the extent to which the state benefits from the tax credits; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 17. Section 63N-2-304 is amended to read:

63N-2-304. Application for targeted business income tax credit.

(1) (a) ~~[For a taxable year beginning on or after January 1, 2017, a]~~ A business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:

(i) is located in:

(A) an enterprise zone; and

(B) a county with a population of less than 25,000;

(ii) meets the requirements of Section 63N-2-212;

(iii) provides a community investment project within the enterprise zone; and

(iv) is not engaged in the following:

(A) construction;

(B) retail trade; or

(C) public utility activities.

(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.

(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that describes:

(A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;

(B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;

(C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;

(D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;

(E) any matching funds that will be used for the community investment project;

(F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and

(G) the requested amount of the targeted business income tax credit; and

(iii) any additional information required by the office.

(3) (a) The office shall:

(i) evaluate an application filed under Subsection (2);

(ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and

(iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.

(b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:

(i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);

(ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than \$100,000 for the business applicant in a taxable year; and

(iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.

(c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:

(i) certify that the business applicant is eligible for a targeted business income tax credit;

(ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with ~~Section 63N-2-305~~; and];

(A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or

(B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and

(iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.

(4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(5) (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.

(b) The office may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; and

(ii) compliance with this section.

Section 18. Repealer.

This bill repeals:

Section 59-7-605, Definitions -- Tax credits related to energy efficient vehicles.

Section 59-10-1009, Definitions -- Tax credits related to energy efficient vehicles.

Section 63N-2-305, Targeted business income tax credit structure -- Revenue and Taxation Interim Committee study.

Section 19. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

CHAPTER 248**H. B. 391**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

MODIFICATIONS TO GOVERNMENTAL IMMUNITY PROVISIONS

Chief Sponsor: Ken Ivory
 Senate Sponsor: Deidre M. Henderson
 Cosponsors: Patrice M. Arent
 Brian S. King
 Karianne Lisonbee
 V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to governmental immunity.

Highlighted Provisions:

This bill:

- ▶ waives governmental immunity for an injury claim resulting from a sexual battery or sexual abuse of a child against a student by a school employee unless the school was subject to a specified policy and had taken reasonable steps to implement and enforce the policy; and
- ▶ waives governmental immunity for an injury claim resulting from a sexual battery of a student by an employee of an institution of higher education, under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-7-201, as last amended by Laws of Utah 2016, Chapter 181

63G-7-301, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-201 is amended to read:**63G-7-201. Immunity of governmental entities and employees from suit.**

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit for any injury or damage resulting from the implementation of or the failure to implement measures to:

(a) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or

necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(c) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

- (i) an emergency shelter;
- (ii) housing;
- (iii) a staging place; or
- (iv) a medical facility; and

(d) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

- (i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or
- (ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(3) and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; or

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road.

Section 2. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Sections 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery

of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment; and

(j) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses awarded under Section 20A-19-301(5).

(3) (a) As used in this Subsection (3):

(i) “Appropriate behavior policy” means a policy that:

(A) is not less stringent than a model policy, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) “Local education agency” means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) “Local education governing board” means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) “Public school” means a public elementary or secondary school.

(v) “Sexual abuse” means the offense described in Subsection 76-5-404.1(2).

(vi) “Sexual battery” means the offense described in Section 76-9-702.1, considering the term “child” in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to an appropriate behavior policy; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the policy to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the policy.

(4) (a) As used in this Subsection (4):

(i) “Higher education institution” means an institution included within the state system of higher education under Section 53B-1-102.

(ii) “Policy governing behavior” means a policy adopted by a higher education institution or the State Board of Regents that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) “Sexual battery” means the offense described in Section 76-9-702.1.

(iv) “Special trust employee” means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) “Subordinate student” means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

CHAPTER 249**H. B. 392**

Passed March 14, 2019
Approved March 25, 2019
Effective May 14, 2019

**TELEMEDICINE
REIMBURSEMENT AMENDMENTS**

Chief Sponsor: Ken Ivory
Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill amends provisions regarding reimbursement for telemedicine services.

Highlighted Provisions:

This bill:

- ▶ requires the Medicaid program to reimburse for certain telemedicine services at rates set by the Medicaid program;
- ▶ requires the Public Employees' Benefit and Insurance Program to reimburse for certain telemedicine services at commercially reasonable rates;
- ▶ amends telemedicine reporting and study requirements; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-13.5, as last amended by Laws of Utah 2018, Chapter 119
26-60-105, as enacted by Laws of Utah 2017, Chapter 241
49-20-414, as enacted by Laws of Utah 2017, Chapter 241

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-13.5 is amended to read:

**26-18-13.5. Telehealth services --
Reimbursement -- Reporting --
Telepsychiatric consultations.**

(1) As used in this section:

~~[(a) "Mental health therapy" means the same as the term "practice of mental health therapy" is defined in Section 58-60-102.]~~

~~[(b) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed in Section 58-60-102.]~~

~~[(e) (a) "Telehealth services" means the same as that term is defined in Section 26-60-102.~~

~~[(d) (b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.~~

~~[(e) (c) "Telepsychiatric consultation" means a consultation between a physician and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine in the state, that utilizes:~~

~~(i) the health records of the patient, provided from the patient or the referring physician;~~

~~(ii) a written, evidence-based patient questionnaire; and~~

~~(iii) telehealth services that meet industry security and privacy standards, including compliance with the:~~

~~(A) Health Insurance Portability and Accountability Act; and~~

~~(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.~~

~~(2) This section applies to:~~

~~(a) a managed care organization that contracts with the Medicaid program; and~~

~~(b) a provider who is reimbursed for health care services under the Medicaid program.~~

~~(3) The Medicaid program shall reimburse for [personal mental health therapy office visits provided through] telemedicine services [at a rate set by] at the same rate that the Medicaid program reimburses for other health care services.~~

~~[(4) Before December 1, 2017, the department shall report to the Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:]~~

~~[(a) the result of the reimbursement requirement described in Subsection (3);]~~

~~[(b) existing and potential uses of telehealth and telemedicine services;]~~

~~[(c) issues of reimbursement to a provider offering telehealth and telemedicine services;]~~

~~[(d) potential rules or legislation related to:]~~

~~[(i) providers offering and insurers reimbursing for telehealth and telemedicine services; and]~~

~~[(ii) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care; and]~~

~~[(e) the department's efforts to obtain a waiver from the federal requirement that telemedicine communication be face-to-face communication.]~~

~~[(5) (4) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.~~

Section 2. Section 26-60-105 is amended to read:

**26-60-105. Study by Public Utilities,
Energy, and Technology Interim
Committee and Health Reform Task Force.**

The Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform

Task Force shall receive the reports required in Sections 26-18-13.5 and 49-20-414 and, during the 2019 interim, study:

(1) the result of the reimbursement requirement described in Sections 26-18-13.5 and 49-20-414;

(2) practices and efforts of private health care facilities, health care providers, self-funded employers, third-party payors, and health maintenance organizations to reimburse for telehealth services;

(3) existing and potential uses of telehealth and telemedicine services;

(4) issues of reimbursement to a provider offering telehealth and telemedicine services; and

(5) potential rules or legislation related to:

(a) providers offering and insurers reimbursing for telehealth and telemedicine services; and

(b) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care.

Section 3. Section 49-20-414 is amended to read:

49-20-414. Telemedicine services -- Reimbursement -- Reporting.

(1) As used in this section:

~~[(a) "Mental health therapy" means the same as the term "practice of mental health therapy" is defined in Section 58-60-102.]~~

~~[(b) "Mental illness" means the same as that term is defined in Section 26-18-13.5.]~~

~~[(e) (a) "Network provider" means a health care provider who has an agreement with the program to provide health care services to a patient with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.~~

~~[(d) "Telehealth services" means the same as that term is defined in Section 26-60-102.]~~

~~[(e) (b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.~~

(2) This section applies to the risk pool established for the state under Subsection 49-20-201(1)(a).

(3) The program shall, at the provider's request, reimburse a network provider for ~~[personal mental health therapy office visits provided through]~~ medically appropriate telemedicine services at a [rate set by the program] commercially reasonable rate.

(4) Before ~~[December 1, 2017]~~ November 1, 2019, the program shall report to the Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force on:

(a) the result of the reimbursement requirement described in Subsection (3);

(b) existing and potential uses of telehealth and telemedicine services;

(c) issues of reimbursement to a provider offering telehealth and telemedicine services; ~~[and]~~

(d) potential rules or legislation related to:

(i) providers offering and insurers reimbursing for telehealth and telemedicine services; and

(ii) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care~~[-];~~ and

(e) telemedicine services that the program declined to cover because the telemedicine services that were requested were not medically appropriate.

CHAPTER 250**H. B. 395**

Passed March 14, 2019
 Approved March 25, 2019
 Effective January 1, 2020

**STATE CONSTRUCTION
 REGISTRY AMENDMENTS**

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends and enacts provisions related to notices filed with the State Construction Registry.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ creates a new filing with the registry for a notice of intent to finance;
- ▶ creates a new registry filing of a final lien waiver for a subcontractor to respond to a notice of intent to finance; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

38-1a-102, as last amended by Laws of Utah 2015,
 Chapter 258

ENACTS:

38-1a-603, Utah Code Annotated 1953
 38-1a-604, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 38-1a-102 is amended to read:**38-1a-102. Definitions.**

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means the improvement:

(a) for which preconstruction service is performed; and

(b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial

interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in the consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity

having jurisdiction over the construction project, if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project does not issue a certificate of occupancy or perform a final inspection.

(18) “Final lien waiver” means a form that complies with Subsection 38-1a-802(4)(c).

[49] (19) “First preliminary notice filing” means a preliminary notice that:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not cancelled under Section 38-1a-307.

[49] (20) “Government project-identifying information” has the same meaning as defined in Section 38-1b-102.

[20] (21) “Improvement” means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection [20] (21)(a).

[21] (22) “Interested person” means a person that may be affected by a construction project.

[22] (23) “Notice of commencement” means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

[23] (24) “Original contract”:

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

[24] (25) “Original contractor” means a person, including an owner-builder, that contracts with an owner to provide preconstruction service or construction work.

[25] (26) “Owner” means the person that owns the project property.

[26] (27) “Owner-builder” means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner’s real property; and

(b) obtains a building permit for the improvement.

[27] (28) “Preconstruction lien” means a lien under this chapter for a preconstruction service.

[28] (29) “Preconstruction service”:

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

[29] (30) “Private project” means a construction project that is not a government project.

[30] (31) “Project property” means the real property on or for which preconstruction service or construction work is or will be provided.

[31] (32) “Registry” means the State Construction Registry under Part 2, State Construction Registry.

[32] (33) “Required notice” means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

[33] (34) “Subcontractor” means a person that contracts to provide preconstruction service or construction work to:

- (a) a person other than the owner; or
- (b) the owner, if the owner is an owner-builder.

[~~34~~] (35) “Substantial work” does not include repair work or warranty work.

[~~35~~] (36) “Supervisory subcontractor” means a person that:

- (a) is a subcontractor under contract to provide preconstruction service or construction work; and
- (b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 2. Section 38-1a-603 is enacted to read:

38-1a-603. Notice of intent to finance.

(1) An owner may file with the registry a notice of intent to finance.

(2) A notice of intent to finance under Subsection (1) shall state:

(a) the anticipated date on which financing will occur;

(b) the anticipated lender’s name, address, and telephone number;

(c) the name of the trustor on the trust deed securing the anticipated loan;

(d) the tax parcel identification number of each parcel included in the project property; and

(e) the name of the county in which the project property is located.

(3) If an owner chooses to file a notice of intent to finance, the owner shall file the notice of intent to finance no less than 14 days before the date on which the financing is anticipated to occur.

(4) If the financing does not occur within 30 days after the anticipated date specified in the notice of intent to finance, the notice of intent to finance shall automatically have no effect and shall be removed from the registry.

Section 3. Section 38-1a-604 is enacted to read:

38-1a-604. Notice of final lien waiver.

(1) After a notice of intent to finance is filed under Section 38-1a-603 on a project property, each subcontractor that has filed a preliminary notice pertaining to the project property may file with the registry a final lien waiver.

(2) The final lien waiver described in Subsection (1) may be filed on the registry even if no notice of intent to finance was filed on the registry.

Section 4. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 251**H. B. 402**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

AGRICULTURAL VEHICLE AMENDMENTS

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill amends provisions related to an implement of husbandry and other agricultural related vehicles.

Highlighted Provisions:

This bill:

- ▶ amends provisions describing when an implement of husbandry may operate on a highway;
- ▶ amends provisions to allow a vehicle or combination of vehicles to exceed certain vehicle weight limits in certain situations;
- ▶ exempts an implement of husbandry from the requirement to stop at a port-of-entry in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-202, as last amended by Laws of Utah 2013, Chapter 463
 72-7-404, as last amended by Laws of Utah 2017, First Special Session, Chapter 3
 72-9-502, as last amended by Laws of Utah 2017, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-202 is amended to read:**41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.**

- (1) In this section:
- (a) "Domicile" means the place:
- (i) where an individual has a fixed permanent home and principal establishment;
- (ii) to which the individual if absent, intends to return; and
- (iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

(I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or

(II) operates a motor vehicle in intrastate transportation for other than seasonal work.

(ii) "Resident" does not include any of the following:

(A) a member of the military temporarily stationed in Utah;

(B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a trade, profession, or occupation in this state or accepts employment in this state; and

(C) an individual domiciled in another state or a foreign country that:

(I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);

(II) is not compensated for services rendered other than expense reimbursements; and

(III) is temporarily in Utah for a period not to exceed 24 months.

(2) (a) Registration under this chapter is not required for any:

[~~(a)~~] (i) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

[~~(b)~~] (ii) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

~~[(e)]~~ (iii) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;

~~[(d)]~~ (iv) special mobile equipment;

~~[(e)]~~ (v) vehicle owned or leased by the federal government;

~~[(f)]~~ (vi) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;

~~[(g)]~~ (vii) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

~~[(h)]~~ (viii) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

~~[(i)]~~ (ix) manufactured home or mobile home;

~~[(j)]~~ (x) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

~~[(i)]~~ (A) being towed;

~~[(ii)]~~ (B) operated on a street or highway designated as open to off-highway vehicle use; or

~~[(iii)]~~ (C) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

~~[(k)]~~ (xi) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

~~[(l)]~~ (xii) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

~~[(m)]~~ (xiii) electric assisted bicycle defined under Section 41-6a-102;

~~[(n)]~~ (xiv) motor assisted scooter defined under Section 41-6a-102; or

~~[(o)]~~ (xv) electric personal assistive mobility device defined under Section 41-6a-102.

(b) For purposes of an implement of husbandry as described in Subsection (2)(a)(iii), incidental operation on a highway includes operation that is:

(i) transportation of raw agricultural materials or other agricultural related operations; and

(ii) limited to 100 miles round trip on a highway.

(3) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer,

semitrailer, or vintage vehicle within 60 days of the owner establishing residency in this state.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 2. Section 72-7-404 is amended to read:

72-7-404. Maximum gross weight limitation for vehicles -- Bridge formula for weight limitations -- Minimum mandatory fines.

(1) (a) As used in this section:

(i) "Axle load" means the total load on all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart.

(ii) "Tandem axle" means two or more axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(b) The tire load rating shall appear on the tire sidewall. A tire, wheel, or axle may not carry a greater weight than the manufacturer's rating.

(2) (a) ~~[(A)]~~ Except as provided in Subsection (4), an individual may not operate or move a vehicle on any highway in the state with:

(i) a gross weight in excess of 10,500 pounds on one wheel;

(ii) a single axle load in excess of 20,000 pounds; or

(iii) a tandem axle load in excess of 34,000 pounds.

(b) Subject to the limitations of Subsection (3), the gross vehicle weight of any vehicle or combination of vehicles may not exceed 80,000 pounds.

(3) (a) Subject to the limitations in Subsection (2), no group of two or more consecutive axles between the first and last axle of a vehicle or combination of vehicles and no vehicle or combination of vehicles may carry a gross weight in excess of the weight provided by the following bridge formula, except as provided in Subsection (3)(b):

$$W = 500 \{LN/(N-1) + 12N+36\}$$

(i) W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

(ii) L = distance in feet between the extreme of any group of two or more consecutive axles. When the distance in feet includes a fraction of a foot of one inch or more the next larger number of feet shall be used.

(iii) N = number of axles in the group under consideration.

(b) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(4) An individual may operate an implement of husbandry, as defined in Section 41-1a-102, carrying a raw agricultural commodity such as corn, wheat, or hay that is over the single axle weight described in Subsection (2), if:

(a) the single axle load is not over the limit described in Subsection (2) by more than 2,000 pounds;

(b) the total gross vehicle weight of the vehicle or combination of vehicles is not over the limit described in Subsection (2); and

(c) the individual is not operating the implement of husbandry on the interstate system.

[4] (5) The department may authorize an exception to this section by an overweight permit as provided in Section 72-7-406.

[5] (6) (a) Any person who violates this section is guilty of an infraction except that, notwithstanding Sections 76-3-301 and 76-3-302, the department may require the violator to pay a fine of either:

(i) \$50 plus the sum of the overweight axle fines calculated under Subsection ~~[(5)]~~ (6)(b); or

(ii) \$50 plus the gross vehicle weight fine calculated under Subsection ~~[(5)]~~ (6)(b).

(b) The department shall calculate the fine for each axle and a gross vehicle weight violation according to the following schedule:

Number of Pounds Overweight	Axle Fine (Cents per Pound for Each Overweight Axle)	Gross Vehicle Weight Fine (Cents per Pound)
1 - 2,000	0	0
2,001 - 5,000	4	5
5,001 - 8,000	5	5
8,001 - 12,000	6	5
12,001 - 16,000	7	5
16,001 - 20,000	9	5
20,001 - 25,000	11	5
25,001 or more	13	5

Section 3. Section 72-9-502 is amended to read:

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions -- Rulemaking -- By-pass permits.

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001 pounds or more or any motor vehicle carrying livestock as defined in Section 4-24-102 shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry; ~~or~~

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4)~~[-]~~; or

(c) the motor vehicle is an implement of husbandry as defined in Section 41-1a-102 being operated only incidentally on a highway as described in Section 41-1a-202.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

CHAPTER 252**H. B. 414**

Passed March 12, 2019
Approved March 25, 2019
Effective March 25, 2019

RESTITUTION REPORTING

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd Weiler
Cosponsors: Eric K. Hutchings
V. Lowry Snow

LONG TITLE**General Description:**

This bill requires reporting and collection of certain data related to inmates of county jails and authorizes a study of that data.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires county jails to report specified data regarding certain fees collected from inmates to the Commission on Criminal and Juvenile Justice;
- ▶ creates a task force for the purpose of reviewing the collected data and making findings and recommendations based on that data;
- ▶ requires the Commission on Criminal and Juvenile Justice to compile the data collected and submit it to the Jail Incarceration and Transportation Costs Study Council;
- ▶ directs the membership and purpose of the Jail Incarceration and Transportation Costs Study Council; and
- ▶ provides a repeal date for provisions relating to the Jail Incarceration and Transportation Costs Study Council.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

ENACTS:

17-22-32.2, Utah Code Annotated 1953
17-22-32.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-32.2 is enacted to read:**17-22-32.2. Restitution reporting.**

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice.

(b) "Inmate" means an individual who is currently incarcerated or who was formerly incarcerated at a county jail, regardless of whether the individual is convicted of a crime.

(c) "Incarceration fee" means a fee assessed to or collected from an inmate that is based on the length of time the inmate is incarcerated at a county jail.

(d) "Restitution fees" means incarceration fees or transportation fees.

(e) "Sentencing court" means the court that exercises jurisdiction over an inmate incarcerated at a county jail.

(f) "Transportation fee" means a fee assessed to or collected from an inmate if the inmate is transported by a state entity for any reason, except extradition.

(2) Each county jail within the state shall submit a report to the commission, before June 1, 2020, disclosing whether the county jail:

(a) requires restitution for incarceration fees under Subsection 76-3-201(6);

(b) requires restitution for transportation fees under Subsection 76-3-201(5); or

(c) otherwise requires restitution fees.

(3) If a county jail requires restitution for incarceration fees, the jail shall include the following data, reflecting the 2019 calendar year, in the jail's report to the commission:

(a) the jail's policies and procedures related to incarceration fees, including:

(i) factors considered before assessing an incarceration fee;

(ii) the daily or nightly rate at which an inmate is charged;

(iii) whether an inmate's indigency may allow for waiver or reduction of an incarceration fee;

(iv) if the jail allows a waiver or reduction described in Subsection (3)(a)(iii), how indigency is determined; and

(v) the jail's methods for collecting an incarceration fee, including:

(A) whether the incarceration fee is collected by the sentencing court, the jail, or another method; and

(B) methods used to collect payment of an incarceration fee;

(b) the total amount of incarceration fees assessed to inmates by the jail, the sentencing court, or another method;

(c) the total amount of incarceration fees collected from inmates by the jail, the sentencing court, or another method;

(d) the total number of inmates that paid the amount assessed for incarceration fees in full;

(e) the total number of inmates that paid the amount assessed for incarceration fees in part;

(f) the total amount of unpaid incarceration fees that are sent to the Office of State Debt Collection;

(g) the total amount of incarceration fees that are written off as unpaid;

(h) the total amount of incarceration fees assessed to inmates who are acquitted or whose charges are dismissed;

(i) the total amount of incarceration fees collected from inmates who are acquitted or whose charges are dismissed;

(j) costs incurred related to administering incarceration fees; and

(k) costs incurred related to collecting incarceration fees.

(4) If a county jail requires restitution for transportation fees, the jail shall include the following data, reflecting the 2019 calendar year, in the jail's report to the commission:

(a) the jail's policies and procedures related to transportation fees, including:

(i) factors considered before assessing a transportation fee;

(ii) the rates at which an inmate is charged per transportation, and by distance;

(iii) whether an inmate's indigency may allow waiver or reduction of transportation fees;

(iv) if the jail allows the waiver or reduction described in Subsection (4)(a)(iii), how indigency is determined; and

(v) the methods for collecting a transportation fee, including:

(A) whether the transportation fee is collected by the court, the jail, or another method; and

(B) methods used to collect payment of a transportation fee;

(b) the total amount of transportation fees assessed to inmates by the jail, the sentencing court, or another method;

(c) the total amount of transportation fees collected from inmates by the jail, the sentencing court, or another method;

(d) the total number of inmates that paid the amount assessed for transportation fees in full;

(e) the total number of inmates that paid the amount assessed for transportation fees in part;

(f) the total amount of unpaid transportation fees that are sent to the Office of State Debt Collection;

(g) the total amount of transportation fees that are written off as unpaid;

(h) the total amount of transportation fees assessed to inmates who are acquitted or whose charges are dismissed;

(i) the total amount of transportation fees collected from inmates who are acquitted or whose charges are dismissed;

(j) costs incurred related to administering transportation fees; and

(k) costs incurred related to collecting transportation fees.

(5) After receiving the reports described in this section, the commission shall:

(a) compile the information from the reports;

(b) omit or redact any identifying information of an inmate in the compilation, to the extent omission or redaction is necessary to comply with state or federal law; and

(c) on or before September 1, 2020, submit the compilation and all reports provided by the county jails to the Jail Incarceration and Transportation Costs Study Council created in Section 17-22-32.3.

(6) If a county jail's policies or procedures relating to restitution fees changed during the years 2018 or 2019, the county jail shall include in the county jail's report to the commission:

(a) the specific policies or procedures that changed; and

(b) a description of the changed policies and procedures as they existed in 2018.

Section 2. Section 17-22-32.3 is enacted to read:

17-22-32.3. Jail incarceration and transportation costs study -- Creation -- Membership -- Duties.

(1) There is created the Jail Incarceration and Transportation Costs Study Council under the Commission on Criminal and Juvenile Justice, consisting of the following individuals:

(a) a county jail commander or an individual representing the Utah Sheriffs' Association;

(b) an individual representing the Utah Association of Counties;

(c) two district or county attorneys actively engaged in the practice of civil or constitutional law as follows:

(i) one attorney representing a county of the first or second class described in Section 17-50-501; and

(ii) one attorney representing a county of the third, fourth, fifth, or sixth class described in Section 17-50-501;

(d) two public defender coordinators as follows:

(i) one public defender coordinator from a county of the first or second class described in Section 17-50-501; and

(ii) one public defender coordinator from a county of the third, fourth, fifth, or sixth class described in Section 17-50-501;

(e) one individual representing the Legal Defenders Association;

(f) one individual representing the Utah Indigent Defense Commission;

(g) one individual representing the Utah Sentencing Commission; and

(h) other stakeholders, as determined by the Commission on Criminal and Juvenile Justice.

(2) Following the reporting described in Section 17-22-32.2, and upon receiving the reports and compilation described in Subsection 17-22-32.2(5), the council shall:

(a) provide an overview of the county jail policies and practices regarding the assessment and collection of restitution fees;

(b) provide a cost benefit analysis regarding the practice of assessing and collecting restitution fees;

(c) provide best practice recommendations for assessing or collecting restitution fees, taking into account an inmate's:

(i) potential indigency;

(ii) opportunities or ability to post bail or bond;

(iii) time spent in custody as a result of the inmate's inability to post bail or bond; and

(iv) time spent in custody beyond what a judge would have likely imposed under the standard sentencing matrix, due to the inmate's inability to post bail or bond; and

(d) report any additional data or findings the council finds significant.

(3) The council shall present a report of the council's findings, including any recommendations for legislation, to the Law Enforcement and Criminal Justice Interim Committee before November 30, 2020.

Section 3. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

[41] (3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2020.

[42] (4) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

(b) Subsection 17-27a-103(37) is repealed June 1, 2020.

[43] (5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2020.

[44] (6) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2020.

[45] (7) Subsection 17-27a-302(1), the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2020.

[46] (8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2020.

[47] (9) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-401(6) is repealed June 1, 2020.

[48] (10) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2020.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2020.

[49] (11) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.

[40] (12) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.

[41] (13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2020.

[42] (14) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.

[43] (15) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, 2020.

[44] (16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2020.

[45] (17) On June 1, 2020, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

[46] (18) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(2)," is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.

[~~(17)~~] (19) On January 1, 2028, Subsection 17-52a-~~102~~(3) is repealed.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor’s signature, or in the case of a veto, the date of veto override.

CHAPTER 253**H. B. 460**

Passed March 12, 2019
Approved March 25, 2019
Effective May 14, 2019

MEDICAID ELIGIBILITY AMENDMENTS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill amends provisions relating to eligibility for the state Medicaid program.

Highlighted Provisions:

This bill:

- ▶ prohibits the department from terminating eligibility for the state Medicaid program solely because the individual is incarcerated.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-3, as last amended by Laws of Utah 2018, Chapters 114 and 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

- (i) the standards used by the department for determining eligibility for Medicaid services;
- (ii) the services and benefits to be covered by the Medicaid program;
- (iii) reimbursement methodologies for providers under the Medicaid program; and
- (iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

- (i) implements a change in the Medicaid State Plan;
- (ii) initiates a new Medicaid waiver;
- (iii) initiates an amendment to an existing Medicaid waiver;
- (iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; or
- (v) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

- (i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and
- (ii) include:
 - (A) a description of the department's current practice or policy that the department is proposing to change;
 - (B) an explanation of why the department is proposing the change;
 - (C) the proposed change in services or reimbursement, including a description of the effect of the change;
 - (D) the effect of an increase or decrease in services or benefits on individuals and families;
 - (E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and
 - (F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for

a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(13) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (13)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

CHAPTER 254**S. B. 25**

Passed February 14, 2019

Approved March 25, 2019

Effective May 14, 2019

RECORDS COMMITTEES

Chief Sponsor: Wayne A. Harper

House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill creates the Records Management Committee and modifies provisions related to the State Records Committee.

Highlighted Provisions:

This bill:

- ▶ modifies the membership and responsibilities of the State Records Committee;
- ▶ creates the Records Management Committee;
- ▶ establishes provisions for the administration of the Records Management Committee;
- ▶ transfers certain duties of the State Records Committee to the Records Management Committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 31A-2-207, as last amended by Laws of Utah 2008, Chapter 382
- 35A-4-503, as last amended by Laws of Utah 2008, Chapter 382
- 46-4-501, as last amended by Laws of Utah 2011, Chapter 270
- 63A-12-101, as last amended by Laws of Utah 2010, Chapter 341
- 63A-12-103, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63A-12-106, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 63A-12-111, as last amended by Laws of Utah 2018, Chapter 81
- 63G-2-103, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018
- 63G-2-202, as last amended by Laws of Utah 2018, Chapter 270
- 63G-2-309, as last amended by Laws of Utah 2013, Chapter 445
- 63G-2-400.5, as enacted by Laws of Utah 2015, Chapter 335
- 63G-2-401, as last amended by Laws of Utah 2017, Chapter 435
- 63G-2-402, as last amended by Laws of Utah 2015, Chapter 335
- 63G-2-403, as last amended by Laws of Utah 2018, Chapter 425
- 63G-2-404, as last amended by Laws of Utah 2017, Chapter 435
- 63G-2-501, as last amended by Laws of Utah 2015, Chapter 335

63G-2-502, as last amended by Laws of Utah 2018, Chapter 256

63G-2-604, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-2-701, as last amended by Laws of Utah 2017, Chapter 435

63G-2-801, as last amended by Laws of Utah 2013, Chapter 298

ENACTS:

63A-12-112, Utah Code Annotated 1953

63A-12-113, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-2-207 is amended to read:**31A-2-207. Commissioner's records and reports -- Protection from disclosure of certain records.**

(1) The commissioner shall maintain all department records that are:

(a) required by law;

(b) necessary for the effective operation of the department; or

(c) necessary to maintain a full record of department activities.

(2) The records of the department may be preserved, managed, stored, and made available for review consistent with:

(a) another Utah statute;

(b) the rules made under Section 63A-12-104;

(c) the decisions of the ~~[State Records Committee made under Title 63G, Chapter 2, Government Records Access and Management Act]~~ Records Management Committee made under Section 63A-12-113; or

(d) the needs of the public.

(3) A department record may not be destroyed, damaged, or disposed of without:

(a) authorization of the commissioner; and

(b) compliance with all other applicable laws.

(4) The commissioner shall maintain a permanent record of the commissioner's proceedings and important activities, including:

(a) a concise statement of the condition of each insurer examined by the commissioner; and

(b) a record of all certificates of authority and licenses issued by the commissioner.

(5) (a) Prior to October 1 of each year, the commissioner shall prepare an annual report to the governor which shall include, for the preceding calendar year, the information concerning the department and the insurance industry which the commissioner believes will be useful to the governor and the public.

(b) The report required by this Subsection (5) shall include the information required under Chapter 27a, Insurer Receivership Act, and

Subsections 31A-2-106(2), 31A-2-205(3), and 31A-2-208(3).

(c) The commissioner shall make the report required by this Subsection (5) available to the public and industry in electronic format.

(6) All department records and reports are open to public inspection unless specifically provided otherwise by statute or by Title 63G, Chapter 2, Government Records Access and Management Act.

(7) On request, the commissioner shall provide to any person certified or uncertified copies of any record in the department that is open to public inspection.

(8) Notwithstanding Subsection (6) and Title 63G, Chapter 2, Government Records Access and Management Act, the commissioner shall protect from disclosure any record, as defined in Section 63G-2-103, or other document received from an insurance regulator of another jurisdiction:

(a) at least to the same extent the record or document is protected from disclosure under the laws applicable to the insurance regulator providing the record or document; or

(b) under the same terms and conditions of confidentiality as the National Association of Insurance Commissioners requires as a condition of participating in any of the National Association of Insurance Commissioners' programs.

Section 2. Section 35A-4-503 is amended to read:

35A-4-503. Destruction or disposal of records or reports by division -- Procedure.

The division may destroy or dispose of reports or records ~~[as have been]~~ that are properly recorded or summarized in the payment records of the division, or that are ~~[deemed]~~ no longer necessary in the proper administration of this chapter in accordance with ~~[the requirements of the state records committee pursuant to Section 63G-2-502]~~ an applicable records retention schedule approved by the Records Management Committee under Section 63A-12-113.

Section 3. Section 46-4-501 is amended to read:

46-4-501. Creation and retention of electronic records and conversion of written records by governmental agencies.

(1) A state governmental agency may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

(a) identify specific transactions that the agency is willing to conduct by electronic means;

(b) identify specific transactions that the agency will never conduct by electronic means;

(c) specify the manner and format in which electronic records must be created, generated, sent,

communicated, received, and stored, and the systems established for those purposes;

(d) if law or rule requires that the electronic records must be signed by electronic means, specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met, by any third party used by a person filing a document to facilitate the process;

(e) specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(f) identify any other required attributes for electronic records that are specified for corresponding nonelectronic records or that are reasonably necessary under the circumstances.

(2) A state governmental agency that makes rules under this section shall submit copies of those rules, and any amendments to those rules, to the chief information officer established by Section 63F-1-201.

(3) (a) The chief information officer may prepare model rules and standards relating to electronic transactions that encourage and promote consistency and interoperability with similar requirements adopted by other Utah government agencies, other states, the federal government, and nongovernmental persons interacting with Utah governmental agencies.

(b) In preparing those model rules and standards, the chief information officer may specify different levels of standards from which governmental agencies may choose in order to implement the most appropriate standard for a particular application.

(c) Nothing in this Subsection (3) requires a state agency to use the model rules and standards prepared by the chief information officer when making rules under this section.

(4) Except as provided in Subsection 46-4-301(6), nothing in this chapter requires any state governmental agency to:

(a) conduct transactions by electronic means; or

(b) use or permit the use of electronic records or electronic signatures.

(5) Each state governmental agency shall:

(a) establish record retention schedules for any electronic records created or received in an electronic transaction according to the standards developed by the Division of Archives under Subsection 63A-12-101(2)(e); and

(b) obtain approval of those schedules from the ~~[State Records Committee]~~ Records Management Committee as required by Subsection ~~[63G-2-502(1)(b)]~~ 63A-12-113(1)(b).

Section 4. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the Department of Administrative Services.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central microphotography programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized microphotography lab facilities and quality control for the state;

(g) provide staff and support services to the ~~[records—committee]~~ Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section 63F-1-701;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; and

(b) establish a forms management program.

(4) The executive director of the Department of Administrative Services may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 5. Section 63A-12-103 is amended to read:

63A-12-103. Duties of governmental entities.

The chief administrative officer of each governmental entity shall:

(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;

(3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the legal and financial rights of persons directly affected by the entity's activities;

(5) submit to the state archivist proposed schedules of records for final approval by the ~~[records—committee]~~ Records Management Committee created in Section 63A-12-112;

(6) cooperate with the state archivist in conducting surveys made by the state archivist;

(7) comply with rules issued by the Department of Administrative Services as provided by Section 63A-12-104;

(8) report to the state archives the designation of record series that it maintains;

(9) report to the state archives the classification of each record series that is classified; and

(10) establish and report to the state archives retention schedules for objects that the

governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Section 6. Section 63A-12-106 is amended to read:

63A-12-106. Certified and microphotographed copies.

(1) Upon demand, the state archives shall furnish certified copies of a record in [its] the state archives's exclusive custody that is classified public or that is otherwise determined to be public under this chapter by the originating governmental entity, the ~~[records committee]~~ State Records Committee created in Section 63G-2-501, or a court of law. When certified by the state archivist under the seal of the state archives, [the] a copy has the same legal force and effect as if certified by the originating governmental entity.

(2) The state archives may microphotograph records when [it] the state archives determines that microphotography is an efficient and economical way to care, maintain, and preserve the record. A transcript, exemplification, or certified copy of a microphotograph has the same legal force and effect as the original. Upon review and approval of the microphotographed film by the state archivist, the source documents may be destroyed.

(3) The state archives may allow another governmental entity to microphotograph records in accordance with standards set by the state archives.

Section 7. Section 63A-12-111 is amended to read:

63A-12-111. Government records ombudsman.

(1) (a) The director of the division shall appoint a government records ombudsman.

(b) The government records ombudsman may not be a member of the ~~[records committee]~~ State Records Committee created in Section 63G-2-501.

(2) The government records ombudsman shall:

(a) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;

(b) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request;

(c) upon request, attempt to mediate disputes between requestors and responders; and

(d) on an annual basis, electronically transmit a written report to the Government Operations Interim Committee on the work performed by the government records ombudsman during the previous year.

(3) The government records ombudsman may not testify, or be compelled to testify, before the ~~[records committee]~~ State Records Committee created in Section 63G-2-501, another administrative body,

or a court regarding a matter that the government records ombudsman provided services in relation to under this section.

Section 8. Section 63A-12-112 is enacted to read:

63A-12-112. Records Management Committee -- Creation -- Membership -- Administration.

(1) There is created the Records Management Committee composed of the following seven members:

(a) the director of the Division of State History or the director's designee;

(b) the director of the Division of Archives and Records Services or the director's designee; and

(c) five members appointed by the governor as follows:

(i) a member of the Utah State Bar who understands public records keeping under Title 63G, Chapter 2, Government Records Access and Management Act;

(ii) a member with experience in public finance;

(iii) an individual from the private sector whose principal professional responsibilities are to create or manage records;

(iv) a member representing political subdivisions, recommended by the Utah League of Cities and Towns; and

(v) a member representing the news media.

(2) (a) Except as provided in Subsection (2)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of committee members' terms to ensure that the terms of members appointed by the governor are staggered so that approximately half of the committee members appointed by the governor are appointed every two years.

(c) Each appointed member of the committee is eligible for reappointment for one additional term.

(3) When a vacancy occurs in the membership of the committee for any reason, the applicable appointing authority shall appoint a replacement for the unexpired term.

(4) A member of the Records Management Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 9. Section 63A-12-113 is enacted to read:

63A-12-113. Records Management Committee -- Duties.

(1) The Records Management Committee shall:

(a) appoint a chair from among the committee's members; and

(b) review and determine whether to approve each schedule for the retention and disposal of records, including a proposed schedule submitted to the committee under Section 63G-2-604, within three months after the day on which the proposed schedule is submitted to the committee.

(2) The Records Management Committee may make recommendations to a governmental entity regarding the entity's management of records.

(3) Four members of the Records Management Committee are a quorum for the transaction of business.

(4) The state archivist shall provide staff and support services for the Records Management Committee.

(5) The Office of the Attorney General shall provide counsel to the Records Management Committee.

Section 10. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustible units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101; and

(v) the Utah Independent Redistricting Commission.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public

complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with ~~[a records committee order]~~ an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity;

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity,

provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; or

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

~~[(24) "Records committee" means the State Records Committee created in Section 63G-2-501.]~~

~~[(25)] (24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.~~

~~[(26)] (25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.~~

~~[(27)] (26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:~~

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

[~~(28)~~] (27) “State archives” means the Division of Archives and Records Service created in Section 63A-12-101.

[~~(29)~~] (28) “State archivist” means the director of the state archives.

(29) “State Records Committee” means the State Records Committee created in Section 63G-2-501.

(30) “Summary data” means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 11. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual’s legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester’s identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation

of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the ~~records committee~~ State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 12. Section 63G-2-309 is amended to read:

63G-2-309. Confidentiality claims.

(1) (a) (i) Any person who provides to a governmental entity a record that the person believes should be protected under Subsection 63G-2-305(1) or (2) or both Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.

(ii) Any of the following who provides to an institution within the state system of higher education defined in Section 53B-1-102 a record that the person or governmental entity believes should be protected under Subsection 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi) shall provide the institution within the state system of higher education a written claim of business confidentiality in accordance with Section 53B-16-304:

(A) a person;

(B) a federal governmental entity;

(C) a state governmental entity; or

(D) a local governmental entity.

(b) A person or governmental entity who complies with this Subsection (1) shall be notified by the governmental entity to whom the request for a record is made if:

(i) a record claimed to be protected under one of the following is classified public:

(A) Subsection 63G-2-305(1);

(B) Subsection 63G-2-305(2);

(C) Subsection 63G-2-305(40)(a)(ii);

(D) Subsection 63G-2-305(40)(a)(vi); or

(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through (D); or

(ii) the governmental entity to whom the request for a record is made determines that the record claimed to be protected under a provision listed in Subsection (1)(b)(i) should be released after balancing interests under Subsection 63G-2-201(5)(b) or 63G-2-401(6).

(2) (a) Except as provided in Subsection (2)(b) or by court order, the governmental entity to whom the request for a record is made may not disclose a

record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or ~~records committee~~ State Records Committee determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) ~~This~~ Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the ~~records committee~~ State Records Committee.

(3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Section 13. Section 63G-2-400.5 is amended to read:

63G-2-400.5. Definitions.

As used in this part:

(1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(8) or Section 63G-2-205, in whole or in part, of a record request.

(2) "Appellate affirmation" means a decision of a chief administrative officer, local appeals board, or ~~records committee~~ State Records Committee affirming an access denial.

(3) "Interested party" means a person, other than a requester, who is aggrieved by an access denial or an appellate affirmation, whether or not the person participated in proceedings leading to the access denial or appellate affirmation.

(4) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

(5) "Record request" means a request for a record under Section 63G-2-204.

(6) "Records committee appellant" means:

(a) a political subdivision that seeks to appeal a decision of a local appeals board to the ~~records committee~~ State Records Committee; or

(b) a requester or interested party who seeks to appeal to the ~~records committee~~ State Records Committee a decision affirming an access denial.

(7) "Requester" means a person who submits a record request to a governmental entity.

Section 14. Section 63G-2-401 is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1) (a) A requester or interested party may appeal an access denial to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) the governmental entity sends a notice of denial under Section 63G-2-205, if the

governmental entity denies a record request under Subsection 63G-2-205(1); or

(ii) the record request is considered denied under Subsection 63G-2-204(8), if that subsection applies.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(3), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a "determination" or its equivalent under Subsection 63G-2-204(8).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer's determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5) (a) The chief administrative officer shall make a decision on the appeal within:

(i) (A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b) (i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7) (a) The governmental entity shall send written notice of the chief administrative officer's decision to all participants.

(b) If the chief administrative officer's decision is to affirm the access denial in whole or in part, the notice under Subsection (7)(a) shall include:

(i) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:

(A) the ~~[records committee]~~ State Records Committee or district court; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

(ii) the time limits for filing an appeal; and

(iii) the name and business address of:

(A) the executive secretary of the ~~[records committee]~~ State Records Committee; and

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c).

(8) A person aggrieved by a governmental entity's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 15. Section 63G-2-402 is amended to read:

63G-2-402. Appealing a decision of a chief administrative officer.

(1) If the decision of the chief administrative officer of a governmental entity under Section 63G-2-401 is to affirm the denial of a record request, the requester may:

(a) (i) appeal the decision to the ~~[records committee]~~ State Records Committee, as provided in Section 63G-2-403; or

(ii) petition for judicial review of the decision in district court, as provided in Section 63G-2-404; or

(b) appeal the decision to the local appeals board if:

(i) the decision is of a chief administrative officer of a governmental entity that is a political subdivision; and

(ii) the political subdivision has established a local appeals board.

(2) A requester who appeals a chief administrative officer's decision to the ~~[records committee]~~ State Records Committee or a local appeals board does not lose or waive the right to seek judicial review of the decision of the ~~[records committee]~~ State Records Committee or local appeals board.

(3) As provided in Section 63G-2-403, an interested party may appeal to the ~~[records committee]~~ State Records Committee a chief administrative officer's decision under Section 63G-2-401 affirming an access denial.

Section 16. Section 63G-2-403 is amended to read:

63G-2-403. Appeals to the State Records Committee.

(1) (a) A records committee appellant appeals to the ~~[records committee]~~ State Records Committee by filing a notice of appeal with the executive secretary of the ~~[records committee]~~ State Records Committee no later than 30 days after the date of issuance of the decision being appealed.

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the ~~[records committee]~~ State Records Committee no later than 45 days after the day on which the record request is made if:

(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

(ii) the chief administrative officer fails to make a decision under Section 63G-2-401.

(2) The notice of appeal shall:

(a) contain the name, mailing address, and daytime telephone number of the records committee appellant;

(b) be accompanied by a copy of the decision being appealed; and

(c) state the relief sought.

(3) The records committee appellant:

(a) shall, on the day on which the notice of appeal is filed with the ~~[records committee]~~ State Records Committee, serve a copy of the notice of appeal on:

(i) the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or

(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the ~~[records]~~ committee, if the records committee appellant is a political subdivision; and

(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after receiving a notice of appeal, the executive secretary of the ~~[records committee]~~ State Records Committee shall:

(i) schedule a hearing for the ~~[records committee]~~ State Records Committee to discuss the appeal at the next regularly scheduled committee meeting falling at least 16 days after the date the notice of appeal is filed but no longer than 64 calendar days after the date the notice of appeal was filed except that the ~~[records]~~ committee may schedule an expedited hearing upon application of the records committee appellant and good cause shown;

(ii) send a copy of the notice of hearing to the records committee appellant; and

(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:

(A) each member of the ~~[records committee]~~ State Records Committee;

(B) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party;

(C) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and

(D) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.

(b) (i) The executive secretary of the ~~[records committee]~~ State Records Committee may decline to schedule a hearing if the record series that is the subject of the appeal has been found by the committee in a previous hearing involving the same governmental entity to be appropriately classified as private, controlled, or protected.

(ii) (A) If the executive secretary of the ~~[records committee]~~ State Records Committee declines to schedule a hearing, the executive secretary ~~of the~~

~~records committee~~] shall send a notice to the records committee appellant indicating that the request for hearing has been denied and the reason for the denial.

(B) The ~~committee~~ State Records Committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The executive secretary of the ~~records committee~~ State Records Committee may schedule a hearing on an appeal to the ~~records committee~~ State Records Committee at a regularly scheduled ~~records committee~~ State Records Committee meeting that is later than the period described in Subsection (4)(a)(i) if that ~~records committee~~ meeting is the first regularly scheduled ~~records committee~~ State Records Committee meeting at which there are fewer than 10 appeals scheduled to be heard.

(5) (a) No later than five business days before the hearing, a governmental entity shall submit to the executive secretary of the ~~records committee~~ State Records Committee a written statement of facts, reasons, and legal authority in support of the governmental entity's position.

(b) The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested party involved in the appeal. The executive secretary shall forward a copy of the written statement to each member of the ~~records committee~~ State Records Committee.

(6) (a) No later than 10 business days after the day on which the executive secretary sends the notice of appeal ~~[is sent by the executive secretary]~~, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention ~~[before]~~ with the ~~records committee~~ State Records Committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervenor's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the ~~records committee~~ State Records Committee.

(7) The ~~records committee~~ State Records Committee shall hold a hearing within the period of time described in Subsection (4).

(8) At the hearing, the ~~records committee~~ State Records Committee shall allow the parties to testify, present evidence, and comment on the issues. The ~~records~~ committee may allow other interested persons to comment on the issues.

(9) (a) (i) The ~~records committee~~ State Records Committee:

(A) may review the disputed records; and

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the ~~records committee~~ State Records Committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized by this chapter.

(10) (a) Discovery is prohibited, but the ~~records committee~~ State Records Committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a ~~records committee~~ State Records Committee subpoena disobeys or fails to comply with the subpoena, the ~~records committee~~ committee may file a motion for an order to compel obedience to the subpoena with the district court.

(c) (i) The ~~records committee's~~ State Records Committee's review shall be de novo, if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the ~~records committee~~ State Records Committee shall review and consider the decision of the local appeals board.

(11) (a) No later than seven business days after the hearing, the ~~records committee~~ State Records Committee shall issue a signed order:

(i) granting the relief sought, in whole or in part; or

(ii) upholding the governmental entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the ~~records committee~~ State Records Committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the ~~records committee~~ State Records Committee shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the ~~[records committee]~~ State Records Committee shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access was ordered or denied, if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the ~~[records committee]~~ State Records Committee may appeal the ~~[records]~~ committee's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) If the ~~[records committee]~~ State Records Committee fails to issue a decision within 73 calendar days of the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal. A records committee appellant shall notify the ~~[records committee]~~ State Records Committee in writing if the records committee appellant considers the appeal denied.

(14) A party to a proceeding before the ~~[records committee]~~ State Records Committee may seek judicial review in district court of a ~~[records committee]~~ State Records Committee order by filing a petition for review of the ~~[records committee]~~ order as provided in Section 63G-2-404.

(15) (a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to the proceeding shall comply with the order of the ~~[records committee]~~ State Records Committee.

(b) If a party disagrees with the order of the ~~[records committee]~~ State Records Committee, that party may file a notice of intent to appeal the order ~~[of the records committee]~~.

(c) If the ~~[records committee]~~ State Records Committee orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the ~~[records]~~ committee.

(d) (i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the ~~[records committee]~~ State Records Committee may do either or both of the following:

(A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

(B) send written notice of the governmental entity's noncompliance to the governor.

(ii) In imposing a civil penalty, the ~~[records committee]~~ State Records Committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

Section 17. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision.

(b) The ~~[records committee]~~ State Records Committee is a necessary party to a petition for judicial review of a ~~[records committee]~~ State Records Committee order.

(c) The executive secretary of the ~~[records committee]~~ State Records Committee shall be served with notice of a petition for judicial review of a ~~[records committee]~~ State Records Committee order, in accordance with the Utah Rules of Civil Procedure.

(2) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(a) the petitioner's name and mailing address;

(b) a copy of the ~~[records committee]~~ State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the ~~[records committee]~~ State Records Committee;

(c) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(d) a request for relief specifying the type and extent of relief requested; and

(e) a statement of the reasons why the petitioner is entitled to relief.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6) (a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a ~~[records committee]~~ State Records Committee order, allow introduction of evidence presented to the ~~[records committee]~~ State Records Committee;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

(b) In a court's review and decision of a petition seeking judicial review of a ~~[records committee]~~ State Records Committee order, the court may not remand the petition to the ~~[records committee]~~ State Records Committee for any additional proceedings.

(7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 18. Section 63G-2-501 is amended to read:

63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the State Records Committee within the Department of Administrative Services ~~[to consist]~~ consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

~~[(b) the director of the Division of State History or the director's designee;]~~

~~[(c) the governor or the governor's designee;]~~

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint the members ~~[specified]~~ described in Subsections (1)(a), (b), (d), (e), and (f) ~~[shall be appointed by the governor]~~ with the consent of the Senate.

(3) (a) Except as ~~[required by]~~ provided in Subsection (3)(b), [as terms of current committee members expire,] the governor shall appoint each ~~[new member or reappointed]~~ member to a four-year term.

(b) Notwithstanding ~~[the requirements of]~~ Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

Section 19. Section 63G-2-502 is amended to read:

63G-2-502. State Records Committee -- Duties.

(1) The ~~[records committee]~~ State Records Committee shall:

~~[(a) meet at least once every three months;]~~

~~[(b) review and approve schedules for the retention and disposal of records;]~~

~~[(e)]~~ (a) hear appeals from determinations of access ~~[as provided by]~~ under Section 63G-2-403;

~~[(d)]~~ (b) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d); and

~~[(e)]~~ (c) appoint a ~~[chairman]~~ chair from among ~~[its]~~ the committee's members.

(2) The ~~[records committee]~~ State Records Committee may:

(a) make rules ~~[to govern its own proceedings as provided by],~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the committee's proceedings; and

(b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.

(3) (a) The ~~[records committee]~~ State Records Committee shall annually appoint an executive secretary to provide administrative support to the [records] committee.

(b) The executive secretary ~~[may not serve as]~~ is not a voting member of the committee.

(4) Five members of the ~~[records committee]~~ State Records Committee are a quorum for the transaction of business.

(5) The state archives shall provide staff and support services for the ~~[records committee]~~ State Records Committee.

(6) If the ~~[records committee]~~ State Records Committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested person may appeal the reclassification or redesignation to the district court. The district court shall hear the matter de novo.

(7) The Office of the Attorney General shall provide counsel to the ~~[records committee and shall review proposed retention schedules]~~ State Records Committee.

Section 20. Section 63G-2-604 is amended to read:

63G-2-604. Retention and disposition of records.

(1) (a) Except for a governmental entity that is permitted to maintain its the governmental entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature, each governmental entity shall file with the ~~[State Records Committee]~~ Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.

(b) After a retention schedule is reviewed and approved by the ~~[State Records Committee]~~ Records Management Committee under Subsection ~~[63G-2-502(1)(b)]~~ 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.

(c) If a governmental entity subject to the provisions of this section has not received an approved retention schedule from the Records Management Committee for a specific type of material that is classified as a record under this chapter, the model retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.

(2) A retention schedule that is filed with or approved by the ~~[State Records Committee]~~ Records Management Committee under the requirements of this section is a public record.

Section 21. Section 63G-2-701 is amended to read:

63G-2-701. Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.

(1) As used in this section:

(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

(2) (a) Each political subdivision may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.

(b) The ordinance or policy shall comply with the criteria set forth in this section.

(c) If any political subdivision does not adopt and maintain an ordinance or policy, then that political subdivision is subject to this chapter.

(d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.

(e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with the state archives no later than 30 days after its effective date.

(f) The political subdivision shall also report to the state archives all retention schedules, and all designations and classifications applied to record series maintained by the political subdivision.

(g) The report required by Subsection (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report is not subject to approval by state archives. If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).

(3) Each ordinance or policy relating to information practices shall:

(a) provide standards for the classification and designation of the records of the political subdivision as public, private, controlled, or protected in accordance with Part 3, Classification;

(b) require the classification of the records of the political subdivision in accordance with those standards;

(c) provide guidelines for establishment of fees in accordance with Section 63G-2-203; and

(d) provide standards for the management and retention of the records of the political subdivision comparable to Section 63A-12-103.

(4) (a) Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect, obtain, or amend records of the political subdivision, and time limits for appeals consistent with this chapter.

(b) In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the political subdivision are insufficient to meet the requirements of those sections.

(5) (a) A political subdivision shall establish an appeals process for persons aggrieved by classification, designation, or access decisions.

(b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial to a person designated by the political subdivision as the chief administrative officer for purposes of an appeal under Section 63G-2-401.

(c) (i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.

(ii) An appeals board established by a political subdivision shall be composed of three members:

(A) one of whom shall be an employee of the political subdivision; and

(B) two of whom shall be members of the public who are not employed by or officials of a governmental entity, at least one of whom shall have professional experience with requesting or managing records.

(iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.

(iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the ~~[records committee]~~ State Records Committee, as provided in Section 63G-2-403.

(6) (a) A political subdivision or requester may appeal an appeals board decision:

(i) to the ~~[records committee]~~ State Records Committee, as provided in Section 63G-2-403; or

(ii) by filing a petition for judicial review with the district court.

(b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and 63G-2-404.

(c) A person who appeals an appeals board decision to the ~~[records committee]~~ State Records Committee does not lose or waive the right to seek judicial review of the decision of the ~~[records committee]~~ State Records Committee.

(7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall forward to state archives a copy and summary description of the ordinance or policy.

Section 22. Section 63G-2-801 is amended to read:

63G-2-801. Criminal penalties.

(1) (a) A public employee or other person who has lawful access to any private, controlled, or protected record under this chapter, and who intentionally discloses, provides a copy of, or improperly uses a private, controlled, or protected record knowing that the disclosure or use is prohibited under this chapter, is, except as provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released private, controlled, or protected information in the reasonable belief that the use or disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

(c) It is a defense to prosecution under Subsection (1)(a) that the record could have lawfully been released to the recipient if it had been properly classified.

(d) It is a defense to prosecution under Subsection (1)(a) that the public employee or other person disclosed, provided, or used the record based on a good faith belief that the disclosure, provision, or use was in accordance with the law.

(2) (a) A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any private, controlled, or protected record to which the person is not legally entitled is guilty of a class B misdemeanor.

(b) No person shall be guilty under Subsection (2)(a) who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

(3) (a) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law, is guilty of a class B misdemeanor.

(b) It is a defense to prosecution under Subsection (3)(a) that the public employee's failure to release the record was based on a good faith belief that the public employee was acting in accordance with the requirements of law.

(c) A public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by a final unappealed order from a government entity, the ~~[records committee]~~ State Records Committee, or a court is guilty of a class B misdemeanor.

CHAPTER 255**S. B. 33**

Passed February 11, 2019

Approved March 25, 2019

Effective May 14, 2019

POLITICAL PROCEDURES AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Travis M. Seegmiller

LONG TITLE**General Description:**

This bill amends political procedures provisions in the Election Code and in code provisions relating to local government entities.

Highlighted Provisions:

This bill:

- ▶ modifies and standardizes notice requirements relating to incorporation or dissolution of a municipality, annexation and other municipal boundary changes, and elections;
- ▶ modifies and clarifies deadlines in the Election Code;
- ▶ modifies procedures, and clarifies length limitations, for arguments for or against a ballot proposition;
- ▶ requires at least two poll workers to perform certain tasks relating to the handling and delivery of ballots;
- ▶ clarifies residency requirements for a local school board candidate;
- ▶ removes the intent language from the Election Code; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-2-406, as last amended by Laws of Utah 2009, Chapters 218 and 388
- 10-2-407, as last amended by Laws of Utah 2015, Chapter 352
- 10-2-413, as last amended by Laws of Utah 2015, Chapter 352
- 10-2-415, as last amended by Laws of Utah 2015, Chapter 352
- 10-2-418, as last amended by Laws of Utah 2017, Chapter 367
- 10-2-419, as last amended by Laws of Utah 2018, Chapter 401
- 10-2-501, as last amended by Laws of Utah 2016, Chapter 406
- 10-2-502.5, as last amended by Laws of Utah 2016, Chapter 406
- 10-2-607, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
- 10-2-703, as last amended by Laws of Utah 2009, Chapter 388
- 10-2-708, as last amended by Laws of Utah 2009, Chapter 388

- 10-2a-207, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-210, as last amended by Laws of Utah 2015, Chapters 111, 157 and renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-213, as renumbered and amended by Laws of Utah 2015, Chapter 352
- 10-2a-214, as last amended by Laws of Utah 2017, Chapter 91
- 10-2a-215, as last amended by Laws of Utah 2015, Chapter 111 and renumbered and amended by Laws of Utah 2015, Chapter 352 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352
- 10-2a-303, as last amended by Laws of Utah 2017, Chapter 452
- 10-2a-304, as last amended by Laws of Utah 2017, Chapter 452
- 10-2a-305, as renumbered and amended by Laws of Utah 2015, Chapter 352 and repealed and reenacted by Laws of Utah 2015, Chapter 111
- 10-2a-305.1, as last amended by Laws of Utah 2018, Chapter 11
- 10-2a-305.2, as enacted by Laws of Utah 2015, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 352
- 10-7-19, as last amended by Laws of Utah 2009, Chapter 388
- 11-14-202, as last amended by Laws of Utah 2018, Chapter 415 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 403
- 17B-1-303, as last amended by Laws of Utah 2017, Chapter 112
- 17B-1-306, as last amended by Laws of Utah 2018, Chapter 11
- 17B-1-1001, as last amended by Laws of Utah 2018, Chapter 11
- 17B-1-1003, as last amended by Laws of Utah 2018, Chapter 11
- 17B-2a-705, as last amended by Laws of Utah 2013, Chapter 415
- 17D-3-305, as last amended by Laws of Utah 2009, Chapter 388
- 20A-1-206, as last amended by Laws of Utah 2012, Chapter 97
- 20A-1-503, as last amended by Laws of Utah 2011, Chapters 327 and 340
- 20A-1-508, as last amended by Laws of Utah 2018, Chapters 68 and 199
- 20A-1-509.1, as last amended by Laws of Utah 2011, Chapters 297 and 327
- 20A-1-509.2, as last amended by Laws of Utah 2013, Chapter 237
- 20A-1-511, as last amended by Laws of Utah 2017, Chapter 61
- 20A-1-513, as enacted by Laws of Utah 2011, Chapter 42
- 20A-2-202, as last amended by Laws of Utah 2018, Chapter 206
- 20A-2-204, as last amended by Laws of Utah 2018, Chapter 206

20A-2-205, as last amended by Laws of Utah 2018, Chapter 206	20A-7-601, as last amended by Laws of Utah 2016, Chapter 365
20A-2-301, as last amended by Laws of Utah 2011, Chapter 335	20A-7-606, as last amended by Laws of Utah 2016, Chapter 365
20A-2-306, as last amended by Laws of Utah 2018, Chapters 206 and 270	20A-7-613, as last amended by Laws of Utah 2016, Chapters 350, 365, and 367
20A-3-302, as last amended by Laws of Utah 2018, Chapter 206 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 464	20A-7-704, as last amended by Laws of Utah 2017, Chapter 147
20A-3-304, as last amended by Laws of Utah 2018, Chapter 206	20A-7-705, as last amended by Laws of Utah 2017, Chapter 147
20A-3-305, as last amended by Laws of Utah 2017, Chapters 235 and 327	20A-7-706, as last amended by Laws of Utah 2012, Chapter 334
20A-3-306, as last amended by Laws of Utah 2018, Chapter 206	20A-7-801, as last amended by Laws of Utah 2013, Chapters 182, 219 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 182
20A-3-306.5, as last amended by Laws of Utah 2013, Chapter 219	20A-8-103, as last amended by Laws of Utah 2017, Chapter 91
20A-3-604, as last amended by Laws of Utah 2018, Chapter 195 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 403	20A-8-106, as last amended by Laws of Utah 1996, Chapter 213
20A-4-104, as last amended by Laws of Utah 2018, Chapter 274	20A-8-401, as last amended by Laws of Utah 2013, Chapter 170
20A-4-107, as last amended by Laws of Utah 2018, Chapters 80, 206, and 281	20A-8-402, as last amended by Laws of Utah 2011, Chapters 35 and 396
20A-4-201, as last amended by Laws of Utah 2011, Chapter 297	20A-8-402.5, as enacted by Laws of Utah 2018, Chapter 80
20A-4-202, as last amended by Laws of Utah 2018, Chapter 274	20A-8-404, as last amended by Laws of Utah 2011, Chapter 117
20A-4-304, as last amended by Laws of Utah 2018, Chapter 187	20A-9-202, as last amended by Laws of Utah 2018, Chapter 11
20A-4-401, as last amended by Laws of Utah 2018, Chapter 187	20A-9-203, as last amended by Laws of Utah 2018, Chapters 11 and 365
20A-5-101, as last amended by Laws of Utah 2018, Chapter 80 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 403	20A-9-404, as last amended by Laws of Utah 2018, Chapters 187 and 274
20A-5-405, as last amended by Laws of Utah 2009, Chapter 388	20A-9-407, as last amended by Laws of Utah 2018, Chapters 11 and 19
20A-5-604, as last amended by Laws of Utah 2007, Chapter 75	20A-9-408, as last amended by Laws of Utah 2018, Chapter 11
20A-5-605, as last amended by Laws of Utah 2007, Chapter 75	20A-9-504, as last amended by Laws of Utah 2018, Chapter 11
20A-6-106, as last amended by Laws of Utah 2011, Chapter 327	20A-9-601, as last amended by Laws of Utah 2018, Chapters 11 and 80
20A-6-302, as last amended by Laws of Utah 2014, Chapter 17	20A-11-105, as enacted by Laws of Utah 2015, Chapter 435
20A-7-202.5, as last amended by Laws of Utah 2017, Chapter 291	20A-11-601, as last amended by Laws of Utah 2018, Chapter 83
20A-7-204.1, as last amended by Laws of Utah 2017, Chapter 291	20A-11-801, as last amended by Laws of Utah 2018, Chapter 83
20A-7-205, as last amended by Laws of Utah 2011, Chapter 17	20A-12-305, as last amended by Laws of Utah 2011, Chapter 396
20A-7-206, as last amended by Laws of Utah 2013, Chapter 231	20A-13-301, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2
20A-7-302, as last amended by Laws of Utah 1995, Chapter 153	20A-14-202, as last amended by Laws of Utah 2016, Chapter 144
20A-7-305, as last amended by Laws of Utah 2011, Chapter 17	20A-15-103, as enacted by Laws of Utah 1995, Chapter 1
20A-7-306, as last amended by Laws of Utah 2011, Chapter 17	20A-16-403, as enacted by Laws of Utah 2011, Chapter 327
20A-7-402, as last amended by Laws of Utah 2017, Chapters 91, 147, and 291	62A-5-202.5, as last amended by Laws of Utah 2018, Chapter 401
20A-7-506, as last amended by Laws of Utah 2012, Chapter 72	63A-5-204, as last amended by Laws of Utah 2018, Chapter 401
	63I-2-210, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
	63I-2-220, as last amended by Laws of Utah 2018, Chapters 187 and 458

RENUMBERS AND AMENDS:

20A-1-104, (Renumbered from 20A-1-401, as last amended by Laws of Utah 2011, Chapter 297)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Publishing and providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall publish notice:

~~[(a) (i) publish a notice:]~~

~~[(A) (a) (i) at least once a week for three successive weeks, beginning no later than 10 days after receipt of the day on which the municipal legislative body receives the notice of certification, in a newspaper of general circulation within:~~

~~[(4) (A) the area proposed for annexation; and~~

~~[(4) (B) the unincorporated area within 1/2 mile of the area proposed for annexation; and]~~

~~[(B) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after receipt of the notice of certification; and]~~

~~[(ii) in accordance with Subsection (1)(a)(i)(A), if there is no newspaper of general circulation within those areas, post written notices in conspicuous places within those areas that are most likely to give notice to residents within those areas; and]~~

~~[(b) within 20 days of receipt of the notice of certification under Subsection 10-2-405(2)(e)(i), mail written notice to each affected entity.]~~

(ii) if there is no newspaper of general circulation in the combined area described in Subsections (1)(a)(i)(A) and (B), no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsections (1)(a)(i)(A) and (B);

(b) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks, beginning no

later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(d) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(e) if the municipality has a website, on the municipality's website for the period of time described in Subsection (1)(c).

~~(2) [(a) The notice [under Subsections (1)(a) and (b)] described in Subsection (1) shall:~~

~~[(i) (a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;~~

~~[(ii) (b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);~~

~~[(iii) (c) describe the area proposed for annexation in the annexation petition;~~

~~[(iv) (d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;~~

~~[(v) (e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i)[(A)], a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;~~

~~[(vi) (f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;~~

~~[(vii) (g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:~~

~~[(A) (i) the proposed annexing municipality is entirely within the boundaries of a local district:~~

~~[(4) (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and~~

~~[(4) (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and~~

~~[(4) (ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and~~

~~[(viii) (h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and~~

emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

~~[(A)]~~ (i) the petition proposes the annexation of an area that is within the boundaries of a local district:

~~[(F)]~~ (A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

~~[(H)]~~ (B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

~~[(B)]~~ (ii) the proposed annexing municipality is not within the boundaries of the local district.

~~[(b)]~~ (3) (a) The statement required by Subsection (2)~~[(a)]~~~~[(v)]~~~~[(e)]~~ shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

~~[(e)]~~ (b) In addition to the requirements under Subsection (2)~~[(a)]~~, a notice under Subsection (1)~~[(a)]~~ for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 2. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) the owner of rural real property as defined in Section 17B-2a-1107; or

(c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(2) ~~[(a)]~~ Each protest under Subsection (1) shall:

~~[(i)]~~ (a) be filed:

~~[(A)]~~ (i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

~~[(B)]~~ (ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

~~[(H)]~~ (B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

~~[(ii)]~~ (b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

~~[(iii)]~~ (c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

~~[(iv)]~~ (d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

~~[(b)]~~ (3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

~~[(e)]~~ (4) Each clerk who receives a protest under Subsection (2)(a)~~[(i)]~~~~[(B)]~~~~[(H)]~~~~[(ii)]~~~~[(B)]~~ shall:

~~[(i)]~~ (a) immediately notify the county legislative body of the protest; and

~~[(ii)]~~ (b) deliver the protest to the boundary commission within five days after:

~~[(A)]~~ (i) receipt of the protest, if the boundary commission has previously been created; or

~~[(B)]~~ (ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

~~[(3)]~~ ~~[(a)]~~ ~~[(i)]~~ (5) (a) If a protest is filed under this section:

~~[(A)]~~ (i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i)~~[(A)]~~, deny the annexation petition; or

~~[(B)]~~ (ii) if the municipal legislative body does not deny the annexation petition under Subsection ~~[(3)]~~~~[(a)]~~~~[(i)]~~~~[(A)]~~ (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

~~[(ii)]~~ (b) If a municipal legislative body denies an annexation petition under Subsection ~~[(3)]~~~~[(a)]~~~~[(i)]~~~~[(A)]~~ (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

~~[(A)]~~ (i) the contact sponsor of the annexation petition;

~~[(B)]~~ (ii) the commission; and

~~[(C)]~~ (iii) each entity that filed a protest.

~~[(b)(4)]~~ (6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection ~~[(3)(b)(ii)]~~ (7), approve the petition.

~~[(ii)]~~ (7) Before approving an annexation petition under Subsection ~~[(3)(b)(4)]~~ (6), the municipal legislative body shall ~~[(A) hold a public hearing; and (B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A); (D) (Aa)]~~ hold a public hearing and publish notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; ~~or~~

~~[(Bb)]~~ (ii) if there is no newspaper of general circulation in ~~[these areas, post written notices of the hearing in conspicuous places within those areas that are most likely to give notice to residents within those areas; and]~~ the combined area described in Subsection (7)(a)(i), at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

~~[(H)]~~ (b) ~~[publish notice of the hearing]~~ on the Utah Public Notice Website created in Section 63F-1-701~~[-]~~, for seven days before the day of the public hearing;

(c) in accordance with Section 45-1-101, for seven days before the day of the public hearing; and

(d) if the municipality has a website, on the municipality's website for seven days before the day of the public hearing.

Section 3. Section 10-2-413 is amended to read:

10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.

(1) (a) For a proposed annexation of an area located in a county of the first class, unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407~~[(3)(a)(4)(A)]~~(5)(a)(i) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a petition that proposes the annexation of an area that:

(i) is undeveloped; and

(ii) covers an area that is equivalent to less than 5% of the total land mass of all private real property within the municipality.

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, local districts, special service districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past 10 years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

(i) the size of the area proposed for annexation;

(ii) the size of the proposed annexing municipality;

(iii) the extent to which the area proposed for annexation is developed;

(iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and

(v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)(c), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Section 4. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) ~~[(4)]~~ If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days ~~[of receipt of]~~ after the day on which the commission receives the feasibility study or supplemental feasibility study results.

~~[(4)]~~ (b) At the public hearing ~~[under]~~ described in Subsection (1)(a)~~[(4)]~~, the commission shall:

~~[(A)]~~ (i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

~~[(B)]~~ (ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

~~[(C)]~~ (iii) allow those present to speak to the issue of annexation.

~~[(iii)-(A)]~~ (2) The commission shall ~~[-(1)]~~ publish notice of ~~[each hearing under]~~ the public hearing described in Subsection (1)(a)~~[(4)]~~:

~~[(Aa)]~~ (a) (i) at least once a week for two successive weeks before the public hearing in a

newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality; ~~and~~

(ii) if there is no newspaper of general circulation within the combined area described in Subsection (2)(a)(i), at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area; or

(iii) by mailing notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (2)(a)(i);

~~(Bb)~~ (b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks ~~and~~ before the day of the public hearing;

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing;

~~(D)~~ send (d) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person ~~and~~;

(e) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing.

~~(B)~~ In accordance with Subsection (1)(a)(iii)(A)(I)(Aa), if there is no newspaper of general circulation within the areas described in Subsection (1)(a)(iii)(A)(I)(Aa), the commission shall give the notice required under that subsection by posting notices, at least seven days before the hearing, in conspicuous places within those areas that are most likely to give notice of the hearing to the residents of those areas.]

~~(C)~~ The notice under Subsections (1)(a)(iii)(A) and (B) shall include the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the commission.]

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

~~(b)~~ (i) (4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

~~(ii)~~ (A) (5) At least 14 days before the date of ~~each hearing under~~ a hearing described in Subsection ~~(1)(b)(i)~~(4), the commission chair shall ~~publish~~ publish notice of the hearing ~~to be published~~;

(a) (i) in a newspaper of general circulation within the area proposed for annexation ~~and~~;

(ii) if there is no newspaper of general circulation within the area proposed for annexation, by posting one notice, and at least one additional notice per 2,000 population within the area in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area; or

(iii) mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the day of the hearing;

(c) in accordance with Section 45-1-101, for 14 days before the day of the hearing; and

(d) on the county's website for two weeks before the day of the public hearing.

~~(B)~~ (6) Each notice ~~under~~ described in Subsection ~~(1)(b)(ii)(A)~~ (5) shall ~~state~~ state the date, time, and place of the hearing;

~~(D)~~ (a) briefly summarize the nature of the protest; and

~~(H)~~ (b) state that a copy of the protest is on file at the commission's office.

~~(iii)~~ (7) The commission may continue a hearing under Subsection ~~(1)(b)(i)~~ (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

~~(iv)~~ (8) In considering protests, the commission shall consider whether the proposed annexation:

~~(A)~~ (a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

~~(B)~~ (b) conflicts with the annexation policy plan of another municipality; and

~~(C)~~ (c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

~~(2)~~ (9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection ~~(2)~~ (9)(a), the feasibility study, if applicable, information received at the hearing, and

the written decision of the commission shall constitute the record of the hearing.

Section 5. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) (i) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(ii) the majority of each island or peninsula consists of residential or commercial development;

(iii) the area proposed for annexation requires the delivery of municipal-type services; and

(iv) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(b) (i) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(ii) the municipality has provided one or more municipal-type services to the area for at least one year;

(c) (i) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; and

(ii) the county in which the area is located, subject to Subsection (4)(b), and the municipality agree that the area should be included within the municipality; or

(d) (i) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(ii) the area to be annexed is located in the expansion area of a municipality; and

(iii) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that:

(A) the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice; and

(B) after the public hearing the county legislative body may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(i) relating to the number of residents.

(4) (a) This Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least one half the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d)."

(e) A private property owner may withdraw the property owner's signature indicating consent by

submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(d)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

~~[(b) publish notice:]~~

~~[(4)(A)]~~ (b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation; ~~or~~

~~[(B)]~~ (ii) if there is no newspaper of general circulation in the ~~[areas]~~ combined area described in Subsection ~~[(5)(b)(i)(A), post]~~ (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per ~~[1,000]~~ 2,000 population in the combined area, in places within ~~[those areas]~~ the combined area that are most likely to give notice to the residents ~~[of those areas; and]~~ within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

~~[(iii)]~~ (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

~~[(e) send]~~ (d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

~~[(d)]~~ hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution under Subsection (5)(a).

~~[(6)]~~ (7) The legislative body of the annexing municipality shall ensure that:

(a) each notice ~~under Subsections (5)(b) and (e)]~~ described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating its intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing ~~under Subsection (5)(d)]~~ described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the property owner consent requirements of Subsection ~~[(7)]~~ (8)(b) or the recommendation of annexation requirements of Subsection ~~[(7)]~~ (8)(c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing ~~under Subsection (5)(d)]~~ described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice ~~required under Subsection (5)(b)(i)]~~ described in Subsection (6)(a) occurs within 14 days ~~[of]~~ after the day on which the municipal legislative ~~[body's adoption of]~~ body adopts a resolution under Subsection (5)(a).

~~[(7)]~~ (8) (a) Except as provided in Subsections ~~[(7)]~~ (8)(b)(i) and ~~[(7)]~~ (8)(c)(i), upon conclusion of the public hearing ~~under Subsection (5)(d)]~~ described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection ~~[(7)]~~ (8)(a), upon conclusion of the public hearing ~~under Subsection (5)(d)]~~ described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection ~~[(7)]~~ (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an

ordinance adopted under Subsection [(7)] (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection [(7)] (8)(a), upon conclusion of the public hearing ~~under Subsection (5)(d)]~~ described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection [(7)] (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection [(7)] (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection [(7)] (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection [(7)] (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [(7)] (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

[(8)] (9) (a) Except as provided in Subsections [(7)] (8)(b)(i) and [(7)] (8)(c)(i), if protests are timely filed that comply with Subsection [(7)] (8)(a), the municipal legislative body may not adopt an

ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection [(8)] (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 6. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a)[3].

[(e)] (3) A legislative body described in Subsection (2) shall publish notice of a public hearing described in Subsection (2)(b):

[(i)-(A)] (a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality; [ø]

[(B)] (ii) if there is no newspaper of general circulation within the municipality, [post] at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per [1,000] 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality; [and] or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

[(ii)] (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks[; and] before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, [provide] by providing written notice, at least 50 days before the day of the public hearing [described in Subsection (2)(b)], to:

(i) the title holder of any state-owned real property described in this Subsection [(2)] (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202, if any state-owned real property described in this Subsection ~~[(2)]~~ (3)(d) is associated with the Utah State Developmental Center~~[-]~~; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

~~[(3)]~~ (4) The notice ~~[required under Subsections (2)(e) and (4)]~~ described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing ~~[required under]~~ described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing ~~[under]~~ described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection ~~[(2)]~~ (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection,

paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

~~[(4)]~~ (5) The first publication of the notice ~~[required under Subsection (2)(e)(i)(A)]~~ described in Subsection (3)(a)(i) shall be within 14 days ~~[of]~~ after the day on which the municipal legislative [body's adoption of] body adopts a resolution under Subsection (2)(a).

~~[(5)]~~ (6) Upon conclusion of the public hearing ~~[under]~~ described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing ~~[under]~~ described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection ~~[(2)]~~ (3)(d)(i) or (ii).

~~[(6)]~~ (7) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

~~[(7)]~~ (8) (a) An ordinance adopted under Subsection ~~[(5)]~~ (6) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection ~~[(5)]~~ (6).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 7. Section 10-2-501 is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

- (b) Each request for disconnection shall:
 - (i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;
 - (ii) give the reasons for the proposed disconnection;
 - (iii) include a map or plat of the territory proposed for disconnection; and
 - (iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.
- (3) Upon filing the request for disconnection, the petitioner shall ~~[- (a) - cause]~~ publish notice of the request [to be published]:

(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality; [and]

~~[(ii) in accordance with Section 45-1-101 for three weeks;]~~

(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the municipality, including the residents who live in the area proposed for disconnection; or

(iii) at least three weeks before the day of the public hearing described in Section 10-2-502.5, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5;

~~[(b)] (d) [cause notice of the request to be mailed]~~ by mailing notice to each owner of real property located within the area proposed to be disconnected; [and]

~~[(e) - deliver]~~ (e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located[-]; and

(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

Section 8. Section 10-2-502.5 is amended to read:
10-2-502.5. Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) ~~[Within]~~ No sooner than seven calendar days after, and no later than 30 calendar days after [the last publication of], the last day on which the petitioner publishes the notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) ~~[At least seven calendar days before the hearing date, the]~~ The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located; [and]

~~[(b) by publishing a notice:]~~

~~[(i) - (A)]~~ (b) (i) at least seven days before the hearing date, by publishing notice in a newspaper of general circulation within the municipality; [or]

~~[(B)]~~ (ii) if there is no newspaper [as described in Subsection (2)(b)(i)(A), then by posting notice of the hearing in at least three public places] of general circulation within the municipality, at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality; [and] or

(iii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;

~~[(ii)]~~ (c) on the Utah Public Notice Website created in Section 63F-1-701[-], for seven days before the hearing date;

(d) in accordance with Section 45-1-101, for seven days before the hearing date; and

(e) if the municipality has a website, on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 9. Section 10-2-607 is amended to read:

10-2-607. Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, ~~[they shall give]~~ the county legislative bodies shall publish notice of the election for consolidation to the ~~[electors]~~ voters of each municipality ~~[which]~~ that would become part of the consolidated municipality ~~[by publication]~~:

(1) (a) in a newspaper ~~[having a]~~ of general circulation within the boundaries of ~~[each]~~ the municipality ~~[to be consolidated]~~ at least once a week for four consecutive weeks ~~[prior to]~~ before the election; ~~[on the question of consolidation; and]~~

~~[(2) in accordance with Section 45-1-101 for four weeks.]~~

(b) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(c) at least four weeks before the day of the election, by mailing notice to each registered voter in the municipality;

(2) on the Utah Public Notice Website created in Section 63F-1-701, for at least four weeks before the day of the election;

(3) in accordance with Section 45-1-101, for at least four weeks before the day of the election; and

(4) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

Section 10. Section 10-2-703 is amended to read:

10-2-703. Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

(a) (i) for at least once a week for a period of ~~[one month]~~ four weeks before the election in a newspaper ~~[having]~~ of general circulation in the municipality; ~~[or]~~

~~[(ii) if there is not a newspaper as described in Subsection (2)(a), by posting in at least three public places in the municipality; and]~~

(ii) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at

least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(iii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election;

~~[(b)]~~ (c) in accordance with Section 45-1-101 ~~[for one month.],~~ for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for four weeks before the day of the election.

Section 11. Section 10-2-708 is amended to read:

10-2-708. Notice of disincorporation -- Publication and filing.

When a municipality has been dissolved, the clerk of the court shall ~~[cause a notice thereof to be published]~~ publish notice of the dissolution:

(1) (a) in a newspaper ~~[having a]~~ of general circulation in the county in which the municipality is located at least once a week for four consecutive weeks; ~~[and]~~

(b) if there is no newspaper of general circulation in the county in which the municipality is located, by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved; or

(c) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks;

~~[(2)]~~ (3) in accordance with Section 45-1-101, for four weeks~~[-];~~ and

(4) on the county's website for four weeks.

Section 12. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2a-208(3), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, schedule at least two public hearings to be held:

(a) within the following 60 days after receipt of the results;

(b) at least seven days apart;

(c) in geographically diverse locations within the proposed city; and

(d) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results and to ask questions about those results of the feasibility consultant.

(2) At a public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed city;

(b) provide a copy of the feasibility study for public review; and

(c) allow the public to express its views about the proposed incorporation, including its view about the proposed boundary.

(3) ~~[(a)-(4)]~~ The lieutenant governor shall publish notice of the public hearings required under Subsection (1):

~~[(A)] (a) (i) at least once a week for three successive weeks before the first public hearing in a newspaper of general circulation within the proposed city; and~~

~~(ii) if there is no newspaper of general circulation in the proposed city, at least three weeks before the day of the first public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed city, in places within the proposed city that are most likely to give notice to the residents within, and the owners of real property located within, the proposed city; or~~

~~(iii) at least three weeks before the first public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed city;~~

~~[(B)] (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the first public hearing;~~

~~(c) in accordance with Section 45-1-101, for three weeks before the day of the first public hearing; and~~

~~(d) on the lieutenant governor's website for three weeks before the day of the first public hearing.~~

~~[(4)] (4) The last publication of notice required under Subsection (3)(a)(i)[(A)] shall be at least three days before the first public hearing required under Subsection (1).~~

~~[(b) (i) If, under Subsection (3)(a)(i)(A), there is no newspaper of general circulation within the proposed city, the lieutenant governor shall post at least one notice of the hearings per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the hearings to the residents of the proposed city.]~~

~~[(ii) The lieutenant governor shall post the notices under Subsection (3)(b)(i) at least seven days before the first hearing under Subsection (1).]~~

~~[(c) The notice under Subsections (3)(a) and (b)]~~

(5) (a) Except as provided in Subsection (5)(c), the notice described in Subsection (3) shall include the feasibility study summary under Subsection 10-2a-205(3)(b) and shall indicate that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.

~~[(d)] (b) The lieutenant governor shall post a copy of the feasibility study on the lieutenant governor's website and make a copy available for public review at the Office of the Lieutenant Governor.~~

(c) Instead of publishing the feasibility summary under Subsection (5)(a), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed city, may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 13. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election.

(1) (a) Upon receipt of a certified petition under Subsection 10-2a-209(1)(b)(i) or a certified modified petition under Subsection 10-2a-209(3), the lieutenant governor shall:

(i) determine and set an election date for the incorporation election that is:

(A) on a regular general election date under Section 20A-1-201 or on a local special election date under Section 20A-1-203; and

(B) at least 65 days after the day that the lieutenant governor receives the certified petition; and

(ii) direct the county legislative body of the county in which the incorporation is proposed to hold the election on the date determined by the lieutenant governor in accordance with Subsection (1)(a)(i).

(b) The county shall hold the election as directed by the lieutenant governor in accordance with Subsection (1)(a)(ii).

(c) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed city, the person may not vote on the proposed incorporation.

(2) ~~[(a)]~~ The county clerk shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks; ~~and~~ before the election;

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice

per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

(iii) (c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) on the county's website for three weeks before the day of the election.

(b) (3) (a) The notice required by Subsection (2)(a) shall contain:

- (i) a statement of the contents of the petition;
- (ii) a description of the area proposed to be incorporated as a city;
- (iii) a statement of the date and time of the election and the location of polling places; and
- (iv) except as provided in Subsection (3)(c), the feasibility study summary under Subsection 10-2a-205(3)(b) and a statement that a full copy of the study is available for inspection and copying at the Office of the Lieutenant Governor.

(c) (b) The last publication of notice required under Subsection (2)(a)(i) shall occur at least one day but no more than seven days before the day of the election.

(d) (i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the proposed city that are most likely to give notice of the election to the voters of the proposed city.

(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1).

(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

- (i) the lieutenant governor's website;
- (ii) the physical address of the Office of the Lieutenant Governor; and
- (iii) a mailing address and telephone number.

(3) (4) If a majority of those casting votes within the area boundaries of the proposed city vote to incorporate as a city, the area shall incorporate.

Section 14. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2a-210:

(a) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the council of the future city;

(b) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population;

(c) determine the initial terms of the mayor and members of the city council so that:

(i) the mayor and approximately half the members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(ii) the remaining members of the city council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(d) submit in writing to the county legislative body the results of the sponsors' determinations under Subsections (1)(a), (b), and (c).

(2) (a) Before making a determination under Subsection (1)(a), (b), or (c), the petition sponsors shall hold a public hearing within the future city on the applicable issues under Subsections (1)(a), (b), and (c).

(b) (3) The petition sponsors shall publish notice of the public hearing described in Subsection (2)(a):

(A) (a) (i) in a newspaper of general circulation within the future city at least once a week for two successive weeks before the public hearing; and

(ii) if there is no newspaper of general circulation in the future city, at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future city, in places within the future city that are most likely to give notice to the residents within, and the owners of real property located within, the future city; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future city;

(B) (b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing; and

(d) on the county's website for two weeks before the day of the public hearing.

~~(iii)~~ (4) The last publication of notice under Subsection ~~[(2)(b)(i)(A)]~~ (3)(a)(i) shall be at least three days before the day of the public hearing under Subsection ~~(2)~~[(a)].

~~[(c)(i) In accordance with Subsection (2)(b)(i)(A), if there is no newspaper of general circulation within the future city, the petition sponsors shall post at least one notice of the hearing per 1,000 population in conspicuous places within the future city that are most likely to give notice of the hearing to the residents of the future city.]~~

~~[(ii) The petition sponsors shall post the notices under Subsection (2)(c)(i) at least seven days before the hearing under Subsection (2)(a).]~~

Section 15. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for city office.

(1) ~~[(a)]~~ Within 20 days ~~[of]~~ after the day on which the county legislative ~~[body's receipt of]~~ body receives the information under Subsection 10-2a-213(1)(d), the county clerk shall publish, in accordance with Subsection ~~[(1)(b)]~~[(2)], notice containing:

~~[(i)]~~ (a) the number of commission or council members to be elected for the new city;

~~[(ii)]~~ (b) except as provided in Subsection (3), if some or all of the commission or council members are to be elected by district, a description of the boundaries of those districts as designated by the petition sponsors under Subsection 10-2a-213(1)(b);

~~[(iii)]~~ (c) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or city commission or council; and

~~[(iv)]~~ (d) information about the length of the initial term of each of the city officers, as determined by the petition sponsors under Subsection 10-2a-213(1)(c).

~~[(b)]~~ (2) The notice ~~[under]~~ described in Subsection (1)~~[(a)]~~ shall be published:

(a) (i) in a newspaper of general circulation within the future city at least once a week for two successive weeks; ~~[and]~~

(ii) if there is no newspaper of general circulation in the future city, by posting one notice, and at least one additional notice per 2,000 population of the future city, in places within the future city that are most likely to give notice to the residents in the future city; or

(iii) by mailing notice to each residence in the future city;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks;

~~[(ii)]~~ (c) in accordance with Section 45-1-101, for two weeks~~[-]; and]~~

(d) on the county's website for two weeks.

~~[(c)(i) In accordance with Subsection (1)(b)(i), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice per 1,000 population in conspicuous places within the future city that are most likely to give notice to the residents of the future city.]~~

~~[(ii) The notice under Subsection (1)(c)(i) shall contain the information required under Subsection (1)(a).]~~

~~[(iii) The petition sponsors shall post the notices under Subsection (1)(c)(i) at least seven days before the deadline for filing a declaration of candidacy under Subsection (2).]~~

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future city may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

~~[(2)]~~ (4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or city commission or council of a city incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future city is located and in accordance with the deadlines set by the clerk as authorized by Section 10-2a-215.

Section 16. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new city -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of city officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election under Subsection (1) shall be:

(a) appropriate to the form of government chosen by the voters at the incorporation election;

(b) consistent with the voters' decision about whether to elect commission or council members by district and, if applicable, consistent with the

boundaries of those districts as determined by the petition sponsors; and

(c) consistent with the sponsors' determination of the number of commission or council members to be elected and the length of their initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held at the earliest of the next:

(i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;

(ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);

(iii) municipal primary election under Section 20A-9-404; or

(iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.

(b) The county shall hold the primary election, if necessary, on the next earliest election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

(i) 75 days after the incorporation election under Section 10-2a-210; and

(ii) 65 days after the last day of the candidate filing period.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) regular municipal general election under Section 20A-1-202; or

(iv) regular primary election under Section 20A-1-201.5.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), (iii), or (iv):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) ~~(a)-(4)~~ The county clerk shall publish notice of an election under this section:

~~(A)~~ (a) (i) in accordance with Subsection (6), at least once a week for two successive weeks before the election in a newspaper of general circulation within the future city; ~~and~~

(ii) if there is no newspaper of general circulation in the future city, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the

future city, in places within the future city that are most likely to give notice to the voters within the future city; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future city;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the election;

~~(B)~~ (c) in accordance with Section 45-1-101, for two weeks~~[-]~~ before the day of the election; and

(d) on the county's website for two weeks before the day of the election.

~~(4)~~ (6) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the day of the election.

~~(b) (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future city, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future city that are most likely to give notice of the election to the voters.]~~

~~(ii) The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before each election under Subsection (1).]~~

~~(6)~~ (7) (a) Until the city is incorporated, the county clerk:

(i) is the election officer for all purposes in an election of officers of the city approved at an incorporation election; and

(ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.

(b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of city officer candidates in accordance with Section 10-3-208.

(c) The county clerk is responsible to ensure that:

(i) a primary or final election for the officials of a newly incorporated city is held on a date authorized by this section; and

(ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated city and the term of each office.

~~(7)~~ (8) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.

~~(8)~~ (9) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate

of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304~~(2)(e)(ii)~~(4)(b).

Section 17. Section 10-2a-303 is amended to read:

10-2a-303. Incorporation of a town -- Public hearing on feasibility.

(1) If, in accordance with Section 10-2a-302.5, the lieutenant governor certifies a petition for incorporation or an amended petition for incorporation, the lieutenant governor shall, after completion of the feasibility study, schedule a public hearing:

(a) that takes place no later than 60 days after the day on which the feasibility study is completed; and

(b) to consider, in accordance with Subsection ~~(3)~~ (4)(b), the feasibility of incorporation for the proposed town.

(2) ~~(a)~~ The lieutenant governor shall give notice of the public hearing on the proposed incorporation ~~by~~:

(a) (i) ~~(A) publishing notice of the public hearing~~ at least once a week for two consecutive weeks before the public hearing in a newspaper of general circulation within the proposed town; ~~(B)~~

~~(B)~~ (ii) if there is no newspaper of general circulation within the proposed town by, at least two weeks before the day of the public hearing, posting notice of the public hearing in at least five conspicuous public places within the proposed town~~;~~ and that are most likely to give notice to the residents within, and the owners of real property located within, the proposed town; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and to each owner of real property located within, the proposed town;

~~(iii)~~ (b) by publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701~~;~~, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing; and

(d) on the county's website for two weeks before the day of the public hearing.

~~(b)~~ (3) The county in which the incorporation is proposed shall post the notice described in Subsection (2)~~(a)(ii)~~(b) on the county's website, if the county has a website, for at least two consecutive weeks before the day of the public hearing.

~~(3)~~ (4) At the public hearing scheduled in accordance with Subsection (1), the lieutenant governor shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.

~~(4)~~ (5) A county under the direction of the lieutenant governor may not hold an election on the incorporation of a town in accordance with Section 10-2a-304 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2a-302.5(11)(d)(iv) exceed the five-year projected costs under Subsection 10-2a-302.5(11)(d)(iii) by more than 10%.

Section 18. Section 10-2a-304 is amended to read:

10-2a-304. Incorporation of a town -- Election to incorporate -- Ballot form.

(1) (a) Upon the completion of a feasibility study described in Section 10-2a-302.5 and the public hearing described in Section 10-2a-303, the lieutenant governor shall schedule an incorporation election for the proposed town on:

(i) the date of a regular general election described in Section 20A-1-201 or on the date of a local special election described in Section 20A-1-203; and

(ii) a date that is at least 65 days after the day on which the lieutenant governor certifies the petition under Section 10-2a-302.5.

(b) The lieutenant governor shall direct the county in which the proposed town is located to hold the incorporation election on the date that the lieutenant governor schedules under Subsection (1)(a).

(c) The county described in Subsection (1)(b) shall hold the incorporation election as directed by the lieutenant governor in accordance with Subsection (1)(b).

(d) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed town.

(2) ~~(a)~~ The county clerk shall publish notice of the election:

(a) (i) in accordance with Subsection (4), in a newspaper of general circulation, within the area proposed to be incorporated, at least once a week for three successive weeks~~;~~ and before the election;

(ii) if there is no newspaper of general circulation in the proposed area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 250 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to

the voters in the area proposed to be incorporated;
or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

~~(iii)~~ (c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) on the county's website for three weeks before the day of the election.

~~(b)~~ (3) The notice required by Subsection (2)(a) shall contain:

~~(i)~~ (a) a statement of the contents of the petition;

~~(ii)~~ (b) a description of the area proposed to be incorporated as a town;

~~(iii)~~ (c) a statement of the date and time of the election and the location of polling places; and

~~(iv)~~ (d) the lieutenant governor's Internet website address, if applicable, and the address of the Office of the Lieutenant Governor where the feasibility study is available for review.

~~(e)~~ (4) The last publication of notice required under Subsection (2)(a)(i) shall occur at least one day but no more than seven days before the day of the election.

~~(d)(i) In accordance with Subsection (2)(a)(i), if there is no newspaper of general circulation within the proposed town, the county clerk shall post at least one notice of the election per 100 population in conspicuous places within the proposed town that are most likely to give notice of the election to the voters of the proposed town.]~~

~~(ii) The clerk shall post the notices under Subsection (2)(d)(i) at least seven days before the election under Subsection (1)(a).]~~

~~(3)~~ (5) The ballot at the incorporation election shall pose the incorporation question substantially as follows:

Shall the area described as (insert a description of the proposed town) be incorporated as the town of (insert the proposed name of the proposed town)?

~~(4)~~ (6) The ballot shall provide a space for the voter to answer yes or no to the question in Subsection ~~(3)~~ (5).

~~(5)~~ (7) If a majority of those casting votes within the area boundaries of the proposed town vote to incorporate as a town, the area shall incorporate.

Section 19. Section 10-2a-305 is amended to read:

10-2a-305. Form of government -- Determination of council officer terms -- Hearings and notice.

(1) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(2) If the incorporation proposal passes, the petition sponsors shall, within 25 days of the canvass of the election under Section 10-2a-304:

(a) determine the initial terms of the mayor and members of the city council so that:

(i) the mayor and approximately half the members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(ii) the remaining members of the town council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(b) submit in writing to the county legislative body the results of the sponsors' determinations under Subsection (2)(a).

(3) ~~(a)~~ Before making a determination under Subsection (2)(a), the petition sponsors shall hold a public hearing within the future town on the applicable issues under Subsections (2)(a)(i) and (ii).

~~(b)-(i)~~ (4) (a) The petition sponsors shall publish notice of the public hearing ~~under~~ described in Subsection (3)(a):

~~(A)~~ (i) in accordance with Subsection (5), in a newspaper of general circulation within the future town at least once a week for two successive weeks before the ~~day of the~~ public hearing; ~~and~~

(ii) if there is no newspaper of general circulation in the future town, at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 250 population of the future town, in places within the future town that are most likely to give notice to the voters in the future town; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each registered voter in the future town;

~~(B)~~ (b) by posting notice on the Utah Public Notice Website, created in Section 63F-1-701, for two weeks before the day of the public hearing~~[-];~~

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing; and

(d) on the county's website for two weeks before the day of the public hearing.

~~(iii)~~ (5) The last publication of notice under Subsection ~~(3)(b)(i)(A)~~ (4)(a)(i) shall be at least three days before the day of the public hearing ~~under~~ described in Subsection (3)(a).

~~(e)(i) In accordance with Subsection (3)(b)(i)(A), if there is no newspaper of general circulation within the future town, the petition sponsors shall~~

~~post at least one notice of the hearing per 1,000 population in conspicuous places within the future town that are most likely to give notice of the hearing to the residents of the future town.]~~

~~[(ii) The petition sponsors shall post the notices under Subsection (3)(e)(i) at least seven days before the day that the hearing is held under Subsection (3)(a).]~~

Section 20. Section 10-2a-305.1 is amended to read:

10-2a-305.1. Notice of number of council members to be elected and of district boundaries -- Declaration of candidacy for town office -- Occupation of office.

(1) ~~[(a)]~~ Within 20 days ~~[of]~~ after the county legislative body's receipt of the information under Subsection 10-2a-305(2)(b), the county clerk shall publish, in accordance with Subsection ~~[(1)(b)]~~ (2), notice containing:

~~[(i)]~~ (a) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for mayor or town council; and

~~[(ii)]~~ (b) information about the length of the initial term of each of the town officers, as determined by the petition sponsors under Subsection 10-2a-305(2)(a).

~~[(b) The notice under Subsection (1)(a) shall be published.]~~

(2) The county clerk shall publish the notice described in Subsection (1):

(a) (i) in a newspaper of general circulation within the future town at least once a week for two successive weeks; ~~and]~~

~~[(ii) in accordance with Section 45-1-101 for two weeks.]~~

~~[(e) (i) In accordance with Subsection (1)(b)(i),]~~

(ii) if there is no newspaper of general circulation within the future ~~[city]~~ town, the county clerk shall post one notice, and at least one additional notice per ~~[1,000]~~ 250 population ~~[in conspicuous places]~~ of the future town, in places within the future town that are most likely to give notice to the residents of the future town~~[.]; or~~

~~[(ii) The notice under Subsection (1)(e)(i) shall contain the information required under Subsection (1)(a).]~~

(iii) by mailing the notice to each residence in the future town;

(b) on the Utah Public Notice Website, created in Section 63F-1-701, for two weeks;

(c) in accordance with Section 45-1-101, for two weeks; and

(d) on the county's website for two weeks.

~~[(iii)]~~ (3) The petition sponsors shall post the notices ~~[under]~~ described in Subsection ~~[(1)(e)(i)]~~ (2)(a)(ii) or mail the notices described in Subsection

(2)(a)(iii) at least seven days before the day of the deadline for filing a declaration of candidacy under Subsection ~~[(2)]~~ (4).

~~[(2)]~~ (4) Notwithstanding Subsection 20A-9-203(3)(a) and the provisions of Subsection 20A-9-203(3)(b) that require a declaration of candidacy to be filed with the city recorder or town clerk, each individual seeking to become a candidate for mayor or town council of a town incorporating under this part shall, within 45 days after the day of the incorporation election under Section 10-2a-304, file a declaration of candidacy with the clerk of the county in which the future town is located.

Section 21. Section 10-2a-305.2 is amended to read:

10-2a-305.2. Election of officers of new town -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of town officers, the county legislative body shall:

(a) unless a primary election is prohibited by Subsection 20A-9-404(2), hold a primary election; and

(b) hold a final election unless the election may be cancelled in accordance with Section 20A-1-206.

(2) Each election under Subsection (1) shall be consistent with the petition sponsors' determination of the length of each council member's initial term.

(3) (a) Subject to Subsection (3)(b), the primary election under Subsection (1)(a) shall be held on one of the following election dates:

(i) notwithstanding Subsection 20A-1-201.5(2), regular general election under Section 20A-1-201;

(ii) notwithstanding Subsection 20A-1-201.5(2), regular primary election under Subsection 20A-1-201.5(1);

(iii) municipal primary election under Section 20A-9-404; or

(iv) notwithstanding Subsection 20A-1-201.5(2), municipal general election under Section 20A-1-202.

(b) The county shall hold the primary election, if necessary, at the earliest of the next election date listed in Subsection (3)(a)(i), (ii), (iii), or (iv) that is at least:

(i) 75 days after the incorporation election under Section 10-2a-304; and

(ii) 65 days after the last day of the candidate filing period.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election under Subsection (1)(b) on one of the following election dates:

(i) regular general election under Section 20A-1-201;

(ii) municipal primary election under Section 20A-9-404;

(iii) municipal general election under Section 20A-1-202; or

(iv) regular primary election under Section 20A-1-201.5.

(b) The county shall hold the final election on the next earliest election date listed in Subsection (4)(a)(i), (ii), (iii), or (iv):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) ~~(a)(i)~~ The county clerk shall publish notice of an election under this section:

~~(A)~~ (a) (i) in accordance with Subsection (6), at least once a week for two successive weeks before the election in a newspaper of general circulation within the future town; ~~and~~

(ii) if there is no newspaper of general circulation in the future town, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 100 population of the future town, in places within the future town that are most likely to give notice to the voters in the future town; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter in the future town;

(b) by posting notice on the Utah Public Notice Website, created in Section 63F-1-701, for two weeks before the day of the election;

~~(B)~~ (c) in accordance with Section 45-1-101, for two weeks~~;~~ before the day of the election; and

(d) on the county's website for two weeks before the day of the election.

~~(ii)~~ (6) The later notice under Subsection (5)(a)(i) shall be at least one day but no more than seven days before the day of the election.

~~(b)~~ (i) In accordance with Subsection (5)(a)(i)(A), if there is no newspaper of general circulation within the future town, the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the future town that are most likely to give notice of the election to the voters.]

~~(ii)~~ The county clerk shall post the notices under Subsection (5)(b)(i) at least seven days before an election under Subsection (1)(a) or (b).]

~~(6)~~ (7) (a) Until the town is incorporated, the county clerk:

(i) is the election officer for all purposes in an election of officers of the town approved at an incorporation election; and

(ii) may, as necessary, determine appropriate deadlines, procedures, and instructions that are not otherwise contrary to law.

(b) The county clerk shall require and determine deadlines for the filing of campaign financial disclosures of town officer candidates in accordance with Section 10-3-208.

(c) The county clerk is responsible to ensure that:

(i) a primary or final election for the officials of a newly incorporated town is held on a date authorized by this section; and

(ii) the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated town and the term of each office.

~~(7)~~ (8) A person who has filed as a candidate for an office described in this section shall comply with the campaign finance disclosure requirements of Section 10-3-208 and requirements and deadlines as lawfully set forth by the county clerk.

~~(8)~~ (9) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304~~(2)(e)(ii)~~(4)(b).

Section 22. Section 10-7-19 is amended to read:

10-7-19. Election to authorize -- Notice -- Ballots.

(1) ~~The~~ Subject to Subsection (2), the board of commissioners or city council of any city, or the board of trustees of any incorporated town ~~is authorized to~~, may aid and encourage the building of railroads by granting to any railroad company, for depot or other railroad purposes, real property of ~~such~~ the city or incorporated town, not necessary for municipal or public purposes, upon ~~such~~ the limitations and conditions ~~as~~ established by the board of commissioners, city council, or board of trustees ~~may prescribe; provided, however, that no such grant shall be made to any railroad company unless the question of making it has been submitted to the qualified electors].~~

(2) A board of commissioners, city council, or board of trustees may not grant real property under Subsection (1) unless the grant is approved by the eligible voters of the city or town at the next municipal election, or at a special election ~~to be~~ called for that purpose by the board of commissioners, city council ~~or town board~~, or board of trustees.

~~(2)~~ (3) If the question is submitted at a special election, ~~it~~ the election shall be held as nearly as practicable in conformity with the general election laws of the state.

~~(3)~~ Notice of an election described in Subsection (2) shall be given by publication:]

(4) The board of commissioners, city council, or board of trustees shall publish notice of an election described in Subsections (2) and (3):

(a) (i) in a newspaper ~~[published or having]~~ of general circulation in the city or town once a week for four weeks ~~[prior to]~~ before the election; ~~[or]~~

~~[(ii) if there is not a newspaper as described in Subsection (3)(a)(i), then by posting notices; and]~~

(ii) if there is no newspaper of general circulation in the city or town, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the city or town, in places within the city or town that are most likely to give notice to the voters in the city or town; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the city or town;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election;

~~[(b)]~~ (c) in accordance with Section 45-1-101, for four weeks ~~[prior to]~~ before the day of the election~~[-];~~ and

(d) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

~~[(4)]~~ (5) The board of commissioners, city council ~~[or town board]~~, or board of trustees shall cause ballots to be printed and ~~[furnished to the qualified electors]~~ provided to the eligible voters, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

~~[(5)]~~ (6) If a majority of the ~~[qualified electors voting thereon shall have voted]~~ votes are cast in favor of ~~[such]~~ the grant, the board of commissioners, city council ~~[or town board shall then proceed to]~~, or board of trustees shall convey the real property to the railroad company.

Section 23. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall ~~[ensure that]~~ publish notice of the election ~~[is provided]~~:

(a) (i) once per week ~~[during]~~ for three consecutive weeks ~~[by publication]~~ before the election in a newspaper ~~[having]~~ of general circulation in the local political subdivision, in accordance with Section 11-14-316, the first publication occurring not less than 21, nor more than 35, days before the day of the election;

~~[(b) on a website, if available, in accordance with Section 45-1-101 for the three weeks that immediately precede the election; and]~~

~~[(c) in a local political subdivision where there is no newspaper of general circulation, by posting notice of the bond election in at least five public~~

~~places in the local political subdivision at least 21 days before the election.]~~

(ii) if there is no newspaper of general circulation in the local political subdivision, at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) if the local political subdivision has a website, on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to \$15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 24. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b) and (c), the term of each member of a board of trustees shall begin at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district shall begin:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member appointed by the governor as provided in Subsection 17B-2a-1005(2)(c) shall:

(i) begin on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) end on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsection (2)(a)(ii), the term of each member of a board of trustees shall be four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) (A) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(ii)(B), to result in the terms of their successors complying with:

(I) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(II) the requirement under Subsection (2)(a)(i) that terms be four years.

(B) An adjustment under Subsection (2)(a)(ii)(A) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) An oath of office may be administered by a judge, county clerk, notary public, or the local district clerk.

(b) Each oath of office shall be filed with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath required by Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member is not limited in the number of terms the member may serve.

(5) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position shall be filled as provided in Section 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties prescribed by the board of trustees.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306~~(43)~~(14).

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section 63F-1-701 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the day on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the local district.

Section 25. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection ~~[(11)]~~ (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections [(4)] (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) [(a)] The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

[(4)] (a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

[(ii)] (b) the constitutional and statutory qualifications for each position; and

[(iii)] (c) the dates and times for filing a declaration of candidacy.

[(b) The notice required under Subsection (3)(a) shall be:]

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) ~~posted~~ by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) ~~published~~ in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy; ~~and~~

(B) ~~published,~~ in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy[-]; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

[(4)] (5) (a) Except as provided in Subsection [(4)] (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection [(4)] (5)(f), an individual may designate an agent to file a declaration of

candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any) _____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, _____.

(Signed) _____

(Clerk or Notary Public)"

(f) An agent designated under Subsection [(4)] (5)(c) may not sign the form described in Subsection [(4)] (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board

position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

[~~5~~] (6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

[~~6~~] (7) (a) Except as provided in Subsection [~~6~~] (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection [~~6~~] (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections [~~6~~] (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection [~~6~~] (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

[~~7~~] (8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

[~~8~~] (9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

[~~9~~] (10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

[~~10~~] (11) (a) Except as provided in Subsection [~~10~~] (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

[~~11~~] (12) This section does not apply to an improvement district that provides electric or gas service.

[~~12~~] (13) Except as provided in Subsection 20A-3-605(1)(b), the provisions of Title 20A, Chapter 3, Part 6, Early Voting, do not apply to an election under this section.

[~~13~~] (14) (a) As used in this Subsection [~~13~~] (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection [~~13~~] (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the

regular general election is beneficial based on the criteria described in Subsection [(13)] (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection [(13)] (14).

Section 26. Section 17B-1-1001 is amended to read:

17B-1-1001. Provisions applicable to property tax levy.

(1) Each local district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.

(2) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a local district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306[(4)](5)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(b) "Elected board of trustees" means a board of trustees of a local district that consists entirely of members who are elected to the board of trustees in accordance with Subsection (4), Section 17B-1-306, or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(3) (a) For a taxable year beginning on or after January 1, 2018, a local district may not levy or collect property tax revenue that exceeds the certified tax rate unless:

(i) to the extent that the revenue from the property tax was pledged before January 1, 2018, the local district pledges the property tax revenue to pay for bonds or other obligations of the local district; or

(ii) the proposed tax or increase in the property tax rate has been approved by:

(A) an elected board of trustees;

(B) subject to Subsection (3)(b), an appointed board of trustees;

(C) a majority of the registered voters within the local district who vote in an election held for that purpose on a date specified in Section 20A-1-204;

(D) the legislative body of the appointing authority; or

(E) the legislative body of:

(I) a majority of the municipalities partially or completely included within the boundary of the specified local district; or

(II) the county in which the specified local district is located, if the county has some or all of its unincorporated area included within the boundary of the specified local district.

(b) For a local district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the local district may impose a property tax levy that exceeds the certified tax rate.

(4) (a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts, and subject to Subsection (4)(b), members of the board of trustees of a local district shall be elected, if:

(i) two-thirds of all members of the board of trustees of the local district vote in favor of changing to an elected board of trustees; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board of trustees.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

(c) a local district in which:

(i) the board of trustees consists solely of:

(A) land owners or the land owners' agents; or

(B) as described in Subsection 17B-1-302(3), land owners or the land owners' agents or officers; and

(ii) there are no residents within the local district at the time a property tax is levied.

Section 27. Section 17B-1-1003 is amended to read:

17B-1-1003. Trustee reporting requirement.

(1) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a local district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(4)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(b) "Legislative entity" means:

(i) the member's appointing authority, if the appointing authority is a legislative body; or

(ii) the member's nominating entity, if the appointing authority is not a legislative body.

(c) (i) "Member" means an individual who is appointed to a board of trustees for a local district in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306[(4)](5)(h), or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Local Districts.

(ii) "Member" includes a member of the board of trustees who holds an elected position with a municipality, county, or another local district that is partially or completely included within the boundaries of the local district.

(d) "Nominating entity" means the legislative body that submits nominees for appointment to the board of trustees to an appointing authority.

(e) "Property tax increase" means a property tax levy that exceeds the certified tax rate for the taxable year.

(2) (a) If a local district board of trustees adopts a tentative budget that includes a property tax increase, each member shall report to the member's legislative entity on the property tax increase.

(b) (i) The local district shall request that each of the legislative entities that appoint or nominate a member to the local district's board of trustees hear the report required by Subsection (2)(a) at a public meeting of each legislative entity.

(ii) The request to make a report may be made by:

(A) the member appointed or nominated by the legislative entity; or

(B) another member of the board of trustees.

(c) The member appointed or nominated by the legislative entity shall make the report required by Subsection (2)(a) at a public meeting that:

(i) complies with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) includes the report as a separate agenda item; and

(iii) is held within 40 days after the day on which the legislative entity receives a request to hear the report.

(d) (i) If the legislative entity does not have a scheduled meeting within 40 days after the day on which the legislative entity receives a request to hear the report required by Subsection (2)(a), the legislative entity shall schedule a meeting for that purpose.

(ii) If the legislative entity fails to hear the report at a public meeting that meets the criteria described in Subsection (2)(c), the trustee reporting requirements under this section shall be considered satisfied.

(3) (a) A report on a property tax increase at a legislative entity's public meeting shall include:

(i) a statement that the local district intends to levy a property tax at a rate that exceeds the certified tax rate for the taxable year;

(ii) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate;

(iii) the approximate percentage increase in ad valorem tax revenue for the local district based on the proposed property tax increase; and

(iv) any other information requested by the legislative entity.

(b) The legislative entity shall allow time during the meeting for comment from the legislative entity and members of the public on the property tax increase.

(4) (a) If more than one member is appointed to the board of trustees by the same legislative entity, a majority of the members appointed or nominated by the legislative entity shall be present to provide the report required by Subsection (2) and described in Subsection (3).

(b) The chair of the board of trustees shall appoint another member of the board of trustees to provide the report described in Subsection (3) to the legislative entity if:

(i) the member appointed or nominated by the legislative entity is unable or unwilling to provide the report at a public meeting that meets the requirements of Subsection (3)(a); and

(ii) the absence of the member appointed or nominated by the legislative entity results in:

(A) no member who was appointed or nominated by the legislative entity being present to provide the report; or

(B) an inability to comply with Subsection (4)(a).

(5) A local district board of trustees may approve a property tax increase only after the conditions of this section have been satisfied or considered satisfied for each member of the board of trustees.

Section 28. Section 17B-2a-705 is amended to read:

17B-2a-705. Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

~~[(2) The board shall, for at least four weeks before the election:]~~

~~(a) publish notice of the election in a daily or weekly newspaper published in the district; or~~

~~(b) if there is no daily or weekly newspaper published in the district, post notice of the election in three public places in the district.]~~

(2) The board shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the district at least once, no later than four weeks before the day of the election;

(ii) if there is no newspaper of general circulation in the district, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the district has a website, on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of \$ ____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 29. Section 17D-3-305 is amended to read:

17D-3-305. Setting the date of an election of the board of supervisors -- Notice of the election.

(1) The commission shall ~~(a)~~ set the date of the election of members of the board of supervisors of a conservation district ~~and~~.

~~(b)~~ (2) The commission shall publish notice of the election described in Subsection (1):

~~(i) in a newspaper or other media outlet method with general circulation within the conservation district; and~~

~~(ii) as required in Section 45-1-101.]~~

(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the election;

(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the voters in the conservation district; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the conservation district;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the election.

~~(2)~~ (3) The date set for an election under Subsection (1) ~~(a)~~ may not be later than six weeks after the date set by the commission for the close of nominations.

~~(3)~~ (4) The notice required under Subsection ~~(1)(b)~~ (2) shall:

(a) state:

(i) the date of the election;

(ii) the names of all candidates; and

(iii) that a ballot request form for the election may be obtained from the commission office or from any other place that the commission designates; and

(b) specify the address of the commission office or other place where a ballot request form may be obtained.

Section 30. Section 20A-1-104, which is renumbered from Section 20A-1-401 is renumbered and amended to read:

~~20A-1-401~~. 20A-1-104. Computation of time.

~~(1) Courts and election officers shall construe the provisions of this title liberally to carry out the intent of this title.]~~

(1) (a) Except as provided in Subsection (1)(b), unless expressly provided otherwise in this title, if a person is required to complete an action on a certain day, on or before a certain day, or within one day or a period of days, the person may complete the action anytime before midnight on the final day.

(b) If a person is required to complete an action in relation to a court proceeding, the rules of the court govern the requirements regarding the time of deadlines.

(2) Except as provided under Subsection (3), Saturdays, Sundays, and holidays shall be included in all computations of days made under ~~the provisions of~~ this title.

(3) (a) Saturdays, Sundays, and holidays are not included in computations of days if the days are

specified in this title as business days or working days.

(b) Unless otherwise [specifically] expressly provided for [under] in this title:

(a) (i) when computing any number of days before or after a specified date or event [under this title], the specified date or day of the event is not included in the count; [and]

(b) (i) if the commencement date of a time period preceding a specified date or event falls on a Saturday, Sunday, or legal holiday, the following business day shall be used;

(c) (i) if the last day of a time period following a specified date or event falls on a Saturday, Sunday, or legal holiday, the time period [shall be] is extended to the following business day; and

(d) (i) if a deadline that falls before or after a specified date or event falls on a Saturday, Sunday, or legal holiday, the deadline shall be considered to fall on the following business day.

Section 31. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election -- Municipalities -- Local districts -- Notice.

(1) A municipal legislative body may cancel a local election if:

(a) (i) (A) all municipal officers are elected in an at-large election under Subsection 10-3-205.5(1); and

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the number of open at-large municipal offices for which the candidates have filed; or

(ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed the number of open at-large municipal offices for which the candidates have filed; and

(C) each municipal officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each district is unopposed;

(b) there are no other municipal ballot propositions; and

(c) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) each municipal officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large municipal office for which the number of candidates does not exceed the number of open at-large municipal offices; and

(ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

(2) A municipal legislative body that cancels a local election in accordance with Subsection (1) shall give notice that the election is cancelled by [posting notice]:

(a) subject to Subsection (5), posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;

(c) if the municipality publishes a newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election; [and]

(d) (i) publishing notice at least twice in a newspaper of general circulation [within] in the municipality before the day of the scheduled election; [or]

(ii) if there is no newspaper of general circulation [within] in the municipality, [in at least three conspicuous places within the boundaries of the municipality] at least 10 days before the day of the scheduled election[-], by posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(iii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and

(e) in accordance with Section 45-1-101, publishing notice for at least 10 days before the day of the scheduled election.

(3) A local district board may cancel an election as described in Section 17B-1-306 if:

(a) (i) (A) any local district officers are elected in an at-large election; and

(B) the number of local district officer candidates for the at-large local district offices, including any eligible write-in candidates under Section 20A-9-601, does not exceed the number of open at-large local district offices for which the candidates have filed; or

(ii) (A) the local district has divided the local district into divisions under Section 17B-1-306.5;

(B) the number of local district officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large local district offices within the local district, if any, does not exceed the number of open at-large local district offices for which the candidates have filed; and

(C) each local district officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each division of the local district is unopposed;

(b) there are no other local district ballot propositions; and

(c) the local district governing body, no later than 20 days before the day of the scheduled election, adopts a resolution that cancels the election and certifies that:

(i) each local district officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large local district office for which the number of candidates does not exceed the number of open at-large local district offices; and

(ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

(4) A local district that cancels a local election in accordance with Subsection (3) shall give publish notice that the election is cancelled ~~[by posting notice]~~:

(a) subject to Subsection (5), by posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the local district has a public website, by posting notice on the local district's public website for 15 days before the day of the scheduled election;

(c) if the local district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election; ~~and~~

(d) (i) at least twice in a newspaper of general circulation ~~[within]~~ in the local district before ~~[the day of]~~ the scheduled election; ~~or~~

(ii) if there is no newspaper of general circulation ~~[within]~~ in the local district, ~~[in at least three conspicuous places within the boundaries of the local district]~~ at least 10 days before the day of the scheduled election~~[,]~~, by posting one notice, and at least one additional notice per 2,000 population of the local district, in places within the local district that are most likely to give notice to the voters in the local district; or

(iii) at least 10 days before the day of the scheduled election, by mailing notice to each registered voter in the local district; and

(e) in accordance with Section 45-1-101, for at least 10 days before the day of the scheduled election.

(5) A municipal legislative body that posts a notice in accordance with Subsection (2)(a) or a local district that posts a notice in accordance with Subsection (4)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 32. Section 20A-1-503 is amended to read:

20A-1-503. Midterm vacancies in the Legislature.

(1) As used in this section:

(a) "Filing deadline" means the final date for filing:

(i) a declaration of candidacy as provided in Section 20A-9-202; and

(ii) a certificate of nomination as provided in Section 20A-9-503.

(b) "Party liaison" means the political party officer designated to serve as a liaison with the lieutenant governor on all matters relating to the political party's relationship with the state as required by Section 20A-8-401.

(2) When a vacancy occurs for any reason in the office of representative in the Legislature, the governor shall fill the vacancy by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior representative.

(3) (a) Except as provided by Subsection (5), when a vacancy occurs for any reason in the office of senator in the Legislature, it shall be filled for the unexpired term at the next regular general election.

(b) The governor shall fill the vacancy until the next regular general election by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

(4) (a) If a vacancy described in Subsection (3)(a) occurs after the filing deadline but before August 31 of an even-numbered year in which the term of office does not expire, the lieutenant governor shall:

(i) establish a date and time, which is before the date for a candidate to be certified for the ballot under Section 20A-9-701 and no later than 21 days after the day on which the vacancy occurred, by which a person intending to obtain a position on the ballot for the vacant office shall file:

(A) a declaration of candidacy; or

(B) a certificate of nomination; and

(ii) give notice of the vacancy and the date and time described in Subsection (4)(a)(i):

(A) on the lieutenant governor's website; and

(B) to each registered political party.

(b) A person intending to obtain a position on the ballot for the vacant office shall:

(i) ~~[by]~~ before the date and time specified in Subsection (4)(a)(i), file a declaration of candidacy or certificate of nomination according to the procedures and requirements of Chapter 9, Candidate Qualifications and Nominating Procedures; and

(ii) run in the regular general election if:

(A) nominated as a party candidate; or

(B) qualified as an unaffiliated candidate as provided by Chapter 9, Candidate Qualifications and Nominating Procedures.

(c) If a vacancy described in Subsection (3)(a) occurs on or after the first Monday after the third Saturday in April and before August 31 of an even-numbered year in which the term of office does not expire, a party liaison from each registered political party may submit a name of a person described in Subsection (4)(b) to the lieutenant governor [by] before 5 p.m. no later than August 30 for placement on the regular general election ballot.

(5) If a vacancy described in Subsection (3)(a) occurs on or after August 31 of an even-numbered year in which a term does not expire, the governor shall fill the vacancy for the unexpired term by immediately appointing the person whose name was submitted by the party liaison of the same political party as the prior senator.

Section 33. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily fill the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily fills a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily fills a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office that the temporary manager fills was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall give notice of the

vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, before 5 p.m., within 30 days after the day on which the county legislative body gives the notice described in Subsection (3)(b)(i), submit the name of the person selected in accordance with the party constitution or bylaws as described in Section 20A-8-401 for the interim replacement to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person for the interim replacement appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison as an interim replacement to fill the vacancy within 30 days after ~~receipt of~~ the day on which the governor receives the letter.

(d) A person appointed as interim replacement under this Subsection (3) shall hold office until their successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the person was elected but before April 10 of the next even-numbered year.

(b) (i) When the conditions established in Subsection (4)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate for the vacant office or qualified as an independent or write-in candidate under Chapter 8, Political Party Formation and Procedures, for the vacant office shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75 days before the regular primary election.

(b) (i) When the conditions established in Subsection (5)(a) are met, the county clerk shall notify the public and each registered political party that:

(A) the vacancy exists; and

(B) identifies the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(ii) An individual intending to become a candidate for a vacant office shall, within five days after the date that the notice is made, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk ~~at least~~ before 5 p.m. no later than 60 days before the day of the regular primary election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions established in Subsection (6)(a) are met, the county central committees of each political party registered under this title that wishes to submit a candidate for the office shall summarily certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions established in Subsection (7)(a) are met, the county legislative body shall give notice of the vacancy to the party

liaison of the same political party as the prior office holder and invite that party liaison to submit the name of a person to fill the vacancy.

(ii) That party liaison shall, before 5 p.m., within 30 days after the day on which the county legislative body gives the notice described in Subsection (7)(b)(i), submit the name of the person to fill the vacancy to the county legislative body.

(iii) The county legislative body shall no later than five days after the day on which a party liaison submits the name of the person to fill the vacancy appoint the person to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after ~~receipt of~~ the day on which the governor receives the letter.

(d) A person appointed to fill the vacancy under this Subsection (7) shall hold office until their successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

(10) (a) Each person elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 34. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the third Thursday in March of the even-numbered year.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs after the second Friday in March and before the third Thursday in March, the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. seven days after the county clerk gives notice under Subsection (2)(b), but no later than 5 p.m. the fourth Thursday in March.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) before 5 p.m. within five days after the ~~date that the notice is made, ending at the close of normal office hours on the fifth day~~ day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declaration of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk [at least]:

(A) before 5 p.m. no later than 60 days before the day of the regular primary election[-]; or

(B) electronically, before midnight no later than 60 days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall [summarily], not later than five days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.

(c) That county central committee shall, within 30 days [of receiving notice from] after the day on which the county legislative body gives the notice described in Subsection (5)(b), submit to the county legislative body the names of three nominees to fill the vacancy.

(d) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.

(g) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 35. Section 20A-1-509.2 is amended to read:

20A-1-509.2. Procedure for filling vacancy in county or district with fewer than 15 attorneys.

(1) When a vacancy occurs in the office of county or district attorney, including a vacancy created by the failure of a person to file as a candidate for the office of county or district attorney in an election, in a county or district having fewer than 15 attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) The county clerk shall send a letter to each attorney residing in the county or district who is a licensed, active member in good standing with the Utah State Bar and a registered voter that:

(a) informs the attorney of the vacancy;

(b) invites the attorney to apply for the vacancy; and

(c) informs the attorney that if the attorney has not responded before 5 p.m. within 10 calendar days [from the date that the letter was mailed] after the day on which the county clerk sends the letter, the attorney's candidacy to fill the vacancy will not be considered.

(3) (a) (i) If, [after 10 calendar days from the date the letter was mailed] before the deadline described in Subsection (2)(c), more than three attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county clerk shall, except as provided in Subsection (3)(a)(ii), submit the applications to the county central committee of the same political party of the prior officeholder.

(ii) In multicounty prosecution districts, the clerk shall submit the applications to the county central committee of each county within the prosecution district.

(b) The central committee shall nominate three of the applicants and forward the applicants' names to the county legislative body before 5 p.m. within 20 days after the [date] day on which the county clerk [submitted] submits the applicants' names under Subsection (3)(a).

(c) The county legislative body shall appoint one of the nominees to fill the vacant position.

(d) If the central committee of the political party fails to submit at least three names to the county legislative body ~~[within 20 days after the date the county clerk submitted the applicants' names]~~ before the deadline described in Subsection (3)(b), the county legislative body shall appoint one of the applicants to fill the vacant position.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 120 days after the day on which the vacancy occurs, the county clerk shall mail to the governor:

(i) a letter informing the governor that the county legislative body has failed to appoint a person to fill the vacancy; and

(ii) (A) the list of nominees, if any, submitted by the central committee of the political party; or

(B) if the party central committee has not submitted a list of at least three nominees within the required time, the names of the persons who submitted applications for the vacant position to the county clerk.

(f) The governor shall appoint, within 30 days after ~~[receipt of]~~ the day on which the governor receives the letter, a person from the list to fill the vacancy.

(4) (a) If, ~~[after 10 calendar days from the date the letter was mailed]~~ before the deadline described in Subsection (2)(c), three or fewer attorneys who are licensed, active members in good standing with the Utah State Bar and registered voters in the county or district have applied for the vacancy, the county legislative body may:

(i) appoint one of them to be county or district attorney; or

(ii) solicit additional applicants and appoint a county or district attorney as provided in Subsection (4)(b).

(b) (i) If three or fewer attorneys who are licensed members in good standing of the Utah State Bar and registered voters in the county or district submit applications, the county legislative body may publicly solicit and accept additional applications for the position from licensed, active members in good standing of the Utah State Bar who are not residents of the county or prosecution district.

(ii) The county legislative body shall consider the applications submitted by the attorneys who are residents of and registered voters in the county or prosecution district and the applications submitted by the attorneys who are not residents of the county or prosecution district and shall appoint one of the applicants to be county attorney or district attorney.

(c) If the legislative body fails to appoint a person to fill the vacancy within 120 days after the day on which the vacancy occurs, the county clerk shall:

(i) notify the governor that the legislative body has failed to fill the vacancy within the required time period; and

(ii) provide the governor with a list of all the applicants.

(d) The governor shall appoint a person to fill the vacancy within 30 days after the day on which the governor receives the notification.

(5) The person appointed to fill the vacancy shall serve for the unexpired term of the person who created the vacancy.

Section 36. Section 20A-1-511 is amended to read:

20A-1-511. Midterm vacancies on local school boards.

(1) (a) A local school board shall fill vacancies on the board by appointment, except as otherwise provided in Subsection (2).

(b) If the board fails to make an appointment within 30 days after a vacancy occurs, the county legislative body, or municipal legislative body in a city district, shall fill the vacancy by appointment.

(c) A member appointed and qualified under this Subsection (1) shall serve until a successor is elected or appointed and qualified.

(2) (a) A vacancy on the board shall be filled by an interim appointment, followed by an election to fill a two-year term if:

(i) the vacancy on the board occurs, or a letter of resignation is received by the board, at least 14 days before the deadline for filing a declaration of candidacy; and

(ii) two years of the vacated term will remain after the first Monday of January following the next school board election.

(b) Members elected under this Subsection (2) shall serve for the remaining two years of the vacated term and until a successor is elected and qualified.

(3) Before appointing an individual to fill a vacancy under this section, the local school board shall:

(a) give public notice of the vacancy at least two weeks before the local school board meets to fill the vacancy;

(b) identify, in the notice:

(i) the date, time, and place of the meeting where the vacancy will be filled; and

(ii) the person to whom and the date ~~[by]~~ and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and

(c) in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office, regarding the individual's qualifications.

(4) (a) Subject to Subsection (4)(b), a local school board may appoint an individual to fill a vacancy described in Subsection (1) or (2) before the vacancy occurs if a member of the local school board submits a letter of resignation.

(b) An individual appointed under Subsection (4)(a) may not take office until on or after the day on which the vacancy occurs for which the individual is appointed.

(c) A member of a local school board who submits a letter of resignation under Subsection (4)(a) may not rescind the resignation after the local school board makes an appointment to fill the vacancy created by the resignation.

Section 37. Section 20A-1-513 is amended to read:

20A-1-513. Temporary absence in elected office of a political subdivision for military service.

(1) As used in this section:

(a) "Armed forces" means:

- (i) the Army of the United States;
- (ii) the United States Navy;
- (iii) the United States Air Force;
- (iv) the Marine Corps;
- (v) the Coast Guard;
- (vi) the National Guard; or

(vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).

(b) (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c) (i) "Military leave" means the temporary absence from an office:

(A) by an elected official called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time a person described in Subsection (1)(c)(i) spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

(d) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

(e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.

(2) ~~Except as provided by Subsection (8), an~~ An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces unless the elected official takes military leave as provided by this section.

(3) ~~Except as provided by Subsection (8), an~~ An elected official may take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave, by the later of:

(a) 21 days before the military leave begins; or

(b) the next business day after which the elected official receives an order from the armed forces calling the elected official to active, full-time duty.

(4) An elected official's military leave:

(a) begins the day on which the elected official begins active, full-time duty in the armed forces; and

(b) ends the sooner of:

(i) the expiration of the elected official's term of office; or

(ii) the day on which the elected official ends active, full-time duty in the armed forces.

(5) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) before the day on which the military leave begins; and

(ii) (A) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office; or

(B) by the political subdivision's governing body after submitting an application in accordance with

Subsection (7)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.

(6) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.

(b) An elected official may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed before the day on which the military leave begins as required by Subsection (5)(b)(i), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.

(7) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and

(b) an application form and the date [by] and time before which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

~~[(8) An elected official who is called to active, full-time duty in the armed forces before March 16, 2011 is on military leave.]~~

Section 38. Section 20A-2-202 is amended to read:

20A-2-202. Registration by mail.

(1) (a) A citizen who will be qualified to vote at the next election may register by mail.

(b) To register by mail, a citizen shall complete and sign the by-mail registration form and mail or deliver it to the county clerk of the county in which the citizen resides.

(c) In order to register to vote in a particular election, the citizen shall:

(i) address the by-mail voter registration form to the county clerk; and

(ii) ensure that the by-mail voter registration form is postmarked on or before the voter registration deadline or is otherwise marked by the post office as received by the post office on or before the voter registration deadline.

(d) The citizen has effectively registered to vote under this section only when the county clerk's office has received a correctly completed by-mail voter registration form.

(2) Upon receipt of a correctly completed by-mail voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) mail confirmation of registration to the newly registered voter after entering the applicant's voting precinct number on that copy.

(3) If the county clerk receives a correctly completed by-mail voter registration form that is postmarked after the voter registration deadline, and is not otherwise marked by the post office as received by the post office before the voter registration deadline, the county clerk shall:

(a) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1; or

(b) (i) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, register the individual after the next election; and

(ii) if possible, promptly mail a notice to, or otherwise notify, the individual before the election, informing the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (3)(b)(ii)(A), the individual's registration will not be effective until after the election.

(4) When the county clerk receives a correctly completed by-mail voter registration form [at least] before 5 p.m. no later than seven days before an election that is postmarked on or before the date of the voter registration deadline, or is otherwise marked by the post office as received by the post office on or before the voter registration deadline, the county clerk shall:

(a) process the by-mail voter registration form; and

(b) record the new voter in the official register.

(5) If the county clerk determines that a registration form received by mail or otherwise is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the person attempting to register or preregister, stating that the person has not been registered or preregistered because of an error or because the form is incomplete.

Section 39. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) A citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes"

to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated; and

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(c).

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date after the voter registration deadline and ending at 5 p.m. on the date that is 15 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that the individual is registered to vote in the pending election.

(c) If the county clerk receives a correctly completed voter registration form under this section during the period beginning on the date that is 14 calendar days before the election and ending at 5 p.m. on the date that is seven calendar days before the election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote, inform the individual that:

(A) the individual is registered to vote in the pending election; and

(B) for the pending election, the individual must vote on the day of the election or by provisional ballot, under Section 20A-2-207, during the early voting period described in Section 20A-3-601 because the individual registered late.

(d) If the county clerk receives a correctly completed voter registration form under this section during the six calendar days before an election, the county clerk shall:

(i) accept the application for registration of the individual; and

(ii) unless the individual is preregistering to vote, inform the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (7)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election because the individual registered late.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 40. Section 20A-2-205 is amended to read:

20A-2-205. Registration at voter registration agencies.

(1) As used in this section:

(a) "Discretionary voter registration agency" means the same as that term is defined in Section 20A-2-300.5.

(b) "Public assistance agency" means each office in Utah that provides:

(i) public assistance; or

(ii) state funded programs primarily engaged in providing services to people with disabilities.

(2) An individual may obtain and complete a by-mail registration form at a public assistance agency or discretionary voter registration agency.

(3) Each public assistance agency and discretionary voter registration agency shall provide, either as part of existing forms or on a separate form, the following information in substantially the following form:

"REGISTERING TO VOTE

If you are not registered to vote where you live now, would you like to apply to register or preregister to vote here today? (The decision of whether to register or preregister to vote will not affect the amount of assistance that you will be provided by this agency.) Yes ___ No ___

IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER OR PREREGISTER TO VOTE AT THIS TIME. If you would like help in filling out the voter registration form, we will help you. The decision about whether to seek or accept help is yours. You may fill out the application form in private. If you believe that someone has interfered with your right to register or preregister or to decline to register or preregister to vote, your right to privacy in deciding whether to register or preregister, or in applying to register or preregister to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Office of the Lieutenant Governor, State Capitol Building, Salt Lake City, Utah 84114. (The phone number of the Office of the Lieutenant Governor)."

(4) Unless a person applying for service or assistance from a public assistance agency or discretionary voter registration agency declines, in writing, to register or preregister to vote, each public assistance agency and discretionary voter registration agency shall:

(a) distribute a by-mail voter registration form with each application for service or assistance provided by the agency or office;

(b) assist applicants in completing the voter registration form unless the applicant refuses assistance;

(c) accept completed forms for transmittal to the appropriate election official; and

(d) transmit a copy of each voter registration form to the appropriate election official within five days after it is received by the division.

(5) A person in a public assistance agency or a discretionary voter registration agency that helps a person complete the voter registration form may not:

(a) seek to influence an applicant's political preference or party registration;

(b) display any political preference or party allegiance;

(c) make any statement to an applicant or take any action that has the purpose or effect of discouraging the applicant from registering to vote; or

(d) make any statement to an applicant or take any action that has the purpose or effect of leading the applicant to believe that a decision of whether to register or preregister has any bearing upon the availability of services or benefits.

(6) Upon receipt of a correctly completed voter registration form, the county clerk shall, unless the individual named in the form is preregistering to vote:

(a) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(b) notify the applicant of registration.

(7) If the county clerk receives a correctly completed voter registration form that is dated after the voter registration deadline, the county clerk shall:

(a) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1; or

(b) (i) unless the individual timely registers to vote in the current election in a manner that permits registration after the voter registration deadline, register the individual after the next election; and

(ii) if possible, promptly phone or mail a notice to the individual before the election, informing the individual:

(A) of each manner still available to the individual to timely register to vote in the current election; and

(B) that, if the individual does not timely register in a manner described in Subsection (7)(b)(ii)(A), the individual's registration will not be effective until after the election.

(8) When the county clerk receives a correctly completed voter registration form before 5 p.m. at least seven days before an election that is dated on or before the voter registration deadline, the county clerk shall:

- (a) process the voter registration form; and
- (b) record the new voter in the official register.

(9) If the county clerk determines that a voter registration form received from a public assistance agency or discretionary voter registration agency is incorrect because of an error or because it is incomplete, the county clerk shall mail notice to the individual attempting to register or preregister to vote, stating that the individual has not been registered or preregistered to vote because of an error or because the form is incomplete.

Section 41. Section 20A-2-301 is amended to read:

20A-2-301. County clerk responsibilities -- Voter registration forms.

(1) Each county clerk shall provide book voter registration forms and by-mail voter registration forms for use in the voter registration process.

- (2) (a) Each county clerk shall:

(i) designate certain offices within the county to provide by-mail voter registration forms to the public; and

(ii) provide by-mail voter registration forms to each public assistance agency and discretionary voter registration agency.

(b) Each county clerk may provide copies of by-mail voter registration forms to public school districts and nonpublic schools as provided in Section 20A-2-302.

(3) Each regular general election year, the county clerk shall provide by-mail voter registration forms to the political parties in a quantity requested by the political parties, as needed.

(4) Candidates, parties, organizations, and interested persons may purchase by-mail voter registration forms from the county clerk or from the printer.

(5) (a) The clerk shall make book voter registration forms available to interested organizations in lots of 250, to be replaced when each lot of 200 is returned to the county clerk.

(b) Interested organizations that receive book voter registration forms from the county clerk shall return ~~them~~ the forms to the county clerk ~~on or~~ before 5 p.m. on the day of the voter registration deadline.

(6) The county clerk may not refuse to register any person to vote for failing to provide a telephone number on the voter registration form.

(7) (a) It is unlawful for any person to willfully fail or refuse to deliver completed voter registration forms, obtained as provided in this section, to the county clerk.

(b) A person who violates this Subsection (7) is guilty of a class B misdemeanor.

Section 42. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

Street	City	County	State	Zip
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If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

- you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

- if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to

vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

Signature of Voter”

“The portion of your voter registration form that lists your driver license or identification card number, social security number, email address, and the day of your month of birth is a private record. The portion of your voter registration form that lists your month and year of birth is a private record, the use of which is restricted to government officials, government employees, political parties, or certain other persons.

You may apply to the lieutenant governor or your county clerk to have your entire voter registration record classified as private.”

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter’s name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 43. Section 20A-3-302 is amended to read:

20A-3-302. Conducting election by absentee ballot.

(1) (a) Notwithstanding Section 17B-1-306, an election officer may administer an election by absentee ballot under this section.

(b) An election officer who administers an election by absentee ballot, except for an election conducted under Section 20A-7-609.5, shall, before the following dates, notify the lieutenant governor that the election will be administered by absentee ballot:

(i) February 1 of an even-numbered year if the election is a regular general election; or

(ii) May 1 of an odd-numbered year if the election is a municipal general election.

(2) An election officer who administers an election by absentee ballot:

(a) shall mail to each active voter within a voting precinct:

(i) an absentee ballot;

(ii) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;

(iii) a courtesy reply mail envelope;

(iv) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter’s vote to be counted; and

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election; and

(b) may not mail an absentee ballot under this section to:

(i) an inactive voter; or

(ii) a voter whom the election officer is prohibited from sending an absentee ballot under Subsection (8)(c)(ii).

(3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.

(4) An election officer who administers an election by absentee ballot shall:

(a) (i) obtain, in person, the signatures of each voter within that voting precinct before the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer’s office.

(5) Upon receipt of a returned absentee ballot, the election officer shall review and process the ballot under Section 20A-3-308.

(6) A county that administers an election by absentee ballot:

(a) shall provide at least one election day voting center in accordance with [Title 20A,] Chapter 3, Part 7, Election Day Voting Center, for every 5,000 active voters in the county who will not receive an absentee ballot, but not fewer than one election day voting center;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-6-301, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3-604;

(d) is not required to pay return postage for an absentee ballot; and

(e) is subject to an audit conducted under Subsection (7).

(7) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (7)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (7) on the lieutenant governor's website.

(8) (a) An individual in a jurisdiction that conducts an election by absentee ballot may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (8)(a) to the election officer ~~[at least]~~ before 5 p.m. no later than 60 days before an election if the individual does not wish to receive an absentee ballot in that election.

(c) An election officer who receives a request from an individual under Subsection (8)(a):

(i) shall remove the individual's name from the list of voters who will receive an absentee ballot; and

(ii) may not send the individual an absentee ballot for:

(A) the next election, if the individual submits the request described in Subsection (8)(a) before the deadline described in Subsection (8)(b); or

(B) an election after the election described in Subsection (8)(c)(ii)(A).

(d) An individual who submits a request under Subsection (8)(a) may resume the individual's receipt of an absentee ballot in an election conducted under this section by filing an absentee ballot request under Section 20A-3-304.

Section 44. Section 20A-3-304 is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) (a) A registered voter who wishes to vote an absentee ballot may file an absentee ballot application:

(i) on the electronic system maintained by the lieutenant governor under Section 20A-2-206;

(ii) with the appropriate election officer for an official absentee ballot as provided in this section; or

(iii) by answering "yes" to the question described in Subsection 20A-2-108(2)(a) when registering to vote while filing a driver license or state identification card application.

(b) An absentee voter may vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

(c) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election officer before 5 p.m. no later than the earlier of:

(i) 14 days after the day on which the registered voter signed the absentee ballot form; or

(ii) the Tuesday before the next election.

(2) As it relates to an absentee ballot application to be filled out entirely by the voter:

(a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date _____ (month \ day \ year)

Signed _____
Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

“I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party’s ballot that I request.

Dated _____ (month\day\year) _____

Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(3) If requested by the applicant, the election officer shall:

(a) mail or fax the application form to the absentee voter; or

(b) deliver the application form to any voter who personally applies for [it] the form at the office of the election officer.

(4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

“I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before 5 p.m. no later than the earlier of fourteen days after the day on which I sign the application or the Tuesday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date _____ (month\day\year)

Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

“I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party’s ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before 5 p.m. no later than the earlier of fourteen days after the day on which I sign the application or the Tuesday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated _____ (month\day\year) _____

Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(5) The forms described in Subsections (2) and (4) shall contain instructions on how a voter may cancel an absentee ballot application.

(6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer before 5 p.m. no later than the Tuesday before election day.

(7) (a) A county clerk shall establish an absentee voter list containing the name of each voter who:

- (i) requests absentee voter status; and
 - (ii) meets the requirements of this section.
- (b) A county clerk may not remove a voter's name from the list described in Subsection (7)(a) unless:
- (i) the voter is no longer listed in the official register;
 - (ii) the voter cancels the voter's absentee status;
 - (iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form; or
 - (iv) the county clerk is required to remove the voter's name from the list under Subsection (7)(c) or 20A-3-302(8)(c)(ii).

(c) A county clerk shall remove a voter's name from the list described in Subsection (7)(a) if the voter fails to vote in two consecutive regular general elections.

(d) (i) Each year, the clerk shall mail a questionnaire to each voter whose name is on the absentee voter list.

(ii) The questionnaire shall allow the voter to:

(A) verify the voter's residence; or

(B) cancel the voter's absentee status.

(e) The clerk shall provide a copy of the absentee voter list to election officers for use in elections.

Section 45. Section 20A-3-305 is amended to read:

20A-3-305. Mailing of ballot to voter -- Enclose self-addressed envelope -- Affidavit.

(1) (a) Upon timely receipt of an absentee voter application properly filled out and signed less than 30 days before the election, the election officer shall either:

(i) give the applicant an official absentee ballot and envelope to vote in the office; or

(ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in Subsection (2).

(b) No sooner than 21 days before election day, and no later than [21] 14 days before election day, the election officer shall mail an official absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or an overseas voter, who have submitted a properly filled out and signed absentee voter application before the day on which the ballots are mailed and enclose an envelope printed as required by Subsection (2).

(2) The election officer shall ensure that:

(a) the name, official title, and post office address of the election officer is printed on the front of the envelope;

(b) the return envelope includes a space where a voter may write an email address and phone

number by which the election officer may contact the voter if the voter's ballot is rejected; and

(c) the following is printed on the back of the envelope:

(i) a printed affidavit in substantially the following form:

"County of _____ State of _____

I, _____, solemnly swear that: I am a qualified resident voter of the _____ voting precinct in _____ County, Utah and that I am entitled to vote in that voting precinct at the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signature of Absentee Voter"; and

(ii) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(3) If the election officer determines that the absentee voter is required to show valid voter identification, the election officer shall:

(a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot;

(c) provide the voter clear instructions on how to vote a provisional ballot; and

(d) comply with the requirements of Subsection (2).

Section 46. Section 20A-3-306 is amended to read:

20A-3-306. Voting ballot -- Returning ballot.

(1) (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:

(i) complete and sign the affidavit on the envelope;

(ii) mark the votes on the absentee ballot;

(iii) place the voted absentee ballot in the envelope;

(iv) securely seal the envelope; and

(v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.

(b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the office of the election officer, the absent voter shall:

(i) complete and sign the affidavit on the envelope;

(ii) mark the votes on the absent-voter ballot;

(iii) place the voted absent-voter ballot in the envelope;

(iv) securely seal the envelope; and

(v) give the ballot and envelope to the election officer.

(2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:

(a) in the case of an absentee ballot that is voted in person, the ballot is:

(i) applied for and cast in person at the office of the appropriate election officer before 5 p.m. no later than the Tuesday before election day; or

(ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;

(b) in the case of an absentee ballot that is submitted by mail, the ballot is:

(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and

(ii) received in the office of the election officer before noon on the day of the official canvass following the election; or

(c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.

(3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.

(4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person.

Section 47. Section 20A-3-306.5 is amended to read:

20A-3-306.5. Emergency absentee ballots.

(1) As used in this section, "hospitalized voter" means a registered voter who is hospitalized or otherwise confined to a medical or long-term care institution after the deadline for filing an application for an absentee ballot established in Section 20A-3-304.

(2) Notwithstanding any other provision of this part, a hospitalized voter may obtain an absentee ballot and vote on election day by following the procedures and requirements of this section.

(3) (a) Any ~~[person]~~ individual may obtain an absentee ballot application, an absentee ballot, and an absentee ballot envelope from the election officer on behalf of a hospitalized voter by requesting a ballot and application in person at the election officer's office during business hours.

(b) The election officer shall require the ~~[person]~~ individual to sign a statement identifying ~~[himself]~~ the individual and the hospitalized voter.

(4) To vote, the hospitalized voter shall complete the absentee ballot application, complete and sign the application on the absentee ballot envelope, mark ~~[his]~~ the voter's votes on the absentee ballot, place the absentee ballot into the envelope, and seal the envelope unless a different method is authorized under Section 20A-1-308.

(5) To be counted, the absentee voter application and the sealed absentee ballot envelope must be returned to the election officer's office before the polls close on election day unless a different time is authorized under Section 20A-1-308.

Section 48. Section 20A-3-604 is amended to read:

20A-3-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3-603(2), the election officer shall, at least 19 days before the date of the election, ~~[give]~~ publish notice of the dates, times, and locations of early voting ~~[by]:~~

~~[(a) publishing the notice:]~~

(a) (i) in one issue of a newspaper of general circulation in the county; ~~[and]~~

~~[(ii) in accordance with Section 45-1-101; and]~~

(ii) if there is no newspaper of general circulation in the county, in addition to posting the notice described in Subsection (1)(b), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county; or

(iii) by mailing notice to each registered voter in the county;

(b) by posting the notice at each early voting polling place[-];

(c) on the Utah Public Notice Website created in Section 63F-1-701, for 19 days before the day of the election;

(d) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(e) on the county's website for 19 days before the day of the election.

(2) Instead of publishing all dates, times, and locations of early voting under Subsection (1), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

~~[(2)]~~ (3) The election officer shall include in the notice described in Subsection (1)~~[(a)]~~:

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address

of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 49. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation [~~published~~] in the county, municipality, or jurisdiction where the equipment is used[.];

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballot sheets have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) create a true duplicate copy of the ballot with an identifying serial number;

(b) substitute the duplicate ballot for the damaged or defective ballot;

(c) label the duplicate ballot "duplicate"; and

(d) record the duplicate ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 50. Section 20A-4-107 is amended to read:

20A-4-107. Review and disposition of provisional ballot envelopes.

(1) As used in this section, a person is "legally entitled to vote" if:

(a) the person:

(i) is registered to vote in the state;

(ii) votes the ballot for the voting precinct in which the person resides; and

(iii) provides valid voter identification to the poll worker;

(b) the person:

(i) is registered to vote in the state;

(ii) (A) provided valid voter identification to the poll worker; or

(B) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register but the county clerk verifies the person's identity and residence through some other means; and

(iii) did not vote in the person's precinct of residence, but the ballot that the person voted was from the person's county of residence and includes one or more candidates or ballot propositions on the ballot voted in the person's precinct of residence; or

(c) the person:

(i) is registered to vote in the state;

(ii) either failed to provide valid voter identification or the documents provided as valid voter identification were inadequate and the poll worker recorded that fact in the official register; and

(iii) (A) the county clerk verifies the person's identity and residence through some other means as reliable as photo identification; or

(B) the person provides valid voter identification to the county clerk or an election officer who is administering the election by the close of normal office hours on Monday after the date of the election.

(2) (a) Upon receipt of a provisional ballot form, the election officer shall review the affirmation on the provisional ballot form and determine if the person signing the affirmation is:

(i) registered to vote in this state; and

(ii) legally entitled to vote:

(A) the ballot that the person voted; or

(B) if the ballot is from the person's county of residence, for at least one ballot proposition or candidate on the ballot that the person voted.

(b) Except as provided in Section 20A-2-207, if the election officer determines that the person is not registered to vote in this state or is not legally entitled to vote in the county or for any of the ballot propositions or candidates on the ballot that the person voted, the election officer shall retain the ballot form, uncounted, for the period specified in Section 20A-4-202 unless ordered by a court to produce or count it.

(c) If the election officer determines that the person is registered to vote in this state and is legally entitled to vote in the county and for at least one of the ballot propositions or candidates on the ballot that the person voted, the election officer shall place the provisional ballot with the absentee ballots to be counted with those ballots at the canvass.

(d) The election officer may not count, or allow to be counted a provisional ballot unless the person's identity and residence is established by a preponderance of the evidence.

(3) If the election officer determines that the person is registered to vote in this state, or if the voter registers to vote in accordance with Section 20A-2-207, the election officer shall ensure that the voter registration records are updated to reflect the information provided on the provisional ballot form.

(4) Except as provided in Section 20A-2-207, if the election officer determines that the person is not registered to vote in this state and the information on the provisional ballot form is complete, the election officer shall:

(a) consider the provisional ballot form a voter registration form for the person's county of residence; and

(b) (i) register the person if the voter's county of residence is within the county; or

(ii) forward the voter registration form to the election officer of the person's county of residence, which election officer shall register the person.

(5) Notwithstanding any provision of this section, the election officer shall place a provisional ballot with the absentee ballots to be counted with those ballots at the canvass, if:

(a) (i) the election officer determines, in accordance with the provisions of this section, that the sole reason a provisional ballot may not otherwise be counted is because the voter registration was filed less than seven days before the election;

(ii) seven or more days before the election, the individual who cast the provisional ballot:

(A) completed and signed the voter registration; and

(B) provided the voter registration to another person to file;

(iii) the late filing was made due to the person described in Subsection (5)(a)(ii)(B) filing the voter registration [~~less than seven days before the election~~] late; and

(iv) the election officer receives the voter registration before 5 p.m. no later than one day before the day of the election; or

(b) the provisional ballot is cast on or before election day and is not otherwise prohibited from being counted under the provisions of this chapter.

Section 51. Section 20A-4-201 is amended to read:

20A-4-201. Delivery of election returns.

(1) [~~One poll worker~~] At least two poll workers shall deliver the ballot box, the lock, and the key to:

(a) the election officer; or

(b) the location directed by the election officer.

(2) (a) Before they adjourn, the poll workers shall choose [~~one~~] two or more of their number to deliver the election returns to the election officer.

(b) [~~That poll worker or those~~] The poll workers shall:

(i) deliver the unopened envelopes or pouches to the election officer or counting center immediately but no later than 24 hours after the polls close; or

(ii) if the polling place is 15 miles or more from the county seat, mail the election returns to the election officer by registered mail from the post office most convenient to the polling place within 24 hours after the polls close.

(3) The election officer shall pay each poll worker reasonable compensation for travel that is necessary to deliver the election returns and to return to the polling place.

(4) The requirements of this section do not prohibit transmission of the unofficial vote count to the counting center via electronic means, provided that reasonable security measures are taken to preserve the integrity and privacy of the transmission.

Section 52. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) Upon receipt of the election returns from [~~a poll worker~~] the poll workers, the election officer shall:

(a) ensure that the poll [~~worker has~~] workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) (i) for paper ballots, deposit and lock the ballots and election returns in a safe and secure place; or

(ii) for punch card ballots:

(A) count the ballots; and

(B) deposit and lock the ballots and election returns in a safe and secure place; and

(d) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) [~~no later than~~] before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) package and seal a true copy of the ballot label used in each voting precinct;

(d) preserve all other official election returns for at least 22 months after an election; and

(e) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

Section 53. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in ~~[Title 20A,]~~ Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) ~~[(a)]~~ As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

~~[(4)]~~ (a) the total number of votes cast in the board's jurisdiction;

~~[(4ii)]~~ (b) the names of each candidate whose name appeared on the ballot;

~~[(4iii)]~~ (c) the title of each ballot proposition that appeared on the ballot;

~~[(4iv)]~~ (d) each office that appeared on the ballot;

~~[(4v)]~~ (e) from each voting precinct:

~~[(A)]~~ (i) the number of votes for each candidate;

~~[(B)]~~ (ii) for each race conducted by instant runoff voting under ~~[Title 20A,]~~ Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for

each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

~~[(C)]~~ (iii) the number of votes for and against each ballot proposition;

~~[(4vi)]~~ (f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

~~[(4vii)]~~ (g) the number of ballots that were rejected; and

~~[(4viii)]~~ (h) a statement certifying that the information contained in the report is accurate.

~~[(4b)]~~ (3) The election officer and the board of canvassers shall:

~~[(4)]~~ (a) review the report to ensure that it is correct; and

~~[(4ii)]~~ (b) sign the report.

~~[(4e)]~~ (4) The election officer shall:

~~[(4)]~~ (a) record or file the certified report in a book kept for that purpose;

~~[(4ii)]~~ (b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

~~[(4iii)]~~ (c) publish a copy of the certified report~~[:]~~ in accordance with Subsection (5); and

~~[(A) in one or more conspicuous places within the jurisdiction;]~~

~~[(B) in a conspicuous place on the county's website; and]~~

~~[(C) in a newspaper with general circulation in the board's jurisdiction; and]~~

~~[(4iv)]~~ (d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publish the certified report described in Subsection (2):

(a) (i) at least once in a newspaper of general circulation within the jurisdiction;

(ii) if there is no newspaper of general circulation within the jurisdiction, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for one week;

(c) in accordance with Section 45-1-101, for one week; and

(d) if the jurisdiction has a website, on the jurisdiction's website for one week.

(6) Instead of publishing the entire certified report under Subsection (5), the election officer may publish a statement that:

(a) includes the following: “The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].”; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction’s website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

~~[(4)]~~ (7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit ~~it~~ the separate report by registered mail to the lieutenant governor.

~~[(4)]~~ (8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

~~[(5)]~~ (9) In regular primary elections and in the Western States Presidential Primary, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor:

(i) not later than the second Tuesday after the primary election for the regular primary election; and

(ii) not later than the Tuesday following the election for the Western States Presidential Primary; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 54. Section 20A-4-401 is amended to read:

20A-4-401. Recounts -- Procedure.

(1) (a) This section does not apply to a race conducted by instant runoff voting under ~~[Title 20A,]~~ Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(b) Except as provided in Subsection (1)(c), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast

for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(c) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).

(d) A candidate who files a request for a recount under Subsection (1) (b) or (c) shall file the request:

(i) for a municipal primary election, with the municipal clerk, before 5 p.m. within three days after the canvass; or

(ii) for all other elections, before 5 p.m. within seven days after the canvass with:

(A) the municipal clerk, if the election is a municipal general election;

(B) the local district clerk, if the election is a local district election;

(C) the county clerk, for races voted on entirely within a single county; or

(D) the lieutenant governor, for statewide races and multicounty races.

(e) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that race;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting;

(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and

(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.

(2) (a) Except as provided in Subsection (2)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days ~~of~~ after the day of the canvass with the person described in Subsection (2)(c).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days ~~of~~ after the day of the canvass with the person described in Subsection (2)(c).

(c) The 10 voters who file a request for a recount under Subsection (2)(a) or (b) shall file the request with:

(i) the municipal clerk, if the election is a municipal election;

(ii) the local district clerk, if the election is a local district election;

(iii) the county clerk, for propositions voted on entirely within a single county; or

(iv) the lieutenant governor, for statewide propositions and multicounty propositions.

(d) The election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for that ballot proposition or bond proposition;

(iii) reexamine all unopened absentee ballots to ensure compliance with Chapter 3, Part 3, Absentee Voting; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

(e) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

(f) The voters requesting the recount shall pay the costs of the recount.

(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.

(4) (a) Upon completion of the recount, the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or ~~Section~~ 20A-4-306.

(c) If the recount is for a statewide or multicounty race or for a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304~~(3)~~ (7).

(d) The canvassers' report prepared as provided in this Subsection (4) is the official result of the race or proposition that is the subject of the recount.

Section 55. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) ~~(a)~~ No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall publish notice, in accordance with Subsection (3):

~~(i) publish a notice;~~

~~(A) once in a newspaper published in that county; and~~

~~(B) as required in Section 45-1-101; or~~

~~(ii) (A) cause a copy of the notice to be posted~~

(a) (i) in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

~~(B) (ii) prepare an affidavit of ~~that~~ the posting, showing a copy of the notice and the places where the notice was posted[-];~~

(b) (i) in a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation within the county, in addition to the notice described in Subsection (2)(a), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county; or

(iii) by mailing notice to each registered voter in the county;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(d) in accordance with Section 45-1-101, for seven days before the day of the election; and

(e) on the county's website for seven days before the day of the election.

~~(b)~~ (3) The notice ~~required by~~ described in Subsection (2)~~(a)~~ shall:

(i) designate the offices to be voted on in that election; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

~~(3) Before~~ (4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information~~, or printed notice of a website where the following information can be obtained~~:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

[~~(4)~~] (5) To provide the printed notice described in Subsection [~~(3)~~] (4), the election officer shall publish the notice:

[~~(a) publish the notice at least two days before election day;~~]

(a) (i) in a newspaper of general circulation [~~common to the area~~] in the jurisdiction to which the election pertains at least two days before the day of the election; [and]

[~~(ii) as required in Section 45-1-101; or]~~

(ii) if there is no newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction; or

[~~(b) mail~~] (iii) by mailing the notice to each registered voter who resides in the [~~area~~] jurisdiction to which the election pertains at least five days before [~~election day~~] the day of the election;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two days before the day of the election;

(c) in accordance with Section 45-1-101, for two days before the day of the election; and

(d) if the jurisdiction has a website, on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:" and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 56. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) In jurisdictions using paper ballots, each election officer shall:

(a) provide printed official paper ballots and absentee ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be printed on each official paper ballot and absentee ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official paper ballot and absentee ballot;

(d) ensure that the official paper ballots are printed and in the possession of the election officer before commencement of voting;

(e) ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;

(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official paper ballot and absentee ballot;

(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the official paper ballots and absentee ballots;

(h) cause sample ballots to be printed that are in the same form as official paper ballots and that contain the same information as official paper ballots but that are printed on different colored paper than official paper ballots;

(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(j) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in [his] the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; [~~and~~]

(iii) publishing a copy of the sample ballot [immediately before the election];

(A) ~~[in at least one]~~ except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election; ~~[and]~~

~~[(B) as required in Section 45-1-101;]~~

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(l) print and deliver, at the expense of the jurisdiction conducting the election, enough official paper ballots, absentee ballots, sample ballots, and instruction cards to meet the voting demands of the qualified voters in each voting precinct.

(2) In jurisdictions using a punch card ballot, each election officer shall:

(a) provide official ballot sheets, absentee ballot sheets, and printed official ballot labels for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to the election officer to be printed on each official ballot label;

(c) cause each ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot label;

(d) ensure that the official ballot labels are printed and in the possession of the election officer before the commencement of voting;

(e) ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;

(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot label and absentee ballot;

(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;

(h) cause sample ballots to be printed that contain the same information as official ballot labels but that are distinguishable from official ballot labels;

(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(j) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in his office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; ~~[and]~~

(iii) publishing a copy of the sample ballot ~~[immediately before the election];~~

(A) ~~[in at least one]~~ except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election; ~~[and]~~

~~[(B) as required in Section 45-1-101;]~~

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(l) print and deliver official ballot sheets, official ballot labels, sample ballots, and instruction cards at the expense of the jurisdiction conducting the election.

(3) In jurisdictions using a ballot sheet other than a punch card, each election officer shall:

(a) provide official ballot sheets and absentee ballot sheets for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to or filed with the election officer to be printed on each official ballot and absentee ballot;

(c) cause each ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;

(d) ensure that the official ballots are printed and in the possession of the election officer before commencement of voting;

(e) ensure that the absentee ballots are printed and in the possession of the election officer with sufficient time before commencement of voting;

(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;

(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;

(h) cause sample ballots to be printed that contain the same information as official ballots but that are distinguishable from the official ballots;

(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(j) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; ~~and~~

(iii) publishing a copy of the sample ballot ~~[immediately before the election]:~~

(A) ~~[in at least one]~~ except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election; ~~and~~

~~[(B) as required in Section 45-1-101;]~~

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(l) print and deliver, at the expense of the jurisdiction conducting the election, enough official ballots, absentee ballots, sample ballots, and instruction cards to meet the voting demands of the qualified voters in each voting precinct.

(4) In jurisdictions using electronic ballots, each election officer shall:

(a) provide official ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate who filed with the election officer in the manner provided by law or whose nomination has been certified to the election officer to be displayed on each official ballot;

(c) cause each ballot proposition that has qualified for the ballot as provided by law to be displayed on each official ballot;

(d) ensure that the official ballots are prepared and in the possession of the election officer before commencement of voting;

(e) ensure that the absentee ballots are prepared and in the possession of the election officer with sufficient time before commencement of voting;

(f) cause any ballot proposition that has qualified for the ballot as provided by law to be printed on each official ballot and absentee ballot;

(g) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official sample ballot to inspect the official sample ballot;

(h) cause sample ballots to be printed that contain the same information as official ballots but that are distinguishable from official ballots;

(i) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(j) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor; ~~and~~

(iii) publishing a copy of the sample ballot immediately before the election:

(A) ~~[in at least one]~~ except as provided in Subsection (5), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election; ~~and~~

~~[(B) as required in Section 45-1-101;]~~

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(k) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(l) prepare and deliver official ballots, sample ballots, and instruction cards at the expense of the jurisdiction conducting the election.

(5) Instead of publishing the entire sample ballot under Subsection (1)(j)(iii)(A), (2)(j)(iii)(A), (3)(j)(iii)(A), or (4)(j)(iii)(A), the election officer may publish a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

~~[(5)]~~ (6) (a) Each election officer shall, without delay, correct any error discovered in any official paper ballot, ballot label, ballot sheet, electronic ballot, or sample ballot, if the correction can be made without interfering with the timely distribution of the paper ballots, ballot labels, ballot sheets, or electronic ballots.

(b) (i) If the election officer discovers an error or omission in a paper ballot, ballot label, or ballot sheet, and it is not possible to correct the error or omission by reprinting the paper ballots, ballot labels, or ballot sheets, the election officer shall direct the poll workers to make the necessary corrections on the official paper ballots, ballot labels, or ballot sheets before they are distributed at the polls.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in the paper ballots, ballot labels, ballot sheets, or electronic ballots, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official paper ballots, ballot labels, or ballot sheets; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a paper ballot, ballot label, ballot sheet, or electronic ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct it or failed to provide for its correction.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the decision of the district court.

Section 57. Section 20A-5-604 is amended to read:

20A-5-604. Receipt of ballots by poll workers.

(1) The poll ~~[worker who receives]~~ workers who receive official or substitute ballots from the election officer shall:

(a) sign a receipt for ~~[them]~~ the ballots and file ~~[it]~~ the receipt with the election officer; and

(b) produce the packages in the proper polling place with the seals unbroken.

(2) If the poll ~~[worker receives]~~ workers receive packages of substitute ballots accompanied by a written and sworn statement of the election officer that the ballots are substitute ballots because the original ballots were not received, were destroyed, or were stolen, the poll worker shall produce the packages of substitute ballots in the proper polling place with the seals unbroken.

Section 58. Section 20A-5-605 is amended to read:

20A-5-605. Duties of poll workers.

(1) Poll workers shall:

(a) arrive at the polling place at a time determined by the election officer; and

(b) remain until the official election returns are prepared for delivery.

(2) The election officer may designate:

(a) certain poll workers to act as election judges;

(b) an election judge to act as the presiding election judge; and

(c) certain poll workers to act as clerks.

(3) Upon their arrival to open the polls, the poll workers shall:

(a) if the election officer has not designated which poll workers at a polling place are assigned to act as election judges, as presiding election judge, or as clerks:

(i) designate two poll workers to act as election judges as necessary;

(ii) determine which election judge shall preside as necessary; and

(iii) determine which poll workers shall act as clerks as necessary;

(b) select ~~[one]~~ two or more of their number to deliver the election returns to the election officer or to the place that the election officer designates;

(c) display the United States flag;

(d) examine the voting devices to see that they are in proper working order and that security devices have not been tampered with;

(e) place the voting devices, voting booths, and the ballot box in plain view of those poll workers and watchers that are present;

(f) for paper ballots and ballot sheets, open the ballot packages in the presence of all the poll workers;

(g) check the ballots, supplies, records, and forms;

(h) if directed to do so by the election officer:

(i) make any necessary corrections to the official ballots before they are distributed at the polls; and

(ii) post any necessary notice of errors in electronic ballots before voting commences;

(i) post the sample ballots, instructions to voters, and constitutional amendments, if any; and

(j) open the ballot box in the presence of those assembled, turn it upside down to empty it of anything, and then, immediately before polls open, lock it, or if locks and keys are not available, tape it securely.

(4) (a) If any poll worker fails to appear on the morning of the election, or fails or refuses to act:

(i) at least six qualified electors from the voting precinct who are present at the polling place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing another qualified person from the voting precinct who is a member of the same political party as the poll worker who is being replaced to act as a poll worker; or

(ii) the election officer shall appoint a qualified person to act as a poll worker.

(b) If a majority of the poll workers are present, they shall open the polls, even though a poll worker has not arrived.

(5) (a) If it is impossible or inconvenient to hold an election at the polling place designated, the poll workers, after having assembled at or as near as practicable to the designated place, and before receiving any vote, may move to the nearest convenient place for holding the election.

(b) If the poll workers move to a new polling place, they shall display a proclamation of the change and station a peace officer or some other proper person at the original polling place to notify voters of the location of the new polling place.

(6) If the poll ~~[worker who received]~~ workers who receive delivery of the ballots ~~[produces]~~ produce packages of substitute ballots accompanied by a written and sworn statement of the election officer that the ballots are substitute ballots because the original ballots were not received, were destroyed, or were stolen, the poll workers shall use those substitute ballots as the official election ballots.

(7) If, for any reason, none of the official or substitute ballots are ready for distribution at a polling place or, if the supply of ballots is exhausted before the polls are closed, the poll workers may use unofficial ballots, made as nearly as possible in the form of the official ballot, until substitutes prepared by the election officer are printed and delivered.

(8) When it is time to open the polls, one of the poll workers shall announce that the polls are open as required by Section 20A-1-302, or in the case of early voting, Section 20A-3-602.

(9) (a) The poll workers shall comply with the voting procedures and requirements of ~~[Title 20A,]~~ Chapter 3, Voting, in allowing people to vote.

(b) The poll workers may not allow any person, other than election officials and those admitted to

vote, within six feet of voting devices, voting booths, and the ballot box.

(c) Besides the poll workers and watchers, the poll workers may not allow more than four voters in excess of the number of voting booths provided within six feet of voting devices, voting booths, and the ballot box.

(d) If necessary, the poll workers shall instruct each voter about how to operate the voting device before the voter enters the voting booth.

(e) (i) If the voter requests additional instructions after entering the voting booth, two poll workers may, if necessary, enter the booth and give the voter additional instructions.

(ii) In regular general elections and regular primary elections, the two poll workers who enter the voting booth to assist the voter shall be of different political parties.

Section 59. Section 20A-6-106 is amended to read:

20A-6-106. Deadline for submission of ballot titles.

Unless otherwise specifically provided for by statute, the certified ballot title of each ballot proposition, ballot question, or ballot issue shall be submitted to the election officer before 5 p.m. no later than 65 days before the date of the election at which the matter will be submitted to the voters.

Section 60. Section 20A-6-302 is amended to read:

20A-6-302. Paper ballots -- Placement of candidates' names.

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) each candidate is listed by party, if nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office; and

(c) the names of candidates are placed on the ballot in the order specified under Section 20A-6-305.

(2) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ___ No ___."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (2), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (2)(f), be placed on the ballot under Subsection (2)(a) has been elected on a ballot under Subsection (2)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (2)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before ~~the date of~~ 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (2)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(3) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes ___ No ___."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may the candidate continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) does not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before ~~the date of~~ 5 p.m. no later than one day before that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 61. Section 20A-7-202.5 is amended to read:

20A-7-202.5. Initial fiscal impact estimate -- Preparation of estimate -- Challenge to estimate.

(1) Within three working days ~~of receipt of~~ after the day on which the lieutenant governor receives an application for an initiative petition, the lieutenant governor shall submit a copy of the application to the Governor's Office of Management and Budget.

(2) (a) The Governor's Office of Management and Budget shall prepare an unbiased, good faith estimate of the fiscal impact of the law proposed by the initiative that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase taxes, the tax percentage difference and the tax percentage increase;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;

(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law; and

(vii) a concise explanation, not exceeding 100 words, of the above information and of the

estimated fiscal impact, if any, under the proposed law.

(b) (i) If the proposed law is estimated to have no fiscal impact, the Governor's Office of Management and Budget shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Governor's Office of Management and Budget estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the Governor's Office of Management and Budget shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"The Governor's Office of Management and Budget estimates that the law proposed by this initiative would result in a total fiscal expense/savings of \$_____, which includes a (type of tax or taxes) tax increase/decrease of \$_____ and a \$_____ increase/decrease in state debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to reasonably express in a summary statement, the Governor's Office of Management and Budget may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(iv) If the proposed law imposes a tax increase, the Governor's Office of Management and Budget shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(3) The Governor's Office of Management and Budget shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in:

(a) the voter information pamphlet as required by ~~Title 20A,~~ Chapter 7, Part 7, Voter Information Pamphlet; or

(b) the newspaper, as required by Section 20A-7-702.

(4) Within 25 calendar days ~~from the date that~~ after the day on which the lieutenant governor delivers a copy of the application, the Governor's Office of Management and Budget shall:

(a) deliver a copy of the initial fiscal impact estimate to the lieutenant governor's office; and

(b) mail a copy of the initial fiscal impact estimate to the first five sponsors named in the initiative application.

(5) (a) (i) Three or more of the sponsors of the petition may, within 20 calendar days ~~of the date of~~

~~delivery of~~ after the day on which the Governor's Office of Management and Budget delivers the initial fiscal impact estimate to the lieutenant governor's office, file a petition with the Supreme Court, alleging that the initial fiscal impact estimate, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the Supreme Court shall direct the lieutenant governor to send notice of the petition to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact estimate prepared by the Governor's Office of Management and Budget is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The Supreme Court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal estimate, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The Supreme Court may refer an issue related to the initial fiscal impact estimate to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The Supreme Court shall certify to the lieutenant governor a fiscal impact estimate for the measure that meets the requirements of this section.

Section 62. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.

(1) (a) After issuance of the initial fiscal impact estimate by the Governor's Office of Management and Budget and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven meetings, at least two of the meetings shall be held in a first or second class county, but not in the same county.

(2) ~~[At least three calendar days before the date of the public hearing, the]~~ The sponsors shall:

(a) before 5 p.m. at least three calendar days before the date of the public hearing, provide written notice of the public hearing to:

(i) the lieutenant governor for posting on the state's website; and

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing ~~[detailing its]~~, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:

~~[(i) in at least one newspaper of general circulation in each county in the region where the public hearing will be held; and]~~

(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;

(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or

(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;

(ii) on the Utah Public Notice Website created in Section 63F-1-701[-], for at least three calendar days before the day of the public hearing;

(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and

(iv) on the county's website for at least three calendar days before the day of the public hearing.

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker’s comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(5) (a) ~~Within~~ Before 5 p.m. within 14 days after ~~conducting~~ the day of the seventh public hearing required by Subsection (1)(a) and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days of receipt of an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the Governor’s Office of Management and Budget.

(ii) The Governor’s Office of Management and Budget shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

Section 63. Section 20A-7-205 is amended to read:

20A-7-205. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign an initiative petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the person in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet.

(b) A person may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(3) (a) A voter who has signed an initiative petition may have the voter’s signature removed from the petition by submitting to the county clerk a statement requesting that the voter’s signature be removed.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the last four digits of the voter’s Social Security number;

(iv) the driver license or identification card number; and

(v) the signature of the voter.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the statement must be received by the county clerk before ~~May 15~~ 5 p.m. no later than May 14.

(e) The county clerk shall deliver all statements received under this Subsection (3):

(i) with the initiative petition packets delivered to the lieutenant governor; or

(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the initiative packets.

(f) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).

Section 64. Section 20A-7-206 is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~on or before~~ before 5 p.m. no later than the sooner of:

(i) 316 days after the day on which the application is filed; or

(ii) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

(2) (a) No later than May 1 before the regular general election, the county clerk shall:

(i) check the names of all persons completing the verification for the initiative packet to determine

whether those persons are residents of Utah and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(3) No later than May 15 before the regular general election, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

(4) Upon receipt of an initiative packet under Subsection (3) and any statement submitted under Subsection 20A-7-205(3), the lieutenant governor shall remove from the initiative petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-205(3).

(5) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated [by] before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(6) (a) No later than December 1 before the annual general session of the Legislature, the county clerk shall:

(i) check the names of all persons completing the verification for the initiative packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (7) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(7) No later than December 15 before the annual general session of the Legislature, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

(8) The sponsor or their representatives may not retrieve initiative packets from the county clerks once they have submitted them.

Section 65. Section 20A-7-302 is amended to read:

20A-7-302. Referendum process -- Application procedures.

(1) Persons wishing to circulate a referendum petition shall file an application with the lieutenant governor before 5 p.m. within five calendar days after the end of the legislative session at which the law passed.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a certification indicating that each of the sponsors:

(i) is a voter; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public; and

(d) a copy of the law.

Section 66. Section 20A-7-305 is amended to read:

20A-7-305. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign a referendum petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the person in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet.

(b) A person may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(3) (a) [(4)] A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the last four digits of the voter's Social Security number;

(iv) the driver license or identification card number; and

(v) the signature of the voter.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the statement must be received by the county clerk

before ~~[the day which is 55 days after the end of the]~~ 5 p.m. no later than 55 days after the day on which ~~the legislative session at which the law passed ends.~~

(e) The county clerk shall deliver all statements received under this Subsection (3):

(i) with the referendum petition packets to the lieutenant governor; or

(ii) in a supplemental delivery to the lieutenant governor for a statement submitted after the county clerk delivered the referendum petition packets.

(f) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).

Section 67. Section 20A-7-306 is amended to read:

20A-7-306. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) ~~[No]~~ Before 5 p.m. no later than 40 days after the ~~[end of]~~ day on which the legislative session at which the law passed ends, the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated.

(b) A sponsor may not submit a referendum packet after the deadline established in this Subsection (1).

(2) (a) No later than 55 days after the end of the legislative session at which the law passed, the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether or not those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-305.

(3) No later than 55 days after the end of the legislative session at which the law passed, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the referendum petition whether each name is that of a registered voter; and

(c) deliver all of the verified referendum packets to the lieutenant governor.

(4) Upon receipt of a referendum packet under Subsection (3) and any statement submitted under Subsection 20A-7-305(3), the lieutenant governor shall remove from the referendum petition a voter's signature if the voter has requested the removal in accordance with Subsection 20A-7-305(3).

Section 68. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2) The arguments for or against a ballot proposition shall conform to the requirements of this section.

(3) (a) Within the time requirements described in Subsection (3)(c)(i), a municipality that is subject to a ballot proposition shall provide a notice that complies with the requirements of Subsection (3)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection (3)(d) has passed, on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection (3)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection (3)(d) has passed, post a notice that complies with the requirements of Subsection (3)(c)(ii) on:

(A) the Utah Public Notice Website created in Section 63F-1-701; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection (3)(a) or (b) shall:

(i) mail, send, or post the notice:

(A) not less than 90 days before the date of the election at which a ballot proposition will be voted upon; or

(B) if the requirements of Subsection (3)(c)(i)(A) cannot be met, as soon as practicable after the ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the ballot proposition;

(B) instructions on how to file a request under Subsection (3)(d); and

(C) the deadline described in Subsection (3)(d).

(d) To prepare an argument for or against a ballot proposition, an eligible voter shall file a request with the election officer ~~[at least 65]~~ before 5 p.m. no later than 55 days before the day of the election at which the ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare an argument for or against a ballot proposition, the election officer shall make the final designation according to the following criteria:

(i) sponsors have priority in preparing an argument regarding a ballot proposition; and

(ii) members of the local legislative body have priority over others.

(f) The election officer shall grant a request described in Subsection (3)(d) or (e) no later than 67 days before the day of the election at which the ballot proposition is to be voted on.

~~[(f)]~~ (g) (i) Except as provided in Subsection (3)~~(g)~~(h), a sponsor of a ballot proposition may prepare an argument in favor of the ballot proposition.

(ii) Except as provided in Subsection (3)~~(g)~~(h), and subject to Subsection (3)(e), an eligible voter opposed to the ballot proposition who submits a request under Subsection (3)(d) may prepare an argument against the ballot proposition.

~~[(g)]~~ (h) (i) For a referendum, subject to Subsection (3)(e), an eligible voter who is in favor of a law that is referred to the voters and who submits a request under Subsection (3)(d) may prepare an argument for adoption of the law.

(ii) The sponsors of a referendum may prepare an argument against the adoption of a law that is referred to the voters.

~~[(h)]~~ (i) An eligible voter who submits an argument under this section shall:

(i) ensure that the argument does not exceed 500 words in length, not counting the information described in Subsection (3)(i)(ii) or (iv);

(ii) ~~[ensure that the argument does not]~~ list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the argument to the election officer before 5 p.m. no later than 60 days before the election day on which the ballot proposition will be submitted to the voters; ~~and~~

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

~~[(iv)]~~ (v) ~~[include]~~ submit with the argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

~~[(i)]~~ (j) An election officer shall refuse to accept and publish an argument ~~[that is]~~ submitted after the deadline described in Subsection (3)~~(h)~~(i)(iii).

(4) (a) An election officer who timely receives the arguments in favor of and against a ballot proposition shall, within one business day after the day on which the election office receives both arguments, send, via mail or email:

(i) a copy of the argument in favor of the ballot proposition to the eligible voter who submitted the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the eligible voter who submitted the argument in favor of the ballot proposition.

(b) The eligible voter who submitted a timely argument in favor of the ballot proposition:

(i) may submit to the election officer a rebuttal argument of the argument against the ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (3)(i)(ii) or (iv); and

(iii) shall submit the rebuttal argument before 5 p.m. no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely argument against the ballot proposition:

(i) may submit to the election officer a rebuttal argument of the argument in favor of the ballot proposition;

(ii) shall ensure that the rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (3)(i)(ii) or (iv); and

(iii) shall submit the rebuttal argument before 5 p.m. no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a rebuttal argument that is submitted after the deadline described in Subsection (4)(b)(iii) or (4)(c)(iii).

(5) (a) Except as provided in Subsection (5)(b):

(i) an eligible voter may not modify an argument or rebuttal argument after the eligible voter submits the argument or rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (5)(a)(i) may not modify an argument or rebuttal argument.

(b) The election officer, and the eligible voter who submits an argument or rebuttal argument, may jointly agree to modify an argument or rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish an argument or rebuttal argument if the

eligible voter who submits the argument or rebuttal argument fails to negotiate, in good faith, to modify the argument or rebuttal argument in accordance with Subsection (5)(b).

(6) An election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(7) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

“This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(8) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed arguments:

“The arguments for or against a ballot proposition are the opinions of the authors.”;

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (8)(c).

(b) (i) If the proposed measure exceeds 500 words in length, the election officer may summarize the measure in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (8)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 69. Section 20A-7-506 is amended to read:

20A-7-506. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated ~~on or~~ before ~~the sooner~~ 5 p.m. the earlier of:

(i) for county initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(ii) for municipal initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A sponsor may not submit an initiative packet after the deadline established in this Subsection (1).

(2) (a) No later than May 1, the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each initiative packet to determine whether those persons are residents of Utah and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.

(3) No later than May 15, the county clerk shall:

(a) determine whether or not each signer is a voter according to the requirements of Section 20A-7-506.3;

(b) certify on the petition whether or not each name is that of a voter; and

(c) deliver all of the verified packets to the local clerk.

Section 70. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws and subjurisdictional laws -- Time requirements.

(1) Except as provided in Subsection (2) or (3), a person seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) 10% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(b) 12-1/2% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(c) 15% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(d) 20% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(e) 25% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(f) 30% of all the votes cast in the county, city, or town for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

(2) (a) As used in this Subsection (2), "land use law" includes a land use development code, an annexation ordinance, and comprehensive zoning ordinances.

(b) Except as provided in Subsection (3), a person seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(i) in a county or in a city of the first or second class, 20% of all votes cast in the county or city for all candidates for president of the United States at the last election at which a president of the United States was elected; and

(ii) in a city of the third, fourth, or fifth class or a town, 35% of all the votes cast in the city or town for all candidates for president of the United States at the last election at which a president of the United States was elected.

(3) (a) As used in this Subsection (3):

(i) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(ii) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all

precincts and subprecincts under the jurisdiction of the county, city, or town.

(b) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(i) 10% of the total votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes exceeds 25,000;

(ii) 12-1/2% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 25,000 but is more than 10,000;

(iii) 15% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 10,000 but is more than 2,500;

(iv) 20% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 2,500 but is more than 500;

(v) 25% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 500 but is more than 250; and

(vi) 30% of all the votes cast in the subjurisdiction for all candidates for president of the United States at the last election at which a president of the United States was elected if the total number of votes does not exceed 250.

(4) (a) Sponsors of any referendum petition challenging, under Subsection (1), (2), or (3) any local law passed by a local legislative body shall file the application before 5 p.m. within five days after the [passage of] day on which the local law passed.

(b) Except as provided in Subsection (4)(c), when a referendum petition has been declared sufficient, the local law that is the subject of the petition does not take effect unless and until the local law is approved by a vote of the people.

(c) When a referendum petition challenging a subjurisdictional law has been declared sufficient, the subjurisdictional law that is the subject of the petition does not take effect unless and until the subjurisdictional law is approved by a vote of the people who reside in the subjurisdiction.

(5) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.

(6) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 71. Section 20A-7-606 is amended to read:

20A-7-606. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(2) from the local clerk.

(b) A sponsor may not submit a referendum packet after the deadline established in this Subsection (1).

(2) (a) No later than 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-605.

(3) No later than 30 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the referendum petition whether each name is that of a registered voter; and

(c) deliver all of the verified referendum packets to the local clerk.

Section 72. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the referendum packets and return them to the sponsors within two working days.

(4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no

later than 40 days after the day on which the local clerk complies with Subsection (3).

(5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (4).

(6) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(8) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(9) Notwithstanding the requirements related to absentee ballots under this title:

(a) the election officer shall prepare absentee ballots for those voters who have requested an absentee ballot as soon as possible after the ballot title is prepared as described in Subsection (7); and

(b) the election officer shall mail absentee ballots on a referendum under this section the later of:

(i) the time provided in Section 20A-3-305 or 20A-16-403; or

(ii) the time that absentee ballots are prepared for mailing under this section.

(10) Section 20A-7-402 does not apply to a referendum described in this section.

(11) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a taxing entity is not required to comply with the notice and public hearing

requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(12) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity]".

(13) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(14) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (14)(a), the ballot title shall comply with Subsection (12).

(c) If an election officer includes on a ballot a referendum described in Subsection (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 73. Section 20A-7-704 is amended to read:

20A-7-704. Initiative measures -- Arguments for and against -- Voters' requests for argument -- Ballot arguments.

(1) (a) ~~[(i) (A) By July 10]~~ Before 5 p.m. no later than July 1 of the regular general election year, [the sponsors] a sponsor of any initiative petition that has been declared sufficient by the lieutenant governor may deliver to the lieutenant governor [an] a written notice that the sponsor intends to submit a written argument for [the] adoption of the measure.

~~[(B)]~~ (b) If two or more sponsors [wish to submit arguments for the measure] timely submit a notice described in Subsection (1)(a), the lieutenant governor shall designate one of the sponsors to submit the argument for the sponsor's side of the measure.

~~[(ii) (A) Any member of the Legislature may request permission to submit an argument against the adoption of the measure.]~~

(2) (a) Before 5 p.m. no later than July 1 of the regular general election year, a member of the Legislature may deliver to the speaker of the House and the president of the Senate a written notice that the legislator intends to submit a written argument against adoption of an initiative petition that has been declared sufficient by the lieutenant governor.

~~[(B)]~~ (b) If two or more legislators [wish to submit an argument against the measure, the presiding officers of the Senate and House of Representatives shall] timely submit a notice described in Subsection (2)(a), the speaker of the House and the president of the Senate shall, no later than July 5, jointly designate one of the legislators to submit the argument to the lieutenant governor.

~~[(b)]~~ (3) The sponsors and the legislators submitting arguments shall ensure that each argument:

[(i)] (a) does not exceed 500 words in length, not counting the information described in Subsection (5); and

[(ii)] (b) is delivered [by] to the lieutenant governor before 5 p.m. no later than July 10.

~~[(2)]~~ (4) (a) If an argument for or against a measure to be submitted to the voters by initiative petition has not been filed within the time required under Subsection (4) (3)(b):

(i) the Office of the Lieutenant Governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection ~~[(2)]~~ (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection ~~[(2)]~~ (4)(b) on the home page of the lieutenant governor's website;

(ii) any voter may ~~[request the lieutenant governor for permission to prepare an]~~, before 5 p.m. no later than July 15, deliver written notice to the lieutenant governor that the voter intends to submit a written argument for the side on which no argument has been filed; and

(iii) if two or more voters ~~[request permission to submit arguments on]~~ timely submit the notice described in Subsection (4)(a)(ii) in relation to the same side of a measure, the lieutenant governor shall designate one of the voters to write the argument.

(b) A notice described in Subsection ~~[(2)]~~ (4)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection ~~[(2)]~~ (4)(a)(ii); and

(iii) the ~~[deadline]~~ deadlines described in ~~Subsection (2)]~~ Subsections (4)(a)(ii) and (4)(c).

(c) Any argument prepared under this Subsection ~~[(2)]~~ (4) shall be submitted to the lieutenant governor ~~[by] before 5 p.m. no later than July 20.~~

~~[(3)]~~ (5) The lieutenant governor may not accept a ballot argument submitted under this section unless [it is accompanied by] the argument lists:

(a) ~~the name and address of the [person submitting it, if it]~~ individual submitting the argument, if the argument is submitted by an individual voter; or

(b) the name and address of the organization and the names and addresses of at least two of ~~[its]~~ the organization's principal officers, if [it] the argument is submitted on behalf of an organization.

~~[(4)] (6) (a) Except as provided in Subsection [(4)] (6)(c), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.~~

(b) Except as provided in Subsection ~~[(4)] (6)(c)~~, the lieutenant governor may not alter the arguments in any way.

(c) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

Section 74. Section 20A-7-705 is amended to read:

20A-7-705. Measures to be submitted to voters and referendum measures -- Preparation of argument of adoption.

(1) (a) Whenever the Legislature submits any measure to the voters or whenever an act of the Legislature is referred to the voters by referendum petition, the presiding officer of the house of origin of the measure shall appoint the sponsor of the measure or act and one member of either house who voted with the majority to pass the act or submit the measure to draft an argument for the adoption of the measure.

(b) (i) The argument may not exceed 500 words in length, not counting the information described in Subsection (4)(e).

(ii) If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments may be written but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(2) (a) If a measure or act submitted to the voters by the Legislature or by referendum petition was not adopted unanimously by the Legislature, the presiding officer of each house shall, at the same time as appointments to an argument in its favor are made, appoint one member who voted against the measure or act from their house to write an argument against the measure or act.

(b) (i) The argument may not exceed 500 words, not counting the information described in Subsection (4)(e).

(ii) If those members appointed to write an argument against the measure or act desire separate arguments to be written in opposition to the measure or act by each person appointed, separate arguments may be written, but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(3) (a) The legislators appointed by the presiding officer of the Senate or House of Representatives to submit arguments shall submit ~~[them]~~ the arguments to the lieutenant governor not later than the day that falls 150 days before the date of the election.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

(4) (a) If an argument for or an argument against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the time required by this section:

(i) ~~the [Office of the Lieutenant Governor]~~ lieutenant governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (4)(b) on the home page of the lieutenant governor's website; and

(ii) any voter may, before 5 p.m. no later than seven days after the day on which the lieutenant governor provides the notice described in Subsection (4)(a)(i), submit a written request to the presiding officer of the house in which the measure originated for permission to prepare and file an argument for the side on which no argument has been filed by a member of the Legislature.

(b) A notice described in Subsection (4)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (4)(a)(ii); and

(iii) ~~the [deadline]~~ deadlines described in [Subsection] Subsections (4)(a)(ii) and (4)(d).

(c) (i) The presiding officer of the house of origin shall grant permission unless two or more voters

timely request permission to submit arguments on the same side of a measure.

(ii) If two or more voters timely request permission to submit arguments on the same side of a measure, the presiding officer shall, no later than four calendar days after the day of the deadline described in Subsection (4)(a)(ii), designate one of the voters to write the argument.

(d) Any argument prepared under this Subsection (4) shall be submitted to the lieutenant governor ~~not before 5 p.m. no later than 135 days before the date of the election~~ seven days after the day on which the presiding officer grants permission to submit the argument.

(e) The lieutenant governor may not accept a ballot argument submitted under this section unless ~~it is accompanied by~~ the argument lists:

(i) the name and address of the ~~person submitting it, if it~~ individual submitting the argument, if the argument is submitted by an individual voter; or

(ii) the name and address of the organization and the names and addresses of at least two of ~~its~~ the organization's principal officers, if ~~it~~ the argument is submitted on behalf of an organization.

(f) Except as provided in Subsection (4)(h), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(g) Except as provided in Subsection (4)(h), the lieutenant governor may not alter the arguments in any way.

(h) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

Section 75. Section 20A-7-706 is amended to read:

20A-7-706. Copies of arguments to be sent to opposing authors -- Rebuttal arguments.

(1) When the lieutenant governor has received the arguments for and against a measure to be submitted to the voters, the lieutenant governor shall immediately send copies of the arguments in favor of the measure to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor.

(2) The authors may prepare and submit rebuttal arguments not exceeding 250 words, not counting the information described in Subsection 20A-7-705(4)(e).

(3) (a) The rebuttal arguments shall be filed with the lieutenant governor:

(i) for constitutional amendments and referendum petitions, ~~not later than the day that falls~~ before 5 p.m. no later than 120 days before the date of the election; and

(ii) for initiatives, ~~not~~ before 5 p.m. no later than July 30.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the rebuttal arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of a rebuttal argument may jointly modify a rebuttal argument after it is submitted if:

(i) they jointly agree that changes to the rebuttal argument must be made to correct spelling or grammatical errors; and

(ii) the rebuttal argument has not yet been submitted for typesetting.

(4) The lieutenant governor shall ensure that:

(a) rebuttal arguments are printed in the same manner as the direct arguments; and

(b) each rebuttal argument follows immediately after the direct argument which it seeks to rebut.

Section 76. Section 20A-7-801 is amended to read:

20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines -- Frequently asked voter questions -- Other elections.

(1) There is established the Statewide Electronic Voter Information Website Program administered by the lieutenant governor in cooperation with the county clerks for general elections and municipal authorities for municipal elections.

(2) In accordance with this section, and as resources become available, the lieutenant governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

(a) the offices and candidates up for election; and

(b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters.

(3) Except as provided under Subsection (6), the website shall include:

(a) all information currently provided in the Utah voter information pamphlet under ~~[Title 20A,]~~ Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the Judicial Council describing the judicial selection and retention process;

(b) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;

(c) a list that contains the name of a political subdivision that operates an election day voting center under Section 20A-3-703 and the location of the election day voting center;

(d) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions; and

(e) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2).

(4) (a) An election official shall submit the following information for each ballot label under the election official's direct responsibility under this title:

(i) a list of all candidates for each office;

(ii) if submitted by the candidate to the election official's office [at] before 5 p.m. [at least] no later than 45 days before the primary election [and] or before 5 p.m. no later than 60 days before the general election:

(A) a statement of qualifications, not exceeding 200 words in length, for each candidate;

(B) the following current biographical information if desired by the candidate, current:

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

(C) a single web address where voters may access more information about the candidate and the candidate's views; and

(iii) factual information pertaining to all ballot propositions submitted to the voters, including:

(A) a copy of the number and ballot title of each ballot proposition;

(B) the final vote cast for each ballot proposition, if any, by a legislative body if the vote was required to place the ballot proposition on the ballot;

(C) a complete copy of the text of each ballot proposition, with all new language underlined and all deleted language placed within brackets; and

(D) other factual information determined helpful by the election official.

(b) The information under Subsection (4)(a) shall be submitted to the lieutenant governor no later than one business day after the deadline under Subsection (4)(a) for each general election year and each municipal election year.

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website;

(ii) refuse to post information submitted under this section on the website if it is not in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5) (a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates, and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

Section 77. Section 20A-8-103 is amended to read:

20A-8-103. Petition procedures -- Criminal penalty.

(1) As used in this section, the proposed name or emblem of a registered political party is “distinguishable” if a reasonable person of average intelligence will be able to perceive a difference between the proposed name or emblem and any name or emblem currently being used by another registered political party.

(2) To become a registered political party, an organization of registered voters that is not a continuing political party shall:

(a) circulate a petition seeking registered political party status beginning no earlier than the date of the statewide canvass held after the last regular general election and ending before 5 p.m. no later than November 30 of the year before the year in which the next regular general election will be held;

(b) file a petition with the lieutenant governor that is signed, with a holographic signature, by at least 2,000 registered voters [~~on or before~~ before 5 p.m. no later than November 30 of the year in which a regular general election will be held; and

(c) file, with the petition described in Subsection (2)(b), a document certifying:

(i) the identity of one or more registered political parties whose members may vote for the organization’s candidates;

(ii) whether unaffiliated voters may vote for the organization’s candidates; and

(iii) whether, for the next election, the organization intends to nominate the organization’s candidates in accordance with the provisions of Section 20A-9-406.

(3) The petition shall:

(a) be on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the name of the political party and the words “Political Party Registration Petition” printed directly below the horizontal line;

(d) contain the word “Warning” printed directly under the words described in Subsection (3)(c);

(e) contain, to the right of the word “Warning,” the following statement printed in not less than eight-point, single leaded type:

“It is a class A misdemeanor for anyone to knowingly sign a political party registration petition signature sheet with any name other than the individual’s own name or more than once for the same party or if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor.”;

(f) contain the following statement directly under the statement described in Subsection (3)(e):

“POLITICAL PARTY REGISTRATION PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, seek registered political party status for ____ (name);

Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor;

I am or desire to become a member of the political party; and

My street address is written correctly after my name.”; [and]

(g) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with “For Office Use Only,” and be subdivided with a light vertical line down the middle;

(ii) the next column shall be 2-1/2 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

(iii) the next column shall be 2-1/2 inches wide, headed “Holographic Signature of Registered Voter”;

(iv) the next column shall be one inch wide, headed “Birth Date or Age (Optional)”;

(v) the final column shall be 4-3/8 inches wide, headed “Street Address, City, Zip Code”;

(vi) at the bottom of the sheet, contain the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.”;

(h) have a final page bound to one or more signature sheets that are bound together that contains the following printed statement:

“Verification

State of Utah, County of ____

I, _____, of _____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by individuals who professed to be the individuals whose names appear on the signature sheets, and each individual signed the individual's name on the signature sheets in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's street address correctly, and that each individual is registered to vote in Utah or will register to vote in Utah before the petition is submitted to the lieutenant governor.

(Signature) (Residence Address) (Date)"; and

(i) be bound to a cover sheet that:

(i) identifies the political party's name, which may not exceed four words, and the emblem of the party;

(ii) states the process that the organization will follow to organize and adopt a constitution and bylaws; and

(iii) is signed by a filing officer, who agrees to receive communications on behalf of the organization.

(4) The filing officer described in Subsection (3)(i)(iii) shall ensure that the individual in whose presence each signature sheet is signed:

(a) is at least 18 years old;

(b) meets the residency requirements of Section 20A-2-105; and

(c) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(5) An individual may not sign the verification if the individual signed a signature sheet bound to the verification.

(6) The lieutenant governor shall:

(a) determine whether the required number of voters appears on the petition;

(b) review the proposed name and emblem to determine if they are "distinguishable" from the names and emblems of other registered political parties; and

(c) certify the lieutenant governor's findings to the filing officer described in Subsection (3)(i)(iii) within 30 days of the filing of the petition.

(7) (a) If the lieutenant governor determines that the petition meets the requirements of this section, and that the proposed name and emblem are distinguishable, the lieutenant governor shall authorize the filing officer described in Subsection (3)(i)(iii) to organize the prospective political party.

(b) If the lieutenant governor finds that the name, emblem, or both are not distinguishable from the

names and emblems of other registered political parties, the lieutenant governor shall notify the filing officer that the filing officer has seven days to submit a new name or emblem to the lieutenant governor.

(8) A registered political party may not change its name or emblem during the regular general election cycle.

(9) (a) It is unlawful for an individual to:

(i) knowingly sign a political party registration petition:

(A) with any name other than the individual's own name;

(B) more than once for the same political party; or

(C) if the individual is not registered to vote in this state and does not intend to become registered to vote in this state before the petition is submitted to the lieutenant governor; or

(ii) sign the verification of a political party registration petition signature sheet if the individual:

(A) does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those individuals whose names appear on the political party registration petition signature sheet; or

(C) knows that an individual whose signature appears on the political party registration petition signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) An individual who violates this Subsection (9) is guilty of a class A misdemeanor.

Section 78. Section 20A-8-106 is amended to read:

20A-8-106. Organization as a political party -- Certification procedures.

(1) [~~On or before~~] Before 5 p.m. no later than March 1 of the regular general election year, the prospective political party's officers or governing board shall file the names of the party officers or governing board with the lieutenant governor.

(2) After reviewing the information and determining that all proper procedures have been completed, the lieutenant governor shall:

(a) issue a certificate naming the organization as a registered political party in Utah and designating its official name; and

(b) inform each county clerk that the organization is a registered political party in Utah.

(3) All election officers and state officials shall consider the organization to be and shall treat the organization as a registered political party.

(4) The newly registered political party shall comply with all the provisions of Utah law governing political parties.

(5) (a) If the newly registered political party does not hold a national party convention, the governing

board of the political party may designate the names of the party's candidates for the offices of President and Vice President of the United States and the names of the party's presidential electors to the lieutenant governor ~~[by]~~ before 5 p.m. no later than August 15.

(b) If the party chooses to designate names, the governing board shall certify those names.

Section 79. Section 20A-8-401 is amended to read:

20A-8-401. Registered political parties -- Bylaws -- Report name of midterm vacancy candidate.

~~[(1) (a) Each registered state political party shall file a copy of its constitution and bylaws with the lieutenant governor by January 1, 1995.]~~

~~[(b)]~~ (1) (a) Each new or unregistered state political party that seeks to become a registered political party under the authority of this chapter shall file a copy of ~~[its]~~ the party's proposed constitution and bylaws at the time ~~[it]~~ the party files ~~[its]~~ the party's registration information.

~~[(e)]~~ (b) Each registered state political party shall file revised copies of ~~[its]~~ the party's constitution or bylaws with the lieutenant governor before 5 p.m. within 15 days after the day on which the constitution or bylaws are adopted or amended.

(2) Each state political party, each new political party seeking registration, and each unregistered political party seeking registration shall ensure that ~~[its]~~ the party's constitution or bylaws contain:

(a) provisions establishing party organization, structure, membership, and governance that include:

(i) a description of the position, selection process, qualifications, duties, and terms of each party officer and committees defined by constitution and bylaws;

(ii) a provision requiring a designated party officer to serve as liaison with:

(A) the lieutenant governor on all matters relating to the political party's relationship with the state; and

(B) each county legislative body on matters relating to the political party's relationship with a county;

(iii) a description of the requirements for participation in party processes;

(iv) the dates, times, and quorum of any regularly scheduled party meetings, conventions, or other conclaves; and

(v) a mechanism for making the names of delegates, candidates, and elected party officers available to the public shortly after they are selected;

(b) a procedure for selecting party officers that allows active participation by party members;

(c) a procedure for selecting party candidates at the federal, state, and county levels that allows active participation by party members;

(d) (i) a procedure for selecting electors who are pledged to cast their votes in the electoral college for the party's candidates for president and vice president of the United States; and

(ii) a procedure for filling vacancies in the office of presidential elector because of death, refusal to act, failure to attend, ineligibility, or any other cause;

(e) a procedure for filling vacancies in the office of representative or senator or a county office, as described in Section 20A-1-508, because of death, resignation, or ineligibility;

(f) a provision requiring the governor and lieutenant governor to run as a joint ticket;

(g) a procedure for replacing party candidates who die, acquire a disability that prevents the candidate from continuing the candidacy, or are disqualified before a primary or regular general election;

(h) provisions governing the deposit and expenditure of party funds, and governing the accounting for, reporting, and audit of party financial transactions;

(i) provisions governing access to party records;

(j) a procedure for amending the constitution or bylaws that allows active participation by party members or their representatives;

(k) a process for resolving grievances against the political party; and

(l) if desired by the political party, a process for consulting with, and obtaining the opinion of, the political party's Utah Senate and Utah House members about:

(i) the performance of the two United States Senators from Utah, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests;

(ii) the members' opinion about, or rating of, and support or opposition to the policy positions of any candidates for United States Senate from Utah, including incumbents, including specifically:

(A) their views and actions regarding the defense of state's rights and federalism; and

(B) their performance in representing Utah's interests; and

(iii) the members' collective or individual endorsement or rating of a particular candidate for United States Senate from Utah.

(3) If, in accordance with a political party's constitution or bylaws, a person files a declaration or otherwise notifies the party of the person's candidacy as a legislative office candidate or state office candidate, as defined in Section 20A-11-101,

to be appointed and fill a midterm vacancy in the office of representative or senator in the Legislature, as described in Section 20A-1-503, or in a state office as described in Section 20A-1-504, the party shall forward a copy of that declaration or notification to the lieutenant governor ~~[no later than]~~ before 5 p.m. ~~[of]~~ no later than the day following the day on which the party receives the declaration or notification.

Section 80. Section 20A-8-402 is amended to read:

20A-8-402. Political party officers -- Submission of names of officers to the lieutenant governor.

(1) Each state political party shall:

(a) designate a party officer to act as liaison with:

(i) the lieutenant governor's office; and

(ii) each county legislative body; and

(b) ~~[within seven days of any]~~ before 5 p.m. no later than seven days after the day on which the party makes a change in the party liaison, submit the name of the new liaison to the lieutenant governor.

(2) Each state political party and each county political party shall:

(a) submit the name, address, and phone number of each officer to the lieutenant governor within seven days after the officers are selected; and

(b) ~~[within seven days of any]~~ before 5 p.m. no later than seven days after the day on which the party makes a change in party officers, submit the name, address, and phone number of each new officer to the lieutenant governor.

Section 81. Section 20A-8-402.5 is amended to read:

20A-8-402.5. Notification of political convention dates.

(1) ~~[On or before]~~ Before 5 p.m. no later than February 15 of each even-numbered year, a registered political party shall notify the lieutenant governor of the dates of each political convention that will be held by the registered political party that year.

(2) If, after providing the notice described in Subsection (1), a registered political party changes the date of a political convention, the registered political party shall notify the lieutenant governor of the change ~~[within]~~ before 5 p.m. no later than one business day after the day on which the registered political party makes the change.

Section 82. Section 20A-8-404 is amended to read:

20A-8-404. Use of public meeting buildings by political parties.

(1) The legislative body of a county, municipality, or school district shall make all meeting facilities in buildings under its control available to registered

political parties, without discrimination, to be used for political party activities if:

(a) the political party requests the use of the meeting facility ~~[at least]~~ before 5 p.m. no later than 30 calendar days before the day on which the use by the political party will take place; and

(b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.

(2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.

(3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:

(a) custodial services for cleaning the meeting facility after the use by the political party; and

(b) any service requested by the political party and provided by the meeting facility.

(4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.

(5) This section does not apply to a publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

Section 83. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(b), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

(c) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

(d) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

(e) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) ~~On or before~~ Before 5 p.m. on no later than the first Monday after the third Saturday in April, each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) ~~On or before~~ Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. within five days after the last day for filing.

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, ~~on or before~~ before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee, if applicable; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

Section 84. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month \ day \ year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) ~~publish~~ publish a list of the names of the candidates as they will appear on the ballot ~~to be published~~;

(i) (A) in at least two successive publications of a newspaper ~~with~~ of general circulation in the municipality; ~~and~~

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days;

~~[(ii) as required]~~ (iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 85. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1) (a) Except as otherwise provided in this section or ~~[Title 20A,]~~ Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(2) Except as otherwise provided in ~~[Title 20A,]~~ Chapter 4, Part 6, Municipal Alternate Voting

Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3) (a) For purposes of this Subsection (3), “convention” means an organized assembly of voters or delegates.

(b) (i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a political party convention or committee.

(ii) Any primary election exemption ordinance adopted under the authority of this Subsection (3) remains in effect until repealed by ordinance.

(c) (i) A convention or committee may not nominate:

(A) an individual who has not submitted a declaration of candidacy, or has not been nominated by a nomination petition, under Section 20A-9-203; or

(B) more than one group of candidates, or have placed on the ballot more than one group of candidates, for the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may nominate an individual who has been nominated by a different convention or committee.

(iii) A political party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d) (i) The convention or committee shall prepare a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the political party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) Certificates of nomination shall be filed with the clerk ~~not~~ before 5 p.m. no later than 80 days before the municipal general election.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention.

(f) The election ballot shall substantially comply with the form prescribed in ~~[Title 20A,]~~ Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate’s name.

(4) (a) Any third, fourth, or fifth class city may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a partisan primary election method of nominating candidates as provided in this Subsection (4).

(b) (i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder ~~by~~ before 5 p.m. no later than May 31 of any odd-numbered year;

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(c) (i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no partisan primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a partisan primary election.

(d) The clerk shall ensure that:

(i) the partisan municipal primary ballot is similar to the ballot forms required by Sections 20A-6-401 and 20A-6-401.1;

(ii) the candidates for each municipal political party are listed in one or more columns under their party name and emblem;

(iii) the names of candidates of all parties are printed on the same ballot, but under their party designation; and

(iv) every ballot separates the candidates of one party from those of the other parties.

(e) After marking a municipal primary ballot, the voter shall deposit the ballot in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 86. Section 20A-9-407 is amended to read:

20A-9-407. Convention process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of a qualified political party for an elective office through the qualified political party's convention process.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election, shall:

(a) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy in person with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district on or after the second Friday in March and before 5 p.m. on the

third Thursday in March before the next regular general election; and

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, on or before 5 p.m. on the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before 5 p.m. on the first Monday after the ~~fourth~~ third Saturday in April.

(b) The lieutenant governor shall include, in the primary ballot certification or, for a race where a primary is not held because the candidate is unopposed, in the general election ballot certification, the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

Section 87. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending at 5 p.m. on the third Thursday in March of the same year, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(b), file a declaration of candidacy, in person, with the filing officer on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, ~~on or~~ before 5 p.m. ~~on~~ no later than the first Monday after the third Saturday in April, file a declaration of candidacy and submit a letter from the candidate for governor that names

the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor, during the period beginning on January 1 of an even-numbered year and ending at 5 p.m. 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer before 5 p.m. no later than 14 days before the day on which the qualified political party holds [its] the party's convention to select candidates, for the elective office, for the qualified political party's nomination.

(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).

(d) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection (9)(d)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition;

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet; and

(v) notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

(e) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location

that the lieutenant governor posts a declaration of candidacy.

Section 88. Section 20A-9-504 is amended to read:

20A-9-504. Unaffiliated candidates -- Governor and president of the United States.

(1) (a) Each unaffiliated candidate for governor shall, before 5 p.m. no later than July 1 of the regular general election year, select a running mate to file as an unaffiliated candidate for the office of lieutenant governor.

(b) The unaffiliated lieutenant governor candidate shall, [by] before 5 p.m. no later than July 1 of the regular general election year, file as an unaffiliated candidate by following the procedures and requirements of this part.

(2) (a) Each unaffiliated candidate for president of the United States shall, before 5 p.m. [on] no later than August 15 of a regular general election year, select a running mate to file as an unaffiliated candidate for the office of vice president of the United States.

(b) Before 5 p.m. [on] no later than August 15 of a regular general election year, the unaffiliated candidate for vice president of the United States described in Subsection (2)(a) shall comply with the requirements of Subsection 20A-9-202(7).

Section 89. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer [not] before 5 p.m. no later than 60 days before the regular general election or a municipal general election in which the individual intends to be a write-in candidate.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) The form of the declaration of candidacy for all offices, except president or vice president of the United States, is substantially as follows:

“State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ for the ____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath).”

(b) The form of the declaration of candidacy for president of the United States is substantially as follows:

“State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____.

I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath[-]).”

(c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(7).

(d) An agent described in Subsection (1)(a) or (b) may not sign the form described in Subsection (2)(a) or (b).

(3) (a) The filing officer shall:

(i) read to the candidate the constitutional and statutory requirements for the office; and

(ii) ask the candidate whether or not the candidate meets the requirements.

(b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate’s declaration of candidacy.

(4) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

Section 90. Section 20A-11-105 is amended to read:

20A-11-105. Deadline for payment of fine.

A person against whom the lieutenant governor imposes a fine under this chapter shall pay the fine before 5 p.m. within 30 days after the day on which the lieutenant governor imposes the fine.

Section 91. Section 20A-11-601 is amended to read:

20A-11-601. Political action committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) ~~[Each]~~ Unless the political action committee has filed a notice of dissolution under Subsection (4), each political action committee shall file a statement of organization with the lieutenant governor’s office [by January 10 of each year, unless the political action committee has filed a notice of dissolution under Subsection (4).];

(i) before 5 p.m. on January 10 of each year; or

(ii) electronically, before midnight on January 10 of each year.

(b) If a political action committee is organized after the ~~[January 10 filing date]~~ filing deadline described in Subsection (1)(a), the political action committee shall file an initial statement of organization no later than seven days after:

(i) receiving contributions totaling at least \$750; or

(ii) distributing expenditures for political purposes totaling at least \$750.

(c) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) A person may not exercise primary decision-making authority for a political action committee who is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political action committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2)(a);

(c) the name, street address, occupation, and title of all other officers of the political action committee;

(d) the name and street address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political action committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and

(g) the name, street address, and occupation of each member of the governing and advisory boards, if any.

(4) (a) Any registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political action committee does not exempt that political action committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political action committee has filed a notice of dissolution under Subsection (4), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2)(a).

(b) ~~[Notice]~~ A political action committee shall file a notice of a change of a primary officer described in Subsection (2)(a) ~~[shall]~~:

(i) ~~[be filed within 10 days of the date of the change]~~ before 5 p.m. within 10 days after the day on which the change occurs; and

(ii) ~~[contain]~~ that includes the name and title of the officer being replaced, and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 92. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) ~~[Each]~~ Unless the political issues committee has filed a notice of dissolution under Subsection (4), each political issues committee shall file a statement of organization with the lieutenant governor's office ~~[by January 10 of each year, unless the political issues committee has filed a notice of dissolution under Subsection (4).];~~

(i) before 5 p.m. on January 10 of each year; or

(ii) electronically, before midnight on January 10 of each year.

(b) If a political issues committee is organized after the ~~[January 10 filing date]~~ filing deadline described in Subsection (1)(a), the political issues committee shall file an initial statement of organization no later than seven days after:

(i) receiving political issues contributions totaling at least \$750; or

(ii) disbursing political issues expenditures totaling at least \$750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(3) The statement of organization shall include:

(a) the name and street address of the political issues committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, street address, occupation, and title of all other officers of the political issues committee;

(d) the name and street address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, street address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) Any registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) ~~[Notice]~~ A political issues committee shall file a notice of a change of a primary officer described in Subsection (2) ~~[shall]~~:

(i) ~~[be filed within 10 days of the date of the change]~~ before 5 p.m. within 10 days after the day on which the change occurs; and

(ii) ~~[contain]~~ that includes the name and title of the officer being replaced and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 93. Section 20A-12-305 is amended to read:

20A-12-305. Judicial retention election candidates -- Financial reporting requirements -- Interim report.

(1) The judge's personal campaign committee shall file an interim report with the lieutenant governor ~~[before the close of regular office hours]~~ on

the date seven days before the regular general election date.

(2) Each interim report shall include the following information:

(a) a detailed listing of each contribution received since the last financial statement;

(b) for each nonmonetary contribution, the fair market value of the contribution;

(c) a detailed listing of each expenditure made since the last summary report;

(d) for each nonmonetary expenditure, the fair market value of the expenditure; and

(e) a net balance for the year consisting of all contributions since the last summary report minus all expenditures since the last summary report.

(3) (a) For all individual contributions of \$50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two or more contributions from the same source that have an aggregate total of more than \$50 may not be reported in the aggregate, but shall be reported separately.

(4) In preparing each interim report, all contributions and expenditures shall be reported as of five days before the required filing date of the report.

(5) A negotiable instrument or check received by a judge or the judge's personal campaign committee more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 94. Section 20A-13-301 is amended to read:

20A-13-301. Presidential elections -- Effect of vote.

(1) (a) Each registered political party shall choose persons to act as presidential electors and to fill vacancies in the office of presidential electors for their party's candidates for President and Vice President according to the procedures established in their bylaws.

(b) Each registered political party shall certify to the lieutenant governor the names and addresses of the persons selected by the political party as the party's presidential electors ~~[by]~~ before 5 p.m. no later than August 31.

(2) The highest number of votes cast for a political party's president and vice president candidates elects the presidential electors selected by that political party.

Section 95. Section 20A-14-202 is amended to read:

20A-14-202. Local boards of education -- Membership -- When elected -- Qualifications -- Avoiding conflicts of interest.

(1) (a) Except as provided in Subsection (1)(b), the board of education of a school district with a student

population of up to 24,000 students shall consist of five members.

(b) The board of education of a school district with a student population of more than 10,000 students but fewer than 24,000 students shall increase from five to seven members beginning with the 2004 regular general election.

(c) The board of education of a school district with a student population of 24,000 or more students shall consist of seven members.

(d) Student population is based on the October 1 student count submitted by districts to the State Board of Education.

(e) If the number of members of a local school board is required to change under Subsection (1)(b), the board shall be reapportioned and elections conducted as provided in Sections 20A-14-201 and 20A-14-203.

(f) A school district which now has or increases to a seven-member board shall maintain a seven-member board regardless of subsequent changes in student population.

(g) (i) Members of a local board of education shall be elected at each regular general election.

(ii) Except as provided in Subsection (1)(g)(iii), no more than three members of a local board of education may be elected to a five-member board, nor more than four members elected to a seven-member board, in any election year.

(iii) More than three members of a local board of education may be elected to a five-member board and more than four members elected to a seven-member board in any election year only when required by reapportionment or to fill a vacancy or to implement Subsection (1)(b).

(h) One member of the local board of education shall be elected from each local school board district.

(2) (a) ~~[For an election held after the 2008 general election, a person]~~ An individual seeking election to a local school board shall have been a resident of the local school board district in which the person is seeking election for at least one year ~~[as of the date]~~ immediately preceding the day of the general election at which the board position will be filled.

(b) A person who has resided within the local school board district, as the boundaries of the district exist on the date of the general election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A member of a local school board shall:

(a) be and remain a registered voter in the local school board district from which the member is elected or appointed; and

(b) maintain the member's primary residence within the local school board district from which the member is elected or appointed during the member's term of office.

(4) A member of a local school board may not, during the member's term in office, also serve as an employee of that board.

Section 96. Section 20A-15-103 is amended to read:

20A-15-103. Delegates -- Candidacy -- Qualifications -- Nominating procedures.

(1) Candidates for the office of delegate to the ratification convention shall be citizens, residents of Utah, and at least 21 years old.

(2) Persons wishing to be delegates to the ratification convention shall:

(a) circulate a nominating petition meeting the requirements of this section; and

(b) obtain the signature of at least 100 registered voters.

(3) (a) A single nominating petition may nominate any number of candidates up to 21, the total number of delegates to be elected.

(b) Nominating petitions may not contain anything identifying a candidate's party or political affiliation.

(c) Each nominating petition shall contain a written statement signed by each nominee, indicating either that the candidate will:

(i) vote for ratification of the proposed amendment; or

(ii) vote against ratification of the proposed amendment.

(d) A nominating petition containing the names of more than one nominee may not contain the name of any nominee whose stated position in the nominating petition is inconsistent with that of any other nominee listed in the petition.

(4) (a) Candidates shall file their nominating petitions with the lieutenant governor ~~[at least]~~ before 5 p.m. no later than 40 days before the proclaimed date of the election.

(b) Within 10 days after the last day for filing the petitions, the lieutenant governor shall:

(i) declare nominated the 21 nominees in favor of ratification and the 21 nominees against ratification whose nominating petitions have been signed by the largest number of registered voters;

(ii) decide any ties by lot drawn by the lieutenant governor; and

(iii) certify the nominated candidates of each group to the county clerk of each county within the state.

Section 97. Section 20A-16-403 is amended to read:

20A-16-403. Transmission of unvoted ballots.

(1) For an election for which the state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act, Sec. 579, 42 U.S.C. 1973ff-1(g)(2), not later than 45 days before

the election or, notwithstanding Section [20A-1-401] 20A-1-104, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.

(2) (a) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose:

- (i) facsimile transmission;
- (ii) email delivery; or

(iii) if offered by the voter's jurisdiction, Internet delivery.

(b) The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(3) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than two business days after the application arrives.

Section 98. Section 62A-5-202.5 is amended to read:

62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the Department of Human Services.

(2) The board is composed of nine members as follows:

(a) the director of the division or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director of the Department of Human Services or the executive director's designee;

(d) a resident of the developmental center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the developmental center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the developmental center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the developmental center and the division;

(b) advise and assist the division with the division's functions, operations, and duties related

to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;

(d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(5); and

(f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(2)(3)(d), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 99. Section 63A-5-204 is amended to read:

63A-5-204. Specific powers and duties of director.

(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.

(2) (a) The director shall:

(i) recommend rules to the executive director for the use and management of facilities and grounds owned or occupied by the state for the use of its departments and agencies;

(ii) supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts or other specific legislation, to the various departments, commissions, institutions, and agencies in all buildings or space owned, leased, or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as otherwise provided by law;

(iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3, Division of Facilities Construction and Management Leasing;

(iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature through the appropriations act or other specific legislation, and hold title to, in the name of the division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its agencies;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or interest in property belonging to the state or any of its departments, except institutions of higher education and the School and Institutional Trust Lands Administration;

(vi) report all properties acquired by the state, except those acquired by institutions of higher

education, to the director of the Division of Finance for inclusion in the state's financial records;

(vii) before charging a rate, fee, or other amount for services provided by the division's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(A) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(B) obtain the approval of the Legislature as required by Section 63J-1-410;

(viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available;

(ix) implement the State Building Energy Efficiency Program under Section 63A-5-701;

(x) convey, lease, or dispose of the real property or water rights associated with the Utah State Developmental Center according to the Utah State Developmental Center Board's determination, as described in Subsection 62A-5-206.6(5);

(xi) after receiving the notice required under Subsection 10-2-419(2)(3)(d), file a written protest at or before the public hearing required under Subsection 10-2-419(2)(b)(3)(d), if:

(A) it is in the best interest of the state to protest the boundary adjustment; or

(B) the Legislature instructs the director to protest the boundary adjustment; and

(xii) take all other action necessary for carrying out the purposes of this chapter.

(b) Legislative approval is not required for acquisitions by the division that cost less than \$250,000.

(3) (a) The director shall direct or delegate maintenance and operations, preventive maintenance, and facilities inspection programs and activities for any agency, except:

(i) the State Capitol Preservation Board; and

(ii) state institutions of higher education.

(b) The director may choose to delegate responsibility for these functions only when the director determines that:

(i) the agency has requested the responsibility;

(ii) the agency has the necessary resources and skills to comply with facility maintenance standards approved by the State Building Board; and

(iii) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and state institutions of higher education are exempt

from Division of Facilities Construction and Management oversight.

(d) Each state institution of higher education shall comply with the facility maintenance standards approved by the State Building Board.

(e) Except for the State Capitol Preservation Board, agencies and institutions that are exempt from division oversight shall annually report their compliance with the facility maintenance standards to the division in the format required by the division.

(f) The division shall:

(i) prescribe a standard format for reporting compliance with the facility maintenance standards;

(ii) report agency compliance or noncompliance with the standards to the Legislature; and

(iii) conduct periodic audits of exempt agencies and institutions to ensure that they are complying with the standards.

(4) (a) In making any allocations of space under Subsection (2), the director shall:

(i) conduct studies to determine the actual needs of each agency; and

(ii) comply with the restrictions contained in this Subsection (4).

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the judicial area is reserved to the judiciary for trial courts only.

(d) The director may not supervise or control the allocation of space for entities in the public and higher education systems.

(e) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(5) The director may:

(a) hire or otherwise procure assistance and services, professional, skilled, or otherwise, that are necessary to carry out the director's responsibilities, and may expend funds provided for that purpose either through annual operating budget appropriations or from nonlapsing project funds;

(b) sue and be sued in the name of the division; and

(c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the Legislature, whatever real or personal property that is necessary for the discharge of the director's duties.

(6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes other than administration that are under their control and management:

(a) the Office of Trust Administrator;

(b) the Department of Transportation;

(c) the Division of Forestry, Fire, and State Lands;

(d) the Department of Natural Resources;

(e) the Utah National Guard;

(f) any area vocational center or other institution administered by the State Board of Education;

(g) any institution of higher education; and

(h) the Utah Science Technology and Research Governing Authority.

(7) The director shall ensure that any firm performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on public buildings under the director's supervision shall:

(a) fully comply with the American Society for Testing Materials standard specifications for agencies engaged in the testing and inspection of materials known as ASTM E-329; and

(b) carry a minimum of \$1,000,000 of errors and omissions insurance.

(8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances held by it that are under its control.

Section 100. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

(1) On July 1, 2018, the following are repealed:

(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";

(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";

(d) Section 10-2a-302;

(e) Subsection 10-2a-302.5(2)(a);

(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";

(g) in Subsection 10-2a-303[(4)](5), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";

(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and

(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5) or".

(2) Subsection 10-9a-304(2) is repealed June 1, 2020.

(3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under

Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 101. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

(3) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.

(4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states “, 10-2a-302,” is repealed.

(5) On January 1, 2026:

(a) In Subsection 20A-1-102(23)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(4) is repealed and replaced with the following:

“(4) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”.

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304~~(2)(a)(v)](2)(e)~~ is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”.

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

(w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(x) Section 20A-6-203.5 is repealed.

(y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(z) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(aa) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

CHAPTER 256**S. B. 39**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**ASSISTED OUTPATIENT
 TREATMENT FOR MENTAL ILLNESS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill creates a process for the provision of assisted outpatient treatment for an individual with mental illness.

Highlighted Provisions:

This bill:

- ▶ defines “assisted outpatient treatment”;
- ▶ describes the services provided to an individual receiving assisted outpatient treatment;
- ▶ describes the process whereby an individual is court ordered to receive assisted outpatient treatment;
- ▶ requires a designated examiner to consider assisted outpatient treatment when evaluating a proposed patient for civil commitment; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 17-43-301, as last amended by Laws of Utah 2018, Chapters 68 and 407
 62A-15-602, as last amended by Laws of Utah 2018, Chapter 322
 62A-15-618, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
 62A-15-631, as last amended by Laws of Utah 2018, Chapter 322
 62A-15-703, as last amended by Laws of Utah 2018, Chapter 322

ENACTS:

- 31A-22-650, Utah Code Annotated 1953
 62A-15-630.4, Utah Code Annotated 1953
 62A-15-630.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) “Assisted outpatient treatment” means the same as that term is defined in Section 62A-15-602.

(a) (b) “Crisis worker” means the same as that term is defined in Section 62A-15-1301.

(b) (c) “Local mental health crisis line” means the same as that term is defined in Section 63C-18-102.

(e) (d) “Mental health therapist” means the same as that term is defined in Section 58-60-102.

(d) (e) “Public funds” means the same as that term is defined in Section 17-43-303.

(e) (f) “Statewide mental health crisis line” means the same as that term is defined in Section 63C-18-102.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to ~~persons~~ individuals within the county; and

(ii) cooperate with efforts of the Division of Substance Abuse and Mental Health to promote integrated programs that address an individual’s substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the Department of Human Services to promote a system of care, as defined in Section 62A-1-104, for minors with or at risk for complex emotional and behavioral needs, as described in Section 62A-1-111.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the

treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department, the Department of Health, and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department and the Department of Health

regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department and Department of Health shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for persons;

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 62A-15-630.5;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental

health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

- (i) inpatient care and services;
- (ii) residential care and services;
- (iii) outpatient care and services;
- (iv) 24-hour crisis care and services;
- (v) psychotropic medication management;
- (vi) psychosocial rehabilitation, including vocational training and skills development;
- (vii) case management;
- (viii) community supports, including in-home services, housing, family support services, and respite services;
- (ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and
- (x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

- (i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;
- (ii) ensure that each individual who answers calls to the local mental health crisis line:
 - (A) is a mental health therapist or a crisis worker; and
 - (B) meets the standards of care and practice established by the Division of Substance Abuse and Mental Health, in accordance with Section 62A-15-1302; and
- (iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:
 - (A) waiting on hold; or
 - (B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental

health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

- (a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:
 - (i) the division;
 - (ii) the local mental health authority director;
 - (iii) (A) the county treasurer and county or district attorney; or
 - (B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;
 - (iv) the county legislative body; and
 - (v) in a county with a county executive that is separate from the county legislative body, the county executive;
- (b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and
- (c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 62A-15-630.4, to a resident of the county who has been ordered under Section 62A-15-630.5 to receive assisted outpatient treatment.

Section 2. Section 31A-22-650 is enacted to read:

31A-22-650. Insurance coverage for assisted outpatient treatment.

(1) As used in this section, "assisted outpatient treatment" means the same as that term is defined in Section 62A-15-602.

(2) A health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment, as provided in Section 62A-15-630.5.

Section 3. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years of age or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

~~[(3)]~~ (4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

~~[(4)]~~ (5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

~~[(5)]~~ (6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

~~[(6)]~~ (7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

~~[(7)]~~ (8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

~~[(8)]~~ (9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(1) through (12):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

~~[(9)]~~ (10) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

~~[(10)]~~ (11) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

~~[(11)]~~ (12) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

~~[(12)]~~ (13) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

~~[(13)]~~ (14) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

~~[(14)]~~ (15) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

~~[(15)]~~ (16) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(16)]~~ (17) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or

impairment of the function of a bodily member, organ, or mental faculty.

[(17)] (18) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

- (a) suicide;
- (b) serious bodily self-injury;
- (c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;
- (d) causing or attempting to cause serious bodily injury to another individual; or
- (e) engaging in harmful sexual conduct.

[(18)] (19) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 4. Section 62A-15-618 is amended to read:

62A-15-618. Designated examiners.

(1) A designated examiner, when evaluating a proposed patient for civil commitment, shall consider whether:

- (a) a proposed patient has been under a court order for assisted outpatient treatment;
- (b) the proposed patient complied with the terms of the assisted outpatient treatment order, if any; and
- (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's needs.

(2) Designated examiners shall be allowed a reasonable fee by the county legislative body of the county in which the proposed patient resides or is found, unless they are otherwise paid.

Section 5. Section 62A-15-630.4 is enacted to read:

62A-15-630.4. Assisted outpatient treatment services.

(1) The local mental health authority or its designee shall provide assisted outpatient treatment, which shall include:

- (a) case management; and
- (b) an individualized treatment plan, created with input from the proposed patient when possible.

(2) A court order for assisted outpatient treatment does not create independent authority to forcibly medicate a patient.

Section 6. Section 62A-15-630.5 is enacted to read:

62A-15-630.5. Assisted outpatient treatment proceedings.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

- (i) name;
- (ii) date of birth; and
- (iii) social security number; and

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

- (i) may take place at or before the hearing; and
- (ii) is required if the local mental health authority appears at the hearing.

(3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section 62A-15-634, to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:

(a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;

(b) be maintained at the proposed patient's place of detention, if any;

(c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

(d) advise that a hearing may be held within the time provided by law.

(5) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention in order to complete an examination, the court shall appoint two designated examiners:

(a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(7) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(8) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(9) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient is not mentally ill.

(12) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(13) (a) All persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. The court may allow a waiver of the proposed patient's right to appear only for good cause shown, and that cause shall be made a matter of court record.

(b) The court is authorized to exclude all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order, if any;

(B) admission notes, if any;

(C) the diagnosis, if any;

(D) doctor's orders, if any;

(E) progress notes, if any;

(F) nursing notes, if any; and

(G) medication records, if any.

(ii) The information described in Subsection 13)(e)(i) shall also be provided to the proposed patient's counsel:

(A) at the time of the hearing; and

(B) at any time prior to the hearing, upon request.

(14) The court shall order a proposed patient to assisted outpatient treatment if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment; and

(c) (i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or

(ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.

(15) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.

(16) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

(17) (a) The assisted outpatient treatment order shall designate the period for which the patient shall be treated, which may not exceed six months without a review hearing.

(b) An individual identified under Subsection (4) may request a review hearing at any time while the assisted outpatient treatment order is in effect.

(c) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to six months, if:

(i) the court finds by clear and convincing evidence that the patient meets the conditions described in Subsection (14); or

(ii) (A) the patient does not appear at the review hearing; and

(B) notice of the review hearing was provided to the patient's last known address by the applicant described in Subsection (1) or by a local mental health authority.

(d) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.

(e) At least two weeks prior to the expiration of the designated period of any assisted outpatient treatment order still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee.

(18) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

(19) A court may not hold an individual in contempt for failure to comply with an assisted outpatient treatment order.

(20) As provided in Section 31A-22-650, a health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment.

Section 7. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible [~~person~~] individual who has [~~reason to know~~] credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number; [~~and~~]

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based[;]; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the court finds from the application, from any other statements under oath, or from any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a substantial danger to self or others requiring involuntary commitment pending examination and hearing; or, if the proposed patient has refused to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient in the custody of a local mental health authority or in a temporary emergency facility as provided in Section 62A-15-634 to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall be provided by the court to a proposed patient before, or upon, placement in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court. A copy of that order of detention shall be maintained at the place of detention.

(5) Notice of commencement of those proceedings shall be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other persons whom the proposed patient or the court shall designate. That notice shall advise those persons that a hearing may be held within the time provided by law. If the proposed patient has refused to permit release of information necessary for provisions of notice under this subsection, the extent of notice shall be determined by the court.

(6) Proceedings for commitment of an individual under the age of 18 years to a local mental health authority may be commenced in accordance with Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(7) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(10) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer

exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient:

- (a) is not mentally ill;
- (b) has agreed to voluntary commitment, as described in Section 62A-15-625; or
- (c) has acceptable options for treatment programs that are available without court proceedings.

(14) Before the hearing, an opportunity to be represented by counsel shall be afforded to [every] the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(15) (a) The proposed patient, the applicant, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person. The court may allow a waiver of the proposed patient's right to appear only for good cause shown, and that cause shall be made a matter of court record.

(b) The court is authorized to exclude all persons not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

- (A) the detention order;
- (B) admission notes;
- (C) the diagnosis;
- (D) any doctors' orders;
- (E) progress notes;

(F) nursing notes; [and]

(G) medication records pertaining to the current commitment[-]; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) That information shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) The court shall order commitment of a proposed patient who is 18 years of age or older to a local mental health authority if, upon completion of the hearing and consideration of the information presented in accordance with Subsection (15)(d), the court finds by clear and convincing evidence that:

- (a) the proposed patient has a mental illness;
- (b) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;
- (c) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;
- (d) there is no appropriate less-restrictive alternative to a court order of commitment; and
- (e) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs. In the absence of the required findings of the court after the hearing, the court shall dismiss the proceedings.

(17) (a) The order of commitment shall designate the period for which the patient shall be treated. When the patient is not under an order of commitment at the time of the hearing, that period may not exceed six months without benefit of a review hearing. Upon such a review hearing, to be commenced prior to the expiration of the previous order, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the required conditions in Subsection (16) will last for an indeterminate period.

(b) The court shall maintain a current list of all patients under its order of commitment. That list shall be reviewed to determine those patients who have been under an order of commitment for the designated period. At least two weeks prior to the expiration of the designated period of any order of commitment still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee. The local mental health authority or its designee shall immediately reexamine the reasons upon which the order of commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, it shall discharge the patient from involuntary commitment and immediately report

the discharge to the court. Otherwise, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) The local mental health authority or its designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, that local mental health authority or its designee shall discharge the patient from its custody and immediately report the discharge to the court. If the local mental health authority or its designee determines that the conditions justifying that commitment continue to exist, the local mental health authority or its designee shall send a written report of those findings to the court. The patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued, the reasons for that decision, and that the patient has the right to a review hearing by making a request to the court. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days of the entry of the court order. The petition must allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient. The new hearing shall, in all other respects, be conducted in the manner otherwise permitted.

(19) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

Section 8. Section 62A-15-703 is amended to read:

62A-15-703. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical

custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner, as defined in Section 62A-15-602; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness, as defined in ~~Subsection~~ Section 62A-15-602~~(13)~~;

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 62A-15-629 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health

authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

- (i) the original petition for commitment;
- (ii) admission notes;
- (iii) diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated

examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's

mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 78A-6-120. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section 62A-15-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

CHAPTER 257**S. B. 40**

Passed February 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

CHILD WELFARE SUNSET PROVISIONS

Chief Sponsor: Allen M. Christensen
 House Sponsor: Christine F. Watkins

LONG TITLE**General Description:**

This bill amends child welfare provisions that are scheduled to sunset in 2019.

Highlighted Provisions:

This bill:

- ▶ extends the sunset date for the psychotropic medication oversight pilot program until July 1, 2024;
- ▶ requires the division to report to the Child Welfare Legislative Oversight Panel every other year on the work of the psychotropic medication oversight pilot program; and
- ▶ extends the sunset date for the child protection unit pilot program until December 31, 2021.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-213, as enacted by Laws of Utah 2016, Chapter 231
 63I-1-262, as last amended by Laws of Utah 2018, Chapters 74, 220, 281, and 347

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-213 is amended to read:**62A-4a-213. Psychotropic medication oversight pilot program.**

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an "advanced practice registered nurse," as defined in Subsection 58-31b-102(14), employed by the Department of Health; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Section 2. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, [~~2019~~] 2021.

(4) Section 62A-4a-213 is repealed July 1, [~~2019~~] 2024.

(5) Section 62A-15-114 is repealed December 31, 2021.

(6) Subsection 62A-15-1101(7) is repealed July 1, 2018.

CHAPTER 258**S. B. 50**

Passed February 27, 2019

Approved March 25, 2019

Effective January 1, 2020

**LOCAL GOVERNMENT
OFFICE AMENDMENTS**

Chief Sponsor: Evan J. Vickers

House Sponsor: Brady Brammer

LONG TITLE**General Description:**

This bill prohibits an individual from holding certain local government offices at the same time.

Highlighted Provisions:

This bill:

- ▶ prohibits an individual from, at the same time, holding a county elected office and a municipal elected office;
- ▶ for a candidate for county or municipal office, requires a filing officer to provide notice of the prohibition described in the preceding paragraph at the time the declaration of candidacy or nomination petition is filed; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-3-301, as last amended by Laws of Utah 2017, Chapters 91 and 137

17-16-6, as last amended by Laws of Utah 2018, Chapter 68

20A-9-201, as last amended by Laws of Utah 2018, Chapter 11

20A-9-203, as last amended by Laws of Utah 2018, Chapters 11 and 365

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-301 is amended to read:**10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.**

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section 63F-1-701; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (b)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (2)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the municipality;

(ii) resides at a secondary residence outside the municipality for a continuous period of more than 60 days while still maintaining a principal place of residence within the municipality;

(iii) is absent from the municipality for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the municipality while still maintaining a principal place of residence within the municipality for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the municipality for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 2. Section 17-16-6 is amended to read:

17-16-6. County officers -- Time of holding elections -- County commissioners -- Terms of office.

(1) Except as otherwise provided in an optional plan adopted under Chapter 52a, Changing Forms of County Government:

(a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;

(b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section 17-52a-201; and

(c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section 17-16-1.

(2) (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

(b) Except as provided in Subsection (2)(c), in the 2014 general election:

(i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:

(A) county treasurer;

(B) county recorder;

(C) county surveyor; and

(D) county assessor; and

(ii) all other county officers shall be elected to a four-year term.

(c) If a county legislative body consolidates two or more county offices in accordance with Section 17-16-3, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

(3) An individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(4) The restriction described in Subsection (3) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 3. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; ~~and~~

(ii) require the individual to state whether the individual meets ~~those~~ the requirements~~[-]~~ described in Subsection (3)(a)(i); and

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(ii) if the filing officer is not the lieutenant governor, that the individual provides the financial disclosure to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the

state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \ day \ year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

_____ (signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

“Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party’s presidential primary election; and

(iv) pay the filing fee of \$500.

(b) A designated agent described in Subsection (9)(a)(i) may not sign the form described in Subsection (9)(a)(i)(A).

(10) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(11) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 4. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; ~~and~~

(ii) require the candidate or individual filing the petition to state whether the candidate meets ~~those~~ the requirements ~~described in Subsection (4)(a)(i); and~~

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first sworn, say that I reside at _____ Street, City of _____, County of _____, state of Utah, Zip Code _____, Telephone Number (if any) _____; that I am a registered voter; and that I am a candidate for the office of _____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ (month \ day \ year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 5. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 259**S. B. 57**

Passed February 13, 2019

Approved March 25, 2019

Effective May 14, 2019

CHILD ABUSE AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends definitions related to civil child abuse and child neglect.

Highlighted Provisions:

This bill:

- ▶ clarifies that “chronic abuse” and “chronic neglect” do not mean an isolated incident; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-101, as last amended by Laws of Utah 2017, Chapters 209, 323, and 459

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-101 is amended to read:**62A-4a-101. Definitions.**

As used in this chapter:

(1) “Abuse” means the same as that term is defined in Section 78A-6-105.

(2) “Adoption services” means:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 62A-4a-105;

(c) supervising adoption placements until the adoption is finalized by the court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

(3) “Child” means, except as provided in Part 7, Interstate Compact on Placement of Children, a person under 18 years of age.

(4) “Child protection team” means a team consisting of:

(a) the caseworker assigned to the case;

(b) the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) the peace officer who removed the child from the home;

(e) a representative of the appropriate Children’s Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child’s circumstances;

(g) members of a child protection unit; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(5) “Child protection unit” means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:

(a) a law enforcement officer, as defined in Section 53-13-103; and

(b) a child advocate selected by the chief of police or a sheriff.

(6) (a) “Chronic abuse” means repeated or patterned abuse.

(b) “Chronic abuse” does not mean an isolated incident of abuse.

(7) (a) “Chronic neglect” means repeated or patterned neglect.

(b) “Chronic neglect” does not mean an isolated incident of neglect.

(8) “Consult” means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person’s response, if any, into consideration.

(9) “Consumer” means a person who receives services offered by the division in accordance with this chapter.

(10) “Custody,” with regard to the division, means the custody of a minor in the division as of the date of disposition.

(11) “Day-care services” means care of a child for a portion of the day which is less than 24 hours:

(a) in the child’s own home by a responsible person; or

(b) outside of the child’s home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

(12) “Dependent child” or “dependency” means a child, or the condition of a child, who is homeless or

without proper care through no fault of the child's parent, guardian, or custodian.

(13) "Director" means the director of the Division of Child and Family Services.

(14) "Division" means the Division of Child and Family Services.

(15) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services to:

(i) a person who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of a person described in Subsection ~~[(12)]~~ (15)(a)(i); and

(b) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

(16) "Harm" means the same as that term is defined in Section 78A-6-105.

(17) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.

(18) "Incest" means the same as that term is defined in Section 78A-6-105.

(19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:

(a) a child; or

(b) a person:

(i) who is at least 18 years of age and younger than 21 years of age; and

(ii) for whom the division has been specifically ordered by the juvenile court to provide services.

(22) "Molestation" means the same as that term is defined in Section 78A-6-105.

(23) "Mutual case" means a case that has been:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by the child protection unit established by the chief of police or sheriff, as applicable.

(24) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.

(25) "Neglect" means the same as that term is defined in Section 78A-6-105.

(26) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:

(a) the shelter hearing; or

(b) the child's return home.

(27) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.

(29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.

(30) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.

(31) "Sexual exploitation" means the same as that term is defined in Section 78A-6-105.

(32) "Shelter care" means the temporary care of a minor in a nonsecure facility.

(33) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

(34) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with a sibling of that child.

(35) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

- (e) Guam;
- (f) the Commonwealth of the Northern Mariana Islands; or
- (g) a territory or possession administered by the United States.

(36) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

(37) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(38) "Substance abuse" means the same as that term is defined in Section 78A-6-105.

(39) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.

(40) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor awaiting placement; and

(c) the licensing and supervision of a substitute care facility.

(41) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.

(42) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.

(43) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

(44) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

(45) "Unsupported" means a finding at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division worker did not conclude that the allegation was without merit.

(46) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

CHAPTER 260**S. B. 71**

Passed March 8, 2019
Approved March 25, 2019
Effective May 14, 2019

FOOD TRUCK AMENDMENTS

Chief Sponsor: Deidre M. Henderson
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends provisions regarding food truck licensing and political subdivision regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ focuses requirements and protections on food truck businesses rather than food truck operators;
- ▶ clarifies provisions regarding reciprocal business licenses and local health department permits;
- ▶ clarifies that a political subdivision may not enforce local regulations and ordinances that conflict with state law;
- ▶ imposes a limitation on reciprocal business license fees;
- ▶ prohibits a political subdivision from:
 - requiring a fee or permit for a food truck to operate on private property; or
 - requiring a food truck operator to provide the dates, times, and duration of food truck operation;
- ▶ allows a food truck to operate in a stationary manner at a temporary mass gathering for multiple dates without moving in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-56-102, as enacted by Laws of Utah 2017, Chapter 165
11-56-103, as last amended by Laws of Utah 2018, Chapter 172
11-56-104, as enacted by Laws of Utah 2017, Chapter 165
11-56-105, as enacted by Laws of Utah 2017, Chapter 165
11-56-106, as last amended by Laws of Utah 2018, Chapter 172

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-56-102 is amended to read:**11-56-102. Definitions.**

As used in this chapter:

(1) "Event permit" means a permit that a political subdivision issues to the organizer of a public food truck event located on public property.

(2) "Food cart" means a cart:

(a) that is not motorized; and

(b) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(3) (a) "Food truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.

(b) "Food truck" does not include a food cart or an ice cream truck.

(4) "Food truck business" means a person who operates a food truck or, under the same business, multiple food trucks.

[(4)] (5) "Food truck event" means an event where an individual has ordered or commissioned the operation of a food truck at a private or public gathering.

[(5)] (6) "Food truck operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the [operation of a] food truck business.

[(6)] (7) "Food truck vendor" means a person who sells, cooks, or serves food or beverages from a food truck.

[(7)] (8) "Health department food truck permit" means a document that a local health department issues to authorize a person to operate a food truck within the jurisdiction of the local health department.

[(8)] (9) "Ice cream truck" means a fully encased food service establishment:

(a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(b) from which a vendor, from within the frame of the vehicle, serves ice cream;

(c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(d) that may stop to serve ice cream at the signal of a patron.

[(9)] (10) "Local health department" means the same as that term is defined in Section 26A-1-102.

[(10)] (11) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

~~[(11)]~~ (12) (a) “Temporary mass gathering” means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event’s nature or conditions have the potential of generating environmental or health risks.

(b) “Temporary mass gathering” does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection ~~[(11)(a)(ii)]~~ (12)(a)(i).

Section 2. Section 11-56-103 is amended to read:

11-56-103. Licensing -- Reciprocity -- Fees.

(1) A political subdivision may not:

(a) require a separate license, permit, or fee beyond the initial or reciprocal business license described in Subsection (2) and the fee ~~[for the operation of a]~~ described in Subsection (3) for a food truck business, regardless of whether a food truck operates in more than one location or on more than one day within the political subdivision in the same calendar year;

(b) require a fee for each employee the food truck ~~[operator]~~ business employs; or

(c) as a business license qualification, require a food truck business to, regarding a food truck operator or food truck vendor ~~[fe]~~:

(i) submit to or offer proof of a criminal background check; or

(ii) demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the ~~[operator or vendor]~~ business applies for the business license.

(2) (a) A political subdivision shall grant a business license to operate a food truck within the political subdivision to a food truck ~~[operator who]~~ business that has obtained a business license to operate a food truck in another political subdivision within the state if the food truck ~~[operator]~~ business presents to the political subdivision:

(i) a current business license from the other political subdivision within the state; and

(ii) for each food truck that the food truck business operates:

~~[(iii)]~~ (A) a current health department food truck permit from a local health department within the state; and

~~[(iii)]~~ (B) a current approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-56-104(4)(a).

(b) If a food truck ~~[operator]~~ business presents the documents described in Subsection (2)(a), the political subdivision may not:

(i) impose additional license qualification requirements on the food truck ~~[operator]~~ business before issuing a license to operate within the political subdivision, except for charging a fee in accordance with Subsection (3); or

(ii) issue a license that expires on a date earlier or later than the day on which the license described in Subsection (2)(a)(i) expires.

(c) Nothing in this Subsection (2) prevents a political subdivision from enforcing the political subdivision’s land use regulations, zoning, and other ordinances in relation to the operation of a food truck to the extent that the regulations and ordinances do not conflict with this chapter.

(3) (a) [A] For an initial business license, a political subdivision may only charge a licensing fee to a food truck ~~[operator]~~ business in an amount that reimburses the political subdivision for the actual cost of ~~[regulating the food truck]~~ processing the business license.

(b) For a reciprocal business license that a political subdivision issues in accordance with Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to an amount that accounts for the actual administrative burden on the political subdivision for processing the reciprocal license.

(4) Nothing in this section prevents a political subdivision from:

(a) requiring a food truck ~~[operator]~~ business to comply with local zoning and land use regulations to the extent that the regulations do not conflict with this chapter;

(b) promulgating local ordinances and regulations consistent with this section that address how and where a food truck may operate within the political subdivision;

(c) requiring a food truck ~~[operator]~~ business to obtain an event permit, in accordance with Section 11-56-105; or

(d) revoking a license that the political subdivision has issued if the operation of the related food truck within the political subdivision violates the terms of the license.

Section 3. Section 11-56-104 is amended to read:

11-56-104. Safety and health inspections and permits -- Reciprocity -- Fees.

(1) A food truck ~~[operator]~~ business shall obtain, for each food truck that the business operates, an annual health department food truck permit from the local health department with jurisdiction over the area in which the majority of the food truck’s operations takes place.

(2) (a) A local health department shall grant a health department food truck permit to operate a food truck within the jurisdiction of the local health

department to a food truck ~~[operator who]~~ business that has obtained the health department food truck permit described in Subsection (1) from another local health department within the state if the food truck ~~[operator]~~ business presents to the local health department the current health department food truck permit from the other local health department.

(b) If a food truck ~~[operator]~~ business presents the health department food truck permit described in Subsection (1), the local health department may not:

(i) impose additional permit qualification requirements on the food truck ~~[operator]~~ business before issuing a health department food truck permit to operate within the jurisdiction of the local health department, except for charging a fee in accordance with Subsection (3); or

(ii) issue a health department food truck permit that expires on a date earlier or later than the day on which the permit described in Subsection (1) expires.

(3) (a) A local health department may only charge a health department food truck permit fee to a food truck ~~[operator]~~ business in an amount that reimburses the local health department for the cost of regulating the food truck.

(b) For a health department food truck permit that a local health department issues in accordance with Subsection (2), the local health department shall reduce the amount of the food truck permit fee to an amount that accounts for the lower administrative burden on the local health department.

(4) (a) A political subdivision inspecting a food truck for fire safety shall conduct the inspection based on the criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.

(b) (i) A political subdivision shall consider valid within the political subdivision's jurisdiction an approval from another political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted.

(ii) A political subdivision may not require that a food truck pass a fire safety inspection in a given calendar year if the food truck ~~[operator]~~ business presents to the political subdivision an approval described in Subsection (4)(b)(i) issued during the same calendar year.

(5) (a) Nothing in this section prevents a local health department from:

(i) requiring a food truck ~~[operator]~~ business to obtain an event permit, in accordance with Section 11-56-105; or

(ii) revoking a health department food truck permit that the local health department has issued if the operation of the related food truck within the jurisdiction of the local health department violates the terms of the permit.

(b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval described in Subsection (4)(b)(i) if the operation of the related food truck within the political subdivision fails to meet the criteria described in Subsection (4)(a).

Section 4. Section 11-56-105 is amended to read:

11-56-105. Food truck events.

(1) Subject to Subsection (4), a political subdivision may not require a food truck ~~[operator to]~~ business to pay any fee or obtain from the political subdivision ~~[an event]~~ any permit to operate a food truck at a food truck event that takes place on private property within the political subdivision, regardless of whether the event is open or closed to the public.

(2) If the food truck ~~[operator]~~ business has a business license from any political subdivision within the state, a political subdivision may not require a food truck ~~[operator to]~~ business to pay any fee or obtain from the political subdivision an additional business license or permit to operate a food truck at a food truck event that:

(a) takes place on private property within the political subdivision; and

(b) is not open to the public.

(3) If a political subdivision requires an event permit for a food truck event, the organizer of the food truck event may obtain the event permit on behalf of the food trucks that service the event.

(4) (a) Nothing in this section prohibits a county health department from requiring a permit for a temporary mass gathering.

(b) (i) A food truck operating at a temporary mass gathering that occurs over multiple days may operate in a stationary manner for the duration of the temporary mass gathering, not to exceed five consecutive days, without moving or changing location if the food truck maintains sanitary conditions and operates in compliance with the permitting requirements and regulations imposed on other food vendors at the temporary mass gathering.

(ii) A county health department may not impose a requirement on a food truck described in Subsection (4)(b)(i) that the county health department does not impose on other food vendors operating at the temporary mass gathering.

Section 5. Section 11-56-106 is amended to read:

11-56-106. Food truck operation.

A political subdivision may not:

(1) entirely or constructively prohibit food trucks in a zone in which a food establishment is a permitted or conditional use;

(2) prohibit the operation of a food truck within a given distance of a restaurant;

(3) restrict the total number of days a food truck ~~[operator]~~ business may operate a food truck within the political subdivision during a calendar year;

-
- (4) require a food truck [~~operator~~] business to:
- (a) provide to the political subdivision:
- (i) a site plan for each location in which [~~the~~] a food truck operates in the public right of way, if the political subdivision permits food truck operation in the public right of way; or
- (ii) the date, time, or duration that a food truck will operate within the political subdivision; or
- (b) obtain and pay for a land use permit for each location and time during which [~~the~~] a food truck operates; or
- (5) if a food truck [~~operator~~] business has the consent of a private property owner to operate [~~the~~] a food truck on the private property:
- (a) limit the number of days the food truck may operate on the private property;
- (b) require that the food truck operator provide to the political subdivision or keep on file in the food truck the private property owner's written consent; or
- (c) require a site plan for the operation of the food truck on the private property where the food truck operates in the same location for less than 10 hours per week.
-

CHAPTER 261**S. B. 73**

Passed February 27, 2019

Approved March 25, 2019

Effective May 14, 2019

**AMENDMENTS TO MARTHA HUGHES
CANNON OVERSIGHT COMMITTEE**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Karen Kwan

LONG TITLE**General Description:**

This bill addresses ownership of the statue of Martha Hughes Cannon.

Highlighted Provisions:

This bill:

- ▶ clarifies that the statue of Martha Hughes Cannon, along with funds donated for its creation, maintenance, and transportation, belong to the State of Utah.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

36-31-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-31-105 is enacted to read:**36-31-105. Martha Hughes Cannon Capitol Statue ownership.**

The statue of Martha Hughes Cannon, along with all funds donated for its creation, maintenance, and transportation, belong to Utah. The state is entitled to transfer the statue to the United States Capitol for purposes of display in the National Statuary Hall.

CHAPTER 262**S. B. 74**

Passed March 1, 2019
 Approved March 25, 2019
 Effective May 14, 2019

AIR AMBULANCE REVISIONS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill amends provisions relating to the Air Ambulance Committee.

Highlighted Provisions:

This bill:

- ▶ amends membership and reporting requirements for the Air Ambulance Committee;
- ▶ requires an emergency medical service provider and health care facility to provide information about air ambulance charges to certain patients; and
- ▶ reauthorizes the Air Ambulance Committee for five years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8a-107, as enacted by Laws of Utah 2017, Chapter 419
 63I-2-226, as last amended by Laws of Utah 2018, Chapters 38 and 281

ENACTS:

26-8a-602, Utah Code Annotated 1953
 26-21-32, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-107 is amended to read:**26-8a-107. Air Ambulance Committee -- Membership -- Duties.**

(1) The Air Ambulance Committee created by Section 26-1-7 shall be composed of the following members:

(a) the state emergency medical services medical director;

(b) one physician who:

(i) is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) actively provides trauma or emergency care at a Utah hospital; and

(iii) has experience and is actively involved in state and national air medical transport issues;

(c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;

(d) one registered nurse who:

(i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(ii) currently works as a flight nurse for an air medical transport provider in the state of Utah;

(e) one paramedic who:

(i) is licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act; and

(ii) currently works for an air medical transport provider in the state of Utah; and

(f) ~~one member~~ two members, each from a different for-profit air medical transport company operating in the state of Utah.

(2) The state emergency medical services medical director shall appoint the physician member under Subsection (1)(b), and the physician shall serve as the chair of the Air Ambulance Committee.

(3) The chair of the Air Ambulance Committee shall:

(a) appoint the Air Ambulance Committee members under Subsections (1)(c) through (f);

(b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and

(c) set the agenda for Air Ambulance Committee meetings.

(4) (a) Except as provided in Subsection (4)(b), members shall be appointed to a two-year term.

(b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.

(5) (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the Air Ambulance Committee.

(6) The Air Ambulance Committee shall, before November 30, [2017] 2019, and before November 30 of every odd-numbered year thereafter, provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards and requirements related to:

(a) air medical transport provider licensure and accreditation;

(b) air medical transport medical personnel qualifications and training; and

(c) other standards and requirements to ensure patients receive appropriate and high-quality medical attention and care by air medical transport providers operating in the state of Utah.

(7) (a) The committee shall prepare an annual report, using any data available to the department and in consultation with the Insurance Department, that includes the following information for each air medical transport provider that operates in the state:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available to the committee, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer.

(b) When calculating the average charge under Subsection (7)(a)(ii), the committee shall distinguish between:

(i) a rotary wing provider and a fixed wing provider; and

(ii) any other differences between air medical transport service providers that may substantially affect the cost of the air medical transport service, as determined by the committee.

(c) The department shall:

(i) post the committee's findings under Subsection (7)(a) on the department's website; and

(ii) send the committee's findings under Subsection (7)(a) to each emergency medical service provider, health care facility, and other entity that has regular contact with patients in need of air medical transport provider services.

[7] (8) An Air Ambulance Committee member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the committee.

[8] (9) The Office of the Attorney General shall provide staff support to the Air Ambulance Committee.

[9] (10) The Air Ambulance Committee shall report to the Health and Human Services Interim Committee before November 30, [2018] 2023, regarding the sunset of this section in accordance with Section 63I-2-226.

Section 2. Section 26-8a-602 is enacted to read:

26-8a-602. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, an emergency medical service provider shall:

(a) provide the patient or the patient's representative with the information described in

Subsection 26-8a-107(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 3. Section 26-21-32 is enacted to read:

26-21-32. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, a health care facility shall:

(a) provide the patient or the patient's representative with the information described in Subsection 26-8a-107(7)(a) before contacting an air medical transport provider; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative with an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 4. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Title 26.

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

~~(2) Subsection 26-7-9(5) is repealed January 1, 2019.~~

[3] (2) Section 26-8a-107 is repealed July 1, [2019] 2024.

[4] (3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[5] (4) Subsection 26-18-2.3(5) is repealed January 1, 2020.

[6] (5) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

~~[(7)]~~ Subsection 26-18-408(6) is repealed January 2, 2019.]

~~[(8)]~~ (6) Subsection 26-18-410(5) is repealed January 1, 2026.

~~[(9)]~~ (7) Subsection 26-18-411(5) is repealed January 1, 2023.

~~[(10)]~~ (8) Subsection 26-18-604(2) is repealed January 1, 2020.

~~[(11)]~~ (9) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

~~[(12)]~~ (10) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

~~[(13)]~~ (11) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.

~~[(14)]~~ (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

~~[(15)]~~ (13) Subsection 26-50-202(7)(b) is repealed January 1, 2020.

~~[(16)]~~ (14) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.

~~[(17)]~~ (15) Subsection 26-55-107(8) is repealed January 1, 2021.

~~[(18)]~~ (16) Subsection 26-56-103(9)(d) is repealed January 1, 2020.

~~[(19)]~~ (17) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.

~~[(20)]~~ (18) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

~~[(21)]~~ (19) Subsection 26-61-202(5) is repealed January 1, 2022.

CHAPTER 263**S. B. 75**

Passed February 20, 2019

Approved March 25, 2019

Effective May 14, 2019

DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies provisions relating to a domestic violence protective order.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to dismissal and expiration of a domestic violence protective order; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-7-115, as last amended by Laws of Utah 2018, Chapter 255

78B-7-115.5, as enacted by Laws of Utah 2018, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-115 is amended to read:**78B-7-115. Dismissal of protective order -- Expiration.**

(1) (a) Except as provided in Subsections (6) and (8), a protective order that has been in effect for at least two years may be dismissed if the court determines that the petitioner no longer has a reasonable fear of future harm ~~[or]~~, abuse, or domestic violence.

(b) In determining whether the petitioner no longer has a reasonable fear of future harm ~~[or]~~, abuse, or domestic violence, the court shall consider the following factors:

~~(a)~~ (i) whether the respondent ~~[has complied]~~ is compliant with treatment recommendations related to domestic violence, entered at the time the protective order was entered;

~~(b)~~ (ii) whether the protective order was violated during the time ~~[it]~~ the protective order was in force;

~~(c)~~ (iii) claims of harassment, abuse, or violence by either party during the time the protective order was in force;

~~(d)~~ (iv) counseling or therapy undertaken by either party;

~~(e)~~ (v) impact on the well-being of any minor children of the parties, if relevant; and

~~(f)~~ (vi) any other factors the court considers relevant to the case before ~~[it]~~ the court.

(2) Except as provided in Subsections (6) and (8), the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if ~~[it]~~ the court finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order;

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent; and

(d) the respondent has not been convicted of a protective order violation or any crime of violence subsequent to the issuance of the protective order, and there are no unresolved charges involving violent conduct still on file with the court.

(3) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate ~~[either]~~ the other party.

(4) Notice of a motion to dismiss a protective order shall be made by personal service on the petitioner in a protective order action as provided in Rules 4 and 5, Utah Rules of Civil Procedure.

(5) Except as provided in Subsection (8), if a divorce proceeding is pending between parties to a protective order action, the protective order shall be dismissed when the court issues a decree of divorce for the parties if:

(a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and

(b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or

(ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm ~~[or]~~, abuse, or domestic violence after considering the factors listed in ~~[Subsections (1)(a) through (f)]~~ Subsection (1).

(6) (a) Notwithstanding Subsection (1) or (2) and subject to Subsection (8), a protective order that ~~[has been]~~ is entered under this chapter concerning a petitioner and a respondent who are divorced shall automatically expire, subject to Subsection (6)(b), 10 years ~~[from]~~ after the day on which the protective order is entered.

(b) The protective order shall automatically expire, as described in Subsection (6)(a), unless the petitioner files a motion before expiration of the protective order and demonstrates that:

(i) the petitioner has a reasonable fear of future harm ~~[or]~~, abuse, or domestic violence, as described in Subsection (1); or

(ii) the respondent ~~[has been]~~ committed or was convicted of a protective order violation or ~~[any crime of domestic violence]~~ a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the protective order.

(c) (i) If the court grants the motion under Subsection (6)(b), the court shall set a new date on which the protective order expires.

(ii) The protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (6)(b) to extend the protective order.

(7) When the court dismisses a protective order, the court shall immediately:

(a) issue an order of dismissal to be filed in the protective order action; and

(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

(8) Notwithstanding the other provisions of this section, a continuous protective order may not be modified or dismissed except as provided in Subsection 77-36-5.1(6).

Section 2. Section 78B-7-115.5 is amended to read:

78B-7-115.5. Expiration of protective order.

(1) Subject to the other provisions of this section, a civil protective order issued under this part automatically expires 10 years ~~[from]~~ after the day on which the protective order is entered.

(2) The protective order automatically expires as described in Subsection (1), unless the petitioner files a motion before ~~[expiration of the]~~ the day on which the protective order expires and demonstrates that:

(a) the petitioner has a current reasonable fear of future harm ~~[or]~~, abuse, or domestic violence, as described in Subsection 78B-7-115(1); or

(b) the respondent ~~[has been]~~ committed or was convicted of a protective order violation or ~~[any crime of domestic violence]~~ a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the protective order.

(3) (a) If the court grants the motion under Subsection (2), the court shall set a new date on which the protective order expires.

(b) The protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the protective order.

CHAPTER 264**S. B. 78**

Passed February 28, 2019

Approved March 25, 2019

Effective May 14, 2019

INTESTATE SUCCESSION AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill modifies intestate succession amendments.

Highlighted Provisions:

This bill:

- ▶ clarifies no taker provision;
- ▶ addresses minerals or mineral proceeds when there is no taker; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

75-2-105, as repealed and reenacted by Laws of Utah 1998, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-2-105 is amended to read:**75-2-105. No taker -- Minerals and mineral proceeds.**

(1) As used in this section:

(a) "Mineral" means the same as that term is defined in Section 67-4a-102.

(b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.

(c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or 40-10-3, and includes any other person holding mineral proceeds of an owner.

(d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or 40-8-4.

(e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a person who undertakes or has a legal obligation to distribute any mineral proceeds.

(2) If there is no taker under ~~the provisions of~~ this chapter, the intestate estate passes upon the decedent's death to the state for the benefit of the permanent state school fund.

(3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the Utah School and Institutional Trust Lands Administration shall administer the interests in

the minerals or mineral proceeds for the support of the common schools pursuant to Sections 53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration.

(4) If a probate or other proceeding has not adjudicated the state's rights under Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an action in district court in any district in which part of the property related to the minerals or mineral proceeds is located to quiet title the minerals, mineral proceeds, or property.

(5) In an action brought under Subsection (4), the district court shall quiet title to the minerals, mineral proceeds, or property in the state if:

(a) no interested person appears in the action and demonstrates entitlement to the minerals, mineral proceeds, or property after notice has been given pursuant to Section 78B-6-1303 and in the manner described in Section 75-1-401; and

(b) the requirements of Section 78B-6-1315 are met.

(6) (a) If an operator, owner, or payor determines that minerals or mineral proceeds form part of a decedent's intestate estate, and has not located an heir of the decedent, the operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands Administration the information in the operator's, owner's, or payor's possession concerning the identity of the decedent, the results of a good faith search for heirs specified in Section 75-2-103, the property interest from which the minerals or mineral proceeds derive, and any potential heir.

(b) The operator, owner, or payor shall submit the information described in Subsection (6)(a) within 180 days of acquiring the information.

CHAPTER 265**S. B. 85**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**SECURE TRANSPORT
 DESIGNATION AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill adds a designation category for nonemergency secured behavioral health transport providers and vehicles.

Highlighted Provisions:

This bill:

- ▶ adds a designation category for nonemergency secure behavioral health transport providers and vehicles;
- ▶ prohibits the state Medicaid program from reimbursing a nonemergency secured behavioral health transport provider; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 26-8a-102, as last amended by Laws of Utah 2017, Chapter 326
 26-8a-105, as last amended by Laws of Utah 2017, Chapter 326
 26-8a-301, as last amended by Laws of Utah 2017, Chapter 326
 26-8a-303, as enacted by Laws of Utah 1999, Chapter 141
 26-8a-304, as last amended by Laws of Utah 2013, Chapter 350
 26-8a-405.4, as enacted by Laws of Utah 2010, Chapter 187

ENACTS:

26-18-25, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-102 is amended to read:**26-8a-102. Definitions.**

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(5) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(6) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or his designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(7) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services to a patient and is required to be licensed under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, and other categories established by the committee.

(8) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under [Section] Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(9) “Emergency medical services” means medical services, transportation services, or both rendered to a patient.

(10) “Emergency medical service vehicle” means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(11) “Governing body”:

(a) is as defined in Section 11-42-102; and

(b) for purposes of a “special service district” under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district’s legislative body or administrative control board.

(12) “Interested party” means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(13) “Medical control” means a person who provides medical supervision to an emergency medical service provider.

(14) “Non-911 service” means transport of a patient that is not 911 transport under Subsection (1).

(15) “Nonemergency secured behavioral health transport” means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

~~[(15)]~~ (16) “Paramedic provider” means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

~~[(16)]~~ (17) “Patient” means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

~~[(17)]~~ (18) “Political subdivision” means:

(a) a city or town located in a county of the first or second class as defined in Section 17-50-501;

(b) a county of the first or second class;

(c) the following districts located in a county of the first or second class:

(i) a special service district created under Title 17D, Chapter 1, Special Service District Act; or

(ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

(e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

(f) a special service district for fire protection service under Subsection 17D-1-201(9).

~~[(18)]~~ (19) “Trauma” means an injury requiring immediate medical or surgical intervention.

~~[(19)]~~ (20) “Trauma system” means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

~~[(20)]~~ (21) “Triage” means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

~~[(21)]~~ (22) “Triage, treatment, transportation, and transfer guidelines” means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 2. Section 26-8a-105 is amended to read:

26-8a-105. Department powers.

The department shall:

(1) coordinate the emergency medical services within the state;

(2) administer this chapter and the rules established pursuant to it;

(3) establish a voluntary task force representing a diversity of emergency medical service providers to advise the department and the committee on rules;

(4) establish an emergency medical service personnel peer review board to advise the department concerning discipline of emergency medical service personnel under this chapter; and

(5) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) license ambulance providers and paramedic providers;

(b) permit ambulances ~~and~~, emergency medical response vehicles, and nonemergency secured behavioral health transport vehicles, including approving an emergency vehicle operator's course in accordance with Section 26-8a-304;

(c) establish:

(i) the qualifications for membership of the peer review board created by this section;

(ii) a process for placing restrictions on a license while an investigation is pending;

(iii) the process for the investigation and recommendation by the peer review board; and

(iv) the process for determining the status of a license while a peer review board investigation is pending;

(d) establish application, submission, and procedural requirements for licenses, designations, and permits; and

(e) establish and implement the programs, plans, and responsibilities as specified in other sections of this chapter.

Section 3. Section 26-8a-301 is amended to read:

26-8a-301. General requirement.

(1) Except as provided in Section 26-8a-308 or 26-8b-201:

(a) an individual may not provide emergency medical services without a license issued under Section 26-8a-302;

(b) a facility or provider may not hold itself out as a designated emergency medical service provider or nonemergency secured behavioral health transport provider without a designation issued under Section 26-8a-303;

(c) a vehicle may not operate as an ambulance ~~or~~, emergency response vehicle, or nonemergency secured behavioral health transport vehicle without a permit issued under Section 26-8a-304; and

(d) an entity may not respond as an ambulance or paramedic provider without the appropriate license issued under Part 4, Ambulance and Paramedic Providers.

(2) Section 26-8a-502 applies to violations of this section.

Section 4. Section 26-8a-303 is amended to read:

26-8a-303. Designation of emergency medical service providers and nonemergency secured behavioral health transport providers.

(1) To ensure quality emergency medical services, the committee shall establish designation requirements for:

(a) emergency medical service providers in the following categories:

~~(a)~~ (i) quick response provider;

~~(b)~~ (ii) resource hospital for emergency medical providers;

~~(c)~~ (iii) emergency medical service dispatch center;

~~(d)~~ (iv) emergency patient receiving facilities; and

~~(e)~~ (v) other types of emergency medical service providers as the committee considers necessary~~[-]~~; and

(b) nonemergency secured behavioral health transport providers.

(2) The department shall, based on the requirements in Subsection (1), issue designations to emergency medical service providers and nonemergency secured behavioral health transport providers listed in Subsection (1).

(3) As provided in Section 26-8a-502, an entity issued a designation under Subsection ~~(1)~~ (2) may only function and hold itself out in accordance with its designation.

Section 5. Section 26-8a-304 is amended to read:

26-8a-304. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1) (a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance; ~~and~~

- (ii) emergency medical response vehicle[-]; and
- (iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under ~~[this Subsection (4)]~~ Subsections (1)(a)(i) and (ii) shall include a requirement that beginning on or after January 31, 2014, every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the department for all ambulances and emergency medical response vehicle operators.

(2) The department shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 6. Section 26-8a-405.4 is amended to read:

26-8a-405.4. Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

(1) Notwithstanding Subsection 26-8a-102~~(17)~~(18), for purposes of this section, political subdivision includes:

- (a) a county of any class; and
- (b) a city or town located in a county of any class.

(2) (a) This section applies to a non-911 provider license under this chapter.

(b) The department shall, in accordance with Subsections (4) and (5):

- (i) receive a complaint about a non-911 provider;
- (ii) determine whether the complaint has merit;
- (iii) issue a finding of:

- (A) a meritorious complaint; or
- (B) a non-meritorious complaint; and

(iv) forward a finding of a meritorious complaint to the governing body of the political subdivision:

- (A) in which the non-911 provider is licensed; or
- (B) that provides the non-911 services, if different from Subsection (2)(b)(iv)(A).

(3) (a) A political subdivision that receives a finding of a meritorious complaint from the department:

(i) shall take corrective action that the political subdivision determines is appropriate; and

(ii) shall, if the political subdivision determines corrective action will not resolve the complaint or is not appropriate:

(A) issue a request for proposal for non-911 service in the geographic service area if the political subdivision will not respond to the request for proposal; or

(B) (I) make a finding that a request for proposal for non-911 services is appropriate and the political subdivision intends to respond to a request for proposal; and

(II) submit the political subdivision's findings to the department with a request that the department issue a request for proposal in accordance with Section 26-8a-405.5.

(b) (i) If Subsection (3)(a)(ii)(A) applies, the political subdivision shall issue the request for proposal in accordance with Sections 26-8a-405.1 through 26-8a-405.3.

(ii) If Subsection (3)(a)(ii)(B) applies, the department shall issue a request for proposal for non-911 services in accordance with Section 26-8a-405.5.

(4) The department shall make a determination under Subsection (2)(b) if:

(a) the department receives a written complaint from any of the following in the geographic service area:

- (i) a hospital;
- (ii) a health care facility;
- (iii) a political subdivision; or
- (iv) an individual; and

(b) the department determines, in accordance with Subsection (2)(b), that the complaint has merit.

(5) (a) If the department receives a complaint under Subsection (2)(b), the department shall request a written response from the non-911 provider concerning the complaint.

(b) The department shall make a determination under Subsection (2)(b) based on:

- (i) the written response from the non-911 provider; and
- (ii) other information that the department may have concerning the quality of service of the non-911 provider.

(c) (i) The department's determination under Subsection (2)(b) is not subject to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection (2)(b).

Section 7. Section 26-18-25 is enacted to read:

26-18-25. Reimbursement for nonemergency secured behavioral health transport providers.

The department may not reimburse a nonemergency secured behavioral health transport provider that is designated under Section 26-8a-303.

CHAPTER 266**S. B. 89**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

CONFLICT DISCLOSURE AMENDMENTS

Chief Sponsor: Jani Iwamoto
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions relating to disclosures of potential conflicts of interests by state elected officials.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the lieutenant governor to establish a website for electronic disclosure of potential conflicts of interest by state elected officials;
- ▶ after a specified date, requires all potential conflict of interest disclosures by state elected officials to be made via the website;
- ▶ modifies deadlines for the reporting of potential conflicts of interest by state elected officials;
- ▶ redesignates "financial disclosures" as "conflict of interest disclosures";
- ▶ describes the minimum time period during which a conflict of interest disclosure will be available on the website; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 20A-9-201, as last amended by Laws of Utah 2018, Chapter 11
 20A-11-1601, as last amended by Laws of Utah 2014, Chapter 18
 20A-11-1602, as last amended by Laws of Utah 2018, Chapter 19
 20A-11-1603, as last amended by Laws of Utah 2018, Chapter 19
 20A-11-1604, as renumbered and amended by Laws of Utah 2014, Chapter 18
 20A-11-1605, as enacted by Laws of Utah 2014, Chapter 18
 20A-11-1606, as enacted by Laws of Utah 2014, Chapter 335

ENACTS:

- 20A-11-1602.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form

requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and
- (c) if seeking a registered political party's nomination as a candidate for elective office, state:
 - (i) the registered political party of which the individual is a member; or
 - (ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

- (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;
- (ii) appear on the ballot as the candidate of more than one political party; or
- (iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

- (i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and
- (ii) require the individual to state whether the individual meets those requirements.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

- (i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also ~~[files the financial]~~ makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the ~~[financial]~~ conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to

the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

“State of Utah, County of ____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month \day \year).

Notary Public (or other officer qualified to administer oath).”; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \day \year)

(signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

“Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this

Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) A designated agent described in Subsection (9)(a)(i) may not sign the form described in Subsection (9)(a)(i)(A).

(10) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(11) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 2. Section 20A-11-1601 is amended to read:

Part 16. Conflict of Interest Disclosures

20A-11-1601. Title.

This part is known as ~~["Financial Disclosures."]~~ "Conflict of Interest Disclosures."

Section 3. Section 20A-11-1602 is amended to read:

20A-11-1602. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Conflict of interest disclosure" means:

(a) before January 1, 2020, a conflict of interest disclosure form that includes all information required under Section 20A-11-1604; and

(b) on or after January 1, 2020, a disclosure, on the website, of all information required under Section 20A-11-1604.

~~(2)~~ (3) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

~~(3)~~ (4) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the county clerk in the county of the candidate's residence, for a state legislative office.

(4) (5) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

~~(5)~~ (6) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

~~(6)~~ (7) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

~~(7)~~ (8) "Preceding year" means the year immediately preceding the day on which the regulated officeholder ~~files a financial~~ makes a conflict of interest disclosure ~~form~~.

~~(8)~~ (9) "Regulated officeholder" means an individual who is required to ~~file a financial~~ make a conflict of interest disclosure ~~form~~ under the provisions of this part.

~~(9)~~ (10) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

(11) "Website" means the Candidate and Officeholder Conflict of Interest Disclosure Website described in Section 20A-11-1602.5.

Section 4. Section 20A-11-1602.5 is enacted to read:

20A-11-1602.5. Candidate and Officeholder Conflict of Interest Disclosure Website.

(1) The lieutenant governor shall, in cooperation with the county clerks, establish and administer a Candidate and Officeholder Conflict of Interest Disclosure Website.

(2) Beginning no later than January 1, 2020, the website shall:

(a) permit a candidate or officeholder to securely access the website for the purpose of:

(i) complying with the conflict of interest disclosure requirements described in this part; and

(ii) editing conflict of interest disclosures;

(b) contain a record of all conflict of interest disclosures and edits made by the candidate or officeholder for at least the preceding four years; and

(c) permit any person to view a conflict of interest disclosure made by a candidate or officeholder.

(3) No sooner than January 1, 2020, and before January 11, 2020, each individual who is required to make a conflict of interest disclosure under this part shall, regardless of whether the individual has already made a conflict of interest disclosure by a means other than the website, make a complete and updated conflict of interest disclosure on the website using the secure access described in Subsection (2)(a).

Section 5. Section 20A-11-1603 is amended to read:

20A-11-1603. Conflict of interest disclosure -- Required when filing for candidacy -- Public availability.

(1) [Candidates] Beginning on January 1, 2020, candidates seeking the following offices shall ~~file a financial disclosure with the filing officer~~ make a complete conflict of interest disclosure on the website at the time of filing a declaration of candidacy:

(a) state constitutional officer;

(b) state legislator; or

(c) State Board of Education member.

(2) A filing officer may not accept a declaration of candidacy for an office listed in Subsection (1) ~~unless the declaration of candidacy is accompanied by the financial disclosure required by this section~~ until the candidate makes a complete conflict of interest disclosure on the website.

(3) The ~~financial~~ conflict of interest disclosure ~~form~~ shall contain the same requirements and shall be in the same format as the ~~financial~~ conflict of interest disclosure ~~form~~ described in Section 20A-11-1604.

(4) ~~[The]~~ Until January 1, 2020, the filing officer shall:

(a) make each financial disclosure form that the filing officer receives available for public inspection at the filing officer's place of business; and

(b) if the filing officer is not the lieutenant governor, provide each financial disclosure form to the lieutenant governor within one business day after the day on which the candidate files the financial disclosure form.

(5) ~~[The]~~ Until January 1, 2020, the lieutenant governor shall make each financial disclosure form that the lieutenant governor receives available to the public:

(a) at the Office of the Lieutenant Governor; and

(b) on the Statewide Electronic Voter Information Website administered by the lieutenant governor.

(6) Beginning on January 1, 2020, the lieutenant governor shall make the complete conflict of interest disclosure made by each candidate available for public inspection on the website.

Section 6. Section 20A-11-1604 is amended to read:

20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

(1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest that is not stated ~~[on the financial disclosure form described in this section]~~ in the conflict of interest disclosure, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest that is not stated ~~[on the financial disclosure form described in this section]~~ in the conflict of interest disclosure, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest that is not stated ~~[on the financial disclosure form described in this section]~~ in the conflict of interest disclosure, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

(3) (a) [A] Until January 1, 2020, a state constitutional officer shall file a financial disclosure form:

(i) (A) on ~~the tenth day of~~ January ~~of~~ 10 each year, or the following business day if the due date falls on a weekend or holiday; ~~and~~ or

(B) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and

(ii) each time the state constitutional officer changes employment.

(b) Beginning on January 1, 2020, a state constitutional officer shall make a complete conflict of interest disclosure on the website:

(i) (A) no sooner than January 1 each year, and before January 11 each year; or

(B) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and

(ii) each time the state constitutional officer changes employment.

~~(b)~~ (c) [A] Until January 1, 2020, a legislator shall file a financial disclosure form:

(i) (A) on the first day of each general session of the Legislature; ~~and~~ or

(B) if the legislator takes office after the first day of the general session of the Legislature, within 10 days after the day on which the legislator takes office; and

(ii) each time the legislator changes employment.

(d) Beginning on January 1, 2020, a legislator shall make a complete conflict of interest disclosure on the website:

(i) (A) no sooner than January 1 each year, and before January 11 each year; or

(B) if the legislator takes office after January 10, within 10 days after the day on which the legislator takes office; and

(ii) each time the legislator changes employment.

~~(e)~~ (e) [A] Until January 1, 2020, a member of the State Board of Education shall file a financial disclosure form:

(i) (A) on ~~the tenth day of~~ January 10 of each year, or the following business day if the due date falls on a weekend or holiday; ~~and~~ or

(B) if the member takes office after January 10, within 10 days after the day on which the member takes office; and

(ii) each time the member changes employment.

(f) Beginning on January 1, 2020, a member of the State Board of Education shall make a complete conflict of interest disclosure on the website:

(i) (A) no sooner than January 1 each year, and before January 11 each year; or

(B) if the member takes office after January 10, within 10 days after the day on which the member takes office; and

(ii) each time the member changes employment.

(4) The ~~financial~~ conflict of interest disclosure ~~form~~ described in Subsection (3) shall include:

(a) the regulated officeholder's name;

(b) the name and address of each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year;

(c) for each employer described in Subsection (4)(b), a brief description of the employment, including the regulated officeholder's occupation and, as applicable, job title;

(d) for each entity in which the regulated officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the regulated officeholder's position in the entity;

(e) in accordance with Subsection (5)(b), for each individual from whom, or entity from which, the regulated officeholder has received \$5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

(f) for each entity in which the regulated officeholder holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

(g) for each entity not listed in Subsections (4)(d) through (f) in which the regulated officeholder currently serves, or served in the preceding year, on the board of directors or in any other type of paid leadership capacity:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of advisory position held by the regulated officeholder;

(h) at the option of the regulated officeholder, a description of any real property in which the regulated officeholder holds an ownership or other financial interest that the regulated officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the regulated officeholder in the property;

(i) the name of the regulated officeholder's spouse and any other adult residing in the regulated officeholder's household who is not related by blood or marriage, as applicable;

(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (4)(b);

(k) a brief description of the employment and occupation of each adult who:

(i) resides in the regulated officeholder's household; and

(ii) is not related to the regulated officeholder by blood or marriage;

(l) at the option of the regulated officeholder, a description of any other matter or interest that the regulated officeholder believes may constitute a conflict of interest;

(m) the date the form was completed;

(n) a statement that the regulated officeholder believes that the form is true and accurate to the best of the regulated officeholder's knowledge; and

(o) the signature of the regulated officeholder.

(5) (a) [The] Before January 1, 2020, the regulated officeholder shall file the financial disclosure form with:

(i) the secretary of the Senate, if the regulated officeholder is a member of the Senate;

(ii) the chief clerk of the House of Representatives, if the regulated officeholder is a member of the House of Representatives; or

(iii) the lieutenant governor, if the regulated officeholder is a regulated officeholder other than a regulated officeholder described in Subsection (5)(a)(i) or (ii).

(b) In making the disclosure described in Subsection (4)(e), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection (4)(e) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection (4)(e) in relation to the regulated officeholder's individual customers or clients.

(6) [The] Until January 1, 2020, the lieutenant governor, the secretary of the Senate, and the chief clerk of the House of Representatives shall ensure that blank [financial] conflict of interest disclosure forms are available on the Internet and at their offices.

(7) [An] Until January 1, 2020, an individual described in Subsection (6) who receives a [financial] conflict of interest disclosure form or an amendment to a [financial] conflict of interest disclosure form under this section shall make each version of the form, and each amendment to the form, available to the public for the period of time described in Subsection (8), in the following manner:

(a) on the Internet; and

(b) at the office where the form or the amendment to the form was filed.

(8) The period of time that an individual described in Subsection (7) shall make each version of a [financial] conflict of interest disclosure form and each amendment to a [financial] conflict of interest disclosure form available to the public is:

(a) two years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of two years or less; or

(b) four years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of more than two years.

(9) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.

(10) A regulated officeholder may amend a [financial] conflict of interest disclosure [form] described in this part at any time.

(11) A regulated officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

(12) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection (12)(a), the lieutenant governor shall impose a civil penalty of \$100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

Section 7. Section 20A-11-1605 is amended to read:

20A-11-1605. Failure to file -- Penalties.

(1) Within 30 days after the day on which a regulated officeholder is required to file a [financial] conflict of interest disclosure [form] under Subsection 20A-11-1604(3)(a)(i), (b)(i), [or] (c)(i), (d)(i), (e)(i), or (f)(i), the lieutenant governor shall review each filed [financial] conflict of interest disclosure [form] to ensure that:

(a) each regulated officeholder who is required to file a ~~financial~~ conflict of interest disclosure form has filed one; and

(b) each ~~financial~~ conflict of interest disclosure form contains the information required under Section 20A-11-1604.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a regulated officeholder has failed to timely file a ~~financial~~ conflict of interest disclosure form;

(b) a filed ~~financial~~ conflict of interest disclosure form does not comply with the requirements of Section 20A-11-1604; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 20A-11-1604, other than Subsection 20A-11-1604(1), and after receiving the complaint and giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, within five days after the day on which the lieutenant governor determines that a violation occurred, notify the regulated officeholder of the violation and direct the regulated officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a regulated officeholder to fail to file or amend a ~~financial~~ conflict of interest disclosure form within seven days after the day on which the regulated officeholder receives the notice described in Subsection (3).

(b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of \$100 against a regulated officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this part.

Section 8. Section 20A-11-1606 is amended to read:

20A-11-1606. Link to conflict of interest disclosure on Legislature's website.

The Legislature's website shall include, for each legislative officeholder, a link to the ~~financial reports maintained~~ conflict of interest disclosure on the lieutenant governor's website maintained by the lieutenant governor in relation to that legislative officeholder.

CHAPTER 267**S. B. 91**

Passed February 13, 2019

Approved March 25, 2019

Effective May 14, 2019

**ACCEPTANCE OF
COMPETENCY-BASED EDUCATION**Chief Sponsor: Ann Millner
House Sponsor: Jefferson Moss

any other penalty related to the student's previous attendance in the competency-based education program.

LONG TITLE**General Description:**

This bill amends provisions related to requirements on institutions of higher education regarding recognizing and accepting completion of competency-based education programs.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to requirements on institutions of higher education regarding recognizing and accepting completion of competency-based education programs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-5-507, as renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-507 is amended to read:**53F-5-507. Cooperation of institutions of higher education -- Transferring students not to be penalized.**

(1) An institution of higher education:

(a) shall, for purposes of admission, scholarships, and other financial aid consideration, recognize and accept on equal footing as a traditional high school diploma a high school diploma awarded to a student who successfully completes an educational program that uses, in whole or in part, competency-based education; and

(b) cooperate with an LEA:

(i) as applicable, to facilitate the advancement of a student who attends a competency-based education program; and

(ii) as requested, in the development of an LEA plan or program under this part.

(2) If a student attending an LEA that establishes competency-based education within the LEA transfers to another school within the LEA or to another LEA entirely that does not have a competency-based education program, the student may not be penalized by being required to repeat course work that the student has successfully completed, changing the student's grade, or receive

CHAPTER 268**S. B. 114**

Passed March 6, 2019
 Approved March 25, 2019
 Effective May 14, 2019

HUNTING AMENDMENTS

Chief Sponsor: David P. Hinkins
 House Sponsor: Carl R. Albrecht

LONG TITLE**General Description:**

This bill modifies provisions related to regulating hunting.

Highlighted Provisions:

This bill:

- ▶ addresses the Department of Agriculture and Food's regulation of aerial hunting, including granting rulemaking authority; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-23-106, as renumbered and amended by Laws of Utah 2017, Chapter 345

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-23-106 is amended to read:**4-23-106. Department to issue licenses and permits -- Department to issue aircraft use permits -- Aerial hunting.**

(1) The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956.

(2) ~~[(a)]~~ A ~~[state agency or]~~ private person may not use any aircraft for the prevention of damage without first obtaining a use permit from the department.

~~[(b) A state agency that contemplates the use of aircraft for the protection of agricultural crops, livestock, poultry, or wildlife shall file an application with the department for an aircraft use permit to enable the agency to issue licenses to personnel within the agency charged with the responsibility to protect such resources.]~~

~~[(c) A person who desires to use privately owned aircraft for the protection of land, water, crops, wildlife, or livestock may not engage in any such protective activity without first obtaining an aircraft permit from the department.]~~

~~[(d) Agencies and private persons that obtain aircraft use permits shall file such reports with the department as it deems necessary in the administration of its licensing authority.]~~

(3) The department may issue an annual permit for aerial hunting to a private person for the

protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if the person shows that the person or the person's designated pilot, along with the aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the requirements of the department set by rule.

(4) The department may predicate the issuance or retention of a permit for aerial hunting upon the permittee's full and prompt disclosure of information as the department may request for submission pursuant to rules made by the department.

(5) The department shall collect an annual fee, set in accordance with Section 63J-1-504, from a person who has an aircraft for which a permit is issued or renewed under this section.

(6) Aerial hunting activity under a permit issued by the department is restricted to:

(a) (i) private lands that are owned or managed by the permittee;

(ii) state grazing allotments where the permittee is permitted by the state or the State Institutional Trust Lands Administration to graze livestock; or

(iii) federal grazing allotments where the permittee is permitted by the United States Bureau of Land Management or United States Forest Service to graze livestock; and

(b) only during the time period:

(i) for purposes of Subsection (6)(a)(ii) or (iii), that under an active permit the permittee may graze or run livestock on the land; and

(ii) for which the land owner has provided written permission for the aerial hunting.

(7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

(8) The issuance of an aerial hunting permit or license under this section does not authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect protected wildlife, as defined in Section 23-13-2, unless also authorized by the Division of Wildlife Resources under Section 23-20-12.

CHAPTER 269**S. B. 116**

Passed February 28, 2019

Approved March 25, 2019

Effective May 14, 2019

**OFFICE OF STATE DEBT
COLLECTION REVISIONS**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Val K. Potter

LONG TITLE**General Description:**

This bill modifies the Administrative Services Code by amending provisions relating to the Office of State Debt Collection.

Highlighted Provisions:

This bill:

- ▶ amends certain procedures for the Office of State Debt Collection to issue an administrative garnishment order;
- ▶ amends the types of underlying debts that are eligible for an administrative garnishment order; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-3-507, as enacted by Laws of Utah 2013, Chapter 69

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-507 is amended to read:**63A-3-507. Administrative garnishment order.**

(1) If a judgment is entered against a debtor, the office may, subject to Subsection (2), issue an administrative garnishment order against the debtor's personal property ~~and~~, including wages, in the possession of a ~~third~~ party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued ~~in district~~ by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if the order is:

(a) ~~the order is:~~ signed by the director or the director's designee; and

~~(i) signed by the director or the director's designee; and~~

~~(ii) served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure; and~~

(b)~~(i)~~ the underlying debt is for:

~~(i) nonpayment of [restitution as defined in Section 77-38a-102] a criminal judgment accounts receivable as defined in Section 77-32a-101; or~~

~~(ii) [the underlying debt is for] nonpayment of [an] a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by [the Labor Commission, established in Section 34A-1-103, for wage claims] an agency of the state.~~

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment;

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property; and

(v) that the plaintiff has attached or will serve the garnishee fee established in Section 78A-2-216;

(b) identify the defendant, including:

(i) the defendant's name and address; and

(ii) if known:

(A) the last four digits of the defendant's Social Security number;

(B) the last four digits of the defendant's driver license; and

(C) the state in which the driver license was issued;

(c) include one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant, and, if so, the nature, location, and estimated value of the property;

(iii)(A) whether the garnishee knows of any property of the defendant in the possession or under the control of another; and

(B) the nature, location, and estimated value of the defendant's property in possession or under the control of another, and the name, address, and phone number of the person with possession or control;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against

the plaintiff or the defendant, a designation as to whom the claim relates, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which previously served writs of continuing garnishment were served, if any; and

(vii) any other relevant information the office may request, including the defendant's position, rate, and method of compensation, pay period, or computation of the amount of the defendant's disposable earnings;

(d) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(e) state where the garnishee may deliver property.

(5)(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (5)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount ordered by the court, including:

(i) the value of the property or the value of the judgment, whichever is less;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(6) A creditor who files a motion for an order to show cause under this section shall attach to the motion a statement that the creditor has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(8)(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (8)(a) discharges the debtor for the amount paid.

(9) A garnishee may deduct from the property any liquidated claim against the defendant.

(10)(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (10)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(11)(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the earlier of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (12);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (12) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(12) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(13) The administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

CHAPTER 270**S. B. 125**

Passed March 6, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**VEHICLE REGISTRATION
RECORDS AMENDMENTS**

Chief Sponsor: Todd Weiler
 House Sponsor: Melissa G. Ballard

LONG TITLE**General Description:**

This bill prohibits the Motor Vehicle Division from disclosing a protected record to an owner, a lessee, or an operator of a parking lot or structure.

Highlighted Provisions:

This bill:

- ▶ prohibits the Motor Vehicle Division from disclosing a protected record to an owner, a lessee, or an operator of a parking lot or structure; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-116, as last amended by Laws of Utah 2011, Chapter 243

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-116 is amended to read:**41-1a-116. Records -- Access to records -- Fees.**

(1) (a) All motor vehicle title and registration records of the division are protected unless the division determines based upon a written request by the subject of the record that the record is public.

(b) In addition to the provisions of this section, access to all division records is permitted for all purposes described in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) Access to public records is determined by Section 63G-2-201.

(b) A record designated as public under Subsection (1)(a) may be used for advertising or solicitation purposes.

(3) Access to protected records, except as provided in Subsection (4), is determined by Section 63G-2-202.

(4) (a) In addition to those persons granted access to protected records under Section 63G-2-202, the division shall disclose a protected record to a licensed private investigator, holding a valid agency or registrant license, with a legitimate business need, a person with a bona fide security interest, or the owner of a mobile home park subject

to Subsection (5), only upon receipt of a signed acknowledgment that the person receiving that protected record may not:

(i) resell or disclose information from that record to any other person except as permitted in the federal Driver's Privacy Protection Act of 1994; or

(ii) use information from that record for advertising or solicitation purposes.

(b) A legitimate business need under Subsection (4)(a) does not include the collection of a debt.

(5) The division may disclose the name or address, or both, of the lienholder or mobile home owner of record, or both of them, to the owner of a mobile home park, if all of the following conditions are met:

(a) a mobile home located within the mobile home park owner's park has been abandoned under Section 57-16-13 or the resident is in default under the resident's lease;

(b) the mobile home park owner has conducted a reasonable search, but is unable to determine the name or address, or both, of the lienholder or mobile home owner of record; and

(c) the mobile home park owner has submitted a written statement to the division explaining the mobile home park owner's efforts to determine the name or address, or both, of the lienholder or mobile home owner of record before the mobile home park owner contacted the division.

(6) The division may provide protected information to a statistic gathering entity under Subsection (4) only in summary form.

(7) A person allowed access to protected records under Subsection (4) may request motor vehicle title or registration information from the division regarding any person, entity, or motor vehicle by submitting a written application on a form provided by the division.

(8) The division may not disclose a protected record to an owner, a lessee, or an operator of a parking lot or structure.

~~[(8)]~~ (9) If a person regularly requests information for business purposes, the division may by rule allow the information requests to be made by telephone and fees as required under Subsection ~~[(9)]~~ (10) charged to a division billing account to facilitate division service. The rules shall require that the:

(a) division determine if the nature of the business and the volume of requests merit the dissemination of the information by telephone;

(b) division determine if the credit rating of the requesting party justifies providing a billing account; and

(c) requestor submit to the division an application that includes names and signatures of persons authorized to request information by telephone and charge the fees to the billing account.

~~[(9)]~~ (10) (a) The division shall charge a reasonable search fee determined under Section

63J-1-504 for the research of each record requested.

(b) Fees may not be charged for furnishing information to persons necessary for their compliance with this chapter.

(c) Law enforcement agencies have access to division records free of charge.

[~~(10)~~] (11) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the director of the unauthorized use.

CHAPTER 271**S. B. 131**

Passed March 6, 2019

Approved March 25, 2019

Effective May 14, 2019

IGNITION INTERLOCK AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill amends provisions related to the ignition interlock exemption for an individual whose offense for driving under the influence did not involve alcohol.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to ignition interlock devices for an individual whose offense for driving under the influence did not involve alcohol;
- ▶ provides a process for an individual to petition the Driver License Division for removal of an ignition interlock restriction if the individual's offense was based solely on substances other than alcohol; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-518.2, as last amended by Laws of Utah 2018, Chapter 41

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-518.2 is amended to read:**41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.**

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a driving under the influence violation under

Section 41-6a-502 that was committed on or after July 1, 2009;

(C) (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517; [or]

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol[-]; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

CHAPTER 272**S. B. 133**

Passed March 6, 2019

Approved March 25, 2019

Effective May 14, 2019

**OPPRESSIVE CONDUCT
IN A CLOSELY HELD CORPORATION**

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Steve Waldrip

LONG TITLE**General Description:**

This bill establishes a cause of action for oppressive conduct in a closely held corporation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a cause of action for oppressive conduct toward a shareholder of a closely held corporation; and
- ▶ establishes a remedy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

16-10a-1901, Utah Code Annotated 1953

16-10a-1902, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 16-10a-1901 is enacted to read:**Part 19. Oppressive Conduct in a Closely Held Corporation****16-10a-1901. Definition.**

As used in this part:

(1) “Oppressive conduct” means a continuing course of conduct, a significant action, or a series of actions that substantially interferes with the interests of a shareholder as a shareholder.

(2) “Oppressive conduct” may include:

- (a) termination of a shareholder’s employment; or
- (b) limitations on a shareholder’s employment benefits to the extent that the limitations interfere with distributions or other shareholder interests disproportionately as to the affected shareholder.

(3) “Oppressive conduct” does not include an action allowed by an agreement, the corporation’s articles of incorporation, the corporation’s bylaws, or a consistently applied written corporate policy or procedure.

Section 2. Section 16-10a-1902 is enacted to read:**16-10a-1902. Shareholder cause of action -- Relief.**

(1) A shareholder of a closely held corporation who is injured by oppressive conduct may bring a

private cause of action against the closely held corporation.

(2) (a) If a court finds that oppressive conduct toward the shareholder occurred, the court shall order one or more persons described in Subsection (2)(b) to purchase the injured shareholder’s shares in the closely held corporation at fair value.

(b) A court may order that any of the following purchase the shares of the shareholder as described in Subsection (2)(a):

- (i) the closely held corporation;
- (ii) an officer of the closely held corporation;
- (iii) a director of the closely held corporation; or
- (iv) a shareholder of the closely held corporation that is responsible for the oppressive conduct.

CHAPTER 273**S. B. 136**

Passed March 13, 2019
Approved March 25, 2019
Effective May 14, 2019

**SCHOLARSHIPS FOR
CAREER AND TECHNICAL EDUCATION**

Chief Sponsor: Keith Grover
House Sponsor: Derrin R. Owens

LONG TITLE**General Description:**

This bill creates a scholarship for individuals to pursue certificates at certain institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ creates a scholarship for individuals to enroll in career and technical education programs at certain institutions of higher education;
- ▶ enacts provisions related to a scholarship, including provisions related to:
 - eligibility for a scholarship;
 - the amount of a scholarship; and
 - the duration of a scholarship, including the circumstances under which an institution of higher education may cancel a scholarship; and
- ▶ requires the State Board of Regents to:
 - make rules; and
 - designate certain programs as high demand programs.

Monies Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Regents - Student Assistance - Career and Technical Education Scholarships, as an ongoing appropriation:
 - from the Education Fund, \$300,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-8-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-8-114 is enacted to read:

53B-8-114. Career and technical education scholarships.

(1) As used in this section:

(a) "Eligible institution" means:

(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;

(ii) Snow College;

(iii) Utah State University Eastern established in Section 53B-18-1201; or

(iv) the Utah State University area education center located at or near Moab described in Section 53B-18-301.

(b) "High demand program" means a noncredit career and technical education program that:

(i) is offered by an eligible institution;

(ii) leads to a certificate; and

(iii) is designated by the board in accordance with Subsection (6).

(c) "Scholarship" means a career and technical education scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board to be distributed to eligible institutions to award career and technical education scholarships.

(3) In accordance with the rules described in Subsection (5), an eligible institution may award a scholarship to an individual who is enrolled in, or intends to enroll in, a high demand program.

(4) (a) An eligible institution may award a scholarship for an amount of money up to the total cost of tuition, fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(b) An eligible institution may award a scholarship to a scholarship recipient for up to two academic years.

(c) An eligible institution may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the eligible institution on at least a half time basis, as determined by the eligible institution; or

(ii) make satisfactory progress toward the completion of a certificate.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) how state funding available for scholarships is divided among eligible institutions;

(b) requirements related to an eligible institution's administration of a scholarship;

(c) requirements related to eligibility for a scholarship, including requiring eligible institutions to prioritize scholarships for underserved populations;

(d) a process for an individual to apply to an eligible institution to receive a scholarship; and

(e) how to determine satisfactory progress described in Subsection (4)(c)(ii).

(6) Every other year, after consulting with the Department of Workforce Services, the board shall designate, as a high demand program, a noncredit career and technical education program that prepares an individual to work in a job that has, in Utah:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Regents - Student Assistance

<u>From Education Fund</u>	<u>\$300,000</u>
----------------------------	------------------

Schedule of Programs:

<u>Career and Technical Education</u>	
<u>Scholarships</u>	<u>\$300,000</u>

The Legislature intends that the appropriation provided under this item be used for career and technical education scholarships described in Section 53B-8-114.

CHAPTER 274**S. B. 145**

Passed March 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

LEGAL NOTICE REVISIONS

Chief Sponsor: Daniel McCay
 House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill amends legal notice publication requirements.

Highlighted Provisions:

This bill:

- ▶ defines average advertisement rate;
- ▶ permits a person to satisfy a part of legal notice publication requirements, in certain circumstances, by serving legal notice directly on all parties to whom legal notice is required;
- ▶ amends restrictions on newspapers in relation to legal notices; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

45-1-101, as last amended by Laws of Utah 2011, Chapter 422

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 45-1-101 is amended to read:**45-1-101. Legal notice publication requirements.**

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter[-]; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and 63F-1-701; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

(e) "Local district" is as defined in Section 17B-1-102.

(f) "Public legal notice website" means the website described in Subsection (2)(b) for the purpose of publishing a legal notice online.

(g) (i) "Qualifying advertising segment" means, except as provided in Subsection (1)(g)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(h) "Special service district" is as defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; [and] or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law [~~to be published~~] and one option for complying with the requirement is publication in a newspaper, or if a local district or a special service district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law [~~to be published~~], if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a local district or a special service district with an annual operating budget of less than \$250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of \$250,000 or more, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

(9) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of less than \$250,000, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the public legal notice website as described in Subsection (5); or

(c) publishing the legal notice on the public legal notice website as described in Subsection (6).

CHAPTER 275**S. B. 151**

Passed March 7, 2019

Approved March 25, 2019

Effective May 14, 2019

INITIATIVE PROCEDURE AMENDMENTS

Chief Sponsor: Deidre M. Henderson

House Sponsor: A. Cory Maloy

LONG TITLE**General Description:**

This bill amends procedures relating to a statewide initiative.

Highlighted Provisions:

This bill:

- ▶ requires an application for a statewide initiative petition to contain information relating to funding sources for the proposed law;
- ▶ modifies public hearing requirements relating to a statewide initiative;
- ▶ modifies ballot requirements and ballot title challenge provisions;
- ▶ provides that the Office of the Legislative Fiscal Analyst shall prepare the fiscal impact statement for an initiative;
- ▶ modifies the fiscal impact statement for an initiative; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

20A-7-202, as last amended by Laws of Utah 2017, Chapter 291

20A-7-202.5, as last amended by Laws of Utah 2017, Chapter 291

20A-7-203, as last amended by Laws of Utah 2017, Chapter 291

20A-7-204.1, as last amended by Laws of Utah 2017, Chapter 291

20A-7-208, as last amended by Laws of Utah 1999, Chapter 115

20A-7-209, as last amended by Laws of Utah 2017, Chapter 291

20A-7-210, as last amended by Laws of Utah 2009, Chapter 202

20A-7-214, as last amended by Laws of Utah 2018, Chapter 281

Utah Code Sections Affected by Coordination Clause:

20A-7-204.1, as last amended by Laws of Utah 2017, Chapter 291

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-202 is amended to read:

20A-7-202. Statewide initiative process -- Application procedures -- Time to gather signatures -- Grounds for rejection.

(1) Persons wishing to circulate an initiative petition shall file an application with the lieutenant governor.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors:

(i) is a resident of Utah; and

(ii) has voted in a regular general election in Utah within the last three years;

(c) the signature of each of the sponsors, attested to by a notary public;

(d) a copy of the proposed law that includes, in the following order:

(i) the title of the proposed law, ~~[which]~~ that clearly expresses the subject of the law; ~~[and]~~

(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and

~~[(ii)]~~ (iii) the text of the proposed law;

(e) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the petition may be paid for doing so.

(3) The application and ~~[its]~~ the application's contents are public when filed with the lieutenant governor.

(4) If the petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject the application or application addendum filed under Subsection 20A-7-204.1(5) and not issue circulation sheets if:

(a) the law proposed by the initiative is patently unconstitutional;

(b) the law proposed by the initiative is nonsensical;

(c) the proposed law could not become law if passed;

(d) the proposed law contains more than one subject as evaluated in accordance with Subsection (6);

(e) the subject of the proposed law is not clearly expressed in the law's title; or

(f) the law proposed by the initiative is identical or substantially similar to a law proposed by an initiative that was submitted to the county clerks and lieutenant governor for certification and evaluation within two years preceding the date on which the application for this initiative was filed.

(6) To evaluate whether the proposed law contains more than one subject under Subsection (5)(d), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 2. Section 20A-7-202.5 is amended to read:

20A-7-202.5. Initial fiscal impact estimate -- Preparation of estimate -- Challenge to estimate.

(1) Within three working days ~~[of receipt of]~~ after the day on which the lieutenant governor receives an application for an initiative petition, the lieutenant governor shall submit a copy of the application to the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst.

(2) (a) The ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith estimate of the fiscal impact of the law proposed by the initiative that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase taxes, the tax percentage difference and the tax percentage increase;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;

(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law; ~~and]~~

(vii) a concise explanation, not exceeding 100 words, of the above information and of the estimated fiscal impact, if any, under the proposed law[-]; and

(viii) a concise description and analysis titled "Funding Source," not to exceed 50 words, of the funding source information described in Subsection 20A-7-202(2)(d)(ii).

(b) (i) If the proposed law is estimated to have no fiscal impact, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"The ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would result in a total fiscal expense/savings of \$____, which includes a (type of tax or taxes) tax increase/decrease of \$____ and a \$____ increase/decrease in state debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to reasonably express in a summary statement, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(iv) If the proposed law imposes a tax increase, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact estimate in substantially the following form:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(3) The ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in:

(a) the voter information pamphlet as required by Title 20A, Chapter 7, Part 7, Voter Information Pamphlet; or

(b) the newspaper, as required by Section 20A-7-702.

(4) Within 25 calendar days ~~[from the date that]~~ after the day on which the lieutenant governor delivers a copy of the application, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall:

(a) deliver a copy of the initial fiscal impact estimate to the lieutenant governor's office; and

(b) mail a copy of the initial fiscal impact estimate to the first five sponsors named in the initiative application.

(5) (a) (i) Three or more of the sponsors of the petition may, within 20 calendar days [of] after the date of delivery of the initial fiscal impact estimate to the lieutenant governor's office, file a petition with the [~~Supreme Court~~] appropriate court, alleging that the initial fiscal impact estimate, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the [~~Supreme Court~~] court shall direct the lieutenant governor to send notice of the petition to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the initial fiscal impact estimate prepared by the [~~Governor's Office of Management and Budget~~] Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The [~~Supreme Court~~] court may not revise the contents of, or direct the revision of, the initial fiscal impact estimate unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal estimate, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The [~~Supreme Court~~] court may refer an issue related to the initial fiscal impact estimate to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The [~~Supreme Court~~] court shall certify to the lieutenant governor a fiscal impact estimate for the measure that meets the requirements of this section.

Section 3. Section 20A-7-203 is amended to read:

20A-7-203. Form of initiative petition and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable _____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/beginning on _____ (month\day\year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)"

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) be vertically divided into columns as follows:

(i) the first column shall appear at the extreme left of the sheet, be five-eighths inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle with the left subdivision entitled "Registered" and the right subdivision left untitled;

(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";

(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and

(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code";

(e) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(d), contain the following statement printed or typed in not less than eight-point type:

"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and

(f) at the bottom of the sheet, contain in the following order:

(i) the title of the initiative, in at least 14-point, bold type;

(ii) the initial fiscal impact estimate’s summary statement issued by the ~~[Governor’s Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(b), including any update in accordance with Subsection 20A-7-204.1~~(4)~~(5), and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-202.5(3), in not less than 12-point, bold type;

(iii) the word “Warning,” followed by the following statement in not less than eight-point type:

“It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual’s own name, or to knowingly sign the individual’s name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.”;

(iv) the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”; and

(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14-point, bold type, the following statement:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(3) The final page of each initiative packet shall contain the following printed or typed statement:

“Verification

State of Utah, County of _____

I, _____, of _____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual’s name on it in my presence;

I believe that each individual has printed and signed the individual’s name and written the individual’s post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

I have not paid or given anything of value to any person who signed this petition to encourage that person to sign it.

(Name) (Residence Address) (Date)”

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 4. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.

(1) (a) After issuance of the initial fiscal impact estimate by the ~~[Governor’s Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

- (i) one in the Bear River region -- Box Elder, Cache, or Rich County;
- (ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;
- (iii) one in the Mountain region -- Summit, Utah, or Wasatch County;
- (iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;
- (v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;
- (vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and
- (vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven ~~[meetings,]~~ public hearings, the sponsors of the initiative shall hold at least two of the ~~[meetings shall be held]~~ public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

- (i) one day after the day on which a sponsor receives a copy of the initial fiscal impact estimate under Subsection 20A-7-202.5(4)(b); or
- (ii) if three or more sponsors file a petition challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) At least three calendar days before the date of the public hearing, the sponsors shall:

- (a) provide written notice of the public hearing to:
 - (i) the lieutenant governor for posting on the state’s website; and

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing detailing its time, date, and location:

(i) in at least one newspaper of general circulation in each county in the region where the public hearing will be held; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701.

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

“This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.”

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(5) (a) Within 14 days after ~~conducting~~ the day on which the sponsors conduct the seventh public hearing ~~required by~~ described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days [of receipt of] after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the [Governor's Office of Management and Budget] Office of the Legislative Fiscal Analyst.

(ii) The [Governor's Office of Management and Budget] Office of the Legislative Fiscal Analyst shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

Section 5. Section 20A-7-208 is amended to read:

20A-7-208. Disposition of initiative petitions by the Legislature.

(1) (a) Except as provided in Subsection (1)(b), when the lieutenant governor delivers an initiative petition to the Legislature, the law proposed by that initiative petition shall be either enacted or rejected without change or amendment by the Legislature.

(b) The speaker of the House and the president of the Senate may direct legislative staff to ~~[-(4)]~~ make technical corrections authorized by Section 36-12-12 ~~[-and]~~.

~~[(ii) prepare a legislative review note and a legislative fiscal note on the law proposed by the initiative petition.]~~

(c) If any law proposed by an initiative petition is enacted by the Legislature, ~~it~~ the law is subject to referendum the same as other laws.

(2) If any law proposed by a petition is not enacted by the Legislature, that proposed law shall be submitted to a vote of the people at the next regular general election if:

(a) sufficient additional signatures to the petition are first obtained to bring the total number of signatures up to the number required by Subsection 20A-7-201(2); and

(b) those additional signatures are verified, certified by the county clerks, and declared sufficient by the lieutenant governor as provided in this part.

Section 6. Section 20A-7-209 is amended to read:

20A-7-209. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) ~~[By]~~ On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state initiative that has qualified for the ballot "Proposition Number ___" and give it a number as assigned under Section 20A-6-107;

(ii) prepare an impartial ballot title for each initiative summarizing the contents of the measure; and

(iii) return each petition and ballot title to the lieutenant governor by June 26.

(b) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and shall be not more than 100 words.

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the ballot title:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(d) For each state initiative, the official ballot shall show, in the following order:

(i) the number of the initiative as determined by the Office of Legislative Research and General Counsel;

(ii) the initial fiscal impact estimate prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1; and

~~[(ii)]~~ (iii) the ballot title as determined by the Office of Legislative Research and General Counsel; ~~and~~.

~~[(iii)]~~ the initial fiscal impact estimate prepared under Section 20A-7-202.5 or updated under Section 20A-7-204.1.]

(3) ~~[By]~~ On or before June 27, the lieutenant governor shall mail a copy of the ballot title to any sponsor of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, ~~[by]~~ on or before July 6, challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the ~~[Supreme Court]~~ appropriate court.

(ii) After receipt of the ~~[appeal, the Supreme Court]~~ challenge, the court shall direct the lieutenant governor to send notice of the ~~[appeal]~~ challenge to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(ii) The ~~[Supreme Court]~~ court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is patently false or biased.

(c) The ~~[Supreme Court]~~ court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) certify to the lieutenant governor a ballot title for the measure that meets the requirements of this section.

(d) The lieutenant governor shall certify the title verified by the ~~[Supreme Court]~~ court to the county clerks to be printed on the official ballot.

Section 7. Section 20A-7-210 is amended to read:

20A-7-210. Form of ballot -- Manner of voting.

(1) ~~[The county clerks]~~ A county clerk shall ensure that the ~~[number and ballot title verified to them by the lieutenant governor are]~~ information described in Subsection 20A-7-209(2)(d) is presented, in the order required, upon the official ballot with, immediately adjacent to ~~[them]~~ the information, the words "For" and "Against," each word presented with an adjacent square in which the ~~[elector]~~ voter may indicate ~~[his]~~ the voter's vote.

(2) ~~[Electors]~~ A voter desiring to vote in favor of enacting the law proposed by the initiative petition shall mark the square adjacent to the word "For," and ~~[those]~~ a voter desiring to vote against enacting the law proposed by the initiative petition shall mark the square adjacent to the word "Against."

Section 8. Section 20A-7-214 is amended to read:

20A-7-214. Fiscal review -- Repeal, amendment, or resubmission.

(1) No later than 60 days after the date of an election in which the voters approve an initiative petition, the ~~[Governor's Office of Management and Budget]~~ Office of the Legislative Fiscal Analyst shall:

(a) for each initiative approved by the voters, prepare a final fiscal impact statement, using current financial information and containing the information required by Subsection 20A-7-202.5(2); and

(b) deliver a copy of the final fiscal impact statement to:

(i) the president of the Senate;

(ii) the minority leader of the Senate;

(iii) the speaker of the House of Representatives;

(iv) the minority leader of the House of Representatives; and

(v) the first five sponsors listed on the initiative application.

(2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25% or more, the Legislature shall review the final fiscal impact statement and may, in any legislative session following the election in which the voters approved the initiative petition:

(a) repeal the law established by passage of the initiative;

(b) amend the law established by passage of the initiative; or

(c) pass a joint or concurrent resolution informing the voters that they may file an initiative petition to repeal the law enacted by the passage of the initiative.

Section 9. Coordinating S.B. 151 with S.B. 33 -- Substantive and technical amendments.

If this S.B. 151 and S.B. 33, Political Procedures Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 20A-7-204.1(5)(a) to read:

“(5) (a) ~~Within~~ Before 5 p.m. within 14 days after ~~conducting~~ the day on which the sponsors conduct the seventh public hearing ~~required by~~ described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.”.

CHAPTER 276**S. B. 158**

Passed March 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

OCCUPATIONAL AND PROFESSIONAL LICENSURE

Chief Sponsor: Wayne A. Harper
 House Sponsor: Norman K. Thurston

LONG TITLE**General Description:**

This bill modifies the Occupational and Professional Licensure Review Committee Act.

Highlighted Provisions:

This bill:

- ▶ defines “health or safety of the public”; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-23-101.5, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-23-101.5 is amended to read:**36-23-101.5. Definitions.**

As used in this chapter:

(1) “Committee” means the Occupational and Professional Licensure Review Committee created in Section 36-23-102.

(2) “Government requestor” means:

- (a) the governor;
- (b) an executive branch officer other than the governor;
- (c) an executive branch agency;
- (d) a legislator; or
- (e) a legislative committee.

(3) “Health or safety of the public” includes protecting against physical injury, property damage, or financial harm of the public.

~~[(3)]~~ (4) “Lawful occupation” means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not illegal to sell, irrespective of whether the individual selling the goods or services is subject to an occupational regulation.

~~[(4)]~~ (5) “License” or “licensing” means a state-granted authorization for a person to engage in a specified lawful occupation:

(a) based on the person meeting personal qualifications established under state law; and

(b) where state law requires the authorization before the person may lawfully engage in the occupation for compensation.

~~[(5)]~~ (6) “Newly regulate” means to create by statute or administrative rule a new license, certification, registration, or exemption classification regarding a lawful occupation.

~~[(6)]~~ (7) “Personal qualifications” are criteria established in state law related to a person’s background and may include:

- (a) completion of an approved education program;
- (b) satisfactory performance on an examination;
- (c) work experience; and
- (d) completion of continuing education.

~~[(7)]~~ (8) “Proposal” means:

(a) an application submitted under Section 36-23-105, with or without specific proposed statutory language;

(b) a request for review by a legislator of the possibility of newly regulating a lawful occupation, with or without specific proposed statutory language; or

(c) proposed legislation to newly regulate a lawful occupation referred to the committee by another legislative committee.

~~[(8)]~~ (9) “State certification” means a state-granted authorization given to a person to use the term “state certified” as part of a designated title related to engaging in a specified lawful occupation:

(a) based on the person meeting personal qualifications established under state law; and

(b) where state law prohibits a noncertified person from using the term “state certified” as part of a designated title, but does not otherwise prohibit a noncertified person from engaging in the lawful occupation for compensation.

~~[(9)]~~ (10) “State registration” means a state-granted authorization given to a person to use the term “state registered” as part of a designated title related to engaging in a specified lawful occupation:

(a) based on the person meeting requirements established under state law, which may include the person’s name and address, the person’s agent for service of process, the location of the activity to be performed, and bond or insurance requirements;

(b) where state law does not require the person to meet any personal qualifications; and

(c) where state law prohibits a nonregistered person from using the term “state registered” as part of a designated title.

~~[(10)]~~ (11) “Sunrise review” means a review under this chapter of a proposal to newly regulate a lawful occupation.

~~[(11)]~~ (12) "Sunset review" means a review under this chapter of a statute regarding a regulated lawful occupation that is scheduled for termination under Title 63I, Chapter 1, Part 2, Repeal Dates Requiring Committee Review by Title.

CHAPTER 277**S. B. 163**

Passed March 7, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**CANDIDATE FILING
 DISCLOSURE AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends the Government Records Access and Management Act to classify as protected a portion of certain records relating to a candidate for public office.

Highlighted Provisions:

This bill:

- ▶ classifies as a protected record the portion of certain records that contains a candidate's residential or mailing address, if the candidate provides another address or phone number where the candidate may be contacted.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-305, as last amended by Laws of Utah 2018, Chapters 81, 159, 285, 315, 316, 319, 352, 409, and 425

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent

that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property

have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other

appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation

before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

- (i) unpublished lecture notes;
- (ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing

address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

[452] (53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

[453] (54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

[454] (55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

[455] (56) records contained in the Management Information System created in Section 62A-4a-1003;

[456] (57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

[457] (58) information requested by and provided to the 911 Division under Section 63H-7a-302;

[458] (59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

[459] (60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or

evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

[460] (61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

[461] (62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

[462] (63) a record described in Section 63G-12-210;

[463] (64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

[464] (65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

[465] (66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(d); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

~~[(66)]~~ (67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist; and

~~[(67)]~~ (68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

~~[(68)]~~ (69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

~~[(69)]~~ (70) work papers as defined in Section 31A-2-204; and

~~[(70)]~~ (71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206.

CHAPTER 278**S. B. 184**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

CODE ENFORCEMENT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill requires local governments to provide certain due process in code enforcement.

Highlighted Provisions:

This bill:

- ▶ prohibits local governments from:
 - imposing nonjudicial penalties for certain code violations unless the local government provides certain written notice; and
 - collecting on an outstanding or pending penalty for certain code violations unless the local government imposed the penalty in relation to certain written notice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-703.7, as repealed and reenacted by Laws of Utah 2012, Chapter 175
 17-53-228, as enacted by Laws of Utah 2013, Chapter 133

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-703.7 is amended to read:**10-3-703.7. Administrative proceedings -- Penalty for code violation.**

(1) A municipality may adopt an ordinance establishing an administrative proceeding to review and decide a violation of a civil municipal ordinance.

(2) An ordinance adopted in accordance with Subsection (1) shall provide due process for parties participating in the administrative proceeding.

(3) (a) A municipality may not impose a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance unless the municipality provides to the individual who is subject to the penalty written notice that:

(i) identifies the relevant regulation or ordinance at issue;

(ii) specifies the violation of the relevant regulation or ordinance; and

(iii) provides for a reasonable time to cure the violation, taking into account the cost of curing the violation.

(b) A municipality may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019, unless the municipality imposed the outstanding or pending penalty in relation to a written notice that:

(i) identified the relevant regulation or ordinance at issue;

(ii) specified the violation of the relevant regulation or ordinance; and

(iii) provided for a reasonable time to cure the violation, taking into account the cost of curing the violation.

Section 2. Section 17-53-228 is amended to read:**17-53-228. Administrative hearings and procedures -- Penalty for code violation.**

(1) A county may adopt an ordinance establishing an administrative hearing process to review and decide matters relating to the violation, enforcement, or administration of a county civil ordinance, including an ordinance related to the following:

- (a) a building code;
- (b) planning and zoning;
- (c) animal control;
- (d) licensing;
- (e) health and safety;
- (f) county employment; or
- (g) sanitation.

(2) An ordinance adopted in accordance with Subsection (1) shall provide appropriate due process protections for a party participating in an administrative hearing.

(3) An administrative hearing held in accordance with an ordinance described in Subsection (1) may be conducted by an administrative law judge.

(4) A county may not impose a civil penalty and adjudication for the violation of a county moving traffic ordinance.

(5) (a) A county may not impose a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance unless the county provides to the individual who is subject to the penalty written notice that:

(i) identifies the relevant regulation or ordinance at issue;

(ii) specifies the violation of the relevant regulation or ordinance; and

(iii) provides for a reasonable time to cure the violation, taking into account the cost of curing the violation.

(b) A county may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019, unless the county imposed

the outstanding or pending penalty in relation to a written notice that:

(i) identified the relevant regulation or ordinance at issue;

(ii) specified the violation of the relevant regulation or ordinance; and

(iii) provided for a reasonable time to cure the violation, taking into account the cost of curing the violation.

CHAPTER 279**S. B. 195**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**DECLARATION OF
CANDIDACY AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Brady Brammer

LONG TITLE**General Description:**

This bill amends the information disclosure that a filing officer is required to make to an individual who files a declaration of candidacy.

Highlighted Provisions:

This bill:

- ▶ requires a filing officer to, when an individual files a declaration of candidacy for legislative office, inform the individual that the Utah Constitution prohibits a person who holds a public office of profit or trust from being a member of the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-9-201, as last amended by Laws of Utah 2018, Chapter 11
 20A-9-601, as last amended by Laws of Utah 2018, Chapters 11 and 80

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-9-201 is amended to read:**20A-9-201. Declarations of candidacy --
Candidacy for more than one office or of
more than one political party prohibited
with exceptions -- General filing and form
requirements -- Affidavit of
impecuniosity.**

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and
- (c) if seeking a registered political party's nomination as a candidate for elective office, state:
 - (i) the registered political party of which the individual is a member; or
 - (ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

- (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; ~~and~~

(ii) require the individual to state whether the individual meets those requirements~~;~~; and

(iii) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the county in which the individual is seeking office; and
- (iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the prosecution district in which the individual is seeking office; and
- (iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.
- (d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:
- (i) is a United States citizen;
- (ii) is a registered voter in the county in which the individual seeks office;
- (iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or
- (B) has met the waiver requirements in Section 53-6-206;
- (iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and
- (v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.
- (e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:
- (i) that the individual filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and
- (ii) if the filing officer is not the lieutenant governor, that the individual provides the financial disclosure to the lieutenant governor in accordance with Section 20A-11-1603.
- (4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.
- (5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:
- (a) inform the individual that:
- (i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

- (ii) the individual may be required to comply with state or local campaign finance disclosure laws; and
- (iii) the individual is required to file a financial statement before the individual's political convention under:
- (A) Section 20A-11-204 for a candidate for constitutional office;
- (B) Section 20A-11-303 for a candidate for the Legislature; or
- (C) local campaign finance disclosure laws, if applicable;
- (b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;
- (c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);
- (d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:
- (i) signing the pledge is voluntary; and
- (ii) signed pledges shall be filed with the filing officer;
- (e) accept the individual's declaration of candidacy; and
- (f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.
- (6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:
- (a) accept the candidate's pledge; and
- (b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.
- (7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:
- (i) be substantially as follows:
- "State of Utah, County of _____
- I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing

period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month \ day \ year).
Notary Public (or other officer qualified to administer oath).”; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

- (i) who is disqualified; or
- (ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

_____ (signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

“Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:

(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:

(A) on a form developed and provided by the lieutenant governor; and

(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;

(ii) identify the registered political party whose nomination the candidate is seeking;

(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(iv) pay the filing fee of \$500.

(b) A designated agent described in Subsection (9)(a)(i) may not sign the form described in Subsection (9)(a)(i)(A).

(10) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(11) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 2. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1) (a) Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer not later than 60 days before the regular general election or a municipal general election in which the individual intends to be a write-in candidate.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) The form of the declaration of candidacy for all offices, except president or vice president of the United States, is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of _____ for the _____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will

be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____ (month\day\year).

Notary Public (or other officer qualified to administer oath).”

(b) The form of the declaration of candidacy for president of the United States is substantially as follows:

“State of Utah, County of _____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, State _____, Zip Code _____, Phone No. _____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____. I designate _____ as my vice presidential candidate.

Subscribed and sworn before me this _____ (month\day\year).

Notary Public (or other officer qualified to administer oath).”

(c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(7).

(d) An agent described in Subsection (1)(a) or (b) may not sign the form described in Subsection (2)(a) or (b).

(3) (a) The filing officer shall:

(i) read to the candidate the constitutional and statutory requirements for the office; ~~and~~

(ii) ask the candidate whether or not the candidate meets the requirements[-]; and

(iii) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate's declaration of candidacy.

(4) By November 1 of each regular general election year, the lieutenant governor shall certify

to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

CHAPTER 280**S. B. 197**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**LAW ENFORCEMENT
 AGENCY AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill modifies provisions relating to law enforcement agencies.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “law enforcement agency” to include a private institution of higher education whose law enforcement entity or division is certified by the Commission of Public Safety and modifies the definition of “law enforcement officer;”
- ▶ includes law enforcement agencies in the definition of governmental entities that are subject to government records provisions;
- ▶ includes law enforcement agencies in the definition of governmental entities that are subject to governmental immunity provisions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-1-102, as last amended by Laws of Utah 1998, Chapter 282
 53-13-103, as last amended by Laws of Utah 2015, Chapter 436
 63G-2-103, as amended by Statewide Initiative -- Proposition 4, Nov. 6, 2018
 63G-7-102, as last amended by Laws of Utah 2018, Chapters 22, 106, and 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-1-102 is amended to read:**53-1-102. Definitions.**

(1) As used in this title:

(a) “Commissioner” means the commissioner of public safety appointed under Section 53-1-107.

(b) “Department” means the Department of Public Safety created in Section 53-1-103.

(c) “Law enforcement agency” means an entity [of] or division of:

(i) (A) the federal government, a state, or a political subdivision of a state[~~, including~~];

(B) a state institution of higher education[~~;~~]; or

(C) a private institution of higher education, if the entity or division has been certified by the commissioner; and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(d) “Law enforcement officer” [has] means the same [meaning as provided] as that term is defined in Section 53-13-103.

(e) “Motor vehicle” means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(f) “Peace officer” means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(g) “State institution of higher education” [has] means the same [meaning as provided] as that term is defined in Section 53B-3-102.

(h) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 2. Section 53-13-103 is amended to read:**53-13-103. Law enforcement officer.**

(1) (a) “Law enforcement officer” means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency [that is part of or administered by the state or any of its political subdivisions, and]; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) “Law enforcement officer” includes the following:

(i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

(iv) any police officer employed by any college or university;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university provided that the college or university has been certified by the commissioner of public safety according to rules of the Department of Public Safety;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 3. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) “Contractor” does not mean a private provider.

(6) “Controlled record” means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) “Designation,” “designate,” and their derivative forms mean indicating, based on a governmental entity’s familiarity with a record series or based on a governmental entity’s review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) “Elected official” means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) “Explosive” means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) “Government audit agency” means any governmental entity that conducts an audit.

(11) (a) “Governmental entity” means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the State Board of Regents, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) “Governmental entity” also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public’s business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101; ~~and~~

(v) the Utah Independent Redistricting Commission[-]; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) “Governmental entity” does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) “Gross compensation” means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual’s employer.

(13) “Individual” means a human being.

(14) (a) “Initial contact report” means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency’s initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting

attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

- (a) an individual;
- (b) a nonprofit or profit corporation;
- (c) a partnership;
- (d) a sole proprietorship;
- (e) other type of business organization; or
- (f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

- (i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and
- (ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity;

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; or

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(26) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 4. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) members of a governing body;

(iii) members of a government entity board;

(iv) members of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) student teachers holding a license issued by the State Board of Education;

(vii) educational aides;

(viii) students engaged in internships under Section 53B-16-402 or 53G-7-902;

(ix) volunteers as defined by Subsection 67-20-2(3); and

(x) tutors.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means:

(a) the state and its political subdivisions [as both are defined in this section]; and

(b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

CHAPTER 281**S. B. 202**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

VULNERABLE ADULT AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill modifies provisions related to vulnerable adults.

Highlighted Provisions:

This bill:

- ▶ amends definitions applicable to abuse, neglect, or exploitation of a vulnerable adult;
- ▶ creates an offense for personal dignity exploitation of a vulnerable adult;
- ▶ modifies penalties;
- ▶ authorizes a court to order counseling; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-3-301, as last amended by Laws of Utah 2017, Chapter 176

76-5-111, as last amended by Laws of Utah 2011, Chapter 320

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-3-301 is amended to read:**62A-3-301. Definitions.**

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person ~~[or entity]~~ acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Person; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means ~~[a person]~~ an individual who is 18 years of age or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of ~~[a person]~~ an individual to understand and communicate regarding the nature and consequences of decisions relating to the ~~[person]~~ individual, and relating to the ~~[person's]~~ individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means ~~[each a person]~~ [each a person], ~~[entity, corporation,]~~ [entity, corporation,] or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section 62A-3-311.1.

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

~~[(40)]~~ (11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

~~[(41)]~~ (12) "Elder adult" means ~~[a person]~~ an individual 65 years ~~[of age]~~ old or older.

~~[(42)]~~ (13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

~~[(43)]~~ (14) "Emergency protective services" means measures taken by Adult Protective

Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

~~[(14)]~~ (15) (a) “Emotional or psychological abuse” means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) “Emotional or psychological abuse” includes intimidating, threatening, isolating, coercing, or harassing.

(c) “Emotional or psychological abuse” does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

~~[(15)]~~ (16) “Exploitation” means an offense described in Subsection 76-5-111(4) or ~~(9)~~ or Section 76-5b-202.

~~[(16)]~~ (17) “Harm” means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.

~~[(17)]~~ (18) “Inconclusive” means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

~~[(18)]~~ (19) “Intimidation” means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

~~[(19)]~~ (20) (a) “Isolation” means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, ~~including~~ or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) ~~[(The term “isolation”)]~~ “Isolation” does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult ~~(or an act); or~~

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

~~[(20)]~~ (21) “Lacks capacity to consent” is as defined in Section 76-5-111.

~~[(21)]~~ (22) (a) “Neglect” means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult’s informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult’s well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) “Neglect” does not include conduct, or failure to take action, that is permitted or excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

~~[(22)]~~ (23) “Physical injury” includes the damage and conditions described in Section 76-5-111.

~~[(23)]~~ (24) “Protected person” means a vulnerable adult for whom the court has ordered protective services.

~~[(24)]~~ (25) “Protective services” means services to protect a vulnerable adult from abuse, neglect, or exploitation.

~~[(25)]~~ (26) “Self-neglect” means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult’s well being when that failure is the result of the adult’s mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

~~[(26)]~~ (27) “Serious physical injury” is as defined in Section 76-5-111.

~~[(27)]~~ (28) “Supported” means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

~~[(28)]~~ (29) “Undue influence” occurs when a person:

(a) uses influence to take advantage of a vulnerable adult’s mental or physical impairment;
or

(b) uses the person’s role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult~~[, or uses the person’s role, relationship, or power];~~ or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

~~[(29)]~~ (30) “Vulnerable adult” means an elder adult, or ~~an~~ a dependent adult who has a mental or physical impairment which substantially affects that person’s ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult’s own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

~~[(30)]~~ (31) “Without merit” means a finding that abuse, neglect, or exploitation did not occur.

Section 2. Section 76-5-111 is amended to read:

76-5-111. Abuse, neglect, or exploitation of a vulnerable adult -- Penalties.

(1) As used in this section:

(a) “Abandonment” means a knowing or intentional action or inaction, including desertion, by a person ~~or entity~~ acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(b) “Abuse” means:

(i) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;

(ii) causing physical injury by knowing or intentional acts or omissions;

(iii) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician’s orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the adult; or

(iv) deprivation of life-sustaining treatment, except:

(A) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(B) when informed consent, as defined in this section, has been obtained.

(c) “Business relationship” means a relationship between two or more individuals or entities where there exists an oral or written agreement for the exchange of goods or services.

(d) ~~[(4)]~~ “Caretaker” means ~~any~~ a person ~~[, entity, corporation,]~~ or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities ~~[, (ii) “Caretaker” includes]~~ for pecuniary gain, by contract, or as a result of friendship, or in a position of trust and confidence with a vulnerable adult, including a relative ~~[by blood or marriage]~~, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(e) “Deception” means:

(i) a misrepresentation or concealment:

(A) of a material fact relating to services rendered, disposition of property, or use of property intended to benefit a vulnerable adult;

(B) of the terms of a contract or agreement entered into with a vulnerable adult; or

(C) relating to the existing or preexisting condition of any property involved in a contract or agreement entered into with a vulnerable adult; or

(ii) the use or employment of any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.

(f) (i) “Dependent adult” means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual’s ability to carry out normal activities or to protect the individual’s rights.

(ii) “Dependent adult” includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

~~[(4)]~~ (g) “Elder adult” means ~~a person~~ an individual 65 years ~~of age~~ old or older.

~~[(g)]~~ (h) “Endeavor” means to attempt or try.

~~[(4)]~~ (i) “Exploitation” means an offense described in Subsection (4) or (9) or Section 76-5b-202.

~~[(4)]~~ (j) “Harm” means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.

~~[(4)]~~ (k) “Informed consent” means:

(i) a written expression by the [person] individual or authorized by the [person] individual, stating that the [person] individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the [person] individual desires that the services be withdrawn~~[-A]~~, except that a written expression is valid only if the [person] individual is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or

(ii) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

~~[(k)]~~ (l) “Intimidation” means communication conveyed through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or harm.

~~[(4)]~~ (m) (i) “Isolation” means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(A) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, ~~[including]~~ or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(B) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(C) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(ii) ~~[The term “isolation”]~~ “Isolation” does not include an act:

(A) intended in good faith to protect the physical or mental welfare of the vulnerable adult ~~[or an act];~~ or

(B) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

~~[(m)]~~ (n) “Lacks capacity to consent” means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the adult’s person or property.

~~[(n)]~~ (o) “Neglect” means:

(i) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult’s informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult’s well being;

(iv) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

(v) abandonment by a caretaker.

~~[(o)]~~ (p) (i) “Physical injury” includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

(ii) “Physical injury” includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

~~[(p)]~~ (q) “Position of trust and confidence” means the position of a person who:

(i) is a parent, spouse, adult child, or other relative ~~[by blood or marriage]~~ of a vulnerable adult;

(ii) is a joint tenant or tenant in common with a vulnerable adult;

(iii) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

(iv) is a caretaker of a vulnerable adult.

~~[(q)]~~ (r) “Serious physical injury” means any physical injury or set of physical injuries that:

(i) seriously impairs a vulnerable adult’s health;

(ii) was caused by use of a dangerous weapon as defined in Section 76-1-601;

(iii) involves physical torture or causes serious emotional harm to a vulnerable adult; or

(iv) creates a reasonable risk of death.

~~[(r)]~~ (s) “Undue influence” occurs when a person:

(i) uses influence to take advantage of a vulnerable adult’s mental or physical impairment; or

(ii) uses the person's role, relationship, or power:

(A) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult~~;~~; or ~~[uses the person's role, relationship, or power]~~

(B) to gain control deceptively over the decision making of the vulnerable adult.

~~[(e)]~~ (t) "Vulnerable adult" means an elder adult, or ~~[an adult 18 years of age or older]~~ a dependent adult who has a mental or physical impairment which substantially affects that ~~[person's]~~ individual's ability to:

- (i) provide personal protection;
- (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
- (iii) obtain services necessary for health, safety, or welfare;
- (iv) carry out the activities of daily living;
- (v) manage the adult's own resources; or
- (vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(2) Under any circumstances likely to produce death or serious physical injury, ~~any~~ a person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:

- (a) if done intentionally or knowingly, the offense is a second degree felony;
- (b) if done recklessly, the offense is third degree felony; and
- (c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) (a) Under circumstances other than those likely to produce death or serious physical injury, except as provided in Subsection (3)(b), any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect~~;~~, or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:

~~[(a)]~~ (i) if done intentionally or knowingly, the offense is a class A misdemeanor;

~~[(b)]~~ (ii) if done recklessly, the offense is a class B misdemeanor; and

~~[(e)]~~ (iii) if done with criminal negligence, the offense is a class C misdemeanor.

(b) A violation of this Subsection (3) that is based on isolation of a vulnerable adult is a third degree felony.

(4) Except as provided in Subsection (5), a caretaker of a vulnerable adult commits the offense of personal dignity exploitation of the vulnerable adult if the caretaker intentionally, knowingly, or recklessly:

(a) creates, transmits, or displays a photographic or electronic image or recording of the vulnerable adult:

(i) to which creation, transmission, or display a reasonable person would not consent; and

(ii) (A) that shows the vulnerable adult's unclothed breasts, buttocks, anus, genitals, or pubic area;

(B) that displays the clothed area of only the vulnerable adult's breasts, buttocks, anus, genitals, or pubic area; or

(C) that shows the vulnerable adult engaged in conduct that is harmful to the mental or physical health or safety of the vulnerable adult; or

(b) causes the vulnerable adult to participate in an act that is highly offensive or demeaning to the vulnerable adult:

(i) in which a reasonable person would not participate; or

(ii) that is harmful to the mental or physical health or safety of the vulnerable adult.

(5) (a) A caretaker does not violate Subsection (4)(a) if the caretaker creates, transmits, or displays the photographic or electronic image or recording:

(i) with the consent of the vulnerable adult, if the vulnerable adult:

(A) is mentally and physically able to give voluntary consent to the creation, transmission, or display; and

(B) gives voluntary consent for the creation, transmission, or display;

(ii) for a legitimate purpose relating to monitoring or providing care, treatment, or diagnosis; or

(iii) for a legitimate purpose relating to investigating abuse, neglect, or exploitation.

(b) A caretaker does not violate Subsection (4)(b) if:

(i) the vulnerable adult:

(A) is mentally and physically able to give voluntary consent to participate in the act; and

(B) gives voluntary consent to participate in the act; or

(ii) the caretaker causes the vulnerable adult to participate in the act for a legitimate purpose relating to:

(A) monitoring or providing care, treatment, or diagnosis; or

(B) investigating abuse, neglect, or exploitation.

(6) (a) It is a separate offense under Subsection (4)(a) for each vulnerable adult included in a photographic or electronic image or recording created, transmitted, or displayed in violation of Subsection (4)(a).

(b) It is a separate offense under Subsection (4)(b) for each vulnerable adult caused to participate in an act in violation of Subsection (4)(b).

(7) It is not a defense that the vulnerable adult was unaware of:

(a) the creation, transmission, or display prohibited under Subsection (4)(a); or

(b) participation in the act, or the nature of participation in the act, under Subsection (4)(b).

(8) The offense of personal dignity exploitation of a vulnerable adult is:

(a) if done intentionally or knowingly, a class A misdemeanor; and

(b) if done recklessly, a class B misdemeanor.

[(4)] (9) (a) A person commits the offense of financial exploitation of a vulnerable adult when the person:

(i) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;

(ii) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of [his] the vulnerable adult's property for the benefit of someone other than the vulnerable adult;

(iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;

(iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or

(v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.

(b) A person is guilty of the offense of financial exploitation of a vulnerable adult as follows:

(i) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is or exceeds \$5,000, the offense is a second degree felony;

(ii) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is less than \$5,000 or cannot be determined, the offense is a third degree felony;

(iii) if done recklessly, the offense is a class A misdemeanor; or

(iv) if done with criminal negligence, the offense is a class B misdemeanor.

[(5)] (10) It does not constitute a defense to a prosecution for any violation of this section that the accused did not know the age of the victim.

[(6)] (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

(12) If an individual, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (2) or (3), the court may require that the individual:

(a) undergo appropriate counseling as a condition of the sentence; and

(b) pay for the costs of the ordered counseling.

CHAPTER 282**S. B. 206**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**UNDERGROUND CONVERSION
 OF UTILITIES AMENDMENTS**

Chief Sponsor: David G. Buxton
 House Sponsor: Calvin R. Musselman

LONG TITLE**General Description:**

This bill amends the definition of “electric facilities” in relation to cities of the first class and nominal voltages.

Highlighted Provisions:

This bill:

- ▶ excludes from the definition of “electric facilities” facilities in a city of the first class or a county of the first class that are used for the transmission of electrical energy with a nominal voltage exceeding 138,000 volts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

54-8-3, as last amended by Laws of Utah 2008, Chapter 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-8-3 is amended to read:

54-8-3. Definitions.

As used in this chapter:

- (1) “Assessment” means for the purpose of taxation wherever appropriate.
- (2) “Communication service” means the transmission of intelligence by electrical means, including telephone, telegraph, messenger-call, clock, police, fire alarm, and traffic control circuits or the transmission of standard television or radio signals.
- (3) “Convert” or “conversion” means the removal of all or any part of any existing overhead electric or communications facilities and the replacement thereof with underground electric or communication facilities constructed at the same or different locations.
- (4) (a) “Electric or communication facilities” means any works or improvements used or useful in providing electric or communication service, including poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.

(b) “Electric facilities” does not include:

- (i) in a city of the first class or a county of the first class, any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 138,000 volts; or
 - (ii) in any location not described in Subsection (4)(b)(i), any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 35,000 volts.
- (5) “Electric service” means the distribution of electricity by an electrical corporation for heat, cooling, light or power.
 - (6) “Governing body” means the board of commissioners, city council, or board of trustees as may be appropriate depending on whether the improvement district is located in a county or within a city or town.
 - (7) “Overhead electric or communication facilities” means electric or communication facilities located, in whole or in part, above the surface of the ground.
 - (8) “Point of delivery” means:
 - (a) a meter, for electric facilities; or
 - (b) a network interface device, for communication facilities.
 - (9) “Public utility” means any electric corporation or communications corporation that provides electric or communication service to the general public by means of electric or communication facilities.
 - (10) “Resolution” means ordinance when the governing body properly acts by ordinance rather than by resolution.
 - (11) “Service entrance equipment” means facilities on the property owner’s side of the point of delivery that are necessary to accommodate service from a public utility.
 - (12) “Underground electric or communication facilities” means electric or communication facilities located, in whole or in part, beneath the surface of the ground.

CHAPTER 283**S. B. 208**

Passed March 13, 2019

Approved March 25, 2019

Effective July 1, 2019

**NATIONAL CERTIFICATION
TEACHER INCENTIVE AMENDMENTS**Chief Sponsor: Karen Mayne
House Sponsor: Carol Spackman Moss**LONG TITLE****General Description:**

This bill amends and enacts provisions related to National Board certification for teachers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ moves provisions related to a salary supplement for a teacher who holds a National Board certification from the Teacher Salary Supplement Program to a new program;
- ▶ increases the amount of a salary supplement for:
 - a teacher who holds a National Board certification; and
 - a teacher who holds a National Board certification and teaches in a Title I school;
- ▶ discontinues a reimbursement for an educator who holds a National Board certification;
- ▶ enacts provisions permitting the State Board of Education to pay for an educator to receive or renew a National Board certification; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53F-2-504, as last amended by Laws of Utah 2018, Chapter 212 and renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-202, as renumbered and amended by Laws of Utah 2018, Chapter 2

ENACTS:

53F-2-520, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-504 is amended to read:**53F-2-504. Teacher Salary Supplement Program -- Appeal process.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

~~[(b) "Certificate teacher" means a teacher who holds a National Board certification.]~~

~~[(e)]~~ (b) "Eligible teacher" means a teacher who:

(i) has an assignment to teach:

(A) a secondary school level mathematics course;

(B) integrated science in grade 7 or 8;

(C) chemistry;

(D) physics;

(E) computer science; or

(F) special education;

(ii) holds the appropriate endorsement for the assigned course;

(iii) has qualifying educational background; and

(iv) (A) is a new employee; or

(B) received a satisfactory rating or above on the teacher's most recent evaluation.

~~[(d)]~~ (c) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

~~[(e)]~~ (d) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

~~[(f)]~~ (e) "License" means the same as that term is defined in Section 53E-6-102.

~~[(g) "National Board certification" means the same as that term is defined in Section 53E-6-102.]~~

~~[(h)]~~ (f) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a degree described in Subsection (1)~~[(h)]~~(f)(ii)(A);

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that

are substantially equivalent to the course requirements of those required for a degree described in Subsection (1)(~~(h)~~)((f)(iii)(A); or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

~~(j) "Title I school" means a school that receives funds under the Elementary and Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.]~~

~~(j) "Title I school certificate teacher" means a certificate teacher who is assigned to teach at a Title I school.]~~

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) ~~(i)~~ The annual salary supplement for an eligible teacher who is assigned full time to teach one or more courses listed in Subsections (1)(~~(e)~~)(b)(i)(A) through (F) is \$4,100 and funded through an appropriation described in Subsection (2).

~~(i)~~ (b) An eligible teacher who has a part-time assignment to teach one or more courses listed in Subsections (1)(~~(e)~~)(b)(i)(A) through (F) shall receive a partial salary supplement based on the number of hours worked in the course assignment.

~~(b) The annual salary supplement for a certificate teacher is \$750.]~~

~~(c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.]~~

~~(ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b) and (c) may only receive the salary supplement that is greater in value.]~~

(4) The board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher:

(i) ~~(A)~~ is an eligible teacher; and

~~(B)~~ (ii) has a course assignment as listed in Subsections (1)(~~(e)~~)(b)(i)(A) through (F);

~~(ii) is a certificate teacher; or]~~

~~(iii) is a Title I school certificate teacher;]~~

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers~~], certificate teachers, and Title I school certificate teachers].~~

(5) (a) An eligible teacher~~], a certificate teacher, or a Title I school certificate teacher]~~ shall apply ~~[with]~~ to the board before the conclusion of a school year to receive the salary supplement authorized in this section.

(b) An eligible teacher~~], a certificate teacher, or a Title I school certificate teacher]~~ may apply ~~[with]~~ to the board, after verification that the requirements under this section have been satisfied, to receive a salary supplement after the completion of:

(i) the school year as an annual award; or

(ii) a semester or trimester as a partial award based on the portion of the school year that has been completed.

(6) (a) The board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree described in:

(A) Subsection (1)(~~(h)~~)((f)(i)(A);

(B) Subsection (1)(~~(h)~~)((f)(ii)(A);

(C) Subsection (1)(~~(h)~~)((f)(iii)(A); or

(D) Subsection (1)(~~(h)~~)((f)(iv).

(ii) A teacher shall provide transcripts and other documentation to the board in order for the board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in:

(A) Subsection (1)(~~(h)~~)((f)(i)(A);

(B) Subsection (1)(~~(h)~~)((f)(ii)(A);

(C) Subsection (1)(~~(h)~~)((f)(iii)(A); or

(D) Subsection (1)(~~(h)~~)((f)(iv).

~~(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.]~~

~~(ii) A teacher shall provide to the board a certificate or other related documentation in order for the board to determine if the teacher holds a current certificate.]~~

~~(d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal~~

~~eligibility as a Title I school certificate teacher on the basis that the teacher:]~~

~~[(A) holds a current certificate; and]~~

~~[(B) is assigned to teach at a Title I school.]~~

~~[(ii) A teacher shall provide to the board:]~~

~~[(A) information described in Subsection (6)(c)(ii); and]~~

~~[(B) verification that the teacher is assigned to teach at a Title I school.]~~

(7) (a) The board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement .

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher ~~[, certificate teacher, or Title I school certificate teacher].~~

(b) The salary supplement is part of ~~[the]~~ an eligible teacher's base pay, subject to the eligible teacher's qualification as an eligible teacher, ~~[a certificate teacher, or a Title I school certificate teacher]~~ every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the board shall distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 2. Section 53F-2-520 is enacted to read:

53F-2-520. Salary supplement for National Board certified teachers.

(1) As used in this section:

(a) "National Board certification" means the same as that term is defined in Section 53E-6-102.

(b) "National Board-certified teacher" or "board-certified teacher" means a teacher who:

(i) holds a National Board certification; and

(ii) has an assignment to teach in an LEA.

(c) "Salary supplement" means a salary supplement for a board-certified or Title I school board-certified teacher described in this section.

(d) "Title I school" means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(e) "Title I school board-certified teacher" means a board-certified teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for salary supplements shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for a board-certified teacher is \$1,000.

(b) The annual salary supplement for a Title I school board-certified teacher is \$2,000.

(c) A board-certified teacher who qualifies for a salary supplement under Subsections (3)(a) and (b) may only receive the salary supplement that is greater in value.

(d) The employer paid benefits described in Subsection (2)(b) are in addition to an amount described in Subsection (3).

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement;

(b) establish a deadline by which a teacher is required to apply in order to receive a salary supplement;

(c) determine whether a teacher who applies for a salary supplement is a board-certified teacher or a Title I school board-certified teacher;

(d) verify, as needed, a determination made under Subsection (4)(c) with LEA or school administrators; and

(e) certify a list of board-certified teachers and Title I school board-certified teachers.

(5) To receive a salary supplement, a board-certified teacher or a Title I school board-certified teacher shall apply to the state board before the deadline described in Subsection (4)(b).

(6) The state board shall establish and administer an appeal process for a teacher who applies for but does not receive a salary supplement that allows the teacher to appeal eligibility by providing evidence to the state board:

(a) of the teacher's National Board certification; or

(b) (i) of the teacher's National Board certification; and

(ii) that the teacher is assigned to teach in a Title I school.

(7) The state board shall:

(a) distribute money appropriated for salary supplements to LEAs in accordance with the provisions of this section; and

(b) include the cost of employer-paid benefits described in Subsection (2)(b) in the amount distributed to an LEA for each salary supplement.

(8) (a) An LEA shall use money received under this section to provide a salary supplement to each board-certified teacher and Title I school board-certified teacher in an amount equal to the amount described in Subsection (3).

(b) A salary supplement is part of a teacher's base pay, subject to the teacher's qualification as a board-certified teacher or Title I school board-certified teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if an annual appropriation for salary supplements is not sufficient to cover the costs associated with salary supplements, the state board shall distribute the funds on a pro rata basis.

Section 3. Section 53F-5-202 is amended to read:

53F-5-202. National Board certification reimbursement.

(1) (a) The terms defined in Section 53E-6-102 apply to this section.

(b) As used in this section:

(i) "Eligible educator" means an educator who: ~~(A) holds a current National Board certification; and (B)~~ is employed as an educator by an LEA.

(ii) "Local education agency" or "LEA" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(2) (a) Subject to legislative appropriations and Subsection (2)(b), the board shall reimburse an eligible educator for ~~the cost~~ a cost incurred by the eligible educator to attain or renew a National Board certification.

(b) The board may only issue a reimbursement under Subsection (2)(a) for:

(i) a National Board certification attained or renewed after July 1, 2016~~[-]~~, and before July 1, 2019; or

(ii) a cost incurred by an eligible teacher to attain or renew a National Board certification after July 1, 2016, and before July 1, 2019.

~~[(3) The board shall reimburse an eligible educator under this section on a first come, first served basis.]~~

(3) Subject to legislative appropriations, and in accordance with this section, beginning July 1, 2019, the state board may pay up to the total cost:

(a) for an eligible educator who does not have a National Board certification to pursue a National Board certification; or

(b) for an eligible educator who has a National Board certification, to renew the National Board certification.

(4) An eligible educator who does not have a National Board certification and intends for the state board to pay for the eligible educator to pursue a National Board certification shall:

(a) submit to the state board:

(i) an application;

(ii) a letter of recommendation from the principal of the eligible educator's school; and

(iii) a plan for completing the requirements for a National Board certification within three years of the state board approving the eligible educator's application; and

(b) pay a registration fee directly to the organization that administers National Board certification.

(5) An eligible educator who intends for the state board to pay to renew the eligible educator's National Board certification shall submit an application to the board.

(6) The state board may not:

(a) pay for an eligible educator to attempt to earn National Board certification over a period of longer than three years; or

(b) pay for an individual to attempt National Board certification or a component of National Board certification more than once.

~~[(4)]~~ (7) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying procedures and timelines for:

(a) reimbursing costs under Subsection (2)~~[-]~~; and

(b) paying costs for an eligible educator to pursue or renew a National Board certification under Subsection (3).

Section 4. Effective date.

This bill takes effect July 1, 2019.

CHAPTER 284**S. B. 216**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

POLITICAL COMMITTEE AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
 House Sponsor: Mike Winder

LONG TITLE**General Description:**

This bill amends provisions relating to political action committees and political issues committees.

Highlighted Provisions:

This bill:

- ▶ describes the requirements for the disposal of contributions by a political action committee when the political action committee dissolves;
- ▶ clarifies reporting requirements for a political action committee and a political issues committee;
- ▶ provides that a political action committee may make a contribution to a political issues committee, but that a political issues committee may not make a contribution to a political action committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-11-601, as last amended by Laws of Utah 2018, Chapter 83

20A-11-801, as last amended by Laws of Utah 2018, Chapter 83

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-11-601 is amended to read:**20A-11-601. Political action committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.**

(1) (a) Each political action committee shall file a statement of organization with the lieutenant governor's office ~~by~~ on or before January 10 of each year, unless the political action committee has filed a notice of dissolution under Subsection (4).

(b) If a political action committee is organized after the January 10 filing date, the political action committee shall file an initial statement of organization no later than seven days after the day on which the political action committee:

(i) ~~receiving~~ receives contributions totaling at least \$750; or

(ii) ~~distributing~~ distributes expenditures for political purposes totaling at least \$750.

(c) Each political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) ~~[A person]~~ An individual may not exercise primary decision-making authority for a political action committee ~~who~~ if the individual is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political action committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2)(a);

(c) the name, street address, occupation, and title of all other officers of the political action committee;

(d) the name and street address of the organization, individual corporation, association, unit of government, or union that the political action committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political action committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer; and

(g) the name, street address, and occupation of each member of the governing and advisory boards, if any.

(4) (a) ~~[Any]~~ A registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) ~~[Any]~~ A notice of dissolution filed by a political action committee does not exempt ~~that~~ the political action committee from complying with the financial reporting requirements ~~of~~ described in this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(c) A political action committee shall, before filing a notice of dissolution, dispose of any money remaining in an account described in Subsection (1)(c) by:

(i) returning the money to the donors;

(ii) donating the money to the campaign account of a candidate or officeholder;

(iii) donating the money to another political action committee;

(iv) donating the money to a political party;

(v) donating the money to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(vi) making another lawful expenditure of the money for a political purpose.

(d) A political action committee shall report all money donated or expended under Subsection (4)(c) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(5) (a) Unless the political action committee has filed a notice of dissolution under Subsection (4), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2)(a).

(b) A political action committee may not accept a contribution from a political issues committee, but may donate money to a political issues committee.

(c) A political action committee shall:

~~(b)~~ (i) ~~[Notice]~~ file a notice of a change of a primary officer described in Subsection (2)(a) ~~[shall:]~~ within 10 days after the day on which the change occurs; and

~~[(i) be filed within 10 days of the date of the change; and]~~

(ii) ~~[contain]~~ include in the notice of change the name and title of the officer being replaced, and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) or (5)(c) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

Section 2. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Each political issues committee shall file a statement of organization with the lieutenant governor's office ~~[by]~~ on or before January 10 of each year, unless the political issues committee has filed a notice of dissolution under Subsection (4).

(b) If a political issues committee is organized after the January 10 filing date, the political issues committee shall file an initial statement of organization no later than seven days after the day on which the political issues committee:

(i) ~~[receiving]~~ receives political issues contributions totaling at least \$750; or

(ii) ~~[disbursing]~~ distributes political issues expenditures totaling at least \$750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(b) An individual may not exercise primary decision-making authority for a political issues committee if the individual is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and street address of the political issues committee;

(b) the name, street address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, street address, occupation, and title of all other officers of the political issues committee;

(d) the name and street address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and street address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, street address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, street address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) ~~[Any]~~ A registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) A political issues committee may not donate money to a political action committee, but may

accept a contribution from a political action committee.

~~[(b)]~~ (c) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(d) A political issues committee shall report all money donated or expended under Subsection (4)(a) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) A political issues committee shall:

~~[(b)]~~ (i) ~~[Notice]~~ file a notice of a change of a primary officer described in Subsection ~~[(2) shall:]~~ (2)(a) within 10 days after the day on which the change occurs; and

~~[(i) be filed within 10 days of the date of the change; and]~~

(ii) ~~[contain]~~ include in the notice of change the name and title of the officer being replaced and the name, street address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) or (5)(b) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

CHAPTER 285**S. B. 226**

Passed March 12, 2019
Approved March 25, 2019
Effective May 14, 2019

OFFICE OF RECOVERY SERVICES FEE

Chief Sponsor: Lyle W. Hillyard
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to a fee collected by the Office of Recovery Services.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to an annual fee for child support services collected by the Office of Recovery Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-11-303.7, as enacted by Laws of Utah 2007,
Chapter 184

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-11-303.7 is amended to read:**62A-11-303.7. Annual fee for child support services to a custodial parent who has not received TANF assistance.**

(1) The office shall impose an annual fee of [~~\$25~~] \$35 in each case in which services are provided by the office if:

(a) the custodial parent who received the services has never received assistance under a state program funded under Title IV, Part A of the Social Security Act; and

(b) the office has collected at least [~~\$500~~] \$550 of child support in the case.

(2) The fee described in Subsection (1) shall be:

(a) subject to Subsection (3), retained by the office from child support collected on behalf of the custodial parent described in Subsection (1)(a); or

(b) paid by the custodial parent described in Subsection (1)(a).

(3) A fee retained under Subsection (2)(a) may not be retained from the first [~~\$500~~] \$550 of child support collected in the case.

(4) The fees collected under this section shall be deposited in the General Fund as a dedicated credit to be used by the office for the purpose of collecting child support.

CHAPTER 286**S. B. 227**

Passed March 12, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**MEDICAID INSPECTOR
 GENERAL AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Melissa G. Ballard

LONG TITLE**General Description:**

This bill amends provisions related to the Office of Inspector General of Medicaid Services.

Highlighted Provisions:

This bill:

- ▶ defines “waste”;
- ▶ directs the Office of Inspector General of Medicaid Services (office) to submit a budget for the office directly to the Department of Administrative Services;
- ▶ amends required reporting of the office;
- ▶ requires the office to report to the Infrastructure and General Government Appropriations Subcommittee instead of the Executive Appropriations Committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-13-102, as last amended by Laws of Utah 2015, Chapter 135
 63A-13-201, as last amended by Laws of Utah 2015, First Special Session, Chapter 4
 63A-13-502, as last amended by Laws of Utah 2016, Chapter 222

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-13-102 is amended to read:**63A-13-102. Definitions.**

As used in this chapter:

- (1) “Abuse” means:
 - (a) an action or practice that:
 - (i) is inconsistent with sound fiscal, business, or medical practices; and
 - (ii) results, or may result, in unnecessary Medicaid related costs; or
 - (b) reckless or negligent upcoding.
- (2) “Claimant” means a person that:
 - (a) provides a service; and
 - (b) submits a claim for Medicaid reimbursement for the service.

(3) “Department” means the Department of Health, created in Section 26-1-4.

(4) “Division” means the Division of Health Care Financing, created in Section 26-18-2.1.

(5) “Extrapolation” means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.

(6) “Fraud” means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or

(b) a violation of a provision of Sections 26-20-3 through 26-20-7.

(7) “Fraud unit” means the Medicaid Fraud Control Unit of the attorney general’s office.

(8) “Health care professional” means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(j) Title 58, Chapter 49, Dietitian Certification Act;

(k) Title 58, Chapter 60, Mental Health Professional Practice Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Physician Assistant Act; and

(p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

(9) “Inspector general” means the inspector general of the office, appointed under Section 63A-13-201.

(10) “Office” means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.

(11) "Provider" means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

(12) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

~~[(13) "Waste" means overutilization of resources or inappropriate payment.]~~

(13) (a) "Waste" means the act of using or expending a resource carelessly, extravagantly, or to no purpose.

(b) "Waste" includes an activity that:

(i) does not constitute abuse or necessarily involve a violation of law; and

(ii) relates primarily to mismanagement, an inappropriate action, or inadequate oversight.

Section 2. Section 63A-13-201 is amended to read:

63A-13-201. Creation of office -- Inspector general -- Appointment -- Term.

(1) There is created an independent entity within the Department of Administrative Services known as the "Office of Inspector General of Medicaid Services."

(2) The governor shall:

(a) appoint the inspector general of Medicaid services with the advice and consent of the Senate; and

(b) establish the salary for the inspector general of Medicaid services based upon a recommendation from the Department of Human Resource Management which shall be based on a market salary survey conducted by the Department of Human Resource Management.

(3) A person appointed as the inspector general shall have the following qualifications:

(a) a general knowledge of the type of methodology and controls necessary to audit, investigate, and identify fraud, waste, and abuse;

(b) strong management skills;

(c) extensive knowledge of performance audit methodology;

(d) the ability to oversee and execute an audit; and

(e) strong interpersonal skills.

(4) The inspector general of Medicaid services:

(a) shall serve a term of four years; and

(b) may be removed by the governor, for cause.

(5) If the inspector general is removed for cause, a new inspector general shall be appointed, with the advice and consent of the Senate, to serve the remainder of the term of the inspector general of Medicaid services who was removed for cause.

(6) The Office of Inspector General of Medicaid Services:

(a) is not under the supervision of, and does not take direction from, the executive director, except for administrative purposes;

(b) shall use the legal services of the state attorney general's office;

(c) shall submit a budget for the office directly to the ~~[governor]~~ Department of Administrative Services;

(d) except as prohibited by federal law, is subject to:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

(vi) Title 63G, Chapter 6a, Utah Procurement Code;

(vii) Title 63J, Chapter 1, Budgetary Procedures Act;

(viii) Title 63J, Chapter 2, Revenue Procedures and Control Act;

(ix) Title 67, Chapter 19, Utah State Personnel Management Act;

(x) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(xi) Title 52, Chapter 4, Open and Public Meetings Act;

(xii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(xiii) coverage under the Risk Management Fund created under Section 63A-4-201;

(e) when requested, shall provide reports to the governor, the president of the Senate, or the speaker of the House; and

(f) shall adopt administrative rules to establish policies for employees that are substantially similar to the administrative rules adopted by the Department of Human Resource Management.

Section 3. Section 63A-13-502 is amended to read:

63A-13-502. Report and recommendations to governor and Infrastructure and

General Government Appropriations Subcommittee.

(1) The inspector general of Medicaid services shall, on an annual basis, prepare an electronic report on the activities of the office for the preceding fiscal year.

(2) The report shall include:

(a) non-identifying information, including statistical information, on:

(i) the items described in Subsection 63A-13-202(1)(b) and Section 63A-13-204;

(ii) action taken by the office and the result of that action;

(iii) fraud, waste, and abuse in the state Medicaid program, including emerging trends of Medicaid fraud, waste, and abuse and the office's actions to identify and address the emerging trends;

(iv) the recovery of fraudulent or improper use of state and federal Medicaid funds, including total dollars recovered through cash recovery, credit adjustments, and rebilled claims;

(v) measures taken by the state to discover and reduce fraud, waste, and abuse in the state Medicaid program;

(vi) audits conducted by the office, including performance and financial audits;

(vii) investigations conducted by the office and the results of those investigations~~;~~ and, including preliminary investigations;

(viii) administrative and educational efforts made by the office and the division to improve compliance with Medicaid program policies and requirements;

(ix) total cost avoidance attributed to an office policy or action;

(x) the number of complaints against Medicaid recipients received and disposition of those complaints;

(xi) the number of educational activities that the office provided to a provider or a state agency;

(xii) the number of credible allegations of fraud referred to the Medicaid fraud control unit under Section 63A-13-501; and

(xiii) the number of data pulls performed and general results of those pulls;

(b) recommendations on action that should be taken by the Legislature or the governor to:

(i) improve the discovery and reduction of fraud, waste, and abuse in the state Medicaid program;

(ii) improve the recovery of fraudulently or improperly used Medicaid funds; and

(iii) reduce costs and avoid or minimize increased costs in the state Medicaid program;

(c) recommendations relating to rules, policies, or procedures of a state or local government entity; and

(d) services provided by the state Medicaid program that exceed industry standards.

(3) The report described in Subsection (1) may not include any information that would interfere with or jeopardize an ongoing criminal investigation or other investigation.

(4) On or before November 1 of each year, the inspector general of Medicaid services shall provide the electronic report described in Subsection (1) to the ~~[Executive Appropriations Committee]~~ Infrastructure and General Government Appropriations Subcommittee of the Legislature and to the governor.

CHAPTER 287**S. B. 229**

Passed March 14, 2019

Approved March 25, 2019

Effective May 14, 2019

**MEDICAL BILLING
TRANSPARENCY AMENDMENTS**

Chief Sponsor: Todd Weiler

House Sponsor: Raymond P. Ward

LONG TITLE**General Description:**

This bill requires the Department of Health to publish certain health care cost information.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to make certain information from the all-payer claims database available to the public through a standardized application program interface format.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-33a-116, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-33a-116 is enacted to read:**26-33a-116. Health care billing data.**

(1) Subject to Subsection (2), the department shall make aggregate data produced under this chapter available to the public through a standardized application program interface format.

(2) (a) The department shall ensure that data made available to the public under Subsection (1):

(i) does not contain identifiable health data of a patient; and

(ii) meets state and federal data privacy requirements, including the requirements of Section 26-33a-107.

(b) The department may not release any data under Subsection (1) that may be identifiable health data of a patient.

CHAPTER 288**S. B. 234**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

WHITE COLLAR CRIME REGISTRY

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill amends provisions related to the Utah White Collar Crime Offender Registry.

Highlighted Provisions:

This bill:

- ▶ amends the duties of a prosecuting attorney in certain offenses related to the Utah White Collar Crime Offender Registry;
- ▶ enacts methods and deadlines for an offender to register;
- ▶ enacts penalties for failure to register; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-42-103, as last amended by Laws of Utah 2016, Chapter 319

77-42-106, as enacted by Laws of Utah 2015, Chapter 131

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-42-103 is amended to read:**77-42-103. Duties.**

- (1) The attorney general shall:
 - (a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders; and
 - (b) make information listed in Section 77-42-104 available to the public.
- (2) Any ~~[attorney general, county attorney, or district attorney shall, in the manner prescribed by the attorney general,]~~ prosecuting attorney who obtains a conviction for an offense listed in Section 77-42-105 shall:
 - (a) inform the attorney general [of a person who is convicted of any of the offenses listed in Section 77-42-105] within 45 business days[-] of sentencing; and
 - (b) in a manner prescribed by the attorney general, cooperate with a request for information by the attorney general.
- (3) The attorney general shall:

(a) provide the following additional information when available:

(i) the crimes for which the offender has been convicted;

(ii) a description of the offender's targets; and

(iii) any other relevant identifying information as determined by the attorney general;

(b) maintain the Utah White Collar Crime Offender Registry website; and

(c) ensure that information is entered into the offender registry in a timely manner.

Section 2. Section 77-42-106 is amended to read:**77-42-106. Registration of offenders -- Utah White Collar Crime Offender Registry -- Penalty for failure to register.**

(1) An offender who has been convicted of any offense listed in Section 77-42-105 shall be on the Utah White Collar Crime Offender Registry for:

(a) a period of 10 years for a first offense;

(b) a second period of 10 years for a second conviction under this section; and

(c) a lifetime period if convicted a third time under this section.

(2) Except as provided in Subsection (3), an offender who has been convicted of any offense listed in Section 77-42-105 after December 31, 2005, shall register:

(a) with the attorney general to be included in the Utah White Collar Crime Offender Registry[-]; and

(b) (i) no later than 45 days after the offender is sentenced; and

(ii) in a manner prescribed by the attorney general.

(3) An offender is not required to register as provided in Subsection (2) if the offender:

(a) has complied with all court orders at the time of sentencing;

(b) has paid in full all court-ordered amounts of restitution to victims; and

(c) has not been convicted of any other offense for which registration would be required.

(4) If an offender is in the custody of the Department of Corrections:

(a) the department shall register the offender within 45 days of sentencing; or

(b) at the discretion of the department, provide the offender access to necessary resources so that the offender may register within 45 days of sentencing.

(5) (a) An offender who knowingly fails to register within 45 days of sentencing is guilty of a class A misdemeanor.

(b) An offender who is found guilty under Subsection (5)(a) shall be sentenced to serve a term of incarceration of 30 days or more.

(c) (i) The Board of Pardons and Parole or a court may not release an individual who violates this chapter from serving the term required under Subsection (5)(b).

(ii) The provisions of this Subsection (5) supersede any other provision of law.

CHAPTER 289**S. B. 237**

Passed March 13, 2019
 Approved March 25, 2019
 Effective May 14, 2019

**CAREGIVER
 COMPENSATION AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Christine F. Watkins

LONG TITLE**General Description:**

This bill requires the Department of Health to provide a report relating to reimbursement for certain personal care services under Medicaid.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires the Department of Health to provide a report relating to implementation of a program to reimburse a caregiver who provides extraordinary personal care services to a family member who is enrolled in an existing waiver to the state Medicaid plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

ENACTS:

26-18-419.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-419.1 is enacted to read:

26-18-419.1. Medicaid waiver expansion for extraordinary care reimbursement.

(1) As used in this section, “personal care services” means the same as that term is defined in 42 U.S.C. Sec. 1397g(b)(6)(B).

(2) The department shall:

(a) develop a proposal to allow the state Medicaid program to reimburse an individual who provides personal care services that constitute extraordinary care to the individual’s family member who is enrolled in an existing waiver in the state; and

(b) before November 30, 2019, report to the Social Services Appropriations Subcommittee and the Health and Human Services Interim Committee regarding the proposal described in this Subsection (2) and any recommendations for implementation of the proposal.

(3) In developing the proposal described in Subsection (2), the department shall:

(a) review statutes, policies, and programs in other states relating to reimbursement to an individual who provides personal care services that constitute extraordinary care to the individual’s family member; and

(b) consult with:

(i) the Department of Human Services; and

(ii) other stakeholders, as determined by the department.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

(5) Section 26-18-419.1 is repealed December 31, 2019.

~~[(5)]~~ (6) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

~~[(6)]~~ (7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

~~[(7)]~~ (8) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(8)]~~ (9) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.

~~[(9)]~~ (10) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.

~~[(10)]~~ (11) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

CHAPTER 290**S. B. 249**

Passed March 12, 2019
 Approved March 25, 2019
 Effective March 25, 2019

**OUTDOOR RECREATION
GRANT AMENDMENTS**

Chief Sponsor: Ralph Okerlund
 House Sponsor: Carl R. Albrecht

LONG TITLE**General Description:**

This bill addresses outdoor recreation grants.

Highlighted Provisions:

This bill:

- ▶ modifies the Outdoor Recreation Infrastructure Account;
- ▶ defines terms;
- ▶ creates the Recreation Restoration Infrastructure Grant Program;
- ▶ provides for the award of recreation restoration infrastructure grants;
- ▶ addresses rulemaking authority;
- ▶ requires reporting; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-28-103, as last amended by Laws of Utah 2018, Chapter 415

63N-9-204, as enacted by Laws of Utah 2017, Chapter 166

63N-9-205, as enacted by Laws of Utah 2017, Chapter 166

ENACTS:

63N-9-301, Utah Code Annotated 1953

63N-9-302, Utah Code Annotated 1953

63N-9-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-28-103 is amended to read:**59-28-103. Imposition -- Rate -- Revenue distribution.**

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter into the Hospitality and Tourism Management

Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than \$300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 63N-9-205 to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202 and the Recreation Infrastructure Grant Program created in Section 63N-9-302.

Section 2. Section 63N-9-204 is amended to read:**63N-9-204. Utah Outdoor Recreation Grant Advisory Committee -- Membership -- Duties -- Expenses.**

(1) As used in this section, "advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Subsection (2).

(2) There is created in the outdoor recreation office the Utah Outdoor Recreation Grant Advisory Committee, composed of the following 14 members:

(a) five members representing state or federal government as follows:

(i) the director;

(ii) the director of the Division of Parks and Recreation created in Section 79-4-201 or the director's designee;

(iii) one member who is an employee of the outdoor recreation office engaged in the duties described in Section 63N-7-201, appointed by the executive director;

(iv) one member representing the Bureau of Land Management, appointed by the executive director; and

(v) one member representing the National Park Service Rivers, Trails, and Conservation Assistance Program, appointed by the executive director;

(b) nine members representing local government, the private sector, or the public that are knowledgeable about outdoor recreation activities or tourism-based economic development, appointed by the executive director as follows:

(i) one member representing municipal government, recommended by the Utah League of Cities and Towns;

(ii) one member representing county government, recommended by the Utah Association of Counties;

(iii) two members representing the outdoor industry;

(iv) one member representing the Utah Tourism Industry Association;

(v) one member representing the Utah Hotel and Lodging Association;

(vi) one member representing the health care industry;

(vii) one member representing multi-ability groups or programs; and

(viii) one member representing a university outdoor recreation, parks, or tourism department; and

(c) one of the members appointed under Subsection (2)(b)(i) or (ii) shall represent rural interests.

(3) The advisory committee shall advise and make recommendations to the outdoor recreation office regarding infrastructure grants and grants issued under Part 3, Restoration Recreation Infrastructure Grant Program.

(4) (a) Except as required by Subsection (4)(b), as terms of appointed advisory committee members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed advisory committee members are staggered so that approximately half of the appointed advisory committee members are appointed every two years.

(5) The director shall serve as chair of the advisory committee.

(6) The advisory committee shall elect annually a vice chair from the advisory committee's members.

(7) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.

(8) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(9) The outdoor recreation office shall provide administrative staff support for the advisory committee.

(10) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(b) may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) The advisory committee, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and the advisory committee meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 3. Section 63N-9-205 is amended to read:

63N-9-205. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which the outdoor recreation office shall use to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202 and the Restoration Infrastructure Grant Program created in Section 63N-9-302.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature; ~~and~~

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

~~[(d)]~~ (e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The outdoor recreation office shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204, administer the account.

(4) The cost of administering the account shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 4. Section 63N-9-301 is enacted to read:

Part 3. Restoration Recreation Infrastructure Grant Program

63N-9-301. Definitions.

As used in this part:

(1) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204.

(2) "Grant program" means the Restoration Infrastructure Grant Program created in Section 63N-9-302.

(3) "High demand outdoor recreation amenity" means infrastructure necessary for a campground, picnic area, or water recreation structure such as a dock, pier, or boat ramp that receives or has received heavy use by the public.

(4) "High priority trail" means a motorized or nonmotorized recreation summer-use trail and related infrastructure that is prioritized by the

advisory committee for restoration or rehabilitation to maintain usability and sustainability of trails that receive or have received high use by the public.

(5) “Public lands” includes local, state, and federal lands.

(6) “Rehabilitation or restoration” means returning an outdoor recreation structure or trail that has been degraded, damaged, or destroyed to its previously useful state by means of repair, modification, or alteration.

Section 5. Section 63N-9-302 is enacted to read:

63N-9-302. Creation of grant program.

(1) (a) There is created a supplemental grant program within the Outdoor Recreational Infrastructure Grant Program, created in Section 63N-9-202, known as the “Recreation Restoration Infrastructure Grant Program” administered by the outdoor recreation office.

(b) Subject to Subsection (1)(c), 5% percent of the unencumbered amount in the Utah Outdoor Recreation Account, created in Section 63N-9-205, at the beginning of each fiscal year may be used for the grant program.

(c) The percentage outlined in Subsection (1)(b) may be increased or decreased at the beginning of a fiscal year if approved by the executive director after consultation with the director and the advisory committee.

(2) The outdoor recreation office may seek to accomplish the following objectives in administering the grant program:

(a) rehabilitate or restore high priority trails for both motorized and nonmotorized uses;

(b) rehabilitate or restore high demand recreation areas on public lands; and

(c) encourage the public land entities to engage with volunteer groups to aid with portions of needed trail work.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive a recreation restoration infrastructure grant, including:

(a) the form and process of submitting annual project proposals to the outdoor recreation office for a recreation restoration infrastructure grant;

(b) which entities are eligible to apply for a recreation restoration infrastructure grant;

(c) specific categories of recreation restoration projects that are eligible for a recreation restoration infrastructure grant;

(d) the method and formula for determining recreation restoration infrastructure grant amounts; and

(e) the reporting requirements of a recipient of a recreation restoration infrastructure grant.

Section 6. Section 63N-9-303 is enacted to read:

63N-9-303. Award of recreation restoration infrastructure grants.

(1) In determining the award of a recreation restoration infrastructure grant, the advisory committee shall prioritize projects that the advisory committee considers to be high demand outdoor recreation amenities or high priority trails.

(2) The outdoor recreation office may give special consideration to projects from qualified applicants within rural counties to ensure geographic parity of the awarded money.

(3) (a) An applicant shall use a recreation restoration infrastructure grant to leverage private and other nonstate public money and the outdoor recreation office may give priority to projects that exceed a 50% match from the applicant.

(b) Leverage includes cash, resources, goods, or services necessary to complete a project.

(c) The outdoor recreation office shall apply money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior as a portion of the applicant’s match.

(4) A recreation restoration infrastructure grant may only be awarded by the executive director after consultation with the director and the advisory committee.

(5) A recreation restoration infrastructure grant is available for rehabilitation or restoration projects for high demand outdoor recreation amenities and high priority trails that relate directly to the visitor including:

(a) a trail, trail head infrastructure, signage, and crossing infrastructure, for both nonmotorized and motorized recreation;

(b) a campground or picnic area;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; and

(d) recreation facilities that are accessible to visitors with disabilities.

(6) The following are not eligible for a recreation restoration infrastructure grant:

(a) general facility operations and administrative costs;

(b) land acquisitions;

(c) visitor facilities, as defined by the outdoor recreation office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) water and utility systems; and

(e) employee housing.

(7) The outdoor recreation office shall compile data and report to the Business, Economic

Development, and Labor Appropriations Subcommittee on the:

(a) effectiveness of the grant program in addressing the deferred maintenance and repair backlog of trails, campgrounds, and other recreation amenities on public lands;

(b) estimated value of the rehabilitation or restoration projects;

(c) number of miles of trails that are rehabilitated or restored; and

(d) leverage of state money to federal and private money and in-kind services such as volunteer labor.

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 291**S. B. 252**

Passed March 14, 2019

Approved March 25, 2019

Effective July 1, 2019

FINES AND FEES AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Marc K. Roberts

LONG TITLE**General Description:**

This bill modifies provisions related to fines.

Highlighted Provisions:

This bill:

- ▶ clarifies when a fine for an individual may apply; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

76-3-301 (Effective 07/01/19), as last amended by
Laws of Utah 2018, Chapter 234

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-301 (Effective 07/01/19) is amended to read:**76-3-301 (Effective 07/01/19). Fines of individuals.**

(1) An individual convicted of an offense may be sentenced to pay a fine, not exceeding:

(a) \$10,000 for a felony conviction of the first degree or second degree;

(b) \$5,000 for a felony conviction of the third degree;

(c) \$2,500 for a class A misdemeanor conviction;

(d) \$1,000 for a class B misdemeanor conviction;

(e) \$750 for a class C misdemeanor conviction or infraction conviction; and

(f) any greater amounts specifically authorized by statute.

(2) (a) An individual convicted of a misdemeanor or infraction and sentenced to pay a fine may not be charged by a court:

(i) notwithstanding Section 15-1-4, interest on the judgment that in the aggregate is more than 25% of the initial fine; or

(ii) ~~by a court~~ that issues an order to show cause under Section 78B-6-317 for failure to pay the fine, interest that is more than 25% of the initial fine.

(b) An individual convicted of an infraction and sentenced to pay a fine may not be charged:

(i) by the Office of State Debt Collection, late fees and interest that in the aggregate are more than 25% of the initial fine; or

(ii) by a third-party debt ~~collector, late fees and interest in the aggregate that are more than 25% of the initial fine~~ contractor of the Office of State Debt Collection, additional fees.

(3) Subsection (2) does not apply to ~~an offense~~ a case that includes:

(a) victim restitution; or

(b) a felony conviction, even if that felony conviction is later reduced.

(4) This section does not apply to a corporation, association, partnership, government, or governmental instrumentality.

Section 2. Effective date.

This bill takes effect July 1, 2019.

CHAPTER 292**S. B. 270**

Passed March 14, 2019
 Approved March 25, 2019
 Effective May 14, 2019

VANDALISM OF PUBLIC LANDS

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill makes vandalism of public lands a class B misdemeanor.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it a class B misdemeanor to vandalize public lands;
- ▶ specifies the punishments to be imposed for vandalism of public lands; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-107, as last amended by Laws of Utah 2013, Chapter 278

ENACTS:

76-6-107.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-107 is amended to read:**76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability.**

(1) As used in this section:

(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a chemical action which uses any caustic cream, gel, liquid, or solution.

(b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.

(c) "Victim" means the person ~~[or entity]~~ whose property ~~[was]~~ is defaced by the graffiti and who bears the expense for ~~[its]~~ removal of the graffiti.

(2) ~~[Graffiti]~~ Except as provided in Section 76-6-107, graffiti is a:

(a) second degree felony if the damage caused is in excess of \$5,000;

(b) third degree felony if the damage caused is in excess of \$1,000;

(c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and

(d) class B misdemeanor if the damage caused is less than \$300.

(3) Damages under Subsection (2) include removal costs, repair costs, or replacement costs, whichever is less.

(4) The court, upon conviction ~~[or adjudication]~~, shall order restitution to the victim in the amount of removal, repair, or replacement costs.

(5) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.

(6) ~~[A person]~~ An individual who voluntarily, and at ~~[his]~~ the individual's own expense, removes graffiti for which ~~[he]~~ the individual is responsible may be credited for the removal costs against restitution ordered by a court.

Section 2. Section 76-6-107.5 is enacted to read:**76-6-107.5. Vandalism of public lands.**

(1) As used in this section:

(a) "Etching" means defacing, damaging, or destroying a hard surface by using a chemical, an abrasive object, a knife, or an engraving device.

(b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or inscribing on property owned by the state regardless of the content or the nature of the material used in the commission of the act.

(c) "Public lands" means state or federally owned property that is held substantially in its natural state, including canyons, parks owned or managed by the state, national parks, land managed by the Bureau of Land Management, and other lands owned or maintained by a government entity for outdoor recreational use.

(2) An individual is guilty of public lands vandalism if the individual creates, or assists in creating, graffiti on any public lands or state-owned object permanently located on public lands.

(3) An individual convicted under Subsection (2) is guilty of a class B misdemeanor.

(4) If an individual is convicted of public lands vandalism, the court shall sentence the individual to a term of community service as follows:

(a) for a first conviction, the court shall sentence the individual to 100 hours of community service, to be completed within 90 days after the day on which the court issues the order;

(b) for a second conviction, the court shall sentence the individual to 200 hours of community service, to be completed within 180 days after the day on which the court issues the order; or

(c) for a third or subsequent conviction, the court shall sentence the individual to 300 hours of community service, to be completed within 270 days after the day on which the court issues the order.

(5) If an individual is enrolled in school or maintains full or part-time employment, the ordered community service may not be scheduled at a time the individual is scheduled to be in school or performing the individual's employment duties.

(6) A sentence of community service described in Subjection (4) shall, to the greatest extent possible, be for the benefit of public lands.

(7) If an individual is convicted of public lands vandalism, the court may impose a fine up to the full amount of the estimated cost to restore the damaged land, caused by the individual, to the land's original state.

(8) An individual who voluntarily, at the individual's own expense, and with the consent of the property owner, removes graffiti for which the individual is responsible shall be credited for costs ordered by the court under Subsection (7).

CHAPTER 293**H. B. 28**

Passed February 14, 2019

Approved March 26, 2019

Effective May 14, 2019

**PUBLIC EDUCATION
DEFINITIONS COORDINATION**

Chief Sponsor: Val L. Peterson

Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions in the public education code related to defined terms.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions in Title 53G, Public Education System -- Local Administration, to use and conform with defined terms in coordination with 2019FL-0374, Public Education Definitions Amendments;
- ▶ amends other provisions in the public education code related to defined terms; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:**AMENDS:**

53G-3-202, as last amended by Laws of Utah 2018, Chapter 256 and renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-301, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-302, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-305, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-306, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-307, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-308, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-401, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-404, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-501, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-502, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-3-503, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-201, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-202, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-203, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-204, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-205, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-303, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-304, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-401, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-403, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-404, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-405, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-406, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-409, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-410, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-502, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-503, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-602, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-604, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-605, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-606, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-801, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-802, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-803, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-804, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-805, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-806, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-807, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-1003, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-1004, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-1006, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-5-102, as last amended by Laws of Utah 2018, Chapter 383 and renumbered and amended by Laws of Utah 2018, Chapter 3

53G-5-201, as last amended by Laws of Utah 2018, Chapters 293, 383 and renumbered and amended by Laws of Utah 2018, Chapter 3

53G-11-405, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-406, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-407, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-408, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-501, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-501.5, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-504, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-505, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-506, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-507, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-508, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-510, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-511, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-512, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-518, as renumbered and amended by Laws of Utah 2018, Chapter 3
 63G-2-302, as last amended by Laws of Utah 2018, Chapters 206, 281, 415, and 461
 63J-1-220, as last amended by Laws of Utah 2018, Chapters 415 and 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-3-202 is amended to read:

53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1) (a) Each school district shall be controlled by its ~~board of education~~ local school board and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

(3) (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 2. Section 53G-3-301 is amended to read:

53G-3-301. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this section.

(2) The process to create a new school district may be initiated:

(a) through a citizens' initiative petition;

(b) at the request of the local school board of the existing district or districts to be affected by the creation of the new district; or

(c) at the request of a city within the boundaries of the school district or at the request of interlocal agreement participants, pursuant to Section 53G-3-302.

(3) (a) An initiative petition submitted under Subsection (2)(a) shall be signed by qualified electors residing within the geographical boundaries of the proposed new school district in an amount equal to at least 15% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) Each request or petition submitted under Subsection (2) shall:

(i) be filed with the clerk of each county in which any part of the proposed new school district is located;

(ii) indicate the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(iii) describe the proposed new school district boundaries; and

(iv) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each.

(c) The process described in Subsection (2)(a) may only be initiated once during any four-year period.

(d) A new district may not be formed under Subsection (2) if the student population of the proposed new district is less than 3,000 or the existing district's student population would be less than 3,000 because of the creation of the new school district.

(4) A signer of a petition described in Subsection (2)(a) may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the petition by filing a written request for withdrawal or reinstatement with the county clerk.

(5) Within 45 days after the day on which a petition described in Subsection (2)(a) is filed, or five business days after the day on which a request

described in Subsection (2)(b) or (c) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the request or petition complies with Subsections (2) and (3), as applicable; and

(b) (i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the request or petition and deliver the certified request or petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request or petition fails to comply with any of the applicable requirements, reject the request or petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6) (a) If the county clerk fails to certify or reject a request or petition within the time specified in Subsection (5), the request or petition is considered to be certified.

(b) (i) If the county clerk rejects a request or petition, the person that submitted the request or petition may amend the request or petition to correct the deficiencies for which the request or petition was rejected, and refile the request or petition.

(ii) Subsection (3)(c) does not apply to a request or petition that is amended and refiled after having been rejected by a county clerk.

(c) If, on or before December 1, a county legislative body receives a request from a local school board under Subsection (2)(b) or a petition under Subsection (2)(a) that is certified by the county clerk:

(i) the county legislative body shall appoint an ad hoc advisory committee, as provided in Subsection (7), on or before January 1;

(ii) the ad hoc advisory committee shall submit its report and recommendations to the county legislative body, as provided in Subsection (7), on or before July 1; and

(iii) if the legislative body of each county with which a request or petition is filed approves a proposal to create a new district, each legislative body shall submit the proposal to the respective county clerk to be voted on by the electors of each existing district at the regular general or municipal general election held in November.

(7) (a) The legislative body of each county with which a request or petition is filed shall appoint an ad hoc advisory committee to review and make recommendations on a request for the creation of a new school district submitted under Subsection (2)(a) or (b).

(b) The advisory committee shall:

(i) seek input from:

(A) those requesting the creation of the new school district;

(B) the local school board and school personnel of each existing school district;

(C) those citizens residing within the geographical boundaries of each existing school district;

(D) the ~~[State Board of Education]~~ state board; and

(E) other interested parties;

(ii) review data and gather information on at least:

(A) the financial viability of the proposed new school district;

(B) the proposal's financial impact on each existing school district;

(C) the exact placement of school district boundaries; and

(D) the positive and negative effects of creating a new school district and whether the positive effects outweigh the negative if a new school district were to be created; and

(iii) make a report to the county legislative body in a public meeting on the committee's activities, together with a recommendation on whether to create a new school district.

(8) For a request or petition submitted under Subsection (2)(a) or (b):

(a) The county legislative body shall provide for a 45-day public comment period on the report and recommendation to begin on the day the report is given under Subsection (7)(b)(iii).

(b) Within 14 days after the end of the comment period, the legislative body of each county with which a request or petition is filed shall vote on the creation of the proposed new school district.

(c) The proposal is approved if a majority of the members of the legislative body of each county with which a request or petition is filed votes in favor of the proposal.

(d) If the proposal is approved, the legislative body of each county with which a request or petition is filed shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters of each existing school district affected by the proposal;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(e) Creation of the new school district shall occur if a majority of the electors within both the proposed school district and each remaining school district

voting on the proposal vote in favor of the creation of the new district.

(f) Each county legislative body shall comply with the requirements of Section 53G-3-203.

(g) If a proposal submitted under Subsection (2)(a) or (b) to create a new district is approved by the electors, the existing district's documented costs to study and implement the proposal shall be reimbursed by the new district.

(9) (a) If a proposal submitted under Subsection (2)(c) is certified under Subsection (5) or (6)(a), the legislative body of each county in which part of the proposed new school district is located shall submit the proposal to the respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) (i) If a majority of the legal voters within the proposed new school district boundaries voting on the proposal at an election under Subsection (9)(a) vote in favor of the creation of the new district:

(A) each county legislative body shall comply with the requirements of Section 53G-3-203; and

(B) upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5, the new district is created.

(ii) Notwithstanding the creation of a new district as provided in Subsection (9)(b)(i)(B):

(A) a new school district may not begin to provide educational services to the area within the new district until July 1 of the second calendar year following the local school board general election date described in Subsection 53G-3-302(3)(a)(i);

(B) a remaining district may not begin to provide educational services to the area within the remaining district until the time specified in Subsection (9)(b)(ii)(A); and

(C) each existing district shall continue, until the time specified in Subsection (9)(b)(ii)(A), to provide educational services within the entire area covered by the existing district.

Section 3. Section 53G-3-302 is amended to read:

53G-3-302. Proposal initiated by a city or by interlocal agreement participants to create a school district -- Boundaries -- Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1) (a) After conducting a feasibility study, a city with a population of at least 50,000, as determined by the lieutenant governor using the process described in Subsection 67-1a-2(3), may by

majority vote of the legislative body, submit for voter approval a measure to create a new school district with boundaries contiguous with that city's boundaries, in accordance with Section 53G-3-301.

(b) (i) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (1)(a) is within the exclusive discretion of the city's legislative body.

(ii) An inadequacy of a feasibility study under Subsection (1)(a) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(2) (a) By majority vote of the legislative body, a city of any class, a town, or a county, may, together with one or more other cities, towns, or the county enter into an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district.

(b) (i) In accordance with Section 53G-3-301, interlocal agreement participants under Subsection (2)(a) may submit a proposal for voter approval if:

(A) the interlocal agreement participants conduct a feasibility study prior to submitting the proposal to the county;

(B) the combined population within the proposed new school district boundaries is at least 50,000;

(C) the new school district boundaries:

(I) are contiguous;

(II) do not completely surround or otherwise completely geographically isolate a portion of an existing school district that is not part of the proposed new school district from the remaining part of that existing school district, except as provided in Subsection (2)(d)(iii);

(III) include the entire boundaries of each participant city or town, except as provided in Subsection (2)(d)(ii); and

(IV) subject to Subsection (2)(b)(ii), do not cross county lines; and

(D) the combined population within the proposed new school district of interlocal agreement participants that have entered into an interlocal agreement proposing to create a new school district is at least 80% of the total population of the proposed new school district.

(ii) The determination of all matters relating to the scope, adequacy, and other aspects of a feasibility study under Subsection (2)(b)(i)(A), including whether to conduct a new feasibility study or revise a previous feasibility study due to a change in the proposed new school district boundaries, is within the exclusive discretion of the legislative bodies of the interlocal agreement participants that enter into an interlocal agreement to submit for voter approval a measure to create a new school district.

(iii) An inadequacy of a feasibility study under Subsection (2)(b)(i)(A) may not be the basis of a legal action or other challenge to:

(A) an election for voter approval of the creation of a new school district; or

(B) the creation of the new school district.

(iv) For purposes of determining whether the boundaries of a proposed new school district cross county lines under Subsection (2)(b)(i)(C)(IV):

(A) a municipality located in more than one county and entirely within the boundaries of a single school district is considered to be entirely within the same county as other participants in an interlocal agreement under Subsection (2)(a) if more of the municipality's land area and population is located in that same county than outside the county; and

(B) a municipality located in more than one county that participates in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries on the basis of the exception stated in Subsection (2)(d)(ii)(B) may not be considered to cross county lines.

(c) (i) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(ii) Boundaries of a new school district created under this section may include:

(A) a portion of one or more existing school districts; and

(B) a portion of the unincorporated area of a county, including a portion of a township.

(d) (i) As used in this Subsection (2)(d):

(A) "Isolated area" means an area that:

(I) is entirely within the boundaries of a municipality that, except for that area, is entirely within a school district different than the school district in which the area is located; and

(II) would, because of the creation of a new school district from the existing district in which the area is located, become completely geographically isolated.

(B) "Municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area.

(ii) Notwithstanding Subsection (2)(b)(i)(C)(III), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(A) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(B) (I) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(II) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(iii) (A) Notwithstanding Subsection (2)(b)(i)(C)(II), a proposal to create a new school district may be submitted for voter approval pursuant to an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, if:

(I) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(II) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(III) 90 days after a request under Subsection (2)(d)(iii)(A)(II) is submitted, the municipality has not entered into an interlocal agreement as requested in the request.

(B) Each municipality receiving a request under Subsection (2)(d)(iii)(A)(II) shall hold one or more public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(C) (I) This Subsection (2)(d)(iii)(C) applies if:

(Aa) a new school district is created under this section after a measure is submitted to voters based on the authority of Subsection (2)(d)(iii)(A); and

(Bb) the creation of the new school district results in an isolated area.

(II) The isolated area shall, on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), become part of the municipality's school district.

(III) Unless the isolated area is the only remaining part of the existing district, the process described in Subsection (4) shall be modified to:

(Aa) include a third transition team, appointed by the local school board of the municipality's school district, to represent that school district; and

(Bb) require allocation of the existing district's assets and liabilities among the new district, the remaining district, and the municipality's school district.

(IV) The existing district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following

the local school board general election date described in Subsection (3)(a)(i).

(3) (a) If a proposal under this section is approved by voters:

(i) an election shall be held at the next regular general election to elect:

(A) members to the local school board of the existing school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the remaining district;

(ii) the assets and liabilities of the existing school district shall be divided between the remaining school district and the new school district as provided in Subsection (5) and Section 53G-3-307;

(iii) transferred employees shall be treated in accordance with Sections 53G-3-205 and 53G-3-308;

(iv) (A) an individual residing within the boundaries of a new school district at the time the new school district is created may, for six school years after the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the new school district if:

(I) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(II) the individual would have been eligible to enroll in that secondary school had the new school district not been created; and

(B) the school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing, to each individual making an election under Subsection (3)(a)(iv)(A) for each school year for which the individual makes the election; and

(v) within one year after the new district begins providing educational services, the superintendent of each remaining district affected and the superintendent of the new district shall meet, together with the ~~[Superintendent of Public Instruction]~~ state superintendent, to determine if further boundary changes should be proposed in accordance with Section 53G-3-501.

(b) (i) The terms of the initial members of the local school board of the new district and remaining district shall be staggered and adjusted by the county legislative body so that approximately half of the local school board is elected every two years.

(ii) The term of a member of the existing local school board, including a member elected under Subsection (3)(a)(i)(A), terminates on July 1 of the second year after the local school board general election date described in Subsection (3)(a)(i), regardless of when the term would otherwise have terminated.

(iii) Notwithstanding the existence of a local school board for the new district and a local school board for the remaining district under Subsection (3)(a)(i), the local school board of the existing district shall continue, until the time specified in Subsection 53G-3-301(9)(b)(ii)(A), to function and exercise authority as a local school board to the extent necessary to continue to provide educational services to the entire existing district.

(iv) An individual may simultaneously serve as or be elected to be a member of the local school board of an existing district and a member of the local school board of:

(A) a new district; or

(B) a remaining district.

(4) (a) Within 45 days after the canvass date for the election at which voters approve the creation of a new district:

(i) a transition team to represent the remaining district shall be appointed by the members of the existing local school board who reside within the area of the remaining district, in consultation with:

(A) the legislative bodies of all municipalities in the area of the remaining district; and

(B) the legislative body of the county in which the remaining district is located, if the remaining district includes one or more unincorporated areas of the county; and

(ii) another transition team to represent the new district shall be appointed by:

(A) for a new district located entirely within the boundaries of a single city, the legislative body of that city; or

(B) for each other new district, the legislative bodies of all interlocal agreement participants.

(b) The local school board of the existing school district shall, within 60 days after the canvass date for the election at which voters approve the creation of a new district:

(i) prepare an inventory of the existing district's:

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; and

(ii) deliver a copy of the inventory to each of the transition teams.

(c) The transition teams appointed under Subsection (4)(a) shall:

(i) determine the allocation of the existing district's assets and, except for indebtedness under Section 53G-3-307, liabilities between the remaining district and the new district in accordance with Subsection (5);

(ii) prepare a written report detailing how the existing district's assets and, except for indebtedness under Section 53G-3-307, liabilities are to be allocated; and

(iii) deliver a copy of the written report to:

(A) the local school board of the existing district;

(B) the local school board of the remaining district; and

(C) the local school board of the new district.

(d) The transition teams shall determine the allocation under Subsection (4)(c)(i) and deliver the report required under Subsection (4)(c)(ii) before August 1 of the year following the election at which voters approve the creation of a new district, unless that deadline is extended by the mutual agreement of:

(i) the local school board of the existing district; and

(ii) (A) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(B) the legislative bodies of all interlocal agreement participants, for each other new district.

(e) (i) All costs and expenses of the transition team that represents a remaining district shall be borne by the remaining district.

(ii) All costs and expenses of the transition team that represents a new district shall initially be borne by:

(A) the city whose legislative body appoints the transition team, if the transition team is appointed by the legislative body of a single city; or

(B) the interlocal agreement participants, if the transition team is appointed by the legislative bodies of interlocal agreement participants.

(iii) The new district may, to a maximum of \$500,000, reimburse the city or interlocal agreement participants for:

(A) transition team costs and expenses; and

(B) startup costs and expenses incurred by the city or interlocal agreement participants on behalf of the new district.

(5) (a) As used in this Subsection (5):

(i) “Associated property” means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii) (A) “Discretionary asset or liability” means, except as provided in Subsection (5)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) “Discretionary asset or liability” does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii) (A) “Nondiscretionary asset or liability” means, except as provided in Subsection (5)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) “Nondiscretionary asset or liability” does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) “Physical asset” means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided in Subsection (5)(c), the transition teams appointed under Subsection (4)(a) shall allocate all assets and liabilities the existing district owns on the allocation date, both tangible and intangible, real and personal, to the new district and remaining district as follows:

(i) a physical asset and associated property shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new district and remaining district in proportion to the student populations of the school districts;

(iii) a nondiscretionary asset shall be allocated to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied will be located;

(iv) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve transportation routes serving schools within the new district and remaining district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(v) other vehicles shall be allocated:

(A) in proportion to the student populations of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the transition teams may allocate an asset or liability in a manner different than the allocation method specified in Subsection (5)(b).

(6) (a) As used in this Subsection (6):

(i) “New district startup costs” means:

(A) costs and expenses incurred by a new district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i); and

(B) the costs and expenses of the transition team that represents the new district.

(ii) “Remaining district startup costs” means:

(A) costs and expenses incurred by a remaining district in order to:

(I) make necessary adjustments to deal with the impacts resulting from the creation of the new district; and

(II) prepare to provide educational services within the remaining district once the new district begins providing educational services within the new district; and

(B) the costs and expenses of the transition team that represents the remaining district.

(b) (i) By January 1 of the year following the local school board general election date described in Subsection (3)(a)(i), the existing district shall make half of the undistributed reserve from its General Fund, to a maximum of \$9,000,000, available for the use of the remaining district and the new district, as provided in this Subsection (6).

(ii) The existing district may make additional funds available for the use of the remaining district and the new district beyond the amount specified in Subsection (6)(b)(i) through an interlocal agreement.

(c) The existing district shall make the money under Subsection (6)(b) available to the remaining district and the new district proportionately based on student population.

(d) The money made available under Subsection (6)(b) may be accessed and spent by:

(i) for the remaining district, the local school board of the remaining district; and

(ii) for the new district, the local school board of the new district.

(e) (i) The remaining district may use its portion of the money made available under Subsection (6)(b) to pay for remaining district startup costs.

(ii) The new district may use its portion of the money made available under Subsection (6)(b) to pay for new district startup costs.

(7) (a) The existing district shall transfer title or, if applicable, partial title of property to the new school district in accordance with the allocation of property by the transition teams, as stated in the report under Subsection (4)(c)(ii).

(b) The existing district shall complete each transfer of title or, if applicable, partial title to real property and vehicles by July 1 of the second calendar year following the local school board general election date described in Subsection (3)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the existing district;

(ii) the local school board of the remaining district; and

(iii) the local school board of the new district.

(c) The existing district shall complete the transfer of all property not included in Subsection (7)(b) by November 1 of the second calendar year

after the local school board general election date described in Subsection (3)(a)(i).

(8) Except as provided in Subsections (6) and (7), after the creation election date an existing school district may not transfer or agree to transfer title to district property without the prior consent of:

(a) the legislative body of the city in which the new district is located, for a new district located entirely within a single city; or

(b) the legislative bodies of all interlocal agreement participants, for each other new district.

(9) This section does not apply to the creation of a new district initiated through a citizens' initiative petition or at the request of a local school board under Section 53G-3-301.

Section 4. Section 53G-3-305 is amended to read:

53G-3-305. Reapportionment -- Local school board membership.

(1) Upon the creation of a new school district, the county legislative body shall reapportion the affected school districts pursuant to Section 20A-14-201.

(2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Section 5. Section 53G-3-306 is amended to read:

53G-3-306. Transfer of school property to new school district.

(1) (a) (i) On July 1 of the year following the local school board elections for a new district created pursuant to a citizens' initiative petition or local school board request under Section 53G-3-301 and an existing district as provided in Section 53G-3-305, the local school board of the existing district shall convey and deliver to the local school board of the new district all school property which the new district is entitled to receive.

(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.

(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53G-3-302(4).

(b) An existing district shall transfer property to a new district created under Section 53G-3-302 in accordance with Section 53G-3-302.

(2) Title vests in the new local school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new local school board may bring and maintain actions to recover, protect, and preserve

the property and rights of the district's schools and to enforce contracts.

Section 6. Section 53G-3-307 is amended to read:

53G-3-307. Tax to pay for indebtedness of divided school district.

(1) (a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.

(b) The proportionate share of the divided school district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:

(i) in the year immediately preceding the date the new district was created; or

(ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.

(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the [State Board of Education] state board.

(2) (a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011, shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).

(b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.

(3) As used in Subsections (4) and (5), "outstanding bonded indebtedness" means debt owed for a general obligation bond issued by the divided school district:

(a) prior to the creation of the new district; or

(b) in accordance with a mutual agreement of the local school boards of the remaining and new districts under Subsection (6).

(4) If a new district is created on or after May 10, 2011, property within the new district and the remaining district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection (5).

(5) (a) Except as provided in Subsection (5)(b), the local school board of the new district and the local school board of the remaining district shall impose a tax levy at a rate that:

(i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and

(ii) is uniform within the new district and remaining district.

(b) A local school board of a new district may abate a property tax required to be imposed under Subsection (5)(a) to the extent the new district has money available to pay to the remaining district the amount of revenue that would be generated within the new district from the tax rate specified in Subsection (5)(a).

(6) (a) The local school boards of the remaining and new districts shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new district based primarily on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection (6)(a), a remaining district may not issue bonds approved but not issued before the creation of the new district if property in the new district would be subject to the levy of a tax to pay the bonds.

Section 7. Section 53G-3-308 is amended to read:

53G-3-308. Employees of a new district.

(1) Upon the creation of a new district:

(a) an employee of an existing district who is employed at a school that is transferred to the new district shall become an employee of the new district; and

(b) the local school board of the new district shall:

(i) have discretion in the hiring of all other staff;

(ii) adopt the personnel policies and practices of the existing district, including salary schedules and benefits; and

(iii) enter into agreements with employees of the new district, or their representatives, that have the same terms as those in the negotiated agreements between the existing district and its employees.

(2) (a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of the new district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

(b) Subsection (2)(a) applies to:

(i) employees of an existing district who are transferred to a new district pursuant to Subsection (1)(a); and

(ii) employees of a school district from which a new district is created who are hired by the new district within one year of the date of the creation of the new district.

(3) An employee who is transferred to a new district pursuant to Subsection (1)(a) and is rehired

by the existing district within one year of the date of the creation of the new district shall, when rehired by the existing district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

Section 8. Section 53G-3-401 is amended to read:

53G-3-401. Consolidation of school districts -- Resolution by local school board members -- Petition by electors -- Election.

(1) Two or more school districts may unite and form a single school district in one of the following ways:

(a) a majority of the members of each of the local school boards [~~of education~~] of the affected districts shall approve and present to the county legislative body of the affected counties a resolution to consolidate the districts. Once this is done, consolidation shall be established under this chapter; or

(b) a majority of the members of the local school board [~~of education~~] of each affected district, or 15% of the qualified electors in each of the affected districts, shall sign and present a petition to the county legislative body of each affected county. The question shall be voted upon at an election called for that purpose, which shall be the next general or municipal election. Consolidation shall occur if a majority of those voting on the question in each district favor consolidation.

(2) The elections required under Subsection (1)(b) shall be conducted and the returns canvassed as provided by election laws.

Section 9. Section 53G-3-402 is amended to read:

53G-3-402. Transfer of property to new school district -- Rights and obligations of new local school board -- Outstanding indebtedness -- Special tax.

(1) On July 1 following the approval of the creation of a new school district under Section 53G-3-401, the local school boards of the former districts shall convey and deliver all school property to the local school board of the new district. Title vests in the new local school board. All rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property vest at once in the new local school board.

(2) The new local school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools and to enforce contracts.

(3) The new local school board shall assume and be liable for all outstanding debts and obligations of each of the former school districts.

(4) All of the bonded indebtedness, outstanding debts, and obligations of a former district, which

cannot be reasonably paid from the assets of the former district, shall be paid by a special tax levied by the new local school board as needed. The tax shall be levied upon the property within the former district which was liable for the indebtedness at the time of consolidation. If bonds are approved in the new district under Section 53G-4-603, the special tax shall be discontinued and the bonded indebtedness paid as any other bonded indebtedness of the new district.

(5) Bonded indebtedness of a former district which has been refunded shall be paid in the same manner as that which the new district assumes under Section 53G-4-602.

(6) State funds received by the new district under Section 53F-3-202 may be applied toward the payment of outstanding bonded indebtedness of a former district in the same proportion as the bonded indebtedness of the territory within the former district bears to the total bonded indebtedness of the districts combined.

Section 10. Section 53G-3-404 is amended to read:

53G-3-404. Additional levies -- Local school board options to abolish or continue after consolidation.

(1) If a school district that has approved an additional levy under Section 53F-8-301 is consolidated with a district which does not have such a levy, the local school board [~~of education~~] of the consolidated district may choose to abolish the levy, or apply it in whole or in part to the entire consolidated district.

(2) If the local school board chooses to apply any part of the levy to the entire district, the levy may continue in force for no more than three years, unless approved by the electors of the consolidated district in the manner set forth in Section 53F-8-301.

Section 11. Section 53G-3-501 is amended to read:

53G-3-501. Transfer of a portion of a school district -- State board resolution -- Local school board petition -- Elector petition -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local school board [~~of education~~] of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by a majority of the members of the local school board of each affected school district; or

(c) presentation to the county legislative body of each affected county of a petition requesting that the electors vote on the transfer, signed by 15% of the qualified electors in each of the affected school districts within that county.

(2) (a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.

(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective local school boards as soon as reasonably possible.

(c) The local school boards may then initiate realignment proceedings under Subsection (1)(a) or (b).

(d) If a local school board rejects realignment under Subsection (1)(a) or (b), the other local school board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:

(i) (A) within 30 days after a vote to initiate these procedures, each local school board shall appoint one member to a boundary review committee; or

(B) if the local school board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the local school board's chair shall make the appointment or serve as the appointee to the review committee.

(ii) The two local school board-appointed members of the committee shall meet and appoint a third member of the committee.

(iii) If the two local school board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the [~~State Superintendent of Public Instruction~~] state superintendent shall appoint the third member.

(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local school boards within six months after the appointment of the third member of the committee.

(v) If a majority of the members of each local school board accepts the recommendation of the committee, or accepts the recommendation after amendment by the local school boards, then the accepted recommendation shall be implemented.

(vi) If the committee fails to submit its recommendation within the time allotted, or if one local school board rejects the recommendation, the affected local school boards may agree to extend the time for the committee to prepare an acceptable recommendation or either local school board may request the [~~State Board of Education~~] state board to resolve the question.

(vii) If the committee has submitted a recommendation which the state board finds to be

reasonably supported by the evidence, the state board shall adopt the committee's recommendation.

(viii) The decision of the state board is final.

(3) (a) The electors of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the electors in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Section 12. Section 53G-3-502 is amended to read:

53G-3-502. Transfer of school district property -- Indebtedness on transferred property.

(1) If a transfer of a portion of one school district to another school district is approved under Section 53G-3-501, the state superintendent and the superintendents and presidents of the local school boards [~~of education~~] of each of the affected school districts shall determine the basis for a transfer of all school property reasonably and fairly allocable to that portion being transferred.

(2) (a) Title to property transferred vests in the transferee local school board [~~of education~~].

(b) The transfer of a school building that is in operation at the time of determination shall be made at the close of a fiscal year.

(c) The transfer of all other school property shall be made five days after approval of the transfer of territory under Section 53G-3-501.

(3) (a) The individuals referred to in Subsection (1) shall determine the portion of bonded indebtedness and other indebtedness of the transferor local school board for which the transferred property remains subject to the levy of taxes to pay a proportionate share of the outstanding indebtedness of the transferor local school board.

(b) This is done by:

(i) determining the amount of the outstanding bonded indebtedness and other indebtedness of the transferor local school board [~~of education~~];

(ii) determining the total taxable value of the property of the transferor district and the taxable value of the property to be transferred; and

(iii) calculating the portion of the indebtedness of the transferor local school board for which the transferred portion retains liability.

(4) (a) The agreement reflecting these determinations takes effect upon being filed with the [~~State Board of Education~~] state board.

(b) The transferred property remains subject to the levy of taxes to pay a proportionate share of the

outstanding indebtedness of the transferor local school board.

(c) The transferee local school board may assume the obligation to pay the proportionate share of the transferor local school board's indebtedness that has been determined under Subsection (3) to be the obligation of the transferred portion by the approval of a resolution by a majority of the qualified electors of the transferee school district at an election called and held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(5) If the transferee school district assumes the obligation to pay this proportionate share of the transferor local school board's indebtedness, the transferee local school board shall levy a tax in the whole of the transferee district, including the transferred portion, sufficient to pay the assumed indebtedness, and shall turn over the proceeds of the tax to the business administrator of the transferor local school board.

(6) If the transferee local school board does not assume this obligation, the transferee local school board shall levy a tax on the transferred territory sufficient to pay the proportionate share of the indebtedness determined under this section, and shall turn over the proceeds of the tax to the business administrator of the transferor local school board.

(7) For the purposes of school districts affected by repealed laws governing the annexation of an unincorporated area of a school district by a city which included what was formerly known as a city school district, transitions of unincorporated areas and property from the transferor district to the transferee district in progress on the effective date of this act shall revert to the boundaries and ownership prior to the initiation of annexation and may then proceed under this section and Section 53G-3-501.

Section 13. Section 53G-3-503 is amended to read:

53G-3-503. Additional levies in transferred territory -- Transferee local school board option to abolish or continue.

If two or more districts undergo restructuring that results in a district receiving territory that increases the population of the district by at least 25%, and if the transferred territory was, at the time of transfer, subject to an additional levy under Section 53F-8-301, the local school board [of education] of the transferee district may abolish the levy or apply the levy in whole or in part to the entire restructured district. Any such levy made applicable to the entire district may continue in force for no more than five years, unless approved by the electors of the restructured district in the manner set forth in Section 53F-8-301.

Section 14. Section 53G-4-201 is amended to read:

53G-4-201. Selection and election of members to local school boards.

Members of local school boards [of education] shall be elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

Section 15. Section 53G-4-202 is amended to read:

53G-4-202. Local school board meetings -- Rules of order and procedure -- Location requirements -- Expulsion of members prohibited -- Exceptions.

(1) As used in this section:

(a) "Disaster" means an event that:

(i) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomenon, or technological hazard; and

(ii) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require a response by a governmental, not-for-profit, or private entity.

(b) "Local emergency" means a condition in any municipality or county of the state that requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster or to avoid or reduce the threat of a disaster.

(c) "Rules of order and procedure" means a set of [rules] policies that governs and prescribes in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(2) Subject to Subsection (4), a local school board shall:

(a) adopt rules of order and procedure to govern a public meeting of the local school board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public:

(i) at each public meeting of the local school board; and

(ii) on the local school board's public website, if available.

(3) (a) Except as provided in Subsections (3)(b) and (c), a local school board may not hold a public meeting outside of the geographic boundary of the local school board's school district.

(b) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district if it is necessary for the

local school board to hold a meeting during a disaster or local emergency.

(c) A local school board may hold a public meeting outside of the geographic boundary of the local school board's school district to conduct a site visit if:

(i) the location of the site visit provides the local school board members the opportunity to see or experience an activity that:

(A) relates to the local school board's responsibilities; and

(B) does not exist within the geographic boundaries of the local school board's school district; and

(ii) the local school board does not vote or take other action during the public meeting held at the site visit location.

(d) This Subsection (3) does not apply to a charter school governing board.

(4) The requirements of this section do not affect a local school board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) (a) Except as provided in Subsection (5)(b), a local school board may not expel a member of the local school board from an open public meeting or prohibit the member from attending an open public meeting.

(b) Except as provided in Subsection (5)(c), following a two-thirds vote of the members of the local school board, the local school board may fine or expel a member of the local school board for:

(i) disorderly conduct at the open public meeting;

(ii) a member's direct or indirect financial conflict of interest regarding an issue discussed at or action proposed to be taken at the open public meeting; or

(iii) a commission of a crime during the open public meeting.

(c) A local school board may adopt ~~[rules]~~ policies or ordinances that expand the reasons or establish more restrictive procedures for the expulsion of a member from a public meeting.

Section 16. Section 53G-4-203 is amended to read:

53G-4-203. Election of officers -- Terms -- Time of election -- Removal of officers -- Quorum requirements.

(1) A local school board shall elect a president and a ~~[vice-president]~~ vice president whose terms of office are for two years and until their successors are elected.

(2) The elections shall be held during the first local school board meeting in January following a regular local school board election held in the district.

(3) An officer appointed or elected by a local school board may be removed from office for cause by a vote of two-thirds of the local school board.

(4) When a vacancy occurs in the office of president or vice president of the local school board for any reason, a replacement shall be elected for the unexpired term.

(5) Attendance of a simple majority of the local school board members constitutes a quorum for the transaction of official business.

Section 17. Section 53G-4-204 is amended to read:

53G-4-204. Compensation for services -- Additional per diem -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with ~~[board]~~ compensation schedules adopted by the local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its ~~[board]~~ compensation schedules, the local school board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:

(a) (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and

(ii) publication on the Utah Public Notice Website created in Section 63F-1-701; and

(b) posting a notice:

(i) at each school within the school district;

(ii) in at least three other public places within the school district; and

(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

(4) After the conclusion of the public hearing, the local school board may adopt or amend its ~~[board]~~ compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for local school board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007, until, at the discretion of the local school board, the compensation schedule is amended or a new compensation schedule is adopted.

Section 18. Section 53G-4-205 is amended to read:

53G-4-205. Duties of president.

(1) The president of each local school board shall preside at all meetings of the local school board, appoint all committees, and sign all warrants

ordered by the local school board to be drawn upon the business administrator for school money.

(2) If the president is absent or acquires a disability, these duties are performed by the vice president.

Section 19. Section 53G-4-303 is amended to read:

53G-4-303. Duties of business administrator.

Subject to the direction of the district superintendent of schools, the district's business administrator shall:

(1) attend all meetings of the local school board, keep an accurate record of its proceedings, and have custody of the seal and records;

(2) be custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources;

(3) countersign with the president of the local school board all warrants and claims against the district as well as other legal documents approved by the local school board;

(4) prepare and submit to the local school board each month a written report of the district's receipts and expenditures;

(5) use uniform budgeting, accounting, and auditing procedures and forms approved by the [State Board of Education] state board, which shall be in accordance with generally accepted accounting principles or auditing standards and Title 63J, Chapter 1, Budgetary Procedures Act;

(6) prepare and submit to the local school board a detailed annual statement for the period ending June 30, of the revenue and expenditures, including beginning and ending fund balances;

(7) assist the superintendent in the preparation and submission of budget documents and statistical and fiscal reports required by law or the [State Board of Education] state board;

(8) insure that adequate internal controls are in place to safeguard the district's funds; and

(9) perform other duties as the superintendent may require.

Section 20. Section 53G-4-304 is amended to read:

53G-4-304. Other local school board officers.

(1) A local school board may appoint other necessary officers who serve at the pleasure of the local school board.

(2) These officers shall qualify by taking the constitutional oath of office before assuming office.

Section 21. Section 53G-4-401 is amended to read:

53G-4-401. Local school boards are bodies corporate -- Seal -- Authority to sue -- Conveyance of property -- Duty to residents of the local school board member's district -- Establishment of public education foundation.

(1) As used in this section, "body corporate" means a public corporation and legal subdivision of the state, vested with the powers and duties of a government entity as specified in this chapter.

(2) The local school board [of education] of a school district is a body corporate under the name of the "Board of Education of School District" (inserting the proper name), and shall have an official seal conformable to its name.

(3) The seal is used by its business administrator in the authentication of all required matters.

(4) A local school board may sue and be sued, and may take, hold, lease, sell, and convey real and personal property as the interests of the schools may require.

(5) Notwithstanding a local school board's status as a body corporate, an elected member of a local school board serves and represents the residents of the local school board member's district, and that service and representation may not be restricted or impaired by the local school board member's membership on, or obligations to, the local school board.

(6) A local school board may establish a foundation in accordance with Section 53E-3-403.

Section 22. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the [State Board of Education] state board, which measure the progress of each student, and coordinate with the state superintendent and [State Board of Education] state board to assess results and create plans to improve the student's progress, which shall be submitted to the [State Board of Education] state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the [State Board of Education] state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects.

(2) Local school boards shall spend [~~minimum school program~~] Minimum School Program funds for programs and activities for which the [~~State Board of Education~~] state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the [~~State Board of Education~~] state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents [~~or guardians~~] before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt [~~rules~~] policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and [~~rules~~] policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce [~~rules~~] policies necessary for the control and management of the district schools.

(b) [~~Board rules and~~] Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and

recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade ~~six~~ 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent ~~or guardian~~.

(c) The ~~[State Board of Education]~~ state board, through the state superintendent ~~[of public instruction]~~, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the ~~[State Board of Education]~~ state board that its plan has been practiced at the school level and presented to and reviewed by its teachers,

administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The ~~[State Board of Education]~~ state board, through the state superintendent ~~[of public instruction]~~, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) hold a public hearing, as defined in Section 10-9a-103; and

(ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) date, time, and location of the public hearing; and

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality or on the district's official website.

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Section 23. Section 53G-4-403 is amended to read:

53G-4-403. School district fiscal year -- Statistical reports.

(1) A school district's fiscal year begins on July 1 and ends on June 30.

(2) (a) A school district shall forward statistical reports for the preceding school year, containing items required by law or by the [~~State Board of Education~~] state board, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement required under Subsection 53E-3-301(3)(d)(v).

(3) A school district shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 24. Section 53G-4-404 is amended to read:

53G-4-404. Annual financial report -- Audit report.

(1) The annual financial report of each school district, containing items required by law or by the [~~State Board of Education~~] state board and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement required under Subsection 53E-3-301(3)(d)(v).

(b) The [~~State Board of Education~~] state board shall publish electronically a copy of the report on the Internet not later than December 15.

(4) The completed audit report shall be delivered to the school district local school board [~~of education~~] and the state superintendent [~~of public instruction~~] not later than November 30 of each year.

Section 25. Section 53G-4-405 is amended to read:

53G-4-405. Approval of purchases or indebtedness -- Local school board approval of identified purchases.

(1) An officer or employee of a school district may not make a purchase or incur indebtedness on behalf of the district without the approval and order of the local school board.

(2) The local school board shall adopt one of the following approval methods, or a combination of the two:

(a) The local school board shall approve an appropriation for identified purchases in the district budget. Each purchase made under an identified purchase does not require additional local school board approval.

(b) The local school board shall approve individual purchases when made throughout the fiscal year.

Section 26. Section 53G-4-406 is amended to read:

53G-4-406. Claims against the local school board -- Itemized.

Except for salary which is regularly authorized by the local school board, the local school board may not hear or consider any claim against the local school board which is not itemized.

Section 27. Section 53G-4-409 is amended to read:

53G-4-409. Activity disclosure statements.

(1) A local school board shall require the development of activity disclosure statements for each school-sponsored group or program which involves students and faculty in grades 9 through 12 in contests, performances, events, or other activities that require them to miss normal class time or takes place outside regular school time.

(2) The activity disclosure statements shall be disseminated to the students desiring involvement in the specific activity or to the students' parents [~~or legal guardians~~] or to both students and their parents.

(3) An activity disclosure statement shall contain the following information:

(a) the specific name of the team, group, or activity;

(b) the maximum number of students involved;

(c) whether or not tryouts are used to select students, specifying date and time requirements for tryouts, if applicable;

(d) beginning and ending dates of the activity;

(e) a tentative schedule of the events, performances, games, or other activities with dates, times, and places specified if available;

(f) if applicable, designation of any nonseason events or activities, including an indication of the status, required, expected, suggested, or optional, with the dates, times, and places specified;

(g) personal costs associated with the activity;

(h) the name of the school employee responsible for the activity; and

(i) any additional information considered important for the students and parents to know.

Section 28. Section 53G-4-410 is amended to read:

53G-4-410. Regional service centers.

(1) For purposes of this section, “eligible regional service center” means a regional service center formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) An eligible regional service center formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, may receive a distribution described in Subsection (5) if the Legislature appropriates money for eligible regional service centers.

(4) (a) If local school boards enter into an interlocal agreement to confirm or formalize a regional service center in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional service center in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional service center shall have the effect of confirming and ratifying in the regional service center, the title to any property held in the name, or for the benefit of the regional service center as of the effective date of the interlocal agreement.

(5) (a) The ~~[State Board of Education]~~ state board shall distribute any funding appropriated to eligible regional service centers as provided by the Legislature.

(b) The ~~[State Board of Education]~~ state board may provide funding to an eligible regional service center in addition to legislative appropriations.

(6) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules regarding eligible regional service centers including:

(a) the distribution of legislative appropriations to eligible regional service centers;

(b) the designation of eligible regional service centers as agents to distribute Utah Education and Telehealth Network services; and

(c) the designation of eligible regional service centers as agents for regional coordination of public education and higher education services.

Section 29. Section 53G-4-502 is amended to read:

53G-4-502. Utah School Boards Association.

The Utah School Boards Association is recognized as an organization and agency of the local school boards of Utah and is representative of those local school boards.

Section 30. Section 53G-4-503 is amended to read:

53G-4-503. Boards of education authorized to become members of association.

The ~~[State Board of Education]~~ state board, local school boards, and their agencies may become members of the Utah School Boards Association and cooperate with the association and its members on activities and problems relating to the state’s educational system.

Section 31. Section 53G-4-602 is amended to read:

53G-4-602. School district tax anticipation notes.

(1) A local school board may borrow money in anticipation of the collection of taxes or other revenue of the school district so long as it complies with Title 11, Chapter 14, Local Government Bonding Act.

(2) The local school board may incur indebtedness under this section for any purpose for which district funds may be expended, but not in excess of the estimated district revenues for the current school year.

(3) Revenues include all revenues of the district from the state or any other source.

(4) The district may incur the indebtedness prior to imposing or collecting the taxes or receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

Section 32. Section 53G-4-604 is amended to read:

53G-4-604. Consolidated school district bonds.

(1) A consolidated county school district may issue bonds, without an election, to fund, purchase, or redeem the district’s outstanding indebtedness if the debt was incurred prior to consolidation and assumed by the consolidated school district.

(2) The legality, regularity, and validity of the outstanding indebtedness shall be determined in the same manner used to determine the validity of other bonds to be refunded by the local school board.

Section 33. Section 53G-4-605 is amended to read:

53G-4-605. Testing validity of bonds to be refunded -- Procedure.

If considered advisable by the local school board, the validity of any bonds intended to be refunded may be determined in the following manner:

(1) The local school board shall:

(a) publish a notice describing with sufficient particularity for identification the bond or bonds intended to be refunded:

(i) once a week for two successive weeks in a newspaper published in the school district; and

(ii) as required in Section 45-1-101; and

(b) post a notice for two successive weeks in three public and conspicuous places describing with sufficient particularity for identification the bond or bonds intended to be refunded.

(2) The notice shall require any person objecting to the legality, regularity, or validity of the bonds, their issue or sale, or the indebtedness represented by the bonds, to appear before the local school board at a specified place within the district on a specified day and time.

(3) The time may not be less than 14 nor more than 60 days after the first publication or posting of the notice.

(4) The notice shall require the person to appear at the meeting with his objections in writing, duly verified.

(5) The local school board shall convene at the time and place specified in the notice and receive all objections as prescribed in Subsection (4).

(6) The objections shall be filed with and preserved by the local school board.

(7) If no written objections are presented at the time and place specified in the notice, the local school board shall so certify.

(8) All persons are then prohibited from questioning in any manner or proceeding the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds, and the local school board may then refund the bonds.

(9) Any person filing a written objection under Subsection (4) shall, within 20 days after the filing, commence appropriate legal proceedings against the local school board and others as may be proper parties, in the district court for the county in which the school district is situated, to challenge and determine the legality, regularity, and validity of the bond or bonds, their issue and sale, or the indebtedness represented by them.

(10) Failure to commence the proceedings within 20 days bars the person filing objections from questioning, in any manner or proceeding, the legality, regularity, or validity of the bond or bonds, their issue or sale, or the indebtedness represented by the bonds.

(11) Upon proof of failure to commence proceedings, by certificate of the clerk of the court, the local school board may refund the bonds.

Section 34. Section 53G-4-606 is amended to read:

53G-4-606. Sinking fund -- Investment.

(1) The money levied and collected to create a sinking fund for the redemption of bonds issued by a local school board shall be immediately credited to a special fund.

(2) After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the local school board shall invest the fund and any surplus as provided under Title 51, Chapter 7, State Money Management Act.

Section 35. Section 53G-4-801 is amended to read:

53G-4-801. Definitions.

~~[(1) "Board" means the board of education of a school district existing now or later under the laws of the state.]~~

~~[(2) (1) "Bond" means any general obligation bond or refunding bond issued after the effective date of this part.~~

~~[(3) (2) "Default avoidance program" means the school bond guaranty program established by this part.~~

~~[(4) (3) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a local school board payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.~~

~~[(5) (4) "Paying agent" means the corporate paying agent selected by the local school board for a bond issue who is:~~

(a) duly qualified; and

(b) acceptable to the state treasurer.

~~[(6) (5) "Permanent school fund" means the state school fund described in the Utah Constitution, Article X, Section 5(1).~~

~~[(7) (6) "Refunding bond" means any general obligation bond issued by a local school board for the purpose of refunding its outstanding general obligation bonds.~~

~~[(8) (7) "School district" means any school district existing now or later under the laws of the state.~~

Section 36. Section 53G-4-802 is amended to read:

53G-4-802. Contract with bondholders -- Full faith and credit of state is pledged -- Limitation as to certain refunded bonds.

(1) (a) The state of Utah pledges to and agrees with the holders of any bonds that the state will not alter, impair, or limit the rights vested by the default avoidance program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged.

(b) Notwithstanding Subsection (1)(a), nothing contained in this part precludes an alteration,

impairment, or limitation if adequate provision is made by law for the protection of the holders of the bonds.

(c) Each local school board may refer to this pledge and undertaking by the state in its bonds.

(2) (a) The full faith and credit and unlimited taxing power of the state is pledged to guarantee full and timely payment of the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, bonds as such payments shall become due (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default of otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration).

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this part by its title on the face of any bond conclusively establishes the guaranty provided to that bond under provisions of this part.

(3) (a) Any bond guaranteed under this part that is refunded and considered paid for the purposes of and within the meaning of Subsection 11-27-3(6), no longer has the benefit of the guaranty provided by this part from and after the date on which that bond was considered to be paid.

(b) Any refunding bond issued by a local school board that is itself secured by government obligations until the proceeds are applied to pay refunded bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, is not guaranteed under the provisions of this part, until the refunding bonds cease to be secured by government obligations as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

(4) Only validly issued bonds issued after the effective date of this part are guaranteed under this part.

Section 37. Section 53G-4-803 is amended to read:

53G-4-803. Program eligibility -- Option to forego guaranty.

(1) (a) Any local school board may request that the state treasurer issue a certificate evidencing eligibility for the state's guaranty under this part.

(b) After reviewing the request, if the state treasurer determines that the local school board is eligible, the state treasurer shall promptly issue the certificate and provide it to the requesting local school board.

(c) (i) The local school board receiving the certificate and all other persons may rely on the certificate as evidencing eligibility for the guaranty for one year from and after the date of the

certificate, without making further inquiry of the state treasurer during that year.

(ii) The certificate of eligibility is valid for one year even if the state treasurer later determines that the local school board is ineligible.

(2) Any local school board that chooses to forego the benefits of the guaranty provided by this part for a particular issue of bonds may do so by not referring to this part on the face of its bonds.

(3) Any local school board that has bonds, the principal of or interest on which has been paid, in whole or in part, by the state under this part may not issue any additional bonds guaranteed by this act until:

(a) all payment obligations of the local school board to the state under the default avoidance program are satisfied; and

(b) the state treasurer and the state superintendent [~~of public instruction~~] each certify in writing, to be kept on file by the state treasurer and the state superintendent, that the local school board is fiscally solvent.

(4) Bonds not guaranteed by this part are not included in the definition of "bonds" in Section 53G-4-802 as used generally in this part and are not subject to the requirements of and do not receive the benefits of this part.

Section 38. Section 53G-4-804 is amended to read:

53G-4-804. Fiscal solvency of school districts -- Duties of state treasurer and attorney general.

(1) The state superintendent [~~of public instruction~~] shall:

(a) monitor the financial affairs and condition of each local school board in the state to evaluate each local school board's financial solvency; and

(b) report immediately to the governor and state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) (a) The state treasurer shall determine whether [~~or not~~] the financial affairs and condition of a local school board are such that it would be imprudent for the state to guarantee the bonds of that local school board.

(b) If the state treasurer determines that the state should not guarantee the bonds of that local school board, the state treasurer shall:

(i) prepare a determination of ineligibility; and

(ii) keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a local school board from the status of ineligibility when a subsequent report or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that local school board.

(3) Nothing in this section affects the state's guaranty of bonds of a local school board issued:

- (a) before determination of ineligibility;
- (b) after the eligibility of the local school board is restored; or
- (c) under a certificate of eligibility issued under Section 53G-4-803.

Section 39. Section 53G-4-805 is amended to read:

53G-4-805. Business administrator duties -- Paying agent to provide notice -- State treasurer to execute transfer to paying agents -- Effect of transfer.

(1) (a) The business administrator of each local school board with outstanding, unpaid bonds shall transfer money sufficient for the scheduled debt service payment to its paying agent at least 15 days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the business administrator, invest the money at the risk and for the benefit of the local school board until the payment date.

(c) A business administrator who is unable to transfer the scheduled debt service payment to the paying agent 15 days before the payment date shall immediately notify the paying agent and the state treasurer by:

- (i) telephone;
- (ii) a writing sent by facsimile transmission; and
- (iii) a writing sent by first-class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by Subsection (1), the paying agent shall notify the state treasurer of that failure in writing at least 10 days before the scheduled debt service payment date by:

- (a) telephone;
- (b) a writing sent by facsimile transmission; and
- (c) a writing sent by first-class United States mail.

(3) (a) If sufficient money to pay the scheduled debt service payment has not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, transfer sufficient money to the paying agent to make the scheduled debt service payment.

- (b) The payment by the treasurer:
 - (i) discharges the obligation of the issuing local school board to its bondholders for the payment; and
 - (ii) transfers the rights represented by the general obligation of the local school board from the bondholders to the state.

(c) The local school board shall pay the transferred obligation to the state as provided in this part.

Section 40. Section 53G-4-806 is amended to read:

53G-4-806. State financial assistance intercept mechanism -- State treasurer duties -- Interest and penalty provisions.

(1) (a) If one or more payments on bonds are made by the state treasurer as provided in Section 53G-4-805, the state treasurer shall:

(i) immediately intercept any payments from the Uniform School Fund or from any other source of operating money provided by the state to the local school board that issued the bonds that would otherwise be paid to the local school board by the state; and

(ii) apply the intercepted payments to reimburse the state for payments made pursuant to the state's guaranty until all obligations of the local school board to the state arising from those payments, including interest and penalties, are paid in full.

(b) The state has no obligation to the local school board or to any person or entity to replace any money intercepted under authority of Subsection (1)(a).

(2) The local school board that issued bonds for which the state has made all or part of a debt service payment shall:

- (a) reimburse all money drawn by the state treasurer on its behalf;
- (b) pay interest to the state on all money paid by the state from the date the money was drawn to the date they are repaid at a rate not less than the average prime rate for national money center banks plus 1%; and

(c) pay all penalties required by this part.

(3) (a) The state treasurer shall establish the reimbursement interest rate after considering the circumstances of any prior draws by the local school board on the state, market interest and penalty rates, and the cost of funds, if any, that were required to be borrowed by the state to make payment on the bonds.

(b) The state treasurer may, after considering the circumstances giving rise to the failure of the local school board to make payment on its bonds in a timely manner, impose on the local school board a penalty of not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in which a payment by the state is made.

(4) (a) (i) If the state treasurer determines that amounts obtained under this section will not reimburse the state in full within one year from the state's payment of a local school board's scheduled debt service payment, the state treasurer shall pursue any legal action, including mandamus, against the local school board to compel it to:

(A) levy and provide property tax revenues to pay debt service on its bonds when due as required by

Title 11, Chapter 14, Local Government Bonding Act; and

(B) meet its repayment obligations to the state.

(ii) In pursuing its rights under this Subsection (4)(a), the state shall have the same substantive and procedural rights under Title 11, Chapter 14, Local Government Bonding Act, as would a holder of the bonds of a local school board.

(b) The attorney general shall assist the state treasurer in these duties.

(c) The local school board shall pay the attorney's fees, expenses, and costs of the state treasurer and the attorney general.

(5) (a) Except as provided in Subsection (5)(c), any local school board whose operating funds were intercepted under this section may replace those funds from other local school board money or from ad valorem property taxes, subject to the limitations provided in this Subsection (5).

(b) A local school board may use ad valorem property taxes or other money to replace intercepted funds only if the ad valorem property taxes or other money was derived from:

(i) taxes originally levied to make the payment but which were not timely received by the local school board;

(ii) taxes from a special levy made to make the missed payment or to replace the intercepted money;

(iii) money transferred from the capital outlay fund of the local school board or the undistributed reserve, if any, of the local school board; or

(iv) any other source of money on hand and legally available.

(c) Notwithstanding the provisions of Subsections (5)(a) and (b), a local school board may not replace operating funds intercepted by the state with money collected and held to make payments on bonds if that replacement would divert money from the payment of future debt service on the bonds and increase the risk that the state's guaranty would be called upon a second time.

Section 41. Section 53G-4-807 is amended to read:

53G-4-807. Backup liquidity arrangements -- Issuance of notes.

(1) (a) If, at the time the state is required to make a debt service payment under its guaranty on behalf of a local school board, sufficient money of the state is not on hand and available for that purpose, the state treasurer may:

(i) seek a loan from the Permanent School Fund sufficient to make the required payment; or

(ii) issue state debt as provided in Subsection (2).

(b) Nothing in this Subsection (1) requires the Permanent School Fund to lend money to the state treasurer.

(2) (a) The state treasurer may issue state debt in the form of general obligation notes to meet its obligations under this part.

(b) The amount of notes issued may not exceed the amount necessary to make payment on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and delivery of the notes, rounded up to the nearest natural multiple of \$5,000.

(c) Each series of notes issued may not mature later than 18 months from the date the notes are issued.

(d) Notes issued may be refunded using the procedures set forth in this part for the issuance of notes, in an amount not more than the amount necessary to pay principal of and accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery of the refunding notes, rounded up to the nearest natural multiple of \$5,000.

(e) Each series of refunding notes may not mature later than 18 months from the date the refunding notes are issued.

(3) (a) Before issuing or selling any general obligation note to other than a state fund or account, the state treasurer shall:

(i) prepare a written plan of financing; and

(ii) file it with the governor.

(b) The plan of financing shall provide for:

(i) the terms and conditions under which the notes will be issued, sold, and delivered;

(ii) the taxes or revenues to be anticipated;

(iii) the maximum amount of notes that may be outstanding at any one time under the plan of financing;

(iv) the sources of payment of the notes;

(v) the rate or rates of interest, if any, on the notes or a method, formula, or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and

(vi) all other details relating to the issuance, sale, and delivery of the notes.

(c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:

(i) the taxes authorized by Section 53G-4-808;

(ii) the intercepted revenues authorized by Section 53G-4-806;

(iii) the proceeds of refunding notes; or

(iv) any combination of Subsections (3)(c)(i), (ii), and (iii).

(d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the

state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the notes, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the state treasurer.

(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, above, or below face value, and all details of issuance of the notes.

(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this part.

(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Utah.

(ii) These general obligation notes do not constitute debt of the state for the purposes of the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.

(h) Immediately upon the completion of any sale of notes, the state treasurer shall:

(i) make a verified return of the sale to the state auditor, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale; and

(ii) credit the proceeds of sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the General Fund to be applied to the purpose for which the notes were issued.

Section 42. Section 53G-4-1003 is amended to read:

53G-4-1003. Funds raised -- Highest priority projects.

(1) Funds raised by the school district in accordance with this part shall be used on the highest priority projects established by the district's five-year comprehensive capital outlay plan, which shall be approved by the ~~[State Board of Education]~~ state board.

(2) The plan must include appropriate priorities for the construction of minimal facilities for new students.

(3) If priority use of the funds raised by the district in accordance with this part does not provide minimal facilities as defined by the ~~[State Board of Education]~~ state board for students in any new and remote community established in the district, or for students in existing communities because of the location of new or expanded industries in the area, the district may enter into lease-purchase agreements or lease with option to

purchase agreements with private builders to furnish the minimal facilities required by the district and approved by the ~~[State Board of Education]~~ state board.

(4) The district may make payments on these agreements from any of its otherwise uncommitted capital outlay funds.

Section 43. Section 53G-4-1004 is amended to read:

53G-4-1004. Minimal school facilities -- Lease-purchase or lease with option to purchase agreement authorized.

(1) If a school district is unable to find any private builder who is capable of furnishing minimal school facilities in new or existing communities, on terms acceptable to the district and to the ~~[State Board of Education]~~ state board, the developers of the industrial plant, or plants, may agree to provide minimal school facilities under a lease-purchase agreement or lease with option to purchase agreement with the district.

(2) The district shall pay the developers according to the terms of the agreement from sources listed for such payments in this part.

Section 44. Section 53G-4-1006 is amended to read:

53G-4-1006. Rules and regulations authorized.

The ~~[State Board of Education]~~ state board shall adopt all standards and rules necessary for the administration and enforcement of this part.

Section 45. Section 53G-5-102 is amended to read:

53G-5-102. Definitions.

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

- (a) cash;
- (b) stock or other investments;
- (c) real property;
- (d) equipment and supplies;
- (e) an ownership interest;
- (f) a license;
- (g) a cause of action; and
- (h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

- (a) the board of trustees of:
 - (i) the University of Utah;
 - (ii) Utah State University;
 - (iii) Weber State University;
 - (iv) Southern Utah University;
 - (v) Snow College;

- (vi) Dixie State University;
- (vii) Utah Valley University; or
- (viii) Salt Lake Community College; or

(b) the board of directors of a technical college described in Section 53B-2a-108.

~~[(3) “Charter agreement” or “charter” means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.]~~

[4] (3) “Charter school authorizer” or “authorizer” means an entity listed in Section 53G-5-205 that authorizes a charter school.

~~[(5) “Governing board” means the board that operates a charter school.]~~

Section 46. Section 53G-5-201 is amended to read:

53G-5-201. State Charter School Board created.

(1) As used in this section, “organization that represents Utah’s charter schools” means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2) (a) The State Charter School Board is created consisting of the following members appointed by the governor with the consent of the Senate:

(i) one member who has expertise in finance or small business management;

(ii) three members who:

(A) are nominated by an organization that represents Utah’s charter schools; and

(B) have expertise or experience in developing or administering a charter school;

(iii) two members who are nominated by the ~~[State Board of Education]~~ state board; and

(iv) one member who:

(A) has expertise in personalized learning, including digital teaching and learning or deliberate practice; and

(B) supports innovation in education.

(b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.

(c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).

(d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah’s charter schools.

(3) (a) State Charter School Board members shall serve four-year terms.

(b) If a vacancy occurs, the governor shall, with the consent of the Senate, appoint a replacement for the unexpired term.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5) (a) The State Charter School Board shall annually elect a chair from its membership.

(b) Four members of the ~~[board]~~ State Charter School Board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the ~~[board]~~ State Charter School Board.

(6) A member may not receive compensation or benefits for the member’s service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 47. Section 53G-5-203 is amended to read:

53G-5-203. State Charter School Board -- Staff director -- Facilities.

(1) (a) The State Charter School Board, with the consent of the state superintendent ~~[of public instruction]~~, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the state superintendent ~~[of public instruction]~~.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The state superintendent ~~[of public instruction]~~ shall provide space for staff of the State Charter School Board in facilities occupied by the ~~[State Board of Education]~~ state board or the ~~[State Board of Education’s]~~ state board’s employees, with costs charged for the facilities equal to those charged other sections and divisions under the ~~[State Board of Education]~~ state board.

Section 48. Section 53G-5-205 is amended to read:

53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; or

(c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102.

(2) A charter school authorizer shall:

(a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and

(b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.

(3) A charter school authorizer may:

(a) authorize and promote the establishment of charter schools, subject to the provisions in this part;

(b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and ~~[State Board of Education]~~ state board, respectively;

(c) make recommendations to the ~~[State Board of Education]~~ state board on the funding of charter schools;

(d) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization;

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;

(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or

(v) assisting charter schools to understand and carry out their charter obligations; or

(e) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after an authorizer's approval of an application for a new charter school, the ~~[State Board of Education]~~ state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule before approving the new application.

(5) The ~~[State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ state board shall make rules establishing minimum standards that a charter school authorizer is required to apply when:

(a) evaluating a charter school application; or

(b) monitoring charter school compliance.

(6) The minimum standards described in Subsection (5) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

Section 49. Section 53G-5-301 is amended to read:

53G-5-301. State Charter School Board to request applications for certain types of charter schools.

(1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2) (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

(i) a military charter school;

(ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;

(iii) a charter school whose focus is career and technical education;

(iv) a single gender charter school; or

(v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.

(b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

(3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section 53G-5-304.

(5) The State Charter School Board and the [State Board of Education] state board may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section 53G-6-504.

(6) The [State Board of Education] state board shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Section 50. Section 53G-5-302 is amended to read:

53G-5-302. Charter school application -- Applicants -- Contents.

(1) (a) An application to establish a charter school may be submitted by:

- (i) an individual;
- (ii) a group of individuals; or
- (iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

- (a) the purpose and mission of the school;
- (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
- (c) a description of the governance structure of the school, including:
 - (i) a list of the charter school governing board members that describes the qualifications of each member; and
 - (ii) an assurance that the applicant shall, within 30 days of authorization, complete a background check for each member consistent with Section 53G-5-408;
 - (d) a description of the target population of the school that includes:
 - (i) the projected maximum number of students the school proposes to enroll;
 - (ii) the projected school enrollment for each of the first three years of school operation; and
 - (iii) the ages or grade levels the school proposes to serve;

(e) academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements described in Section 53G-5-408;

(ii) require employee evaluations;

(iii) address employment of relatives within the charter school; and

(iv) address human resource management and ensure that:

(A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a public school converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a business plan;

(l) other major issues involving the establishment and operation of the charter school; and

(m) the signatures of the charter school governing board members [~~of the charter school~~].

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section 53E-4-301;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Section 51. Section 53G-5-303 is amended to read:

53G-5-303. Charter agreement -- Content -- Modification.

(1) As used in this section, "satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

(2) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

(3) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels the charter school will serve;

(e) (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

(f) a description of the structure of the charter school governing board, including:

(i) the number of charter school governing board members;

(ii) how members of the charter school governing board are appointed; and

(iii) charter school governing board members' terms of office;

(g) assurances that:

(i) the charter school governing board will comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and [~~State Board of Education~~] state board rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(h) which administrative rules the [~~State Board of Education~~] state board will waive for the charter school;

(i) minimum financial standards for operating the charter school;

(j) minimum standards for student achievement; and

(k) signatures of the charter school authorizer and the charter school governing board members.

(4) (a) Except as provided in Subsection (4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection (4)(a) to include an enrollment preference described in Subsection 53G-6-502(4)(g).

Section 52. Section 53G-5-304 is amended to read:

53G-5-304. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local school board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(2) ~~The [State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,] state board shall~~ make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with ~~[State Board of Education]~~ state board rules, establish and make public the ~~State Charter School Board's~~:

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Section 53. Section 53G-5-305 is amended to read:

53G-5-305. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) An applicant identified in Section 53G-5-302 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents ~~(or guardians)~~ of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or local school board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

- (i) continue to receive the same services from the school district that it received prior to its conversion; or
- (ii) contract out for some or all of those services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the local school board to receive some or all of the services referred to in Subsection (2)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

(b) If the local school board rejects the application, it shall notify the applicant in writing of the reason for the rejection.

(c) The applicant may submit a revised application for reconsideration by the local school board.

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from another authorizer.

(4) ~~The [State Board of Education] state board~~ shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.

(5) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) A local school board may terminate a charter school it authorizes as provided in Sections 53G-5-501 and 53G-5-503.

(7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202, and 53G-5-407, a charter school authorized by a local school board is:

- (a) not required to separately submit a report or information required under this public education code to the ~~[State Board of Education]~~ state board if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) Before a local school board accepts a charter school application, the local school board shall, in accordance with ~~[State Board of Education]~~ state board rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 54. Section 53G-5-306 is amended to read:

53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) The ~~[State Board of Education]~~ state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5) (a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection

(5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of directors described in Section 53B-2a-108 shall obtain the approval of the Utah System of Technical Colleges Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of directors approves an application to establish and operate a charter school, the technical college board of directors shall submit the application to the Utah System of Technical Colleges Board of Trustees.

(c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The Utah System of Technical Colleges Board of Trustees may deny an application approved by a technical college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of directors may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah System of Technical Colleges Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of directors accepts a charter school application, the technical college board of directors shall, in accordance with ~~[State Board of Education]~~ state board rules, establish and make public:

(a) application requirements, in accordance with Section 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 55. Section 53G-5-403 is amended to read:

53G-5-403. Charter school assets.

(1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this chapter and other related provisions.

(b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1)(a) shall be presumed to be made to the charter school and shall be included in the charter school's assets.

(2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

(3) All assets purchased with charter school funds shall be included in the charter school's assets.

(4) A charter school may not dispose of its assets in violation of the provisions of this chapter or other related provisions, state board rules, policies of its charter school authorizer, or its charter agreement, including the provisions governing the closure of a charter school under Section 53G-5-504.

Section 56. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this public education code, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the [~~State Board of Education~~] state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 57. Section 53G-5-405 is amended to read:

53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2) (a) Except as provided in Subsection (2)(b), [~~State Board of Education~~] state board rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53G-7-1202 and 53G-7-1204, requiring the establishment of a school community council and school improvement plan;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

(d) Section 53G-10-404, requiring annual presentations on adoption;

(e) Sections 53G-7-304 and 53G-7-306 pertaining to fiscal procedures of school districts and local school boards; and

(f) Section 53E-4-408, requiring an independent evaluation of instructional materials.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the ~~[State Board of Education]~~ state board for consideration.

(ii) The ~~[State Board of Education]~~ state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 58. Section 53G-5-406 is amended to read:

53G-5-406. Accountability -- Rules.

~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall]~~ The state board shall, after consultation with chartering entities, make rules that:

(1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;

(2) require an authorizer to:

(a) visit a charter school at least once during:

(i) its first year of operation; and

(ii) the review period described under Subsection (3); and

(b) provide written reports to its charter schools after the visits; and

(3) establish a review process that is required of a charter school once every five years by its authorizer.

Section 59. Section 53G-5-407 is amended to read:

53G-5-407. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The ~~[school's]~~ charter school governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this chapter and other related provisions.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 11, Part 5, School District and ~~[USDB]~~ Utah Schools for the Deaf and the Blind Employee Requirements; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the ~~[State Board of Education]~~ state board, shall employ teachers who are licensed.

(b) The ~~[school's]~~ charter school governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) ~~[State Board of Education]~~ State board rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the ~~[locally-elected]~~ local school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the charter school governing board [~~of the charter school~~]; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The charter school governing board [~~of a charter school~~] may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The charter school governing board [~~of a charter school~~] shall ensure that, prior to the beginning of each school year:

(a) each of the charter school's employees signs a document acknowledging that the employee:

(i) has received:

(A) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

(B) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

(ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure; and

(b) (i) at least one of the charter school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(ii) the assigned employee or person described in Subsection (9)(b)(i) receives human resource management training, as defined in Section 17B-1-805.

Section 60. Section 53G-5-408 is amended to read:

53G-5-408. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in Section 53G-11-402:

(1) an employee of a charter school who does not hold a current Utah educator license issued by the [State Board of Education] state board under Title 53E, Chapter 6, Education Professional Licensure;

(2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment;

(3) a contract employee, as defined in Section 53G-11-401, who works at a charter school; and

(4) a charter school governing board member.

Section 61. Section 53G-5-409 is amended to read:

53G-5-409. Regulated transactions and relationships -- Definitions -- Rulemaking.

(1) As used in this section:

(a) "Charter school officer" means:

(i) a member of a charter school's governing board;

(ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or

(iii) the chief administrative officer of a charter school.

(b) (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.

(ii) "Employment" does not include a charter school volunteer.

(c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.

(b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:

(i) disclose the relationship, in writing, to the other charter school officers;

(ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;

(iii) abstain from voting on the issue; and

(iv) be absent from the portion of the meeting where the employment is being considered and determined.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.

(b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a

charter school officer has a financial interest, the charter school officer shall:

(i) disclose the financial interest, in writing, to the other charter school officers;

(ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;

(iii) abstain from voting on the issue; and

(iv) be absent from the portion of the meeting where the contract or transaction is being considered and determined.

(c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:

(i) the chief administrative officer of a charter school; or

(ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).

(4) The ~~[State Board of Education]~~ state board or State Charter School Board may not operate a charter school.

Section 62. Section 53G-5-410 is amended to read:

53G-5-410. Safe technology utilization and digital citizenship.

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section 53G-7-1206:

(1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(a) a student to make smart media and online choices; and

(b) a parent ~~[or guardian]~~ to know how to discuss safe technology use with the parent's ~~[or guardian's]~~ child;

(2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53G-7-216(3); and

(3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Section 63. Section 53G-5-411 is amended to read:

53G-5-411. Charter school fiscal year -- Statistical reports.

(1) A charter school's fiscal year begins on July 1 and ends on June 30.

(2) (a) A charter school shall forward statistical reports for the preceding school year, containing

items required by law or by the ~~[State Board of Education]~~ state board, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement required under Subsection 53E-3-301(3)(d)(v).

(3) A charter school shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 64. Section 53G-5-501 is amended to read:

53G-5-501. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board ~~[of the charter school]~~; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(a) subject to the requirements of Subsection (4), take one or more of the following actions:

(i) remove a charter school director or finance officer;

(ii) remove a charter school governing board member; or

(iii) appoint an interim director or mentor to work with the charter school; or

(b) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement.

(3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

Section 65. Section 53G-5-502 is amended to read:

53G-5-502. Voluntary school improvement process.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and [~~State Board of Education~~] state board rules;

(b) has operated for at least three years meeting the terms of the school's charter agreement; and

(c) is in good standing with the charter school's authorizer.

(2) (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.

(b) A charter school governing board shall provide notice and a hearing on the charter school governing board's intent to make a request under Subsection (2)(a) to parents [~~and guardians~~] of students enrolled in the charter school.

(3) An authorizer may grant a charter school governing board's request to be placed in a school improvement process if the charter school governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a charter school governing board shall:

(a) enter into a contract with the charter school governing board on the terms of the school improvement process;

(b) notify the [~~State Board of Education~~] state board that the authorizer has entered into a school improvement process with the charter school governing board;

(c) make a report to a committee of the [~~State Board of Education~~] state board regarding the school improvement process; and

(d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the charter school governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the [~~State Board of Education~~] state board shall notify charter schools and the school district in which the charter school is located that the charter school governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the charter school governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A charter school governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section 53G-5-503; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located; or

(ii) a high performing charter school.

(8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:

(a) approve a charter school governing board's proposal under Subsection (7); or

(b) (i) deny a charter school governing board's proposal under Subsection (7); and

(ii) (A) terminate the school's charter agreement in accordance with Section 53G-5-503;

(B) allow the charter school governing board to submit a revised proposal; or

(C) take no action.

(9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(10) (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the [~~State Board of Education~~] state board.

(b) (i) The [~~State Board of Education~~] state board shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.

(ii) If the [~~State Board of Education~~] state board denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the [~~State Board of Education~~] state board does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

Section 66. Section 53G-5-503 is amended to read:

53G-5-503. Termination of a charter agreement.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter agreement;

(b) failure to meet generally accepted standards of fiscal management;

(c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and

(ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;

(d) violation of requirements under this chapter or another law; or

(e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the charter school governing board may request an informal hearing before the authorizer:

(i) the charter school governing board [~~of the charter school~~]; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board [~~of the charter school~~] may appeal the decision to the [~~State Board of Education~~] state board.

(d) (i) The [~~State Board of Education~~] state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The [~~State Board of Education~~] state board's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the charter school governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.

(3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education~~] The state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter agreement is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the charter school governing board of another charter school; or

(c) a private management company.

(7) (a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

Section 67. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the [~~State Board of Education~~] state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(3) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the ~~[State Board of Education]~~ state board did not make the decision to close, the ~~[State Board of Education]~~ state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.

(b) The notice described in Subsection (3)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(4) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain insurance coverage and risk management coverage throughout the transition to closure and for a period

following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).

(6) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

(8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the ~~[State Board of Education]~~ state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(10) On or before January 1, 2017, ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ the state board shall, after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

Section 68. Section 53G-5-505 is amended to read:

53G-5-505. Tort liability.

(1) An employee of a charter school is a public employee and the charter school governing board is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The charter school governing board ~~[of a charter school]~~, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages

resulting from a legal challenge involving the operation of the school.

Section 69. Section 53G-5-602 is amended to read:

53G-5-602. Utah Charter School Finance Authority created -- Members -- Compensation -- Services.

(1) There is created a body politic and corporate known as the Utah Charter School Finance Authority. The authority is created to provide an efficient and cost-effective method of financing charter school facilities.

(2) The governing board of the authority shall be composed of:

- (a) the governor or the governor's designee;
- (b) the state treasurer; and
- (c) the state superintendent [~~of public instruction~~] or the state superintendent's designee.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) Upon request, the [~~State Board of Education~~] state board shall provide staff support to the authority.

Section 70. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

For purposes of this part:

(1) (a) "Absence" or "absent" means, consistent with Subsection (1)(b), failure of a school-age minor assigned to a class or class period to attend the entire class or class period.

(b) A school-age minor may not be considered absent under this part more than one time during one day.

(2) "Habitual truant" means a school-age minor who:

- (a) is at least 12 years old;
- (b) is subject to the requirements of Section 53G-6-202; and
- (c) (i) is truant at least 10 times during one school year; or
- (ii) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" includes:

- (a) a custodial parent of the minor;
- (b) a legally appointed guardian of a minor; or
- (c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (4)(a) or (b).

(5) "School-age minor" means a minor who:

- (a) is at least six years old, but younger than 18 years old; and
- (b) is not emancipated.

(6) "School year" means the period of time designated by a local school board or [~~local~~] charter school governing board as the school year for the school where the school-age minor:

- (a) is enrolled; or
- (b) should be enrolled, if the school-age minor is not enrolled in school.

(7) "Truant" means absent without a valid excuse.

(8) "Truant minor" means a school-age minor who:

- (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and
- (b) is truant.

(9) "Valid excuse" means:

- (a) an illness, which may be either mental or physical;
- (b) a family death;
- (c) an approved school activity;
- (d) an absence permitted by a school-age minor's:
 - (i) individualized education program, developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as amended; or
 - (ii) accommodation plan, developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended; or

(e) any other excuse established as valid by a local school board, [~~local~~] charter school governing board, or school district.

Section 71. Section 53G-6-202 is amended to read:

53G-6-202. Compulsory education.

(1) For purposes of this section:

(a) "Intentionally" is as defined in Section 76-2-103.

(b) "Recklessly" is as defined in Section 76-2-103.

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.

(d) "School-age child" means a school-age minor under the age of 14.

(2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.

(4) The notice of compulsory education violation, described in Subsection (3):

(a) shall direct the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the local school board, [local] charter school governing board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;

(d) shall be served on the school-age child's parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, [local] charter school governing board, or school district shall report

violations of this section to the appropriate county or district attorney.

(8) If school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent [~~or guardian~~] has failed to make a good faith effort to ensure that the child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:

(a) identifying information of the child and the child's parent [~~or guardian~~] who received the notice of compulsory education violation;

(b) information regarding the longest number of consecutive school days the school-age minor has been absent from school and the percentage of school days the child has been absent during each relevant school term;

(c) whether the child has made adequate educational progress;

(d) whether the requirements of Section 53G-6-206 have been met;

(e) whether the child is two or more years behind the local public school's age group expectations in one or more basic skills; and

(f) whether the child is receiving special education services or systematic remediation efforts.

Section 72. Section 53G-6-203 is amended to read:

53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's truancies; and

(ii) cooperate with the local school board, [local] charter school governing board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

(5) Nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age minor who has been truant less than five times, provided that the action does not conflict with the requirements of this part.

Section 73. Section 53G-6-204 is amended to read:

53G-6-204. Minors exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age minor from attendance for any of the following reasons:

(i) a school-age minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age minor has completed ~~the eighth~~ grade 8; or

(ii) on an annual basis, a school-age minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53F-2-501(1);

(B) the school-age minor is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age minor's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age minor receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age minor from attendance, if the school-age minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence, as defined in Section 53G-6-302, that:

(i) the school-age minor will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age minor, except to the extent the school-age minor is dual enrolled in a public school as provided in Section 53G-6-702.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age minor attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age minor's district of residence.

(c) A parent of a school-age minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age minor from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age minor is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age minor from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age minor's parent pursuant to this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age minor enrolls in a school within the school district;

(B) the school-age minor's parent [~~or guardian~~] notifies the school district that the school-age minor no longer attends a home school; or

(C) the school-age minor's parent [~~or guardian~~] notifies the school district that the school-age minor's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent [~~or guardian~~] of a minor attending a home school.

Section 74. Section 53G-6-205 is amended to read:

53G-6-205. Preapproval of extended absence.

In determining whether to preapprove an extended absence of a school-age minor as a valid excuse under Subsection 53G-6-201(9)(e), a local school board, [~~local~~] charter school governing board, or school district shall approve the absence if the local school board, [~~local~~] charter school governing board, or school district determines that the extended absence will not adversely impact the school-age minor's education.

Section 75. Section 53G-6-206 is amended to read:

53G-6-206. Duties of a local school board, charter school governing board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed.

(1) (a) Except as provided in Subsection (1)(b), a local school board, [~~local~~] charter school governing board, or school district shall make efforts to resolve the school attendance problems of each school-age minor who is, or should be, enrolled in the school district.

(b) A minor exempt from school attendance under Section 53G-6-204 or 53G-6-702 is not considered to be a minor who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the minor by school authorities;

(b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in accordance with Section 53G-6-203;

(c) issuing a notice of compulsory education violation to a parent of a school-age child, in accordance with Section 53G-6-202;

(d) making any necessary adjustment to the curriculum and schedule to meet special needs of the minor;

(e) considering alternatives proposed by a parent;

(f) monitoring school attendance of the minor;

(g) voluntary participation in truancy mediation, if available; and

(h) providing a school-age minor's parent, upon request, with a list of resources available to assist the parent in resolving the school-age minor's attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, [~~local~~] charter school governing board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible in accordance with Section 53G-8-211.

(4) This section does not impose civil liability on boards of education, local school boards, [~~local~~] charter school governing boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 78A-6-319.

Section 76. Section 53G-6-207 is amended to read:

53G-6-207. Truancy specialists.

A local school board or [~~local~~] charter school governing board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the state board.

Section 77. Section 53G-6-208 is amended to read:

53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or [~~local~~] charter school governing board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) A local school board or ~~local~~ charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Section 78. Section 53G-6-209 is amended to read:

53G-6-209. Truancy support centers.

(1) A school district may establish one or more truancy support centers for:

(a) truant minors taken into custody under Section 53G-6-208; or

(b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

(a) assessments of the truant minor's needs and abilities;

(b) support for the parents and truant minor through counseling and community programs; and

(c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent ~~or guardian~~ shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent ~~or guardian~~ demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents ~~or guardian~~.

Section 79. Section 53G-6-302 is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(2) The school district of residence of a minor child whose custodial parent ~~or legal guardian~~ resides within Utah is:

(a) the school district in which the custodial parent ~~or legal guardian~~ resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the ~~[State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ state board that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the [~~State Board of Education~~] state board;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the [~~State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] state board that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the [~~State Board of Education~~] state board; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent [~~or legal guardian~~] does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the [~~State Board of Education~~] state board, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the [~~rules and~~] policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent [~~or guardian~~] moves from the state;

(ii) the child's parent [~~or guardian~~] executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the [~~rules and~~] policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 80. Section 53G-6-303 is amended to read:

53G-6-303. Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.

(1) For purposes of this part, "responsible adult" means a person 21 years of age or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local school board [of education] may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent [or legal guardian] does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent [or legal guardian] stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and

(ii) the child will abide by all applicable [rules] policies of any public school which the child may attend after guardianship is awarded; and

(d) if the child's custodial parent [or legal guardian] cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the local school board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the local school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5) (a) If a local school board has adopted a policy permitting the local school board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the local school board unless it finds, by clear and convincing evidence, that the local school board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the local school board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the local school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7) (a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8) (a) The authority and responsibility of a custodial parent [~~or legal guardian~~] submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached the age of 18 unless directed to surrender the documents by a court of competent jurisdiction.

(10) (a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Section 81. Section 53G-6-305 is amended to read:

53G-6-305. District paying tuition -- Effect on state aid.

(1) A local school board may by written agreement pay the tuition of a child attending school in a district outside the state. Both districts shall approve the agreement and file it with the [~~State Board of Education~~] state board.

(2) The average daily membership of the child may be added to that of other eligible children attending schools within the district of residence for the purpose of apportionment of state funds.

(3) (a) The district of residence shall bear any excess tuition costs over the state's contribution for attendance in the district of residence unless otherwise approved in advance by the [~~State Board of Education~~] state board.

(b) (i) If a child who resides in a Utah school district's boundaries attends school in a neighboring state under this section, the [~~State Board of Education~~] state board may make an out-of-state tuition payment to the Utah school district of residence.

(ii) If the [~~State Board of Education~~] state board approves the use of state funds for an out-of-state tuition payment described in Subsection (3)(b)(i), the [~~State Board of Education~~] state board shall use funds appropriated by the Legislature for necessarily existent small schools as described in Section 53F-2-304.

Section 82. Section 53G-6-306 is amended to read:

53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) A local school board may permit a child residing outside the state to attend school within the district. With the exception of a child enrolled under Section 53G-6-707, the child is not included for the purpose of apportionment of state funds.

(2) The local school board shall charge the nonresident child tuition at least equal to the per capita cost of the school program in which the child enrolls unless the local school board, in open meeting, determines to waive the charge for that child in whole or in part. The official minutes of the meeting shall reflect the determination.

Section 83. Section 53G-6-401 is amended to read:

53G-6-401. Definitions.

As used in Sections 53G-6-402 through 53G-6-407:

(1) "Early enrollment" means:

(a) except as provided in Subsection (1)(b), application prior to the third Friday in February for admission for the next school year to a school that is not a student's school of residence; and

(b) application prior to November 1 for admission for the next school year to a school that is not a student's school of residence if:

(i) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(ii) the grade reconfiguration described in Subsection (1)(b)(i) will be implemented in the next school year.

(2) (a) "Early enrollment school capacity" or "maximum capacity" means the total number of

students who could be served in a school building if each of the building's instructional stations were to have the enrollment specified in Subsection (2)(b).

(b) (i) Except as provided in Subsection (2)(b)(ii):

(A) for an elementary school, an instructional station shall have an enrollment at least equal to the school district's average class size for the corresponding grade; and

(B) for a middle, junior, or senior high school, an instructional station shall have an enrollment at least equal to the district's average class size for similar classes.

(ii) (A) A local school board shall determine the instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by the school district and another community agency for joint use, and similar rooms.

(B) Capacity for self-contained special education classrooms shall be based upon students per class as defined by ~~[State Board of Education]~~ state board and federal special education standards.

(3) (a) "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local school board ~~[of education]~~ could reasonably assign a class, teacher, or program during a given class period.

(b) More than one instructional station may be assigned to a classroom, laboratory, shop, study hall, or physical education facility during a class period.

(4) "Late enrollment" means application:

(a) after the third Friday in February for admission for the next school year to a school that is not the student's school of residence; or

(b) for admission for the current year to a school that is not the student's school of residence.

(5) (a) "Late enrollment school capacity" or "adjusted capacity" means the total number of students who could be served in a school if each teacher were to have the class size specified in Subsection (5)(b).

(b) (i) An elementary school teacher shall have a class size at least equal to the district's average class size for the corresponding grade.

(ii) A middle, junior, or senior high school teacher shall have a class size at least equal to the district's average class size for similar classes.

(6) "Nonresident student" means a student who lives outside the boundaries of the school attendance area.

(7) "Open enrollment threshold" means:

(a) for early enrollment, a projected school enrollment level that is the greater of:

(i) 90% of the maximum capacity; or

(ii) maximum capacity minus 40 students; and

(b) for late enrollment, actual school enrollment that is the greater of:

(i) 90% of adjusted capacity; or

(ii) adjusted capacity minus 40 students.

(8) "Projected school enrollment" means the current year enrollment of a school as of October 1, adjusted for projected growth for the next school year.

(9) "School attendance area" means an area established by a local school board from which students are assigned to attend a certain school.

(10) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

Section 84. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the ~~[State Board of Education]~~ state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the ~~[State Board of Education]~~ state board;

(iii) (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent [~~or legal guardian~~] of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents [~~or legal guardians~~] of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time \$5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent [~~or guardian~~] of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Section 85. Section 53G-6-403 is amended to read:

53G-6-403. Policies for acceptance and rejection of applications.

(1) (a) A local school board shall adopt [rules] policies governing acceptance and rejection of applications required under Section 53G-6-402.

(b) The [rules] policies adopted under Subsection (1)(a) shall include policies and procedures to assure that decisions regarding enrollment requests are administered fairly without prejudice to any student or class of student, except as provided in Subsection (2).

(2) Standards for accepting or rejecting an application for enrollment may include:

(a) for an elementary school, the capacity of the grade level;

(b) for a secondary school, the capacity of a comprehensive program;

(c) maintenance of heterogeneous student populations if necessary to avoid violation of constitutional or statutory rights of students;

(d) not offering, or having capacity in, an elementary or secondary special education or other special program the student requires;

(e) maintenance of reduced class sizes:

(i) in a Title I school that uses federal, state, and local money to reduce class sizes for the purpose of improving student achievement; or

(ii) in a school that uses school trust money to reduce class size;

(f) willingness of prospective students to comply with district policies; and

(g) giving priority to intradistrict transfers over interdistrict transfers.

(3) (a) Standards for accepting or rejecting applications for enrollment may not include:

(i) previous academic achievement;

(ii) athletic or other extracurricular ability;

(iii) the fact that the student requires special education services for which space is available;

(iv) proficiency in the English language; or

(v) previous disciplinary proceedings, except as provided in Subsection (3)(b).

(b) A local school board may provide for the denial of applications from students who:

(i) have committed serious infractions of the law or school [rules] policies, including [rules] policies of the district in which enrollment is sought; or

(ii) have been guilty of chronic misbehavior which would, if it were to continue after the student was admitted:

(A) endanger persons or property;

(B) cause serious disruptions in the school; or

(C) place unreasonable burdens on school staff.

(c) A local school board may also provide for provisional enrollment of students with prior behavior problems, establishing conditions under which enrollment of a nonresident student would be permitted or continued.

(4) (a) The [State Board of Education] state board, in consultation with the Utah High School Activities Association, shall establish policies regarding nonresident student participation in interscholastic competition.

(b) Nonresident students shall be eligible for extracurricular activities at a public school consistent with eligibility standards as applied to students that reside within the school attendance area, except as provided by policies established under Subsection (4)(a).

(5) For each school in the district, the local school board shall post on the school district's website:

(a) the school's maximum capacity;

(b) the school's adjusted capacity;

(c) the school's projected enrollment used in the calculation of the open enrollment threshold;

(d) actual enrollment on October 1, January 2, and April 1;

(e) the number of nonresident student enrollment requests;

(f) the number of nonresident student enrollment requests accepted; and

(g) the number of resident students transferring to another school.

Section 86. Section 53G-6-404 is amended to read:

53G-6-404. Denial of enrollment -- Appeal.

(1) Denial of initial or continuing enrollment in a nonresident school may be appealed to the local school board [~~of education~~] of the nonresident district.

(2) The decision of the local school board shall be upheld in any subsequent proceedings unless the local school board's decision is found, by clear and convincing evidence, to be in violation of applicable law or regulation, or to be arbitrary and capricious.

Section 87. Section 53G-6-405 is amended to read:

53G-6-405. Funding.

(1) A student who enrolls in a nonresident district is considered a resident of that district for purposes of state funding.

(2) The ~~[State Board of Education]~~ state board shall adopt rules providing that:

(a) the resident district pay the nonresident district, for each of the resident district's students who enroll in the nonresident district, 1/2 of the amount by which the resident district's per student expenditure exceeds the value of the state's contribution; and

(b) if a student is enrolled in a nonresident district for less than a full year, the resident district shall pay a portion of the amount specified in Subsection (2)(a) based on the percentage of school days the student is enrolled in the nonresident district.

(3) (a) Except as provided in this Subsection (3), the parent ~~or guardian~~ of a nonresident student shall arrange for the student's own transportation to and from school.

(b) The ~~[State Board of Education]~~ state board may adopt rules under which nonresident students may be transported to their schools of attendance if:

(i) the transportation of students to schools in other districts would relieve overcrowding or other serious problems in the district of residence and the costs of transportation are not excessive; or

(ii) the Legislature has granted an adequate specific appropriation for that purpose.

(c) A receiving district shall provide transportation for a nonresident student on the basis of available space on an approved route within the district to the school of attendance if district students would be eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

(d) Nothing in this section shall be construed as prohibiting the resident district or the receiving district from providing bus transportation on any approved route.

(e) Except as provided in Subsection (3)(b), the district of residence may not claim any state transportation costs for students enrolled in other school districts.

Section 88. Section 53G-6-406 is amended to read:

53G-6-406. Graduation credits.

(1) A nonresident district shall accept credits toward graduation that were awarded by a school accredited or approved by the ~~[State Board of Education]~~ state board or a regional accrediting body recognized by the U.S. Department of Education.

(2) A nonresident district shall award a diploma to a nonresident student attending school within the district during the semester immediately preceding graduation if the student meets graduation requirements generally applicable to students in the school.

(3) A district may not require that a student attend school within the district for more than one semester prior to graduation in order to receive a diploma.

Section 89. Section 53G-6-407 is amended to read:

53G-6-407. Intradistrict transfers for students impacted by boundary changes -- Transportation of students who transfer within a district.

(1) (a) In adjusting school boundaries, a local school board shall strive to avoid requiring current students to change schools and shall, to the extent reasonably feasible, accommodate parents who wish to avoid having their children attend different schools of the same level because of boundary changes which occur after one or more children in the family begin attending one of the affected schools.

(b) In granting interdistrict and intradistrict transfers to a particular school, the local school board shall take into consideration the fact that an applicant's brother or sister is attending the school or another school within the district.

(2) (a) A district shall receive transportation money under Sections 53F-2-402 and 53F-2-403 for resident students who enroll in schools other than the regularly assigned school on the basis of the distance from the student's residence to the school the student would have attended had the intradistrict attendance option not been used.

(b) The parent ~~or guardian~~ of the student shall arrange for the student's transportation to and from school, except that the district shall provide transportation on the basis of available space on an approved route within the district to the school of the student's attendance if the student would be otherwise eligible for transportation to the same school from that point on the bus route and the student's presence does not increase the cost of the bus route.

Section 90. Section 53G-6-501 is amended to read:

53G-6-501. Definitions.

As used in this part:

(1) "Asset" means the same as that term is defined in Section 53G-5-102.

(2) "Board of trustees of a higher education institution" or "board of trustees" means the same as that term is defined in Section 53G-5-102.

~~[(3) "Charter agreement" or "charter" means the same as that term is defined in Section 53G-5-102.]~~

[4] (3) "Charter school authorizer" or "authorizer" means the same as that term is defined in Section 53G-5-102.

~~[(5) "Governing board" means the same as that term is defined in Section 53G-5-102.]~~

Section 91. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

(a) “At capacity” means operating above the school’s open enrollment threshold.

~~[(b) “District school” means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(e)]~~ (b) “Open enrollment threshold” means the same as that term is defined in Section 53G-6-401.

~~[(d)]~~ (c) “Refugee” means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

~~[(e)]~~ (d) “School of residence” means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the ~~[State Board of Education]~~ state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to

a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school’s lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school’s admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 92. Section 53G-6-503 is amended to read:

53G-6-503. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

~~[(a) “District school” means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(b)]~~ (a) “Nonresident school district” means a school district other than a student’s school district of residence.

~~[(e)]~~ (b) “School district of residence” means a student’s school district of residence as determined under Section 53G-6-302.

~~[(d)]~~ (c) “School of residence” means the school to which a student is assigned to attend based on the student’s place of residence.

(2) (a) The ~~[State School Board]~~ state board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school’s Internet website, beginning no later than 60 days before the school’s initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) the school's opening date, if the school has not yet opened, or the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

(ii) written notification to a student's parent [~~or legal guardian~~] of an offer of admission;

(iii) written acceptance of an offer of admission by a student's parent [~~or legal guardian~~];

(iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

(v) the admission of students at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

(6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

(i) the student's grade level, if the student is an elementary school student; or

(ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) [~~State Board of Education~~] State board rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Section 93. Section 53G-6-504 is amended to read:

53G-6-504. Approval of increase in charter school enrollment capacity -- Expansion.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The [~~State Board of Education~~] state board may approve an increase in charter school enrollment capacity subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53G-5-301.

(4) (a) A charter school may annually submit a request to the ~~[State Board of Education]~~ state board for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The ~~[State Board of Education]~~ state board shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) On or before January 1, 2017, ~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~ ~~[State Board of Education]~~ the state board shall, after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

(6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the ~~[State Board of Education]~~ state board, the ~~[State Board of Education]~~ state board shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(7) (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the ~~[State Board of Education]~~ state board shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

Section 94. Section 53G-6-702 is amended to read:

53G-6-702. Dual enrollment.

~~(1) (a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~(b) (1) ["Minor"]~~ As used in this section, "minor" means the same as that term is defined in Section 53G-6-201.

(2) A person having control of a minor who is enrolled in a regularly established private school or a home school may also enroll the minor in a public school for dual enrollment purposes.

(3) The minor may participate in any academic activity in the public school available to students in the minor's grade or age group, subject to compliance with the same rules and requirements that apply to a full-time student's participation in the activity.

(4) (a) A student enrolled in a dual enrollment program in a district school is considered a student of the district in which the district school of attendance is located for purposes of state funding to the extent of the student's participation in the district school programs.

(b) A student enrolled in a dual enrollment program in a charter school is considered a student of the charter school for purposes of state funding to the extent of the student's participation in the charter school programs.

~~(5) [In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education] The state board shall make rules for purposes of dual enrollment to govern and regulate the transferability of credits toward graduation that are earned in a private or home school.~~

Section 95. Section 53G-6-703 is amended to read:

53G-6-703. Private school and home school students' participation in extracurricular activities in a public school.

(1) As used in this section:

(a) "Academic eligibility requirements" means the academic eligibility requirements that a home school student is required to meet to participate in an extracurricular activity in a public school.

(b) "Minor" means the same as that term is defined in Section 53G-6-201.

(c) "Parent" means the same as that term is defined in Section 53G-6-201.

(d) "Principal" means the principal of the school in which a home school student participates or intends to participate in an extracurricular activity.

(2) (a) A minor who is enrolled in a private school or a home school shall be eligible to participate in an extracurricular activity at a public school as provided in this section.

(b) A private school student may only participate in an extracurricular activity at a public school that is not offered by the student's private school.

(c) Except as provided in Subsection (2)(d), a private school student or a home school student may only participate in an extracurricular activity at:

(i) the school within whose attendance boundaries the student's custodial parent [~~or legal guardian~~] resides; or

(ii) the school from which the student withdrew for the purpose of attending a private or home school.

(d) A school other than a school described in Subsection (2)(c)(i) or (ii) may allow a private school student or a home school student to participate in an extracurricular activity other than:

(i) an interscholastic competition of athletic teams sponsored and supported by a public school; or

(ii) an interscholastic contest or competition for music, drama, or forensic groups or teams sponsored and supported by a public school.

(3) (a) Except as provided in Subsections (4) through (13), a private school or home school student shall be eligible to participate in an extracurricular activity at a public school consistent with eligibility standards:

(i) applied to a fully enrolled public school student;

(ii) of the public school where the private school or home school student participates in an extracurricular activity; and

(iii) for the extracurricular activity in which the private school or home school student participates.

(b) A school district or public school may not impose additional requirements on a private school or home school student to participate in an extracurricular activity that are not imposed on a fully enrolled public school student.

(c) (i) A private school or home school student who participates in an extracurricular activity at a public school shall pay the same fees as required of a fully enrolled public school student to participate in an extracurricular activity.

(ii) If a local school board or charter school governing board imposes a mandatory student activity fee for a student enrolled in a public school, the fee may be imposed on a private school or home school student who participates in an extracurricular activity at the public school if the same benefits of paying the mandatory student activity fee that are available to a fully enrolled public school student are available to a private school or home school student who participates in an extracurricular activity at the public school.

(4) Eligibility requirements based on school attendance are not applicable to a home school student.

(5) A home school student meets academic eligibility requirements to participate in an extracurricular activity if:

(a) the student is mastering the material in each course or subject being taught; and

(b) the student is maintaining satisfactory progress towards achievement or promotion.

(6) (a) To establish a home school student's academic eligibility, a parent, teacher, or organization providing instruction to the student shall submit an affidavit to the principal indicating the student meets academic eligibility requirements.

(b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school student shall:

(i) be considered to meet academic eligibility requirements; and

(ii) retain academic eligibility for all extracurricular activities during the activity season for which the affidavit is submitted, until:

(A) a panel established under Subsection (10) determines the home school student does not meet academic eligibility requirements; or

(B) the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the student no longer meets academic eligibility requirements.

(7) (a) A home school student who loses academic eligibility pursuant to Subsection (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted the affidavit under Subsection (6)(a) provides written notice to the school principal that the home school student has reestablished academic eligibility.

(b) If a home school student reestablishes academic eligibility pursuant to Subsection (7)(a), the home school student may participate in extracurricular activities for the remainder of the activity season for which an affidavit was submitted under Subsection (6)(a).

(8) A person who has probable cause to believe a home school student does not meet academic eligibility requirements may submit an affidavit to the principal:

(a) asserting the home school student does not meet academic eligibility requirements; and

(b) providing information indicating that the home school student does not meet the academic eligibility requirements.

(9) A principal shall review the affidavit submitted under Subsection (8), and if the principal determines it contains information which constitutes probable cause to believe a home school student may not meet academic eligibility requirements, the principal shall request a panel established pursuant to Subsection (10) to verify the student's compliance with academic eligibility requirements.

(10) (a) A school district superintendent shall:

(i) appoint a panel of three individuals to verify a home school student's compliance with academic eligibility requirements when requested by a principal pursuant to Subsection (9); and

(ii) select the panel members from nominees submitted by national, state, or regional organizations whose members are home school students and parents.

(b) Of the members appointed to a panel under Subsection (10)(a):

(i) one member shall have experience teaching in a public school as a licensed teacher and in home schooling high school-age students;

(ii) one member shall have experience teaching in a higher education institution and in home schooling; and

(iii) one member shall have experience in home schooling high school-age students.

(11) A panel appointed under Subsection (10):

(a) shall review the affidavit submitted under Subsection (8);

(b) may confer with the person who submitted the affidavit under Subsection (8);

(c) shall request the home school student to submit test scores or a portfolio of work documenting the student's academic achievement to the panel;

(d) shall review the test scores or portfolio of work; and

(e) shall determine whether the home school student meets academic eligibility requirements.

(12) A home school student who meets academic eligibility requirements pursuant to Subsection (11), retains academic eligibility for all extracurricular activities during the activity season for which an affidavit is submitted pursuant to Subsection (6).

(13) (a) A panel's determination that a home school student does not comply with academic eligibility requirements is effective for an activity season and all extracurricular activities that have academic eligibility requirements.

(b) A home school student who is not in compliance with academic eligibility requirements as determined by a panel appointed under Subsection (11) may seek to establish academic eligibility under this section for the next activity season.

(14) (a) A public school student who has been declared to be academically ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student:

(i) demonstrates academic eligibility by providing test results or a portfolio of the student's work to the school principal, provided that a student may not reestablish academic eligibility under this Subsection (14)(a) during the same activity season in which the student was declared to be academically ineligible;

(ii) returns to public school and reestablishes academic eligibility; or

(iii) enrolls in a private school and establishes academic eligibility.

(b) A public school student who has been declared to be behaviorally ineligible to participate in an extracurricular activity and who subsequently enrolls in a home school shall lose eligibility for participation in the extracurricular activity until the student meets eligibility standards as provided in Subsection (3).

(15) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a private school student and a home school student shall be eligible to try out for and participate in the activity as provided in this section.

(16) (a) If a student exits a public school to enroll in a private or home school mid-semester or during an activity season, and the student desires to participate in an extracurricular activity at the public school, the public school shall issue an interim academic assessment based on the student's work in each class.

(b) A student's academic eligibility to participate in an extracurricular activity under the circumstances described in Subsection (16)(a) shall be based on the student meeting public school academic eligibility standards at the time of exiting public school.

(c) A student may appeal an academic eligibility determination made under Subsection (16)(b) in accordance with procedures for appealing a public school student's academic eligibility.

Section 96. Section 53G-6-704 is amended to read:

53G-6-704. Charter school students' participation in extracurricular activities at other public schools.

(1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:

(a) the school within whose attendance boundaries the student's custodial parent [~~or legal guardian~~] resides;

(b) the public school from which the student withdrew for the purpose of attending a charter school; or

(c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.

(2) In addition to the public schools listed in Subsection (1), the [~~State Board of Education~~] state board may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).

(3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The [~~State Board of Education~~] state board shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) charter school students pay the same fees as other students to participate in extracurricular activities;

(ii) charter school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the [~~State Board of~~

~~Education~~] state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Section 97. Section 53G-6-705 is amended to read:

53G-6-705. Online students' participation in extracurricular activities.

(1) As used in this section:

(a) "Online education" means the use of information and communication technologies to deliver educational opportunities to a student in a location other than a school.

(b) "Online student" means a student who:

(i) participates in an online education program sponsored or supported by the [~~State Board of Education~~] state board, a school district, or charter school; and

(ii) generates funding for the school district or school pursuant to Subsection 53F-2-102(~~(6)~~)(4) and rules of the [~~State Board of Education~~] state board.

(2) An online student is eligible to participate in extracurricular activities at:

(a) the school within whose attendance boundaries the student's custodial parent [~~or legal guardian~~] resides; or

(b) the public school from which the student withdrew for the purpose of participating in an online education program.

(3) A school other than a school described in Subsection (2)(a) or (b) may allow an online student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) An online student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on an online school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The [~~State Board of Education~~] state board shall make rules establishing fees for an online school student's participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) online school students pay the same fees as other students to participate in extracurricular activities;

(ii) online school students are eligible for fee waivers pursuant to Section 53G-7-504;

(iii) for each online school student who participates in an extracurricular activity at a school district school, the online school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) an online school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining an online school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the [~~State Board of Education~~] state board may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, an online student is eligible to try out for and participate in the activity as provided in this section.

Section 98. Section 53G-6-706 is amended to read:

53G-6-706. Placement of a home school student who transfers to a public school.

(1) For the purposes of this section:

(a) "Home school student" means a student who attends a home school pursuant to Section 53G-6-204.

(b) "Parent" means the same as that term is defined in Section 53G-6-201.

(2) When a home school student transfers from a home school to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent [~~or guardian~~] and in consultation with the school administrator determine are appropriate based on the parent's [~~or guardian's~~] assessment of the student's academic performance.

(3) (a) Within 30 days of a home school student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent [~~or guardian~~] may request a conference to consider changing the student's placement.

(b) If the student's teacher and the student's parent [~~or guardian~~] agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.

(c) If the student's teacher and the student's parent [~~or guardian~~] do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).

(d) The student's parent [~~or guardian~~] has the option of:

(i) allowing the public school to administer, to the student, assessments that are:

(A) regularly administered to public school students; and

(B) used to measure public school students' subject matter mastery and determine placement; or

(ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's [~~or guardian's~~] expense.

(e) After an evaluation of a student's subject matter mastery, a public school may change a student's placement in a grade level, class, or course.

(4) This section does not apply to a student who is dual enrolled in a public school and a home school pursuant to Section 53G-6-702.

Section 99. Section 53G-6-707 is amended to read:

53G-6-707. Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the [~~State Board of Education~~] state board and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

(4) The state board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact

students sent to or received from public schools outside the state.

(5) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the state board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(6) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(7) Notwithstanding Subsection 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

(a) is sponsored by an agency approved by the [~~State Board of Education~~] state board;

(b) attends the same school during the same time period that another student from the school is:

(i) sponsored by the same agency; and

(ii) enrolled in a school in a foreign country; and

(c) is enrolled in the school for one year or less.

Section 100. Section 53G-6-708 is amended to read:

53G-6-708. Career and technical education program alternatives.

(1) A secondary student may attend a technical college described in Section 53B-2a-105 if the secondary student's career and technical education goals are better achieved by attending a technical college as determined by:

(a) the secondary student; and

(b) if the secondary student is a minor, the secondary student's parent [~~or legal guardian~~].

(2) A secondary student served under this section by a technical college described in Section 53B-2a-105 shall be counted in the average daily membership of the sending school district or charter school.

Section 101. Section 53G-6-801 is amended to read:

53G-6-801. Definitions.

As used in this part:

(1) "Federal law" means:

(a) a statute passed by the Congress of the United States; or

(b) a final regulation:

(i) adopted by an administrative agency of the United States government; and

(ii) published in the code of federal regulations or the federal register.

~~[(2) "Individualized Education Program" or "IEP" means a written statement, for a student with a disability, that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.]~~

~~[(3) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.]~~

~~[(4) (2) "Reasonably accommodate" means an LEA shall make its best effort to enable a parent [~~or guardian~~] to exercise a parental right specified in Section 53G-6-803:~~

(a) without substantial impact to staff and resources, including employee working conditions, safety and supervision on school premises and for school activities, and the efficient allocation of expenditures; and

(b) while balancing:

(i) the parental rights of parents [~~or guardians~~];

(ii) the educational needs of other students;

(iii) the academic and behavioral impacts to a classroom;

(iv) a teacher's workload; and

(v) the assurance of the safe and efficient operation of a school.

Section 102. Section 53G-6-802 is amended to read:

53G-6-802. Annual notice of parental rights.

(1) An LEA shall annually notify a parent [~~or guardian~~] of a student enrolled in the LEA of the parent's [~~or guardian's~~] rights as specified in this part.

(2) An LEA satisfies the notification requirement described in Subsection (1) by posting the information on the LEA's website or through other means of electronic communication.

Section 103. Section 53G-6-803 is amended to read:

53G-6-803. Parental right to academic accommodations.

(1) (a) A student's parent [~~or guardian~~] is the primary person responsible for the education of the student, and the state is in a secondary and supportive role to the parent [~~or guardian~~]. As such, a student's parent [~~or guardian~~] has the right to reasonable academic accommodations from the student's LEA as specified in this section.

(b) Each accommodation shall be considered on an individual basis and no student shall be considered to a greater or lesser degree than any other student.

(c) The parental rights specified in this section do not include all the rights or accommodations that may be available to a student's parent [~~or guardian~~] as a user of the public education system.

(d) An accommodation under this section may only be provided if the accommodation is:

- (i) consistent with federal law; and
- (ii) consistent with a student's IEP if the student already has an IEP.

(2) An LEA shall reasonably accommodate a parent's [~~or guardian's~~] written request to retain a student in kindergarten through grade 8 on grade level based on the student's academic ability or the student's social, emotional, or physical maturity.

(3) An LEA shall reasonably accommodate a parent's [~~or guardian's~~] initial selection of a teacher or request for a change of teacher.

(4) An LEA shall reasonably accommodate the request of a student's parent [~~or guardian~~] to visit and observe any class the student attends.

(5) Notwithstanding Part 2, Compulsory Education, an LEA shall record an excused absence for a scheduled family event or a scheduled proactive visit to a health care provider if:

- (a) the parent [~~or guardian~~] submits a written statement at least one school day before the scheduled absence; and
- (b) the student agrees to make up course work for school days missed for the scheduled absence in accordance with LEA policy.

(6) (a) An LEA shall reasonably accommodate a parent's [~~or guardian's~~] written request to place a student in a specialized class, a specialized program, or an advanced course.

(b) An LEA shall consider multiple academic data points when determining an accommodation under Subsection (6)(a).

(7) Consistent with Section 53E-4-204, which requires the [~~State Board of Education~~] state board to establish graduation requirements that use competency-based standards and assessments, an LEA shall allow a student to earn course credit towards high school graduation without completing a course in school by:

- (a) testing out of the course; or
- (b) demonstrating competency in course standards.

(8) An LEA shall reasonably accommodate a parent's [~~or guardian's~~] request to meet with a teacher at a mutually agreeable time if the parent [~~or guardian~~] is unable to attend a regularly scheduled parent teacher conference.

(9) (a) At the request of a student's parent [~~or guardian~~], an LEA shall excuse a student from taking an assessment that:

- (i) is federally mandated;
- (ii) is mandated by the state under this public education code; or
- (iii) requires the use of:
 - (A) a state assessment system; or
 - (B) software that is provided or paid for by the state.

(b) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education~~] The state board shall make rules:

(i) to establish a statewide procedure for excusing a student under Subsection (9)(a) that:

- (A) does not place an undue burden on a parent [~~or guardian~~]; and
- (B) may be completed online; and

(ii) to prevent negative impact, to the extent authorized by state statute, to an LEA or an LEA's employees through school grading or employee evaluations due to a student not taking a test under Subsection (9)(a).

(c) An LEA:

(i) shall follow the procedures outlined in rules made by the [~~State Board of Education~~] state board under Subsection (9)(b) to excuse a student under Subsection (9)(a);

(ii) may not require procedures to excuse a student under Subsection (9)(a) in addition to the procedures outlined in rules made by the [~~State Board of Education~~] state board under Subsection (9)(b); and

(iii) may not reward a student for taking an assessment described in Subsection (9)(a).

(d) The [~~State Board of Education~~] state board shall:

(i) maintain and publish a list of state assessments, state assessment systems, and software that qualify under Subsection (9)(a); and

(ii) audit and verify an LEA's compliance with the requirements of this Subsection (9).

(10) (a) An LEA shall provide for:

(i) the distribution of a copy of a school's discipline and conduct policy to each student in accordance with Section 53G-8-204; and

(ii) a parent's [~~or guardian's~~] signature acknowledging receipt of the school's discipline and conduct policy.

(b) An LEA shall notify a parent [~~or guardian~~] of a student's violation of a school's discipline and conduct policy and allow a parent [~~or guardian~~] to respond to the notice in accordance with Chapter 8, Part 2, School Discipline and Conduct Plans.

Section 104. Section 53G-7-202 is amended to read:

53G-7-202. Waivers from state board rules.

(1) A charter school or any other public school or school district may apply to the [~~State Board of Education~~] state board for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter agreement.

(2) The state board may grant the waiver, unless:

(a) the waiver would cause the school district or the school to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(3) If the [~~State Board of Education~~] state board denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

Section 105. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding.

(1) Kindergartens are an integral part of the state's public education system.

(2) Each local [~~board of education~~] school board shall provide kindergarten classes free of charge for kindergarten children residing within the district.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

Section 106. Section 53G-7-205 is amended to read:

53G-7-205. Assessment of emerging and early reading skills -- Resources provided by school districts.

(1) The Legislature recognizes that well-developed reading skills help:

(a) children to succeed in school, develop self esteem, and build positive relationships with others;

(b) young adults to become independent learners; and

(c) adults to become and remain productive members of a rapidly changing technology-based society.

(2) (a) Each potential kindergarten student, the student's parent [~~or guardian~~], and kindergarten personnel at the student's school may participate in an assessment of the student's reading and numeric skills.

(b) The [~~State Board of Education~~] state board, in cooperation with the state's school districts, may develop the assessment instrument and any additional materials needed to implement and supplement the assessment program.

(3) The potential kindergarten student's teacher may use the assessment in planning and developing an instructional program to meet the student's identified needs.

(4) (a) Each school is encouraged to schedule the assessment early enough before the kindergarten starting date so that a potential kindergarten student's parent [~~or guardian~~] has time to develop the child's needed skills as identified by the assessment.

(b) Based on the assessment under Subsection (2), the school shall provide the potential student's parent [~~or guardian~~] with appropriate resource materials to assist the parent [~~or guardian~~] at home in the student's literacy development.

Section 107. Section 53G-7-206 is amended to read:

53G-7-206. Acceptance of credits and grades awarded by accredited schools.

(1) (a) A public school shall accept credits and grades awarded to a student by a school accredited or approved by the [~~State Board of Education~~] state board or accredited or recognized by the Northwest Association of Accredited Schools as issued by the school, without alterations.

(b) Credits awarded for a core standards for Utah public schools course shall be applied to fulfilling core standards for Utah public schools requirements.

(2) Subsection (1) applies to credits awarded to a student who:

(a) transfers to a public school; or

(b) while enrolled in the public school, takes courses offered by another public or private school.

(3) Subsection (1) applies to:

(a) traditional classes in which an instructor is present in the classroom and the student is required to attend the class for a particular length of time;

(b) open entry/open exit classes in which the student has the flexibility to begin or end study at any time, progress through course material at his own pace, and demonstrate competency when knowledge and skills have been mastered;

(c) courses offered over the Internet; or

(d) distance learning courses.

Section 108. Section 53G-7-208 is amended to read:

53G-7-208. Local governmental entities and school districts -- Contracts and cooperation -- Disbursement of funds -- Municipal and county representative participation in local school board meetings -- Notice required.

(1) Local governmental entities and school districts may contract and cooperate with one another in matters affecting the health, welfare, education, and convenience of the inhabitants within their respective territorial limits.

(2) A local governmental entity may disburse public funds in aid of a school district located wholly or partially within the limits of its jurisdiction.

(3) (a) As used in this Subsection (3):

(i) "Interested county executive" means the county executive or county manager of a county with unincorporated area within the boundary of a school district, or the designee of the county executive or county manager.

(ii) "Interested mayor" means the mayor of a municipality that is partly or entirely within the boundary of a school district, or the mayor's designee.

(b) A ~~school district~~ local school board shall allow an interested mayor and interested county executive to attend and participate in the local school board discussions at a ~~school district~~ local school board meeting that is open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(c) An interested county executive and interested mayor may attend and participate in local school board discussions at a ~~school district~~ local school board meeting that is closed to the public under Title 52, Chapter 4, Open and Public Meetings Act, if:

(i) the ~~school district~~ local school board invites the interested county executive or interested mayor to attend and participate; and

(ii) for a closed meeting held for the purpose of discussing the local school board's disposition or acquisition of real property, the interested county executive or interested mayor does not have a conflict of interest with respect to the real estate disposition or acquisition.

(d) (i) A county or municipality may enter into an agreement with a school district under Title 11, Chapter 13, Interlocal Cooperation Act, to govern the attendance of an interested county executive or

interested mayor at a ~~school district~~ local school board meeting.

(ii) An agreement under Subsection (3)(d)(i) may not be inconsistent with the provisions of this Subsection (3).

(e) Each local school board shall give notice of local school board meetings to each interested mayor and interested county executive.

(f) The notice required under Subsection (3)(c) shall be provided by:

(i) mail;

(ii) e-mail; or

(iii) other effective means agreed to by the person to whom notice is given.

Section 109. Section 53G-7-213 is amended to read:

53G-7-213. Child care centers in public schools -- Requirements -- Availability -- Compliance with state and local laws.

(1) (a) Upon receiving a request from a community group such as a community council, local PTA, or parent/student organization, a local school board may authorize the use of a part of any school building in the district to provide child care services for school aged children.

(b) (i) The local school board shall provide written public notice of its intent to authorize a child care center.

(ii) The local school board shall file a copy of the notice with the Office of Child Care within the Department of Workforce Services and the Department of Health.

(2) (a) Establishment of a child care center in a public school building is contingent upon the local school board determining that the center will not interfere with the building's use for regular school purposes.

(b) The decision shall be made at the sole discretion of the local school board.

(c) A local school board may withdraw its approval to operate a child care center at any time if it determines that such use interferes with the operation or interest of the school.

(d) The school district and its employees and agents are immune from any liability that might otherwise result from a withdrawal of approval if the withdrawal was made in good faith.

(3) (a) The local school board shall charge a commercially reasonable fee for the use of a school building as a child care center so that the district does not incur an expense.

(b) The fee shall include but not be limited to costs for utility, building maintenance, and administrative services supplied by the school that are related to the operation of the child care center.

(4) (a) Child care service may be provided by governmental agencies other than school districts, nonprofit community service groups, or private providers.

(b) If competitive proposals to provide child care services are submitted by the entities listed in Subsection (4)(a), the local school board shall give preference to the private provider and nonprofit community service groups so long as their proposals are judged to be at least equal to the proposal of the governmental agency.

(c) It is intended that these programs function at the local community level with minimal state and district involvement.

(5) It is the intent of the Legislature that providers not be required to go through a complex procedure in order to obtain approval for providing the service.

(6) (a) Child care centers within a public school building shall make their services available to all children regardless of where the children reside.

(b) If space and resources are limited, first priority shall be given to those who reside within the school boundaries where the center is located, and to the children of teachers and other employees of the school where the child care center is located.

(c) Second priority shall be given to those who reside within the school district boundaries where the center is located.

(7) (a) The local school board shall require proof of liability insurance which is adequate in the opinion of the local school board for use of school property as a child care center.

(b) A school district participating in the state Risk Management Fund shall require the provider of child care services to comply with the applicable provisions of Title 63A, Chapter 4, Risk Management.

(8) Child care centers established under this section shall operate in compliance with state and local laws and regulations, including zoning and licensing requirements, and applicable school [rules] policies.

(9) Except for Subsection (8), this section does not apply to child care centers established by a school district within a public school building if the center offers child care services primarily to children of employees or children of students of the school district.

Section 110. Section 53G-7-214 is amended to read:

53G-7-214. Honorary high school diploma for certain veterans.

(1) A [board of education of a school district] local school board may award an honorary high school diploma to a veteran, if the veteran:

(a) left high school before graduating in order to serve in the armed forces of the United States;

(b) served in the armed forces of the United States during the period of World War II, the Korean War, or the Vietnam War;

(c) (i) was honorably discharged; or

(ii) was released from active duty because of a service-related disability; and

(d) (i) resides within the school district; or

(ii) resided within the school district at the time of leaving high school to serve in the armed forces of the United States.

(2) To receive an honorary high school diploma, a veteran or immediate family member or guardian of a veteran shall submit to a local school board:

(a) a request for an honorary high school diploma; and

(b) information required by the local school board to verify the veteran's eligibility for an honorary high school diploma under Subsection (1).

(3) At the request of a veteran, a veteran's immediate family member or guardian, or a local school board, the Department of Veterans and Military Affairs shall certify whether the veteran meets the requirements of Subsections (1)(b) and (c).

Section 111. Section 53G-7-215 is amended to read:

53G-7-215. Competency-based education -- Recommendations -- Coordination.

(1) As used in this section, "competency-based education" means the same as that term is defined in Section 53F-5-501.

(2) A local school board or a charter school governing board may establish a competency-based education program.

(3) A local school board or charter school governing board that establishes a competency-based education program shall:

(a) establish assessments to accurately measure competency;

(b) provide the assessments to an enrolled student at no cost to the student;

(c) award credit to a student who demonstrates competency and subject mastery;

(d) submit the competency-based standards to the [State Board of Education] state board for review; and

(e) publish the competency-based standards on its website or by other electronic means readily accessible to the public.

(4) A local school board or charter school governing board may:

(a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;

(b) waive or adapt traditional attendance requirements;

(c) adjust class sizes to maximize the value of course instructors or course mentors;

(d) enroll students from any geographic location within the state; and

(e) provide proctored online competency-based assessments.

Section 112. Section 53G-7-302 is amended to read:

53G-7-302. School district and charter school budgets.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) [~~"Governing"~~] "LEA governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) Before June 1 of each year, the budget officer shall prepare a tentative budget, with supporting documentation, to be submitted to the budget officer's LEA governing board.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) for a school district, an estimate of the revenues for the succeeding fiscal year based upon the lowest tax levy that will raise the required revenue, using the current year's taxable value as the basis for this calculation;

(d) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(e) the estimated financial condition of the school district or charter school by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the district business administrator or charter school executive director for public inspection at least 15 days before the date of the tentative budget's proposed adoption by the LEA governing board.

Section 113. Section 53G-7-303 is amended to read:

53G-7-303. LEA governing board budget procedures.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) [~~"Governing"~~] "LEA governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) (a) For a school district, before June 30 of each year, a local school board shall adopt a budget and make appropriations for the next fiscal year.

(b) For a school district, if the tax rate in the school district's proposed budget exceeds the certified tax rate defined in Section 59-2-924, the local school board shall comply with Section 59-2-919 in adopting the budget, except as provided by Section 53F-8-301.

(3) (a) For a school district, before the adoption or amendment of a budget, a local school board shall hold a public hearing, as defined in Section 10-9a-103, on the proposed budget or budget amendment.

(b) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (3)(a), at least 10 days prior to the public hearing, a local school board shall:

(i) publish a notice of the public hearing in a newspaper or combination of newspapers of general circulation in the school district, except as provided in Section 45-1-101;

(ii) publish a notice of the public hearing electronically in accordance with Section 45-1-101;

(iii) file a copy of the proposed budget with the local school board's business administrator for public inspection; and

(iv) post the proposed budget on the school district's Internet website.

(c) A notice of a public hearing on a school district's proposed budget shall include information on how the public may access the proposed budget as provided in Subsections (3)(b)(iii) and (iv).

(4) For a charter school, before June 30 of each year, a charter school governing board shall adopt a budget for the next fiscal year.

(5) Within 30 days of adopting a budget, [~~a~~] an LEA governing board shall file a copy of the adopted budget with the state auditor and the [~~State Board of Education~~] state board.

Section 114. Section 53G-7-304 is amended to read:

53G-7-304. Undistributed reserve in local school board budget.

(1) A local school board may adopt a budget with an undistributed reserve. The reserve may not exceed 5% of the maintenance and operation budget adopted by the local school board in accordance with a scale developed by the [~~State Board of Education~~] state board. The scale is based on the size of the school district's budget.

(2) The local school board may appropriate all or a part of the undistributed reserve made to any expenditure classification in the maintenance and operation budget by written resolution adopted by a

majority vote of the local school board setting forth the reasons for the appropriation. The local school board shall file a copy of the resolution with the [State Board of Education] state board and the state auditor.

(3) The local school board may not use undistributed reserves in the negotiation or settlement of contract salaries for school district employees.

Section 115. Section 53G-7-305 is amended to read:

53G-7-305. Limits on appropriations -- Estimated expendable revenue.

(1) As used in this section:

(a) "Budget officer" means:

(i) for a school district, the school district's superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) ["Governing"] "LEA governing board" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) [A] An LEA governing board may not make an appropriation in excess of its estimated expendable revenue, including undistributed reserves, for the following fiscal year.

(3) [A] An LEA governing board may reduce a budget appropriation at the LEA governing board's regular meeting if notice of the proposed action is given to all LEA governing board members and to the district superintendent or charter school executive director, as applicable, at least one week before the meeting.

(4) For a school district, in determining the estimated expendable revenue, any existing deficits arising through excessive expenditures from former years are deducted from the estimated revenue for the ensuing year to the extent of at least 10% of the entire tax revenue of the district for the previous year.

(5) For a school district, in the event of financial hardships, the local school board may deduct from the estimated expendable revenue for the ensuing year, by fund, at least 25% of the deficit amount.

(6) For a school district, all estimated balances available for appropriations at the end of the fiscal year shall revert to the funds from which they were appropriated and shall be fund balances available for appropriation in the budget of the following year.

(7) For a school district, an increase in an appropriation may not be made by the local school board unless the following steps are taken:

(a) the local school board receives a written request from the district superintendent that sets forth the reasons for the proposed increase;

(b) notice of the request is published:

(i) in a newspaper of general circulation within the school district at least one week before the local school board meeting at which the request will be considered; and

(ii) in accordance with Section 45-1-101, at least one week before the local school board meeting at which the request will be considered; and

(c) the local school board holds a public hearing on the request before the local school board's acting on the request.

Section 116. Section 53G-7-306 is amended to read:

53G-7-306. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The [State Board of Education] state board may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The [State Board of Education] state board may also authorize school district interfund transfers of residual equity for a financially distressed district if the state board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53G-7-305; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the [State Board of Education] state board.

(5) The board shall develop in rule standards for defining and aiding financially distressed school districts under this section [in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act].

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924 (5)(c) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be

transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53G-7-303.

Section 117. Section 53G-7-307 is amended to read:

53G-7-307. Warrants drawn by budget officer.

(1) As used in this section:

(a) “Budget officer” means:

(i) for a school district, the school district’s superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) [~~“Governing”~~] “LEA governing board” means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) The budget officer of [a] an LEA governing board may not draw warrants on school district or charter school funds except in accordance with and within the limits of the budget passed by the LEA governing board.

Section 118. Section 53G-7-309 is amended to read:

53G-7-309. Monthly budget reports.

(1) As used in this section:

(a) “Budget officer” means:

(i) for a school district, the school district’s superintendent; or

(ii) for a charter school, an individual selected by the charter school governing board.

(b) [~~“Governing”~~] “LEA governing board” means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school governing board.

(2) The business administrator or budget officer of [a] an LEA governing board shall provide each LEA governing board member with a report, on a monthly basis, that includes the following information:

(a) the amounts of all budget appropriations;

(b) the disbursements from the appropriations as of the date of the report; and

(c) the percentage of the disbursements as of the date of the report.

(3) Within five days of providing the monthly report described in Subsection (2) to [a] an LEA governing board, the business administrator or budget officer shall make a copy of the report available for public review.

Section 119. Section 53G-7-402 is amended to read:

53G-7-402. Internal auditing program -- Audit committee -- Powers and duties.

(1) A local school board or charter school governing board shall establish an audit committee.

(2) (a) The audit committee shall establish an internal audit program that provides internal audit services for the programs administered by the local education agency.

(b) A local education agency that has fewer than 10,000 students is not subject to Subsection (2)(a).

(3) (a) A local school board or charter school governing board shall appoint the audit director, with the advisement of the audit committee, if the local school board or charter school governing board hires an audit director.

(b) If the local school board or charter school governing board has not appointed an audit director and the local school board or charter school governing board contracts directly for internal audit services, the local school board or charter school governing board shall approve a contract for internal audit services, with the advisement of the audit committee.

(4) The audit committee shall ensure that copies of all reports of audit findings issued by the internal auditors are available, upon request, to the audit director of the [~~State Board of Education~~] state board, the Office of the State Auditor, and the Office of Legislative Auditor General.

(5) The audit committee shall ensure that significant audit matters that cannot be appropriately addressed by the local education agency internal auditors are referred to either the audit director of the [~~State Board of Education~~] state board, the Office of the State Auditor, or the Office of Legislative Auditor General.

(6) The audit director may contract with a consultant to assist with an audit.

(7) The audit director of the [~~State Board of Education~~] state board and the Office of the State Auditor may contract to provide internal audit services.

Section 120. Section 53G-7-503 is amended to read:

53G-7-503. State policy on student fees, deposits, or other charges.

(1) For purposes of this part:

[~~(a) “Board” means the State Board of Education.~~]

[~~(b)~~] (a) “Secondary school” means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

[~~(c)~~] (b) “Secondary school student”:

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) (a) A secondary school may impose fees on secondary school students.

(b) The state board shall adopt rules regarding the imposition of fees in secondary schools in accordance with the requirements of this part.

(3) A fee, deposit, or other charge may not be made, or any expenditure required of a student or the student's parent [~~or guardian~~], as a condition for student participation in an activity, class, or program provided, sponsored, or supported by or through a public school or school district, unless authorized by the local school board or charter school governing board under rules adopted by the state board.

(4) (a) A fee, deposit, charge, or expenditure may not be required for elementary school activities which are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student's parent [~~or guardian~~] a suggested list of supplies for use during the regular school day so that a parent [~~or guardian~~] may furnish on a voluntary basis those supplies for student use.

(c) A list provided to a student's parent [~~or guardian~~] pursuant to Subsection (4)(b) shall include and be preceded by the following language:

“NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL.”

Section 121. Section 53G-7-504 is amended to read:

53G-7-504. Waiver of fees.

(1) (a) A local school board shall require, as part of an authorization granted under Section 53G-7-503, that adequate waivers or other provisions are available to ensure that no student is denied the opportunity to participate because of an inability to pay the required fee, deposit, or charge.

(b) (i) If, however, a student must repeat a course or requires remediation to advance or graduate and a fee is associated with the course or the remediation program, it is presumed that the student will pay the fee.

(ii) If the student or the student's parent [~~or guardian~~] is financially unable to pay the fee, the local school board shall provide for alternatives to waiving the fee, which may include installment payments and school or community service or work projects for the student.

(iii) In cases of extreme financial hardship or where the student has suffered a long-term illness, or death in the family, or other major emergency and where installment payments and the imposition of a service or work requirement would not be reasonable, the student may receive a partial or full waiver of the fee required under Subsection (1)(b)(i).

(iv) The waiver provisions in Subsections (2) and (3) apply to all other fees, deposits, and charges made in the secondary schools.

(2) (a) The local school board shall require each school in the district that charges a fee under this part and Part 6, Textbook Fees, to provide a variety of alternatives for satisfying the fee requirement to those who qualify for fee waivers, in addition to the outright waiver of the fee.

(b) The local school board shall develop and provide a list of alternatives for the schools, including such options as allowing the student to provide:

(i) tutorial assistance to other students;

(ii) assistance before or after school to teachers and other school personnel on school related matters; and

(iii) general community or home service.

(c) Each school may add to the list of alternatives provided by the local school board, subject to approval by the local school board.

(3) A local school board may establish policies providing for partial fee waivers or other alternatives for those students who, because of extenuating circumstances, are not in a financial position to pay the entire fee.

(4) With regard to children who are in the custody of the Division of Child and Family Services who are also eligible under Title IV-E of the federal Social Security Act, local school boards shall require fee waivers or alternatives in accordance with Subsections (1) through (3).

(5) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education~~] The state board shall make rules:

(a) requiring a parent [~~or guardian~~] of a student applying for a fee waiver to provide documentation and certification to the school verifying:

(i) the student's eligibility to receive the waiver; and

(ii) that the alternatives for satisfying the fee requirements under Subsection (2) have been complied with to the fullest extent reasonably possible according to the individual circumstances of both the fee waiver applicant and the school; and

(b) specifying the acceptable forms of documentation for the requirement under Subsection (5)(a), which shall include verification based on income tax returns or current pay stubs.

(6) Notwithstanding the requirements under Subsection (5), a school is not required to keep documentation on file after the verification is completed.

Section 122. Section 53G-7-505 is amended to read:

53G-7-505. Notice of student fees and waivers.

A local school board shall annually give written notice of its student fee schedules and fee waiver

policies to the parent [~~or guardian~~] of a child who attends a public school within the district.

Section 123. Section 53G-7-602 is amended to read:

53G-7-602. State policy on providing textbooks.

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3) [~~A school~~] An LEA governing board may not sell textbooks or otherwise charge textbook fees or deposits except as provided in this public education code.

Section 124. Section 53G-7-603 is amended to read:

53G-7-603. Purchase of textbooks by local school board -- Sales to pupils -- Free textbooks -- Textbooks provided to teachers -- Payment of costs -- Rental of textbooks.

(1) A local school board, under rules adopted by the [~~State Board of Education~~] state board, may purchase textbooks for use in the public schools directly from the publisher at prices and terms approved by the state board and may sell those books to pupils in grades [~~nine~~] 9 through 12 at a cost not to exceed the actual cost of the book plus costs of transportation and handling.

(2) Each local school board, however, shall provide, free of charge, textbooks and workbooks required for courses of instruction for each child attending public schools whose parent [~~or guardian~~] is financially unable to purchase them.

(3) Children who are receiving cash assistance under Title 35A, Chapter 3, Part 3, Family Employment Program, supplemental security income, or who are in the custody of the Division of Child and Family Services within the Department of Human Services are eligible for free textbooks and workbooks under this section.

(4) The local school board shall also purchase all books necessary for teachers to conduct their classes.

(5) The cost of furnishing textbooks and workbooks may be paid from school operating funds, the textbook fund, or from other available funds.

(6) Books provided to teachers and pupils without charge or at less than full cost are paid for out of funds of the district and remain the property of the district.

(7) In school districts that require pupils to rent books instead of purchasing them or providing them free of charge, the local school board shall waive rental fees for a child whose parent [~~or guardian~~] is financially unable to pay the rental fee. The

children considered eligible under Subsection (3) are also eligible for the purposes of this Subsection (7).

Section 125. Section 53G-7-604 is amended to read:

53G-7-604. Free textbook system.

(1) If a local school board considers it desirable or necessary, or if the local school board is petitioned by two-thirds of those voting in the district, it shall provide free textbooks to all pupils in the schools under its charge.

(2) Books purchased under this section shall be paid for out of the funds of the district.

(3) The local school board shall assure that sufficient funds are raised and set aside for this purpose.

(4) A local school board that has adopted the free textbook system shall terminate the system if petitioned by two-thirds of those voting in an election conducted for that purpose vote to terminate the system.

(5) The local school board may not act upon a petition to terminate the free textbook system during a period of four years after the system is adopted.

(6) The local school board may not reinstitute a free textbook system until four years after its termination.

Section 126. Section 53G-7-605 is amended to read:

53G-7-605. Repurchase and resale of textbooks.

(1) If a student moves from a district in which free textbooks were not provided, the local school board of that district may purchase the books used by the student at a reasonable price, based upon the original cost and the condition of the book upon return.

(2) The books purchased by the district under this section may be resold to other students in the district.

Section 127. Section 53G-7-606 is amended to read:

53G-7-606. Disposal of textbooks.

(1) For a school year beginning with or after the 2012-13 school year, a local school district may not dispose of textbooks used in its public schools without first notifying all other school districts in the state of its intent to dispose of the textbooks.

(2) Subsection (1) does not apply to textbooks that have been damaged, mutilated, or worn out.

(3) The [~~State Board of Education~~] state board shall develop rules and procedures directing the disposal of textbooks.

Section 128. Section 53G-7-701 is amended to read:

53G-7-701. Definitions.

As used in this part:

(1) “Bigotry” means action or advocacy of imminent action involving:

(a) the harassment or denigration of a person or entity; or

(b) any intent to cause a person not to freely enjoy or exercise any right secured by the constitution or laws of the United States or the state, except that an evaluation or prohibition may not be made of the truth or falsity of any religious belief or expression of conscience unless the means of expression or conduct arising therefrom violates the standards of conduct outlined in this section, Section 53G-10-203, or 20 U.S.C. Sec. 4071(f).

(2) “Club” means any student organization that meets during noninstructional time.

(3) “Conscience” means a standard based upon learned experiences, a personal philosophy or system of belief, religious teachings or doctrine, an absolute or external sense of right and wrong which is felt on an individual basis, a belief in an external absolute, or any combination of the foregoing.

(4) “Curricular club” means a club that is school sponsored and that may receive leadership, direction, and support from the school or school district beyond providing a meeting place during noninstructional time. An elementary school curricular club means a club that is organized and directed by school sponsors at the elementary school. A secondary school curricular club means a club:

(a) whose subject matter is taught or will soon be taught in a regular course;

(b) whose subject matter concerns the body of courses as a whole;

(c) in which participation is required for a particular course; or

(d) in which participation results in academic credit.

(5) (a) “Discretionary time” means school-related time for students that is not instructional time.

(b) “Discretionary time” includes free time before and after school, during lunch and between classes or on buses, and private time before athletic and other events or activities.

(6) (a) “Encourage criminal or delinquent conduct” means action or advocacy of imminent action that violates any law or administrative rule.

(b) “Encourage criminal or delinquent conduct” does not include discussions concerning changing of laws or rules, or actions taken through lawfully established channels to effectuate such change.

(7) (a) “Instructional time” means time during which a school is responsible for a student and the student is required or expected to be actively engaged in a learning activity.

(b) “Instructional time” includes instructional activities in the classroom or study hall during

regularly scheduled hours, required activities outside the classroom, and counseling, private conferences, or tutoring provided by school employees or volunteers acting in their official capacities during or outside of regular school hours.

(8) “Involve human sexuality” means:

(a) presenting information in violation of laws governing sex education, including Sections 53G-10-402 and 53E-9-203;

(b) advocating or engaging in sexual activity outside of legally recognized marriage or forbidden by state law; or

(c) presenting or discussing information relating to the use of contraceptive devices or substances, regardless of whether the use is for purposes of contraception or personal health.

(9) “LEA governing board” means a local school board or charter school governing board.

~~[(9)]~~ (10) “Limited open forum” means a forum created by a school district or charter school for student expression within the constraints of Subsection 53G-10-203(2)(b).

~~[(10)]~~ (11) “Noncurricular club” is a student initiated group that may be authorized and allowed school facilities use during noninstructional time in secondary schools by a school and ~~[school]~~ LEA governing board in accordance with the provisions of this part. A noncurricular club’s meetings, ideas, and activities are not sponsored or endorsed in any way by ~~[a school]~~ an LEA governing board, the school, or by school or school district employees.

~~[(11)]~~ (12) “Noninstructional time” means time set aside by a school before instructional time begins or after instructional time ends, including discretionary time.

~~[(12)]~~ (13) “Religious club” means a noncurricular club designated in its application as either being religiously based or based on expression or conduct mandated by conscience.

~~[(13)]~~ (14) “School” means a public school, including a charter school.

~~[(14)]~~ (15) (a) “School facilities use” means access to a school facility, premises, or playing field.

(b) “School facilities use” includes access to a limited open forum.

~~[(15)]~~ “School governing board” means a local school board or charter school board.

Section 129. Section 53G-7-702 is amended to read:

53G-7-702. Student clubs -- Limited open forum -- Authorization.

(1) (a) A school may establish and maintain a limited open forum for student clubs pursuant to the provisions of this part, ~~[State Board of Education]~~ state board rules, and ~~[school]~~ LEA governing board policies.

(b) Notwithstanding the provisions under Subsection (1)(a), a school retains the right to create

a closed forum at any time by allowing curricular clubs only.

(2) (a) A school shall review applications for authorization of clubs on a case-by-case basis.

(b) Before granting an authorization, the school shall find:

(i) that the proposed club meets this part's respective requirements of a curricular club or a noncurricular club; and

(ii) that the proposed club's purpose and activities comply with this part.

(c) Before granting an authorization, a school may request additional information from the faculty sponsor, from students proposing the club, or from its ~~[school]~~ LEA governing board, if desired.

(3) A school shall grant authorization and school facilities use to curricular and noncurricular clubs whose applications are found to meet the requirements of this part, rules of the ~~[State Board of Education]~~ state board, and policies of the ~~[school]~~ LEA governing board and shall limit or deny authorization or school facilities use to proposed clubs that do not meet the requirements of this part, rules of the ~~[State Board of Education]~~ state board, and policies of the ~~[school]~~ LEA governing board.

Section 130. Section 53G-7-703 is amended to read:

53G-7-703. Curricular clubs -- Authorization.

(1) Faculty members or students proposing a curricular club shall submit written application for authorization on a form approved by the ~~[school]~~ LEA governing board.

(2) ~~[A school]~~ An LEA governing board may exempt a club whose membership is determined by student body election or a club that is governed by an association that regulates interscholastic activities from the authorization requirements under this section.

(3) An application for authorization of a curricular club shall include:

(a) the recommended club name;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53G-7-709, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) the recommended meeting times, dates, and places;

(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and

(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) A school shall approve the name of a curricular club consistent with the club's purposes and its school sponsorship.

(6) (a) A school shall determine curriculum relatedness by strictly applying this part's definition of curricular club to the club application.

(b) If the school finds that the proposed club is a curricular club, the school shall continue to review the application as an application for authorization of a curricular club.

(c) If the school finds that the proposed club is a noncurricular club, the school may:

(i) return the application to the faculty member or students proposing the club for amendment; or

(ii) review the application as an application for authorization of a noncurricular club.

(7) (a) Only curricular clubs may be authorized for elementary schools.

(b) A school governing body may limit, or permit a secondary school to limit, the authorization of clubs at the secondary school to only curricular clubs.

Section 131. Section 53G-7-704 is amended to read:

53G-7-704. Noncurricular clubs -- Annual authorization.

(1) A noncurricular club shall have a minimum of three members.

(2) Students proposing a noncurricular club shall submit a written application for authorization on a form approved by the ~~[school]~~ LEA governing board.

(3) An application for authorization of a noncurricular club shall include:

(a) the recommended club name;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be included in the parental consent required under Section 53G-7-709, indicating all of the following that may apply:

(i) athletic;

- (ii) business/economic;
 - (iii) agriculture;
 - (iv) art/music/performance;
 - (v) science;
 - (vi) gaming;
 - (vii) religious;
 - (viii) community service/social justice; and
 - (ix) other;
- (d) the recommended meeting times, dates, and places;

(e) a statement that the club will comply with the provisions of this part and all other applicable laws, rules, or policies; and

(f) a budget showing the amount and source of any funding provided or to be provided to the club and its proposed use.

(4) The application may be as brief as a single page so long as it contains the items required under this section.

(5) (a) ~~[A school]~~ An LEA governing board may provide for approval of a noncurricular club name in an action separate from that relating to authorization of the club itself.

(b) ~~[A school]~~ An LEA governing board shall require:

(i) that a noncurricular club name shall reasonably reflect the club's purpose, goals, and activities; and

(ii) that the noncurricular club name shall be a name that would not result in or imply a violation of this part.

Section 132. Section 53G-7-705 is amended to read:

53G-7-705. Clubs -- Limitations and denials.

(1) A school shall limit or deny authorization or school facilities use to a club, or require changes prior to granting authorization or school facilities use:

(a) as the school determines it to be necessary to:

(i) protect the physical, emotional, psychological, or moral well-being of students and faculty;

(ii) maintain order and discipline on school premises;

(iii) prevent a material and substantial interference with the orderly conduct of a school's educational activities;

(iv) protect the rights of parents ~~[or guardians]~~ and students;

(v) maintain the boundaries of socially appropriate behavior; or

(vi) ensure compliance with all applicable laws, rules, regulations, and policies; or

(b) if a club's proposed charter and proposed activities indicate students or advisors in club related activities would be a substantial, material, or significant part of their conduct or means of expression:

(i) encourage criminal or delinquent conduct;

(ii) promote bigotry;

(iii) involve human sexuality; or

(iv) involve any effort to engage in or conduct mental health therapy, counseling, or psychological services for which a license would be required under state law.

(2) ~~[A school]~~ An LEA governing board has the authority to determine whether any club meets the criteria of Subsection (1).

(3) If a school or ~~[school]~~ LEA governing board limits or denies authorization to a club, the school or ~~[school]~~ LEA governing board shall provide, in writing, to the applicant the factual and legal basis for the limitation or denial.

(4) A student's spontaneous expression of sentiments or opinions otherwise identified in Subsection 53E-9-203(1) is not prohibited.

Section 133. Section 53G-7-707 is amended to read:

53G-7-707. Use of school facilities by clubs.

(1) A school shall determine and assign school facilities use for curricular and noncurricular clubs consistent with the needs of the school.

(2) The following ~~[rules]~~ provisions apply to curricular clubs:

(a) in assigning school facilities use, the administrator may give priority to curricular clubs over noncurricular clubs; and

(b) the school may provide financial or other support to curricular clubs.

(3) The following ~~[rules]~~ provisions apply to noncurricular clubs:

(a) a preference or priority may not be given among noncurricular clubs;

(b) (i) a school shall only provide the space for noncurricular club meetings; and

(ii) a school may not spend public funds for noncurricular clubs, except as required to implement the provisions of this part, including providing space and faculty oversight for noncurricular clubs;

(c) a school shall establish the noninstructional times during which noncurricular clubs may meet;

(d) a school may establish the places that noncurricular clubs may meet;

(e) a school may set the number of hours noncurricular clubs may use the school's facilities per month, provided that all noncurricular clubs shall be treated equally; and

(f) a school shall determine what access noncurricular clubs shall be given to the school

newspaper, yearbook, bulletin boards, or public address system, provided that all noncurricular clubs shall be treated equally.

Section 134. Section 53G-7-708 is amended to read:

53G-7-708. Club membership.

(1) A school shall require written parental [~~or guardian~~] consent for student participation in all curricular and noncurricular clubs at the school.

(2) Membership in curricular clubs is governed by the following [~~rules~~]:

(a) (i) membership may be limited to students who are currently attending the sponsoring school or school district; and

(ii) members who attend a school other than the sponsoring school shall have, in addition to the consent required under Section 53G-7-709, specific parental [~~or guardian~~] permission for membership in a curricular club at another school;

(b) (i) curricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies; and

(c) other rules or policies as determined by the [~~State Board of Education~~] state board, school district, or school.

(3) Membership in noncurricular clubs is governed by the following [~~rules~~]:

(a) student membership in a noncurricular club is voluntary;

(b) membership shall be limited to students who are currently attending the school;

(c) (i) noncurricular clubs may require that prospective members try out based on objective criteria outlined in the application materials; and

(ii) try-outs may not require activities that violate the provisions of this part and other applicable laws, rules, and policies;

(d) a copy of any written or other media materials that were presented at a noncurricular club meeting by a nonschool person shall be delivered to a school administrator no later than 24 hours after the noncurricular club meeting and, if requested, a student's parent [~~or legal guardian~~] shall have an opportunity to review those materials; and

(e) other rules or policies as determined by the [~~State Board of Education~~] state board, school district, or school.

Section 135. Section 53G-7-709 is amended to read:

53G-7-709. Parental consent.

(1) A school shall require written parental [~~or guardian~~] consent for student participation in all curricular and noncurricular clubs at the school.

(2) The consent described in Subsection (1) shall include an activity disclosure statement containing the following information:

(a) the specific name of the club;

(b) a statement of the club's purpose, goals, and activities;

(c) a statement of the club's categorization, which shall be obtained from the application for authorization of a club in accordance with the provisions of Section 53G-7-703 or 53G-7-704, indicating all of the following that may apply:

(i) athletic;

(ii) business/economic;

(iii) agriculture;

(iv) art/music/performance;

(v) science;

(vi) gaming;

(vii) religious;

(viii) community service/social justice; and

(ix) other;

(d) beginning and ending dates;

(e) a tentative schedule of the club activities with dates, times, and places specified;

(f) personal costs associated with the club, if any;

(g) the name of the sponsor, supervisor, or monitor who is responsible for the club; and

(h) any additional information considered important for the students and parents to know.

(3) All completed parental consent forms shall be filed by the parent or the club's sponsor, supervisor, or monitor with the school's principal, the chief administrative officer of a charter school, or their designee.

Section 136. Section 53G-7-711 is amended to read:

53G-7-711. Appeals -- Procedures.

(1) (a) A completed application or complaint shall be approved, denied, or investigated by the school within a reasonable amount of time.

(b) If an application or complaint is denied, written reasons for the denial or results of the investigation shall be stated and, if appropriate, suggested corrections shall be made to remedy the deficiency.

(c) A club that is denied school facilities use shall be informed at the time of the denial of the factual and legal basis for the denial, and, if appropriate, how the basis for the denial could be corrected.

(2) (a) If denied, suspended, or terminated, a club, student desirous of participating or speaking, or a complaining parent [~~or guardian~~], has 10 school days from the date of the denial, suspension, or termination to file a written appeal from the denial, suspension, or termination to a designee authorized by the [~~school~~] LEA governing board.

(b) The designee shall issue a determination within a reasonable amount of time from receipt of the appeal, which decision is final and constitutes satisfaction of all administrative remedies unless the time for evaluation is extended by agreement of all parties.

(3) A person directly affected by a decision made in accordance with the provisions of this part may appeal the decision by writing to a person designated by the ~~[school]~~ LEA governing board.

Section 137. Section 53G-7-712 is amended to read:

53G-7-712. Rulemaking -- State board -- LEA governing boards.

The ~~[State Board of Education]~~ state board may adopt additional rules and ~~[school]~~ LEA governing boards may adopt additional ~~[rules or]~~ policies governing clubs that do not conflict with the provisions of this part.

Section 138. Section 53G-7-803 is amended to read:

53G-7-803. Uniforms in schools -- Policy approval.

(1) The school uniform policy authorized in Section 53G-7-802 may be adopted:

(a) for a charter school:

(i) by the ~~[governing body]~~ charter school governing board or administrator of the charter school in accordance with Subsection (2); or

(ii) by including the school uniform policy in the school's charter agreement approved in accordance with Chapter 5, Utah Charter Schools;

(b) for more than one school at the district level by a local school board in accordance with Subsection (2); or

(c) for a single school at the school level by the principal of the school in accordance with Subsection (2).

(2) A school uniform policy adopted by an election is subject to the following requirements:

(a) the adopting authority shall hold a public hearing on the matter prior to formal adoption of the school uniform policy;

(b) (i) the adopting authority shall hold an election for approval of a school uniform policy prior to its adoption and shall receive an affirmative vote from a majority of those voting at the election; and

(ii) only parents ~~[and guardians]~~ of students subject to the proposed school uniform policy may vote at the election, limited to one vote per family.

(3) (a) A local school board or principal is required to hold an election to consider adoption of a school uniform policy for an entire school district or an individual school if initiative petitions are presented as follows:

(i) for a school district, a petition signed by a parent ~~[or guardian]~~ of 20% of the district's students presented to the local school board; and

(ii) for an individual school, a petition signed by a parent ~~[or guardian]~~ of 20% of the school's students presented to the principal.

(b) The public hearing and election procedures required in Subsection (2) apply to this Subsection (3).

(4) (a) The procedures set forth in Subsections (3) and (4) shall apply to the discontinuance or modification of a school uniform policy adopted under this section.

(b) A vote to discontinue an adopted school uniform policy may not take place during the first year of its operation.

(5) The adopting authority shall establish the manner and time of an election required under this section.

Section 139. Section 53G-7-901 is amended to read:

53G-7-901. Definitions.

As used in this part:

(1) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through a school, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(2) "Intern" means a student enrolled in a school-sponsored work experience and career exploration program under Section 53G-7-902 involving both classroom instruction and work experience with a cooperating employer, for which the student receives no compensation.

(3) "Internship" means the work experience segment of an intern's school-sponsored work experience and career exploration program, performed under the direct supervision of a cooperating employer.

(4) "Private school" means a school serving any of grades 7 through 12 which is not part of the public education system.

(5) "Public school" means:

(a) a public school district;

(b) an applied technology center or applied technology service region;

(c) the Schools for the Deaf and the Blind; or

(d) other components of the public education system authorized by the ~~[State Board of Education]~~ state board to offer internships.

Section 140. Section 53G-7-902 is amended to read:

53G-7-902. Public or private school internships.

A public or private school may offer internships in connection with work experience and career

exploration programs operated in accordance with the rules of the ~~[State Board of Education]~~ state board.

Section 141. Section 53G-7-1004 is amended to read:

53G-7-1004. Rulemaking -- Reporting.

The ~~[State Board of Education]~~ state board may make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ regarding compliance standards and reporting requirements for local school boards with respect to the policy required by Section 53G-7-1002.

Section 142. Section 53G-7-1101 is amended to read:

53G-7-1101. Definitions.

As used in this part:

(1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.

(2) "Appeals panel" means the appeals panel created in Section 53G-7-1106.

(3) (a) "Association" means an organization that governs or regulates a student's participation in an athletic interscholastic activity.

(b) "Association" does not include an institution of higher education described in Section 53B-1-102.

(4) "Classification" means the designation of a school based on the size of the school's student enrollment population for purposes of interscholastic activities.

(5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.

(6) "Governing body" means a body within an association that:

(a) is responsible for:

(i) adopting ~~[rules or]~~ standards or policies that govern interscholastic activities or the administration of the association;

(ii) adopting or amending the association's governing document or bylaws;

(iii) enforcing the ~~[rules and]~~ standards and policies of the association; and

(iv) adopting the association's budget; and

(b) has oversight of other boards, committees, councils, or bodies within the association.

(7) "Interscholastic activity" means an activity within the state in which:

(a) a student that participates represents the student's school in the activity; and

(b) the participating student is enrolled in grade 9, 10, 11, or 12.

(8) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Section 143. Section 53G-7-1103 is amended to read:

53G-7-1103. Governing body membership.

(1) (a) A governing body shall have 15 members as follows:

(i) six members who:

(A) are each an elected member of a local school board; and

(B) each represent a different classification;

(ii) (A) one school superintendent representing the two largest classifications;

(B) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(A); and

(C) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(B);

(iii) (A) one school principal representing the two largest classifications;

(B) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(A); and

(C) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(B);

(iv) one representative of charter schools;

(v) one representative of private schools, if private schools are members of or regulated by the association; and

(vi) one member representing the ~~[State Board of Education]~~ state board.

(b) Only a member respectively described in Subsection (1)(a)(iv) or (v) may be elected or appointed by or represent charter or private schools on the governing body.

(2) (a) A member described in Subsection (1)(a)(i), (ii), (iii), or (v) may be elected, appointed, or otherwise selected in accordance with association rule or policy to the extent the selection reflects the membership requirements in Subsection (1)(a)(i), (ii), (iii), or (v).

(b) A governing body member described in Subsection (1)(a)(vi) shall be the chair of the ~~[State Board of Education]~~ state board or the chair's designee if the designee is an elected member of the ~~[State Board of Education]~~ state board.

Section 144. Section 53G-7-1104 is amended to read:

53G-7-1104. Reporting requirements.

An association shall provide a verbal report, accompanied by a written report, annually to the [~~State Board of Education~~] state board, including:

- (1) the association's annual budget in accordance with Section 53G-7-1105;
- (2) a schedule of events scheduled or facilitated by the association;
- (3) procedures for alignment or realignment;
- (4) any amendments or changes to the association's governing document or bylaws; and
- (5) any other information requested by the [~~State Board of Education~~] state board.

Section 145. Section 53G-7-1105 is amended to read:

53G-7-1105. Association budgets.

- (1) An association shall:
 - (a) adopt a budget in accordance with this section; and
 - (b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.
- (2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.
- (3) The tentative budget and supporting documents shall include the following items:
 - (a) the revenues and expenditures of the preceding fiscal year;
 - (b) the estimated revenues and expenditures of the current fiscal year;
 - (c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and
 - (d) the estimated financial condition of the association by funds at the close of the current fiscal year.
- (4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.
- (5) The governing body shall adopt a budget.
- (6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.
- (7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in

Subsection (6), at least 10 days before the public hearing, a governing body shall:

- (i) publish a notice of the public hearing electronically in accordance with Section 63F-1-701; and
- (ii) post the proposed budget on the association's Internet website.
- (b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).
- (8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the [~~State Board of Education~~] state board.

Section 146. Section 53G-7-1106 is amended to read:

53G-7-1106. Procedures for disputes -- Appeals -- Appeals panel -- Compensation.

- (1) (a) An association shall establish a uniform procedure for hearing and deciding:
 - (i) disputes;
 - (ii) allegations of violations of the association's rules or policies;
 - (iii) requests to establish eligibility after a student transfers schools; and
 - (iv) disputes related to alignment or realignment.
- (b) An individual may appeal to an appeals panel established in this section an association decision regarding a request to establish eligibility after a student transfers schools.
- (2) (a) There is established an appeals panel for an association decision described in Subsection (1)(b).
- (b) The appeals panel shall consist of the following three members:
 - (i) a judge or attorney who is not employed by, or contracts with, a school;
 - (ii) a retired educator, principal, or superintendent; and
 - (iii) a retired athletic director or coach.
- (c) A review and decision by the appeals panel is limited to whether the association properly followed the association's rules and procedures in regard to a decision described in Subsection (1)(b).
- (d) (i) An association shall adopt policies for filing an appeal with the appeals panel.
 - (ii) The appeals panel shall review an appeal and issue a written decision explaining the appeals panel's decision no later than 10 business days after an appeal is filed.
 - (e) The appeals panel's decision is final.
- (3) (a) The [~~State Board of Education~~] state board shall appoint the members of the appeals panel described in Subsection (2):

(i) from the association's nominations described in Subsection (3)(b); and

(ii) in accordance with the [State Board of Education's] state board's appointment process.

(b) (i) The association shall nominate up to three individuals for each position described in Subsection (2) for the [State Board of Education's] state board's consideration.

(ii) If the [State Board of Education] state board refuses to appoint members to the panel who were nominated by the association as described in Subsection (3)(b)(i), the [State Board of Education] state board shall request additional nominations from the association.

(iii) No later than 45 days after the association provides the nominations, the [State Board of Education] state board shall appoint to the appeals panel an individual from the names provided by the association.

(c) For the initial membership, the [State Board of Education] state board shall appoint two of the positions having an initial term of three years and one position having an initial term of two years.

(d) Except as required by Subsection (3)(e), as terms of appeals panel members expire, the [State Board of Education] state board shall appoint each new member or reappointed member to a two-year term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The [State Board of Education] state board shall reimburse an association for per diem and travel expenses of members of the appeals panel.

Section 147. Section 53G-7-1202 is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) (b) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (c) (i) "Parent [or guardian] member" means a member of a school community council who is a parent [or guardian] of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's [or guardian's] term of office.

(ii) "Parent [or guardian] member" may not include an educator who is employed at the school.

(e) (d) "School community council" means a council established at a district school in accordance with this section.

(f) (e) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) (f) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents [or guardians] of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents [and guardians], school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53G-7-1204;

(ii) create the School LAND Trust Program in accordance with Section 53G-7-1206;

(iii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iv) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent [or guardian] to know how to discuss safe technology use with the parent's [or guardian's] child; and

(v) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3).

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iv) and (v), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent [~~or guardian~~] members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent [~~or guardian~~] members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent [~~or guardian~~] members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent [~~or guardian~~] members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent [~~or guardian~~] members of a school community council who are not educators employed by the school district shall exceed the number of parent [~~or guardian~~] members who are educators employed by the school district.

(ii) If, after an election, the number of parent [~~or guardian~~] members who are not educators employed by the school district does not exceed the number of parent [~~or guardian~~] members who are educators employed by the school district, the parent [~~or guardian~~] members of the school community council shall appoint one or more parent [~~or guardian~~] members to the school community council so that the number of parent [~~or guardian~~] members who are not educators employed by the school district exceeds the number of parent [~~or guardian~~] members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent [~~or guardian~~] member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent [~~or guardian~~] of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent [~~or guardian~~] of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent [~~or guardian~~] of a student who meets the qualifications of this section may file or declare the parent's [~~or guardian's~~] candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent [~~or guardian~~] members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent [~~or guardian~~] members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent [~~or guardian~~] members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee[, or parent[, or guardian,]] of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent [~~or guardian~~] position on a school community council remains unfilled after an election is held, the other parent [~~or guardian~~] members of the council shall appoint a parent [~~or guardian~~] who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent [~~or guardian~~] position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent [~~or guardian~~] position remains unfilled, the other parent [~~or guardian~~] members of the council shall appoint a parent [~~or guardian~~] who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent [~~or guardian~~] member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent [~~or guardian~~] members; and

(ii) a vice chair from either its parent [~~or guardian~~] members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents [~~or guardians~~], school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on this part.

Section 148. Section 53G-7-1203 is amended to read:

53G-7-1203. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

~~[(b) "School community council" means a council established at a school within a school district under Section 53G-7-1202.]~~

~~[(e)]~~ (b) "Council" means a school community council or a charter trust land council.

~~(c) "School community council" means a council established at a school within a school district under Section 53G-7-1202.~~

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

- (a) a notice of the meeting, time, and place;
 - (b) an agenda for the meeting; and
 - (c) the minutes of the previous meeting.
- (6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:
- (i) the proposed council meeting schedule for the year;
 - (ii) a telephone number or email address, or both, where each council member can be reached directly; and
 - (iii) a summary of the annual report required under Section 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.
- (b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent ~~or guardian~~ who does not have Internet access.
- (ii) Money allocated to a school under the School LAND Trust Program under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).
- (7) (a) The notice requirement of Subsection (5) may be disregarded if:
- (i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and
 - (ii) the council gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and
 - (B) the topics to be considered at the emergency meeting.
- (b) An emergency meeting of a council may not be held unless:
- (i) an attempt has been made to notify all the members of the council; and
 - (ii) a majority of the members of the council approve the meeting.
- (8) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.
- (b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.
- (c) A council may not take final action on a topic in a meeting unless the topic is:
- (i) listed under an agenda item as required by Subsection (8)(b); and

- (ii) included with the advance public notice required by Subsection (5).
- (9) (a) Written minutes shall be kept of a council meeting.
- (b) Written minutes of a council meeting shall include:
- (i) the date, time, and place of the meeting;
 - (ii) the names of members present and absent;
 - (iii) a brief statement of the matters proposed, discussed, or decided;
 - (iv) a record, by individual member, of each vote taken;
 - (v) the name of each person who:
 - (A) is not a member of the council; and
 - (B) after being recognized by the chair, provided testimony or comments to the council;
 - (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and
 - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.
- (c) The written minutes of a council meeting:
- (i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (ii) shall be retained for three years.
- (10) (a) As used in this Subsection (10), "rules of order and procedure" means a set of ~~rules~~ policies that govern and prescribe in a public meeting:
- (i) parliamentary order and procedure;
 - (ii) ethical behavior; and
 - (iii) civil discourse.
- (b) A council shall:
- (i) adopt rules of order and procedure to govern a public meeting of the council;
 - (ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and
 - (iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:
 - (A) at each public meeting of the council; and
 - (B) on the school's website.

Section 149. Section 53G-7-1205 is amended to read:

53G-7-1205. Charter trust land councils.

- (1) To receive School LAND Trust Program funding as described in Sections 53F-2-404 and 53G-7-1206, a charter school governing board shall establish a charter trust land council, which shall

prepare a plan for the use of School LAND Trust Program money that includes the elements described in Subsection 53G-7-1206(4).

(2) (a) The membership of the council shall include parents ~~[or guardians]~~ of students enrolled at the school and may include other members.

(b) The number of council members who are parents ~~[or guardians]~~ of students enrolled at the school shall exceed all other members combined by at least two.

(3) A charter school governing board may serve as the charter trust land council that prepares a plan for the use of School LAND Trust Program money if the membership of the charter school governing board meets the requirements of Subsection (2)(b).

(4) (a) Except as provided in Subsection (4)(b), council members who are parents ~~[or guardians]~~ of students enrolled at the school shall be elected in accordance with procedures established by the charter school governing board.

(b) Subsection (4)(a) does not apply to a charter school governing board that serves as the charter trust land council that prepares a plan for the use of School LAND Trust Program money.

(5) A parent ~~[or guardian]~~ of a student enrolled at the school shall serve as chair or co-chair of a charter trust land council that prepares a plan for the use of School LAND Trust Program money.

Section 150. Section 53G-7-1206 is amended to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

~~[(a) “Charter agreement” means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.]~~

~~[(b)] (a) “Charter school authorizer” means the same as that term is defined in Section 53G-5-102.~~

~~[(e)] (b) “Charter trust land council” means a council established by a charter school governing board under Section 53G-7-1205.~~

~~[(d)] (c) “Council” means a school community council or a charter trust land council.~~

~~[(e) “District school” means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.]~~

~~[(f)] (d) “School community council” means a council established at a district school in accordance with Section 53G-7-1202.~~

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the ~~[State Board of Education]~~ state board to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school’s

school improvement plan or a charter school’s charter agreement; and

(b) involve parents ~~[and guardians]~~ of a school’s students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school’s principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school’s allocation distributed under Section 53F-2-404 to implement a component of the school’s improvement plan or charter agreement, including:

(i) the school’s identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of its school improvement plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend its allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a plan for the use of School LAND Trust Program money in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust Program money, the plan is adopted.

(c) A council shall:

(i) post a plan for the use of School LAND Trust Program money that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the plan a report noting the number of council members who voted for or against the approval of the plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a plan for the use of School LAND Trust Program money.

(ii) If a local school board disapproves a plan for the use of School LAND Trust Program money:

(A) the local school board shall provide a written explanation of why the plan was disapproved and

request the school community council who submitted the plan to revise the plan; and

(B) the school community council shall submit a revised plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a plan has been approved by a local school board, a school community council may amend the plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's plan for the use of School LAND Trust Program money is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet ~~[State Board of Education]~~ state board reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents ~~[or guardians]~~ of students attending the school.

(6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The School LAND Trust Program shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The School LAND Trust Program shall annually review each school's compliance with applicable law, including rules adopted by the ~~[State Board of Education]~~ state board, by:

(a) reading each School LAND Trust Program plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The state board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Section 151. Section 53G-8-202 is amended to read:

53G-8-202. Public school discipline policies -- Basis of the policies -- Enforcement.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or charter school governing board ~~[of a charter school]~~, with input from school employees, parents ~~[and guardians]~~ of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted ~~[rules]~~ standards of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) On or before September 1, 2015, the ~~[State Board of Education]~~ state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which

disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents [~~or guardians~~] understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 152. Section 53G-8-203 is amended to read:

53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through [~~six~~] 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents [~~and guardians~~] of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent [~~or guardian~~] of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

Section 153. Section 53G-8-204 is amended to read:

53G-8-204. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the charter school governing board [~~of a charter school~~].

(2) (a) Each local school board or charter school governing board [~~of a charter school~~] shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Section 154. Section 53G-8-205 is amended to read:

53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent ~~(or legal guardian)~~; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or charter school governing board ~~(of a charter school)~~ and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

(5) Each local school board and charter school governing board ~~(of a charter school)~~ shall prepare an annual report for the ~~[State Board of Education]~~ state board on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

Section 155. Section 53G-8-206 is amended to read:

53G-8-206. Delegation of authority to suspend or expel a student -- Procedure for suspension -- Readmission.

(1) (a) A local school board ~~(of education)~~ may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to 10 school days.

(b) A charter school governing board ~~(of a charter school)~~ may delegate to the chief administrative officer of the charter school the power to suspend a student in the charter school for up to 10 school days.

(2) The local school board or charter school governing board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief administrative officer of a charter school.

(3) The local school board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the local school board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent ~~(or guardian)~~ of the student of the following without delay:

(a) that the student has been suspended;

(b) the grounds for the suspension;

(c) the period of time for which the student is suspended; and

(d) the time and place for the parent ~~(or guardian)~~ to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent [~~or guardian~~] or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent [~~or guardian~~] have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent [~~or guardian~~] of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond 10 school days unless the student and the student's parent [~~or guardian~~] have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

Section 156. Section 53G-8-207 is amended to read:

53G-8-207. Alternatives to suspension or expulsion.

(1) Each local school board or charter school governing board [~~of a charter school~~] shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent [~~or guardian~~], with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent [~~or guardian~~] does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent [~~or guardian~~] of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent [~~of public instruction~~], in cooperation with school districts and charter schools, shall:

(a) research methods of motivating and providing incentives to students that:

(i) directly and regularly reward or recognize appropriate behavior;

(ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and

(iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;

(b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;

(e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and

(f) maintain data for purposes of accountability, later reporting, and future analysis.

Section 157. Section 53G-8-208 is amended to read:

53G-8-208. Student suspended or expelled -- Responsibility of parent -- Application for students with disabilities.

(1) If a student is suspended or expelled from a public school under this part for more than 10 school days, the parent [~~or guardian~~] is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent [~~or guardian~~] shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent [~~or guardian~~] and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent [~~or guardian~~].

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent [~~or guardian~~] of each suspended or expelled

student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

Section 158. Section 53G-8-209 is amended to read:

53G-8-209. Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and [rules] standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2) (a) The ~~[State Board of Education]~~ state board may, and local ~~[boards of education and governing boards of charter schools]~~ school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance,

affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) use of foul, abusive, or profane language while engaged in school related activities;

(ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3) (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

Section 159. Section 53G-8-210 is amended to read:

53G-8-210. Disruptive student behavior.

(1) As used in this section:

(a) "Disruptive student behavior" includes:

(i) the grounds for suspension or expulsion described in Section 53G-8-205; and

(ii) the conduct described in Subsection 53G-8-209(2)(b).

(b) "Parent" includes:

(i) a custodial parent of a school-age minor;

(ii) a legally appointed guardian of a school-age minor; or

(iii) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) "Qualifying minor" means a school-age minor who:

(i) is at least nine years old; or

(ii) turns nine years old at any time during the school year.

(d) “School year” means the period of time designated by a local school board or ~~[local]~~ charter school governing board as the school year for the school where the school-age minor is enrolled.

(2) A local school board, school district, charter school governing board ~~[of a charter school]~~, or charter school may impose administrative penalties in accordance with Section 53G-8-211 on a school-age minor who violates this part.

(3) (a) A local school board or charter school governing board ~~[of a charter school]~~ shall:

(i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and

(ii) establish a procedure for a qualifying minor, or a qualifying minor’s parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor’s disruptive student behavior problem.

(c) A local school board or charter school governing board ~~[of a charter school]~~ shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor’s disruptive student behavior problems.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor’s disruptive student behavior; and

(ii) cooperate with the local school board or charter school governing board ~~[of a charter school]~~ in correcting the school-age minor’s disruptive student behavior; and

(c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or charter school governing board ~~[of a local charter school]~~ to issue a habitual disruptive student behavior notice.

(6) (a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

Section 160. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) “Evidence-based” means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the ~~[State Board of Education]~~ state board.

(b) “Mobile crisis outreach team” means the same as that term is defined in Section 78A-6-105.

(c) “Restorative justice program” means a school-based program or a program used or adopted by a local education agency that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

(d) “School administrator” means a principal of a school.

(e) “School is in session” means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) “School resource officer” means a law enforcement officer, as defined in Section

53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(g) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to ~~local~~ LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or ~~minimum school program~~ Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(h) (i) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(ii) Notwithstanding Subsection (1)(h)(i), a status offense does not include a violation that by statute is made a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property where the student is enrolled:

- (i) when school is in session; or
- (ii) during a school-sponsored activity; or
- (b) that is truancy.

(3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to evidence-based alternative interventions, including:

(i) a mobile crisis outreach team, as defined in Section 78A-6-105;

(ii) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(iii) a youth court or comparable restorative justice program;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the ~~[State Board of Education]~~

state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

(b) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1); or

(v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(c) Notwithstanding other provisions of this section, a law enforcement officer who has cause to believe a minor has committed an offense on school property when school is not in session nor during a school-sponsored activity, the law enforcement officer may refer the minor to court or may refer the minor to evidence-based alternative interventions at the discretion of the law enforcement officer.

(4) (a) Notwithstanding Subsection (3)(a) and subject to the requirements of this Subsection (4), a school district or school may refer a minor to court for a class C misdemeanor committed on school property or for being a habitual truant, as defined in Section 53G-6-201, if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(b) (i) When a minor is referred to court under Subsection (4)(a), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(ii) A school representative appointed under this Subsection (4)(b) may not be a school resource officer.

(c) A school district or school shall include the following in its referral to the court:

- (i) attendance records for the minor;
- (ii) a report of evidence-based alternative interventions used by the school before referral, including outcomes;
- (iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family; and
- (iv) any other information the school district or school considers relevant.

(d) A minor referred to court under this Subsection (4), may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101 when the underlying offense is a class

C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to court under this Subsection (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

(5) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator, the school administrator's designee, or a school resource officer, or the minor may be referred to the evidence-based alternative interventions in Subsection (3)(a).

Section 161. Section 53G-8-212 is amended to read:

53G-8-212. Defacing or damaging school property -- Student's liability -- Work program alternative.

(1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.

(2) (a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent [~~or guardian~~] has paid for the damages.

(b) The student's parent [~~or guardian~~] is liable for damages as otherwise provided in Section 78A-6-1113.

(3) (a) If the student and the student's parent [~~or guardian~~] are unable to pay for the damages or if it is determined by the school in consultation with the student's parent [~~or guardian~~] that the student's interests would not be served if the parent [~~or guardian~~] were to pay for the damages, the school shall provide for a program of work the student may complete in lieu of the payment.

(b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.

(4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Section 162. Section 53G-8-302 is amended to read:

53G-8-302. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint.

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

(2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;

(b) protect a student or another individual from physical injury;

(c) remove from a situation a student who is violent; or

(d) protect property from being damaged, when physical safety is at risk.

(3) Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described in Subsection (2).

(4) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(5) A parochial or private school that does not receive state funds to provide for the education of a student may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents [~~or guardians~~] of students in the school of the exemption.

(6) This section does not apply to a law enforcement officer as defined in Section 53-13-103.

Section 163. Section 53G-8-404 is amended to read:

53G-8-404. State board to set procedures.

The [~~State Board of Education~~] state board shall make rules governing the dissemination of the information.

Section 164. Section 53G-8-503 is amended to read:

53G-8-503. Reporting procedure.

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent [~~or legal guardian~~], and may report the violation to an appropriate law

enforcement agency or official, in accordance with Section 53G-8-211.

(3) The designated educator may not disclose to the student or to the student's parent ~~or legal guardian~~ the identity of the educator who made the initial report.

Section 165. Section 53G-8-509 is amended to read:

53G-8-509. State board rules to ensure protection of individual rights.

The ~~[State Board of Education and local boards of education]~~ state board and LEA governing boards shall adopt rules or policies to implement Sections 53G-8-505 through 53G-8-508. The rules or policies shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

Section 166. Section 53G-8-604 is amended to read:

53G-8-604. Traffic ordinances on school property -- Enforcement.

(1) A local political subdivision in which real property is located that belongs to, or is controlled by, the ~~[State Board of Education, a local board of education]~~ state board, an LEA governing board, an area vocational center, or the Utah Schools for the Deaf and the Blind may, at the request of the responsible board of education or institutional council, adopt ordinances for the control of vehicular traffic on that property.

(2) A law enforcement officer whose jurisdiction includes the property in question may enforce an ordinance adopted under Subsection (1).

Section 167. Section 53G-8-701 is amended to read:

53G-8-701. Definitions.

As used in this ~~[section]~~ part:

~~[(1) "Governing authority" means:]~~

~~[(a) for a school district, the local school board;]~~

~~[(b) for a charter school, the governing board; or]~~

~~[(c) for the Utah Schools for the Deaf and the Blind, the State Board of Education.]~~

~~[(2)] (1) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.~~

~~[(3) "Local education agency" or "LEA" means:]~~

~~[(a) a school district;]~~

~~[(b) a charter school; or]~~

~~[(c) the Utah Schools for the Deaf and the Blind.]~~

~~[(4)] (2) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.~~

Section 168. Section 53G-8-702 is amended to read:

53G-8-702. School resource officer training -- Curriculum.

(1) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the ~~[State Board of Education]~~ state board shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; and

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

Section 169. Section 53G-8-703 is amended to read:

53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.

(1) An LEA may contract with a law enforcement agency or an individual to provide school resource officer services at the LEA if the ~~[LEA's governing authority]~~ LEA governing board reviews and approves the contract.

(2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the ~~[LEA's governing authority]~~ LEA governing board shall require in the contract:

(a) an acknowledgment by the law enforcement agency or the individual that an SRO hired under the contract shall:

(i) provide for and maintain a safe, healthy, and productive learning environment in a school;

(ii) act as a positive role model to students;

(iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;

(iv) emphasize the use of restorative approaches to address negative behavior; and

(v) at the request of the LEA, teach a vocational law enforcement class;

(b) a description of the shared understanding of the LEA and the law enforcement agency or individual regarding the roles and responsibilities of law enforcement and the LEA to:

(i) maintain safe schools;

(ii) improve school climate; and

(iii) support educational opportunities for students;

(c) a designation of student offenses that the SRO shall confer with the LEA to resolve, including an offense that:

(i) is a minor violation of the law; and

(ii) would not violate the law if the offense was committed by an adult;

(d) a designation of student offenses that are administrative issues that an SRO shall refer to a school administrator for resolution in accordance with Section 53G-8-211;

(e) a detailed description of the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning; and

(iii) information privacy;

(f) a detailed description of:

(i) job duties;

(ii) training requirements; and

(iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;

(g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702; and

(h) if the contract is between an LEA and a law enforcement agency, that:

(i) both parties agree to jointly discuss SRO applicants; and

(ii) the law enforcement agency will accept feedback from an LEA about an SRO's performance.

Section 170. Section 53G-9-203 is amended to read:

53G-9-203. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent ~~[or guardian]~~ about that student, including observations and concerns in the following areas:

(i) progress;

(ii) health and wellness;

(iii) social interactions;

(iv) behavior; or

(v) topics consistent with Subsection 53E-9-203(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and

(f) complete a behavioral health evaluation form if requested by a student's parent ~~[or guardian]~~ to provide information to a licensed physician.

(3) School personnel shall:

(a) report suspected child abuse consistent with Section 62A-4a-403;

(b) comply with applicable state and local health department laws, rules, and policies; and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:

(a) recommend to a parent [~~or guardian~~] that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

(c) recommend that a parent [~~or guardian~~] seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent [~~or guardian~~] refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the [~~State Board of Education~~] state board, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

(d) provide to a parent [~~or guardian~~], upon the specific request of the parent [~~or guardian~~], a list of three or more health care professionals or providers, including licensed physicians, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent [~~or guardian~~].

Section 171. Section 53G-9-205 is amended to read:

53G-9-205. School Breakfast Program -- Review of nonparticipants.

(1) (a) Each local school board shall, at least once every three years, review each elementary school in its district that does not participate in the School Breakfast Program as to the school's reasons for nonparticipation.

(b) (i) If the local school board determines that there are valid reasons for the school's nonparticipation, no further action is needed.

(ii) Reasons for nonparticipation may include a recommendation from the school community council authorized under Section 53G-7-1202 or a similar group of parents and school employees that the school should not participate in the program.

(2) (a) After two nonparticipation reviews, a local school board may, by majority vote, waive any further reviews of the nonparticipatory school.

(b) A waiver of the review process under Subsection (2)(a) does not prohibit subsequent consideration by the local school board of an individual school's nonparticipation in the School Breakfast Program.

(3) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

Section 172. Section 53G-9-206 is amended to read:

53G-9-206. Eye protective devices for industrial education, physics laboratory, and chemistry laboratory activities.

(1) Any individual who participates in any of the following activities in public or private schools that may endanger his vision shall wear quality eye protective devices:

(a) industrial education activities that involve:

(i) hot molten metals;

(ii) the operation of equipment that could throw particles of foreign matter into the eyes;

(iii) heat treating, tempering, or kiln firing of any industrial materials;

(iv) gas or electric arc welding; or

(v) caustic or explosive material;

(b) chemistry or physics laboratories when using caustic or explosive chemicals, and hot liquids and solids.

(2) "Quality eye protective devices" means devices that meet the standards of the American Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, promulgated by the American Standards Association, Inc.

(3) (a) The local school board shall furnish these protective devices to individuals involved in these activities.

(b) The local school board may sell these protective devices at cost or rent or loan them to individuals involved in these activities.

Section 173. Section 53G-9-207 is amended to read:

53G-9-207. Child sexual abuse prevention.

(1) As used in this section, "school personnel" means the same as that term is defined in Section 53G-9-203.

(2) The ~~[State Board of Education]~~ state board shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) A school district or charter school shall provide, every other year, training and instruction on child sexual abuse prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(B) the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403; and

(ii) parents ~~[or guardians]~~ of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the ~~[State Board of Education]~~ state board under Subsection (2) to provide the training and instruction to school personnel and parents ~~[or guardians]~~ under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse prevention and awareness to elementary school students using age-appropriate curriculum.

(b) A school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent ~~[or guardian]~~ of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) ~~[parent or guardian's]~~ parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent ~~[or guardian]~~ of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the ~~[State Board of Education]~~ state board, a school district or charter school shall provide evidence of compliance with this section.

Section 174. Section 53G-9-208 is amended to read:

53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.

(1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.

(2) A public school shall permit a student, without a parent or physician's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

(3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent ~~[or legal guardian]~~ provides written consent for the assistance.

(4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:

(a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or

(b) discontinuing the application of the sunscreen at any time.

Section 175. Section 53G-9-301 is amended to read:

53G-9-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health, created in Section 26-1-4.

(2) "Health official" means an individual designated by a local health department from

within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

- (i) a licensed health care provider;
- (ii) an authorized representative of a local health department;
- (iii) an authorized representative of the department;
- (iv) a registered nurse; or
- (v) a pharmacist;
- (b) information regarding each disease against which the student has been immunized by previously contracting the disease; and
- (c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.

(6) "Legally responsible individual" means:

- (a) a student's parent;
- (b) the student's legal guardian;
- (c) an adult brother or sister of a student who has no legal guardian; or
- (d) the student, if the student:
 - (i) is an adult; or
 - (ii) is a minor who may consent to treatment under Section 26-10-9.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

- (a) a medical doctor;
- (b) an osteopathic doctor;
- (c) a physician assistant; or
- (d) an advanced practice registered nurse.

~~[(8) "Local education agency" or "LEA" means:]~~

~~[(a) a school district;]~~

~~[(b) a charter school; or]~~

~~[(c) the Utah Schools for the Deaf and the Blind.]~~

~~[(9)] (8) "Local health department" means the same as that term is defined in Section 26A-1-102.~~

~~[(10)] (9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.~~

~~[(11)] (10) "School" means any public or private:~~

- (a) elementary or secondary school through grade 12;
- (b) preschool;
- (c) child care program, as that term is defined in Section 26-39-102;
- (d) nursery school; or
- (e) kindergarten.

~~[(12)] (11) "Student" means an individual who attends a school.~~

~~[(13)] (12) "Vaccinating" or "vaccination" means the administration of a vaccine.~~

~~[(14)] (13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.~~

~~[(15)] (14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.~~

Section 176. Section 53G-9-402 is amended to read:

53G-9-402. Rules for examinations prescribed by Department of Health -- Notification of impairment.

(1) (a) Each local school board shall implement ~~rules~~ policies as prescribed by the Department of Health for vision, dental, abnormal spinal curvature, and hearing examinations of students attending the district's schools.

(b) Under guidelines of the Department of Health, qualified health professionals shall provide instructions, equipment, and materials for conducting the examinations.

(c) The ~~rules~~ policies shall include exemption provisions for students whose parents ~~or guardians~~ contend the examinations violate their personal beliefs.

(2) The school shall notify, in writing, a student's parent ~~or guardian~~ of any impairment disclosed by the examinations.

Section 177. Section 53G-9-404 is amended to read:

53G-9-404. Vision screening.

(1) As used in this section:

(a) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.

(b) "Qualifying child" means a child who is at least 3-1/2 years old, but is less than nine years old.

(2) A child under nine years old entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the office, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent [~~or legal guardian~~] of the child that the screening violates the personal beliefs of the parent [~~or legal guardian~~].

(3) (a) The office:

(i) shall provide vision screening report forms to a person approved by the office to conduct a free vision screening for a qualifying child;

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent [~~or guardian~~]: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(4) A school district or charter school may conduct free vision screening clinics for a qualifying child.

(5) (a) The office shall maintain a central register of qualifying children who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district or charter school shall report to the office referral follow-up results for a qualifying child.

(6) (a) A school district or charter school shall ensure that a volunteer who serves as a vision screener for a free vision screening clinic for a qualifying child:

(i) is a school nurse;

(ii) holds a certificate issued by the office under Subsection (6)(b)(ii); or

(iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

(b) The office shall:

(i) provide vision screening training to a volunteer seeking a certificate described in Subsection (6)(b)(ii), using curriculum established by the office; and

(ii) issue a certificate to a volunteer who successfully completes the vision screening training described in Subsection (6)(b)(i).

(c) An individual described in Subsection (6)(a) is not liable for damages that result from acts or omissions related to the vision screening, unless the acts or omissions are willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district or charter school may:

(i) allow a licensed health professional who provides vision care to private patients to participate as a screener in a free vision screening program for a child 3-1/2 years old or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district or charter school may provide information to a parent [~~or guardian~~] of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this part, which shall include a process for notifying the parent [~~or guardian~~] of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the office with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The office shall supervise screening, referral, and follow-up required by this part.

Section 178. Section 53G-9-502 is amended to read:

53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and school nurses shall adopt policies that provide for:

(i) the designation of volunteer employees who may administer medication;

(ii) proper identification and safekeeping of medication;

(iii) the training of designated volunteer employees by the school nurse;

(iv) maintenance of records of administration; and

(v) notification to the school nurse of medication that will be administered to students; and

(b) medication may only be administered to a student if:

(i) the student's parent [~~or legal guardian~~] has provided a current written and signed request that medication be administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent [~~or guardian~~].

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

(4) Subsections (1) through (3) do not apply to:

(a) the administration of glucagon in accordance with Section 53G-9-504;

(b) the administration of a seizure rescue medication in accordance with Section 53G-9-505; or

(c) the administration of an opiate antagonist in accordance with Title 26, Chapter 55, Opiate Overdose Response Act.

Section 179. Section 53G-9-503 is amended to read:

53G-9-503. Self-administration of asthma medication.

(1) As used in this section, "asthma medication" means prescription or nonprescription, inhaled asthma medication.

(2) A public school shall permit a student to possess and self-administer asthma medication if:

(a) the student's parent [~~or guardian~~] signs a statement:

(i) authorizing the student to self-administer asthma medication; and

(ii) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and

(ii) the name of the asthma medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent [~~of public instruction~~], shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section 53G-8-205 does not apply to the possession and self-administration of asthma medication in accordance with this section.

Section 180. Section 53G-9-504 is amended to read:

53G-9-504. Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.

(1) As used in this section, "glucagon authorization" means a signed statement from a parent [~~or guardian~~] of a student with diabetes:

(a) certifying that glucagon has been prescribed for the student;

(b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and

(c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.

(2) (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.

(b) A public school shall allow all willing school personnel to receive training in the administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).

(c) The Utah Department of Health, in cooperation with the state superintendent [of public instruction], shall design a glucagon authorization form to be used by public schools in accordance with this section.

(3) (a) Training in the administration of glucagon shall include:

(i) techniques for recognizing the symptoms that warrant the administration of glucagon;

(ii) standards and procedures for the storage and use of glucagon;

(iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent [or guardian]; and

(iv) written materials covering the information required under this Subsection (3).

(b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).

(4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.

(5) (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:

(i) the student is exhibiting the symptoms that warrant the administration of glucagon; and

(ii) a licensed health care professional is not immediately available.

(b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).

(6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.

(7) Section 53G-9-502 does not apply to the administration of glucagon in accordance with this section.

(8) Section 53G-8-205 does not apply to the possession and administration of glucagon in accordance with this section.

(9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and

Professions, including a nurse, physician, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Section 181. Section 53G-9-505 is amended to read:

53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

~~[(b) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.]~~

~~[(e)]~~ (b) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent [or legal guardian] has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

~~[(d)]~~ (c) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

[~~(e)~~] (d) “Trained school employee volunteer” means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2) (a) The Department of Health shall, with input from the [~~State Board of Education~~] state board and a children’s hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student’s parent [~~or legal guardian~~];

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed health care professional.

(3) (a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student’s seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 182. Section 53G-9-506 is amended to read:

53G-9-506. Diabetes medication -- Possession -- Self-administration.

(1) As used in this section, “diabetes medication” means prescription or nonprescription medication used to treat diabetes, including related medical

devices, supplies, and equipment used to treat diabetes.

(2) A public school shall permit a student to possess or possess and self-administer diabetes medication if:

(a) the student's parent [~~or guardian~~] signs a statement:

(i) authorizing the student to possess or possess and self-administer diabetes medication; and

(ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering the diabetes medication; and

(b) the student's health care provider provides a written statement that states:

(i) it is medically appropriate for the student to possess or possess and self-administer diabetes medication and the student should be in possession of diabetes medication at all times; and

(ii) the name of the diabetes medication prescribed or authorized for the student's use.

(3) The Utah Department of Health, in cooperation with the state superintendent [~~of public instruction~~], shall design forms to be used by public schools for the parental and health care provider statements described in Subsection (2).

(4) Section 53G-8-205 does not apply to the possession and self-administration of diabetes medication in accordance with this section.

Section 183. Section 53G-9-601 is amended to read:

53G-9-601. Definitions.

As used in this part:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

(a) causing physical or emotional harm to the school employee or student;

(b) causing damage to the school employee's or student's property;

(c) placing the school employee or student in reasonable fear of:

(i) harm to the school employee's or student's physical or emotional well-being; or

(ii) damage to the school employee's or student's property;

(d) creating a hostile, threatening, humiliating, or abusive educational environment due to:

(i) the pervasiveness, persistence, or severity of the actions; or

(ii) a power differential between the bully and the target; or

(e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

(3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

(4) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

(5) (a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

(i) (A) endangers the mental or physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii) (A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection (5)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is

committed directed, consented to, or acquiesced in, the conduct.

(6) “LEA governing board” means a local school board or charter school governing board.

~~[(6)]~~ (7) “Policy” means ~~[a school]~~ an LEA governing board policy described in Section 53G-9-605.

~~[(7)]~~ (8) “Retaliate” means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

~~[(8)]~~ (9) “School” means a public elementary or secondary school, including a charter school.

~~[(9) “School board” means:]~~

~~[(a) a local school board; or]~~

~~[(b) a charter school governing board.]~~

(10) “School employee” means an individual working in the individual’s official capacity as:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) an individual:

(i) who is employed, directly or indirectly, by a school, ~~[school board]~~ an LEA governing board, or a school district; and

(ii) who works on a school campus.

Section 184. Section 53G-9-604 is amended to read:

53G-9-604. Parental notification of certain incidents and threats required.

~~[(1) For purposes of this section, “parent” includes a student’s guardian.]~~

~~[(2)]~~ (1) A school shall:

(a) notify a parent if the parent’s student threatens to commit suicide; or

(b) notify the parents of each student involved in an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent’s student.

~~[(3)]~~ (2) (a) If a school notifies a parent of an incident or threat required to be reported under Subsection ~~[(2)]~~ (1), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school shall maintain a record described in Subsection ~~[(3)]~~ (2)(a) in accordance with the requirements of:

(i) Title 53E, Chapter 9, Part 2, Student Privacy;

(ii) Title 53E, Chapter 9, Part 3, Student Data Protection;

(iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(iv) 34 C.F.R. Part 99.

~~[(4)]~~ (3) A local school board or charter school governing board shall adopt a policy regarding the process for:

(a) notifying a parent as required in Subsection ~~[(2)]~~ (1); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection ~~[(3)]~~ (2).

~~[(5)]~~ (4) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection ~~[(2)]~~ (1).

~~[(6)]~~ (5) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

Section 185. Section 53G-9-605 is amended to read:

53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) On or before September 1, 2018, ~~[a school]~~ an LEA governing board shall update the ~~[school]~~ LEA governing board’s bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

(2) A policy shall:

(a) be developed only with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student’s legal status.

(3) A policy shall include the following components:

(a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this part;

(b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;

(c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this part;

(d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

(e) as required in Section 53G-9-604, parental notification of:

(i) a student's threat to commit suicide; and

(ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;

(f) a grievance process for a school employee who has experienced abusive conduct;

(g) an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the [school] LEA governing board's policy, from each:

(i) school employee;

(ii) student who is at least eight years old; and

(iii) parent ~~or guardian~~ of a student enrolled in the charter school or school district.

(4) A copy of a policy shall be:

(a) included in student conduct handbooks;

(b) included in employee handbooks; and

(c) provided to a parent ~~or a guardian~~ of a student enrolled in the charter school or school district; ~~and~~.

~~[(d) distributed to parents.]~~

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

(6) Nothing in this part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.

Section 186. Section 53G-9-606 is amended to read:

53G-9-606. Model policy and state board duties.

(1) On or before September 1, 2018, the [State Board of Education] state board shall:

(a) update the [State Board of Education's] state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and

(b) post the model policy described in Subsection (1)(a) on the [State Board of Education] state board's website.

(2) The [State Board of Education] state board shall require a [school] an LEA governing board to

report annually to the [State Board of Education] state board on:

(a) the [school] LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3)(g);

(b) the [school] LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607; and

(c) other information related to this part, as determined by the [State Board of Education] state board.

Section 187. Section 53G-9-607 is amended to read:

53G-9-607. Training, education, and prevention -- Standards.

(1) (a) ~~[A school]~~ An LEA governing board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) ~~[A school]~~ An LEA governing board may offer voluntary training to parents and students regarding abusive conduct.

(2) To the extent that state or federal funding is available for this purpose, [school] LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection (1), to provide for training and education regarding, and the prevention of, bullying, hazing, abusive conduct, and retaliation.

(3) The programs or initiatives described in Subsection (2) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

(4) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

Section 188. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs required in secondary schools -- State board to develop model programs -- Reporting requirements.

(1) As used in the section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b)]~~ (a) "Intervention" means an effort to prevent a student from attempting suicide.

~~[(e)]~~ (b) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

~~[(d)]~~ (c) "Program" means a youth suicide prevention program described in Subsection (2).

~~(e)~~ (d) “Public education suicide prevention coordinator” means an individual designated by the state board as described in Subsection (3).

~~(f)~~ (e) “Secondary grades”:

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

~~(g)~~ (f) “State suicide prevention coordinator” means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school, in the secondary grades of the school district or charter school, shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;

(b) prevention of youth suicide;

(c) youth suicide intervention;

(d) postvention for family, students, and faculty;

(e) underage drinking of alcohol;

(f) methods of strengthening the family; and

(g) methods of strengthening a youth’s relationships in the school and community.

(3) The state board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools;

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator; and

(c) award grants in accordance with Section 53F-5-206.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the state board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or

emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The state board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$1,000.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7) (a) The state board shall provide a written report, and shall orally report to the Legislature’s Education Interim Committee, by the October 2015 meeting, jointly with the public education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the state board’s coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the public education suicide prevention coordinator’s model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the state board information that is necessary for the state board’s report to the Legislature’s Education Interim Committee as required in Subsection (7)(a).

Section 189. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (4), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district; and

(iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the ~~[State Board of Education]~~ state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The ~~[State Board of Education]~~ state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the School Safety and Crisis Line established in Section 53E-10-502; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The ~~[State Board of Education]~~ state board shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, on:

(a) the progress of implementation of the parent seminar;

(b) the number of parent seminars conducted in each school district;

(c) the estimated attendance reported by each school district;

(d) a recommendation of whether to continue the parent seminar program; and

(e) if a local school board has opted out of providing the parent seminar, as described in Subsection (4), the reasons why a local school board opted out.

(4) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the ~~[State Board of Education]~~ state board and provide the reasons why the local school board chose not to offer the parent seminar.

Section 190. Section 53G-9-704 is amended to read:

53G-9-704. Youth suicide prevention training for employees.

(1) A school district or charter school shall require a licensed employee to complete a minimum of two hours of professional development training on youth suicide prevention every three years.

(2) The state board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) ~~[in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~ incorporate in rule the training described in Subsection (1) into professional development training described in Section 53E-6-201.

Section 191. Section 53G-9-801 is amended to read:

53G-9-801. Definitions.

As used in Section 53G-9-802:

(1) "Attainment goal" means earning:

(a) a high school diploma;

(b) a Utah High School Completion Diploma, as defined in ~~[State Board of Education]~~ state board rule;

(c) an Adult Education Secondary Diploma, as defined in ~~[State Board of Education]~~ state board rule; or

(d) an employer-recognized, industry-based certificate that is:

(i) likely to result in job placement; and

(ii) included in the ~~[State Board of Education's]~~ state board's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

(a) (i) who has withdrawn from an LEA before earning a diploma;

(ii) who has been dropped from average daily membership; and

(iii) whose cohort has not yet graduated; or

(b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the ~~[State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ state board.

(4) "Graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the [~~State Board of Education~~] state board for federal accountability and reporting purposes; or

(b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the [~~State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~] state board.

(5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(6) "Nontraditional program" means a program, as defined in rules made by the [~~State Board of Education~~] state board under Subsection 53E-3-501(1)(e), in which a student receives instruction through:

- (a) distance learning;
- (b) online learning;
- (c) blended learning; or
- (d) competency-based learning.

(7) "Statewide graduation rate" means:

(a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the [~~State Board of Education~~] state board; or

(b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.

(8) "Third party" means:

- (a) a private provider; or
- (b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

Section 192. Section 53G-9-802 is amended to read:

53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the [~~State Board of Education~~] state board, and policies established by the LEA;

(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6, Electronic High School; or

(iii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the ~~[State Board of Education]~~ state board on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The ~~[State Board of Education]~~ state board shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout

prevention and recovery services in accordance with Subsections (3) and (5); and

(b) on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee on the provisions of this section, including a summary of the reports submitted under Subsection (6).

Section 193. Section 53G-9-803 is amended to read:

53G-9-803. Remediation programs for secondary students.

(1) For purposes of this section:

(a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(b) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the ~~[State Board of Education]~~ state board.

(3) (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.

(b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.

(5) (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.

(b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs.

Section 194. Section 53G-10-202 is amended to read:

53G-10-202. Maintaining constitutional freedom in the public schools.

(1) Any instructional activity, performance, or display which includes examination of or

presentations about religion, political or religious thought or expression, or the influence thereof on music, art, literature, law, politics, history, or any other element of the curriculum, including the comparative study of religions, which is designed to achieve secular educational objectives included within the context of a course or activity and conducted in accordance with applicable rules or policies of the state and [~~local boards of education~~] LEA governing boards, may be undertaken in the public schools.

(2) No aspect of cultural heritage, political theory, moral theory, or societal value shall be included within or excluded from public school curricula for the primary reason that it affirms, ignores, or denies religious belief, religious doctrine, a religious sect, or the existence of a spiritual realm or supreme being.

(3) Public schools may not sponsor prayer or religious devotionals.

(4) School officials and employees may not use their positions to endorse, promote, or disparage a particular religious, denominational, sectarian, agnostic, or atheistic belief or viewpoint.

Section 195. Section 53G-10-204 is amended to read:

53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents

[~~or guardians~~] and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by December 30 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.

(7) Each year, the [~~State Board of Education~~] state board shall report to the Education Interim

Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

Section 196. Section 53G-10-205 is amended to read:

53G-10-205. Waivers of participation.

(1) As used in this section ~~[(a) "Parent" means a parent or legal guardian. (b) "School", "school" means a public school.]~~

(2) If a parent of a student, or a secondary student, determines that the student's participation in a portion of the curriculum or in an activity would require the student to affirm or deny a religious belief or right of conscience, or engage or refrain from engaging in a practice forbidden or required in the exercise of a religious right or right of conscience, the parent or the secondary student may request:

- (a) a waiver of the requirement to participate; or
- (b) a reasonable alternative that requires reasonably equivalent performance by the student of the secular objectives of the curriculum or activity in question.

(3) The school shall promptly notify a student's parent if the secondary student makes a request under Subsection (2).

(4) If a request is made under Subsection (2), the school shall:

- (a) waive the participation requirement;
- (b) provide a reasonable alternative to the requirement; or
- (c) notify the requesting party that participation is required.

(5) The school shall ensure that the provisions of Subsection 53G-10-203(3) are met in connection with any required participation under Subsection (4)(c).

(6) A student's academic or citizenship performance may not be penalized if the secondary student or the student's parent chooses to exercise a religious right or right of conscience in accordance with the provisions of this section.

Section 197. Section 53G-10-302 is amended to read:

53G-10-302. Instruction in American history and government -- Study and posting of American heritage documents.

(1) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.

(2) (a) The ~~[State Board of Education]~~ state board and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.

(b) The boards shall solicit public input as part of the review process.

(c) Instruction in American history and government shall include a study of:

- (i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;
- (ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and
- (iii) the United States' form of government, a compound constitutional republic.

(3) School curricula and activities shall include a thorough study of historical documents such as:

- (a) the Declaration of Independence;
- (b) the United States Constitution;
- (c) the national motto;
- (d) the pledge of allegiance;
- (e) the national anthem;
- (f) the Mayflower Compact;
- (g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;
- (h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;
- (i) United States Supreme Court decisions;
- (j) Acts of the United States Congress, including the published text of the Congressional Record; and
- (k) United States treaties.

(4) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate.

(5) There shall be no content-based censorship of American history and heritage documents referred to in this section due to their religious or cultural nature.

(6) Public schools shall display "In God we trust," which is declared in 36 U.S.C. 302 to be the national motto of the United States, in one or more prominent places within each school building.

Section 198. Section 53G-10-303 is amended to read:

53G-10-303. Teaching of American sign language.

(1) The Legislature recognizes that American sign language is a fully developed, autonomous, natural language with distinct grammar, syntax, and art forms.

(2) American sign language shall be accorded equal status with other linguistic systems in the state's public and higher education systems.

(3) The ~~[State Board of Education]~~ state board, in consultation with the state's school districts and members of the deaf and hard of hearing community, shall develop and implement policies and procedures for the teaching of American sign language in the state's public education system at least at the middle school or high school level.

(4) A student may count credit received for completion of a course in American sign language at the middle school or high school level toward the satisfaction of a foreign language requirement in the public education system under rules made by the ~~[State Board of Education]~~ state board.

(5) The State Board of Regents, in consultation with the state's public institutions of higher education and members of the state's deaf and hard of hearing community, shall develop and implement policies and procedures for offering instruction in American sign language in the state's system of higher education.

(6) The Joint Liaison Committee, in consultation with members of the state's deaf and hard of hearing community, shall review any policies and procedures developed under this section and make recommendations to either or both boards regarding the policies.

Section 199. Section 53G-10-304 is amended to read:

53G-10-304. Instruction on the flag of the United States of America.

(1) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall provide by rule for a program of instruction within the public schools relating to the flag of the United States.

(2) The instruction shall include the history of the flag, etiquette, customs pertaining to the display and use of the flag, and other patriotic exercises as provided by 4 U.S.C. Secs. 1 to 10.

(3) (a) The pledge of allegiance to the flag shall be recited once at the beginning of each day in each public school classroom in the state, led by a student in the classroom, as assigned by the classroom teacher on a rotating basis.

(b) Each student shall be informed by posting a notice in a conspicuous place that the student has the right not to participate in reciting the pledge.

(c) A student shall be excused from reciting the pledge upon written request from the student's parent ~~[or legal guardian]~~.

(d) (i) At least once a year students shall be instructed that:

(A) participation in the pledge of allegiance is voluntary and not compulsory; and

(B) not only is it acceptable for someone to choose not to participate in the pledge of allegiance for religious or other reasons, but students should show respect for any student who chooses not to participate.

(ii) A public school teacher shall strive to maintain an atmosphere among students in the classroom that is consistent with the principles described in Subsection (3)(d)(i).

Section 200. Section 53G-10-305 is amended to read:

53G-10-305. Financial education information.

A public school shall provide the following to the parents ~~[or guardian]~~ of a kindergarten student during kindergarten enrollment:

(1) a financial and economic literacy passport, as defined in Section 53E-3-505; and

(2) information about higher education savings options, including information about opening a Utah Educational Savings Plan account.

Section 201. Section 53G-10-402 is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

~~[(a) "Board" means the State Board of Education.]~~

~~[(b) "Local school board" means:]~~

~~[(i) a local board of education elected in accordance with Section 53G-4-201; or]~~

~~[(ii) a charter school governing board, as defined in Section 53G-5-102.]~~

~~[(c) "Parent" means a parent or legal guardian.]~~

~~(a) "LEA governing board" means a local school board or charter school governing board.~~

~~[(d)] (b) "Refusal skills" means instruction:~~

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2) (a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

- (i) community and personal health;
 - (ii) physiology;
 - (iii) personal hygiene;
 - (iv) prevention of communicable disease;
 - (v) refusal skills; and
 - (vi) the harmful effects of pornography.
- (b) (i) That instruction shall stress:
- (A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and
 - (B) personal skills that encourage individual choice of abstinence and fidelity.
- (ii) (A) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.
- (B) Subsection (2)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.
- (c) (i) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.
- (ii) [~~a local school~~] An LEA governing board may choose to adopt:
- (A) the instructional materials recommended under Subsection (2)(c)(i); or
 - (B) other instructional materials as provided in state board rule.
- (iii) The state board rule made under Subsection (2)(c)(ii)(B) shall include, at a minimum:
- (A) that the materials adopted by [~~a local school~~] an LEA governing board under Subsection (2)(c)(ii)(B) shall be based upon recommendations of the school district's or charter school's Curriculum Materials Review Committee that comply with state law and state board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:
 - (I) the intricacies of intercourse, sexual stimulation, or erotic behavior;
 - (II) the advocacy of premarital or extramarital sexual activity; or
 - (III) the advocacy or encouragement of the use of contraceptive methods or devices;
 - (B) that the adoption of instructional materials shall take place in an open and regular meeting of the [~~local school~~] LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity

for parents to express their views and opinions on the materials at the meeting;

(C) provision for an appeal and review process of the [~~local school~~] LEA governing board's decision; and

(D) provision for a report by the [~~local school~~] LEA governing board to the state board of the action taken and the materials adopted by the [~~local school~~] LEA governing board under Subsections (2)(c)(ii)(B) and (2)(c)(iii).

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health shall cooperate with the state board in developing programs to provide instruction in those areas.

(4) (a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or [~~a local school~~] an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The state board shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or [~~a local school~~] an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding

educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) ~~[A local school board and a local school]~~ An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) ~~[A local school]~~ An LEA governing board shall provide appropriate professional development for the [local school] LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) ~~[A local school]~~ An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist ~~[a local school]~~ an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that ~~[a local school]~~ an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7)(b).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) ~~[A local school]~~ An LEA governing board shall review every two years:

(a) ~~[local school]~~ LEA governing board policies on instruction described in this section;

(b) for a local school board ~~[of education]~~ of a school district, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

- (i) teen pregnancy;
- (ii) child sexual abuse; and
- (iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the ~~[local school]~~ LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 202. Section 53G-10-403 is amended to read:

53G-10-403. Required parental consent for sex education instruction.

(1) As used in this section:

~~[(a) "Parent" means the same as that term is defined in Section 53G-10-205.]~~

~~[(b)]~~ (a) (i) "Sex education instruction" means any course material, unit, class, lesson, activity, or presentation that, as the focus of the discussion, provides instruction or information to a student about:

- (A) sexual abstinence;
- (B) human sexuality;
- (C) human reproduction;
- (D) reproductive anatomy;
- (E) physiology;
- (F) pregnancy;
- (G) marriage;
- (H) childbirth;
- (I) parenthood;
- (J) contraception;
- (K) HIV/AIDS;
- (L) sexually transmitted diseases; or
- (M) refusal skills, as defined in Section 53G-10-402.

(ii) "Sex education instruction" does not include child sexual abuse prevention instruction described in Section 53G-9-207.

~~[(e)]~~ (b) "School" means the same as that term is defined in Section 53G-10-205.

(2) A school shall obtain prior written consent from a student's parent before the school may provide sex education instruction to the student.

(3) If a student's parent chooses not to have the student participate in sex education instruction, a school shall:

- (a) waive the requirement for the student to participate in the sex education instruction; or
- (b) provide the student with a reasonable alternative to the sex education instruction requirement.

(4) In cooperation with the student's teacher or school, a parent shall take responsibility for the parent's student's sex education instruction if a school:

(a) waives the student's sex education instruction requirement in Subsection (3)(a); or

(b) provides the student with a reasonable alternative to the sex education instruction requirement described in Subsection (3)(b).

(5) A student's academic or citizenship performance may not be penalized if the student's parent chooses not to have the student participate in sex education instruction as described in Subsection (3).

Section 203. Section 53G-10-405 is amended to read:

53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.

(1) The ~~[State Board of Education]~~ state board shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The rules shall require but are not limited to instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, and controlled substances.

(2) At the request of the state board, the Division of Substance Abuse and Mental Health shall cooperate with the state board in developing programs to provide this instruction.

(3) The state board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

Section 204. Section 53G-10-406 is amended to read:

53G-10-406. Underage Drinking Prevention Program -- State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

~~[(b) "Board" means the State Board of Education.]~~

~~[(c) "LEA" means:]~~

~~[(i) a school district;]~~

~~[(ii) a charter school; or]~~

~~[(iii) the Utah Schools for the Deaf and the Blind.]~~

~~[(d)]~~ (b) "Program" means the Underage Drinking Prevention Program created in this section.

~~[(e)]~~ (c) "School-based prevention program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention program for students in grade 7 or 8; and

(b) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent ~~[of public instruction]~~ or the state ~~[superintendent of public instruction's]~~ superintendent's designee; and

(g) two members of the ~~[State Board of Education]~~ state board, appointed by the chair of the ~~[State Board of Education]~~ state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider’s underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider’s experience in providing a program that is effective at reducing underage drinking.

(7) (a) The state board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

~~[(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the]~~

(8) The state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section 205. Section 53G-10-501 is amended to read:

53G-10-501. Definitions.

~~[Reserved]~~ As used in this part:

(1) “Driver education” includes classroom instruction and driving and observation in a dual-controlled motor vehicle.

(2) “Driving” or “behind-the-wheel driving” means operating a dual-controlled motor vehicle under the supervision of a certified instructor.

Section 206. Section 53G-10-502 is amended to read:

53G-10-502. Driver education established by school districts.

~~[(1) As used in this part:]~~

~~[(a) “Driver education” includes classroom instruction and driving and observation in a dual-controlled motor vehicle.]~~

~~[(b) “Driving” or “behind-the-wheel driving” means operating a dual-controlled motor vehicle under the supervision of a certified instructor.]~~

~~[(2)]~~ (1) (a) Local school districts may establish and maintain driver education for pupils.

(b) A school or local school district that provides driver education shall provide an opportunity for each pupil enrolled in that school or local school district to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection ~~[(2)]~~ (1)(b), a school or local school district that provides driver education may provide an opportunity for each pupil enrolled in that school or

school district to take the written test when the pupil is 15 years of age.

~~[(3)]~~ (2) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

~~[(4)]~~ (3) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules for driver education offered in the public schools.

~~[(5)]~~ (4) The rules under Subsection ~~[(4)]~~ (3) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil;

(b) require instruction, based on data and information provided by the Division of Air Quality, on:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions; and

(c) establish minimum standards for approved driving ranges under Section 53-3-505.5.

~~[(6)]~~ (5) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Section 207. Section 53G-10-503 is amended to read:

53G-10-503. Driver education funding -- Reimbursement of school districts for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1) (a) Except as provided in Subsection (1)(b), a school district that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a school district may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A school district may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent ~~[of public instruction]~~ shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each school district that applied for reimbursement in accordance with this section.

(b) A school district that maintains driver education classes that conform to this part and the

rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a school district may:

(a) employ personnel who are not licensed by the state board under Section 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) \$100 per student who has completed driver education during the school year;

(b) \$30 per student who has only completed the classroom portion in the school or through the electronic high school during the school year; or

(c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent [~~of public instruction~~] shall allocate the money to each school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to school districts:

(a) to reimburse each school district that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the school district. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 208. Section 53G-10-505 is amended to read:

53G-10-505. Reports as to costs of driver training programs.

A local school board seeking reimbursement shall, at the end of each school year and at other times as designated by the [~~State Board of Education~~] state board, report the following to the state superintendent [~~of public instruction~~]:

(1) the costs of providing driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(2) the costs of fees waived under Section 53G-7-504 for driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(3) the number of students who completed driver education including a separate accounting for:

(a) course work; and

(b) behind-the-wheel and observation training to students;

(4) whether or not a passing grade was received; and

(5) any other information the [~~State Board of Education~~] state board may require for the purpose of administering this program.

Section 209. Section 53G-10-506 is amended to read:

53G-10-506. Promoting the establishment and maintenance of classes -- Payment of costs.

(1) The state superintendent [~~of public instruction~~] shall promote the establishment and maintenance of driver education classes in school districts under rules adopted by the [~~State Board of Education~~] state board.

(2) The state board may employ personnel and sponsor experimental programs considered necessary to give full effect to this program.

(3) The costs of implementing this section shall be paid from the legislative appropriation to the state board made from the Automobile Driver Education Tax Account in the Uniform School Fund.

Section 210. Section 53G-10-507 is amended to read:

53G-10-507. Driver education teachers certified as license examiners.

(1) The Driver License Division of the Department of Public Safety and the [~~State Board of Education~~] state board shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the [~~State Board of Education~~] state board, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the [~~State Board of Education~~] state board shall establish procedures to enable school districts to administer or process any tests for students to receive a learner permit or class D operator's license.

(7) The division and state board shall establish the standards and procedures required under this section by rules [~~made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

Section 211. Section 53G-10-508 is amended to read:

53G-10-508. Programs authorized -- Minimum standards.

(1) Local school districts may:

(a) allow students to complete the classroom training portion of driver education through the following programs:

- (i) home study; or
- (ii) the electronic high school;

(b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;

(c) offer driver education outside of school hours in order to reduce the cost of providing driver education;

(d) offer driver education through community education programs;

(e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:

- (i) licensed under Section 53-3-504; and
- (ii) not associated with the school or under contract with the school under Subsection 53G-10-503(3); or
- (f) any combination of Subsections (1)(a) through (e).

(2) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State~~

~~Board of Education~~] The state board shall establish in rule minimum standards for the school-related programs under Subsection (1).

Section 212. Section 53G-11-203 is amended to read:

53G-11-203. Health insurance mandates.

A local school board and [~~the governing body of~~] a charter school governing board shall include in a health plan it offers to school district employees, or charter school employees insurance mandates in accordance with Section 31A-22-605.5.

Section 213. Section 53G-11-205 is amended to read:

53G-11-205. Education employee associations -- Equal participation -- Prohibition on endorsement or preferential treatment -- Naming of school breaks.

(1) As used in this section:

(a) "Education employee association" includes teacher associations, teacher unions, teacher organizations, and classified education employees' associations.

(b) "School" means a school district, a school in a school district, a charter school, or the [~~State Board of Education~~] state board and its employees.

(2) A school shall allow education employee associations equal access to the following activities:

(a) distribution of information in or access to teachers' or employees' physical or electronic mailboxes, including email accounts that are provided by the school; and

(b) membership solicitation activities at new teacher or employee orientation training or functions.

(3) If a school permits an education employee association to engage in any of the activities described in Subsection (2), the school shall permit all other education employee associations to engage in the activity on the same terms and conditions afforded to the education employee association.

(4) It is unlawful for a school to:

(a) establish or maintain structures, procedures, or policies that favor one education employee association over another or otherwise give preferential treatment to an education employee association; or

(b) explicitly or implicitly endorse any education employee association.

(5) A school's calendars and publications may not include or refer to the name of any education employee association in relation to any day or break in the school calendar.

Section 214. Section 53G-11-207 is amended to read:

53G-11-207. Collective bargaining agreement -- Website posting.

(1) As used in this section, "collective bargaining agreement" includes:

(a) a master agreement; and

(b) an amendment, addendum, memorandum, or other document modifying the master agreement.

~~[(2) The board of education of a school district:]~~

(2) A local school board:

(a) shall post on the school district's website a collective bargaining agreement entered into by the ~~[board of education]~~ local school board within 10 days of the ratification of the agreement; and

(b) may remove from the school district's website a collective bargaining agreement that is no longer in effect.

~~[(3) The governing board of a charter school:]~~

(3) A charter school governing board:

(a) shall post on the charter school's website a collective bargaining agreement entered into by the charter school governing board ~~[of the charter school]~~ within 10 days of the ratification of the agreement; and

(b) may remove from the charter school's website a collective bargaining agreement that is no longer in effect.

Section 215. Section 53G-11-303 is amended to read:

53G-11-303. Professional learning standards.

(1) As used in this section, "professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the ~~[State Board of Education]~~ state board; and

(ii) performance standards for students as described in the core standards for Utah public schools adopted by the ~~[State Board of Education]~~ state board pursuant to Section 53E-4-202; and

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) (a) In the fall of 2014, the ~~[State Board of Education]~~ state board, through the state superintendent ~~[of public instruction]~~, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The ~~[State Board of Education]~~ state board shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the ~~[State Board of Education]~~ state board, through the state superintendent ~~[of public instruction]~~, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection (4)(c)(i) shall include:

(A) student achievement data;

(B) educator evaluation data; and

(C) survey data.

Section 216. Section 53G-11-401 is amended to read:

53G-11-401. Definitions.

As used in this part:

(1) "Authorized entity" means an LEA, qualifying private school, or the ~~[State Board of Education]~~ state board that is authorized to request a background check and ongoing monitoring under this part.

(2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.

(3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract.

(4) "FBI" means the Federal Bureau of Investigation.

(5) (a) "License applicant" means an applicant for a license issued by the ~~[State Board of Education]~~ state board under Title 53E, Chapter 6, Education Professional Licensure.

(b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.

~~[(6) "Local education agency" or "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.]~~

~~[(7) (6) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the [State Board of Education] state board under Title 53E, Chapter 6, Education Professional Licensure.~~

~~[(8) (7) "Personal identifying information" means:~~

(a) current name, former names, nicknames, and aliases;

(b) date of birth;

(c) address;

(d) telephone number;

(e) driver license number or other government-issued identification number;

(f) social security number; and

(g) fingerprints.

~~[(9) (8) "Qualifying private school" means a private school that:~~

(a) enrolls students under Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program; and

(b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.

~~[(10) (9) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.~~

~~[(11) (10) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.~~

Section 217. Section 53G-11-403 is amended to read:

53G-11-403. Background checks for licensed educators.

The ~~[State Board of Education]~~ state board shall:

(1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;

(2) collect the following from an applicant:

(a) personal identifying information;

(b) a fee described in Subsection 53-10-108(15); and

(c) consent, on a form specified by the ~~[State Board of Education]~~ state board, for:

(i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;

(ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404; and

(iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;

(3) submit an applicant's personal identifying information to the bureau for:

(a) an initial fingerprint-based background check by the FBI and bureau; and

(b) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the ~~[State Board of Education]~~ state board in accordance with Section 53G-11-405;

(4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the ~~[State Board of Education]~~ state board only receives notifications for individuals with whom the ~~[State Board of Education]~~ state board maintains an authorizing relationship;

(5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and

(6) (a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.

Section 218. Section 53G-11-404 is amended to read:

53G-11-404. Bureau responsibilities.

The bureau shall:

(1) upon request from an authorized entity, register the fingerprints submitted by the authorized entity as part of a background check with:

(a) the WIN Database rap back system, or any successor system; and

(b) the rap back system maintained by the Federal Bureau of Investigation;

(2) notify an authorized entity when a new entry is made against an individual whose fingerprints are registered with the rap back systems described in Subsection (1) regarding:

(a) an alleged offense; or

(b) a conviction, including a plea in abeyance;

(3) assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the authorized entity only receives notifications for individuals with whom the authorized entity maintains an authorizing relationship; and

(4) collaborate with the ~~[State Board of Education]~~ state board to provide training to authorized entities on the notification procedures and privacy risk mitigation strategies described in this part.

Section 219. Section 53G-11-405 is amended to read:

53G-11-405. Due process for individuals--Review of criminal history information.

(1) (a) In accordance with Section 53-10-108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.

(b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:

(i) information received; and

(ii) the reasons for the disqualification.

(c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:

(i) the reasons for the disqualification; and

(ii) the individual's right to request a review of the disqualification.

(2) (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53G-11-402 in accordance with:

(i) Subsection (3);

(ii) administrative procedures established by the LEA or qualifying private school; and

(iii) rules established by the ~~[State Board of Education]~~ state board.

(b) The ~~[State Board of Education]~~ state board shall make decisions regarding criminal history information for licensed educators in accordance with:

(i) Subsection (3);

(ii) Title 53E, Chapter 6, Education Professional Licensure; and

(iii) rules established by the ~~[State Board of Education]~~ state board.

(3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:

(a) any convictions, including pleas in abeyance;

(b) any matters involving a felony; and

(c) any matters involving an alleged:

(i) sexual offense;

(ii) class A misdemeanor drug offense;

(iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;

(iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and

(v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Section 220. Section 53G-11-406 is amended to read:

53G-11-406. Self-reporting requirement.

(1) Individuals subject to the background check requirements under this part shall self-report conviction, arrest, or offense information in accordance with rules established by the ~~[State Board of Education]~~ state board.

(2) An LEA shall report conviction, arrest, or offense information received from licensed educators under Subsection (1) to the ~~[State Board of Education]~~ state board in accordance with rules established by the ~~[State Board of Education]~~ state board.

Section 221. Section 53G-11-407 is amended to read:

53G-11-407. Update criminal background check rules and policies.

On or before September 1, 2015:

(1) the ~~[State Board of Education]~~ state board shall update the ~~[State Board of Education's]~~ state board's criminal background check rules consistent with this part; and

(2) an LEA shall update the LEA's criminal background check policies consistent with this part.

Section 222. Section 53G-11-408 is amended to read:

53G-11-408. Training provided to authorized entities.

The [~~State Board of Education~~] state board shall collaborate with the bureau to provide training to authorized entities on the provisions of this part.

Section 223. Section 53G-11-501 is amended to read:

53G-11-501. Definitions.

As used in this part:

(1) "Administrator" means an individual who supervises educators and holds an appropriate license issued by the [~~State Board of Education~~] state board.

(2) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

(3) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee's association, district practice, or policy.

(4) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

(5) "Dismissal" or "termination" means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

(6) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the [~~State Board of Education~~] state board, except:

(a) a superintendent; or

(b) an individual who works less than ~~three~~ three hours per day or is hired for less than half of a school year.

(7) (a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (7)(b).

(b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not include:

(i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;

(ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or

(iii) a temporary employee.

(8) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.

~~[(9) "Probationary educator" means an educator employed by a school district who, under local school board policy, has been advised by the school district that the educator's performance is inadequate.]~~

~~[(10) (9) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.]~~

~~[(11) (10) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.]~~

~~[(12) (11) "School board" or "board" means a [district] local school board or, for the Utah Schools for the Deaf and the Blind, the [~~State Board of Education~~] state board.]~~

~~[(13) (12) "School district" or "district" means:~~

~~(a) a public school district; or~~

~~(b) the Utah Schools for the Deaf and the Blind.]~~

~~[(14) (13) "Summative evaluation" means the annual evaluation that summarizes an educator's performance during a school year and that is used to make decisions related to the educator's employment.]~~

~~[(15) (14) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the [local] school board [of education]. If the class of employees in question is represented by an employee organization recognized by the [local] school board, the school board shall adopt the school board's policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.]~~

~~[(16) (15) (a) "Unsatisfactory performance" means a deficiency in performing work tasks that may be:~~

~~(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and~~

~~(ii) remediated through training, study, mentoring, or practice.]~~

~~(b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or~~

a reason for license discipline by the ~~[State Board of Education]~~ state board or Utah Professional Practices Advisory Commission:

- (i) a violation of work ~~[rules]~~ policies;
- (ii) a violation of ~~[local]~~ school board policies, ~~[State Board of Education]~~ state board rules, or law;
- (iii) a violation of standards of ethical, moral, or professional conduct; or
- (iv) insubordination.

Section 224. Section 53G-11-501.5 is amended to read:

53G-11-501.5. Legislative findings.

(1) The Legislature finds that the effectiveness of public educators can be improved and enhanced by providing specific feedback and support for improvement through a systematic, fair, and competent annual evaluation and remediation of public educators whose performance is inadequate.

(2) The ~~[State Board of Education]~~ state board and each local school board shall implement Sections 53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511 in accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), to:

- (a) allow the educator and the school district to promote the professional growth of the educator; and
- (b) identify and encourage quality instruction in order to improve student academic growth.

Section 225. Section 53G-11-504 is amended to read:

53G-11-504. Evaluation of employee performance.

(1) Except as provided in Subsection (2), a local school board shall require that the performance of each school district employee be evaluated annually in accordance with rules of the ~~[State Board of Education]~~ state board adopted in accordance with this part ~~[and Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~.

(2) Rules adopted by the ~~[State Board of Education]~~ state board under Subsection (1) may include an exemption from annual performance evaluations for a temporary employee or a part-time employee.

Section 226. Section 53G-11-505 is amended to read:

53G-11-505. State board rules -- Reporting to Legislature.

(1) Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511, rules adopted by the ~~[State Board of Education]~~ state board under Section 53G-11-504 shall:

- (a) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;

(b) establish required components and allow for optional components of employee evaluations;

(c) require school districts to choose valid and reliable methods and tools to implement the evaluations; and

(d) establish a timeline for school districts to implement employee evaluations.

(2) The ~~[State Board of Education]~~ state board shall report to the Education Interim Committee, as requested, on progress in implementing employee evaluations in accordance with this section and Sections 53G-11-504, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.

Section 227. Section 53G-11-506 is amended to read:

53G-11-506. Establishment of educator evaluation program -- Joint committee.

(1) A local school board shall develop an educator evaluation program in consultation with its joint committee.

(2) The joint committee described in Subsection (1) shall consist of an equal number of classroom teachers, parents, and administrators appointed by the local school board.

(3) A local school board may appoint members of the joint committee from a list of nominees:

- (a) voted on by classroom teachers in a nomination election;
- (b) voted on by the administrators in a nomination election; and
- (c) of parents submitted by school community councils within the district.

(4) Subject to Subsection (5), the joint committee may:

- (a) adopt or adapt an evaluation program for educators based on a model developed by the ~~[State Board of Education]~~ state board; or
- (b) create the local school board's own evaluation program for educators.

(5) The evaluation program developed by the joint committee shall comply with the requirements of Sections 53G-11-507 through 53G-11-511 and rules adopted by the ~~[State Board of Education]~~ state board under Section 53G-11-510.

Section 228. Section 53G-11-507 is amended to read:

53G-11-507. Components of educator evaluation program.

(1) A local school board in consultation with a joint committee established in Section 53G-11-506 shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the ~~[State Board of Education]~~ state board and includes:

- (a) a systematic annual evaluation of all provisional, probationary, and career educators;

- (b) use of multiple lines of evidence, including:
 - (i) self-evaluation;
 - (ii) student and parent input;
 - (iii) for an administrator, employee input;
 - (iv) a reasonable number of supervisor observations to ensure adequate reliability;
 - (v) evidence of professional growth and other indicators of instructional improvement based on educator professional standards established by the ~~[State Board of Education]~~ state board; and
 - (vi) student academic growth data;
- (c) a summative evaluation that differentiates among four levels of performance; and
- (d) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.

(2) (a) An educator evaluation program described in Subsection (1) may include a reasonable number of peer observations.

(b) An educator evaluation program described in Subsection (1) may not use end-of-level assessment scores in educator evaluation.

Section 229. Section 53G-11-508 is amended to read:

53G-11-508. Summative evaluation timelines -- Review of summative evaluations.

(1) The person responsible for administering an educator's summative evaluation shall:

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of the evaluation instrument, if an instrument is used;

(b) allow the educator to respond to any part of the evaluation;

(c) attach the educator's response to the evaluation if the educator's response is provided in writing;

(d) within 15 days after the evaluation process is completed, discuss the written evaluation with the educator; and

(e) based upon the educator's performance, assign to the educator one of the four levels of performance described in Section 53G-11-507.

(2) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.

(3) (a) If a review is requested in accordance with Subsection (2), the school district superintendent or the superintendent's designee shall appoint a

person not employed by the school district who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.

(b) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules prescribing standards for an independent review of an educator's summative evaluation.

(c) A review of an educator's summative evaluation under Subsection (3)(a) shall be conducted in accordance with ~~[State Board of Education]~~ state board rules made under Subsection (3)(b).

Section 230. Section 53G-11-510 is amended to read:

53G-11-510. State board to describe a framework for the evaluation of educators.

(1) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules:

(a) describing a framework for the evaluation of educators that is consistent with the requirements of Part 3, Licensed Employee Requirements, and Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; and

(b) requiring an educator's summative evaluation to be based on:

(i) educator professional standards established by the ~~[State Board of Education]~~ state board; and

(ii) the requirements described in Subsection 53G-11-507(1).

(2) The rules described in Subsection (1) shall prohibit the use of end-of-level assessment scores in educator evaluation.

Section 231. Section 53G-11-511 is amended to read:

53G-11-511. Report of performance levels.

(1) A school district shall report to the ~~[State Board of Education]~~ state board the number and percent of educators in each of the four levels of performance assigned under Section 53G-11-508.

(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:

(a) administrators;

(b) teachers, including separately reported data for provisional teachers and career teachers; and

(c) other classifications or demographics of educators as determined by the ~~[State Board of Education]~~ state board.

(3) The state superintendent shall include the data reported by school districts under this section in the state superintendent's annual report of the public school system required by Section 53E-3-301.

(4) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules to ensure the privacy and protection of individual evaluation data.

Section 232. Section 53G-11-512 is amended to read:

53G-11-512. Local school board to establish dismissal procedures.

(1) A local school board shall, by contract with its employees or their associations, or by resolution of the local school board, establish procedures for dismissal of employees in an orderly manner without discrimination.

(2) The procedures shall include:

- (a) standards of due process;
- (b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

- (a) specific, measurable, and actionable deficiencies;
- (b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

(4) If a career employee exhibits both unsatisfactory performance as described in Subsection 53G-11-501(16)(a) and conduct described in Subsection 53G-11-501(16)(b), an employer:

- (a) may:
 - (i) attempt to remediate the conduct of the career employee; or
 - (ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

(5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

(6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:

- (a) may dismiss the career employee for cause in accordance with procedures established by the local

school board that include standards of due process and causes for dismissal; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

Section 233. Section 53G-11-518 is amended to read:

53G-11-518. State board to make rules on performance compensation.

(1) ~~[In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education]~~ The state board shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53G-11-507.

(2) Rules adopted under Subsection (1) shall:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that beginning no later than the 2016-17 school year:

(i) any advancement on an adopted wage or salary schedule:

(A) shall be based primarily on an evaluation; and

(B) may not be based on end-of-level assessment scores; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Section 234. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless

the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-104(4)(f), 20A-2-101.1(5)(a), or 20A-2-204(4)(b);

(l) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(m) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(n) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(o) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(p) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(q) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(r) an email address provided by a military or overseas voter under Section 20A-16-501;

(s) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(t) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(u) a record described in [~~Subsection 53G-9-604(3)~~] Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(v) a criminal background check or credit history report conducted in accordance with Section 63A-3-201; and

(w) a record described in Subsection 53-5a-104(7).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection

63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental,

or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 235. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of Management and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the ~~[minimum school program]~~ Minimum School Program, as defined in ~~[Subsection]~~ Section 53F-2-102~~(7)(e)~~.

Section 236. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 27, Public Education Definitions Amendments, does not pass.

CHAPTER 294**H. B. 148**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

VEHICLE IDLING REVISIONS

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to enforcement of a local authority's idling restrictions to require at least one warning citation before imposition of a fine.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to enforcement of a local authority's idling restrictions to require at least one warning citation before imposition of a fine.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-208, as last amended by Laws of Utah 2015, Chapter 461

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-208 is amended to read:**41-6a-208. Regulatory powers of local highway authorities -- Traffic-control device affecting state highway -- Necessity of erecting traffic-control devices.**

(1) As used in this section:

(a) (i) "Ground transportation vehicle" means a motor vehicle used for the transportation of persons, used in ride or shared ride, on demand, or for hire transportation of passengers or baggage over public highways.

(ii) "Ground transportation vehicle" includes a:

- (A) shared ride vehicle;
- (B) bus;
- (C) courtesy vehicle;
- (D) hotel vehicle;
- (E) limousine;
- (F) minibus;
- (G) special transportation vehicle;
- (H) specialty vehicle;
- (I) taxicab;
- (J) van; or

(K) trailer being towed by a ground transportation vehicle.

(b) "Idle" means the operation of a vehicle engine while the vehicle is stationary or not in the act of performing work or its normal function.

(2) The provisions of this chapter do not prevent a local highway authority for a highway under its jurisdiction and within the reasonable exercise of police power, from:

(a) regulating or prohibiting stopping, standing, or parking;

(b) regulating traffic by means of a peace officer or a traffic-control device;

(c) regulating or prohibiting processions or assemblages on a highway;

(d) designating particular highways or roadways for use by traffic moving in one direction under Section 41-6a-709;

(e) establishing speed limits for vehicles in public parks, which supersede Section 41-6a-603 regarding speed limits;

(f) designating any highway as a through highway or designating any intersection or junction of roadways as a stop or yield intersection or junction;

(g) restricting the use of a highway under Section 72-7-408;

(h) requiring the registration and inspection of bicycles, including requiring a registration fee;

(i) regulating or prohibiting:

(i) certain turn movements of a vehicle; or

(ii) specified types of vehicles;

(j) altering or establishing speed limits under Section 41-6a-603;

(k) requiring written accident reports under Section 41-6a-403;

(l) designating no-passing zones under Section 41-6a-708;

(m) prohibiting or regulating the use of controlled-access highways by any class or kind of traffic under Section 41-6a-715;

(n) prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

(o) establishing minimum speed limits under Subsection 41-6a-605(3);

(p) prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk under Section 41-6a-1001;

(q) restricting pedestrian crossings at unmarked crosswalks under Section 41-6a-1010;

(r) regulating persons upon skates, coasters, sleds, skateboards, and other toy vehicles;

(s) adopting and enforcing temporary or experimental ordinances as necessary to cover emergencies or special conditions;

(t) prohibiting drivers of ambulances from exceeding maximum speed limits;

(u) adopting other traffic ordinances as specifically authorized by this chapter; or

(v) adopting an ordinance that requires a ground transportation vehicle to conform to state safety standards and reasonable annual appearance requirements, in consultation with a transportation advisory board of the local highway authority.

(3) A local highway authority may not:

(a) in accordance with Title 72, Chapter 3, Part 1, Highways in General, erect or maintain any official traffic-control device at any location which regulates the traffic on a highway not under the local highway authority's jurisdiction, unless written approval is obtained from the highway authority having jurisdiction over the highway;

(b) prohibit or restrict the use of a cellular phone by the operator or passenger of a motor vehicle;

(c) enact an ordinance that prohibits or restricts an owner or operator of a vehicle from causing or permitting the vehicle's engine to idle unless the ordinance:

(i) is primarily educational;

(ii) provides that a person must be issued at least ~~three warning citations~~ one warning citation before imposing a fine;

(iii) has the same fine structure as a parking violation;

(iv) provides for the safety of law enforcement personnel who enforce the ordinance; and

(v) provides that the ordinance may be enforced on:

(A) public property; or

(B) private property that is open to the general public unless the private property owner:

(I) has a private business that has a drive-through service as a component of the private property owner's business operations and posts a sign provided by or acceptable to the local highway authority informing its customers and the public of the local highway authority's time limit for idling vehicle engines; or

(II) adopts an idle reduction education policy approved by the local highway authority;

(d) enact an ordinance that prohibits a vehicle from being licensed as a ground transportation vehicle:

(i) if the vehicle to be licensed otherwise passes all state safety inspection requirements established by the Utah Highway Patrol Division in accordance with Section 53-8-204; and

(ii) (A) based on the manufacture date of the vehicle; or

(B) based on the number of miles the vehicle has accumulated;

(e) enact an ordinance, regulation, rule, fee, or criminal or civil fine pertaining to a registration violation under Section 41-1a-201 or a registration decal issued under Section 41-1a-402 that conflicts with or is more stringent than the registration requirements under Title 41, Motor Vehicles;

(f) enact an ordinance that:

(i) is inconsistent with the provisions of this chapter; or

(ii) prohibits the use of a bicycle on any public street or highway, except as allowed by Section 41-6a-714, unless the local highway authority has:

(A) documented that the local highway authority has reviewed the safety history of the highway and considered other reasonable alternatives, including signage and routes; and

(B) clearly marked a safe alternative route for the prohibited section of highway; or

(g) enact an ordinance, regulation, or rule that requires the owner or driver of a ground transportation vehicle to maintain liability insurance coverage in an amount that is greater than the minimum amount of liability coverage a transportation network company or transportation network driver is required to maintain under Subsection 13-51-108(1)(b).

(4) An ordinance enacted under Subsection (2)(d), (e), (f), (g), (i), (j), (l), (m), (n), or (q) is not effective until official traffic-control devices giving notice of the local traffic ordinances are erected upon or at the entrances to the highway or part of it affected as is appropriate.

(5) An ordinance enacted by a local highway authority that violates Subsection (3) is not effective.

CHAPTER 295**H. B. 179**

Passed March 14, 2019

Approved March 26, 2019

Effective May 14, 2019

ROAD CLOSURE AMENDMENTS

Chief Sponsor: Phil Lyman

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill enacts provisions related to unlawful road closures.

Highlighted Provisions:

This bill:

- ▶ makes closing a road under certain conditions a class C misdemeanor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

72-5-118, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-5-118 is enacted to read:**72-5-118. Unlawful road closures.**

(1) Except as provided in Sections 72-1-212, 72-5-105, 72-6-114, and 72-7-103, an individual who knowingly places or authorizes the placement of a temporary or permanent barricade on a class A, B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class A, B, C, or D road or R.S. 2477 right-of-way to permanently or temporarily close the road or R.S. 2477 right-of-way to vehicular traffic is guilty of a class C misdemeanor.

(2) This section does not apply to a road closure:

(a) by firefighters or peace officers responding to an emergency;

(b) that may result from a permanent or temporary closure of a public or private railroad crossing; or

(c) on an R.S. 2477 right-of-way across private land if a perpetual public right-of-way has not been granted through a settlement or court order.

CHAPTER 296**H. B. 185**

Passed March 1, 2019

Approved March 26, 2019

Effective May 14, 2019

**TAX INCREMENT FUNDING
FOR STUDENT HOUSING**Chief Sponsor: Derrin R. Owens
Senate Sponsor: Ralph Okerlund**LONG TITLE****General Description:**

This bill allows a community reinvestment agency to use the agency's housing allocation for certain higher education student housing.

Highlighted Provisions:

This bill:

- ▶ allows a community reinvestment agency to use the agency's housing allocation for certain higher education student housing; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-1-412, as last amended by Laws of Utah 2018, Chapter 312

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-412 is amended to read:**17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.**

(1) (a) An agency shall use the agency's housing allocation, if applicable, to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development; [øf]

(x) subject to Subsection (6), transfer funds to a community that created the agency[-]; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county; or

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(2) The agency shall create a housing fund and separately account for the agency's housing

allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(3) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.

(4) (a) Except as provided in Subsection (4)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (4)(a) does not apply in a year in which tax increment is insufficient.

(5) (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (5)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(6) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

CHAPTER 297**H. B. 214**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**OFFICE FOR VICTIMS
 OF CRIME AMENDMENTS**

Chief Sponsor: Kyle R. Andersen
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends the definition of “criminally injurious conduct” to include bigamy and related crimes.

Highlighted Provisions:

This bill:

- ▶ adds bigamy and related crimes to crimes for which a victim may be awarded reparations by the Office for Victims of Crime.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-7-502, as last amended by Laws of Utah 2012, Chapter 369

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this chapter:

(1) “Accomplice” means a person who has engaged in criminal conduct as defined in Section 76-2-202.

(2) “Board” means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) “Bodily injury” means physical pain, illness, or any impairment of physical condition.

(4) “Claim” means:

(a) the victim’s application or request for a reparations award; and

(b) the formal action taken by a victim to apply for reparations pursuant to this chapter.

(5) “Claimant” means any of the following claiming reparations under this chapter:

(a) a victim;

(b) a dependent of a deceased victim;

(c) a representative other than a collateral source; or

(d) the person or representative who files a claim on behalf of a victim.

(6) “Child” means an unemancipated person who is under 18 years of age.

(7) “Collateral source” means the definition as provided in Section 63M-7-513.

(8) “Contested case” means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant’s lack of cooperation in the prosecution of a case after an award has already been given.

(9) (a) “Criminally injurious conduct” other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) “Criminally injurious conduct” includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. “Terrorism” does not include an “act of war” as defined in 18 U.S.C. Sec. 2331.

(c) “Criminally injurious conduct” includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of a person resulting from living in a setting that involves a bigamous relationship.

(10) “Dependent” means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the victim’s death.

(11) “Dependent’s economic loss” means loss after the victim’s death of contributions of things of economic value to the victim’s dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim’s death.

(12) “Dependent’s replacement services loss” means loss reasonably and necessarily incurred by the dependent after the victim’s death in obtaining services in lieu of those the decedent would have performed for the victim’s benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim’s death and not subtracted in calculating the dependent’s economic loss.

(13) “Director” means the director of the Utah Office for Victims of Crime.

(14) “Disposition” means the sentencing or determination of penalty or punishment to be imposed upon a person:

- (a) convicted of a crime;
- (b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15) “Economic loss” means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent’s economic loss and dependent’s replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(16) “Elderly victim” means a person 60 years of age or older who is a victim.

(17) “Fraudulent claim” means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63M-7-510.

(18) “Fund” means the Crime Victim Reparations Fund created in Section 51-9-404.

(19) “Law enforcement officer” means a law enforcement officer as defined in Section 53-13-103.

(20) “Medical examination” means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

(21) “Mental health counseling” means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(22) “Misconduct” as provided in Subsection 63M-7-512(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(23) “Noneconomic detriment” means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.

(24) “Pecuniary loss” does not include loss attributable to pain and suffering except as otherwise provided in this chapter.

(25) “Offender” means a person who has violated the criminal code through criminally injurious conduct regardless of whether the person is arrested, prosecuted, or convicted.

(26) “Offense” means a violation of the criminal code.

(27) “Perpetrator” means the person who actually participated in the criminally injurious conduct.

(28) “Reparations officer” means a person employed by the office to investigate claims of victims and award reparations under this chapter, and includes the director when the director is acting as a reparations officer.

(29) “Replacement service loss” means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of the injured person or the injured person’s dependents if the injured person had not been injured.

(30) “Representative” means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.

(31) “Restitution” means money or services an appropriate authority orders an offender to pay or render to a victim of the offender’s conduct.

(32) “Secondary victim” means a person who is traumatically affected by the criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(33) “Service provider” means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.

(34) “Utah Office for Victims of Crime” or “office” means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this chapter.

(35) (a) “Victim” means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Section 76-5b-201 if the person is a minor.

(b) “Victim” does not include a person who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule.

(c) “Victim” includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

(36) “Work loss” means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

CHAPTER 298**H. B. 230**

Passed March 11, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**EXEMPTIONS FROM
COLLECTION AMENDMENTS**

Chief Sponsor: Keven J. Stratton
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill modifies provisions related to exemptions.

Highlighted Provisions:

This bill:

- ▶ addresses the value of a homestead exemption;
- ▶ includes certain savings plans; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-5-503, as last amended by Laws of Utah 2013,
 Chapter 192

78B-5-505, as last amended by Laws of Utah 2016,
 Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-5-503 is amended to read:

**78B-5-503. Homestead exemption --
 Definitions -- Excepted obligations --
 Water rights and interests -- Conveyance
 -- Sale and disposition -- Property right
 for federal tax purposes.**

(1) For purposes of this section:

(a) "Household" means a group of persons related by blood or marriage living together in the same dwelling as an economic unit, sharing furnishings, facilities, accommodations, and expenses.

(b) "Mobile home" ~~is as~~ means the same as that term is defined in Section 57-16-3.

(c) "Primary personal residence" means a dwelling or mobile home, and the land surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or mobile home, in which the individual and the individual's household reside.

(d) "Property" means:

(i) a primary personal residence;

(ii) real property; or

(iii) an equitable interest in real property awarded to a person in a divorce decree by a court.

(2) (a) An individual is entitled to a homestead exemption consisting of property in this state in an amount not exceeding:

(i) \$5,000 in value if the property consists in whole or in part of property ~~which~~ that is not the primary personal residence of the individual; or

(ii) ~~[\$30,000]~~ \$42,000 in value if the property claimed is the primary personal residence of the individual.

(b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a homestead exemption~~[-, however],~~ except that:

(i) for property exempt under Subsection (2)(a)(i), the maximum exemption may not exceed \$10,000 per household; or

(ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not exceed ~~[\$60,000]~~ \$84,000 per household.

(c) A person may claim a homestead exemption in either or both of the following:

(i) one or more parcels of real property together with appurtenances and improvements; or

(ii) a mobile home in which the claimant resides.

(d) A person may not claim a homestead exemption for property that the person acquired as a result of criminal activity.

(e) (i) As used in this Subsection (2)(e):

(A) "Average index number" means the average of the 12 most recent Consumer Price Index numbers that are available in December in the year previous to the calendar year that is calculated in Subsection (2)(e)(iii).

(B) "Consumer Price Index number" means a monthly number for the unadjusted Consumer Price Index for All Urban Consumers for all items as published each month by the Bureau of Labor Statistics of the United States Department of Labor.

(ii) The dollar amounts in Subsections (2)(a) and (b) are for May 14, 2019, through December 31, 2019.

(iii) For the calendar year 2020 and a calendar year after the calendar year 2020, the state auditor shall:

(A) calculate new dollar amounts for each dollar amount in Subsection (2)(a) and (b) by multiplying the dollar amount in Subsections (2)(a) and (b) by the average index number, dividing the result by 251, and rounding to the nearest 100 dollars; and

(B) publish on the Office of the State Auditor website the new dollar amounts calculated under Subsection (2)(e)(iii) no later than January 1 of the applicable calendar year.

(3) A homestead is exempt from judicial lien and from levy, execution, or forced sale except for:

(a) statutory liens for property taxes and assessments on the property;

(b) security interests in the property and judicial liens for debts created for the purchase price of the property;

(c) judicial liens obtained on debts created by failure to provide support or maintenance for dependent children; and

(d) consensual liens obtained on debts created by mutual contract.

(4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in the form of corporate stock or otherwise, owned by the homestead claimant are exempt from execution to the extent that those rights and interests are necessarily employed in supplying water to the homestead for domestic and irrigating purposes.

(b) Those water rights and interests are not exempt from calls or assessments and sale by the corporations issuing the stock.

(5) (a) When a homestead is conveyed by the owner of the property, the conveyance may not subject the property to any lien to which [it] the property would not be subject in the hands of the owner.

(b) The proceeds of any sale, to the amount of the exemption existing at the time of sale, is exempt from levy, execution, or other process for one year after the receipt of the proceeds by the person entitled to the exemption.

(6) The sale and disposition of one homestead does not prevent the selection or purchase of another.

(7) For purposes of any claim or action for taxes brought by the United States Internal Revenue Service, a homestead exemption claimed on real property in this state is considered to be a property right.

Section 2. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and [his] the debtor's resident family; or

(B) produced by the debtor or the debtor and [his] the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmaturing life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), any money or other assets held for or payable to the

individual as a participant or beneficiary from or an interest of the individual as a participant or beneficiary in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers; ~~and~~

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds~~[-]; and~~

(xviii) money, not exceeding \$200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(i) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy~~[- This may not include]~~, except amounts directly rolled over from other funds ~~[which]~~ that are exempt from attachment under this section.

(2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds and avails of any matured or unmatured life insurance contract

assigned or pledged as collateral for repayment of a loan or other legal obligation.

(3) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a child victim if the person receiving the benefits has been convicted of a felony sex offense against a child and ordered by the convicting court to pay restitution to the victim. The exemption from execution under this section shall be reinstated upon payment of the restitution in full.

(4) Exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

CHAPTER 299**H. B. 232**

Passed March 1, 2019

Approved March 26, 2019

Effective May 14, 2019

STATE ACTIVE DUTY AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill provides that members of the Utah National Guard are covered under workers' compensation if injured or disabled while on state active duty.

Highlighted Provisions:

This bill:

- ▶ provides for benefits for members of the Utah National Guard who are injured or disabled while on state active duty;
- ▶ allows a servicemember to continue to receive pay and benefits while recovering from injuries received while on state active duty; and
- ▶ clarifies a servicemember's benefits in the case of permanent disability or the family's benefit in case of death.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-104, as last amended by Laws of Utah 2017, Chapter 146

ENACTS:

39-1-65, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-104 is amended to read:**34A-2-104. "Employee," "worker," and "operative" defined -- Specific circumstances -- Exemptions.**

(1) As used in this chapter and Chapter 3, Utah Occupational Disease Act, "employee," "worker," and "operative" mean:

(a) (i) an elective or appointive officer and any other person:

(A) in the service of:

(I) the state;

(II) a county, city, or town within the state; or

(III) a school district within the state;

(B) serving the state, or any county, city, town, or school district under:

(I) an election;

(II) appointment; or

(III) any contract of hire, express or implied, written or oral; and

(ii) including:

(A) an officer or employee of the state institutions of learning; and

(B) a member of the Utah National Guard or Utah State Defense Force while on state active duty; and

(b) a person in the service of any employer, as defined in Section 34A-2-103, who employs one or more workers or operatives regularly in the same business, or in or about the same establishment:

(i) under any contract of hire:

(A) express or implied; and

(B) oral or written;

(ii) including aliens and minors, whether legally or illegally working for hire; and

(iii) not including any person whose employment:

(A) is casual; and

(B) not in the usual course of the trade, business, or occupation of the employee's employer.

(2) (a) Unless a lessee provides coverage as an employer under this chapter and Chapter 3, Utah Occupational Disease Act, any lessee in mines or of mining property and each employee and sublessee of the lessee shall be:

(i) covered for compensation by the lessor under this chapter and Chapter 3, Utah Occupational Disease Act;

(ii) subject to this chapter and Chapter 3, Utah Occupational Disease Act; and

(iii) entitled to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, to the same extent as if the lessee, employee, or sublessee were employees of the lessor drawing the wages paid employees for substantially similar work.

(b) The lessor may deduct from the proceeds of ores mined by the lessees an amount equal to the insurance premium for that type of work.

(3) (a) (i) Except as provided in Subsection (3)(b), a partnership or sole proprietorship may elect to include any partner of the partnership or owner of the sole proprietorship as an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act.

(ii) If a partnership or sole proprietorship makes an election under Subsection (3)(a), the partnership or sole proprietorship shall serve written notice upon its insurance carrier naming the persons to be covered.

(iii) A partner of a partnership or owner of a sole proprietorship may not be considered an employee of the partner's partnership or the owner's sole proprietorship under this chapter or Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (3)(a)(ii) is given.

(iv) For premium rate making, the insurance carrier shall assume the salary or wage of the

partner or sole proprietor electing coverage under Subsection (3)(a)(i) to be 100% of the state's average weekly wage.

(b) A partner of a partnership or an owner of a sole proprietorship is an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act, if:

(i) the partnership or sole proprietorship:

(A) is a motor carrier; and

(B) employs at least one individual who is not a partner or an owner; and

(ii) the partner or owner personally operates a motor vehicle for the motor carrier.

(4) (a) Except as provided in Subsection (4)(g), a corporation may elect not to include any director or officer of the corporation as an employee under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) If a corporation makes an election under Subsection (4)(a), the corporation shall serve written notice naming the individuals who are directors or officers to be excluded from coverage:

(i) upon its insurance carrier, if any; or

(ii) upon the commission if the corporation is self-insured or has no employee other than the one or more directors or officers being excluded.

(c) A corporation may exclude no more than five individuals who are directors or officers under Subsection (4)(b)(ii).

(d) An exclusion under this Subsection (4) is subject to Subsection 34A-2-103(7)(d).

(e) A director or officer of a corporation is considered an employee under this chapter and Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (4)(b) is given.

(f) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form of the notice described in Subsection (4)(b)(ii), including a requirement to provide documentation, if any.

(g) Subsection (4)(a) does not apply to a director or an officer of a motor carrier if the director or officer personally operates a motor vehicle for the motor carrier.

(5) As used in this chapter and Chapter 3, Utah Occupational Disease Act, "employee," "worker," and "operative" do not include:

(a) a sales agent or associate broker, as defined in Section 61-2f-102, who performs services in that capacity for a principal broker if:

(i) substantially all of the sales agent's or associate broker's income for services is from real estate commissions; and

(ii) the sales agent's or associate broker's services are performed under a written contract that provides that:

(A) the real estate agent is an independent contractor; and

(B) the sales agent or associate broker is not to be treated as an employee for federal income tax purposes;

(b) an offender performing labor under Section 64-13-16 or 64-13-19, except as required by federal statute or regulation;

(c) an individual who for an insurance producer, as defined in Section 31A-1-301, solicits, negotiates, places, or procures insurance if:

(i) substantially all of the individual's income from those services is from insurance commissions; and

(ii) the services of the individual are performed under a written contract that states that the individual:

(A) is an independent contractor;

(B) is not to be treated as an employee for federal income tax purposes; and

(C) can derive income from more than one insurance company; or

(d) subject to Subsections (6), (7), and (8), an individual who:

(i) (A) owns a motor vehicle; or

(B) leases a motor vehicle to a motor carrier;

(ii) personally operates the motor vehicle described in Subsection (5)(d)(i);

(iii) operates the motor vehicle described in Subsection (5)(d)(i) under a written agreement with the motor carrier that states that the individual operates the motor vehicle as an independent contractor; and

(iv) (A) provides to the motor carrier at the time the written agreement described in Subsection (5)(d)(iii) is executed or as soon after the execution as provided by the commission, a copy of a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, to the individual; and

(B) provides to the motor carrier at the time the written agreement described in Subsection (5)(d)(iii) is executed or as soon after the execution as provided by an insurer, proof that the individual is covered by occupational accident related insurance with the coverage and benefit limits listed in Subsection (7)(c).

(6) An individual described in Subsection (5)(d) may become an employee under this chapter and Chapter 3, Utah Occupational Disease Act, if the employer of the individual complies with:

(a) this chapter and Chapter 3, Utah Occupational Disease Act; and

(b) commission rules.

(7) As used in this section:

(a) "Motor carrier" means a person engaged in the business of transporting freight, merchandise, or

other property by a commercial vehicle on a highway within this state.

(b) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways, including a trailer or semitrailer designed for use with another motorized vehicle.

(c) "Occupational accident related insurance" means insurance that provides the following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid, including medical expense benefits, for an injury sustained in the course of working under a written agreement described in Subsection (5)(d)(iii):

- (i) disability benefits;
- (ii) death benefits; and
- (iii) medical expense benefits, which include:
 - (A) hospital coverage;
 - (B) surgical coverage;
 - (C) prescription drug coverage; and
 - (D) dental coverage.

(8) For an individual described in Subsection (5)(d):

(a) if the individual is not covered by a workers' compensation policy, the individual shall obtain:

- (i) occupational accident related insurance; and
- (ii) a waiver in accordance with Part 10, Workers' Compensation Coverage Waivers Act; and

(b) the commission shall verify the existence of occupational accident insurance coverage with the coverage and benefit limits listed in Subsection (7)(c) before the commission may issue a workers' compensation coverage waiver to the individual pursuant to Part 10, Workers' Compensation Coverage Waivers Act.

Section 2. Section 39-1-65 is enacted to read:

39-1-65. Pay and care of soldiers and airmen disabled while on state active duty.

(1) (a) Before a servicemember may be considered disabled in accordance with this section, the Adjutant General shall determine whether the servicemember's illness, injury, or disease was contracted or occurred through the fault or negligence of the servicemember. If the servicemember is determined to be at fault for an injury or developed a disability through his or her own negligent actions, the servicemember is not entitled to any care, pension, or benefit in accordance with this section.

(b) Notwithstanding Subsection (1)(a) the servicemember may be eligible for benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(2) A member of the Utah National Guard or Utah State Defense Force who is disabled through

illness, injury, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from duty is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act.

(3) (a) If the disability temporarily incapacitates the servicemember from pursuing the servicemember's usual business or occupation, the servicemember is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(b) For the duration of the servicemember's inability to pursue a business or occupation, the Adjutant General shall provide compensation equivalent to the difference between the disability compensation received under Subsection (3)(a) and the total pay and allowances under state active duty as provided in Section 39-1-51.

(4) A servicemember who is permanently disabled, shall receive pensions and benefits from the state that persons under like circumstances in the Armed Forces of the United States receive from the United States.

(5) If a servicemember dies as a result of an injury, illness, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from active duty, the surviving spouse, minor children, or dependent parents of the servicemember shall receive compensation as directed in Section 39-1-59.

(6) Costs incurred by reason of this section shall be paid out of the funds available to the Utah National Guard.

(7) The Adjutant General, with the approval of the governor, shall make and publish regulations to implement this section.

(8) Nothing in this section shall in any way limit or condition any other payment to a servicemember that the law allows.

**CHAPTER 300
H. B. 234**

Passed March 12, 2019
Approved March 26, 2019
Effective May 14, 2019

MARRIAGE AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla
Cosponsors: Jennifer Dailey-Provost
Karen Kwan
Carol Spackman Moss
Stephanie Pitcher
Lawanna Shurtliff
Andrew Stoddard
Mike Winder

LONG TITLE

General Description:

This bill modifies provisions related to marriage.

Highlighted Provisions:

This bill:

- ▶ imposes an age, below which an individual may not marry;
- ▶ allows for court authorization and consent by a parent or guardian of a minor's marriage in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 30-1-2, as last amended by Laws of Utah 1999, Chapter 15
- 30-1-4, as last amended by Laws of Utah 1996, Chapter 83
- 30-1-8, as last amended by Laws of Utah 2004, Chapter 261
- 30-1-9, as last amended by Laws of Utah 2018, Chapter 415
- 30-1-13, as last amended by Laws of Utah 2001, Chapter 129
- 30-1-14, as last amended by Laws of Utah 2001, Chapter 129
- 30-1-17, as last amended by Laws of Utah 1971, Chapter 65
- 30-1-17.3, as enacted by Laws of Utah 1971, Chapter 65
- 78A-6-103, as last amended by Laws of Utah 2018, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-2 is amended to read:

30-1-2. Marriages prohibited and void.

(1) The following marriages are prohibited and declared void:

[~~(1)~~] (a) when there is a [~~husband or wife~~] spouse living, from whom the [~~person~~] individual marrying has not been divorced;

[~~(2)~~] (b) except as provided in Subsection (2), when the [~~male or female~~] applicant is under 18 years [~~of age unless consent is obtained as provided in Section 30-1-9;~~] old; and

[~~(3) when the male or female is under 14 years of age or, beginning May 3, 1999, when the male or female is under 16 years of age at the time the parties attempt to enter into the marriage; however, exceptions may be made for a person 15 years of age, under conditions set in accordance with Section 30-1-9;~~]

[~~(4)~~] (c) between a divorced [~~person~~] individual and any [~~person~~] individual other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree[~~; and~~].

[~~(5) between persons of the same sex.~~]

(2) A marriage of an individual under 18 years old is not void if the individual:

(a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile court authorization in accordance with Section 30-1-9; or

(b) lawfully marries before May 14, 2019.

Section 2. Section 30-1-4 is amended to read:

30-1-4. Validity of foreign marriages -- Exceptions.

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid [~~here~~] in this state, unless it is a marriage:

(1) that would be prohibited and declared void in this state, under Subsection 30-1-2(1)[~~, (3), or (5)~~] (a); or

(2) between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 30-1-1(2).

Section 3. Section 30-1-8 is amended to read:

30-1-8. Application for license -- Contents.

(1) A marriage license may be issued [~~by the county clerk to a man and a woman~~] only after an application [~~has been filed in his~~] is filed with the county clerk's office, requiring the following information:

(a) the full names of the [~~man and the woman~~] applicants, including the maiden or bachelor name of [~~the woman~~] each applicant;

(b) the [~~Social Security~~] social security numbers of the [~~parties~~] applicants, unless the [~~party~~] applicant has not been assigned a number;

(c) the current address of each [~~party~~] applicant;

(d) the date and place of birth [~~(f)~~], including the town or city, county, state or country, if possible[~~(j)~~];

(e) the names of ~~their~~ the applicants' respective parents, including the maiden name of ~~the~~ a mother;

(f) the birthplaces of ~~fathers and mothers~~ the respective parents, including the town or city, county, state or country, if possible~~);~~; and

(g) the distinctive race or nationality of each of the respective parents.

(2) If ~~the~~ a woman is a widow, her maiden name shall be shown in brackets.

(3) If one or both of the parties is ~~under 16~~ 16 or 17 years of age, the clerk shall provide ~~them~~ the parties with a standard petition on a form approved by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

(4) (a) The ~~Social Security~~ social security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

(b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply ~~those Social Security~~ the social security numbers to the Office of Recovery Services within the Department of Human Services.

(c) The Office of Recovery Services may not use ~~any Social Security numbers~~ a social security number obtained under the authority of this section for any reason other than the administration of child support services.

Section 4. Section 30-1-9 is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means ~~a male or female under 18 years of age~~ an individual that is 16 or 17 years old.

(2) (a) If at the time of applying for a license the applicant is a minor, and not before married, a license may not be issued without the signed consent of the minor's father, mother, or guardian given in person to the clerk; however:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) ~~If the male or female is 15 years of age, the~~ The minor and the parent or guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(3) (a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling~~].—This~~, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the ~~person~~ minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(d) The judge or court commissioner may not issue a written authorization to the minor if the age difference between both parties to the marriage is more than seven years.

(4) (a) The determination required in Subsection (3) shall be made on the record.

(b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Section 5. Section 30-1-13 is amended to read:

30-1-13. Solemnization without license -- Penalty.

If ~~any person~~ an individual knowingly solemnizes a marriage without a license, and if either party is ~~under 16 years of age~~ 16 or 17 years old, without a written authorization from a juvenile court, ~~he~~ the individual is guilty of a third degree felony.

Section 6. Section 30-1-14 is amended to read:

30-1-14. Acting without authority -- Penalty.

~~A person~~ An individual is guilty of a third degree felony if ~~he~~ the individual:

(1) knowingly solemnizes a marriage in violation of ~~either~~ Section 30-1-6, 30-1-7, or 30-1-9.1;

(2) impersonates a parent or guardian of a minor to obtain a license for the minor to marry; or

(3) forges the name of a parent or guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Section 7. Section 30-1-17 is amended to read:

30-1-17. Action to determine validity of marriage -- Judgment of validity or annulment.

When there is doubt as to the validity of a marriage, either party may, in a court of equity in a county where either party is domiciled, demand ~~[its]~~ avoidance or affirmance of the marriage, but when one of the parties was under ~~[the age of consent]~~ 18 years old at the time of the marriage, the other party, being of proper age, ~~[shall have no such]~~ does not have a proceeding for that cause against the party under ~~[age]~~ 18 years old. The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive upon all persons concerned with the marriage.

Section 8. Section 30-1-17.3 is amended to read:

30-1-17.3. Age as basis of action to determine validity of marriage -- Refusal to grant annulment.

If an action to determine the validity of a marriage is commenced upon the ground that one or both of the parties were prohibited from marriage because of their age, in addition to ~~[all of the foregoing provisions, the following shall apply: The]~~ the application of Sections 30-1-17 through 30-1-17.4, the provisions of this code regarding marriage by a person or persons under ~~[the age of consent]~~ 18 years old to the contrary notwithstanding, the court may~~[, in its discretion,]~~ refuse to grant an annulment if ~~[it]~~ the court finds that it is in the best interest of the parties or their children, to refuse the annulment. The refusal ~~[shall make]~~ to annul under this section makes the marriage valid and subsisting for all purposes.

Section 9. Section 78A-6-103 is amended to read:

78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a child who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:

(i) in Section 53G-8-211 until such time that the child is referred to the courts under Section 53G-8-211; and

(ii) in Subsection 78A-7-106(2);

(b) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

(c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

(d) appointment of a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(e) the emancipation of a minor in accordance with Part 8, Emancipation;

(f) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a minor who has an intellectual disability;

(h) the judicial consent to the marriage of a ~~[child under age 16]~~ minor 16 or 17 years old upon a determination of voluntariness or where otherwise required by law~~[, employment, or enlistment of a child when consent is required by law];~~

(i) any parent or parents of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent or parents of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's or parents' child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(k) subject to Subsection (8), the treatment or commitment of a child with a mental illness;

(l) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

(o) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court

has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(3) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that child when, despite earnest and persistent efforts by the division or agency, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78A-6-702.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

(7) The juvenile court has jurisdiction of matters transferred to it by another trial court pursuant to Subsection 78A-7-106(5) and subject to Section 53G-8-211.

(8) The court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.

CHAPTER 301**H. B. 235**

Passed March 12, 2019
Approved March 26, 2019
Effective May 14, 2019

LOCAL TAX AMENDMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Lincoln Fillmore

LONG TITLE**General Description:**

This bill establishes and amends provisions related to certain local governments' authority to levy certain property taxes.

Highlighted Provisions:

This bill:

- ▶ consolidates several provisions that give certain municipalities authority to levy certain property taxes;
- ▶ establishes provisions for a municipality or a county that levies a property tax to account separately for the revenues derived from that property tax; and
- ▶ makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

9-7-402, as renumbered and amended by Laws of Utah 1992, Chapter 241

ENACTS:

10-5-112.4, Utah Code Annotated 1953
10-5-112.5, Utah Code Annotated 1953
10-6-133.4, Utah Code Annotated 1953
10-6-133.5, Utah Code Annotated 1953
17-36-31.5, Utah Code Annotated 1953

REPEALS:

9-7-401, as last amended by Laws of Utah 2018, Chapter 436
10-7-14.2, as last amended by Laws of Utah 2007, Chapter 329
10-8-91, as last amended by Laws of Utah 2003, Chapter 292

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-7-402 is amended to read:**9-7-402. Establishment and maintenance of public library -- Library board of directors -- Expenses.**

(1) A city's governing body may establish and maintain a public library.

~~[(1)]~~ (2) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.

~~[(2)]~~ (3) Only one member of the city governing body may be, at any one time, a member of the board.

~~[(3)]~~ (4) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Section 2. Section 10-5-112.4 is enacted to read:**10-5-112.4. Property taxes levied for specified services -- Special revenue fund -- Limitations on expenditures.**

(1) A town may account separately for the revenues derived from a property tax, that is lawfully levied for a specific purpose, in accordance with this section.

(2) To levy a property tax under this section, the legislative body of the town that levies the property tax shall indicate through ordinance:

(a) that the town levies the tax under this section; and

(b) the specific service for which the town levies the tax.

(3) A property tax levied under this section is subject to the maximum rate a town may levy for property taxes under Section 10-5-112.

(4) (a) A town that collects a property tax under this section shall:

(i) create a special revenue fund to hold the revenues collected under this section; and

(ii) deposit revenues collected from that tax into the special revenue fund described in Subsection (4)(a)(i).

(b) A town may only expend revenues from a special revenue fund described in Subsection (4)(a) for a purpose that is solely related to the provision of the service described in Subsection (2)(b) for which the town created the special revenue fund.

(5) Except as provided in Subsections (2) and (4), a town that levies a property tax under this section shall:

(a) levy and collect the tax in accordance with Title 59, Chapter 2, Property Tax Act;

(b) account for revenues derived from the tax in accordance with this chapter; and

(c) levy and collect and account for revenues derived from the tax in the same general manner as for the town's other property taxes.

Section 3. Section 10-5-112.5 is enacted to read:**10-5-112.5. Property tax levy for culinary water, wastewater treatment, hospitals, and recreational facilities.**

(1) A town may levy a property tax for a purpose described in this section.

(2) (a) A town that is not in an improvement district created to establish and maintain a

wastewater collection, treatment, or disposal system or a system for the supply, treatment, or distribution of water under Title 17B, Chapter 2a, Part 4, Improvement District Act, may levy a tax annually not to exceed .0008 per dollar of taxable value of taxable property in the town.

(b) The town shall place revenue raised by the levy described in Subsection (2)(a) in a special fund and may only use the revenue to:

(i) finance the construction of facilities to purify the town's drinking water; or

(ii) construct facilities to treat and dispose of the town's wastewater.

(c) The town may accumulate from year to year and reserve in the special fund described in Subsection (2)(b) the revenue collected through the levy described in this Subsection (2).

(d) The town shall make and collect the levy described in this Subsection (2) in the same manner as the town levies and collects other property taxes.

(3) A town may levy a tax not exceeding .001 per dollar of taxable value of taxable property to own or operate a hospital under Section 10-8-90.

(4) The governing body of a town may, under Section 11-2-7, annually appropriate and cause to be raised by taxation, money to cover an expense described in Section 11-2-7 for the provision of recreational facilities or other services described in Title 11, Chapter 2, Playgrounds.

Section 4. Section 10-6-133.4 is enacted to read:

10-6-133.4. Property taxes levied for specified services -- Special revenue fund -- Limitations on use -- Collection, accounting, and expenditures.

(1) A city may account separately for the revenues derived from a property tax, that is lawfully levied for a specific purpose, in accordance with this section.

(2) To levy a property tax under this section, the legislative body of the city that levies the property tax shall indicate through ordinance:

(a) that the city levies the tax under this section; and

(b) the specific service for which the city levies the tax.

(3) A property tax levied under this section is subject to the maximum rate a city may levy for property taxes under Section 10-6-133.

(4) (a) A city that collects a property tax under this section shall:

(i) create a special revenue fund to hold the revenues collected under this section; and

(ii) deposit revenues collected from that tax into the special revenue fund described in Subsection (4)(a)(i).

(b) A city may only expend revenues from a special revenue fund described in Subsection (4)(a) for a purpose that is solely related to the provision of the service described in Subsection (2)(b) for which the city created the special revenue fund.

(5) Except as provided in Subsections (2) and (4), a city that levies a property tax under this section shall:

(a) levy and collect the tax in accordance with Title 59, Chapter 2, Property Tax Act;

(b) account for revenues derived from the tax in accordance with this chapter; and

(c) levy and collect and account for revenues derived from the tax in the same general manner as for the city's other property taxes.

Section 5. Section 10-6-133.5 is enacted to read:

10-6-133.5. Property tax levy for culinary water, wastewater treatment, hospitals, recreational facilities, and libraries.

(1) A city may levy a property tax for a purpose described in this section in accordance with this section.

(2) (a) A city that is not in an improvement district created to establish and maintain a wastewater collection, treatment, or disposal system or a system for the supply, treatment, or distribution of water under Title 17B, Chapter 2a, Part 4, Improvement District Act, may levy a tax annually not to exceed .0008 per dollar of taxable value of taxable property in the city.

(b) The city shall place revenue raised by the levy described in Subsection (2)(a) in a special fund and may only use the revenue to:

(i) finance the construction of facilities to purify the city's drinking water; or

(ii) construct facilities to treat and dispose of the city's wastewater.

(c) The city may accumulate from year to year and reserve in the special fund described in Subsection (2)(b) the revenue collected through the levy described in Subsection (1).

(d) The city shall make and collect the levy described in this Subsection (2) in the same manner as the city levies and collects other property taxes.

(3) A city of the third, fourth, or fifth class may levy a tax not exceeding .001 per dollar of taxable value of taxable property to own or operate a hospital under Section 10-8-90.

(4) The governing body of a city may, under Section 11-2-7, annually appropriate and cause to be raised by taxation, money to cover an expense described in Section 11-2-7 for the provision of recreational facilities or other services described in Title 11, Chapter 2, Playgrounds.

(5) (a) A city that establishes or maintains a public library under Title 9, Chapter 7, Part 4, City Libraries, may levy annually a tax not to exceed .001 of taxable value of taxable property in the city.

(b) If bonds are issued for a library described in Subsection (5)(a) to purchase a site, or construct or furnish a building, the city may levy taxes sufficient for the payment of the bonds and any interest on the bonds.

(c) The city shall, for the taxes described in Subsection (5)(a) or (b):

(i) levy and collect the taxes in the same manner as other general taxes of the city; and

(ii) deposit revenues from the tax into a city library fund.

(d) The city library fund described in Subsection (5)(c) shall receive a portion of:

(i) the statewide uniform fee described in Section 59-2-405, in accordance with the procedures established in Section 59-2-405;

(ii) the statewide uniform fee described in Section 59-2-405.1, in accordance with the procedures established in Section 59-2-405.1;

(iii) the uniform statewide fee described in Section 59-2-405.2, in accordance with the procedures established in Section 59-2-405.2;

(iv) the uniform statewide fee described in Section 59-2-405.3, in accordance with the procedures established in Section 59-2-405.3; and

(v) the uniform fee described in Section 72-10-110.5, in accordance with the procedures established in Section 72-10-110.5.

Section 6. Section 17-36-31.5 is enacted to read:

17-36-31.5. Property taxes levied for specified services -- Special revenue fund -- Limitations on use -- Collection, accounting, and expenditures.

(1) A county may account separately for the revenues derived from a property tax, that is lawfully levied for a specific purpose, in accordance with this section.

(2) To levy a property tax under this section, the legislative body of the county that levies the property tax shall indicate through ordinance:

(a) that the county levies the tax under this section; and

(b) the specific service for which the county levies the tax.

(3) A property tax levied under this section is subject to the maximum rate a county may levy for property taxes under Section 59-2-908.

(4) (a) A county that collects a property tax under this section shall:

(i) create a special revenue fund to hold the revenues collected under this section; and

(ii) deposit revenues collected from that tax into the special revenue fund described in Subsection (4)(a)(i).

(b) A county may only expend revenues from a special revenue fund described in Subsection (4)(a) for a purpose that is solely related to the provision of the service described in Subsection (2)(b) for which the county created the special revenue fund.

(5) Except as provided in Subsections (2) and (4), a county that levies a property tax under this section shall:

(a) levy and collect the tax in accordance with Title 59, Chapter 2, Property Tax Act;

(b) account for revenues derived from the tax in accordance with this chapter; and

(c) levy and collect and account for revenues derived from the tax in the same general manner as for the county's other property taxes.

Section 7. Repealer.

This bill repeals:

Section 9-7-401, Tax for establishment and maintenance of public library -- City library fund.

Section 10-7-14.2, Special tax -- Grant of power to levy.

Section 10-8-91, Levy of tax by cities of the third, fourth, and fifth class and towns.

CHAPTER 302**H. B. 247**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

COUNTY RECORDER FEES AMENDMENTS

Chief Sponsor: Logan Wilde
 Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill amends provisions related to statutorily defined fees that a county recorder charges.

Highlighted Provisions:

This bill:

- ▶ increases certain statutorily defined fees that a county recorder charges;
- ▶ modifies the recording fee structure to a per-recording rather than a per-page fee;
- ▶ removes certain distinctions between certain types of documents for purposes of determining fees;
- ▶ repeals authority for a county recorder to charge an additional fee for a document that fails to meet requirements the recorder imposes in addition to the statutory requirements;
- ▶ modifies the list of documents that are exempt from certain recording requirements; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-21-18.5, as last amended by Laws of Utah 2014, Chapter 89
 17-21-20, as last amended by Laws of Utah 2014, Chapter 89

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-21-18.5 is amended to read:**17-21-18.5. Fees of county recorder.**

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, ~~[\$10]~~ \$40;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, ~~[\$10 for the first page and \$2 for each additional page]~~ \$40, and if an instrument contains more than ~~[one description, \$1]~~ 10 descriptions, \$2 for each additional description;

~~[(c) for recording a right-of-way connected with or appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for~~

~~each additional right-of-way, and if an instrument contains more than two names for either the first or second party, or the plaintiffs or defendants, \$1 for each additional name;]~~

~~[(d) (c) for recording mining location notices and affidavits of labor affecting mining claims, [\$10 for the first page and \$2 for each additional page] \$40; and~~

~~[(e) (d) [for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and] for an affidavit or proof of labor which contains more than [one] 10 mining [claim, \$1] claims, \$2 for each additional mining claim.~~

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, \$5;

(c) for recording any plat, ~~[\$30]~~ \$50 for each sheet and ~~[\$1]~~ \$2 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for each additional name;

(e) for recording any license issued by the Division of Occupational and Professional Licensing, ~~[\$10]~~ \$40; and

(f) for recording a federal tax lien, ~~[\$10]~~ \$40, and for the discharge of the lien, ~~[\$10]~~ \$40.

(4) A county recorder may not charge more than one recording fee for each instrument, regardless of whether the instrument bears multiple descriptive titles or includes one or more attachments as part of the instrument.

(5) By January 1, 2022, each county shall accept and provide for electronic recording of instruments.

~~[(4) (a) For recording a document that is subject to and complies with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq. for a residential property constructed for at least one family but no more than four families, the county recorder shall receive:]~~

~~[(i) \$14 for each deed of conveyance;]~~

~~[(ii) \$40 for each deed of trust; and]~~

~~[(iii) \$14 for each assignment of a deed of trust when recorded concurrently with the assigned deed of trust.]~~

~~[(b) If a person submits for recording a document described in Subsection (4)(a), the person shall notify the county recorder by including the word~~

~~“RESPA” in at least 16 point font on the front page of each document.]~~

~~[(c) A county recorder is not required to:]~~

~~[(i) refund a fee described in Subsection (4)(a); or]~~

~~[(ii) change a fee amount shown on a recorded document if the fee described in Subsection (4)(a) is not collected at the time of recording.]~~

~~[(d) A county recorder may examine a document recorded under this Subsection (4) for compliance with the Real Estate Settlement and Procedure Act, 12 U.S.C. Sec. 2601 et seq.]~~

~~[(5) In addition to any other fee that the county recorder is authorized to charge and collect, if a county recorder is required to comply with the standards established under Chapter 21a, Uniform Real Property Electronic Recording Act, the county recorder may charge and collect from a person who submits an electronic document, as defined in Section 17-21a-102, for recording, a surcharge that:]~~

~~[(a) is calculated to recover the additional costs of complying with Chapter 21a, Uniform Real Property Electronic Recording Act; and]~~

~~[(b) may not exceed 10% of the cost before the surcharge.]~~

(6) The county may determine and collect a fee for all services not enumerated in this section.

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 2. Section 17-21-20 is amended to read:

17-21-20. Recording required -- Recorder may impose requirements on documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents -- Recorder may require tax serial number -- Exceptions -- Requirements for recording final local entity plat.

(1) Subject to Subsections (2), (3), and (4), a county recorder shall record each paper, notice, and instrument required by law to be recorded in the office of the county recorder ~~[shall be recorded]~~ unless otherwise provided.

(2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document;

(e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

(3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection (3)(a) shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection (3)(b)(i).

~~[(c) If a county recorder establishes requirements under this Subsection (3), the county recorder may charge and collect from persons who submit a document for recording that does not comply with the requirements, in addition to any other fee that the county recorder is authorized to charge and collect, a fee that:]~~

~~[(i) is calculated to recover the additional cost of handling and recording noncomplying documents; and]~~

~~[(ii) may not exceed \$2 per page.]~~

(4) (a) To facilitate the abstracting of an instrument, a county recorder may require that the applicable tax ~~[serial]~~ identification number of each parcel described in the instrument be noted on the instrument before ~~[it]~~ the county recorder may ~~[be accepted]~~ accept the instrument for recording.

(b) If a county recorder requires the applicable tax ~~[serial]~~ identification number to be on an instrument before it may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax ~~[serial]~~ identification number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax ~~[serial]~~ identification number does not affect the validity of the instrument or effectiveness of the recording.

(5) Subsections (2), (3), and (4) do not apply to:

(a) a map or plat;

(b) a certificate or affidavit of death that a government agency issues;

(c) a military discharge or other record that a branch of the United States military service issues;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

(6) (a) As used in this Subsection (6):

(i) "Boundary action" has the same meaning as defined in Section 17-23-20.

(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

(c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

CHAPTER 303**H. B. 258**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

**SEXUALLY ORIENTED
BUSINESS LICENSE AMENDMENTS**

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill sets a criminal penalty for operating a sexually oriented business without a business license in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ sets a criminal penalty for operating a sexually oriented business without a business license in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-41.5, as enacted by Laws of Utah 2010, Chapter 398

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-41.5 is amended to read:

10-8-41.5. Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

- (i) a salary;
- (ii) a fee;
- (iii) a commission;
- (iv) employment;
- (v) a profit; or
- (vi) other pecuniary gain.

(c) (i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within~~[-(4)]~~ a place of public or private resort~~[-(4)]~~, a business or commercial establishment~~[-(4)]~~, or a private quarter.

(ii) "Escort" does not mean a person who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or a person with a disability;

(C) a social secretary or similar service personnel~~[-(4)]~~ whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more~~[-(4)]~~ and ~~[(4)]~~ who provides a service not principally characterized as dating or socializing; or

(D) a person who provides services such as singing telegrams, birthday greetings, or similar activities~~[-(4)]~~ that are characterized by an appearance in a public place~~[-(4)]~~, contracted for by a party other than the person for whom the service is being performed~~[-(4)]~~, and ~~[(4)]~~ of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

- (i) genitals;
- (ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.

(ii) "Sexually oriented business" includes:

- (A) an escort service; or
- (B) an adult service.

(2) A person employed in a sexually oriented business may not work in a municipality if:

(a) [if] the municipality requires that a person employed in a sexually oriented business [be licensed individually] obtain an individual license; and

(b) [if] the person [is] has not [licensed by] obtained an individual license from the municipality.

(3) A business entity that conducts a sexually oriented business may not conduct business in a municipality if:

(a) [if] the municipality requires that a sexually oriented business [be licensed] obtain a license; and

(b) [if] the business entity [is] has not [licensed by] obtained a license from the municipality.

(4) (a) A violation of this section by an individual who is at least 18 years old is a class A misdemeanor.

(b) A person charged under this section may not also be charged under Section 76-10-1302.

CHAPTER 304**H. B. 266**

Passed March 7, 2019

Approved March 26, 2019

Effective May 14, 2019

**RESORT COMMUNITIES
TRANSIENT ROOM TAX AMENDMENTS**

Chief Sponsor: Bradley G. Last

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions related to the transient room tax.

Highlighted Provisions:

This bill:

- ▶ allows a county legislative body to use a portion of the county's transient room tax revenue to pay for emergency medical services in a town that is a resort community; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-31-2, as last amended by Laws of Utah 2018, Chapter 240

17-31-5.5, as last amended by Laws of Utah 2016, Chapter 353

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-2 is amended to read:**17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.**

(1) As used in this section:

(a) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

(b) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

(c) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

~~[(1)] (2)~~ Any county legislative body may impose the transient room tax ~~[provided for in Section 59-12-301]~~ for the purposes of:

(a) establishing and promoting recreation, tourism, film production, and conventions;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas; and

(vi) related facilities;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection ~~[(1)]~~ (2)(b); and

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105.

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

~~[(2)] (4)~~ ~~[Except as provided in Subsection (4)]~~ Subject to Subsection (6), a county may not expend more than 1/3 of the ~~[revenues]~~ revenue generated by ~~[the]~~ a rate of transient room tax ~~[provided in Section 59-12-301]~~ that does not exceed 3%, for any combination of the following purposes:

(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums;

(E) sports and recreation facilities including practice fields, stadiums, and arenas; and

(F) related facilities; and

(ii) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes described in Subsection (2)(a)(i);

(b) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, to pay for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104;

or

(C) class D roads, as defined in Section 72-3-105;

or

(c) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds authorized under Subsection [(3)] (5).

[(3)] (5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsection [(2)] (4)(a) or (b) that are permitted to be paid from bond proceeds.

(b) [~~Except as provided in Subsection (4), if the revenues~~ If a county legislative body does not need the revenue generated by the transient room tax [~~provided in Section 59-12-301 are not needed~~] for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection [(2)] (4)(c), the county legislative body shall expend [~~those revenues as provided~~] that revenue for the purposes described in Subsection [(1)] (2), subject to the limitation of Subsection [(2)] (4).

[(4) If, on or after October 1, 2006, a county legislative body imposes a tax or increases the rate of a tax in accordance with Section 59-12-301 at a rate that exceeds 3%, the county legislative body:]

[(a) may expend revenues generated by the portion of the rate that exceeds 3% for any purpose described in Subsections (1) through (3); and]

[(b) is not subject to any limits on the amount of revenues that may be expended for a purpose described in Subsection (2).]

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body may expend up to 4% of the total revenue generated by a

transient room tax to pay a provider for emergency medical services in one or more eligible towns.

(b) An emergency medical services provider means an eligible town, a local district, or a special service district.

(c) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

Section 2. Section 17-31-5.5 is amended to read:

17-31-5.5. Report to county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall [~~annually~~] prepare annually a report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2[(4)](2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2[(2)](4)(c) and [(3)] (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the

county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

- (A) an airport facility;
- (B) a convention facility;
- (C) a cultural facility;
- (D) a recreation facility; and
- (E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) A county legislative body shall provide a copy of the report described in Subsection (1) to:

- (a) the Governor's Office of Economic Development;
- (b) its tourism tax advisory board; and
- (c) the Office of the Legislative Fiscal Analyst.

**CHAPTER 305
H. B. 277**

Passed March 14, 2019
Approved March 26, 2019
Effective March 26, 2019

**AMENDMENTS TO MUNICIPAL
ALTERNATE VOTING METHODS
PILOT PROJECT**

Chief Sponsor: Marc K. Roberts
Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions of the Municipal Alternate Voting Methods Pilot Project.

Highlighted Provisions:

This bill:

- ▶ changes the date by which a municipality may opt in to participate in the Municipal Alternate Voting Methods Pilot Project (pilot project);
- ▶ establishes a procedure for a municipality to withdraw the municipality's decision to participate in the pilot project;
- ▶ establishes a delayed candidate filing period for a race conducted under the provisions of the pilot project;
- ▶ permits a participating municipality to conduct a primary election using instant runoff voting;
- ▶ provides that a local political subdivision participating in the Municipal Alternate Voting Methods Pilot Project in 2019 may agree with any other local political subdivision in the state to conduct an election on behalf of the local political subdivision;
- ▶ modifies provisions relating to the certification of voting equipment; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

10-3-301, as last amended by Laws of Utah 2017, Chapters 91 and 137
20A-4-602, as enacted by Laws of Utah 2018, Chapter 187
20A-4-603, as enacted by Laws of Utah 2018, Chapter 187
20A-5-400.1, as enacted by Laws of Utah 2011, Chapter 310
20A-5-802, as renumbered and amended by Laws of Utah 2017, Chapter 32
20A-9-203, as last amended by Laws of Utah 2018, Chapters 11 and 365
63I-2-220, as last amended by Laws of Utah 2018, Chapters 187 and 458

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-301 is amended to read:**10-3-301. Notice -- Eligibility and residency requirements for elected****municipal office -- Mayor and recorder limitations.**

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section 63F-1-701; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and ~~(b)~~ (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (2)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the municipality;

(ii) resides at a secondary residence outside the municipality for a continuous period of more than 60 days while still maintaining a principal place of residence within the municipality;

(iii) is absent from the municipality for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the municipality while still maintaining a principal place of residence within the municipality for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the municipality for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

Section 2. Section 20A-4-602 is amended to read:

20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation -- Participation.

(1) There is created the Municipal Alternate Voting Methods Pilot Project.

(2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

(3) (a) A municipality may participate in the pilot project, in accordance with the requirements of this section and all other applicable provisions of law, during any odd-numbered year that the pilot project is in effect, if, before ~~January 1~~ April 15 of the odd-numbered year, the municipality provides written notice to the lieutenant governor:

~~(a)~~ (i) stating that the municipality intends to participate in the pilot project for the year specified in the notice; and

~~(b)~~ (ii) that includes a document, signed by the election officer of the municipality, stating that the municipality has the resources and capability necessary to participate in the pilot project.

(b) A municipality that provides the notice of intent described in Subsection (3)(a) may withdraw the notice of intent, and not participate in the pilot project, if the municipality provides written notice of withdrawal to the lieutenant governor before April 15.

(4) The lieutenant governor shall maintain, in a prominent place on the lieutenant governor's website, a current list of the municipalities that are participating in the pilot project.

(5) (a) An election officer of a participating municipality shall, in accordance with the provisions of this part, conduct a multi-candidate race during the municipal general election using instant runoff voting.

(b) ~~Ann~~ Except as provided in Subsection 20A-4-603(9), an election officer of a participating municipality that will conduct a multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election relating to that race.

(c) A municipality that has in effect an ordinance described in Subsection 20A-9-404(3) or (4) may not participate in the pilot project.

(6) Except for an election described in Subsection 20A-4-603(9), an individual who files a declaration of candidacy or a nomination petition, for a candidate who will run in an election described in this part, shall file the declaration of candidacy or nomination petition during the office hours described in Section 10-3-301 and not later than the close of those office hours, no sooner than the second Tuesday in August and no later than the third Tuesday in August of an odd-numbered year.

Section 3. Section 20A-4-603 is amended to read:

20A-4-603. Instant runoff voting.

(1) In a multi-candidate race, the election officer for a participating municipality shall:

(a) (i) conduct the first ballot-counting phase by counting the valid first preference votes for each candidate; and

(ii) if, after complying with Subsection (5), one of the candidates receives more than 50% of the valid

first preference votes counted, declare that candidate elected;

(b) if, after counting the valid first preference votes for each candidate, and complying with Subsection (5), no candidate receives more than 50% of the valid first preference votes counted, conduct the second ballot-counting phase by:

(i) excluding from the multi-candidate race:

(A) the candidate who received the fewest valid first preference votes counted; or

(B) in the event of a tie for the fewest valid first preference votes counted, one of the tied candidates, determined by the tied election officer by lot, in accordance with Subsection (6);

(ii) adding, to the valid first preference votes counted for the remaining candidates, the valid second preference votes cast for the remaining candidates by the voters who cast a valid first preference vote for the excluded candidate; and

(iii) if, after adding the votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), one candidate receives more than 50% of the valid votes counted, declaring that candidate elected; and

(c) if, after adding the valid second preference votes in accordance with Subsection (1)(b)(ii) and complying with Subsection (5), no candidate receives more than 50% of the valid votes counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid votes counted, as follows:

(i) after complying with Subsection (5), excluding from consideration the candidate who has the fewest valid votes counted or, in the event of a tie for the fewest valid votes counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and

(ii) adding the next valid preference vote cast by each voter whose vote was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.

(2) The election officer shall declare elected the first candidate who receives more than 50% of the valid votes counted under the process described in Subsection (1).

(3) (a) A vote is valid for a particular phase of a multi-candidate race only if the voter indicates the voter's preference for that phase and all previous phases.

(b) A vote is not valid for a particular phase of a multi-candidate race, and for all subsequent phases, if the voter indicates the same rank for more than one candidate for that phase.

(4) The election officer shall order a recount of the valid votes in the applicable ballot-counting phase if one candidate appears to have received at least 50% of the vote, and the difference between the number of votes counted for the candidate who

received the most valid votes for the applicable ballot-counting phase and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:

(a) the total number of voters who cast a valid vote that is counted in the applicable ballot-counting phase of the race; and

(b) the recount threshold.

(5) Before excluding a candidate from a multi-candidate race under Subsection (1), the election officer shall order a recount of the valid votes counted in the applicable ballot-counting phase if the difference between the number of votes counted for the candidate who received the fewest valid votes in the applicable ballot-counting phase of the race and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:

(a) the total number of voters who cast a valid vote counted in that ballot-counting phase; and

(b) the recount threshold.

(6) For each ballot-counting phase after the first phase, if, after a recount is completed under Subsection (5), two or more candidates tie as having received the fewest valid votes counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:

(a) determine the names of the candidates who tie as having received the fewest valid votes for that ballot-counting phase;

(b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and

(c) sign a public document that:

(i) certifies the method used for casting the lot and the result of the lot; and

(ii) includes the name of each individual who witnessed the casting of the lot.

(7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the votes by:

(a) except as provided in Subsection (8), counting votes in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;

(b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and

(c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.

(8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the vote totals the next valid preference vote

of each voter whose vote was counted for a candidate already declared elected.

(9) An election officer for a participating municipality may choose to conduct a primary election by using instant runoff voting in the manner described in Subsections (1) through (6), except that:

(a) instead of determining whether a candidate receives more than 50% of the valid preference votes for a particular ballot-counting phase, the election officer shall proceed to a subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid preference votes in that phase, until twice the number of seats to be filled in the race remain; and

(b) after complying with Subsection (9)(a), the election officer shall declare the remaining candidates nominated to participate in the municipal general election.

Section 4. Section 20A-5-400.1 is amended to read:

20A-5-400.1. Contracting with an election officer to conduct elections -- Fees -- Contracts and interlocal agreements -- Private providers.

(1) (a) In accordance with this section, a local political subdivision may enter into a contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct an election.

(b) If the boundaries of a local political subdivision holding the election extend beyond a single local political subdivision, the local political subdivision may have more than one provider election officer conduct an election.

(c) Subject to Subsection (1)(d), and upon approval by the lieutenant governor, a municipality may enter into a contract or agreement under Subsection (1)(a) with any local political subdivision in the state, regardless of whether the municipality is located in, next to, or near, the local political subdivision, to conduct an election during which the municipality is participating in the Municipal Alternate Voting Methods Pilot Project.

(d) (i) Subsection (1)(c) only applies to an election held in 2019.

(ii) If a municipality enters into a contract or agreement, under Subsection (1)(c), with a local political subdivision other than a county within which the municipality exists, the municipality, the local political subdivision, and the county within which the municipality exists shall enter into a cooperative agreement to ensure the proper functioning of the election.

(2) A provider election officer shall conduct an election:

(a) under the direction of the contracting election officer; and

(b) in accordance with a contract or interlocal agreement.

(3) A provider election officer shall establish fees for conducting an election for a contracting election officer that:

(a) are consistent with the contract or interlocal agreement; and

(b) do not exceed the actual costs incurred by the provider election officer.

(4) The contract or interlocal agreement under this section may specify that a contracting election officer request, within a specified number of days before the election, that the provider election officer conduct the election to allow adequate preparations by the provider election officer.

(5) An election officer conducting an election may appoint or employ an agent or professional service to assist in conducting the election.

Section 5. Section 20A-5-802 is amended to read:

20A-5-802. Certification of voting equipment.

(1) For the voting equipment used in the jurisdiction over which an election officer has authority, the election officer shall:

(a) before each election, use logic and accuracy tests to ensure that the voting equipment performs the voting equipment's functions accurately;

(b) develop and implement a procedure to protect the physical security of the voting equipment; and

(c) ensure that the voting equipment is certified by the lieutenant governor under Subsection (2) as having met the requirements of this section.

(2) (a) Except as provided in Subsection (2)(b)(ii):

(i) [The] the lieutenant governor shall ensure that all voting equipment used in the state is independently tested using security testing protocols and standards that:

(i) [A] are generally accepted in the industry at the time the lieutenant governor reviews the voting equipment for certification; and

(ii) [B] meet the requirements of Subsection (2)(b)-; (2)(a)(ii);

(ii) [The] the testing protocols and standards described in Subsection (2)(a)(i) shall require that a voting system:

(i) [A] is accurate and reliable;

(ii) [B] possesses established and maintained access controls;

(iii) [C] has not been fraudulently manipulated or tampered with;

(iv) [D] is able to identify fraudulent or erroneous changes to the voting equipment; and

(v) [E] protects the secrecy of a voter's ballot[-]; and

(e) (iii) The lieutenant governor may comply with the requirements of Subsection (2)(a) by certifying voting equipment that has been certified by:

(4) (A) the United States Election Assistance Commission; or

(4) (B) a laboratory that has been accredited by the United States Election Assistance Commission to test voting equipment.

(4) (b) (i) Voting equipment used in the state may include technology that allows for ranked-choice voting.

(ii) The lieutenant governor may, for voting equipment used for ranked-choice voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, certify voting equipment that has been successfully used within the United States or a territory of the United States for ranked-choice voting for a race for federal office.

Section 6. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office

hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking; and

(ii) require the candidate or individual filing the petition to state whether the candidate meets those requirements.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic

Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____ (month \ day \ year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) cause the names of the candidates as they will appear on the ballot to be published:

(i) in at least two successive publications of a newspaper with general circulation in the municipality; and

(ii) as required in Section 45-1-101; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 7. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) Subsection 20A-5-803(8) is repealed July 1, 2023.

(2) Section 20A-5-804 is repealed July 1, 2023.

~~[(3) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the remaining subsections, and references to those subsections, are renumbered accordingly.]~~

~~[(4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states "40-2a-302," is repealed.]~~

~~[(5) (3) On January 1, 2026:~~

(a) In Subsection 20A-1-102(23)(a), the language that states "or Title 20A, Chapter 4, Part 6,

Municipal Alternate Voting Methods Pilot Project” is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states “Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(c) In Section 20A-1-304, the language that states “Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(d) In Subsection 20A-3-105(1)(a), the language that states “Except as provided in Subsection (5),” is repealed.

(e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states “Except as provided in Subsections (5) and (6),” is repealed.

(f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states “Subject to Subsection (5),” is repealed.

(g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section 20A-3-105 are renumbered accordingly.

(h) In Subsection 20A-4-101(2)(c), the language that states “Except as provided in Subsection (2)(f),” is repealed.

(i) Subsection 20A-4-101(2)(f) is repealed.

(j) Subsection 20A-4-101(4) is repealed and replaced with the following:

“(4) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”

(k) In Subsection 20A-4-102(1)(a), the language that states “or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

“(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.”

(m) In Subsection 20A-4-102(6)(a), the language that states “, except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)” is repealed.

(n) In Subsection 20A-4-105(1)(a), the language that states “, except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(o) In Subsection 20A-4-105(2), the language that states “Subsection 20A-3-105(5), or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(p) In Subsections 20A-4-105(3), (5), and (12), the language that states “Except as otherwise

provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(q) In Subsection 20A-4-106(1)(a)(ii), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(r) In Subsection 20A-4-304(1)(a), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

“(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;”

(t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(v) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

~~[(v)]~~ (w) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in Subsection (3) are renumbered accordingly.

~~[(w)]~~ (x) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in Subsection (4) are renumbered accordingly.

(y) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete “Except as provided in Subsection (2)(b)(ii):” from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

~~[(x)]~~ (z) Section 20A-6-203.5 is repealed.

~~[(y)]~~ (aa) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states “Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

(bb) In Subsection 20A-9-203(3)(a)(i), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

(cc) In Subsection 20A-9-203(3)(c)(i), the language that states “except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project,” is repealed.

~~[(z)]~~ (dd) In Subsection 20A-9-404(1)(a), the language that states “or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project” is repealed.

~~[(aa)]~~ (ee) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

Section 8. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 306**H. B. 305**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

**POST DISASTER RECOVERY
AND MITIGATION RESTRICTED ACCOUNT**

Chief Sponsor: Michael K. McKell
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill creates a restricted account and sets eligibility requirements for counties, municipalities, local districts, and special service districts to receive grants from the restricted account.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Post Disaster Recovery and Mitigation Restricted Account;
- ▶ designates the purposes, limitations, and sources of the restricted account;
- ▶ sets standards and requirements for receiving a grant from funds originating from the restricted account; and
- ▶ grants rulemaking authority to the Division of Emergency Management.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account -- as an ongoing appropriation:
 - from the General Fund, \$300,000.
- ▶ to the Department of Public Safety -- as an ongoing appropriation
 - from the General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account, \$300,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53-2a-1301, Utah Code Annotated 1953
53-2a-1302, Utah Code Annotated 1953
53-2a-1303, Utah Code Annotated 1953
53-2a-1304, Utah Code Annotated 1953
53-2a-1305, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-1301 is enacted to read:

Part 13. Post Disaster Recovery and Mitigation Restricted Account

53-2a-1301. Definitions.

As used in the part:

(1) "Account" means the Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(2) "Affected community" means a community directly affected by an ongoing or recent disaster.

(3) "Chief executive officer" means the same as that term is defined in Section 53-2a-203.

(4) "Community" means a county, municipality, local district, or special service district.

(5) "Costs not recoverable" include:

(a) the county threshold; and

(b) costs covered by insurance or federal government grants, including funding provided to the state by FEMA's Public Assistance grant program described in 44 C.F.R. Chapter 1, Subchapter D, Part 206.

(6) "County threshold" means, for each county, the countywide per capita indicator established by FEMA for the state, multiplied by the population of the county as determined by the division.

(7) "Disaster recovery" means action taken to remove debris, implement life-saving emergency protective measures, or repair, replace, or restore facilities in response to a disaster.

(8) "Disaster recovery grant" means money granted to an affected community for disaster recovery that amounts to not more than 75% of the difference between the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, and costs not recoverable.

(9) "FEMA" means the Federal Emergency Management Agency.

(10) "Post hazard mitigation" means action taken, after a natural disaster, to reduce or eliminate risk to people or property that may occur as a result of the long-term effects of the natural disaster or a subsequent natural disaster, including action to prevent damage caused by flooding, earthquake, dam failure, wildfire, landslide, severe weather, drought, and problem soil.

(11) "Post hazard mitigation grant" means money granted to a community for post hazard mitigation that amounts to not more than 75% of the costs deemed necessary by the division to complete the post hazard mitigation.

(12) "Official damage assessment" means a financial assessment of the damage to an affected community, caused by a disaster, that is conducted under the direction of the governing body of the affected community, in accordance with the rules described in Section 53-2a-1305.

Section 2. Section 53-2a-1302 is enacted to read:

53-2a-1302. Post Disaster Recovery and Mitigation Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Post Disaster Recovery and Mitigation Restricted Account."

(2) The account consists of:

(a) money appropriated to the account by the Legislature;

(b) income and interest derived from the deposit and investment of money in the account; and

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this section.

(3) At the close of a fiscal year, money in the account exceeding \$10,000,000, excluding money granted to the account under Subsection (2)(c), shall be transferred to the General Fund.

(4) Subject to the requirements described in this part, and upon appropriation by the Legislature, the division may grant money appropriated from the account:

(a) to an affected community for the affected community's disaster recovery efforts as described in Section 53-2a-1303; or

(b) to a community for post hazard mitigation as described in Section 53-2a-1304.

Section 3. Section 53-2a-1303 is enacted to read:

53-2a-1303. Disaster Recovery Grant.

(1) The division may grant money under Subsection 53-2a-1302(4)(a) appropriated from the account after receiving an application from an affected community for a disaster recovery grant.

(2) An affected community is eligible to receive a disaster recovery grant appropriated from the account if:

(a) the affected community submits an application described in Subsection (1) that includes the information required by the rules described in Section 53- 2a-1305;

(b) the occurrence of a disaster in the affected community results in:

(i) the president of the United States declaring an emergency or major disaster in the state; or

(ii) the governor declaring a state of emergency under Section 53-2a-206;

(c) the governing body of the affected community conducts an official damage assessment of the disaster;

(d) the cost of disaster recovery, as determined by the division after reviewing the official damage assessment, exceeds the county threshold for the county in which the affected community is located; and

(e) the division maintains sufficient money for the grant.

Section 4. Section 53-2a-1304 is enacted to read:

53-2a-1304. Post Hazard Mitigation Grant.

(1) The division may grant money under Subsection 53-2a-1302(4)(b) appropriated from the account after receiving an application from a community for post hazard mitigation if:

(a) the non-lapsing balance available from money appropriated by the Legislature for the previous fiscal year exceeds the amount of money appropriated by the Legislature for the current fiscal year; and

(b) the total money granted by the division for post hazard mitigation does not exceed the difference between the amount of non-lapsing funds from the previous fiscal year and the amount of money appropriated by the Legislature for the current fiscal year.

(2) A community is eligible to receive a post hazard mitigation grant if the division determines the post hazard mitigation to be funded by the post hazard mitigation grant:

(a) is reasonably likely to mitigate:

(i) economically significant property damage resulting from a disaster; or

(ii) threats to human safety resulting from a disaster;

(b) will be designed and constructed in a economically efficient manner that comports with accepted industry standards; and

(c) addresses a threat of disaster that is plausible and not merely speculative.

Section 5. Section 53-2a-1305 is enacted to read:

53-2a-1305. Rulemaking authority and division responsibilities.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to:

(a) designate the requirements and procedures:

(i) for the governing body of an affected community to:

(A) apply for a disaster recovery grant; and

(B) conduct an official damage assessment; and

(ii) for the governing body of a community to apply for a post hazard mitigation grant; and

(b) establish standards to ensure that projects completed in accordance with this section are completed in a cost effective manner, are reasonably necessary for disaster recovery or post hazard mitigation, and that all receipts and invoices are documented.

(2) No later than December 31 of each year, the division shall provide the governor and the Criminal Justice Appropriations Subcommittee a written report of the division's activities under this part, including:

(a) an accounting of the money expended or committed to be expended under this part; and

(b) the balance of the account.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending

June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 6a. Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 1

To the General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account

From General Fund \$300,000

Schedule of Programs:

General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account \$300,000

Subsection 6b. Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Department of Public Safety -- Emergency Management

From General Fund Restricted -- Post Disaster Recovery and Mitigation Restricted Account \$300,000

Schedule of Programs:

Emergency Management: \$300,000

The Legislature intends that:

(1) appropriations provided under this Subsection (6)(b) be used for Disaster Recovery Grants and Post Hazard Mitigation Grants described in Sections 53-2a-1303 and 53-2a-1304; and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2020.

CHAPTER 307**H. B. 346**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

**HIGHER EDUCATION
RESPONSES TO ALLEGATIONS**

Chief Sponsor: Kim F. Coleman
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill enacts provisions related to reports of sexual violence at postsecondary institutions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions that prohibit a postsecondary institution from imposing a sanction on a student for violating the institution's code of conduct under certain circumstances;
- ▶ enacts provisions related to a postsecondary institution engaging with an off-campus law enforcement agency in response to an allegation of sexual violence;
- ▶ enacts other provisions related to the duties of a postsecondary institution in circumstances related to an allegation of sexual violence; and
- ▶ creates criminal offenses related to retaliation against a victim of or a witness to an act of sexual violence under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-28-301, Utah Code Annotated 1953
53B-28-302, Utah Code Annotated 1953
53B-28-303, Utah Code Annotated 1953
53B-28-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-28-301 is enacted to read:**Part 3. Campus Sexual Violence****53B-28-301. Definitions.**

As used in this part:

(1) "Alleged perpetrator" means an individual whom a victim alleges committed an act of sexual violence against the victim.

(2) "Code of conduct" means an institution's student code of conduct, student code of ethics, honor code, or other policy under which the institution may sanction a student.

(3) "Covered allegation" means an allegation made to an institution that an individual committed an act of sexual violence.

(4) "Law enforcement agency" means an off-campus law enforcement agency of the unit of

local government with jurisdiction to respond to a covered allegation.

(5) "Sexual violence" means:

(a) sexual abuse as described in 18 U.S.C. Sec. 2242;

(b) aggravated sexual abuse as described in 18 U.S.C. Sec. 2241;

(c) assault resulting in substantial bodily injury as described in 18 U.S.C. Sec. 113(a)(7);

(d) sexual assault;

(e) dating violence;

(f) domestic violence; or

(g) stalking.

(6) "Student" means an individual enrolled in an institution.

(7) "Victim" means a student who alleges that the student was a victim of sexual violence.

Section 2. Section 53B-28-302 is enacted to read:**53B-28-302. Code of conduct violation -- Report of sexual violence.**

An institution may not sanction a student for a code of conduct violation related to the use of drugs or alcohol if:

(1) the student is:

(a) a victim of an act of sexual violence; or

(b) a witness to an act of sexual violence;

(2) the student reports to the institution, in good faith, a covered allegation related to the act of sexual violence described in Subsection (1); and

(3) the institution learns of the student's code of conduct violation due to the student's report described in Subsection (2).

Section 3. Section 53B-28-303 is enacted to read:**53B-28-303. Institution engagement with a law enforcement agency -- Articulate and significant threat -- Notification to victim.**

(1) (a) An institution shall keep confidential from a law enforcement agency a covered allegation reported to the institution by the victim of the covered allegation.

(b) Notwithstanding Subsection (1)(a), an institution may engage with a law enforcement agency in response to a covered allegation described in Subsection (1)(a):

(i) if the victim consents to the institution engaging with the law enforcement agency; or

(ii) in accordance with Subsection (2).

(2) (a) Subject to Subsection (3), an institution that receives a report described in Subsection (1)(a) may engage with a law enforcement agency in response to the covered allegation if the institution determines, in accordance with Subsection (2)(b),

that the information in the covered allegation creates an articulable and significant threat to individual or campus safety at the institution.

(b) To determine whether the information in a covered allegation creates an articulable and significant threat described in Subsection (2)(a), the institution shall consider, if the information is known to the institution, at least the following factors:

(i) whether the circumstances of the covered allegation suggest an increased risk that the alleged perpetrator will commit an additional act of sexual violence or other violence;

(ii) whether the alleged perpetrator has an arrest history that indicates a history of sexual violence or other violence;

(iii) whether records from the alleged perpetrator's previous postsecondary institution indicate that the alleged perpetrator has a history of sexual violence or other violence;

(iv) whether the alleged perpetrator is alleged to have threatened further sexual violence or other violence against the victim or another individual;

(v) whether the act of sexual violence was committed by more than one alleged perpetrator;

(vi) whether the circumstances of the covered allegation suggest there is an increased risk of future acts of sexual violence under similar circumstances;

(vii) whether the act of sexual violence was perpetrated with a weapon; and

(viii) the age of the victim.

(3) An institution shall:

(a) before engaging with a law enforcement agency in accordance with Subsection (2), provide notice to the victim of the following:

(i) the institution's intent to engage with a law enforcement agency;

(ii) the law enforcement agency with which the institution intends to engage; and

(iii) the reason the institution made the determination described in Subsection (2); and

(b) in engaging with a law enforcement agency under Subsection (2):

(i) maintain the confidentiality of the victim; and

(ii) disclose the minimum information required to appropriately address the threat described in Subsection (2)(a).

(4) Nothing in this section supersedes:

(a) an obligation described in Section 62A-3-305, 62A-4a-403, or 78B-3-502; or

(b) a requirement described in Part 2, Confidential Communications for Institutional Advocacy Services Act.

Section 4. Section 53B-28-304 is enacted to read:

53B-28-304. Criminal retaliation against a victim or a witness.

(1) As used in this section:

(a) "Bodily injury" means the same as that term is defined in Section 76-1-601.

(b) "Damage" means physical damage to an individual's property.

(2) An individual is guilty of a third degree felony if the individual inflicts bodily injury or damage:

(a) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(b) in retaliation for the victim's or the witness's:

(i) report of the covered allegation; or

(ii) involvement in an investigation initiated by the institution in response to the covered allegation.

(3) An individual is guilty of a third degree felony if the individual:

(a) communicates an intention to inflict bodily injury:

(i) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(ii) in retaliation for the victim's or the witness's:

(A) report of the covered allegation; or

(B) involvement in an investigation initiated by the institution in response to the covered allegation; and

(b) (i) intends the communication described in Subsection (3)(a) as a threat against the victim or the witness; or

(ii) knows that the communication described in Subsection (3)(a) will be viewed as a threat against the victim or the witness.

CHAPTER 308**H. B. 380**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

AVALANCHE AWARENESS WEEK

Chief Sponsor: Phil Lyman
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill designates Avalanche Awareness Week.

Highlighted Provisions:

This bill:

- ▶ designates Avalanche Awareness Week;
- ▶ organizes commemorative days and periods chronologically; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2018, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

~~[(a) Bill of Rights Day, on December 15;]~~

~~[(b) Constitution Day, on September 17;]~~

~~[(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;]~~

~~[(d) POW/MIA Recognition Day, on the third Friday in September;]~~

~~[(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;]~~

~~[(f) Utah State Flag Day, on March 9;]~~

~~[(g) Vietnam Veterans Recognition Day, on March 29;]~~

~~[(h)] (a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; [and]~~

(b) Utah State Flag Day, on March 9;

(c) Vietnam Veterans Recognition Day, on March 29;

(d) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

~~[(i)] (e) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;~~

~~[(j)] (f) Arthrogryposis Multiplex Congenita Awareness Day, on June 30; [and]~~

~~[(k)] (g) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:~~

~~(i) encourage individuals to make child safety a priority;~~

~~(ii) remember the importance of continued efforts to reunite missing children with their families; and~~

~~(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited[-];~~

(h) Constitution Day, on September 17;

(i) POW/MIA Recognition Day, on the third Friday in September;

(j) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(k) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections 1)~~[(e)](d)~~ and ~~[(d)](i)~~.

~~[(3) The month of October shall be commemorated annually as Italian-American Heritage Month.]~~

~~[(4) The month of November shall be commemorated annually as American Indian Heritage Month.]~~

~~[(5)] (3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:~~

~~(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and~~

~~(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.~~

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The third full week of June shall be commemorated annually as Workplace Safety

Week to heighten public awareness regarding the importance of safety in the workplace.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

~~[(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.]~~

~~[(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.]~~

(9) The month of October shall be commemorated annually as Italian-American Heritage Month.

(10) The month of November shall be commemorated annually as American Indian Heritage Month.

(11) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

CHAPTER 309**H. B. 394**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**PAWNSHOP AND SECONDHAND
 MERCHANDISE AMENDMENTS**

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill addresses pawnshop and secondhand merchandise provisions.

Highlighted Provisions:

This bill:

- ▶ modifies, deletes, and adds definitions;
- ▶ makes consistent references to property and other terminology;
- ▶ addresses coin dealers, including ticket requirements;
- ▶ requires tickets be maintained by pawn or secondhand businesses with specified content;
- ▶ modifies provisions related to a central database;
- ▶ repeals outdated language;
- ▶ addresses retention and inspection of records;
- ▶ outlines the holding period for property;
- ▶ addresses seizure of property;
- ▶ provides for administrative penalties;
- ▶ addresses fees;
- ▶ changes make up and duties of Pawnshop and Secondhand Merchandise Advisory Board;
- ▶ addresses training;
- ▶ repeals language regarding certain exempt businesses;
- ▶ addresses the Pawnbroker and Secondhand Merchandise Operations Restricted Account;
- ▶ addresses preemption of local ordinances;
- ▶ provides for use of property for forensic testing;
- ▶ addresses disposition of property;
- ▶ repeals provisions related to property disposition if no criminal charges are filed;
- ▶ amends provisions related to receiving stolen property and duties of pawnbrokers, secondhand businesses, and coin dealers; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-32a-102, as last amended by Laws of Utah 2018, Chapter 238
 13-32a-103, as last amended by Laws of Utah 2007, Chapter 352
 13-32a-103.5, as last amended by Laws of Utah 2012, Chapter 399
 13-32a-104, as last amended by Laws of Utah 2018, Chapter 238

- 13-32a-104.5, as enacted by Laws of Utah 2009, Chapter 272
 13-32a-105, as last amended by Laws of Utah 2009, Chapter 272
 13-32a-106, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-106.5, as last amended by Laws of Utah 2012, Chapters 170, 284 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 284
 13-32a-108, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-109, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-109.5, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-110, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-110.5, as enacted by Laws of Utah 2012, Chapter 284
 13-32a-111, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-112, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-112.5, as last amended by Laws of Utah 2012, Chapter 284
 13-32a-113, as last amended by Laws of Utah 2009, Chapter 272
 13-32a-114, as last amended by Laws of Utah 2007, Chapter 352
 13-32a-115, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-116, as last amended by Laws of Utah 2016, Chapter 421
 13-32a-116.5, as enacted by Laws of Utah 2016, Chapter 421
 76-6-408, as last amended by Laws of Utah 2013, Chapter 187
 76-6-412, as last amended by Laws of Utah 2018, Chapter 265

ENACTS:

- 13-32a-103.1, Utah Code Annotated 1953
 13-32a-112.1, Utah Code Annotated 1953

REPEALS:

- 13-32a-107, as last amended by Laws of Utah 2010, Chapter 167
 13-32a-117, as last amended by Laws of Utah 2014, Chapter 189

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-32a-102 is amended to read:**13-32a-102. Definitions.**

As used in this chapter:

- (1) "Account" means the Pawnbroker and Secondhand Merchandise Operations Restricted Account created in Section 13-32a-113.
- (2) "Antique item" means an item:
 - (a) that is generally older than 25 years;
 - (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
 - (c) that is furniture or other decorative objects produced in a previous time period, as

distinguished from new items of a similar nature; and

(d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) “Antique shop” means a business operating at an established location ~~[and that offers for]~~ that deals primarily in the purchase, exchange, or sale of antique items.

(4) “Board” means the Pawnshop and Secondhand Merchandise Advisory Board created by this chapter.

(5) “Central database” or “database” means the electronic database created and operated under Section 13-32a-105.

(6) “Children’s product” means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

(7) “Children’s product resale business” means a business operating at a commercial location and primarily selling children’s products.

(8) “Coin” means a piece of currency, usually metallic and usually in the shape of a disc that is:

(a) stamped metal, and issued by a government as monetary currency; or

(b) (i) worth more than its current value as currency; and

(ii) worth more than its metal content value.

(9) “Coin dealer” means a person ~~[or business]~~ whose sole business activity is the selling and purchasing of ~~[coins]~~ numismatic items and precious metals.

(10) “Collectible paper money” means paper currency that is no longer in circulation and is sold and purchased for the paper currency’s collectible value.

~~[(10)]~~ (11) (a) “Commercial grade precious metals” or “precious metals” means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

~~[(a)]~~ (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or

~~[(b)]~~ (ii) .925 fine sterling silver ingots, art bars, and medallions.

(b) “Commercial grade precious metals” or “precious metals” does not include jewelry.

(12) “Consignment shop” means a business, operating at an established location:

(a) that deals primarily in the offering for sale property owned by a third party; and

(b) where the owner of the property only receives consideration upon the sale of the property by the business.

~~[(11)]~~ (13) “Division” means the Division of Consumer Protection created in Chapter 1, Department of Commerce.

~~[(12)]~~ “Identification” means a valid United States federal ~~or state issued photo personal identification, including a United States passport, a United States passport card, United States military personal identification, and a driver license.]~~

(14) “Exonomia” means a privately issued token for trade that is sold and purchased for the token’s collectible value.

(15) “Gift card” means a record that:

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

(16) “Identification” means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

(17) “Indicia of being new” means property that:

(a) is represented by the individual pawning or selling the property as new;

(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

~~[(13)]~~ (18) “Local law enforcement agency” means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the ~~[pawnshop]~~ pawn or secondhand business is located.

~~[(14)]~~ “Misappropriated” means stolen, embezzled, converted, obtained by theft, or otherwise appropriated without authority of the lawful owner.]

(19) “Numismatic item” means a coin, collectible paper money, or exonomia.

~~[(15)] (20) “Original victim” means a victim who is not a party to the pawn or sale transaction and includes:~~

~~(a) an authorized representative designated in writing by the original victim; and~~

~~(b) an insurer who has indemnified the original victim for the loss of the described property.~~

~~[(16)] (21) “Pawn ~~and~~ or secondhand business” means ~~any~~ a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.~~

~~[(17) “Pawnbroker” means a person whose business engages in the following activities:]~~

~~[(a) loans money on one or more deposits of personal property;]~~

~~[(b) deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor;]~~

~~[(c) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession, and who sells the unredeemed pledges;]~~

~~[(d) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; or]~~

~~[(e) engages in a licensed business enterprise as a pawnshop.]~~

~~[(18) “Pawnshop” means the physical location or premises where a pawnbroker conducts business.]~~

~~[(19) “Pawn ticket” means a document upon which information regarding a pawn transaction is entered when the pawn transaction is made.]~~

~~[(20)] (22) “Pawn transaction” means:~~

~~(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time[.];~~

~~(b) a loan of money on one or more deposits of personal property;~~

~~(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or~~

~~(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker’s possession, and selling the unredeemed pledges.~~

~~(23) “Pawnbroker” means a person whose business:~~

~~(a) engages in a pawn transaction; or~~

~~(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.~~

~~(24) “Pawnshop” means the physical location or premises where a pawnbroker conducts business.~~

~~[(21)] (25) “Pledgor” means ~~a person~~ an individual who conducts a pawn transaction with a pawnshop.~~

~~[(22)] (26) “Property” means ~~any~~ an article of tangible personal property, numismatic item, precious metal, gift card, transaction card, or other physical or digital card or certificate evidencing store credit.~~

~~[(23) “Register” means the record of information required under this chapter to be maintained by pawn and secondhand businesses. The register is an electronic record that is in a format that is compatible with the central database.]~~

~~[(24)] (27) “Retail media item” means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.~~

~~[(25)] (28) “Scrap jewelry” means any item purchased solely:~~

- ~~(a) for its gold, silver, or platinum content; and~~
- ~~(b) for the purpose of reuse of the metal content.~~

~~[(26)] (29) (a) “Secondhand merchandise dealer” means ~~an owner or operator of a~~ a person whose business ~~[that]:~~~~

~~(i) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; and]~~

~~(ii) does not function as a pawnbroker.]~~

~~(i) engages in a secondhand merchandise transaction; and~~

~~(ii) does not engage in a pawn transaction.~~

~~(b) “Secondhand merchandise dealer” includes a coin dealer.~~

~~[(b)] (c) “Secondhand merchandise dealer” does not include:~~

~~(i) ~~the owner or operator of~~ an antique shop when dealing in antique items;~~

~~[(ii) any class of businesses exempt by administrative rule under Section 13-32a-112.5;]~~

~~[(iii) any] (ii) a person ~~or entity~~ who operates an auction ~~houses~~ house, flea ~~markets~~ market, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;~~

~~[(iv)] (iii) the sale of secondhand goods at events commonly known as “garage sales,” “yard sales,” ~~or~~ “estate sales,” “storage unit sales,” or “storage unit auctions”;~~

~~[(v)] (iv) the sale or receipt of secondhand books, magazines, ~~or~~ post cards[;], or nonelectronic:~~

- (A) card games;
- (B) table-top games; or
- (C) magic tricks;

~~(vii)~~ (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

~~(viii)~~ (vi) the sale or receipt of secondhand clothing ~~and~~, shoes, furniture, or appliances;

~~(ix)~~ (vii) any person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

~~(x)~~ (viii) any person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person ~~or entity~~ does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

~~(xi)~~ (ix) any owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

~~(xii)~~ (x) an owner or operator of a business that contracts with other persons ~~or entities~~ to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

~~(xiii)~~ (xi) any dealer as defined in Section 76-6-1402, which concerns scrap metal and secondary metals;

~~(xiv)~~ (xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale; ~~or~~

~~(xv)~~ (xiii) the owner or operator of a children's product resale business~~[-]; or~~

(xiv) a consignment shop when dealing in consigned property.

(30) "Secondhand merchandise transaction" means the purchase or exchange of used or secondhand property.

(31) "Ticket" means a document upon which information is entered when a pawn transaction or secondhand merchandise transaction is made.

(32) "Transaction card" means a card, code, or other means of access to a value with the retail business issued to a person that allows the person to obtain, purchase, or receive any of the following:

- (a) goods;
- (b) services;
- (c) money; or

(d) anything else of value.

Section 2. Section 13-32a-103 is amended to read:

13-32a-103. Compliance with criminal code and this chapter.

~~Every~~ A pawn or secondhand business shall, regarding ~~each article of~~ property ~~a person~~ an individual pawns or sells, comply with the requirements of this chapter and the requirements of ~~Subsections~~ Subsection 76-6-408~~(2)(3)(c)(4)~~ through ~~(iii)~~ regarding the ~~person's~~ individual's:

- (1) legal right to the property;
- (2) fingerprint; and
- (3) ~~picture~~ identification.

Section 3. Section 13-32a-103.1 is enacted to read:

13-32a-103.1. Transaction or gift cards.

(1) A retail business engaging in a transaction involving a transaction card or gift card issued by that retail business and that bears the branding of that retail business is not subject to this chapter.

(2) A pawn or secondhand business may not purchase or pawn a gift card or transaction card.

(3) This chapter does not prohibit a pawn or secondhand business from issuing or accepting as payment a gift card that:

(a) is issued solely by the pawn or secondhand business; and

(b) bears the brand or name of the pawn or secondhand business.

Section 4. Section 13-32a-103.5 is amended to read:

13-32a-103.5. Specie legal tender exempt from chapter.

~~(1) This chapter applies to coin dealers, except:~~

~~(a) where provisions otherwise specifically address coin dealers; or~~

~~(b) as provided in Subsection (2).~~

~~(2)~~ Specie legal tender as defined in Section 59-1-1501.1 that is used as legal tender is exempt from this chapter.

Section 5. Section 13-32a-104 is amended to read:

13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) A ~~pawnbroker or secondhand merchandise dealer~~ pawn or secondhand business shall keep a ~~register of each article of~~ ticket for property a person pawns or sells to the ~~pawnbroker or secondhand merchandise dealer, except as provided in Subsection 13-32a-102(2)(b))~~ pawn or secondhand business. A pawn ~~and~~ or secondhand business ~~owner or operator, or the owner's or operator's employee,~~ shall ~~enter~~ document on the

ticket the following information regarding ~~every article pawned or sold to the owner or employee~~ the property:

(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

~~(b)~~ (c) the ~~[pawn transaction]~~ ticket number~~[-if the article is pawned]~~;

~~(e)~~ (d) the date by which the ~~[article]~~ property must be redeemed, if the property is pawned;

~~(d)~~ (e) the following information regarding the ~~[person]~~ individual who pawns or sells the ~~[article]~~ property:

(i) the ~~[person's]~~ individual's full name~~[-]~~ and date of birth as they appear on the individual's identification and the individual's residence address~~[- and date of birth]~~ and telephone number;

~~(ii) [the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person] the unique number and type of identification presented to the pawn or secondhand business;~~

(iii) the ~~[person's]~~ individual's signature; and

(iv) subject to Subsection (6), a legible fingerprint of the ~~[person's]~~ individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the ~~[person]~~ individual with a ~~[written]~~ notation identifying the fingerprint and the reason why the index finger's print was unavailable;

~~(e)~~ (f) the amount loaned on ~~[ø]~~, paid for ~~[the article]~~, or ~~[the article for which it was traded]~~ value for trade-in of each article of property;

~~(f) the identification of the pawn or secondhand business owner or the employee, whoever is making the register entry; and]~~

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

~~(g)~~ (h) an accurate description of ~~[the]~~ each article of property, ~~[including]~~ with available identifying marks ~~[such as]~~, including:

(i) names, brand names, numbers, serial numbers, model numbers, color, manufacturers' names, and size;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the ~~[article]~~ property;

(iv) the weight of the ~~[article]~~ property, if the payment is based on weight;

(v) any other unique identifying feature;

(vi) gold content, if indicated; ~~[and]~~ or

(vii) if multiple articles of property of a similar nature are delivered together in one transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) (a) A pawn or secondhand business may not accept ~~[any personal]~~ property if, upon inspection, it is apparent that ~~[serial numbers, model names, or identifying characteristics have been intentionally defaced on that article of property.]~~:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) ~~[A person]~~ An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

~~(4)~~ (5) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(6) (a) On and after January 1, 2020:

(i) a pawn or secondhand business shall obtain an electronic legible fingerprint of the individual's

right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(ii) the electronic fingerprint is not required on the ticket.

(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

(7) (a) As used in this Subsection (7), "jewelry" means:

(i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry and watches; or

(ii) any jewelry that the pawn or secondhand business is allowed to sell under Subsection 13-32a-109(1), including scrap jewelry and watches.

(b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(i) a color digital photograph clearly and accurately depicting:

(A) each item of jewelry; and

(B) if an item of jewelry has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(ii) a color digital photograph of an item that bears an identifying mark, including:

(A) a serial number, engraving, owner label, or similar identifying mark; and

(B) an additional photograph that clearly depicts the identifying mark described in Subsection (7)(b)(ii)(A).

Section 6. Section 13-32a-104.5 is amended to read:

13-32a-104.5. Database information from coin dealers -- New and prior customers.

(1) A coin dealer shall maintain ~~in a register and provide for the database the information~~ a ticket under this section for each secondhand merchandise transaction of a [coin] numismatic item or precious metal with [a person] an individual with whom the coin dealer has not previously conducted a secondhand merchandise transaction.

(2) For ~~transactions~~ a secondhand merchandise transaction under Subsection (1), the coin dealer or the coin dealer's employee shall ~~enter~~ document the following information ~~in~~ on the ~~register~~ ticket regarding every ~~coin~~ numismatic item or precious metal transaction:

(a) the date and time of the transaction;

(b) the ~~receipt~~ ticket number;

(c) the following information regarding the ~~person~~ individual who sells the ~~coin~~ numismatic item or precious metal:

(i) the ~~person's~~ individual's full name~~,~~ residence address,~~]~~ and date of birth ~~as they appear on the individual's identification and the individual's residence address and telephone number;~~

(ii) ~~the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person~~ the unique number and type of identification presented to the coin dealer;

(iii) the ~~person's~~ individual's signature; and

(iv) subject to Subsection (6), a legible fingerprint of the ~~person's~~ individual's right ~~thumb~~ index finger, or if the right ~~thumb~~ index finger cannot be fingerprinted, a legible fingerprint of the ~~person~~ individual with a ~~written~~ notation identifying the fingerprint and the reason why ~~the thumb print was~~ a right index fingerprint is unavailable;

(d) the amount paid for ~~the article, or the article for which it was traded~~ or trade-in value of each numismatic item or precious metal;

(e) ~~the identification of the coin dealer or the employee who is conducting the transaction~~ the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual; and

(f) an accurate description of ~~the coin~~ each numismatic item or precious metal, ~~including~~ with available identifying marks ~~such as~~, including:

(i) type and name of ~~coin~~ numismatic item or type and content of precious metal;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the article, if the payment is based on weight;

(v) any other unique identifying feature; and

(vi) metallic content.

(3) (a) If multiple ~~coins~~ numismatic items or precious metals of the same type in an amount that would make reporting of each item unreasonably difficult are part of a single sale transaction, ~~a general description of the items and a photograph of the items, which shall be stored by the coin dealer with a copy of the invoice of the transaction for three years from the date of the transaction.~~ a coin dealer shall document the property as a grouping.

(b) The description for a grouping described in Subsection (3)(a) must be an accurate description, with available identifying marks, including:

(i) type and name of numismatic items or type and content of precious metal;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the articles, if the payment is based on the weight;

(v) any other unique identifying features; and

(vi) metallic content.

(4) If the [person] individual selling a [coin] numismatic item or precious metal to the coin dealer has an established previous transaction history with the coin dealer, the coin dealer or the coin dealer's employee shall [enter] document the following information [in] on the [register] ticket:

(a) the date and time of the transaction and the ticket number;

(b) indication that the coin dealer has conducted business with the seller previously;

(c) [the identification of the coin dealer or the employee who is conducting the transaction] the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual;

(d) the initials of the seller's legal name, including any middle name;

(e) form of identification presented by the seller at the time of sale;

(f) the last four digits of the unique identifying number on the form of identification; [and]

(g) the individual's signature;

(h) the amount paid for or trade-in value of each numismatic item or precious metal; and

[(g)] (i) the identifying information under Subsection (2)(f) and under Subsection (3) as applicable.

(5) A coin dealer may not accept any [coin] numismatic item or precious metal if, upon inspection, it is apparent that serial numbers or identifying characteristics have been intentionally defaced on that [coin] numismatic item or precious metal.

(6) (a) On and after January 1, 2020:

(i) for a secondhand merchandise transaction described in Subsection (1), a coin dealer shall obtain an electronic legible fingerprint of the individual's right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket

identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(ii) the electronic fingerprint is not required on the ticket.

(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

Section 7. Section 13-32a-105 is amended to read:

13-32a-105. Central database.

(1) [There] In accordance with this section, there is created under this section a central database as a statewide repository for [all] information that pawn [and] or secondhand businesses [and coin dealers] are required to submit in accordance with this chapter and for the use of [all] participating law enforcement agencies [whose jurisdictions include one or more pawn or secondhand businesses] that meet the requirements of Section 13-32a-111.

[(2) The Division of Purchasing and General Services created in Title 63A, Chapter 2, Division of Purchasing and General Services, shall:]

[(a) meet with the board to determine the required elements of the database; and]

[(b) conduct a statewide request for proposal for the creation of and maintenance of the central database.]

(2) The division shall:

(a) establish and operate the central database; or

(b) contract with a third party to establish and operate the central database in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(3) Funding for the creation and operation of the central database shall be from the account.

(4) (a) [Any] An entity [submitting a bid to create, maintain, and operate the] that operates the central database [pursuant to the request for proposal conducted by the Division of Purchasing and General Services] may not hold any financial or operating interest in [any pawnshop] a pawn or secondhand business in any state.

(b) The [Division of Purchasing and General Services, in conjunction with the Pawnshop and Secondhand Merchandise Advisory Board,] division shall verify before a bid is awarded that the selected entity meets the requirements of Subsection (4)(a).

(c) If any entity is awarded a bid under this Subsection (4) and is later found to hold any interest in violation of Subsection (4)(a), the award is subject to being opened again for request for proposal.

(5) (a) Beginning January 1, 2020, upon a query by a pawnbroker, the central database shall provide notification of the volume of business an individual seeking to enter into a transaction with the pawnbroker has engaged in with any pawnbroker regulated by this chapter within the previous 30

days based on the records in the central database at the time of the query.

(5) (b) Information entered in the central database shall be retained for five years and shall then be deleted.

Section 8. Section 13-32a-106 is amended to read:

13-32a-106. Transaction information provided to the central database -- Protected information.

(1) (a) ~~[The]~~ A pawn or secondhand business shall ~~transmit electronically in a compatible format~~ information required to be recorded under Sections 13-32a-103 ~~[and]~~, 13-32a-104, and 13-32a-104.5 that is capable of being transmitted electronically ~~[shall be transmitted electronically]~~ to the central database ~~[on the next business day following]~~ within 24 hours after entering into the transaction.

(b) The division may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the information capable of being transmitted electronically under Subsection (1)(a).

(2) ~~[The pawnbroker]~~ A pawn or secondhand business shall maintain ~~[all pawn]~~ tickets generated by the ~~[pawnshop]~~ pawn or secondhand business and shall maintain the tickets in a manner so that the tickets are available to local law enforcement agencies as required by this chapter and as requested by any law enforcement agency as part of an investigation or reasonable random inspection conducted pursuant to this chapter.

(3) (a) If a pawn or secondhand business experiences a computer or electronic malfunction that affects its ability to report transactions as required in Subsection (1), the pawn or secondhand business shall immediately notify the division and the local law enforcement agency of the malfunction.

(b) The pawn or secondhand business shall solve the malfunction within three business days or notify the division and the local law enforcement agency under Subsection (4).

(4) If the computer or electronic malfunction under Subsection (3) cannot be solved within three business days, the pawn or secondhand business shall notify the division and the local law enforcement agency of the reasons for the delay and provide documentation from a reputable computer maintenance company of the reasons why the computer or electronic malfunction cannot be solved within three business days.

(5) A computer or electronic malfunction does not suspend the pawn or secondhand business' obligation to comply with all other provisions of this chapter.

(6) During the malfunction under Subsections (3) and (4), the pawn or secondhand business shall:

(a) arrange with the local law enforcement agency a mutually acceptable alternative method

by which the pawn or secondhand business provides the required information to the local law enforcement ~~[official]~~ agency; and

(b) a ~~[pawnshop]~~ pawn or secondhand business shall maintain the ~~[pawn]~~ tickets and other related information required under this chapter in a written form.

(7) A pawn or secondhand business that violates the electronic transaction reporting requirement of this section is subject to an administrative fine of \$50 per day if:

(a) the pawn or secondhand business is unable to submit the information electronically due to a computer or electronic malfunction;

(b) the three business day period under Subsection (3) has expired; and

(c) the pawn or secondhand business has not provided documentation regarding its inability to solve the malfunction as required under Subsection (4).

(8) A pawn or secondhand business is not responsible for a delay in transmission of information that results from a malfunction in the central database.

(9) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 9. Section 13-32a-106.5 is amended to read:

13-32a-106.5. Confidentiality of pawn and purchase transactions.

(1) ~~[All pawn and purchase transaction records]~~ A ticket, copy of a ticket, or information from a ticket delivered to a local law enforcement ~~[official]~~ agency or transmitted to the central database pursuant to Section 13-32a-106 ~~[are protected records]~~ is a protected record under Section 63G-2-305. ~~[These records]~~ In addition to use by the issuing pawn or secondhand business, the ticket, copy of a ticket, or information from a ticket may be used only by a law enforcement ~~[officials]~~ agency and the division and only for the law enforcement and administrative enforcement purposes of:

(a) investigating possible criminal conduct involving the property delivered to the ~~[pawnbroker]~~ pawn or secondhand business in a pawn transaction or ~~[purchase]~~ secondhand merchandise transaction;

(b) investigating a possible violation of the record keeping or reporting requirements of this chapter when the local law enforcement ~~[official]~~ agency or the division, based on a review of the records and information received, has reason to believe that a violation has occurred;

(c) responding to an inquiry from an insurance company investigating a claim for physical loss of described property by searching the central database to determine if property matching the description has been delivered to a ~~[pawnbroker]~~ pawn or secondhand business by another person in

a pawn transaction or secondhand merchandise purchase transaction and if so, obtaining from the central database:

- (i) a description of the property;
- (ii) the name and address of the ~~[pawnbroker]~~ pawn or secondhand business ~~[who]~~ that received the property; and
- (iii) the name, address, and date of birth of the conveying ~~[person]~~ individual; and
- (d) taking enforcement action under Section 13-2-5 against a ~~[pawnbroker]~~ pawn or secondhand business.

(2) An insurance company making a request under Subsection (1)(c) shall provide the police report case number concerning the described property.

(3) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any person ~~[or entity]~~ any information obtained from the central database for any purpose other than those specified in Subsection (1).

(b) Each separate violation of Subsection (3)(a) is a class B misdemeanor.

(c) Each separate violation of Subsection (3)(a) is subject to a civil penalty not to exceed \$250.

Section 10. Section 13-32a-108 is amended to read:

13-32a-108. Retention of records -- Reasonable inspection.

(1) ~~[The pawnbroker]~~ A pawn or secondhand business or local law enforcement agency, whichever has custody of ~~[pawn tickets]~~ a ticket or copy of a ticket, shall retain ~~[them]~~ the ticket or copy for no less than three years from the date of the transaction.

(2) (a) A law enforcement agency or the division may conduct random reasonable inspections of pawn or secondhand businesses for the purpose of monitoring compliance with the ~~[reporting]~~ requirements of this chapter. ~~[The inspections may be conducted to:]~~

~~[(i) confirm that pawned or sold items match the description reported to the database by the pawnshop; and]~~

~~[(ii) make spot checks of property at the pawn or secondhand business to determine if the property is appropriately reported.]~~

(b) Inspections under Subsection (2)(a) shall be performed during the regular business hours of the pawn or secondhand business.

(3) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 11. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell ~~[an article]~~ property pawned to the pawnbroker if:

(i) 15 calendar days have passed ~~[since]~~ after the day on which the ~~[contract between the pawnbroker and the pledgor was executed]~~ pawnbroker submits the information and any required photograph to the central database;

(ii) the contract period between the pawnbroker and the pledgor ~~[has expired]~~ expires; and

(iii) the pawnbroker has complied with ~~[the requirements of Section]~~ Sections 13-32a-103, 13-32a-104, and 13-32a-106 ~~[regarding reporting to the central database and Section 13-32a-103].~~

(b) If ~~[an article]~~ property, including scrap jewelry, is purchased by a pawn or secondhand business ~~[or a coin dealer]~~, the pawn or secondhand business ~~[or coin dealer]~~ may sell the ~~[article after]~~ property if the pawn or secondhand business ~~[or coin dealer]~~ has held the ~~[article]~~ property for 15 calendar days after the day on which the pawn or secondhand business submits the information to the central database, and complied with ~~[the requirements of Section]~~ Sections 13-32a-103, 13-32a-104, and 13-32a-106 ~~[regarding reporting to the central database and Section 13-32a-103]~~, except that the pawn~~[,]~~ or secondhand~~[, and coin dealer businesses are]~~ business is not required to hold precious metals or ~~[coins]~~ numismatic items under this Subsection (1)(b).

(c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business to hold ~~[an article]~~ property if necessary in the course of an investigation.

~~[(4)]~~ (ii) If the ~~[article was]~~ property is pawned, the law enforcement agency may require the ~~[article]~~ property be held beyond the terms of the contract between the pledgor and the ~~[pawn broker]~~ pawnbroker.

~~[(ii)]~~ (iii) If the ~~[article was]~~ property is sold to the pawn or secondhand business, the law enforcement agency may require the ~~[article]~~ property be held if the pawn or secondhand business has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business.

(2) If a law enforcement agency requires the pawn or secondhand business to hold ~~[an article]~~ property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business a hold ~~[ticket]~~ form issued by the law enforcement agency, ~~[which]~~ that:

- (a) states the active case number;

(b) confirms the date of the hold request and the [article] property to be held; and

(c) facilitates the ability of the pawn or secondhand business to track the [article] property when the prosecution takes over the case.

(3) If ~~an article~~ property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business until further disposition by the law enforcement agency, and as consistent with this chapter.

(4) The initial hold by a law enforcement agency is for a period of 90 days. If the [article] property is not seized by the law enforcement agency, the [article] property shall remain in the custody of the pawn or secondhand business and is subject to the hold unless exigent circumstances require the ~~purchase or pawned article~~ property to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days ~~when exigent~~ if circumstances require the extension.

(b) ~~When~~ If there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand business that is subject to the hold prior to the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on ~~an article~~ property under Subsection (2) takes precedence over any request to claim or purchase the [article] property subject to the hold.

(7) ~~When the purpose for the hold on or seizure of an article for which~~ If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the termination:

(a) notify the pawn or secondhand business in writing that the hold or seizure has been terminated;

(b) return the [article] property subject to the seizure to the pawn or secondhand business; or

(c) if the [article] property is not returned to the pawn or secondhand business, advise the pawn or secondhand business either in writing or electronically of the specific alternative disposition of the [article] property.

(8) (a) ~~When the purpose for the hold on or seizure of an article, for which an~~ If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the ~~item of~~ property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the [article] property is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the [article] property is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency ~~which~~ that authorizes the return of the [article] property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business of the authorized return of the [article] property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business that the original victim has identified the [article] property, and direct the pawn or secondhand business to release the [article] property to the original victim at no cost to the original victim~~, or if~~.

(iii) If the [article] property was seized, the notice shall advise that the [article] property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business receives the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business shall release ~~an article~~ property under Subsection (8)(c) unless within 15 days of receiving the notice the pawn or secondhand business complies with Section 13-32a-116.5.

(9) If the law enforcement agency does not notify the pawn or secondhand business that a hold on ~~an item~~ the property has expired, the pawn or secondhand business shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired. The law enforcement agency shall respond within 30 days by:

(a) confirming that the ~~holding~~ hold period has expired and that the pawn or secondhand business may manage the ~~item~~ property as if acquired in the ordinary course of business; or

(b) providing written notice to the pawn or secondhand business that a court order has continued the period of time for which the item shall be held.

(10) The written notice under Subsection (9)(b) is considered provided when:

(a) personally delivered to the pawn or secondhand business with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business.

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business may manage the [item] property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 12. Section 13-32a-109.5 is amended to read:

13-32a-109.5. Seizure of property -- Notification to pawn or secondhand business.

If a law enforcement agency determines seizure of property pawned or sold to a pawn or secondhand business is necessary under this chapter during the course of a criminal investigation, in addition to the [holding] hold provisions under Section 13-32a-109, the law enforcement agency shall:

(1) notify the [pawnshop] pawn or secondhand business of the specific [item] property to be seized; and

(2) issue to the [pawnshop] pawn or secondhand business a seizure [ticket in a form] form approved by the division and that:

(a) provides the active case number related to the [item] property to be seized;

(b) provides the date of the seizure request;

(c) provides the reason for the seizure;

(d) describes the [article] property to be seized;

(e) states each reason the [article] property is necessary during the course of a criminal investigation; and

(f) includes any information that facilitates the [pawnbroker's] pawn or secondhand business' ability to track the [article] property when the prosecution agency takes over the case.

Section 13. Section 13-32a-110 is amended to read:

13-32a-110. Administrative or civil penalties -- Criminal prosecution.

(1) A violation of any of the following sections is subject to [a] an administrative or civil penalty of not more than \$500:

(a) Section 13-32a-104, [register] ticket required to be maintained;

(b) Section 13-32a-104.5, ticket by coin dealer to be maintained;

~~[(b)]~~ (c) Section 13-32a-106, transaction information provided to law enforcement;

~~[(e)]~~ (d) Section 13-32a-108, retention of records;

~~[(d)]~~ (e) Section 13-32a-109, holding period for pawned [articles] or purchased property;

(f) Section 13-32a-110.5, transactions with certain individuals prohibited;

~~[(e)]~~ (g) Section 13-32a-111, payment of fees as required; or

~~[(f)]~~ (h) Section 13-32a-112, training requirements for pawn~~[,] or secondhand[,] and coin dealer]~~ business employees and officers of participating law enforcement agencies.

(2) This section does not prohibit civil action by a governmental entity regarding the [pawnbroker's business] pawn or secondhand business' operation or licenses.

(3) The imposition of civil penalties under this section does not prohibit criminal prosecution by a governmental entity for criminal violations of this chapter.

Section 14. Section 13-32a-110.5 is amended to read:

13-32a-110.5. Transactions with certain individuals prohibited.

A pawn or secondhand business may not [purchase, accept as a pawn, or take for consignment any property from a person] engage in a pawn transaction or secondhand merchandise transaction with an individual who:

(1) is younger than 18 years of age; or

(2) appears to be [acting] under the influence of alcohol or [any] a controlled substance.

Section 15. Section 13-32a-111 is amended to read:

13-32a-111. Fees to fund account.

~~[(1) (a) (i) On and after January 1, 2005, each pawnshop or secondhand merchandise dealer in operation shall annually pay \$250 to the division, to be deposited in the account.]~~

~~[(ii) On and after January 1, 2013, each pawnshop or secondhand merchandise dealer in operation shall annually pay \$300 to the division, to be deposited in the account.]~~

~~[(b) For the period of July 1, 2009 through December 31, 2009, each coin dealer in operation shall pay a fee of \$250 to the division to be deposited in the account.]~~

~~[(c) (i) On and after January 1, 2010, each coin dealer in operation shall annually on January 1 pay \$250 to the division to be deposited in the account.]~~

~~[(ii) On and after January 1, 2013, each coin dealer in operation shall annually on January 1 pay \$300 to the division to be deposited in the account.]~~

~~[(2) (a) On and after January 1, 2005, each law enforcement agency that participates in the use of the database shall annually pay to the division a fee of \$2 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.]~~

~~[(b) On and after January 1, 2013, each]~~

~~(1) (a) A pawn or secondhand business in operation shall pay an annual fee, no more than \$500, set in accordance with Section 63J-1-504.~~

~~(b) A law enforcement agency within Utah that participates in the use of the central database shall [annually pay to the division a fee of \$3 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.] pay an annual fee set in accordance with Section 63J-1-504.~~

~~[(3) The fees under Subsections (1) and (2) shall be paid to the account annually on or before January 30.]~~

~~[(4) (a) (i) If a (c) A law enforcement agency outside Utah that requests access to the central database, [the requesting agency] shall pay [a yearly] an annual fee [of \$750 for the fiscal year beginning July 1, 2006, which shall be deposited in the account] set in accordance with Section 63J-1-504.~~

~~[(ii) If a law enforcement agency outside Utah requests access to the central database, the requesting agency shall pay a yearly fee of \$900 for the fiscal year beginning July 1, 2013, which shall be deposited in the account.]~~

~~[(b) The board may establish the fee amount for fiscal years beginning on and after July 1, 2007 under Section 63J-1-504.]~~

~~(2) A fee paid under Subsection (1) shall be paid annually to the division on or before January 31.~~

~~(3) A fee received by the division under this section shall be deposited into the account.~~

~~(4) The division may only increase fees for a pawnshop or secondhand business under Section 63J-1-504.~~

Section 16. Section 13-32a-112 is amended to read:

13-32a-112. Pawnshop and Secondhand Merchandise Advisory Board.

(1) There is created within the division the "Pawnshop and Secondhand Merchandise Advisory Board."

(2) The board consists of [13] seven voting members [and one nonvoting member] appointed by the executive director of the Department of Commerce:

(a) one [representative of] law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Chiefs of Police Association;

(b) one [representative of] law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Sheriffs Association;

(c) one [representative of the Statewide Association of Prosecutors] state, county, or

municipal prosecutor, recommended by a prosecutors' association or council;

~~[(d) one representative of the Utah Municipal Prosecutors' Association;]~~

~~[(e) three representatives from the pawnshop industry;]~~

~~[(f) three representatives from the secondhand merchandise business industry;]~~

~~[(g) one representative from the coin dealer industry;]~~

~~[(h) one law enforcement officer who is appointed by the board members under Subsections (1)(a) through (g);]~~

~~[(i) one law enforcement officer whose work regularly involves pawn and secondhand businesses and who is appointed by the board members under Subsections (1)(a) through (g); and]~~

~~[(j) one representative from the central database, who is nonvoting.]~~

~~[(2) (a) The board shall prepare recommendations for the appointment of members under Subsections (1)(a) through (g), and Subsection (1)(j), and shall forward its recommendations to the Commission on Criminal and Juvenile Justice, which shall make the appointments.]~~

~~[(b) The members under Subsections (1)(e), (f), and (g) shall represent three separate pawnshops, three separate secondhand merchandise dealers, and one coin dealer, each of which are owned by a separate person or entity.]~~

~~[(c) In appointing members from the individuals recommended under Subsection (2)(a), the Commission on Criminal and Juvenile Justice shall give consideration to recommendations by members of the respective occupations and professions and by their representative organizations.]~~

~~(d) one pawnbroker, recommended by the pawn industry;~~

~~(e) one secondhand merchandise dealer, recommended by the secondhand merchandise industry;~~

~~(f) one coin dealer, recommended by the Utah Coin Dealers Association; and~~

~~(g) one representative from the pawn or secondhand merchandise industry at large, recommended by the pawn or secondhand merchandise industry.~~

~~(3) After receiving a recommendation for a member by a respective association, council, or industry for the board, the executive director may:~~

~~(a) decline the recommendation; and~~

~~(b) request another recommendation from the respective association, council, or industry.~~

~~[(3) (4) (a) [Each] A member of the board shall be appointed to a term of not more than four years, and may be reappointed upon expiration of the member's term.~~

(b) Notwithstanding the requirements of Subsection (3) (4)(a), the [Commission on Criminal and Juvenile Justice] executive director of the Department of Commerce shall, at the time of appointments or reappointments, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the executive director of the Department of Commerce shall appoint a member for the unexpired term.

(d) The executive director of the Department of Commerce may remove a member and replace the member in accordance with this section for the following reasons:

(i) the member fails or refuses to fulfill the duties of a board member, including attendance at board meetings; or

(ii) the member, an entity owned by the member, an entity that the member is employed by, or an entity that the member is representing, engages in a violation of this chapter or Section 76-6-408.

(e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are removed from the board and the executive director of the Department of Commerce shall appoint the board members in accordance with this section.

[4] (5) (a) The board shall elect one voting member as the chair of the board by a majority of the members present at the board's first meeting each year.

(b) The chair shall preside over the board for a period of one year.

(c) The [advisory] board shall meet quarterly upon the call of the chair.

(d) A quorum of [nine] five members is required for the board to take action. An action taken by majority of a quorum present at a meeting constitutes an action of the board.

[5] (a) The board shall conduct quarterly training sessions regarding compliance with this chapter and other applicable state laws for any person who owns or is employed by a pawn or secondhand business subject to this chapter.]

[6] Each training session shall provide no fewer than two hours of training.]

[6] (a) Each pawn, secondhand, and coin dealer business in operation as of January 1 shall ensure one or more persons employed by the pawn or secondhand business each participate in no fewer than two hours of compliance training within that year.]

[6] This requirement does not limit the number of employees, directors, or officers of a pawn or secondhand business who attend the compliance training.]

[7] The board shall monitor and keep a record of the hours of compliance training accrued by each pawn or secondhand business.]

[8] The board shall provide each pawn or secondhand business with a certificate of compliance upon completion by an employee of the two hours of compliance training under Subsection (6).]

[9] (a) Each law enforcement agency shall ensure that at least one of its officers completes two hours of compliance training yearly.]

[9] (b) Subsection (9)(a) does not limit the number of law enforcement officers who attend the compliance training.]

[10] (6) (a) The duties and powers of the board include the following: [board may propose to the division administrative rules establishing:]

(a) pawn and secondhand business industry standards for best practices;]

(b) standardized property descriptions for the database created under this chapter; and]

(c) a roster of software programs for pawn and secondhand businesses setting out minimum basic requirements for functionality.]

(i) recommending to the division appropriate rules regarding the administration and enforcement of this chapter;

(ii) recommending to the division changes related to the central database; and

(iii) advising the division on matters related to the pawn and secondhand industries.

(b) This Subsection (6) does not require the board's approval to act on a rule or amend this chapter.

[11] (7) [Pawn and] A pawn or secondhand [businesses] business may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter. The board may refer the complaints to the Peace Officers Standards and Training Division.

Section 17. Section 13-32a-112.1 is enacted to read:

13-32a-112.1. Annual training.

(1) (a) The division shall provide training sessions, whether online or in-person, at least once each year regarding compliance with this chapter and other applicable state laws.

(b) A pawn or secondhand business shall ensure that each individual employed by the pawn or secondhand business with access to the central database annually completes the training described in Subsection (1)(a) in order for that individual to continue to have access to the central database.

(c) A law enforcement agency participating in the use of the central database shall ensure that each individual employed by the law enforcement agency with access to the central database annually completes the training described in Subsection

(1)(a) in order for that individual to continue to have access to the central database.

(2) The division shall monitor and keep a record of training completion.

Section 18. Section 13-32a-112.5 is amended to read:

13-32a-112.5. Temporary businesses subject to chapter.

(1) (a) ~~The division may exempt specific classes of businesses from regulation under this chapter by rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

(b) ~~The division shall consult with the board in determining which classes of businesses to exempt under this section.~~

(2) ~~Businesses the division may exempt are classes of commercial enterprises clearly defined by administrative rule and that do not involve transactions in property that is recognized by law enforcement as regularly subject to theft and subsequent efforts to pawn or sell.~~

(3) ~~Municipal and county criminal and civil enforcement regarding the provisions of this chapter may not be imposed on businesses exempted under this section.~~

(4) ~~Any~~ A pawn or secondhand business ~~not exempted by this section and~~ that operates on a temporary basis or from a location that is not a permanent retail location:

(a) (1) shall comply with ~~the provisions of~~ this chapter; and

(b) (2) is subject to enforcement of ~~the provisions of~~ this chapter.

Section 19. Section 13-32a-113 is amended to read:

13-32a-113. Pawnbroker and Secondhand Merchandise Operations Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Pawnbroker and Secondhand Merchandise Operations Restricted Account."

(2) (a) The account shall be funded from ~~the~~ fees and administrative and civil fines imposed and collected under Sections 13-32a-106, ~~13-32a-107,~~ 13-32a-110, and 13-32a-111. These fees and administrative and civil fines shall be paid to the division, which shall deposit them in the account.

(b) The Legislature shall appropriate ~~the~~ funds in this account to the division for:

(i) ~~to the board for~~ the costs of providing training required under this chapter~~;~~;

(ii) the costs of the central database created in Section 13-32a-105~~, and for costs of operation of the board~~; and

(iii) ~~to the division for management of fees and penalties paid under this chapter.~~

~~(c) The board shall account to the division for expenditures.]~~

~~(d) The board shall account separately for expenditures for:]~~

~~(i) training required under this chapter;]~~

~~(ii) operation of the database; and]~~

~~(iii) operation of the board.]~~

~~(iii) the division's costs of administering the chapter.~~

Section 20. Section 13-32a-114 is amended to read:

13-32a-114. Preemption of local ordinances -- Exceptions.

(1) This chapter preempts ~~all~~ town, city, county, and other local ordinances governing pawn or secondhand businesses ~~[and pawnbroking transactions]~~, if the ordinances are more restrictive than the provisions of this chapter or are not consistent with this chapter.

(2) Subsection (1) does not preclude a city, county, or other local governmental unit from:

(a) enacting or enforcing local ordinances concerning public health, safety, or welfare, if the ordinances are uniform and equal in application to pawn and secondhand businesses and other retail businesses or activities;

(b) requiring a pawn or secondhand business to obtain and maintain a business license and providing for revocation of the business license based on multiple violations of Section 76-6-408; and

(c) enacting zoning ordinances that restrict areas where pawn or secondhand businesses and other retail businesses or activities can be located.

Section 21. Section 13-32a-115 is amended to read:

13-32a-115. Criminal investigation -- Prosecution -- Property disposition.

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the ~~item~~ property stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to a hold until a

criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of ~~[an article]~~ the property purchased or pawned is essential for the purpose of ~~[fingerprinting the property, chemical]~~ forensic testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any ~~[article]~~ property subject to a hold for investigation under this chapter may be seized by the law enforcement agency ~~[which]~~ that requested the hold.

(b) Subsequent disposition of the property shall be consistent with this chapter.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the ~~[article]~~ property subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless [a] the pawned or ~~[sold article]~~ purchased property has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 22. Section 13-32a-116 is amended to read:

**13-32a-116. Property disposition --
Property subject to prosecution --
Property not used as evidence.**

When ~~[any]~~ property that is pawned or sold to a pawn or secondhand business is the subject of a criminal proceeding, and has been seized by law enforcement pursuant to ~~[Section 13-32a-115]~~ this chapter, the prosecuting agency shall notify the seizing agency, the original victim, and the pawn or secondhand business in compliance with Subsection 13-32a-109(8), if the prosecuting agency determines the article is no longer needed as evidence pending resolution of the criminal case.

Section 23. Section 13-32a-116.5 is amended to read:

**13-32a-116.5. Contested disposition of
property - Procedure.**

(1) If a pawn or secondhand business ~~[has received]~~ receives notice from a law enforcement agency under Section 13-32a-109 that ~~[an article which was]~~ property that is the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business may contest the determination and seek a specific alternative disposition if within 15 business days after the day on which the pawn or secondhand business receives the notice:

(a) the pawn or secondhand business gives notice to the identified original victim, by certified mail, that the pawn or secondhand business contests the

determination to return the ~~[article]~~ property to the original victim; and

(b) files a petition in a court having jurisdiction over the matter to determine rightful ownership of the ~~[article]~~ property as provided in Section 24-3-104.

(2) A pawn or secondhand business is guilty of a class B misdemeanor if the pawn or secondhand business:

(a) holds or sells ~~[an article]~~ property in violation of a notification from a law enforcement agency that the ~~[item]~~ property is to be returned to an original victim; and

(b) the pawn or secondhand business does not comply with the requirements of this section within the time periods specified.

Section 24. Section 76-6-408 is amended to read:

**76-6-408. Receiving stolen property --
Duties of pawnbrokers, secondhand
businesses, and coin dealers.**

(1) As used in this section:

(a) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(b) "Receives" means acquiring possession, control, title, or lending on the security of the property.

~~[(1)]~~ (2) A person commits theft if ~~[he]~~ the person receives, retains, or disposes of the property of another knowing that ~~[it has been]~~ the property is stolen, or believing that ~~[it]~~ the property is probably ~~[has been]~~ stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of ~~[it]~~ the property.

~~[(2)]~~ (3) The knowledge or belief required for Subsection ~~[(1)]~~ (2) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion;

(b) has received other stolen property within the year preceding the receiving offense charged;

(c) is a pawnbroker or person who:

(i) has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property; and

~~[fails to require the seller or person delivering the property to: (i) certify, in writing, that he: has the legal rights to sell the property;]~~

~~[(ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next to his signature; and]~~

~~[(iii) provide at least one positive form of identification; or]~~

(ii) (A) has not completely and accurately documented the information required under Section 13-32a-104; or

(B) is found in possession of merchandise or personal property that violates Subsection 13-32a-104(2); or

(d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.

~~[(3) Every]~~ (4) A pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of a pawnbroker or person who fails to comply with ~~the requirements of~~ Subsection ~~[(2)(e)]~~ (3) is presumed to have bought, received, or obtained the property knowing ~~it~~ the property to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.

~~[(4)]~~ (5) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection ~~[(2)(e) or (2)(d)]~~ (3)(c) or (d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.

~~[(5)]~~ (6) Subsections ~~[(2)]~~ (3)(c), ~~[(3)]~~ (4), and ~~[(4)]~~ (5) do not apply to scrap metal processors as defined in Section 76-6-1402.

~~[(6) As used in this section:]~~

~~[(a) "Dealer" means a person in the business of buying or selling goods.]~~

~~[(b) "Pawnbroker" means a person who:]~~

~~[(i) loans money on deposit of personal property, or deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledge or depositor;]~~

~~[(ii) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession and who sells the unredeemed pledges; or]~~

~~[(iii) receives personal property in exchange for money or in trade for other personal property.]~~

~~[(c) "Receives" means acquiring possession, control, or title or lending on the security of the property.]~~

Section 25. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the value of the property or services is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4);

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current

conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408~~(1)~~(2) or ~~[Subsection]~~ 76-6-413(1), or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 26. Repealer.

This bill repeals:

Section 13-32a-107, Deadline for registers to be electronic -- Notice for updating.

Section 13-32a-117, Property disposition if no criminal charges filed -- Administrative hearing.

CHAPTER 310**H. B. 397**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

RAILROAD WORKERS DAY DESIGNATION

Chief Sponsor: Karen Kwan
 Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill designates Utah Railroad Workers Day.

Highlighted Provisions:

This bill:

- ▶ designates Utah Railroad Workers Day;
- ▶ organizes commemorative days and periods chronologically; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-401, as last amended by Laws of Utah 2018, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-401 is amended to read:**63G-1-401. Commemorative periods.**

(1) The following days shall be commemorated annually:

~~[(a) Bill of Rights Day, on December 15;]~~

~~[(b) Constitution Day, on September 17;]~~

~~[(c) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;]~~

~~[(d) POW/MIA Recognition Day, on the third Friday in September;]~~

~~[(e) Indigenous People Day, on the Monday immediately preceding Thanksgiving;]~~

~~[(f) Utah State Flag Day, on March 9;]~~

~~[(g) Vietnam Veterans Recognition Day, on March 29;]~~

~~[(h)] (a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history; and~~

(b) Utah State Flag Day, on March 9;

(c) Vietnam Veterans Recognition Day, on March 29;

(d) Utah Railroad Workers Day, on May 10;

(e) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

~~[(i)] (f) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;~~

~~[(j)] (g) Arthrogryposis Multiplex Congenita Awareness Day, on June 30; and~~

~~[(k)] (h) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:~~

~~(i) encourage individuals to make child safety a priority;~~

~~(ii) remember the importance of continued efforts to reunite missing children with their families; and~~

~~(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited[.];~~

(i) Constitution Day, on September 17;

(j) POW/MIA Recognition Day, on the third Friday in September;

(k) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(l) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)~~[(e)](e)~~ and ~~[(d)](j)~~.

~~[(3) The month of October shall be commemorated annually as Italian-American Heritage Month.]~~

~~[(4) The month of November shall be commemorated annually as American Indian Heritage Month.]~~

~~[(5)] (3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:~~

~~(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and~~

~~(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.~~

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The third full week of June shall be commemorated annually as Workplace Safety

Week to heighten public awareness regarding the importance of safety in the workplace.

(6) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

~~[(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.]~~

~~[(10) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.]~~

(9) The month of October shall be commemorated annually as Italian-American Heritage Month.

(10) The month of November shall be commemorated annually as American Indian Heritage Month.

CHAPTER 311**H. B. 398**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

**SUBSTANCE USE AND
HEALTH CARE AMENDMENTS**

Chief Sponsor: Brad M. Daw
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies and enacts provisions relating to substance use, mental health treatment, and health care.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions requiring a county jail and the Department of Corrections to report certain information to the Commission on Criminal and Juvenile Justice regarding an inmate's death;
- ▶ modifies provisions relating to licensing of a practitioner who dispenses certain opiate agonists;
- ▶ requires the Commission on Criminal and Juvenile Justice to convene a committee to study certain health care and other services provided to inmates in a correctional facility; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-22-32, as enacted by Laws of Utah 2018, Chapter 437

63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469

64-13-45, as enacted by Laws of Utah 2018, Chapter 437

ENACTS:

58-17b-309.7, Utah Code Annotated 1953

63M-7-211, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-32 is amended to read:**17-22-32. County jail reporting requirements.**

(1) As used in this section:

(a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) ~~[So that the state may oversee the inmate health care system, a]~~ A county jail shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before ~~August 1~~ June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

(c) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(d) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; ~~and~~

(ii) ~~relating~~ that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

(e) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

Section 2. Section 58-17b-309.7 is enacted to read:**58-17b-309.7. Exemptions from licensure -- Opioid treatment program.**

(1) As used in this section:

(a) “Dispense” means to prepare, package, or label for subsequent use.

(b) “Nurse practitioner” means an individual who is licensed to practice as an advanced practice registered nurse under Chapter 31b, Nurse Practice Act.

(c) “Opioid treatment program” means a program or practitioner that is:

(i) engaged in opioid treatment of an individual using an opiate agonist medication;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the Office of Licensing, within the Department of Human Services, created in Section 62A-2-103; and

(iv) certified by the Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

(d) “Physician” means an individual licensed to practice as a physician or osteopath in this state under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(e) “Physician assistant” means an individual who is licensed to practice as a physician assistant under Chapter 70a, Physician Assistant Act.

(f) “Practitioner” means a nurse practitioner, physician’s assistant, or a registered nurse.

(g) “Registered nurse” means the same as that term is defined in Section 78B-3-403.

(2) A practitioner may dispense methadone at an opioid treatment program regardless of whether the practitioner is licensed to dispense methadone under this chapter if the practitioner:

(a) is operating under the direction of a pharmacist;

(b) dispenses the methadone under the direction of a pharmacist; and

(c) acts in accordance with division rule.

(3) The division shall, in consultation with pharmacies, physicians, and practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a practitioner may dispense methadone to a patient in an opioid treatment program under this section.

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) Section 63M-7-211 is repealed on December 31, 2019.

~~[(11)]~~ (12) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

~~[(12)]~~ (13) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

~~[(13)]~~ (14) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

~~[(14)]~~ (15) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(15)]~~ (16) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

~~[(16)]~~ (17) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

~~[(17)]~~ (18) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~[(18)]~~ (19) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(18)]~~ (19)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(18)]~~ (19)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(19)]~~ (20) Section 63N-2-512 is repealed on July 1, 2021.

~~[(20)]~~ (21) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(20)]~~ (21)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(21)]~~ (22) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

~~[(22)]~~ (23) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(23)]~~ (24) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(24)]~~ (25) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 4. Section 63M-7-211 is enacted to read:

63M-7-211. Inmate health care study -- Creation -- Membership -- Duties -- Reporting.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Correctional facility" means:

(i) a facility operated by or contracted with the Department of Corrections to house a criminal offender in either a secure or nonsecure setting; or

(ii) a county jail.

(2) The commission shall create a committee to study:

(a) treatment provided to inmates in a county jail for substance use or mental health disorders, including withdrawal from alcohol or other drugs;

(b) contraception provided to female inmates in correctional facilities;

(c) health care and treatment of pregnant inmates in correctional facilities;

(d) body cavity searches of arrestees or inmates in correctional facilities; and

(e) continuation of medication and mental health treatment for inmates who are transferred from a county jail to the Department of Corrections.

(3) The committee shall consist of:

(a) a representative from the Division of Substance Abuse and Mental Health within the Department of Human Services;

(b) a representative from a local substance abuse and mental health authority from:

(i) a county of the first class, as classified in Section 17-50-501; and

(ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section 17-50-501;

(c) a representative from the Department of Health;

(d) a representative from the Utah Sheriff's Association;

(e) a representative from the Statewide Association of Prosecutors of Utah;

(f) a representative from the Utah Association of Counties;

(g) a representative from the Utah Association of Criminal Defense Lawyers;

(h) a physician actively engaged in correctional health care in a county jail from:

(i) a county of the first class, as classified in Section 17-50-501; and

(ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section 17-50-501;

(i) a psychiatric service provider actively engaged in correctional health care;

(j) a district attorney or a county attorney actively engaged in the practice of civil or constitutional law from:

(i) a county of the first class, as classified in Section 17-50-501; and

(ii) a county of the second, third, fourth, fifth, or sixth class, as classified in Section 17-50-501;

(k) a representative from a community-based substance use treatment provider in the state;

(l) a physician from a community-based health care facility that specializes in women's health;

(m) a representative from the Department of Corrections;

(n) a representative from an organization with expertise in civil rights or civil liberties of incarcerated individuals; and

(o) other stakeholders, as determined by the commission.

(4) Before June 15, 2019, a correctional facility shall submit to the committee a copy of the correctional facility's existing policies, procedures, and protocols for:

(a) treatment of an inmate in a county jail experiencing a substance use or mental health disorder, including withdrawal from alcohol or other drugs;

(b) providing contraception to a female inmate in a correctional facility;

(c) providing health care and treatment for a pregnant inmate in a correctional facility, including any restraints required during a pregnant inmate's labor and delivery;

(d) a body cavity search of an arrestee or inmate in a correctional facility; and

(e) providing medication and mental health treatment for inmates who are transferred from a county jail to the Department of Corrections.

(5) The committee shall:

(a) survey the policies, procedures, and protocols submitted by a correctional facility under Subsection (4) taking the following into consideration:

(i) the needs and limitations of correctional health care, particularly in rural areas of the state;

(ii) evidence-based practices;

(iii) tools and protocols for substance use screening and assessment;

(iv) the transition of an inmate from treatment or health care in a correctional facility to community-based treatment or health care; and

(v) the needs of different correctional facility populations; and

(b) based on the results of the survey under Subsection (5)(a), develop recommendations relating to:

(i) whether model policies, procedures, and protocols for correctional facilities are necessary; and

(ii) development and implementation of any model policies the committee finds necessary under Subsection (5)(b)(i).

(6) (a) Each member of the committee may have access to and use a correctional facility's policies, procedures, or protocols submitted under this section for the purposes described in this section.

(b) Neither the commission, the committee, nor a member of the committee may provide access to or use a correctional facility's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

(7) (a) Before November 30, 2019, the commission shall present a report of the results of the survey and the committee's recommendations under Subsection (5) to the Law Enforcement and Criminal Justice Interim Committee.

(b) The commission is not required to include in the report described in Subsection (7)(a) the policies, procedures, or protocols of a correctional facility that were submitted under Subsection (4) on or after June 15, 2019.

(c) As part of the report described in Subsection (7)(a), the commission shall state which, if any, correctional facilities did not submit policies, procedures, or protocols under Subsection (4) before June 15, 2019.

Section 5. Section 64-13-45 is amended to read:

64-13-45. Department reporting requirements.

(1) As used in this section:

(a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the department.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a correctional facility, other than a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) ~~[So that the state may oversee the inmate health care system, the]~~ The department shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before ~~[August 1]~~ June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year;

(b) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a);

(c) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(d) the department policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; ~~and~~

(ii) ~~[relating]~~ that relate to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use disorder or mental health disorder; and

(e) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols

submitted under this section in a manner or for a purpose not described in this section.

CHAPTER 312**H. B. 400**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

MURDER MITIGATION AMENDMENTS

Chief Sponsor: Andrew Stoddard
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill relates to special mitigation of the penalty for a criminal homicide offense.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the circumstances under which a defendant's extreme emotional distress is special mitigation of the penalty for a criminal homicide offense;
- ▶ modifies the consequences in a criminal trial if the jury is unable to unanimously agree that special mitigation based on the defendant's extreme emotional distress or mental illness is established; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 76-5-205.5, as last amended by Laws of Utah 2009, Chapter 206
 77-14-4, as last amended by Laws of Utah 2009, Chapter 206
 77-16a-102, as last amended by Laws of Utah 2011, Chapter 366
 77-16a-301, as last amended by Laws of Utah 2009, Chapter 206

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-205.5 is amended to read:

76-5-205.5. Special mitigation for mental illness or provocation reducing the level of criminal homicide offense -- Burden of proof -- Application to reduce offense.

(1) As used in this section:

(a) (i) "Extreme emotional distress" means an overwhelming reaction of anger, shock, or grief that:

(A) causes the defendant to be incapable of reflection and restraint; and

(B) would cause an objectively reasonable person to be incapable of reflection and restraint.

(ii) "Extreme emotional distress" does not include:

(A) a condition resulting from mental illness; or

(B) distress that is substantially caused by the defendant's own conduct.

(b) "Mental illness" means the same as that term is defined in Section 76-2-305.

~~[(4)]~~ (2) Special mitigation exists when ~~[the actor]~~ a defendant causes the death of another or attempts to cause the death of another:

(a) (i) under circumstances that are not legally justified, but the ~~[actor]~~ defendant acts under a delusion attributable to a mental illness ~~[as defined in Section 76-2-305];~~

(ii) the nature of the delusion is such that, if the facts existed as the defendant believed them to be in the delusional state, those facts would provide a legal justification for the defendant's conduct; and

(iii) the defendant's actions, in light of the delusion, ~~[were]~~ are reasonable from the objective viewpoint of a reasonable person; or

(b) except as provided in Subsection (4), under the influence of extreme emotional distress ~~[for which there is a reasonable explanation or excuse]~~ that is predominantly caused by the victim's highly provoking act immediately preceding the defendant's actions.

~~[(2)]~~ (3) A defendant who ~~[was]~~ is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense may not claim mitigation of the offense under Subsection ~~[(4)]~~ (2)(a) on the basis of mental illness if the alcohol or substance ~~[caused, triggered, or substantially contributed to the]~~ causes, triggers, or substantially contributes to the defendant's mental illness.

~~[(3) Under Subsection (1)(b), emotional distress does not include:]~~

~~[(a) a condition resulting from mental illness as defined in Section 76-2-305; or]~~

~~[(b) distress that is substantially caused by the defendant's own conduct.]~~

~~[(4) The reasonableness of an explanation or excuse under Subsection (1)(b) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.]~~

(4) A defendant may not claim special mitigation under Subsection (2)(b) if:

(a) the time period after the victim's highly provoking act and before the defendant's actions was long enough for an objectively reasonable person to have recovered from the extreme emotional distress;

(b) the defendant responded to the victim's highly provoking act by inflicting serious or substantial bodily injury on the victim over a prolonged period, or by inflicting torture on the victim, regardless of whether the victim was conscious during the infliction of serious or substantial bodily injury or torture; or

(c) the victim's highly provoking act, described in Subsection (2)(b), is comprised of words alone.

(5) (a) If the trier of fact finds that the elements of an offense ~~[as listed]~~ described in Subsection (5)(b) are proven beyond a reasonable doubt, and also finds that the existence of special mitigation under this section is established by a preponderance of the evidence, ~~[it]~~ the trier of fact shall return a verdict on the reduced charge as provided in Subsection (5)(b).

(b) If under Subsection (5)(a) the offense is:

(i) aggravated murder, the defendant shall instead be found guilty of murder;

(ii) attempted aggravated murder, the defendant shall instead be found guilty of attempted murder;

(iii) murder, the defendant shall instead be found guilty of manslaughter; or

(iv) attempted murder, the defendant shall instead be found guilty of attempted manslaughter.

(c) If the trier of fact finds that special mitigation is not established under this section, the trier of fact shall convict the defendant of the offense for which the prosecution proves all the elements beyond a reasonable doubt.

(6) (a) If a jury is the trier of fact, a unanimous vote of the jury is required to establish the existence of the special mitigation under this section.

(b) If the jury ~~[does find]~~ finds special mitigation by a unanimous vote, ~~[it]~~ the jury shall return a verdict on the reduced charge as provided in Subsection (5).

(c) If the jury finds by a unanimous vote that special mitigation ~~[has not been established, it]~~ is not established, or if the jury is unable to unanimously agree special mitigation is established, the jury shall convict the defendant of the greater offense for which the prosecution ~~[has established]~~ proves all the elements beyond a reasonable doubt.

~~[(d) If the jury is unable to unanimously agree whether or not special mitigation has been established, the result is a hung jury.]~~

(7) (a) If the issue of special mitigation is submitted to the trier of fact, ~~[it]~~ the trier of fact shall return a special verdict indicating whether the existence of special mitigation ~~[has been]~~ is found.

(b) The trier of fact shall return the special verdict at the same time as the general verdict, to indicate the basis for ~~[its]~~ the general verdict.

(8) Special mitigation under this section does not, in any case, reduce the level of an offense by more than one degree from that offense, the elements of which the evidence ~~[has established]~~ proves beyond a reasonable doubt.

Section 2. Section 77-14-4 is amended to read:

77-14-4. Insanity or diminished mental capacity -- Notice requirement.

(1) If a defendant ~~[proposes]~~ intends to offer evidence that the defendant is not guilty as a result of insanity or that the defendant had diminished mental capacity, or ~~[proposes]~~ intends to offer evidence in mitigation of a criminal homicide or attempted criminal homicide offense under Subsection 76-5-205.5~~(4)~~(2)(a), the defendant shall file and serve the prosecuting attorney with written notice of the intention to claim the defense at the time of arraignment or as soon afterward as practicable, but not ~~[fewer]~~ less than 30 days before the trial.

(2) If the court receives notice that a defendant intends to claim that the defendant is not guilty by reason of insanity or that the defendant had diminished mental capacity, the court shall proceed in accordance with the requirements described in Section 77-16a-301.

Section 3. Section 77-16a-102 is amended to read:

77-16a-102. Jury instructions.

(1) If a defendant asserts a defense of not guilty by reason of insanity, the court shall instruct the jury that ~~[it]~~ the jury may find the defendant:

(a) guilty;

(b) guilty with a mental illness at the time of the offense;

(c) guilty of a lesser offense;

(d) guilty of a lesser offense with a mental illness at the time of the offense;

(e) not guilty by reason of insanity; or

(f) not guilty.

(2) (a) When a defendant asserts a mental defense pursuant to Section 76-2-305 or asserts special mitigation reducing the level of an offense pursuant to Subsection 76-5-205.5~~(4)~~(2)(a), or when the evidence raises the issue and either party requests the instruction, the ~~[jury shall be instructed that if it]~~ court shall instruct the jury that if the jury finds a defendant guilty by proof beyond a reasonable doubt of ~~[any]~~ a charged offense or lesser included offense, ~~[it]~~ the jury shall also return a special verdict indicating whether ~~[it]~~ the jury finds that the defendant had a mental illness at the time of the offense.

(b) If the jury finds the defendant guilty of the charged offense by proof beyond a reasonable doubt, and by special verdict finds the defendant had a mental illness at the time of the offense, ~~[it]~~ the jury shall return the general verdict of "guilty with a mental illness at the time of the offense."

(c) If the jury finds the defendant guilty of a lesser offense by proof beyond a reasonable doubt, and by special verdict finds the defendant had a mental illness at the time of the offense, ~~[it]~~ the jury shall return the general verdict of "guilty of a lesser offense with a mental illness at the time of the offense."

(d) If the jury finds the defendant guilty of the charged offense or a lesser included offense and

does not find that the defendant had a mental illness at the time of the offense, the jury shall return a verdict of "guilty" of ~~that~~ the offense, along with the special verdict form indicating that the jury did not find that the defendant had a mental illness at the time of the offense.

(e) The special verdict shall be returned by the jury at the same time as the general verdict, to indicate the basis for ~~its~~ the jury's general verdict.

(3) (a) In determining whether a defendant should be found guilty with a mental illness at the time of the offense, the ~~jury shall be instructed~~ court shall instruct the jury that the standard of proof applicable to a finding of mental illness is by a preponderance of the evidence. ~~The jury shall also be instructed~~

(b) The court shall also instruct the jury that the standard of preponderance of the evidence does not apply to the elements establishing a defendant's guilt, and that the proof of the elements establishing a defendant's guilt of ~~any~~ an offense must be proven beyond a reasonable doubt.

(4) (a) When special mitigation based on extreme emotional distress is at issue pursuant to Subsection 76-5-205.5~~(1)~~(2)(b), the jury shall, in addition to ~~its~~ the jury's general verdict, return a special verdict.

(b) The special verdict shall be returned by the jury at the same time as the general verdict, to indicate the basis for ~~its~~ the jury's general verdict.

Section 4. Section 77-16a-301 is amended to read:

77-16a-301. Mental examination of defendant.

(1) (a) When the court receives notice that a defendant intends to claim that the defendant is not guilty by reason of insanity or that the defendant had diminished mental capacity, or that the defendant intends to assert special mitigation under Subsection 76-5-205.5~~(1)~~(2)(a), the court shall order the ~~Department of Human Services~~ department to examine the defendant and investigate the defendant's mental condition.

(b) The person or organization directed by the department to conduct the examination shall testify at the request of the court or either party in ~~any~~ a proceeding in which the testimony is otherwise admissible.

(c) Pending trial, unless the court or the executive director directs otherwise, the defendant shall be retained in the same custody or status the defendant was in at the time the examination was ordered.

(2) (a) The defendant shall be available and shall fully cooperate in the examination by the department and ~~any~~ other independent examiners for the defense and the prosecuting attorney.

(b) If the defendant fails to be available and to fully cooperate, and that failure is established to the

satisfaction of the court at a hearing prior to trial, the defendant is barred from presenting expert testimony relating to the defendant's defense of mental illness at the trial of the case.

(c) The department shall complete the examination within 30 days after the court's order, and shall prepare and provide to the court prosecutor and defense counsel a written report concerning the condition of the defendant.

(3) Within 10 days after receipt of the report described in Subsection (2)(c) from the department, but not later than five days before the trial of the case, or at any other time the court directs, the prosecuting attorney shall file and serve upon the defendant a notice of rebuttal of the defense of mental illness, which shall contain the names of witnesses the prosecuting attorney proposes to call in rebuttal.

(4) The ~~reports of any other~~ report of another independent examiner ~~are~~ is admissible as evidence upon stipulation of the prosecution and defense.

(5) (a) This section does not prevent ~~any~~ a party from producing ~~any~~ other testimony as to the mental condition of the defendant. ~~Expert witnesses who are~~

(b) An expert witness who is not appointed by the court ~~are~~ is not entitled to compensation under Subsection (7).

(6) This section does not require the admission of evidence not otherwise admissible.

~~[(7) Expenses of examination ordered by the court under this section shall be paid by the Department of Human Services. Travel expenses associated with the examination incurred by the defendant shall be charged by the department to the county where prosecution is commenced. Examination of defendants charged with violation of municipal or county ordinances shall be charged by the department to the entity commencing the prosecution.]~~

(7) (a) The department shall pay the expenses of an examination ordered by the court under this section.

(b) The department shall charge the county where the prosecution is commenced for travel expenses associated with an examination incurred by a defendant.

(c) The department shall charge the entity commencing the prosecution for an examination of a defendant charged with a violation of a municipal or county ordinance.

CHAPTER 313**H. B. 408**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**NOTARY PUBLIC
 LIABILITY AMENDMENTS**

Chief Sponsor: Craig Hall
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill amends provisions providing for civil liability for the employer of a notary public for misconduct by the notary public in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ amends provisions creating liability for an employer of a notary public for the notary public's misconduct if:
 - the notary public was acting within the course and scope of employment; and
 - the employer had knowledge of, consented to, or permitted the misconduct.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

46-1-18, as last amended by Laws of Utah 2017, Chapter 259

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 46-1-18 is amended to read:

46-1-18. Liability.

(1) A notary may be liable to any person for any damage to that person proximately caused by the notary's misconduct in performing a notarization.

(2) (a) A surety for a notary's bond may be liable to any person for damages proximately caused to that person by the notary's misconduct in performing a notarization, but the surety's liability may not exceed the penalty of the bond or of any remaining bond funds that have not been expended to other claimants.

(b) Regardless of the number of claimants under Subsection (2)(a), a surety's total liability may not exceed the penalty of the bond.

(c) An employer of a notary public is also liable for damages proximately caused by the notary's misconduct in performing a notarization if:

(i) the notary public was acting within the course and scope of the notary public's employment; and

(ii) the employer had knowledge of, consented to, or permitted the misconduct.

(3) It is a class B misdemeanor, if not otherwise a criminal offense under this code, for:

(a) a notary to violate a provision of this chapter; or

(b) the employer of a notary to solicit the notary to violate a provision of this chapter.

CHAPTER 314**H. B. 409**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**CHANGES TO THE UTAH SCHOOLS
 FOR THE DEAF AND THE BLIND**

Chief Sponsor: Susan Pulsipher
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions related to the Utah Schools for the Deaf and the Blind.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding when the Utah Schools for the Deaf and the Blind is the local education agency of record for a student;
- ▶ amends reporting requirements;
- ▶ amends provisions related to eligibility for a student to receive services from the Utah Schools for the Deaf and the Blind;
- ▶ amends provisions related to school district and charter school cost sharing with the Utah Schools for the Deaf and the Blind;
- ▶ amends provisions related to the applicability of the procurement code to the Utah Schools for the Deaf and the Blind, including provisions related to:
 - the applicable rulemaking authority for the Utah Schools for the Deaf and the Blind; and
 - requirements related to the purchase of goods and services from the Utah Correctional Industries Division; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-8-102, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-201, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-204, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-401, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-403, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-406, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-407, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-409, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-410, as renumbered and amended by Laws of Utah 2018, Chapter 1
 63G-6a-103, as last amended by Laws of Utah 2018, Second Special Session, Chapter 4

63G-6a-804, as last amended by Laws of Utah 2013, Chapter 445

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-8-102 is amended to read:

53E-8-102. Definitions.

As used in this chapter:

(1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.

(2) "Alternate format" includes braille, audio, [∅] digital text, or large print.

(3) "Associate superintendent" means:

(a) the associate superintendent of the Utah School for the Deaf; or

(b) the associate superintendent of the Utah School for the Blind.

(4) "Blind" means:

(a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having a visual impairment.

(5) "Blindness" means an impairment in vision in which central visual acuity:

(a) does not exceed 20/200 in the better eye with correcting lenses; or

(b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(6) "Board" means the State Board of Education.

(7) "Cortical visual impairment" means a [~~neurological visual disorder~~] cortical or cerebral visual impairment:

(a) that:

(i) affects the visual cortex or visual tracts of the brain;

(ii) is caused by damage to the visual pathways to the brain;

(iii) affects a person's visual discrimination, acuity, processing, and interpretation; and

(iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and

(b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.

(8) "Deaf" means:

(a) if the person is three years of age or older but younger than 22 years of age, having hearing loss,

whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and

(b) if the person is younger than three years of age, having hearing loss.

(9) "Deafblind" means:

(a) if the person is three years of age or older but younger than 22 years of age:

(i) deaf;

(ii) blind; and

(iii) having hearing loss and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or

(b) if the person is younger than three years of age, having both hearing loss and vision impairments that are diagnosed as provided in Section 53E-8-401.

(10) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.

~~[(11) "Educator" means a person who holds:]~~

~~[(a) (i) a license issued under Chapter 6, Education Professional Licensure; and]~~

~~[(ii) a position as:]~~

~~[(A) a teacher;]~~

~~[(B) a speech pathologist;]~~

~~[(C) a librarian or media specialist;]~~

~~[(D) a preschool teacher;]~~

~~[(E) a guidance counselor;]~~

~~[(F) a school psychologist;]~~

~~[(G) an audiologist; or]~~

~~[(H) an orientation and mobility specialist; or]~~

~~[(b) (i) a bachelor's degree or higher;]~~

~~[(ii) credentials from the governing body of the professional's area of practice; and]~~

~~[(iii) a position as:]~~

~~[(A) a Parent Infant Program consultant;]~~

~~[(B) a deafblind consultant;]~~

~~[(C) a school nurse;]~~

~~[(D) a physical therapist;]~~

~~[(E) an occupational therapist;]~~

~~[(F) a social worker; or]~~

~~[(G) a low vision specialist.]~~

(11) "Educator" means an individual who is:

(a) licensed by the state board under Section 53E-6-201; or

(b) credentialed by the governing body of the individual's area of professional practice.

(12) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.

(13) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.

(14) "Hard of hearing" means having a hearing loss, excluding deafness.

(15) "Individualized education program" or "IEP" means:

(a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or

(b) an individualized family service plan developed:

(i) for a child with a disability who is younger than three years of age; and

(ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(16) "LEA" means a local education agency that has administrative control and direction for public education.

(17) "LEA of record" means the school district of residence of a student as determined under Section 53G-6-302.

(18) "Low vision" means an impairment in vision in which:

(a) visual acuity is at 20/70 or worse; ~~[or]~~

(b) the visual field is reduced to less than 20 degrees~~[-];~~

(c) even with correction, educational performance is affected; or

(d) at least one major life activity is substantially limited.

(19) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:

(a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and

(b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.

(20) "Section 504" means Section 504 of the Rehabilitation Act of 1973.

(21) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(22) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.

(23) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Section 2. Section 53E-8-201 is amended to read:

53E-8-201. Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.

(1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:

- (a) the Utah School for the Deaf;
- (b) the Utah School for the Blind;
- (c) programs for students who are deafblind; and
- (d) the Parent Infant Program.

(2) Under the general control and supervision of the board, consistent with the board's constitutional authority, the Utah Schools for the Deaf and the Blind:

- (a) may provide services to students statewide:
 - (i) who are deaf, blind, or deafblind; or
 - (ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board established pursuant to Section 53E-8-401; and

(b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the ~~[student's LEA of record, parent or legal guardian, and the Utah Schools for the Deaf and the Blind determine]~~ team that develops the student's IEP or Section 504 accommodation plan determines that the student be placed at the Utah Schools for the Deaf and the Blind.

(3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.

(4) Nothing in this section diminishes the responsibility of a student's LEA of record for the

education of the student as provided in Chapter 7, Part 2, Special Education Program.

Section 3. Section 53E-8-204 is amended to read:

53E-8-204. Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

(1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

- (i) demonstrated competency as an expert educator of deaf persons; and
- (ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:

- (i) demonstrated competency as an expert educator of blind persons; and
- (ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The board shall:

(i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

- (i) two members who are blind;
- (ii) two members who are deaf; and
- (iii) two members who are deafblind or parents of a deafblind child.

(5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) On or before the November interim meeting each year, the board shall report to the

Education Interim Committee on the Utah Schools for the Deaf and the Blind.

(b) The board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

~~[(ii) a report on the activities of the superintendent and associate superintendents;]~~

~~[(iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and]~~

~~[(iv) a report on student achievement, including:]~~

~~[(A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;]~~

~~[(B) graduation rates; and]~~

~~[(C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.]~~

(ii) a report on Utah Schools for the Deaf and the Blind programs and activities; and

(iii) a report of student academic performance.

Section 4. Section 53E-8-401 is amended to read:

53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3), (4), and (5), ~~[a person]~~ an individual is eligible to receive services of the Utah Schools for the Deaf and the Blind if the ~~[person]~~ individual is:

(a) a resident of Utah;

(b) younger than 22 years of age;

(c) referred to the Utah Schools for the Deaf and the Blind by ~~[the person's]~~:

(i) the individual's school district of residence ~~[or]~~;

(ii) a local early intervention program; ~~[and] or~~

(iii) if the referral is consistent with the Individual with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and

(d) identified as deaf, blind, or deafblind through:

(i) the special education eligibility determination process; or

(ii) the Section 504 eligibility determination process.

(2) (a) In ~~[diagnosing a person]~~ determining eligibility for an individual who is younger than age three ~~[who]~~ and is deafblind, the following information may be used:

(i) ophthalmological and audiological documentation;

(ii) functional vision or hearing assessments and evaluations; or

(iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

(ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3) (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

~~[(c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a school district or charter school program subject to special education federal regulations regarding due process.]~~

(4) (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the board.

(b) The rules shall require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the ~~[student]~~ resident is younger than 22 years of age.

Section 5. Section 53E-8-403 is amended to read:

53E-8-403. Educational programs.

(1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:

(a) based on assessments of the student's abilities; and

(b) in accordance with the student's IEP or Section 504 accommodation plan.

(2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss and requires intensive sensory-based

instruction or services, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.

(3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind as required by Chapter 7, Part 3, Braille Requirements for Blind Students.

Section 6. Section 53E-8-406 is amended to read:

53E-8-406. Programs for deafblind individuals -- State deafblind education specialist.

(1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.

(2) Except as provided in Subsection (4), the board shall designate an employee who holds a deafblind ~~[certification]~~ credential issued by the state board or equivalent training and expertise to:

(a) act as a resource coordinator for the board on public education programs designed for individuals who are deafblind;

(b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and

(c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.

(3) The board may authorize and approve the costs of an employee to obtain a deafblind ~~[certification]~~ credential issued by the state board or equivalent training and expertise to qualify for the position described in Subsection (2).

(4) The board may contract with a third party for the services required under Subsection (2).

Section 7. Section 53E-8-407 is amended to read:

53E-8-407. Educational Enrichment Program for Deaf, Hard of Hearing, Blind, and Visually Impaired Students -- Funding for the program.

(1) There is established the Educational Enrichment Program for Deaf, Hard of Hearing, ~~[and]~~ Blind, and Visually Impaired Students.

(2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, hard of hearing, blind, visually impaired, or deafblind students.

(3) The advisory council shall make recommendations to the state board regarding the design and [implement] implementation of the program[, subject to the approval by the board].

(4) The program shall be funded from the ~~[interest and dividends derived]~~ revenue distributed from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Section 8. Section 53E-8-409 is amended to read:

53E-8-409. Instructional Materials Access Center -- Board to make rules.

(1) The board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.

(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish the Utah State Instructional Materials Access Center;

(b) define how ~~[the Educational Resource Center at]~~ the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;

(c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:

(i) identify students who qualify for instructional materials in alternate formats; and

(ii) distribute and store instructional materials in alternate formats; and

~~[(d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and]~~

~~[(e)]~~ (d) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Section 9. Section 53E-8-410 is amended to read:

53E-8-410. School districts to provide space for programs.

~~[(1)]~~ A school district with students who reside within the school district's boundaries and are served by the Utah Schools for the Deaf and the Blind shall~~;~~ make a good faith effort to provide the Utah Schools for the Deaf and the Blind with space required for programs offered by the Utah Schools for the Deaf and the Blind.

~~[(a) furnish the schools with space required for their programs; or]~~

~~[(b) help pay for the cost of leasing classroom space in other school districts.]~~

~~[(2) A school district's participation in the program under Subsection (1) is based upon the~~

~~number of students who are served by the Schools for the Deaf and the Blind and who reside within the school district as compared to the state total of students who are served by the schools.]~~

Section 10. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

- (1) "Applicable rulemaking authority" means:
- (a) for a legislative procurement unit, the Legislative Management Committee;
- (b) for a judicial procurement unit, the Judicial Council;
- (c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:
- (A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;
- (B) for the Office of the Attorney General, the attorney general; and
- (C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and
- (ii) for each other executive branch procurement unit, the board;
- (d) for a local government procurement unit:
- (i) the legislative body of the local government procurement unit; or
- (ii) an individual or body designated by the legislative body of the local government procurement unit;
- (e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;
- (f) for a state institution of higher education described in:
- (i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or
- (ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;
- (g) for the State Board of Education[, or the Utah Schools for the Deaf and the Blind, the State Board of Education];
- (h) for a public transit district, the chief executive of the public transit district;
- (i) for a local district other than a public transit district or for a special service district:
- (i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or
- (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local

district or the governing body of the special service district makes its own rules:

- (A) with respect to a subject addressed by board rules; or
- (B) that are in addition to board rules;
- (j) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or
- (k) for any other procurement unit, the board.
- (2) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.
- (3) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.
- (4) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.
- (5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.
- (6) "Bidding process" means the procurement process described in Part 6, Bidding.
- (7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.
- (8) "Building board" means the State Building Board, created in Section 63A-5-101.
- (9) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.
- (10) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.
- (11) "Chief procurement officer" means the chief procurement officer appointed under Subsection 63G-6a-302(1).
- (12) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:
- (a) except:
- (i) reviewing a solicitation to verify that it is in proper form; and
- (ii) causing the publication of a notice of a solicitation; and
- (b) including:
- (i) preparing any solicitation document;
- (ii) appointing an evaluation committee;
- (iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;
- (iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

- (c) master planning and programming services.
- (30) "Director" means the director of the division.
- (31) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.
- (32) "Educational procurement unit" means:
- (a) a school district;
 - (b) a public school, including a local school board or a charter school;
 - (c) the Utah Schools for the Deaf and Blind;
 - (d) the Utah Education and Telehealth Network;
 - (e) an institution of higher education of the state described in Section 53B-1-102; or
 - (f) the State Board of Education.
- (33) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:
- (a) is regularly maintained by a manufacturer or contractor;
 - (b) is published or otherwise available for inspection by customers; and
 - (c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.
- (34) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.
- (35) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:
- (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or
 - (b) an adjustment is required by law.
- (36) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:
- (a) is based on the consumer price index or another commercially acceptable index, source, or formula; and
 - (b) is not based on a percentage of the cost to the contractor.
- (37) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.
- (38) "Head of a procurement unit" means:
- (a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;
 - (b) for an executive branch procurement unit:
 - (i) the director of the division; or
 - (ii) any other person designated by the board, by rule;
 - (c) for a judicial procurement unit:
 - (i) the Judicial Council; or
 - (ii) any other person designated by the Judicial Council, by rule;
 - (d) for a local government procurement unit:
 - (i) the legislative body of the local government procurement unit; or
 - (ii) any other person designated by the local government procurement unit;
 - (e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;
 - (f) for a special service district, the governing body of the special service district or a designee of the governing body;
 - (g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;
 - (h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;
 - (i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;
 - (j) for a school district or any school or entity within a school district, the board of the school district, or the board's designee;
 - (k) for a charter school, the individual or body with executive authority over the charter school, or the individual's or body's designee;
 - (l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president's designee;
 - (m) for a public transit district, the board of trustees or a designee of the board of trustees;
 - (n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or
 - (o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.
- (39) "Immaterial error":
- (a) means an irregularity or abnormality that is:
 - (i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.

(40) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).

(42) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local district" means the same as that term is defined in Section 17B-1-102.

(49) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(52) "Municipality" means a city, town, or metro township.

(53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) “Public-private partnership” means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) “Request for information” means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) “Request for proposals” means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) “Solicitation” means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) "Supply" means a good, material, technology, piece of equipment, or any other item of personal property.

(92) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(93) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) "Trial use contract" means a contract for a procurement item that the procurement unit

acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 11. Section 63G-6a-804 is amended to read:

63G-6a-804. Purchase of prison industry goods.

(1) As used in this section, "applicable procurement unit" means a procurement unit that is not:

(a) a political subdivision of the state; or

(b) the Utah Schools for the Deaf and the Blind.

~~[(1)]~~ (2) (a) ~~[A]~~ An applicable procurement unit ~~[that is not a political subdivision]~~ shall purchase goods and services produced by the Utah Correctional Industries Division as provided in this section.

(b) A ~~[political subdivision of the state]~~ procurement unit that is not an applicable procurement unit may, and is encouraged to, purchase goods and services under this section.

(c) A procurement unit is not required to use a standard procurement process to purchase goods or services under this section.

~~[(2)]~~ (3) On or before July 1 of each year, the director of the Utah Correctional Industries shall:

(a) publish and distribute to all procurement units and other interested public entities a catalog of goods and services provided by the Correctional Industries Division, including a description and price of each item offered for sale; and

(b) update and revise the catalog described in Subsection ~~[(2)]~~ (3)(a) during the year as the director considers necessary.

~~[(3)]~~ (4) (a) ~~[A]~~ An applicable procurement unit ~~[that is not a political subdivision of the state]~~ may not purchase any goods or services provided by the Correctional Industries Division from any other source unless it has been determined in writing by the director of Correctional Industries and by the procurement officer or, in the case of institutions of higher education, the institutional procurement officer, that purchase from the Correctional Industries Division is not feasible due to one of the following circumstances:

(i) the good or service offered by the division does not meet the reasonable requirements of the procurement unit;

(ii) the good or service cannot be supplied within a reasonable time by the division; or

(iii) the cost of the good or service, including basic price, transportation costs, and other expenses of acquisition, is not competitive with the cost of procuring the item from another source.

(b) In cases of disagreement under Subsection ~~[(3)]~~ (4)(a):

(i) the decision may be appealed to a board consisting of:

(A) the director of the Department of Corrections;

(B) the director of Administrative Services; and

(C) a neutral third party agreed upon by the other two members of the board;

(ii) in the case of an institution of higher education of the state, the president of the institution, or the president's designee, shall make the final decision; or

(iii) in the case of any of the following entities, a person designated by the applicable rulemaking authority shall make the final decision:

(A) a legislative procurement unit;

(B) a judicial procurement unit; or

(C) a public transit district.

CHAPTER 315**H. B. 412**

Passed March 14, 2019

Approved March 26, 2019

Effective May 14, 2019

DOMESTICATED GAME SLAUGHTER

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Ronald Winterton
 Cosponsor: Scott H. Chew

LONG TITLE**General Description:**

This bill provides for the slaughter and processing of domesticated game.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends existing provisions and enacts provisions to allow certain slaughter of domesticated game by a person who holds a certain license;
- ▶ enacts provisions to provide for the slaughter and processing of domesticated game, including:
 - required inspections;
 - notice of slaughter and processing to the Department of Agriculture and Food; and
 - transportation of slaughtered domesticated game;
- ▶ gives rulemaking authority to the Department of Agriculture and Food relating to the slaughter and processing of domesticated game; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-32-105, as renumbered and amended by Laws of Utah 2017, Chapter 345
 4-32-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
 4-32-108, as renumbered and amended by Laws of Utah 2017, Chapter 345

ENACTS:

- 4-32a-101, Utah Code Annotated 1953
 4-32a-102, Utah Code Annotated 1953
 4-32a-201, Utah Code Annotated 1953
 4-32a-202, Utah Code Annotated 1953
 4-32a-203, Utah Code Annotated 1953
 4-32a-204, Utah Code Annotated 1953
 4-32a-205, Utah Code Annotated 1953
 4-32a-206, Utah Code Annotated 1953
 4-32a-207, Utah Code Annotated 1953
 4-32a-208, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-32-105 is amended to read:**4-32-105. Definitions.**

As used in this chapter:

(1) "Adulterated" means any meat or poultry product that:

(a) bears or contains any poisonous or deleterious substance that may render it injurious to health, but, if the substance is not an added substance, the meat or poultry product is not considered adulterated under this subsection if the quantity of the substance in or on the meat or poultry product does not ordinarily render it injurious to health;

(b) bears or contains, by reason of the administration of any substance to the animal or otherwise, any added poisonous or added deleterious substance that in the judgment of the commissioner makes the meat or poultry product unfit for human food;

(c) contains, in whole or in part, a raw agricultural commodity and that commodity bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) bears or contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

(e) bears or contains any color additive that is unsafe within the meaning of 21 U.S.C. Sec. 379e, provided that a meat or poultry product that is not otherwise considered adulterated under Subsection (1)(c) or (d) is considered adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in official establishments by federal law, regulation, or standard;

(f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

(g) has been prepared, packaged, or held under unsanitary conditions if the meat or poultry product may have become contaminated with filth, or if it may have been rendered injurious to health;

(h) is in whole or in part the product of an animal that died other than by slaughter;

(i) is contained in a container that is composed, in whole or in part, of any poisonous or deleterious substance that may render the meat or poultry product injurious to health;

(j) has been intentionally subjected to radiation, unless the use of the radiation conforms with a regulation or exemption in effect pursuant to 21 U.S.C. Sec. 348;

(k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or if damage or inferiority is concealed in any manner; or if any substance has been added, mixed, or packed with the meat or poultry product to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value; or

(l) is margarine containing animal fat and any of the raw material used in the margarine consists in whole or in part of any filthy, putrid, or decomposed substance.

(2) "Amenable species" means:

(a) livestock, including cattle, sheep, goats, swine, or equine; or

(b) poultry, including a domesticated chicken, turkey, duck, goose, guinea, ratite, or squab.

~~[(2)]~~ (3) “Animal” means a domesticated or captive mammalian or avian species.

~~[(3)]~~ (4) “Animal food manufacturer” means any person engaged in the business of preparing animal food derived from animal carcasses or parts or products of the carcasses.

~~[(4)]~~ (5) [~~“Ante mortem”~~] “Antemortem inspection” means an inspection of a live animal immediately before slaughter.

~~[(5)]~~ (6) “Broker” means any person engaged in the business of buying and selling meat or poultry products other than for the person’s own account.

~~[(6)]~~ (7) “Capable of use as human food” means any animal carcass, or part or product of a carcass, unless it is denatured or otherwise identified as required by rules of the department to deter the carcass or product’s use as human food.

~~[(7)]~~ (8) “Commissioner” includes a person authorized by the commissioner to carry out the provisions of this chapter.

~~[(8)]~~ (9) “Container” or “package” means any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover.

~~[(9)]~~ (10) “Custom exempt processing” means processing meat ~~[or]~~, wild game, amenable species, or nonamenable species as a service for the person who owns the meat ~~[or]~~, wild game ~~[and uses the meat and meat food products for the person’s own consumption, including consumption by immediate family members and non-paying guests.]~~, amenable species, or nonamenable species, if the person:

(a) uses the meat, meat food products, slaughtered amenable species, wild game, or slaughtered nonamenable species for the person’s own consumption, including consumption by immediate family members and nonpaying guests; or

(b) offers the slaughtered nonamenable species for wholesale or retail sale.

~~[(10)]~~ (11) (a) “Custom exempt slaughter” means:

~~[(a) means slaughtering an animal as a service for the person who owns the animal and uses the meat and meat products for the person’s own consumption, including consumption by immediate family members and non-paying guests; and]~~

~~[(b) includes farm custom slaughter.]~~

(i) slaughtering an amenable species or nonamenable species as a service for the person who owns the amenable species or nonamenable species and uses the slaughtered amenable species or slaughtered nonamenable species for the person’s own consumption, including consumption by immediate family members and nonpaying guests; or

(ii) the slaughter of a nonamenable species intended for wholesale or retail sale.

(b) “Custom exempt slaughter” includes farm custom slaughter.

~~[(11)]~~ (12) “Diseased animal”:

(a) means an animal that:

(i) is diagnosed with a disease not known to be cured; or

(ii) has exhibited signs or symptoms of a disease that is not known to be cured; and

(b) does not include an otherwise healthy animal that suffers only from injuries such as fractures, cuts, or bruises.

~~[(12)]~~ (13) “Farm custom mobile unit” means a portable slaughter vehicle or trailer that is used by a farm custom slaughter licensee to slaughter animals.

~~[(13)]~~ (14) “Farm custom slaughter” means custom exempt slaughtering of an animal, amenable species, or nonamenable species for an owner without official inspection.

~~[(14)]~~ (15) “Farm custom slaughter license” means a license issued by the department to allow farm custom slaughter.

~~[(15)]~~ (16) “Farm custom slaughter NOT FOR SALE tag” means a tag issued by the department to the owner of the facility before the animal is slaughtered that specifies the animal’s identification and certifies its ownership.

~~[(16)]~~ (17) “Federal acts” means:

(a) the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq;

(b) the Federal Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq.; and

(c) the Humane Slaughter Act, 7 U.S.C. 1901 et seq.;~~and].~~

~~[(d) the Egg Product Inspection Act, 21 U.S.C. 1031 et seq.]~~

~~[(17)]~~ (18) “Federal Food, Drug and Cosmetic Act” means the act so entitled, approved June 25, 1938 (52 Stat. 1040) (21 U.S.C. 301 et seq.), and any amendments to the act.

~~[(18)]~~ (19) “Immediate container” means any consumer package, or any other container, in which meat or poultry products not consumer packaged are packed.

~~[(19)]~~ (20) “Inspector” means a department employee who is trained in:

(a) humane handling;

(b) [~~ante mortem and post mortem~~] antemortem and postmortem inspection;

(c) processing inspection; and

(d) regulatory requirements.

~~[(20)]~~ (21) “Label” means a display of printed or graphic matter upon any meat or poultry product or

the immediate container, not including package liners, of any such product.

~~[(24)]~~ (22) "Labeling" means all labels and other printed or graphic matter:

(a) upon any meat or poultry product or any of its containers or wrappers; or

(b) accompanying a meat or poultry product.

~~[(22)]~~ (23) "Licensee" means a person who holds a valid farm custom slaughter license.

~~[(23)]~~ (24) "Meat" means the edible muscle, and other edible parts, of an animal, including edible:

(a) skeletal muscle;

(b) organs;

(c) muscle found in the tongue, diaphragm, heart, or esophagus; and

(d) fat, bone, skin, sinew, nerve, or blood vessel that normally accompanies meat and is not ordinarily removed in processing.

~~[(24)]~~ (25) "Meat establishment" means a plant or fixed premises used to:

(a) slaughter animals for human consumption; or

(b) process meat or poultry products for human consumption.

~~[(25)]~~ (26) "Meat product" means any product capable of use as human food that is made wholly or in part from any meat or other part of the carcass of any non-avian animal.

~~[(26)]~~ (27) "Misbranded" means any meat or poultry product that:

(a) bears a label that is false or misleading in any particular;

(b) is offered for sale under the name of another food;

(c) is an imitation of another food, unless the label bears, in type of uniform size and prominence, the word "imitation" followed by the name of the food imitated;

(d) if it has a container, the container is made, formed, or filled as to be misleading;

(e) does not bear a label showing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the product in terms of weight, measure, or numerical count, provided that under this Subsection ~~[(26)]~~ (27)(e), exemptions as to meat and poultry products not in containers may be established by rules of the department and that under this Subsection ~~[(26)]~~ (27)(e)(ii), reasonable variations may be permitted, and exemptions for small packages may be established for meat or poultry products by rule of the department;

(f) does not bear any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling that is not prominently placed with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) is a food for which a definition and standard of identity or composition has been prescribed by rules of the department under Section 4-32-109 if the food does not conform to the definition and standard and the label does not bear the name of the food and any other information that is required by the rule;

(h) is a food for which a standard of fill has been prescribed by rule of the department for the container and the actual fill of the container falls below that prescribed unless the food's label bears, in a manner and form as the rule specifies, a statement that the food falls below the standard;

(i) is a food for which no standard or definition of identity has been prescribed under Subsection ~~[(26)]~~ (27)(g) unless the label bears:

(i) the common or usual name of the food, if there be any; and

(ii) if the food is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings, and colorings may, when authorized by the department, be designated as spices, flavorings, and colorings without naming each, provided that to the extent that compliance with the requirements of this Subsection ~~[(26)]~~ (27)(i)(ii) is impracticable, or results in deception or unfair competition, exemptions shall be established by rule;

(j) is a food that purports to be or is represented to be for special dietary uses, unless the label bears information concerning the food's vitamin, mineral, and other dietary properties as the department, after consultation with the Secretary of Agriculture of the United States, prescribes by rules as necessary to inform purchasers as to the food's value for special dietary uses;

(k) bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless the food bears labeling stating that fact, provided that to the extent that compliance with the requirements of this subsection are impracticable, exemptions shall be prescribed by rules of the department; or

(l) does not bear directly thereon and on the food's containers, as the department may prescribe by rule, the official inspection legend and establishment number of the official establishment where the product was prepared, and, unrestricted by any of the foregoing, other information as the department may require by rule to assure that the meat or poultry product will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the meat or poultry product in a wholesome condition.

(28) (a) “Nonamenable species” means a member of a species that is:

(i) not included in the definition of amenable species; and

(ii) domestically raised.

(b) “Nonamenable species” includes domesticated game, as defined in Section 4-32a-201.

[27] (29) “Official certificate” means any certificate prescribed by rules of the department for issuance by an inspector or other person performing official functions under this chapter.

[28] (30) “Official device” means a device prescribed or authorized by the commissioner for use in applying an official mark.

[29] (31) “Official establishment” means an establishment at which inspection of the slaughter of animals or the preparation of meat or poultry products is maintained under the authority of this chapter.

[30] “Official inspection” means where domestic animals are slaughtered or preparations for slaughter are carried out under grant of inspection that is issued by the department.]

(32) (a) “Official inspection” means mandatory inspection, carried out under grant of inspection issued by the department, of a slaughtered animal or preparation for slaughtering an animal, if the animal is intended for human consumption.

(b) “Official inspection” does not apply to custom exempt processing or farm custom slaughter.

[31] (33) “Official inspection legend” means a symbol prescribed by rules of the department showing that a meat or poultry product was inspected and passed in accordance with this chapter.

[32] (34) “Official mark” means the official legend or other symbol prescribed by rules of the department to identify the status of an animal carcass or meat or poultry product under this chapter.

[33] (35) “Pesticide chemical,” “food additive,” “color additive,” and “raw agricultural commodity,” have the same meanings for purposes of this chapter as ascribed to them in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

[34] (36) “Postmortem inspection” means an inspection of a slaughtered food animal’s carcass after slaughter.

[35] (37) “Poultry” means any domesticated bird, whether living or dead.

[36] (38) “Poultry product” means any product capable of use as human food that is made wholly or in part from any poultry carcass, excepting products that contain poultry ingredients in relatively small proportion or that historically have not been considered by consumers as products of the

poultry food industry, and that are exempted from definition as a poultry product by the commissioner.

[37] (39) “Prepared” means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

[38] (40) “Process” means to cut, grind, manufacture, compound, smoke, intermix, or prepare meat or poultry products.

[39] (41) “Renderer” means any person engaged in the business of rendering animal carcasses, or parts or products of animal carcasses, except rendering conducted under inspection or exemption under this chapter.

[40] (42) “Slaughter” means:

(a) the killing of an animal, amenable species, or nonamenable species in a humane manner including skinning or dressing; or

(b) the process of performing any of the specified acts in preparing an animal, amenable species, or nonamenable species for human consumption.

[41] “Wild game” means an animal, the products of which are food that is not classified as a domesticated food animal, captive game animal, or captive game bird, including the following when not domesticated:]

[a] deer;

[b] elk;

[c] antelope;

[d] moose;

[e] bison;

[f] bear;

[g] rabbit;

[h] squirrel;

[i] raccoon; and

[j] birds.

(43) “Wild game” means a species, the products of which are food, that is not classified as an amenable species or nonamenable species, including:

(a) a deer;

(b) an elk;

(c) an antelope;

(d) a moose;

(e) a bison;

(f) a rabbit; and

(g) a bird.

Section 2. Section 4-32-107 is amended to read:

4-32-107. Meat establishment and farm custom slaughter licenses -- Application -- Fees -- Expiration -- Renewal.

(1) A person may not operate a meat establishment in the state without a meat establishment license issued by the department.

(2) (a) Application for a license to operate a meat establishment shall be made to the department upon a form prescribed and furnished by the department.

(b) Upon receipt of a proper application, compliance with all applicable rules, and the payment of an annual license fee determined by the department according to Subsection 4-2-103(2), the commissioner, if satisfied that the public convenience and necessity will be served, shall issue a license allowing the applicant to operate a meat establishment through December 31 of the year in which the license is issued, subject to suspension or revocation for cause.

(c) A meat establishment license is annually renewable on or before December 31 of each year, upon the payment of an annual license renewal fee in an amount determined by the department according to Subsection 4-2-103(2).

(3) (a) Application for a farm custom slaughter license to engage in the business of slaughtering livestock or a nonamenable species shall be made to the department on a form prescribed and furnished by the department.

(b) Upon receipt of a proper application, compliance with all applicable rules, and payment of a license fee in an amount determined by the department according to Subsection 4-2-103(2), the commissioner shall issue a license allowing the applicant to engage in farm custom slaughtering.

(c) A farm custom slaughter license is annually renewable on or before December 31 of each year, upon the payment of an annual renewal license fee in an amount determined by the department according to Subsection 4-2-103(2).

Section 3. Section 4-32-108 is amended to read:

4-32-108. Duties of person who holds a farm custom slaughter license.

Each person who holds a farm custom slaughter license shall:

(1) keep accurate records of each animal or a nonamenable species slaughtered, including:

(a) the name, address, and telephone number of each person for whom the animal or a nonamenable species is slaughtered;

(b) a full description of each animal or a nonamenable species slaughtered including age, brands, marks, or other identifying marks, proof of ownership, and the destination of the carcass for processing; and

(c) the date of slaughter;

(2) require that each animal presented for slaughter bear a farm custom slaughter NOT FOR SALE tag;

(3) render the animal to be slaughtered insensible to pain by captive bolt, gunshot, electric shock, or other humane means before it is shackled, hoisted, thrown, cast, or cut; and

(4) stamp and tag the carcass of any slaughtered animal "Not For Sale."

Section 4. Section 4-32a-101 is enacted to read:

**CHAPTER 32a. DOMESTICATED GAME
SLAUGHTER AND PROCESSING**

Part 1. General Provisions

4-32a-101. Title.

This chapter is known as "Domesticated Game Slaughter and Processing."

Section 5. Section 4-32a-102 is enacted to read:

4-32a-102. Definitions.

Reserved

Section 6. Section 4-32a-201 is enacted to read:

Part 2. Domesticated Game Slaughter and Processing

4-32a-201. Definitions.

As used in this part:

(1) "Antemortem inspection" means the inspection of live domesticated game immediately before slaughter.

(2) "Domesticated game" means one of the following that is commercially raised for wholesale or retail sale to a restaurant, store, or end consumer:

(a) a domesticated elk;

(b) a bison;

(c) a game bird; or

(d) a rabbit.

(3) "Domesticated game carcass" means any part of the slaughtered body of domesticated game, including entrails and edible meats.

(4) "Domesticated game slaughter" means the slaughter of domesticated game that is not regulated under Chapter 32, Utah Meat and Poultry Products Inspection and Licensing Act.

(5) "End consumer" means an individual who:

(a) purchases a product directly from an agricultural operation or a facility licensed to perform custom exempt processing, as defined in Section 4-32-105; and

(b) does not resell the purchased product.

(6) "Farm custom slaughter license" means a farm custom slaughter license issued under Section 4-32-107.

(7) "Postmortem inspection" means the inspection of a domesticated game carcass after slaughter.

(8) “Process” means to cut, grind, manufacture, compound, smoke, intermix, or prepare products from a domesticated game carcass.

(9) “Slaughter” means killing domesticated game in a humane manner, including skinning or dressing.

(10) “Veterinarian” means a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, who has successfully completed formal training in antemortem inspection and postmortem inspection.

(11) “Veterinarian designee” means an individual designated by a veterinarian as successfully completing formal training in antemortem inspection and postmortem inspection.

Section 7. Section 4-32a-202 is enacted to read:

4-32a-202. Domesticated game slaughter and processing.

(1) Except as provided in this part, the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq., or the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., a person may not slaughter domesticated game for:

- (a) wholesale or retail sale; or
- (b) sale to an end consumer.

(2) In accordance with this part and department rule, the department shall permit the slaughter and processing of domesticated game.

(3) This chapter does not apply to the slaughter of domesticated game if the purpose of slaughtering the domesticated game is for personal use.

(4) Nothing in this part prohibits a person from processing a domesticated game carcass in accordance with this part, if:

- (a) the domesticated game carcass passes postmortem inspection as described in this part; and
- (b) (i) the person holds a farm custom slaughter license; or
- (ii) the person processes the domesticated game carcass in accordance with the exemption described in 9 C.F.R. Secs. 303.1(d)(1) and (2).

(5) A person who slaughters domesticated game under this part may not sell the domesticated game outside of the state.

Section 8. Section 4-32a-203 is enacted to read:

4-32a-203. Notice to department before slaughtering or processing domesticated game.

(1) Before slaughtering domesticated game, a person shall notify the department at least 30 days before the day on which the person slaughters the domesticated game.

(2) Before processing slaughtered domesticated game, a person shall notify the department at least five days before the day on which the person processes the slaughtered domesticated game.

Section 9. Section 4-32a-204 is enacted to read:

4-32a-204. Inspection and slaughter of domesticated game.

(1) Except as provided in Section 4-32a-205, domesticated game shall receive both an antemortem inspection and postmortem inspection by a veterinarian or veterinarian designee as part of the slaughtering process, in accordance with this section.

(2) A veterinarian or veterinarian designee may complete an antemortem inspection or postmortem inspection in the field, in accordance with the requirements of this part.

(3) (a) Before undertaking an antemortem inspection or postmortem inspection, a veterinarian or veterinarian designee shall inspect the designated slaughter area and facilities in accordance with this part and department rule.

(b) A veterinarian or veterinarian designee may not undertake an antemortem or postmortem inspection if the designated slaughter area and facilities do not pass the inspection described in Subsection (3)(a).

(4) If domesticated game requires an antemortem inspection and the domesticated game does not pass the antemortem inspection, the domesticated game may not be slaughtered for wholesale or retail sale.

(5) (a) Before being shackled, hoisted, thrown, cast, or cut, domesticated game shall be rendered insensible to pain by a single blow, gunshot, electrical shock, or other means that is instantaneous and effective.

(b) Immediately after domesticated game is stunned or killed, the domesticated game or domesticated game carcass shall be shackled, hoisted, stuck, and bled.

(c) The parts of a domesticated game carcass shall be identified with the particular carcass until after completion of the postmortem inspection, in accordance with department rule.

(6) (a) Postmortem inspection of a domesticated game carcass shall be conducted immediately following the slaughter and evisceration of the domesticated game.

(b) A veterinarian or veterinarian designee that completes a postmortem inspection shall, if condemning a domesticated game carcass:

- (i) mark each domesticated game carcass or part of a domesticated game carcass as condemned in accordance with department rule; and
- (ii) retain custody of each condemned domesticated game carcass or carcass part until proper disposal occurs, in accordance with 9 C.F.R. Part 314 and department rule.

Section 10. Section 4-32a-205 is enacted to read:

4-32a-205. Requirements for slaughtered domesticated game intended for sale to an end consumer.

(1) Domesticated game intended for sale to an end consumer does not require an antemortem inspection.

(2) Domesticated game intended for sale to an end consumer shall:

(a) receive a postmortem inspection; or

(b) in accordance with department rule, prior to sale, be labeled that the purchased product is not certified, licensed, regulated, or inspected by the state.

Section 11. Section 4-32a-206 is enacted to read:

4-32a-206. Transportation of slaughtered domesticated game.

(1) Prior to transport, stunned or slaughtered domesticated game shall be tagged as described in department rule.

(2) A domesticated game carcass intended for processing shall be transported in accordance with department rule.

Section 12. Section 4-32a-207 is enacted to read:

4-32a-207. Fees set by department -- Cost of chronic wasting disease testing.

(1) The department shall adopt a schedule of fees to cover the cost of this part.

(2) The owner of domesticated game slaughtered under this part is responsible for the cost of required chronic wasting disease testing.

Section 13. Section 4-32a-208 is enacted to read:

4-32a-208. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this part, the department shall make rules regarding:

(a) antemortem inspection, in accordance with 9 C.F.R. Sec. 352.10;

(b) postmortem inspection of the domesticated game carcass to ensure the domesticated game carcass is clean and wholesome, including inspection of the kidneys and abdominal and thoracic viscera;

(c) slaughter area and facilities requirements;

(d) personal cleanliness of individuals involved in domesticated game slaughter;

(e) skinning, hoisting, bleeding, and evisceration of domesticated game animals;

(f) chronic wasting disease testing requirements, surveillance, investigation, and follow-up, in accordance with department rule;

(g) tags and tagging procedure to maintain carcass identification;

(h) procedure for transportation of a domesticated game carcass; and

(i) packaging and labeling of domesticated game products.

(2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding labeling a domesticated game carcass as slaughtered:

(a) with inspection and processed at a farm custom slaughter facility; or

(b) with inspection and the domesticated game carcass released to a licensed food establishment for processing and sale to a consumer.

(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that allow:

(a) a person with a farm custom slaughter license to slaughter and process domesticated game in accordance with this part; and

(b) a facility licensed to perform custom exempt processing, as defined in Section 4-32-105, to process slaughtered domesticated game in accordance with this part.

CHAPTER 316**H. B. 416**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**EDUCATIONAL SERVICES FOR STUDENTS
 IN HUMAN SERVICES PROGRAMS**

Chief Sponsor: Derrin R. Owens
 Senate Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill modifies provisions regarding children who attend public school while served by a human services program.

Highlighted Provisions:

This bill:

- ▶ defines, in the context of a child's school district of residency, the term "supervision" of a child who is served by a human services program;
- ▶ modifies provisions regarding the educational service plan required for a child who is served by a human services program and attends a public school; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-6-302, as last amended by Laws of Utah 2018, Chapter 64 and renumbered and amended by Laws of Utah 2018, Chapter 3

62A-2-108.1, as last amended by Laws of Utah 2018, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-302 is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 62A-2-108.1.

(2) The school district of residence of a minor child whose custodial parent or legal guardian resides within Utah is:

(a) the school district in which the custodial parent or legal guardian resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section 62A-4a-606 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the State Board of Education;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the State Board of Education; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent or legal guardian does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the State Board of Education, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent or guardian moves from the state;

(ii) the child's parent or guardian executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the rules and policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section

and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 2. Section 62A-2-108.1 is amended to read:

62A-2-108.1. Coordination of human services and educational services -- Licensing of programs -- Procedures.

(1) ~~[For purposes of]~~ As used in this section:

(a) ~~["accredited"]~~ "Accredited private school" means a private school that is accredited by an accrediting entity recognized by the Utah State Board of Education~~;~~ and.

(b) ~~["education"]~~ "Education entitled children" means children:

(i) subject to compulsory education under Section 53G-6-202;

(ii) subject to the school attendance requirements of Section 53G-6-203; or

(iii) entitled to educational services under Section 53E-7-202.

(2) Subject to Subsection ~~[(8) or]~~ (9) or (10), a human services program may not be licensed to serve education entitled children unless the human services program presents an educational service plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that children served by the human services program shall receive appropriate educational services satisfying the requirements of applicable law.

(3) An educational services plan may be accepted if the educational services plan includes:

(a) the following information provided by the human services program:

(i) the number of children served by the human services program estimated to be enrolled in the local school district;

(ii) the ages and grade levels of children served by the human services program estimated to be enrolled in the local school district;

(iii) the subjects or hours of the school day for which children served by the human services program are estimated to enroll in the local school district;

(iv) the direct contact information for the purposes of taking custody of a child served by the human services program during the school day in case of illness, disciplinary removal by a school, or emergency evacuation of a school; and

(v) the method or arrangements for the transportation of children served by the human services program to and from the school; and

(b) the following information provided by the school district:

(i) enrollment procedures and forms;

(ii) documentation required prior to enrollment from each of the child's previous schools of enrollment;

(iii) if applicable, a schedule of the costs for tuition and school fees; and

(iv) schools and services for which a child served by the human services program may be eligible.

[(3)] (4) Subject to Subsection [(8)-or] (9) or (10), if a human services program serves any education entitled children whose custodial parents or legal guardians reside outside the state, then the program shall also provide an educational funding plan that includes evidence:

(a) satisfactory to:

(i) the office; and

(ii) (A) the local school board of the school district in which the human services program will be operated; or

(B) the school district superintendent of the school district in which the human services program will be operated; and

(b) that all costs for educational services to be provided to the education entitled children, including tuition, and school fees approved by the local school board, shall be borne by the human services program.

[(4)] (5) Subject to Subsection [(8)-or] (9) or (10), and in accordance with Subsection (2), the human services program shall obtain and provide the office with a letter:

(a) from the entity referred to in Subsection (2)(a)(ii):

(i) approving the educational service plan referred to in Subsection [(2)] (3); or

(ii) (A) disapproving the educational service plan referred to in Subsection [(2)] (3); and

(B) listing the specific requirements the human services program must meet before approval is granted; and

(b) from the entity referred to in Subsection [(3)] (4)(a)(ii):

(i) approving the educational funding plan, referred to in Subsection [(3)] (4); or

(ii) (A) disapproving the educational funding plan, referred to in Subsection [(3)] (4); and

(B) listing the specific requirements the human services program must meet before approval is granted.

[(5)] (6) Subject to Subsection [(8)] (9), failure of a local school board or school district superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent to approval of the plan by the local school board or school district superintendent if the human services program provides to the office:

(a) proof that:

(i) the human services program submitted the proposed plan to the local school board or school district superintendent; and

(ii) more than 45 days have passed from the day on which the plan was submitted; and

(b) an affidavit, on a form produced by the office, stating:

(i) the date that the human services program submitted the proposed plan to the local school board or school district superintendent;

(ii) that more than 45 days have passed from the day on which the plan was submitted; and

(iii) that the local school board or school district superintendent described in Subsection [(5)] (6)(b)(i) failed to respond to the proposed plan within 45 days from the day on which the plan was submitted.

[(6)] (7) If a licensee that is licensed to serve an education entitled child fails to comply with [its] the licensee's approved educational service plan or educational funding plan, then:

(a) the office [shall] may give the licensee notice of intent to revoke the licensee's license; and

(b) if the licensee continues its noncompliance for more than 30 days after receipt of the notice described in Subsection [(6)] (7)(a), the office [shall] may revoke the licensee's license.

[(7)] (8) If an education entitled child whose custodial parent or legal guardian resides within the state is provided with educational services by a school district other than the school district in which the custodial parent or legal guardian resides, then the funding provisions of Section 53G-6-405 apply.

[(8)] (9) A human services program that is an accredited private school:

(a) for purposes of Subsection [(2)] (3):

(i) is only required to submit proof to the office that the accreditation of the private school is current; and

(ii) is not required to submit an educational service plan for approval by an entity described in Subsection (2)(a)(ii);

(b) for purposes of Subsection ~~[(3)]~~ (4):

(i) is only required to submit proof to the office that all costs for educational services provided to education entitled children will be borne by the human services program; and

(ii) is not required to submit an educational funding plan for approval by an entity described in Subsection ~~[(3)]~~ (4)(a)(ii); and

(c) is not required to comply with Subsections ~~[(4) and]~~ (5) and (6).

~~[(9)]~~ (10) Except for Subsection ~~[(7)]~~ (8), the provisions of this section do not apply to a human services program that is ~~[(a)]~~ a licensed or certified foster home ~~[-and]~~ as defined in Section 62A-2-101.

~~[(b) required to be licensed by the office.]~~

CHAPTER 317**H. B. 422**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

MARRIAGE CODE REVISIONS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to marriage.

Highlighted Provisions:

This bill:

- ▶ addresses incestuous marriages;
- ▶ clarifies when marriages are prohibited and void;
- ▶ replaces certain references to gender specific terms with gender neutral terms;
- ▶ establishes who may solemnize a marriage;
- ▶ addresses the content of a marriage license;
- ▶ provides for an affidavit before the clerk; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 30-1-1, as last amended by Laws of Utah 1996, Chapter 83
- 30-1-2, as last amended by Laws of Utah 1999, Chapter 15
- 30-1-3, Utah Code Annotated 1953
- 30-1-6, as last amended by Laws of Utah 2015, Chapter 46
- 30-1-8, as last amended by Laws of Utah 2004, Chapter 261
- 30-1-9, as last amended by Laws of Utah 2018, Chapter 415
- 30-1-10, as last amended by Laws of Utah 2011, Chapter 297
- 30-1-12, as last amended by Laws of Utah 1988, Chapter 154

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-1 is amended to read:**30-1-1. Incestuous marriages void.**

(1) The following marriages are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate:

- (a) marriages between parents and children;
- (b) marriages between ancestors and descendants of every degree;
- (c) marriages between [~~brothers and sisters~~] siblings of the half as well as the whole blood;
- (d) marriages between:

(i) uncles and nieces or nephews; or

(ii) aunts and nieces or nephews;

(e) marriages between first cousins, except as provided in Subsection (2); or

(f) marriages between any [~~persons~~] individuals related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).

(2) First cousins may marry under the following circumstances:

(a) both parties are 65 years of age or older; or

(b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Section 2. Section 30-1-2 is amended to read:**30-1-2. Marriages prohibited and void.**

The following marriages are prohibited and declared void:

(1) when there is a [~~husband or wife~~] spouse living, from whom the person marrying has not been divorced;

(2) when [~~the male or female~~] an applicant is under 18 years of age unless consent is obtained as provided in Section 30-1-9;

(3) [~~when the male or female is under 14 years of age or, beginning May 3, 1999, when the male or female~~] when an applicant is under 16 years of age at the time the parties attempt to enter into the marriage[; however,], except that exceptions may be made for a person 15 years of age, under conditions set in accordance with Section 30-1-9; and

(4) between a divorced [~~person~~] individual and any [~~person~~] individual other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree[; and].

[~~(5) between persons of the same sex.~~]

Section 3. Section 30-1-3 is amended to read:**30-1-3. Marriage in belief of death or divorce of former spouse -- Issue legitimate.**

When a marriage is contracted in good faith and in the belief of the parties that a former [~~husband or wife~~] spouse, then living and not legally divorced, is dead or legally divorced, the issue of such marriage born or begotten before notice of the mistake shall be the legitimate issue of both parties.

Section 4. Section 30-1-6 is amended to read:**30-1-6. Who may solemnize marriages -- Certificate.**

(1) Except for a county clerk, or a county clerk's designee, as provided below, the following [~~persons~~]

individuals may solemnize a marriage at that ~~[person's]~~ individual's discretion:

~~[(a) ministers, rabbis, or priests of any religious denomination who are;]~~

~~[(i) in regular communion with any religious society; and]~~

~~[(ii) 18 years of age or older;]~~

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) Native American spiritual advisors;

(c) the governor;

(d) the lieutenant governor;

(e) mayors of municipalities or county executives;

(f) a justice, judge, or commissioner of a court of record;

(g) a judge of a court not of record of the state;

(h) judges or magistrates of the United States;

(i) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;

(j) the president of the Senate;

(k) the speaker of the House of Representatives; or

(l) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

~~(2) [A person]~~ An individual authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(3) As used in this section:

(a) "Judge or magistrate of the United States" means:

(i) a justice of the United States Supreme Court;

(ii) a judge of a court of appeals;

(iii) a judge of a district court;

(iv) a judge of any court created by an act of Congress the judges of which are entitled to hold office during good behavior;

(v) a judge of a bankruptcy court;

(vi) a judge of a tax court; or

(vii) a United States magistrate.

(b) (i) "Native American spiritual advisor" means a person who:

(A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and

(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(4) Except as provided in Section 17-20-4, and notwithstanding any other provision in law, no ~~[person]~~ individual authorized under Subsection (1) to solemnize a marriage may delegate or deputize another ~~[person]~~ individual to perform the function of solemnizing a marriage.

Section 5. Section 30-1-8 is amended to read:

30-1-8. Application for license -- Contents.

(1) A county clerk may issue a marriage license ~~[may be issued by the county clerk to a man and a woman]~~ only after an application has been filed in ~~[his]~~ the county clerk's office, requiring the following information:

(a) the full names of the ~~[man and the woman]~~ applicants, including the maiden or bachelor name ~~[of the woman]~~ of each applicant;

(b) the ~~[Social Security]~~ social security numbers of the ~~[parties, unless the party]~~ applicants, unless an applicant has not been assigned a number;

(c) the current address of each ~~[party]~~ applicant;

(d) the date and place of birth ~~[(town or city, county, state or country, if possible)]~~;

(e) the names of ~~[their]~~ the applicants' respective parents, including the maiden name of the mother; and

(f) the birthplaces of ~~[fathers and mothers]~~ the applicants' respective parents, including the town or city, county, state or country, if possible~~]; and]~~.

~~[(g) the distinctive race or nationality of each of the parents.]~~

~~[(2) If the woman is a widow, her maiden name shall be shown in brackets.]~~

~~[(3)]~~ (2) If one or both of the ~~[parties]~~ applicants is under 16 years of age, the clerk shall provide them with a standard petition on a form approved by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

~~[(4)]~~ (3) (a) The ~~[Social Security]~~ social security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

(b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply those ~~[Social Security]~~ social security numbers to the Office of Recovery Services within the Department of Human Services.

(c) The Office of Recovery Services may not use any ~~[Social Security]~~ social security numbers

obtained under the authority of this section for any reason other than the administration of child support services.

Section 6. Section 30-1-9 is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means [a ~~male or female~~] an applicant for a marriage license under 18 years of age.

(2) (a) If at the time of applying for a license the applicant is a minor, and not before the minor is married, a license may not be issued without the signed consent of the minor's [father, mother,] parent or guardian given in person to the clerk; [however], except that:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) If the [~~male or female~~] applicant is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(3) (a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.

(c) The judge or court commissioner may require:

(i) that the [~~person~~] minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(4) The determination required in Subsection (3) shall be made on the record. Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Section 7. Section 30-1-10 is amended to read:

30-1-10. Affidavit before the clerk -- Penalty.

(1) [~~When the parties are personally unknown to the clerk a license may not be issued.] A clerk may not issue a license until an affidavit is made before the clerk, which shall be filed and preserved by the clerk, by a party applying for the license, showing that there is no lawful reason in the way of the marriage.~~

(2) A party who makes an affidavit described in Subsection (1) or a subscribing witness to the affidavit who falsely swears in the affidavit is guilty of perjury.

Section 8. Section 30-1-12 is amended to read:

30-1-12. Clerk to file license and certificate.

(1) The license, together with the certificate of the [~~person~~] individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by [~~him~~] the clerk in a book kept for that purpose, or by electronic means. The record shall be properly indexed in the names of the parties so married.

(2) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

CHAPTER 318**H. B. 425**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**LOCAL GOVERNMENT
 OFFICER BONDING AMENDMENTS**

Chief Sponsor: Val K. Potter
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions related to municipal officer bonds.

Highlighted Provisions:

This bill:

- ▶ reorganizes provisions related to municipal officer bonds; and
- ▶ modifies the acceptable forms of bonds for municipal officers to include a general fidelity bond or a theft and crime insurance policy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

10-3-831, Utah Code Annotated 1953

REPEALS:

- 10-3-819, as last amended by Laws of Utah 1987, Chapter 92
- 10-3-820, as last amended by Laws of Utah 2008, Chapter 19
- 10-3-821, as enacted by Laws of Utah 1977, Chapter 48
- 10-3-822, as enacted by Laws of Utah 1977, Chapter 48
- 10-3-823, as enacted by Laws of Utah 1977, Chapter 48
- 10-3-824, as enacted by Laws of Utah 1977, Chapter 48
- 10-3-825, as enacted by Laws of Utah 1977, Chapter 48

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-831 is enacted to read:

10-3-831. Fidelity bonds and theft or crime insurance.

(1) As used in this section, "municipal officer" means:

- (a) the mayor;
- (b) each member of the municipal legislative body;
- (c) the municipal treasurer; and
- (d) anyone for whom the municipal legislative body determines a general fidelity or public employee blanket bond or theft or crime insurance should be acquired.

(2) (a) (i) Except as provided in Subsection (2)(b), the legislative body of each municipality shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the municipal officer.

(ii) If, under Subsection (2)(a)(i), a municipality has prescribed the amount of the general fidelity bond required, then theft or crime insurance in an amount that is not less than the bond satisfies the requirement described in Subsection (2)(a)(i).

(iii) Before a municipal officer may discharge the duties of the officer's office, the municipality shall have in place a bond or theft or crime insurance covering the municipal officer in the amounts the municipality prescribes.

(b) Before the municipal treasurer may discharge the duties of the treasurer's office, the municipality shall have in place a bond or theft or crime insurance covering the treasurer in an amount not less than the amount the State Money Management Council, created in Section 51-7-16, prescribes.

(c) A municipal legislative body may acquire a fidelity bond or theft or crime insurance on all municipal officers and the municipal treasurer as a group rather than individually.

(3) The municipal legislative body shall pay the cost of each fidelity bond and theft or crime insurance policy from municipal funds.

(4) The municipal recorder shall file and maintain each fidelity bond acquired under this section.

Section 2. Repealer.

This bill repeals:

Section 10-3-819, Bonds required.**Section 10-3-820, Bonds of officers in cities of the first and second class.****Section 10-3-821, Bond of treasurers.****Section 10-3-822, Approval of bonds.****Section 10-3-823, Premium paid by municipality.****Section 10-3-824, Bonds of first officers after incorporation.****Section 10-3-825, Additional bonds.**

CHAPTER 319**H. B. 432**

Passed March 14, 2019

Approved March 26, 2019

Effective May 14, 2019

**ELECTED OFFICIAL AND JUDICIAL
COMPENSATION COMMISSION
AMENDMENTS**Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson**LONG TITLE****General Description:**

This bill amends the duties of the Elected Official and Judicial Compensation Commission.

Highlighted Provisions:

This bill:

- ▶ removes the Elected Official and Judicial Compensation Commission's duty to recommend compensation for the members of the State Board of Education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-8-5, as last amended by Laws of Utah 2018, Chapter 25

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-8-5 is amended to read:**67-8-5. Duties of commission -- Salary recommendations.**

(1) The commission shall recommend to the Legislature:

(a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record~~;~~and.

~~[(e) compensation for members of the State Board of Education.]~~

(2) The commission shall:

(a) in making recommendations on salaries described in Subsections (1)(a) and (b):

(i) make studies and formulate recommendations concerning the wage and salary classification plan based upon factors such as educational requirements, experience, responsibility, accountability for funds and staff, comparisons with wages paid in other comparable public and private employment within this state, and other states similarly situated, and any other factors generally used in similar comprehensive wage and salary classification plans so that the plan and its

administration reflect current conditions at all times; and

(ii) consult and advise with, and make recommendation to, the Department of Human Resource Management regarding the plan, its administration, and the position of any elected official and judge covered by the plan;

(b) in making recommendations on compensation described in Subsection (1)(c), make studies and formulate recommendations concerning compensation of members of state boards of education in other states and other factors the commission determines to be relevant so that the compensation reflects current conditions at all times;

(c) submit to the Executive Appropriations Committee not later than 60 days before commencement of each annual general session:

(i) a report briefly summarizing its activities during the calendar year immediately preceding the session;

(ii) recommendations concerning revisions, modifications, or changes, if any, that should be made in the plan, its administration, the classification of any elected official or judge under the plan, or the compensation of members of the State Board of Education; and

(iii) specific recommendations regarding the office of governor, lieutenant governor, attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be made in the salary or other emoluments of office so that all elected and judicial officials receive equitable and consistent treatment regardless of whether salaries are fixed by the Legislature or by the Department of Human Resource Management; and

(d) conduct a comprehensive review of judicial salary levels and make recommendations for judicial salaries in a report to the president of the Senate, the speaker of the House of Representatives, and the governor by November 1, prior to the convening of the general session of the Legislature in each odd-numbered year.

(3) (a) The recommendation under Subsection (2)(d) shall be based upon consultation with the Judicial Council and upon consideration for the career status of judges. It shall be based upon comparisons with salaries paid in other states and in comparable public and private employment within this state.

(b) In even-numbered years, the commission shall update its prior report, based upon the Consumer Price Index and other relevant factors, and shall forward its updated recommendations as prescribed in this section.

(4) The Judicial Council shall cooperate with the commission in providing information on the judicial branch of government and on the individual levels of court as requested. The director of personnel from the Administrative Office of the Courts shall provide the salary comparison data referred to in

this section to the legislative fiscal analyst and shall provide other staff assistance and support as requested by the legislative fiscal analyst.

CHAPTER 320**H. B. 435**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**UNDIAGNOSED CHILDREN
 INSURANCE COVERAGE AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill requires the state Medicaid program and Public Employees' Benefit and Insurance Program to cover exome sequence testing.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires the state Medicaid program and Public Employees' Benefit and Insurance Program to cover exome sequence testing for certain enrollees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

26-18-25, Utah Code Annotated 1953
 49-20-419, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-25 is enacted to read:

26-18-25. Coverage of exome sequence testing.

(1) As used in this section, "exome sequence testing" means a genomic technique for sequencing the genome of an individual for diagnostic purposes.

(2) The Medicaid program shall reimburse for exome sequence testing:

- (a) for an enrollee who:
 - (i) is younger than 21 years of age; and
 - (ii) who remains undiagnosed after exhausting all other appropriate diagnostic-related tests;
- (b) performed by a nationally recognized provider with significant experience in exome sequence testing;
- (c) that is medically necessary; and
- (d) at a rate set by the Medicaid program.

Section 2. Section 49-20-419 is enacted to read:

49-20-419. Coverage of exome sequence testing.

(1) As used in this section, "exome sequence testing" means a genomic technique for sequencing the genome of an individual for diagnostic purposes.

(2) Beginning July 1, 2019, the program shall provide coverage for exome sequence testing:

- (a) for a covered individual within the state risk pool who:
 - (i) is younger than 21 years of age; and
 - (ii) who remains undiagnosed after exhausting all other appropriate diagnostic-related tests;
- (b) performed by a nationally recognized provider with significant experience in exome sequence testing;
- (c) that is medically necessary; and
- (d) at a rate set by the program.

CHAPTER 321**H. B. 445**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**HEALTH CARE DEBT
 COLLECTION NOTICE AMENDMENTS**

Chief Sponsor: Kelly B. Miles
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill amends provisions relating to health care debt collection.

Highlighted Provisions:

This bill:

- ▶ permits a health care provider to provide certain notices regarding health care debt collections by first class mail or by email under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-26-313, as enacted by Laws of Utah 2018, Chapter 203

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-26-313 is amended to read:

31A-26-313. Health care collection actions -- Notification required.

- (1) As used in this section:
- (a) (i) "Collection action" means any action taken to recover funds that are past due or accounts that are in default:
- (A) for health care services; and
- (B) that directly results in an adverse report to a credit bureau.
- (ii) "Collection action" includes using the services of a collection agency to engage in collection action.
- (iii) "Collection action" does not include:
- (A) billing or invoicing for funds that are not past due or accounts that are not in default; or
- (B) providing the notice required in this section.
- (b) "Credit bureau" means a consumer reporting agency as defined in 15 U.S.C. Sec. 1681a.
- (c) "Text message" means a real time or near real time message that consists of text and is transmitted to a device identified by a telephone number.
- (2) (a) Before engaging in a collection action, a health care provider:

(i) shall, after the day on which the period of time for an insurer to pay or deny a claim without penalty, described in Section 31A-26-301.6, expires, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, first class mail, email, or text message; and

(ii) for a Medicare beneficiary or retiree 65 years of age or older, shall, after the date that Medicare determines Medicare's liability for the claim, send a notice described in Subsection (3) to the insured by certified mail with return receipt requested, priority mail, first class mail, or text message.

(b) A health care provider may not engage in a collection action before the date described in Subsection (3)(b) for that collection action.

(3) The notice described in Subsection (2)(a) shall state:

(a) the amount that the insured owes;

(b) the date by which the insured must pay the amount owed that is:

(i) at least 45 days after the day on which the health care provider sends the notice; or

(ii) if the insured is a Medicare beneficiary or retiree 65 years of age or older, at least 60 days after the day on which the health care provider sends the notice;

(c) that if the insured fails to timely pay the amount owed, the health care provider or a third party may make a report to a credit bureau or use the services of a collection agency; and

(d) that each action described in Subsection (3)(c) may negatively impact the insured's credit score.

(4) A health care provider is not subject to the requirements described in Subsection (2) if the health care provider complies with the provisions of 26 C.F.R. Sec. 1.501(r)-6.

(5) A health care provider that contracts with a third party to engage in a collection action is not subject to the requirements described in Subsection (2) if:

(a) entering into the contract does not require a report to a credit bureau by either the health care provider or the third party; and

(b) the third party agrees to provide the notice in accordance with Subsection (2) before the third party may engage in any activity that directly results in a report to a credit bureau.

(6) If a third party fails to comply with the notice requirements described in this section, the health care provider that renders the health care service is liable for any penalty resulting from the noncompliance of the third party.

CHAPTER 322**H. B. 446**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

TRUTH IN TAXATION REVISIONS

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill amends provisions related to truth in taxation and approval of a budget by a taxing entity.

Highlighted Provisions:

This bill:

- ▶ amends the date by which certain taxing entities are required to make a final budgeting decision related to additional ad valorem tax revenue after a truth in taxation hearing;
- ▶ amends the date by which certain taxing entities are required to conduct certain budgeting activities;
- ▶ amends provisions related to the submission of a resolution to the State Tax Commission;
- ▶ provides a deadline for a certain public meeting that is part of the truth in taxation process; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-5-109, as last amended by Laws of Utah 2018, Chapter 101
 10-5-112, as last amended by Laws of Utah 1989, Chapter 118
 10-6-118, as last amended by Laws of Utah 2018, Chapter 101
 10-6-133, as last amended by Laws of Utah 2014, Chapter 176
 10-6-135, as last amended by Laws of Utah 2017, Chapter 71
 59-2-919, as last amended by Laws of Utah 2018, Chapters 68 and 415
 59-2-920, as last amended by Laws of Utah 1988, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-109 is amended to read:**10-5-109. Adoption of budgets -- Filing.**

(1) Before June 30 of each year, or [August 17] September 1 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council shall by resolution or ordinance adopt a budget for the ensuing fiscal year for each fund for which a budget is required under this chapter.

(2) The council shall file a copy of the final budget for each fund with the state auditor within 30 days after adoption.

Section 2. Section 10-5-112 is amended to read:**10-5-112. Property tax levy set by ordinance -- Maximum -- Certification.**

(1) Not later than June 22 of each year, or [August 17] September 1 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for town purposes, but the levy may be set at an appropriate later date with the approval of the State Tax Commission.

(2) The combined levies for each town, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

(3) The town clerk shall certify the ordinance or resolution setting the levy to the county auditor, or auditors, if the town is located in more than one county, not later than June 22 of each year.

Section 3. Section 10-6-118 is amended to read:**10-6-118. Adoption of final budget -- Certification and filing.**

(1) Before June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before [August 17] September 1 of the year for which a property tax increase is proposed, the governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal period for each fund for which a budget is required under this chapter.

(2) The budget officer of the governing body shall certify a copy of the final budget and file the copy with the state auditor within 30 days after adoption.

Section 4. Section 10-6-133 is amended to read:**10-6-133. Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.**

(1) (a) Before June 22 of each year, or [August 17] September 1 in the case of a property tax rate increase under Sections 59-2-919 through 59-2-923, the governing body of each city, including charter cities, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for various municipal purposes.

(b) Notwithstanding Subsection (1)(a), the governing body may set the levy at an appropriate later date with the approval of the State Tax Commission.

(2) In its computation of the total levy, the governing body shall determine the requirements of each fund for which property taxes are to be levied and shall specify in its ordinance or resolution

adopting the levy the amount apportioned to each fund.

(3) The proceeds of the levy apportioned for city general fund purposes shall be credited as revenue in the city general fund.

(4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

(5) The combined levies for each city, including charter cities, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

Section 5. Section 10-6-135 is amended to read:

10-6-135. Operating and capital budgets.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation for an enterprise fund or other required special fund that includes estimates of operating resources, expenses, and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and the procedures and controls relating to a budget or budgets in other sections of this chapter do not apply or refer to the operating and capital budgets described in this section.

(2) At or before the time the governing body adopts budgets for the funds described in Section 10-6-109, the governing body shall adopt:

(a) an operating and capital budget for each enterprise fund for the ensuing fiscal period; and

(b) the type of budget for other special funds as required by the Uniform Accounting Manual for Utah Cities.

(3) (a) The governing body shall adopt and administer an operating and capital budget in accordance with this Subsection (3).

(b) At or before the first regularly scheduled meeting of the governing body in the last May of the current fiscal period, the budget officer shall:

(i) prepare for the ensuing fiscal period and file with the governing body a tentative operating and capital budget for:

(A) each enterprise fund; and

(B) other required special funds;

(ii) include with the tentative operating and capital budget described in Subsection (3)(c) specific work programs as submitted by each department head; and

(iii) include any other supporting data required by the governing body.

(c) Each city of the first or second class shall, and each city of the third, fourth, or fifth class may, submit a supplementary estimate of all capital projects which a department head believes should be undertaken within the three next succeeding fiscal periods.

(d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all estimates after review and consultation with each department head described in Subsection (3)(c).

(ii) After complying with Subsection (3)(d)(i), the budget officer may revise any departmental estimate before it is filed with the governing body.

(4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and considered by the governing body at any regular meeting or special meeting called for that purpose.

(b) The governing body may make changes in the tentative budgets.

(5) Budgets for enterprise or other required special funds shall comply with the public hearing requirements established in Sections 10-6-113 and 10-6-114.

(6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax increase under Sections 59-2-919 through 59-2-923, before ~~August 17~~ September 1 of the year for which a property tax increase is proposed, the governing body shall adopt an operating and capital budget for each applicable fund for the ensuing fiscal period.

(b) A copy of the budget as finally adopted for each fund shall be:

(i) certified by the budget officer;

(ii) filed by the budget officer in the office of the city auditor or city recorder;

(iii) available to the public during regular business hours; and

(iv) filed with the state auditor within 30 days after the day on which the budget is adopted.

(7) (a) Upon final adoption, the operating and capital budget is in effect for the budget period, subject to later amendment.

(b) During the budget period the governing body may, in any regular meeting or special meeting called for that purpose, review any one or more of the operating and capital budgets for the purpose of determining if the total of any of them should be increased.

(c) If the governing body decides that the budget total of one or more of the funds should be increased under Subsection (7)(b), the governing body shall follow the procedures set forth in Section 10-6-136.

(8) Expenditures from operating and capital budgets shall conform to the requirements relating to budgets specified in Sections 10-6-121 through 10-6-126.

Section 6. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

**“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)**

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$ _____ to \$ _____, which is \$ _____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$ _____ to \$ _____, which is \$ _____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which

the taxing entity will consider budgeting the additional ad valorem tax revenue[-]; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 7. Section 59-2-920 is amended to read:

59-2-920. Resolution and levy to be forwarded to commission.

~~[The resolution approved in the manner provided under Section 59-2-919 shall be included]~~

(1) If a taxing entity, after fulfilling the requirements of Section 59-2-919, adopts a resolution to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity shall forward the resolution to the tax commission along with the statement of the amount and purpose of the levy required under Sections 59-2-912 and 59-2-913 [and forwarded to the commission under Section 59-2-913].

(2) No tax rate in excess of the certified tax rate may be certified by the commission or implemented by the taxing entity until the resolution ~~[required under Section 59-2-919]~~ described in Subsection (1) is adopted by the governing authority of the taxing entity and submitted to the commission. ~~[If the resolution is not forwarded to the county auditor by August 17, the auditor shall forward the certified tax rate to the commission.]~~

CHAPTER 323**S. B. 13**

Passed February 11, 2019

Approved March 26, 2019

Effective May 14, 2019

(Retrospective operation to January 1, 2018)

INCOME TAX DOMICILE AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies tax provisions relating to income tax domicile requirements.

Highlighted Provisions:

This bill:

- ▶ requires certain owners of residential property in the state to file a written declaration with the county assessor under penalty of perjury certifying certain property tax information on a form prescribed by the Tax Commission;
- ▶ amends the definition of resident individual for income tax purposes;
- ▶ amends voting provisions that create a rebuttable presumption that an individual is considered to have domicile in this state for income tax purposes;
- ▶ amends the requirements for determining whether an individual is considered to have domicile in the state for income tax purposes;
- ▶ grants the Tax Commission rulemaking authority to define by rule what constitutes spending a day in the state for determining domicile;
- ▶ specifies when a spouse is not considered to have domicile in the state when the other spouse has domicile for income tax purposes; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 59-2-103.5, as last amended by Laws of Utah 2014, Chapter 65
- 59-10-103, as last amended by Laws of Utah 2010, Chapter 202
- 59-10-136, as last amended by Laws of Utah 2018, Chapters 405 and 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption -- Declaration for calendar year 2019.

(1) [Føø] Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance

that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1) shall:

(i) be on a form the commission prescribes by rule and makes available to the counties;

(ii) be signed by all of the owners of the residential property;

(iii) certify that the residential property is residential property; and

(iv) contain other information as the commission requires by rule.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.

(c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed \$50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) ~~For~~ Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) ~~Notwithstanding~~ Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with

respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

(8) (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(c), on or before May 1, 2020, a county assessor shall:

(i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(b) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and

(ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(b).

(b) Each owner of residential property that receives a notice described in Subsection (8)(a) shall file a written declaration with the county assessor under penalty of perjury:

(i) certifying whether the property is residential property or part-year residential property;

(ii) certifying whether during any portion of the current calendar year, the property receives a residential exemption under Section 59-2-103; and

(iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:

(A) the parcel number of the property;

(B) the county in which the property is located; and

(C) whether the property is the primary residence of a tenant.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(d) If an ownership interest in residential property changes, the new owner of the residential property, at the time title to the property is transferred to the new owner, shall make a written declaration under penalty of perjury:

(i) certifying whether the property is residential property or part-year residential property;

(ii) certifying whether the property receives a residential exemption under Section 59-2-103; and

(iii) certifying whether the property owner owns other property in the state that receives a residential exemption under Section 59-2-103, and if so, listing:

(A) the parcel number of the property;

(B) the county in which the property is located; and

(C) whether the property is the primary residence of a tenant.

(e) The declaration required by Subsection (8)(b) or (d) shall:

(i) be on a form the commission prescribes and makes available to the counties;

(ii) be signed by all of the owners of the property; and

(iii) include the following statement:

“If a property owner or a property owner’s spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner’s spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner’s spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner’s spouse.”

(f) The written declaration made under Subsection (8)(d) shall be remitted to the county assessor of the county where the property described in Subsection (8)(d) is located within five business days of the title being transferred to the new owner.

(g) (i) If, after receiving a written declaration filed under Subsection (8)(b) or (d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property’s qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) shall be final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

(h) (i) If a residential property owner fails to file a written declaration required by Subsection (8)(b) or (d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection (8)(b) or (d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under

Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(b) or (d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection (8)(b) or (d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.

(iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 2. Section 59-10-103 is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) “Adjusted gross income”:

(i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(b) “Corporation” includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) “Distributable net income” is as defined in Section 643, Internal Revenue Code.

(d) “Employee” is as defined in Section 59-10-401.

(e) “Employer” is as defined in Section 59-10-401.

(f) “Federal taxable income”:

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(g) “Fiduciary” means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

- (iv) an administrator;
- (v) a receiver;
- (vi) a conservator; or
- (vii) any person acting in any fiduciary capacity for any individual.
- (h) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).
- (i) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).
- (j) "Individual" means a natural person and includes aliens and minors.
- (k) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.
- (l) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.
- (m) "Nonresident individual" means an individual who is not a resident of this state.
- (n) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.
- (o) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:
- (A) through or by means of which any business, financial operation, or venture is carried on; and
- (B) which is not, within the meaning of this chapter:
- (I) a trust;
- (II) an estate; or
- (III) a corporation.
- (ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.
- (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(o)(i).
- (p) "Qualified nongrantor charitable lead trust" means a trust:
- (i) that is irrevocable;
- (ii) that has a trust term measured by:
- (A) a fixed term of years; or
- (B) the life of a person living on the day on which the trust is created;
- (iii) under which:
- (A) a portion of the value of the trust assets is distributed during the trust term:
- (I) to an organization described in Section 170(c), Internal Revenue Code; and
- (II) as a:
- (Aa) guaranteed annuity interest; or
- (Ab) unitrust interest; and
- (B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:
- (I) designated in the trust; and
- (II) that is not an organization described in Section 170(c), Internal Revenue Code;
- (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and
- (v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.
- (q) [(i)] "Resident individual" means[;-(A)] an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state[;or].
- ~~[(B) an individual who is not domiciled in this state but:]~~
- ~~[(I) maintains a place of abode in this state; and]~~
- ~~[(II) spends in the aggregate 183 or more days of the taxable year in this state.]~~
- ~~[(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (1)(q)(i)(B), the commission shall by rule define what constitutes spending a day of the taxable year in the state.]~~
- (r) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
- (s) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.
- (t) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:
- (i) Section 59-10-202;
- (ii) Section 59-10-207;
- (iii) Section 59-10-209.1; or
- (iv) Section 59-10-210.
- (u) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:
- (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)(u)(i) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.

(v) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)(v)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the servicemember is a nonresident if the servicemember is serving in compliance with military orders.

(w) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(w)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

(x) "Taxpayer" means any individual, estate, trust, or beneficiary of an estate or trust, that has income subject in whole or part to the tax imposed by this chapter.

(y) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(y)(i) terminates.

(z) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) *Hagen v. Utah*, 510 U.S. 399 (1994); and

(ii) *Ute Indian Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997).

(aa) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code,

as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(bb) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(cc) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(ee) "Wages" is as defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 3. Section 59-10-136 is amended to read:

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse [~~is registered to vote~~];

(i) ~~votes in this state [in accordance with Title 20A, Chapter 2, Voter Registration]~~ in a regular general election, municipal general election, primary election, or special election during the taxable year; and

(ii) has not registered to vote in another state in that taxable year; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or

(xii) whether the individual is an individual described in Subsection (1)(b)[-];

(xiii) whether the individual:

(A) maintains a place of abode in the state; and

(B) spends in the aggregate 183 or more days of the taxable year in the state; or

(xiv) whether the individual or the individual's spouse:

(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year,

but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and

(B) has not registered to vote in another state during a taxable year described in Subsection (3)(b)(xiv)(A).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes spending a day of the taxable year in the state.

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the

individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) Notwithstanding Subsections (2) and (3), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under Subsection (2) or (3) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

(a) is not an owner of property in this state;

(b) does not return to this state for more than 30 days in a calendar year;

(c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;

(d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and

(e) does not have a driver license in this state.

~~[(5)]~~ (6) (a) ~~[If]~~ Except as provided in Subsection (5), an individual is considered to have domicile in this state in accordance with this section, the

individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection ~~[(5)]~~ (6)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

~~[(6)]~~ (7) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 324**S. B. 14**

Passed February 14, 2019

Approved March 26, 2019

Effective May 14, 2019

**EDUCATION
REPORTING REQUIREMENTS**

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends provisions related to education reports.

Highlighted Provisions:

This bill:

- ▶ aligns reports and reporting dates of certain reports by the Rocky Mountain Center for Occupational and Environmental Health;
- ▶ repeals certain reports and related provisions;
- ▶ creates indexes of reports to and actions required of:
 - the Higher Education Appropriations Subcommittee;
 - the Education Interim Committee; and
 - the Public Education Appropriations Subcommittee;
- ▶ reenacts and amends the State Superintendent's Annual Report, including requiring other certain existing reports be included in the annual report;
- ▶ amends provisions by assigning reports and appropriations recommendations to specified legislative education committees;
- ▶ repeals and reenacts provisions requiring the State Board of Education to create a strategic plan; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34A-2-202.5, as last amended by Laws of Utah 2011, Chapter 342
 53B-1-107, as enacted by Laws of Utah 1987, Chapter 167
 53B-1-113, as enacted by Laws of Utah 2017, Chapter 333
 53B-7-101, as last amended by Laws of Utah 2017, Chapters 365 and 382
 53B-7-706, as enacted by Laws of Utah 2017, Chapter 365
 53B-7-707, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
 53B-8-104, as last amended by Laws of Utah 2009, Chapter 363
 53B-8a-111, as last amended by Laws of Utah 2010, Chapter 6

53B-8c-104, as enacted by Laws of Utah 1997, Chapter 333
 53B-12-107, as enacted by Laws of Utah 1987, Chapter 167
 53B-17-804, as last amended by Laws of Utah 2013, Chapter 43
 53B-26-103, as last amended by Laws of Utah 2018, Chapter 421
 53B-26-202, as enacted by Laws of Utah 2018, Chapter 354
 53E-1-201, as enacted by Laws of Utah 2018, Chapter 1
 53E-3-301, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-3-507, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-3-515, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-3-516, as enacted by Laws of Utah 2018, Chapter 302
 53E-4-202, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-4-309, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-5-310, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-8-204, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-308, as renumbered and amended by Laws of Utah 2018, Chapter 1
 53E-10-702, as enacted by Laws of Utah 2018, Chapter 341
 53E-10-703, as enacted by Laws of Utah 2018, Chapter 341
 53F-2-309, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-2-503, as last amended by Laws of Utah 2018, Chapters 300, 456 and renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-2-508, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-2-510, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-2-512, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-4-203, as enacted by Laws of Utah 2018, Chapter 2
 53F-4-407, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-5-204, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-5-307, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-5-405, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53F-5-506, as renumbered and amended by Laws of Utah 2018, Chapter 2
 53G-4-403, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-4-404, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-5-411, as enacted by Laws of Utah 2018, Chapter 3
 53G-6-707, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-8-207, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-9-702, as last amended by Laws of Utah 2018, Chapter 414 and renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-9-703, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-9-802, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-10-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
 53G-11-511, as renumbered and amended by Laws of Utah 2018, Chapter 3
 59-9-102.5, as last amended by Laws of Utah 2011, Chapter 342
 63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

ENACTS:

53B-1-301, Utah Code Annotated 1953
 53E-1-202, Utah Code Annotated 1953
 53E-1-203, Utah Code Annotated 1953

REPEALS AND REENACTS:

53E-2-202, as renumbered and amended by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-202.5 is amended to read:**34A-2-202.5. Offset for occupational health and safety related donations.**

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

- (i) cash;
- (ii) given directly to an occupational health and safety center; and
- (iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

- (I) safety and ergonomics;
- (II) industrial hygiene;
- (III) occupational health nursing; and
- (IV) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.

(2) (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) .10% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 59-9-102.5, report to ~~the Legislature~~ through the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than ~~July 1~~ August 15 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 2. Section 53B-1-107 is amended to read:**53B-1-107. Annual report of board activities.**

The board shall submit an annual report of its activities to the governor and to the ~~Legislature~~ Education Interim Committee and shall provide copies to all institutions in the state system of higher education.

Section 3. Section 53B-1-113 is amended to read:**53B-1-113. Education loan notifications.**

(1) As used in this section:

(a) "Borrower" means:

(i) an individual enrolled in an eligible postsecondary institution who receives an education loan; or

(ii) an individual, including a parent or legal guardian, who receives an education loan to fund education expenses of an individual enrolled in an eligible postsecondary institution.

(b) "Education loan" means a loan made to a borrower that is:

(i) made directly by a federal or state program; or

(ii) insured or guaranteed under a federal or state program.

(c) "Eligible postsecondary institution" means a public or private postsecondary institution that:

(i) is located in Utah; and

(ii) participates in federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.

(2) Annually, on or before July 1, an eligible postsecondary institution that receives information about a borrower's education loan shall:

(a) notify the borrower that the borrower has an education loan;

(b) direct the borrower to the National Student Loan Data System described in 20 U.S.C. Sec. 1092b to receive information about the borrower's education loan; and

(c) provide the borrower information on how the borrower can access an online repayment calculator.

(3) An eligible postsecondary institution does not incur liability for information provided to a borrower in accordance with this section.

~~[(4) On or before the October 2017 interim meeting, the State Board of Regents shall report to the Education Interim Committee on:]~~

~~[(a) the number of notifications issued under Subsection (2); and]~~

~~[(b) the feasibility of an eligible postsecondary institution providing annually to each borrower:]~~

~~[(i) an estimate of the total dollar amount of education loans taken out by the borrower; and]~~

~~[(ii) for the estimated dollar amount of education loans that the borrower has taken out, an estimate of:]~~

~~[(A) the potential total payoff amount, including principal and interest;]~~

~~[(B) the monthly repayment amounts, including principal and interest, that the borrower may incur;]~~

~~[(C) the number of years used in determining the potential payoff amount; and]~~

~~[(D) the percentage of the aggregate borrowing limit the borrower has reached.]~~

Section 4. Section 53B-1-301 is enacted to read:

Part 3. Reports

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board and the Utah System of Technical Colleges Board of Trustees, respectively, on performance;

(e) the report described in Section 53B-8-113 by the board on the Public Safety Officer Career Advancement Reimbursement Program;

(f) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and State Board of Regents on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(d) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 5. Section 53B-7-101 is amended to read:

53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section:

(a) (i) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(ii) "Higher education institution" or "institution" does not include:

(A) the Utah System of Technical Colleges Board of Trustees; or

(B) a technical college.

(b) "Research university" means the University of Utah or Utah State University.

(2) (a) The board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in Part 7, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after it has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) Funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

(4) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher educational institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

(5) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the ~~[appropriate committees of the Legislature]~~ Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the ~~[Legislature's committees]~~ Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the ~~[Legislature's appropriate~~

~~committees] Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.~~

(6) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and ~~[the committees of the Legislature] the Higher Education Appropriations Subcommittee~~ in making appropriation recommendations.

(7) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

(8) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(9) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions of higher education are appropriated to the respective institutions of higher education and used in accordance with institutional work programs.

(10) An institution of higher education may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

(11) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

Section 6. Section 53B-7-706 is amended to read:

53B-7-706. Performance metrics for higher education institutions -- Determination of performance.

(1) (a) The board shall establish a model for determining a higher education institution's performance.

(b) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completion, measured by degrees and certificates awarded;

(ii) completion by underserved students, measured by degrees and certificates awarded to underserved students;

(iii) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

(iv) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

(v) for a research university, research, measured by total research expenditures.

(b) Subject to Subsection (2)(c), the board shall determine the relative weights of the metrics described in Subsection (2)(a).

(c) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(iii) a weight of at least 25% when determining an institution of higher education's performance.

(3) For each higher education institution, the board shall annually determine the higher education institution's:

(a) performance; and

(b) change in performance compared to the higher education institution's average performance over the previous five years.

~~[(4) On or before September 1, 2017, the board shall report to the Higher Education Appropriations Subcommittee on the model described in this section.]~~

~~[(5)]~~ (4) The board shall use the model described in this section to make the report described in Section 53B-7-705 for determining a higher education institution's performance funding for a fiscal year beginning on or after July 1, 2018.

Section 7. Section 53B-7-707 is amended to read:

53B-7-707. Performance metrics for technical colleges -- Determination of performance.

(1) (a) The Utah System of Technical Colleges Board of Trustees shall establish a model for determining a technical college's performance.

(b) The Utah System of Technical Colleges Board of Trustees shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(2) (a) The model described in Subsection (1) shall include metrics, including:

(i) completions, measured by certificates awarded;

(ii) short-term occupational training, measured by completions of:

(A) short-term occupational training that takes less than 60 hours to complete; and

(B) short-term occupational training that takes at least 60 hours to complete;

(iii) secondary completions, measured by:

(A) completions of competencies sufficient to be recommended for high school credits;

(B) certificates awarded to secondary students; and

(C) retention of certificate-seeking high school graduates as certificate-seeking postsecondary students;

(iv) placements, measured by:

(A) total placements in related employment, military service, or continuing education;

(B) placements for underserved students; and

(C) placements from high impact programs; and

(v) institutional efficiency, measured by the number of technical college graduates per 900 membership hours.

(b) The Utah System of Technical Colleges Board of Trustees shall determine the relative weights of the metrics described in Subsection (2)(a).

~~[(3) On or before September 1, 2017, the Utah System of Technical Colleges Board of Trustees shall report to the Higher Education Appropriations Subcommittee on the model described in this section.]~~

[4] (3) (a) For each technical college, the Utah System of Technical Colleges Board of Trustees shall annually determine the technical college's:

(i) performance; and

(ii) except as provided in Subsection [4] (3)(b), change in performance compared to the technical college's average performance over the previous five years.

(b) For performance during a fiscal year before fiscal year 2020, if comparable performance data is not available for the previous five years, the Utah System of Technical Colleges Board of Trustees may determine a technical college's change in performance using the average performance over the previous three or four years.

Section 8. Section 53B-8-104 is amended to read:

53B-8-104. Nonresident partial tuition scholarships.

(1) The board may grant a scholarship for partial waiver of the nonresident portion of total tuition charged by public institutions of higher education to nonresident undergraduate students, subject to the limitations provided in this section, if the board determines that the scholarship will:

(a) promote mutually beneficial cooperation between Utah communities and nearby communities in states adjacent to Utah;

(b) contribute to the quality and desirable cultural diversity of educational programs in Utah institutions;

(c) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in Utah institutions of higher education; and

(d) promote enrollment of nonresident students with high academic aptitudes.

(2) The board shall establish policy guidelines for the administration by institutions of higher education of any partial tuition scholarships authorized under this section, for evaluating applicants for those scholarships, and for reporting the results of the scholarship program authorized by this section.

(3) The policy guidelines promulgated by the board under Subsection (2) shall include the following provisions:

(a) the amount of the approved scholarship may not be more than 1/2 of the differential tuition charged to nonresident students for an equal number of credit hours of instruction;

(b) a nonresident partial tuition scholarship may be awarded initially only to a nonresident undergraduate student who has not previously been enrolled in a college or university in Utah and who has enrolled full time for 10 or more credit hours, whose legal domicile is within approximately 100 highway miles of the Utah system of higher education institution at which the recipient wishes to enroll or such distance that the regents may establish for any institution;

(c) the total number of nonresident partial tuition scholarships granted may not exceed a total of 600 such scholarships in effect at any one time; and

(d) the board shall determine eligibility for nonresident partial tuition scholarships on the basis of program availability at an institution and on a competitive basis, using quantifiable measurements such as grade point averages and results of test scores.

(4) The board shall submit an annual report and financial analysis of the effects of offering nonresident partial tuition scholarships authorized under this section to the [Legislature] Higher Education Appropriations Subcommittee as part of [its] the board's budget recommendations for the system of higher education.

Section 9. Section 53B-8a-111 is amended to read:

53B-8a-111. Annual audit of financial statements -- Information to governor and Higher Education Appropriations Subcommittee.

(1) The financial statements of the plan shall be audited annually by the state auditor or the state auditor's designee and reported in accordance with generally accepted accounting principles.

(2) The plan shall submit to the governor and the [Legislature] Higher Education Appropriations Subcommittee:

(a) upon request, any studies or evaluations of the plan;

(b) upon request, a summary of the benefits provided by the plan including the number of participants and beneficiaries in the plan; and

(c) upon request, any other information which is relevant in order to make a full, fair, and effective disclosure of the operations of the plan.

Section 10. Section 53B-8c-104 is amended to read:

53B-8c-104. Notice of tuition waiver approval -- Annual appropriation.

(1) Upon receiving an application under Subsection 53B-8c-103(1)(c), the department shall determine whether the applicant and the courses for which tuition waiver is sought meet the requirements of Section 53B-8c-103 and, if so, shall approve the application and notify the higher education institution that the application has been approved.

(2) The department shall provide the necessary forms and applications and cooperate with the state's institutions of higher education in developing efficient procedures for the implementation of this chapter.

~~[(3) The department shall annually report to the Legislature's Higher Education Appropriations Subcommittee on the number of individuals for whom tuition has been waived at each institution and the total amounts paid under this chapter for the fiscal year.]~~

~~[(4)]~~ (3) The Legislature may annually appropriate the funds necessary to implement this chapter, including money to offset the tuition waivers at each institution.

Section 11. Section 53B-12-107 is amended to read:

53B-12-107. Annual report -- Annual audit -- Reimbursement of state auditor.

(1) Following the close of each fiscal year, the authority ~~[submits]~~ shall submit an annual report of ~~[its]~~ the authority's activities for the preceding year to the governor and the ~~[Legislature]~~ Higher Education Appropriations Subcommittee.

(2) Each report shall include a complete operating and financial statement of the authority during the fiscal year it covers.

(3) The state auditor shall at least once in each year audit the books and accounts of the authority or contract with an independent certified public accountant for this audit.

(4) The authority shall reimburse the state auditor from its available money for the actual and necessary costs of the audit.

Section 12. Section 53B-17-804 is amended to read:

53B-17-804. Reporting.

(1) (a) The board, through the director and the board chair, shall provide by no later than July 1 of

each year, a written report to the president of the university.

(b) The report required by this Subsection (1) shall:

(i) summarize the center's activities and accomplishments in the immediate preceding calendar year; and

(ii) provide information and the board's advice and recommendations on how the state, university, and the center can:

(A) improve workplace health and safety; and

(B) contribute to economic growth and development in Utah and the surrounding region.

(2) (a) If the center receives in a fiscal year money from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program provided for in Section 34A-2-701, the center shall provide a written report:

~~[(i) by no later than the August 15 following the fiscal year;]~~

~~[(ii) to the Office of the Legislative Fiscal Analyst;]~~

~~[(iii) for review by the Higher Education Appropriations Subcommittee;]~~

(i) in conjunction with the reports described in Sections 34A-2-202.5 and 59-9-102.5;

~~[(iv)]~~ (ii) that accounts for the expenditure of money received in the fiscal year by the center from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program including impact on workplace safety in Utah; and

~~[(v)]~~ (iii) that includes a preliminary statement as to money the center will request from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program for the fiscal year following the day on which the report is provided.

(b) A report provided under this Subsection (2) meets the reporting requirements under Subsection 34A-2-701(5)(b)(i)(B).

Section 13. Section 53B-26-103 is amended to read:

53B-26-103. GOED reporting requirement -- Proposals -- Funding.

(1) Every other year, the Governor's Office of Economic Development shall report to the ~~[Legislature]~~ Higher Education Appropriations Subcommittee, the board, and the Utah System of Technical Colleges Board of Trustees on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters:

(a) aerospace and defense;

(b) energy and natural resources;

(c) financial services;

(d) life sciences;

(e) outdoor products;

(f) software development and information technology; and

(g) any other strategic industry cluster designated by the Governor's Office of Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the [Legislature] Higher Education Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) A proposal described in Subsection (2) shall include:

(a) a program of instruction that:

(i) is responsive to the workforce needs of a strategic industry cluster described in Subsection (1):

(A) in one CTE region, for a proposal submitted by a regional partnership; or

(B) in at least two CTE regions, for a proposal submitted by a statewide partnership;

(ii) leads to the attainment of a stackable sequence of credentials; and

(iii) includes a non-duplicative progression of courses that include both academic and CTE content;

(b) expected student enrollment, attainment rates, and job placement rates;

(c) evidence of input and support for the proposal from an industry advisory group;

(d) a description of any financial or in-kind contributions for the program from an industry advisory group;

(e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;

(f) evidence of an official action in support of the proposal from:

(i) the Utah System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college described in Subsection 53B-26-102(10)(a); or

(ii) the board, if the eligible partnership includes:

(A) an institution of higher education; or

(B) a college described in Subsection 53B-26-102(10)(b), (c), or (d);

(g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and

(h) a funding request, including justification for the request.

(4) The [Legislature] Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet state or regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) [fund] make a recommendation to the Legislature for funding the proposal through the appropriations process.

(5) An eligible partnership that receives funding under this section:

(a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and

(b) may not use the money for administration.

Section 14. Section 53B-26-202 is amended to read:

53B-26-202. Nursing initiative -- Medical Education Council reporting requirement -- Proposals -- Funding.

(1) Every even-numbered year, the Medical Education Council created in Section 53B-24-302 shall:

(a) project the demand, by license classification, for individuals to enter a nursing profession in each region;

(b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and

(c) report the projections described in Subsection (1)(a) to:

(i) the State Board of Regents;

(ii) the Utah System of Technical Colleges Board of Trustees; and

(iii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the [Legislature] Higher Education Appropriations Subcommittee, through the budget process for the State Board of Regents or the Utah System of Technical Colleges, as applicable, a proposal that describes:

(a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);

(b) the following information about the eligible program:

(i) expected student enrollment;

(ii) attainment rates;

- (iii) job placement rates; and
- (iv) passage rates for exams required for licensure for a nursing profession;
- (c) the instructional cost per full-time equivalent student enrolled in the eligible program;
- (d) financial or in-kind contributions to the eligible program from:
 - (i) the health care industry; or
 - (ii) an institution; and
 - (e) a funding request, including justification for the request.

(3) The [Legislature] Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

- (i) the proposal:
 - (A) contains the elements described in Subsection (2);
 - (B) expands the capacity to meet the projected demand described in Subsection (1)(a); and
 - (C) has health care industry or institution support; and
- (ii) the program of instruction described in the proposal:
 - (A) is cost effective;
 - (B) has support from the health care industry or an institution; and
 - (C) has high passage rates on exams required for licensure for a nursing profession;
- (b) determine the extent to which to fund the proposal; and
- (c) [appropriate] make an appropriation recommendation to the Legislature on the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) On or before November 1, 2020, and annually thereafter, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

Section 15. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

[Reserved]

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(b) the report described in Section 53B-1-103 by the State Board of Regents on career and technical education issues and addressing workforce needs;

(c) the report described in Section 53B-1-107 by the State Board of Regents on the activities of the State Board of Regents;

(d) the report described in Section 53B-2a-104 by the Utah System of Technical Colleges Board of Trustees on career and technical education issues;

(e) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(f) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(g) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(h) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(i) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(j) the report described in Section 53F-4-407 by the state board on UPSTART;

(k) the report described in Section 53F-5-307 by the state board and Department of Workforce Services on an independent evaluation of:

(i) the Student Access to High Quality School Readiness Programs Grant Program;

(ii) the home-based technology high quality school readiness program;

(iii) the Intergenerational Poverty School Readiness Scholarship Program; and

(iv) early childhood teacher training;

(l) the report described in Section 53F-5-405 by an independent evaluator of a partnership that receives a grant to improve educational outcomes for students who are low income; and

(m) the report described in Section 63N-12-208 by the STEM Action Center Board, including the information described in Section 63N-12-213 on the status of the computer science initiative and Section 63N-12-214 on the Computing Partnerships Grants Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(b) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(c) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(d) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(e) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(f) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(g) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(h) if required, for each year of a results-based contract for a high quality school readiness program, the report described in Section 53F-6-310 by the School Readiness Board;

(i) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations; and

(j) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

Section 16. Section 53E-1-202 is enacted to read:

53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 63N-12-208, including the information described in Section 63N-12-213 on the status of the computer science initiative.

(2) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion

program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the evaluation described in Section 53F-2-410 of funding for at-risk students;

(b) the reviews of related to basic school programs as described in Section 53F-2-414; and

(c) if required, the study described in Section 53F-4-304 of scholarship payments.

Section 17. Section 53E-1-203 is enacted to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

- (H) applicable private school data; and
- (I) data from statewide assessments described in Section 53E-4-301 for each school and school district;
- (vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and
- (vii) other statistical and financial information about the school system that the state superintendent considers pertinent.
- (2) (a) For the purposes of Subsection (1)(c)(v):
- (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;
- (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;
- (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and
- (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.
- (b) The report shall:
- (i) include the pupil-teacher ratio for:
- (A) each school district;
- (B) the charter schools aggregated; and
- (C) the state's public schools aggregated; and
- (ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.
- (3) For each operation, activity, program, or service provided by the state board, the annual report shall include:
- (a) a description of the operation, activity, program, or service;
- (b) data and metrics:
- (i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
- (ii) that are consistent and comparable for each state operation, activity, program, or service;
- (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
- (d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);
- (e) goals, challenges, and achievements related to the operation, activity, program, or service;

- (f) relevant federal and state statutory references and requirements;
- (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
- (h) other information determined by the state board that:
- (i) may be needed, useful, or of historical significance; or
- (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:
- (i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;
- (ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;
- (iii) beginning on July 1, 2020, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;
- (iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;
- (v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;
- (vi) the report described in Section 53E-10-308 by the state board and State Board of Regents on student participation in the concurrent enrollment program;
- (vii) the report described in Section 53F-2-503 by the state board on early literacy;
- (viii) the report described in Section 53F-5-506 by the state board on information related to competency-based education;
- (ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services; and
- (x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.
- (b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.
- (5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (6) The state board shall:
- (a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 18. Section 53E-2-202 is repealed and reenacted to read:

53E-2-202. Planning for Utah's public education system.

The state board shall:

(1) create, maintain, and review on a regular basis a statewide, comprehensive multi-year strategic plan that includes long-term goals for improved student outcomes; and

(2) report annually to the Education Interim Committee on or before the committee's November meeting on the strategic plan described in Subsection (1), including progress toward achieving long-term goals.

Section 19. Section 53E-3-301 is amended to read:

53E-3-301. Appointment -- Qualifications -- Duties.

(1) (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the State Board of Education and serves at the pleasure of the State Board of Education.

(b) The State Board of Education shall appoint the state superintendent on the basis of outstanding professional qualifications.

(c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the State Board of Education.

(2) The State Board of Education shall, with the state superintendent, develop a statewide education strategy focusing on core academics, including the development of:

(a) core standards for Utah public schools and graduation requirements;

(b) a process to select model instructional materials that best correlate with the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;

(c) professional development programs for teachers, superintendents, and principals;

(d) model remediation programs;

(e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;

(f) progress-based assessments for ongoing performance evaluations of school districts and schools;

(g) incentives to achieve the desired outcome of individual student progress in core academics that do not create disincentives for setting high goals for the students;

(h) an annual report card for school and school district performance, measuring learning and reporting progress-based assessments;

(i) a systematic method to encourage innovation in schools and school districts as each strives to achieve improvement in performance; and

(j) a method for identifying and sharing best demonstrated practices across school districts and schools.

(3) The state superintendent shall perform duties assigned by the State Board of Education, including:

(a) investigating all matters pertaining to the public schools;

(b) adopting and keeping an official seal to authenticate the state superintendent's official acts;

(c) holding and conducting meetings, seminars, and conferences on educational topics;

~~[(d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year that includes:]~~

~~[(i) data on the general condition of the schools with recommendations considered desirable for specific programs;]~~

~~[(ii) a complete statement of fund balances;]~~

~~[(iii) a complete statement of revenues by fund and source;]~~

~~[(iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;]~~

~~[(v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";]~~

~~[(vi) a statement that includes data on:]~~

~~[(A) fall enrollments;]~~

~~[(B) average membership;]~~

~~[(C) high school graduates;]~~

~~[(D) licensed and classified employees, including data reported by school districts on educator ratings pursuant to Section 53G-11-511;]~~

~~[(E) pupil-teacher ratios;]~~

~~[(F) average class sizes;]~~

~~[(G) average salaries;]~~

~~[(H) applicable private school data; and]~~

~~[(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;]~~

~~[(vii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:]~~

~~[(A) alcohol and drug abuse;]~~

~~[(B) weapon possession;]~~

~~[(C) assaults; and]~~

~~[(D) arson;]~~

~~[(viii) information about:]~~

~~[(A) the development and implementation of the strategy of focusing on core academics;]~~

~~[(B) the development and implementation of competency-based education and progress-based assessments; and]~~

~~[(C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and]~~

~~[(ix) other statistical and financial information about the school system that the state superintendent considers pertinent;]~~

~~[(e) (d) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:~~

~~(i) data that are:~~

~~(A) comparable across schools and school districts;~~

~~(B) appropriate for use in longitudinal studies; and~~

~~(C) comprehensive with regard to the data elements required under applicable state or federal law or State Board of Education rule;~~

~~(ii) features that enable users, most particularly school administrators, teachers, and parents, to:~~

~~(A) retrieve school and school district level data electronically;~~

(B) interpret the data visually; and

(C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent to:

(I) collaborate with school districts and charter schools in designing and implementing uniform data standards and definitions;

(II) undertake or sponsor research to implement improved methods for analyzing education data;

(III) provide for data security to prevent unauthorized access to or contamination of the data; and

(IV) protect the confidentiality of data under state and federal privacy laws; and

(B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e)(d);

~~[(4) (e) administering and implementing federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs; and~~

~~[(g) (f) with the approval of the State Board of Education, preparing and submitting to the governor a budget for the State Board of Education to be included in the budget that the governor submits to the Legislature.~~

(4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53F-9-401 in accordance with the requirements of Section 53F-9-401.

(5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.

~~[(6) (a) For the purposes of Subsection (3)(d)(vi):]~~

~~[(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;]~~

~~[(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;]~~

~~[(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and]~~

~~[(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.]~~

~~[(b) The printed copy of the report required by Subsection (3)(d) shall:]~~

~~[(i) include the pupil-teacher ratio for:]~~

~~[(A) each school district;]~~

~~[(B) the charter schools aggregated; and]~~

~~[(C) the state's public schools aggregated; and]~~

~~[(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.]~~

Section 20. Section 53E-3-507 is amended to read:

53E-3-507. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report ~~[to the governor and to the Legislature's Education Interim Committee by October 31 of each year]~~ in accordance with Section 53E-1-203 detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Section 21. Section 53E-3-515 is amended to read:

53E-3-515. Hospitality and Tourism Management Career and Technical Education Pilot Program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" means a school district or charter school.

(c) "Pilot program" means the Hospitality and Tourism Management Career and Technical Education Pilot Program created under Subsection (2).

(2) There is created a Hospitality and Tourism Management Career and Technical Education Pilot Program to provide instruction that a local education agency may offer to a student in any of grades 9 through 12 on:

(a) the information and skills required for operational level employee positions in hospitality and tourism management, including:

(i) hospitality soft skills;

(ii) operational areas of the hospitality industry;

(iii) sales and marketing; and

(iv) safety and security; and

(b) the leadership and managerial responsibilities, knowledge, and skills required by an entry-level leader in hospitality and tourism management, including:

(i) hospitality leadership skills;

(ii) operational leadership;

(iii) managing food and beverage operations; and

(iv) managing business operations.

(3) The instruction described in Subsection (2) may be delivered in a public school using live instruction, video, or online materials.

(4) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select one or more providers to supply materials and curriculum for the pilot program.

(b) The board may seek recommendations from trade associations and other entities that have expertise in hospitality and tourism management regarding potential providers of materials and curriculum for the pilot program.

(5) (a) A local education agency may apply to the board to participate in the pilot program.

(b) The board shall select participants in the pilot program.

(c) A local education agency that participates in the pilot program shall use the materials and curriculum supplied by a provider selected under Subsection (4).

(6) The board shall evaluate the pilot program and provide an annual written report ~~to the Education Interim Committee~~ in accordance with Section 53E-1-203 and to the Economic Development and Workforce Services Interim Committee on or before October 1 describing:

(a) how many local education agencies and how many students are participating in the pilot program; and

(b) any recommended changes to the pilot program.

Section 22. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;
- (iii) issuance of a ticket or summons;
- (iv) filing a delinquency petition; or
- (v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to local board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including

the public school's activity funds or minimum school program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2020, the State Board of Education, in collaboration with school districts, charter schools, and law enforcement agencies, shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and
- (c) disciplinary actions.

(3) The report described in Subsection (2) shall include the following information by school district and charter school:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

- (i) the reason for the other law enforcement activity; and
- (ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

- (i) the reason for the disciplinary action; and
- (ii) the type of disciplinary action; and
- (d) the number of SROs employed.

(4) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (3)(a) through (c):

- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.

(5) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection Act;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of

Education shall make rules to compile the report described in Subsection (2).

(7) The State Board of Education shall provide the report described in Subsection (2) ~~to the Education Interim Committee before November 1 of each year~~ in accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

Section 23. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the State Board of Education shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the State Board of Education may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The State Board of Education shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the State Board of Education shall:

(a) publicize draft core standards for Utah public schools on the State Board of Education's website

and the Utah Public Notice website created under Section 63F-1-701;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Section 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The State Board of Education shall ~~annually report to the Education Interim Committee~~ submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 24. Section 53E-4-309 is amended to read:

53E-4-309. Grade level specification change.

(1) The board may change a grade level specification for the administration of specific assessments under this part to a different grade level specification or a competency-based specification if the specification is more consistent with patterns of school organization.

(2) (a) If the board changes a grade level specification described in Subsection (1), the board shall submit a report to the ~~Legislature~~ Education Interim Committee explaining the reasons for changing the grade level specification.

(b) The board shall submit the report at least six months before the anticipated change.

Section 25. Section 53E-5-310 is amended to read:

53E-5-310. Reporting requirement.

~~[On or before November 30 of each year,] In accordance with Section 53E-1-203, the board shall report [to the Education Interim Committee] on the provisions of this part.~~

Section 26. Section 53E-8-204 is amended to read:

53E-8-204. Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.

(1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.

(2) (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.

(b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.

(3) The superintendent shall:

(a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:

(i) demonstrated competency as an expert educator of deaf persons; and

(ii) knowledge of school management and the instruction of deaf persons;

(b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:

(i) demonstrated competency as an expert educator of blind persons; and

(ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.

(4) (a) The board shall:

(i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;

(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and

(iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.

(b) The advisory council described in Subsection (4)(a) shall include at least:

(i) two members who are blind;

(ii) two members who are deaf; and

(iii) two members who are deafblind or parents of a deafblind child.

(5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.

(6) (a) ~~[On or before the November interim meeting each year, the] The board shall submit a report [to the Education Interim Committee] in accordance with Section 53E-1-201 on the Utah Schools for the Deaf and the Blind.~~

(b) The board shall ensure that the report described in Subsection (6)(a) includes:

(i) a financial report;

(ii) a report on the activities of the superintendent and associate superintendents;

(iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and

(iv) a report on student achievement, including:

(A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;

(B) graduation rates; and

(C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.

Section 27. Section 53E-10-308 is amended to read:

53E-10-308. Reporting.

The State Board of Education and the State Board of Regents shall submit an annual written report to the Higher Education Appropriations Subcommittee and ~~[the Public Education Appropriations Subcommittee]~~ in accordance with Section 53E-1-203 on student participation in the concurrent enrollment program, including:

(1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;

(2) tuition or fees charged under Section 53E-10-305;

(3) an accounting of the money appropriated for concurrent enrollment; and

(4) a justification of the distribution method described in Subsections 53F-2-409(3)(d) and (e).

Section 28. Section 53E-10-702 is amended to read:

53E-10-702. ULEAD established -- Duties -- Funding.

There is created the Utah Leading through Effective, Actionable, and Dynamic Education, a collaborative effort in research and innovation between the director, participating institutions, and education leaders to:

(1) gather and explain current education research in an electronic research clearinghouse for use by practitioners;

(2) initiate and disseminate research reports on innovative and successful practices by Utah LEAs, and guided by the steering committee, practitioners, and policymakers;

(3) promote statewide innovation and collaboration by:

(a) identifying experts in areas of practice;

(b) conducting conferences, webinars, and online forums for practitioners; and

(c) facilitating direct collaboration between schools; and

(4) (a) report to the [Legislature] Education Interim Committee and policymakers on innovative and successful K-12 practices; and

(b) in the report, propose policy changes to remove barriers to implementation of successful practices.

Section 29. Section 53E-10-703 is amended to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; and

(ii) report to the state superintendent of public instruction.

(2) The state superintendent shall:

(a) evaluate the director's performance annually;

(b) report on the director's performance to the selection committee; and

(c) provide space for the director and the director's staff.

(3) The director may hire staff, using only money specifically appropriated to ULEAD.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices shown to improve student learning;

(ii) identifying experts in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e) (i) disseminate each innovative practice report to LEAs; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the board, revisions to board rule or policy.

(10) The director shall:

(a) report on the activities of ULEAD annually to the board; and

(b) provide reports or other information to the board upon board request.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) ~~[on or before September 30, submit the annual report;]~~

~~[(i) to the Education Interim Committee and the Public Education Appropriations Subcommittee; and]~~

~~[(ii) in accordance with Section 68-3-14;] submit the report in accordance with Section 53E-1-201 and 53E-1-202;~~

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to LEAs through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 30. Section 53F-2-309 is amended to read:

53F-2-309. Appropriation for intensive special education costs.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) (a) ~~[On or before February 1, 2017, the]~~ The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the board for Special Education -- Intensive Services that allocate to an LEA:

(i) 50% of the appropriation based on the highest cost students with disabilities; and

(ii) 50% of the appropriation based on the highest impact to an LEA due to high cost students with disabilities.

(b) ~~[Beginning with the 2017-18 school year, the]~~ The board shall allocate money appropriated to the board for Special Education -- Intensive Services in accordance with rules described in Subsection (2)(a).

~~[(3) Before initiating the rulemaking process under Subsection (2)(a), the board shall present the proposed rule to the Public Education Appropriations Subcommittee or Education Interim Committee.]~~

Section 31. Section 53F-2-503 is amended to read:

53F-2-503. Early Literacy Program -- Literacy proficiency plan.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Program" means the Early Literacy Program.

(c) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) (a) A local education board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit a plan to the board for literacy proficiency improvement that incorporates the following components:

- (i) core instruction in:
- (A) phonological awareness;
 - (B) phonics;
 - (C) fluency;
 - (D) comprehension;
 - (E) vocabulary;
 - (F) oral language; and
 - (G) writing;
- (ii) intervention strategies that are aligned to student needs;
- (iii) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;
- (iv) assessments that support adjustments to core and intervention instruction;
- (v) a growth goal for the school district or charter school that:
- (A) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and
 - (B) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;
- (vi) at least two goals that are specific to the school district or charter school that:
- (A) are measurable;
 - (B) address current performance gaps in student literacy based on data; and
 - (C) include specific strategies for improving outcomes; and
- (vii) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.
- (b) A local education board shall approve a plan described in Subsection (4)(a) in a public meeting before submitting the plan to the board.
- (c) The board shall provide model plans that a local education board may use, or a local education board may develop the local education board's own plan.
- (d) A plan developed by a local education board shall be approved by the board.
- (e) The board shall develop uniform standards for acceptable growth goals that a local education board adopts for a school district or charter school as described in this Subsection (4).
- (5) (a) There are created within the Early Literacy Program three funding programs:

- (i) the Base Level Program;
- (ii) the Guarantee Program; and
- (iii) the Low Income Students Program.

(b) The board may use up to \$7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the board for the Early Literacy Program and not used by the board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

- (a) 8% to the Base Level Program;
- (b) 46% to the Guarantee Program; and
- (c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the local education board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the board the information the board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between \$21 multiplied by the school district's total WPU's and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than \$0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to \$21 times the elementary charter school's total WPU's.

(c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the board for computer-assisted instructional learning and assessments.

(10) The board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) A local education board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) A local education board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) (a) A local education board shall annually submit a report to the board accounting for the expenditure of program money in accordance with the local education board's plan described in Subsection (4).

(b) If a local education board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the board for the amount of program money improperly used, up to the amount of program money received from the board.

(14) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each local education board to annually report progress in meeting goals described in Subsections (4)(a)(v) and (vi), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsection (4)(a)(v) or (vi), the local education board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board before the local education board receives an allocation for the next year.

(15) (a) The board shall:

(i) develop strategies to provide support for a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi); and

(ii) provide increasing levels of support to a school district or charter school that fails to meet a goal described in Subsection (4)(a)(v) or (vi) for two consecutive years.

(b) (i) The board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy.

(ii) The digital reporting platform shall include performance information for a school district or charter school on the goals described in ~~Subsection~~ Subsections (4)(a)(v) and (vi).

(16) The board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

(17) The board shall make an annual report ~~to the Public Education Appropriations Subcommittee~~ in accordance with Section 53E-1-203 that:

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4)(a); and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection (17)(a)(iv) to improve literacy proficiency for additional students.

(18) The report described in Subsection (17) shall include information provided through the digital reporting platform described in Subsection (15)(b).

Section 32. Section 53F-2-508 is amended to read:

53F-2-508. Student Leadership Skills Development Program.

(1) For purposes of this section:

(a) "Board" means the State Board of Education.

(b) "Program" means the Student Leadership Skills Development Program created in Subsection (2).

(2) There is created the Student Leadership Skills Development Program to develop student behaviors and skills that enhance a school's learning environment and are vital for success in a career, including:

- (a) communication skills;
- (b) teamwork skills;
- (c) interpersonal skills;
- (d) initiative and self-motivation;
- (e) goal setting skills;
- (f) problem solving skills; and
- (g) creativity.

(3) (a) The board shall administer the program and award grants to elementary schools that apply for a grant on a competitive basis.

(b) The board may award a grant of:

(i) up to \$10,000 per school for the first year a school participates in the program; and

(ii) up to \$20,000 per school for subsequent years a school participates in the program.

(c) (i) After awarding a grant to a school for a particular year, the board may not change the grant amount awarded to the school for that year.

(ii) The board may award a school a different amount in subsequent years.

(4) An elementary school may participate in the program established under this section in accordance with State Board of Education rules,

made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) In selecting elementary schools to participate in the program, the board shall:

(a) require a school in the first year the school participates in the program to provide matching funds or an in-kind contribution of goods or services in an amount equal to the grant the school receives from the board;

(b) require a school to participate in the program for two years; and

(c) give preference to Title I schools or schools in need of academic improvement.

(6) The board shall make the following information related to the grants described in Subsection (3) publicly available on the board's website:

(a) reimbursement procedures that clearly define how a school may spend grant money and how the board will reimburse the school;

(b) the period of time a school is permitted to spend grant money;

(c) criteria for selecting a school to receive a grant; and

(d) a list of schools that receive a grant and the amount of each school's grant.

(7) A school that receives a grant described in Subsection (3) shall:

(a) (i) set school-wide goals for the school's student leadership skills development program; and

(ii) require each student to set personal goals; and

(b) provide the following to the board after the first school year of implementation of the program:

(i) evidence that the grant money was used for the purpose of purchasing or developing the school's own student leadership skills development program; and

(ii) a report on the effectiveness and impact of the school's student leadership skills development program on student behavior and academic results as measured by:

(A) a reduction in truancy;

(B) assessments of academic achievement;

(C) a reduction in incidents of student misconduct or disciplinary actions; and

(D) the achievement of school-wide goals and students' personal goals.

(8) After participating in the program for two years, a school may not receive additional grant money in subsequent years if the school fails to demonstrate an improvement in student behavior and academic achievement as measured by the data reported under Subsection (7)(b).

~~[(9) (a) The board shall make a report on the program to the Education Interim Committee by the committee's October 2016 meeting.]~~

~~[(b) The report shall include an evaluation of the program's success in enhancing a school's learning environment and improving academic achievement.]~~

Section 33. Section 53F-2-510 is amended to read:

53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the board under Subsection (9)(b).

(b) "Board" means the State Board of Education.

(c) "Digital readiness assessment" means an assessment provided by the board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(d) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(e) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(f) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the board and the advisory committee.

(g) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(h) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections ~~[(8)]~~ (6) through ~~[(13)]~~ (11).

(i) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

~~[(3) (a) The board, in consultation with the digital teaching and learning task force created in Subsection (2), shall create a funding proposal for a statewide digital teaching and learning program designed to:]~~

~~[(i) improve student outcomes through the use of digital teaching and learning technology; and]~~

~~[(ii) provide high quality professional learning for educators to improve student outcomes through the use of digital teaching and learning technology.]~~

~~[(b) The board shall:]~~

~~[(i) identify outcome based metrics to measure student achievement related to a digital teaching and learning program; and]~~

~~[(ii) develop minimum benchmark standards for student achievement and school level outcomes to measure successful implementation of a digital teaching and learning program.]~~

~~[(4)]~~ (3) As funding allows, the board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

[~~(5)~~] (4) UETN shall:

(a) in consultation with the board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

~~[(6) On or before December 1, 2015, the board and UETN shall present the funding proposal for a statewide digital teaching and learning program described in Subsection (3) to the Education Interim Committee and the Executive Appropriations Committee, including:]~~

~~[(a) the board's progress on the development of a master plan described in Subsection (4); and]~~

~~[(b) the progress of UETN on the inventory and study described in Subsection (5).]~~

[~~(7)~~] (5) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.

[~~(8)~~] (6) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

[~~(9)~~] (7) The board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology

with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement;

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds; and

(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the board; and

(c) in accordance with this section, approve LEA plans and award grants.

[~~(10)~~] (8) (a) The board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection [~~(11)~~] (9); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection [~~(10)~~] (8)(b).

(b) The board or its designee shall provide the training described in Subsection [~~(10)~~] (8)(a)(ii).

[~~(11)~~] (9) The board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the board in rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

[~~(12)~~] (10) The board or the board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in realtime and for the LEA to use to create customized reports.

[~~(13)~~] (11) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

[(14)] (12) (a) An LEA that receives a grant as part of the program shall:

(i) subject to Subsection [(14)] (12)(b), complete an implementation assessment for each year that the LEA is expending grant money; and

(ii) (A) report the findings of the implementation assessment to the board; and

(B) submit to the board a plan to resolve issues raised in the implementation assessment.

(b) Each school within the LEA shall:

(i) complete an implementation assessment; and

(ii) submit a compilation report that meets the requirements described in Subsections [(14)] (12)(a)(ii)(A) and (B).

[(15)] (13) The board or the board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

[(16)] (14) The board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

[(17)] (15) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections [(17)] (15)(a) and (b) to the board.

[(18)] (16) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the board, the board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection [(18)] (16)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection [(18)] (16)(b), the board shall pay the balance due to UETN from the LEA's funds received under Title 53F, Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection [(18)] (16)(b)(ii) or [(18)] (16)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection [(18)] (16)(b)(ii) or [(18)] (16)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 34. Section 53F-2-512 is amended to read:

53F-2-512. Appropriation for accommodation plans for students with Section 504 accommodations.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(c) "Section 504 accommodation plan" means an accommodation plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.

(2) (a) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish a reimbursement program that:

(i) distributes any money appropriated to the board for Special Education -- Section 504 Accommodations;

(ii) allows an LEA to apply for reimbursement of the costs of services that:

(A) an LEA renders to a student with a Section 504 accommodation plan; and

(B) exceed 150% of the average cost of a general education student; and

(iii) provides for a pro-rated reimbursement based on the amount of reimbursement applications received during a given fiscal year and the amount of money appropriated to the board that fiscal year.

(b) Beginning with the 2018-19 school year, the board shall allocate money appropriated to the board for Special Education -- Section 504 Accommodations in accordance with the rules described in Subsection (2)(a).

~~[(3) On or before January 30, 2018, the board shall report to the Public Education Appropriations Subcommittee.]~~

~~[(a) information collected regarding the number of students who qualify for a Section 504 accommodation plan; and]~~

~~[(b) if available, the estimated financial impact of providing Section 504 accommodation services to the number of students described in Subsection (3)(a).]~~

Section 35. Section 53F-4-203 is amended to read:

53F-4-203. Early intervention interactive reading software -- Independent evaluator.

(1) (a) Subject to legislative appropriations, the State Board of Education shall select and contract with one or more technology providers, through a request for proposals process, to provide early interactive reading software for literacy instruction and assessments for students in kindergarten through grade 3.

(b) By August 1 of each year, the State Board of Education shall distribute licenses for early interactive reading software described in Subsection (1)(a) to the school districts and charter schools of local education boards that apply for the licenses.

(c) Except as provided in board rule, a school district or charter school that received a license described in Subsection (1)(b) during the prior year shall be given first priority to receive an equivalent license during the current year.

(d) Licenses distributed to school districts and charter schools in addition to the licenses described in Subsection (1)(c) shall be distributed through a competitive process.

(2) A public school that receives a license described in Subsection (1)(b) shall use the license:

(a) for a student in kindergarten or grade 1:

(i) for intervention for the student if the student is reading below grade level; or

(ii) for advancement beyond grade level for the student if the student is reading at or above grade level; and

(b) for a student in grade 2 or 3, for intervention for the student if the student is reading below grade level.

(3) (a) On or before August 1 of each year, the State Board of Education shall select and contract with an independent evaluator, through a request for proposals process, to act as an independent contractor to evaluate early interactive reading software provided under this section.

(b) The State Board of Education shall ensure that a contract with an independent evaluator requires the independent evaluator to:

(i) evaluate a student's learning gains as a result of using early interactive reading software provided under Subsection (1);

(ii) for the evaluation under Subsection (3)(b)(i), use an assessment that is not developed by a provider of early interactive reading software; and

(iii) determine the extent to which a public school uses the early interactive reading software.

(c) The State Board of Education and the independent evaluator selected under Subsection (3)(a) shall ~~report annually~~ submit a report on the results of the evaluation ~~[to the Education Interim Committee and the governor]~~ in accordance with Section 53E-1-201.

(4) The State Board of Education may use up to 4% of the appropriation provided under Subsection (1)(a) to:

(a) acquire an analytical software program that:

(i) monitors, for an individual school, early intervention interactive reading software use and the associated impact on student performance; and

(ii) analyzes the information gathered under Subsection (4)(a)(i) to prescribe individual school usage time to maximize the beneficial impact on student performance; or

(b) contract with an independent evaluator selected under Subsection (3)(a).

Section 36. Section 53F-4-407 is amended to read:

53F-4-407. Annual report.

(1) The State Board of Education shall make a report on UPSTART ~~[to the Education Interim Committee by November 30 each year]~~ in accordance with Section 53E-1-201.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53F-4-402; and

(b) include the following information:

(i) the number of families;

(A) volunteering to participate in the program;

- (B) selected to participate in the program;
 - (C) requesting computers; and
 - (D) furnished computers;
- (ii) the frequency of use of the instructional software;
- (iii) obstacles encountered with software usage, hardware, or providing technical assistance to families;
- (iv) student performance on pre-kindergarten and post-kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and
- (v) as available, the evaluation of the program conducted pursuant to Section 53F-4-406.

Section 37. Section 53F-5-204 is amended to read:

53F-5-204. Initiative to strengthen college and career readiness.

- (1) As used in this section:
- (a) “College and career counseling” means:
 - (i) nurturing college and career aspirations;
 - (ii) assisting students in planning an academic program that connects to college and career goals;
 - (iii) providing early and ongoing exposure to information necessary to make informed decisions when selecting a college and career;
 - (iv) promoting participation in college and career assessments;
 - (v) providing financial aid information; and
 - (vi) increasing understanding about college admission processes.
 - (b) “LEA” or “local education agency” means a school district or charter school.
- (2) There is created the Strengthening College and Career Readiness Program, a grant program for LEAs, to improve students’ college and career readiness through enhancing the skill level of school counselors to provide college and career counseling.
- (3) The State Board of Education shall:
- (a) on or before August 1, 2015, collaborate with the State Board of Regents, and business, community, and education stakeholders to develop a certificate for school counselors that:
 - (i) certifies that a school counselor is highly skilled at providing college and career counseling; and
 - (ii) is aligned with the Utah Comprehensive Counseling and Guidance Program as defined in rules established by the State Board of Education;
 - (b) subject to legislative appropriations, award grants to LEAs, on a competitive basis, for payment

of course fees for courses required to earn the certificate developed by the State Board of Education under Subsection (3)(a); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

- (i) procedures for applying for and awarding grants under this section;
- (ii) criteria for awarding grants; and
- (iii) reporting requirements for grantees.

(4) An LEA that receives a grant under this section shall use the grant for payment of course fees for courses required to attain the certificate as determined by the State Board of Education under Subsection (3)(a).

~~[(5) The State Board of Education shall report to the Education Interim Committee on the status of the Strengthening College and Career Readiness Program on or before:]~~

~~[(a) November 1, 2016; and]~~

~~[(b) November 1, 2017.]~~

Section 38. Section 53F-5-307 is amended to read:

53F-5-307. Evaluation -- Reporting requirements.

(1) In accordance with this section, the board, in coordination with the department, shall oversee the ongoing review and evaluation by an independent evaluator for each school year of:

- (a) the Student Access to High Quality School Readiness Programs Grant Program described in Section 53F-5-303;
- (b) the home-based technology high quality school readiness program described in Section 53F-5-304;
- (c) the Intergenerational Poverty School Readiness Scholarship Program described in Section 53F-5-305; and
- (d) early childhood teacher training described in Section 53F-5-306.

(2) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall enter into a contract with an independent evaluator to assist the board in the evaluation process.

(b) In selecting an independent evaluator, the board shall select an evaluator that:

- (i) has the capacity to meet the requirements described in Subsection (3);
- (ii) has a background in designing and conducting rigorous evaluations;
- (iii) has a demonstrated ability to monitor and evaluate a program over an extended period of time;
- (iv) is independent from agencies or providers implementing high quality school readiness programs funded under this part; and
- (v) has experience in early childhood education or early childhood education evaluation.

(c) The board may not enter into a contract with an independent evaluator without obtaining approval from the department.

(3) Under the direction of the board, with input from the department, the independent evaluator selected under Subsection (2) shall:

(a) design an evaluation methodology that:

(i) assesses the effects of a high quality school readiness program on an eligible student's:

(A) readiness for kindergarten, using a uniform assessment methodology that includes a pre- and post-test chosen in coordination with the board;

(B) ability, as determined by following the student longitudinally, to meet grade 3 core standards for Utah public schools, established by the board under Section 53E-4-202, by the end of the student's grade 3 year; and

(C) attainment of a high school diploma or other completion certificate, as determined by following the student longitudinally; and

(ii) allows for comparisons between students with similar demographic characteristics who complete a high quality school readiness program and students who do not; and

(b) conduct an annual evaluation of the programs described in Subsection (1).

(4) To assist the independent evaluator selected under Subsection (2) in completing the evaluation required under Subsection (3):

(a) an LEA that receives a grant under Section 53F-5-303, or enrolls an IGP scholarship recipient under Section 53F-5-305, shall assign a statewide unique student identifier to each student who participates in the LEA's school readiness program;

(b) an eligible private provider that receives a grant described in Section 53F-5-303 or an eligible home-based technology provider that receives a contract described in Section 53F-5-304 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is enrolled in the provider's school readiness program in the student's last year before kindergarten; and

(c) an eligible private provider or eligible home-based technology provider that receives an IGP scholarship under Section 53F-5-305 shall work in conjunction with the board to assign a statewide unique student identifier to each student who is funded by an IGP scholarship.

(5) The board and the department shall ~~report annually, on or before November 1, to the Education Interim Committee~~ submit a report in accordance with Section 53E-1-201 on the results of an evaluation conducted under this section.

Section 39. Section 53F-5-405 is amended to read:

53F-5-405. Independent evaluation -- Reporting.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall contract with an independent evaluator to annually evaluate a partnership that receives a grant under this part.

(2) The evaluation described in Subsection (1) shall:

(a) assess implementation of a partnership, including the extent to which members of a partnership:

(i) share data to align and improve efforts focused on student success; and

(ii) meet regularly and communicate authentically; and

(b) assess the impact of a partnership on student outcomes using appropriate statistical evaluation methods.

(3) In identifying an independent evaluator under Subsection (1), the board shall identify an evaluator that:

(a) has a credible track record of conducting evaluations as described in Subsection (2); and

(b) is independent of any member of the partnership and does not otherwise have a vested interest in the outcome of the evaluation.

(4) Beginning in the 2017-18 school year, the board shall ensure that the independent evaluator:

(a) prepares an annual written report of an evaluation conducted under this section; and

(b) ~~annually submits the report to the Education Interim Committee~~ submits the report in accordance with Section 53E-1-201.

Section 40. Section 53F-5-506 is amended to read:

53F-5-506. Waiver from board rule -- Board recommended statutory changes.

(1) An LEA may apply to the board in a grant application submitted under this part for a waiver of a board rule that inhibits or hinders the LEA from accomplishing its goals set out in its grant application.

(2) The board may grant the waiver, unless:

(a) the waiver would cause the LEA to be in violation of state or federal law; or

(b) the waiver would threaten the health, safety, or welfare of students in the LEA.

(3) If the board denies the waiver, the board shall provide in writing the reason for the denial to the waiver applicant.

(4) (a) The board shall request from each LEA that receives a grant under this part for each year the LEA receives funds:

(i) information on a state statute that hinders an LEA from fully implementing the LEA's program; and

(ii) suggested changes to the statute.

(b) The board shall ~~[, in a written]~~ report ~~[, provide]~~ any information received from an LEA under Subsection (4)(a) and the board's recommendations ~~[to the Legislature no later than November 30 of each year]~~ in accordance with Section 53E-1-203.

Section 41. Section 53G-4-403 is amended to read:

53G-4-403. School district fiscal year -- Statistical reports.

(1) A school district's fiscal year begins on July 1 and ends on June 30.

(2) (a) A school district shall forward statistical reports for the preceding school year, containing items required by law or by the State Board of Education, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement of funds required under ~~[Subsection 53E-3-301(3)(d)(v)]~~ Section 53E-1-203.

(3) A school district shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 42. Section 53G-4-404 is amended to read:

53G-4-404. Annual financial report -- Audit report.

(1) The annual financial report of each school district, containing items required by law or by the State Board of Education and attested to by independent auditors, shall be prepared as required by Section 51-2a-201.

(2) If auditors are employed under Section 51-2a-201, the auditors shall complete their field work in sufficient time to allow them to verify necessary audit adjustments included in the annual financial report to the state superintendent.

(3) (a) (i) The district shall forward the annual financial report to the state superintendent not later than October 1.

(ii) The report shall include information to enable the state superintendent to complete the statement of funds required under ~~[Subsection 53E-3-301(3)(d)(v)]~~ Section 53E-1-203.

(b) The State Board of Education shall publish electronically a copy of the report on the Internet not later than ~~[December 15]~~ January 15.

(4) The completed audit report shall be delivered to the school district board of education and the state superintendent of public instruction not later than November 30 of each year.

Section 43. Section 53G-5-411 is amended to read:

53G-5-411. Charter school fiscal year -- Statistical reports.

(1) A charter school's fiscal year begins on July 1 and ends on June 30.

(2) (a) A charter school shall forward statistical reports for the preceding school year, containing items required by law or by the State Board of Education, to the state superintendent on or before November 1 of each year.

(b) The reports shall include information to enable the state superintendent to complete the statement of funds required under ~~[Subsection 53E-3-301(3)(d)(v)]~~ Section 53E-1-203.

(3) A charter school shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Section 44. Section 53G-6-707 is amended to read:

53G-6-707. Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the State Board of Education and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children.

(2) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

~~[(4) The board shall make an annual report to the Legislature on the number of exchange students and the number of interstate compact students sent to or received from public schools outside the state.]~~

~~[(5)]~~ (4) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

[~~(6)~~] (5) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

[~~(7)~~] (6) Notwithstanding Subsection 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

(a) is sponsored by an agency approved by the State Board of Education;

(b) attends the same school during the same time period that another student from the school is:

(i) sponsored by the same agency; and

(ii) enrolled in a school in a foreign country; and

(c) is enrolled in the school for one year or less.

Section 45. Section 53G-8-207 is amended to read:

53G-8-207. Alternatives to suspension or expulsion.

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:

(a) research methods of motivating and providing incentives to students that:

(i) directly and regularly reward or recognize appropriate behavior;

(ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and

(iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;

(b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel; and

~~[(e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and]~~

~~[(4)]~~ (e) maintain data for purposes of accountability, later reporting, and future analysis.

Section 46. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs.

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the board as described in Subsection (3).

(f) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school, in the secondary grades of the school district or charter school, shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;

(b) prevention of youth suicide;

(c) youth suicide intervention;

(d) postvention for family, students, and faculty;

(e) underage drinking of alcohol;

(f) methods of strengthening the family; and

(g) methods of strengthening a youth's relationships in the school and community.

(3) The board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools;

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator; and

(c) award grants in accordance with Section 53F-5-206.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$1,000.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

~~[(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the public education suicide prevention coordinator and the state suicide prevention coordinator, on:]~~

~~[(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;]~~

~~[(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;]~~

~~[(iii) the public education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;]~~

~~[(iv) data measuring the effectiveness of youth suicide programs;]~~

~~[(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and]~~

~~[(vi) five-year trends of youth suicides per school, school district, and charter school.]~~

~~[(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).]~~

Section 47. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection [(4)] (3), a school district shall offer a seminar for parents of students in the school district that:

- (i) is offered at no cost to parents;
 - (ii) begins at or after 6 p.m.;
 - (iii) is held in at least one school located in the school district; and
 - (iv) covers the topics described in Subsection (2).
- (b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

- (i) develop its own curriculum for the seminar described in Subsection (1)(a); or
 - (ii) use the curriculum developed by the State Board of Education under Subsection (2).
- (d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

- (i) substance abuse, including illegal drugs and prescription drugs and prevention;
- (ii) bullying;
- (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;
- (iv) Internet safety, including pornography addiction; and

(v) the School Safety and Crisis Line established in Section 53E-10-502; and

(b) provide the curriculum, including resources and training, to school districts upon request.

~~[(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, on:]~~

~~[(a) the progress of implementation of the parent seminar;]~~

~~[(b) the number of parent seminars conducted in each school district;]~~

~~[(c) the estimated attendance reported by each school district;]~~

~~[(d) a recommendation of whether to continue the parent seminar program; and]~~

~~[(e) if a local school board has opted out of providing the parent seminar, as described in Subsection (4), the reasons why a local school board opted out.]~~

[(4)] (3) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 48. Section 53G-9-802 is amended to read:

53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

- (i) engaging with or attempting to recover a designated student;
 - (ii) developing a learning plan, in consultation with a designated student, to identify:
 - (A) barriers to regular school attendance and achievement;
 - (B) an attainment goal; and
 - (C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);
 - (iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and
 - (iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.
- (b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

- (i) throughout the calendar year; and
 - (ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.
- (c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the State Board of Education, and policies established by the LEA;

(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6, Electronic High School; or

(iii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the State Board of Education on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The State Board of Education shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and

(b) ~~[on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee]~~ report on the provisions of this section in accordance with Section 53E-1-203, including a summary of the reports submitted under Subsection (6).

Section 49. Section 53G-10-204 is amended to read:

53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

(6) To assist the Commission on Civic and Character Education in fulfilling the commission's duties under Section 67-1a-11, by ~~December 30~~ January 15 of each year, each school district and the State Charter School Board shall submit to the lieutenant governor and the commission a report summarizing how civic and character education are achieved in the school district or charter schools through an integrated school curriculum and in the regular course of school work as provided in this section.

(7) ~~Each year, the State Board of Education~~ In accordance with Section 53E-1-203, the state board shall report to the Education Interim Committee, on or before the October meeting, the methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.

Section 50. Section 53G-11-511 is amended to read:

53G-11-511. Report of performance levels.

(1) A school district shall report to the State Board of Education the number and percent of educators in each of the four levels of performance assigned under Section 53G-11-508.

(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:

(a) administrators;

(b) teachers, including separately reported data for provisional teachers and career teachers; and

(c) other classifications or demographics of educators as determined by the State Board of Education.

(3) The state superintendent shall include the data reported by school districts under this section in the ~~state superintendent's annual report of the public school system~~ State Superintendent's Annual Report required by Section ~~[53E-3-301]~~ 53E-1-203.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to ensure the privacy and protection of individual evaluation data.

Section 51. Section 59-9-102.5 is amended to read:

59-9-102.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

- (i) cash;
- (ii) given directly to an occupational health and safety center; and
- (iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

- (I) safety and ergonomics;
- (II) industrial hygiene;
- (III) occupational health nursing; and
- (IV) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .10% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 34A-2-202.5, report to ~~the Legislature through~~ the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than ~~July 1~~ August 15 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 52. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53A-24-602 is repealed July 1, 2018.

(2) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707~~[(4)]~~ (3)(a)(ii), the language that states "Except as provided in Subsection ~~[(4)]~~ (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707~~[(4)]~~ (3)(b) is repealed July 1, 2021.

(6) (a) The following sections are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

(9) Section 53E-5-307 is repealed July 1, 2020.

(10) Subsections 53F-2-205(4) and (5), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(11) Subsection 53F-2-301(1) is repealed July 1, 2023.

(12) Subsection 53F-2-515(1), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(13) Section 53F-4-204 is repealed July 1, 2019.

(14) Section 53F-6-202 is repealed July 1, 2020.

(15) Subsection 53F-9-302(3), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(16) Subsection 53F-9-305(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(17) Subsection 53F-9-306(3)(a), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(18) Subsection 53G-3-304(1)(c)(i), the language that states “or 53F-2-301.5, as applicable” is repealed July 1, 2023.

(19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s perception of the Legislature’s intent.

CHAPTER 325**S. B. 15**

Passed February 14, 2019

Approved March 26, 2019

Effective May 14, 2019

**EDUCATION
RECODIFICATION REPEALERS**

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill repeals public education code provisions.

Highlighted Provisions:

This bill:

- ▶ repeals the Parent Choice in Education Act;
- ▶ repeals the Electronic High School Act;
- ▶ repeals various outdated public education code provisions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-9-802, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-10-503, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-10-508, as renumbered and amended by Laws of Utah 2018, Chapter 3

59-12-102, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472

63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469

63N-3-105, as last amended by Laws of Utah 2016, Chapter 34

REPEALS:

53A-1a-804, as enacted by Laws of Utah 2007, Chapter 30

53A-1a-805, as enacted by Laws of Utah 2007, Chapter 30

53A-1a-806, as last amended by Laws of Utah 2011, Chapter 342

53A-1a-808, as last amended by Laws of Utah 2008, Chapter 382

53A-1a-811, as enacted by Laws of Utah 2007, Chapter 30

53E-10-601, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-602, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-603, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-604, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-605, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-606, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-607, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-608, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-10-609, as renumbered and amended by Laws of Utah 2018, Chapter 1

53F-2-313, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-413, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-509, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-517, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-2-518, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-5-208, as renumbered and amended by Laws of Utah 2018, Chapter 2

53F-6-202, as renumbered and amended by Laws of Utah 2018, Chapter 2

53G-3-103, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-4-1001.5, as renumbered and amended by Laws of Utah 2018, Chapter 3

63N-3-110, as last amended by Laws of Utah 2018, Chapter 415

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 53G-9-802 is amended to read:****53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.**

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the State Board of Education, and policies established by the LEA; or

~~[(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6, Electronic High School; or]~~

~~[(iii)]~~ (ii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services

described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the State Board of Education on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

(7) The State Board of Education shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and

(b) on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee on the provisions of this section, including a summary of the reports submitted under Subsection (6).

Section 2. Section 53G-10-503 is amended to read:

53G-10-503. Driver education funding -- Reimbursement of school districts for

**driver education class expenses --
Limitations -- Excess funds -- Student
fees.**

(1) (a) Except as provided in Subsection (1)(b), a school district that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a school district may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A school district may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent of public instruction shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each school district that applied for reimbursement in accordance with this section.

(b) A school district that maintains driver education classes that conform to this part and the rules prescribed by the board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a school district may:

(a) employ personnel who are not licensed by the board under Section 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) \$100 per student who has completed driver education during the school year;

(b) \$30 per student who has only completed the classroom portion in the school [~~or through the electronic high school~~] during the school year; or

(c) \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent of public instruction shall allocate the money to each school district in the same proportion that its reimbursable costs bear to the total reimbursable costs of all school districts.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the superintendent may allocate the excess funds to school districts:

(a) to reimburse each school district that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the school district. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 3. Section 53G-10-508 is amended to read:

53G-10-508. Programs authorized -- Minimum standards.

(1) Local school districts may:

(a) allow students to complete the classroom training portion of driver education through [~~the following programs:~~] home study;

~~[(i) home study; or]~~

~~[(ii) the electronic high school;]~~

(b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;

(c) offer driver education outside of school hours in order to reduce the cost of providing driver education;

(d) offer driver education through community education programs;

(e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:

(i) licensed under Section 53-3-504; and

(ii) not associated with the school or under contract with the school under Subsection 53G-10-503(3); or

(f) any combination of Subsections (1)(a) through (e).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall establish minimum standards for the school-related programs under Subsection (1).

Section 4. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

(A) a product; or

(B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

(y) Section 59-12-2220.

(7) “Aircraft” means the same as that term is defined in Section 72-10-102.

(8) “Aircraft maintenance, repair, and overhaul provider” means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that “affiliated group” includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

- (C) changing landing gear; and
- (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
- (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.
- (9) "Alcoholic beverage" means a beverage that:
- is suitable for human consumption; and
 - contains .5% or more alcohol by volume.
- (10) "Alternative energy" means:
- biomass energy;
 - geothermal energy;
 - hydroelectric energy;
 - solar energy;
 - wind energy; or
 - energy that is derived from:
 - coal-to-liquids;
 - nuclear fuel;
 - oil-impregnated diatomaceous earth;
 - oil sands;
 - oil shale;
 - petroleum coke; or
 - waste heat from:
 - an industrial facility; or
 - a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.
- (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
- uses alternative energy to produce electricity; and
 - has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- connected to an electric grid; or
 - located on the premises of an electricity consumer.
- (12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

- (b) "Ancillary service" includes:
- a conference bridging service;
 - a detailed communications billing service;
 - directory assistance;
 - a vertical service; or
 - a voice mail service.
- (13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.
- (14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
- who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
 - at the direction of the seller of the right to use the amusement device, skill device, or ride device.
- (15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:
- who is not the purchaser of the cleaning or washing of the tangible personal property; and
 - at the direction of the seller of the cleaning or washing of the tangible personal property.
- (16) "Authorized carrier" means:
- in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;
 - in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or
 - in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.
- (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:
- material from a plant or tree; or
 - other organic matter that is available on a renewable basis, including:
 - slash and brush from forests and woodlands;
 - animal waste;
 - waste vegetable oil;
 - methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

<p>(E) aquatic plants; and</p> <p>(F) agricultural products.</p> <p>(b) “Biomass energy” does not include:</p> <p>(i) black liquor; or</p> <p>(ii) treated woods.</p> <p>(18) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:</p> <p>(i) distinct and identifiable; and</p> <p>(ii) sold for one nonitemized price.</p> <p>(b) “Bundled transaction” does not include:</p> <p>(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;</p> <p>(ii) the sale of real property;</p> <p>(iii) the sale of services to real property;</p> <p>(iv) the retail sale of tangible personal property and a service if:</p> <p>(A) the tangible personal property:</p> <p>(I) is essential to the use of the service; and</p> <p>(II) is provided exclusively in connection with the service; and</p> <p>(B) the service is the true object of the transaction;</p> <p>(v) the retail sale of two services if:</p> <p>(A) one service is provided that is essential to the use or receipt of a second service;</p> <p>(B) the first service is provided exclusively in connection with the second service; and</p> <p>(C) the second service is the true object of the transaction;</p> <p>(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:</p> <p>(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or</p> <p>(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and</p> <p>(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:</p> <p>(A) that retail sale includes:</p> <p>(I) food and food ingredients;</p>	<p>(II) a drug;</p> <p>(III) durable medical equipment;</p> <p>(IV) mobility enhancing equipment;</p> <p>(V) an over-the-counter drug;</p> <p>(VI) a prosthetic device; or</p> <p>(VII) a medical supply; and</p> <p>(B) subject to Subsection (18)(f):</p> <p>(I) the seller’s purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total purchase price of that retail sale; or</p> <p>(II) the seller’s sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller’s total sales price of that retail sale.</p> <p>(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:</p> <p>(A) packaging that:</p> <p>(I) accompanies the sale of the tangible personal property, product, or service; and</p> <p>(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;</p> <p>(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or</p> <p>(C) an item of tangible personal property, a product, or a service included in the definition of “purchase price.”</p> <p>(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.</p> <p>(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:</p> <p>(A) a binding sales document; or</p> <p>(B) another supporting sales-related document that is available to a purchaser.</p> <p>(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:</p> <p>(A) a bill of sale;</p> <p>(B) a contract;</p> <p>(C) an invoice;</p>
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- (D) a lease agreement;
- (E) a periodic notice of rates and services;
- (F) a price list;
- (G) a rate card;
- (H) a receipt; or
- (I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

- (i) on a transaction; and
- (ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

- (a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection ~~(106)~~ (107).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

<p>(a) a computer to perform a task; or</p> <p>(b) automatic data processing equipment to perform a task.</p> <p>(28) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:</p> <p>(a) future updates or upgrades to computer software;</p> <p>(b) support services with respect to computer software; or</p> <p>(c) a combination of Subsections (28)(a) and (b).</p> <p>(29) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.</p> <p>(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).</p> <p>(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).</p> <p>(30) “Construction materials” means any tangible personal property that will be converted into real property.</p> <p>(31) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.</p> <p>(32) (a) “Delivery charge” means a charge:</p> <p>(i) by a seller of:</p> <p>(A) tangible personal property;</p> <p>(B) a product transferred electronically; or</p> <p>(C) services; and</p> <p>(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.</p> <p>(b) “Delivery charge” includes a charge for the following:</p> <p>(i) transportation;</p> <p>(ii) shipping;</p> <p>(iii) postage;</p> <p>(iv) handling;</p> <p>(v) crating; or</p> <p>(vi) packing.</p> <p>(33) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.</p> <p>(34) “Dietary supplement” means a product, other than tobacco, that:</p> <p>(a) is intended to supplement the diet;</p>	<p>(b) contains one or more of the following dietary ingredients:</p> <p>(i) a vitamin;</p> <p>(ii) a mineral;</p> <p>(iii) an herb or other botanical;</p> <p>(iv) an amino acid;</p> <p>(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or</p> <p>(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);</p> <p>(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:</p> <p>(A) tablet form;</p> <p>(B) capsule form;</p> <p>(C) powder form;</p> <p>(D) softgel form;</p> <p>(E) gelcap form; or</p> <p>(F) liquid form; or</p> <p>(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:</p> <p>(A) as conventional food; and</p> <p>(B) for use as a sole item of:</p> <p>(I) a meal; or</p> <p>(II) the diet; and</p> <p>(d) is required to be labeled as a dietary supplement:</p> <p>(i) identifiable by the “Supplemental Facts” box found on the label; and</p> <p>(ii) as required by 21 C.F.R. Sec. 101.36.</p> <p>[(35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.]</p> <p>[(36)] (35) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.</p> <p>(b) “Digital audio work” includes a ringtone.</p> <p>(36) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.</p> <p>(37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.</p> <p>(38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:</p> <p>(i) to:</p>
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(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(42) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

- (i) electrical capabilities;
- (ii) digital capabilities;
- (iii) magnetic capabilities;
- (iv) wireless capabilities;
- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) “Employee” means the same as that term is defined in Section 59-10-401.

(47) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

(50) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection (91)(b)(iii).

(c) “Food and food ingredients” does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) “Fundraising sales” means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

- (iv) the National Guard;
 - (v) an independent entity as defined in Section 63E-1-102; or
 - (vi) a political subdivision as defined in Section 17B-1-102.
- (b) "Governmental entity" does not include the state systems of public and higher education, including:
- (i) a school;
 - (ii) the State Board of Education;
 - (iii) the State Board of Regents; or
 - (iv) an institution of higher education described in Section 53B-1-102.
- (55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.
- (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
- (a) in mining or extraction of minerals;
 - (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
 - (c) in manufacturing tangible personal property at an establishment described in:
 - (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
 - (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;
 - (B) steel;
 - (C) nonferrous metal;
 - (D) paper;
 - (E) glass;

- (F) plastic;
 - (G) textile; or
 - (H) rubber; and
- (ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or
- (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.
- (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:
- (i) tangible personal property; or
 - (ii) a product transferred electronically.
- (b) "Installation charge" does not include a charge for:
- (i) repairs or renovations of:
 - (A) tangible personal property; or
 - (B) a product transferred electronically; or
 - (ii) attaching tangible personal property or a product transferred electronically:
 - (A) to other tangible personal property; and
 - (B) as part of a manufacturing or fabrication process.
- (58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
- (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
- (i) (A) a fixed term; or
 - (B) an indeterminate term; and
 - (ii) consideration.
- (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
- (c) "Lease" or "rental" does not include:
- (i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - (ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
 - (A) upon completion of required payments; and
 - (B) if the payment of an option price does not exceed the greater of:
 - (I) \$100; or
 - (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of

the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) “Mobile wireless service” includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

(70) (a) Except as provided in Subsection (70)(c), “mobility enhancing equipment” means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) “Mobility enhancing equipment” does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform all of the seller’s sales and use tax functions for agreement sales and use taxes other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

(72) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), “model 3 seller” means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

(74) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) “Modular home” means a modular unit as defined in Section 15A-1-302.

(76) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

(77) “Oil sands” means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) “Oil shale” means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) “Optional computer software maintenance contract” means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) “Other fuels” means products that burn independently to produce heat or energy.

(b) “Other fuels” includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) “Paging service” means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) “Pawnbroker” means the same as that term is defined in Section 13-32a-102.

(83) “Pawn transaction” means the same as that term is defined in Section 13-32a-102.

(84) (a) “Permanently attached to real property” means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(90) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(91) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

<p>(XVI) a torte; or</p> <p>(XVII) a tortilla.</p> <p>(c) An eating utensil provided by the seller does not include the following used to transport the food:</p> <ul style="list-style-type: none"> (i) a container; or (ii) packaging. <p>(92) “Prescription” means an order, formula, or recipe that is issued:</p> <ul style="list-style-type: none"> (a) (i) orally; (ii) in writing; (iii) electronically; or (iv) by any other manner of transmission; and <p>(b) by a licensed practitioner authorized by the laws of a state.</p> <p>(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), “prewritten computer software” means computer software that is not designed and developed:</p> <ul style="list-style-type: none"> (i) by the author or other creator of the computer software; and (ii) to the specifications of a specific purchaser. <p>(b) “Prewritten computer software” includes:</p> <ul style="list-style-type: none"> (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed: <ul style="list-style-type: none"> (A) by the author or other creator of the computer software; and (B) to the specifications of a specific purchaser; (ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or (iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software: <ul style="list-style-type: none"> (A) that is modified or enhanced to any degree; and (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser. (c) “Prewritten computer software” does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are: <ul style="list-style-type: none"> (i) reasonable; and (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by: 	<ul style="list-style-type: none"> (A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes; (B) a preponderance of the facts and circumstances at the time of the transaction; and (C) the understanding of all of the parties to the transaction. <p>(94) (a) “Private communications service” means a telecommunications service:</p> <ul style="list-style-type: none"> (i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and (ii) regardless of the manner in which the one or more communications channels are connected. <p>(b) “Private communications service” includes the following provided in connection with the use of one or more communications channels:</p> <ul style="list-style-type: none"> (i) an extension line; (ii) a station; (iii) switching capacity; or (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215. <p>(95) (a) Except as provided in Subsection (95)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.</p> <p>(b) “Product transferred electronically” does not include:</p> <ul style="list-style-type: none"> (i) an ancillary service; (ii) computer software; or (iii) a telecommunications service. <p>(96) (a) “Prosthetic device” means a device that is worn on or in the body to:</p> <ul style="list-style-type: none"> (i) artificially replace a missing portion of the body; (ii) prevent or correct a physical deformity or physical malfunction; or (iii) support a weak or deformed portion of the body. <p>(b) “Prosthetic device” includes:</p> <ul style="list-style-type: none"> (i) parts used in the repairs or renovation of a prosthetic device; (ii) replacement parts for a prosthetic device; (iii) a dental prosthesis; or (iv) a hearing aid. <p>(c) “Prosthetic device” does not include:</p> <ul style="list-style-type: none"> (i) corrective eyeglasses; or
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- (ii) contact lenses.
- (97) (a) "Protective equipment" means an item:
- (i) for human wear; and
 - (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
 - (i) listing the items that constitute "protective equipment"; and
 - (ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
- (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
- (i) regardless of:
 - (A) characteristics;
 - (B) copyright;
 - (C) form;
 - (D) format;
 - (E) method of reproduction; or
 - (F) source; and
 - (ii) made available in printed or electronic format.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
- (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- (i) valued in money; and
 - (ii) for which tangible personal property, a product transferred electronically, or services are:
 - (A) sold;
 - (B) leased; or
 - (C) rented.
 - (b) "Purchase price" and "sales price" include:
 - (i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
 - (ii) expenses of the seller, including:
 - (A) the cost of materials used;
 - (B) a labor cost;
 - (C) a service cost;
 - (D) interest;
 - (E) a loss;
 - (F) the cost of transportation to the seller; or
 - (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale; or
 - (iv) consideration a seller receives from a person other than the purchaser if:
 - (A) (I) the seller actually receives consideration from a person other than the purchaser; and
 - (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
 - (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
 - (Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - (II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
 - (III) the price reduction or discount is identified as a third party price reduction or discount on the:
 - (Aa) invoice the purchaser receives; or
 - (Bb) certificate, coupon, or other documentation the purchaser presents.
 - (c) "Purchase price" and "sales price" do not include:
 - (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
 - (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as

demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

- (I) a carrying charge;
- (II) a financing charge; or
- (III) an interest charge;
- (B) a delivery charge;
- (C) an installation charge;
- (D) a manufacturer rebate on a motor vehicle; or
- (E) a tax or fee legally imposed directly on the consumer.

(100) "Purchaser" means a person to whom:

- (a) a sale of tangible personal property is made;
- (b) a product is transferred electronically; or
- (c) a service is furnished.

(101) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) "Rental" means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(108)(a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.]~~

~~[(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.]~~

~~[(409)] (108) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:~~

- ~~(a) resale;~~
- ~~(b) sublease; or~~
- ~~(c) subrent.~~

(109) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(110) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

- (b) “Sale” includes:
 - (i) installment and credit sales;
 - (ii) any closed transaction constituting a sale;
 - (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
 - (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
 - (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) “Sale at retail” means the same as that term is defined in Subsection ~~[(409)] (108).~~

(112) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:
 - (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the

tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) “Sales price” means the same as that term is defined in Subsection (99).

(114) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(115) For purposes of this section and Section 59-12-104, “school” means:

~~[(a) means:]~~

~~[(4)]~~ (a) an elementary school or a secondary school that:

~~[(A)]~~ (i) is a:

~~[(4)]~~ (A) public school; or

~~[(4)]~~ (B) private school; and

~~[(B)]~~ (ii) provides instruction for one or more grades kindergarten through 12; or

~~[(ii)]~~ (b) a public school district~~[,] and~~.

~~[(b) includes the Electronic High School as defined in Section 53E-10-601.]~~

(116) “Seller” means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(117) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless

of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(126) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(129) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) “Telecommunications service” does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser’s primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer’s premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

- (x) a value-added nonvoice data service; or
- (xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

- (i) that person; or
- (ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

- (i) a bridge;
- (ii) a computer;
- (iii) a cross connect;
- (iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (138)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) “Waste energy facility” does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) “Watercraft” means a vessel as defined in Section 73-18-2.

(144) “Wind energy” means wind used as the sole source of energy to produce electricity.

(145) “ZIP Code” means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 5. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) Section 53F-2-514 is repealed July 1, 2020.

(10) Section 53F-5-203 is repealed July 1, 2019.

(11) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

(12) Section 53F-6-201 is repealed July 1, 2019.

(13) Section 53F-9-501 is repealed January 1, 2023.

(14) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2020.

Section 6. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53A-24-602 is repealed July 1, 2018.

(2) (a) Subsections 53B-2a-103(2) and (4), regarding the composition of the UTech Board of Trustees and the transition to that composition, are repealed July 1, 2019.

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of directors, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states “Except as provided in Subsection (6)(b)(ii)(B),” is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college’s change in performance with the technical college’s average performance, is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(4)(a)(ii), the language that states “Except as provided in Subsection (4)(b),” is repealed July 1, 2021.

(b) Subsection 53B-7-707(4)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(6) (a) The following sections, regarding the Regents’ scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents’ scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(8) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued

funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(9) Section 53E-5-307 is repealed July 1, 2020.

(10) Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(11) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(12) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(13) Section 53F-4-204 is repealed July 1, 2019.

~~[(14) Section 53F-6-202 is repealed July 1, 2020.]~~

~~[(14)]~~ (14) Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(14)]~~ (15) Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(14)]~~ (16) Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(14)]~~ (17) Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(14)]~~ (18) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 7. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission, is repealed July 1, 2020.

(3) Section 63H-7a-303 is repealed on July 1, 2022.

(4) On July 1, 2019:

(a) in Subsection 63J-1-206(2)(c)(i), the language that states "Subsection (2)(c)(ii) and" is repealed; and

(b) Subsection 63J-1-206(2)(c)(ii) is repealed.

(5) Section 63J-4-708 is repealed January 1, 2023.

(6) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

~~[(7) Section 63N-3-110 is repealed July 1, 2020.]~~

Section 8. Section 63N-3-105 is amended to read:

63N-3-105. Qualification for assistance.

(1) Except as provided in Section 63N-3-108, 63N-3-109, or 63N-3-109.5, ~~[or 63N-3-110,]~~ the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account. Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iv) the applicant is an entity offering an economic opportunity under Section 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 9. Repealer.

This bill repeals:

Section 53A-1a-804, Scholarship program created -- Qualifications -- Application.

Section 53A-1a-805, Eligible private schools.

Section 53A-1a-806, Scholarship payments.

Section 53A-1a-808, Board to make rules.

Section 53A-1a-811, Review by legislative auditor general.

Section 53E-10-601, Definitions.

Section 53E-10-602, Electronic High School created -- Purpose.

Section 53E-10-603, Courses and credit.

Section 53E-10-604, Student eligibility for enrollment.

Section 53E-10-605, Services to students with disabilities.

Section 53E-10-606, Payment for an Electronic High School course.

Section 53E-10-607, Electronic High School diploma.

Section 53E-10-608, Review by legislative

auditor general.

Section 53E-10-609, State contribution for the Electronic High School.

Section 53F-2-313, Weighted pupil units for career and technical education set-aside programs.

Section 53F-2-413, Alternative programs.

Section 53F-2-509, Grants for field trips to the State Capitol.

Section 53F-2-517, Quality Teaching Block Grant Program -- State contributions.

Section 53F-2-518, Appropriation for retirement and social security.

Section 53F-5-208, Reading Performance Improvement Scholarship Program.

Section 53F-6-202, Smart School Technology Program.

Section 53G-3-103, Legislative findings.

Section 53G-4-1001.5, Purpose of part.

Section 63N-3-110, Selection of educational technology provider to implement whole-school one-to-one mobile device technology deployment plan for schools.

CHAPTER 326**S. B. 32**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

INDIGENT DEFENSE ACT AMENDMENTS

Chief Sponsor: Todd Weiler
 House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill modifies provisions relating to indigent defense services.

Highlighted Provisions:

This bill:

- ▶ recodifies the Indigent Defense Act, including:
 - defining terms;
 - addressing right to counsel;
 - determining indigency;
 - ordering indigent defense services;
 - establishing standards for indigent defense systems;
 - addressing compensation and reimbursement for indigent defense services;
 - addressing the Utah Indigent Defense Commission;
 - addressing the Indigent Defense Funds Board and duties of the board;
 - providing for defense of indigent inmates, including providing for the Indigent Inmate Trust Fund;
 - addressing the Indigent Aggravated Murder Defense Trust Fund and the roles of counties and the state;
 - updating cross references; and
 - repealing language outdated because of changes made in the bill; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-3-704, as last amended by Laws of Utah 2018, Chapter 82
 17-53-223, as last amended by Laws of Utah 2018, Chapter 82
 63A-11-201, as last amended by Laws of Utah 2011, Chapter 265
 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469
 63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469
 78A-2-408, as last amended by Laws of Utah 2014, Chapter 48
 78A-2-703, as renumbered and amended by Laws of Utah 2014, Chapter 267

78A-2-705, as renumbered and amended by Laws of Utah 2014, Chapter 267
 78A-6-306, as last amended by Laws of Utah 2018, Chapter 91
 78A-6-317, as last amended by Laws of Utah 2014, Chapters 90 and 275
 78A-6-703, as last amended by Laws of Utah 2015, Chapter 338
 78A-6-1111, as last amended by Laws of Utah 2018, Chapter 359
 78A-7-103, as repealed and reenacted by Laws of Utah 2012, Chapter 205
 78B-6-112, as last amended by Laws of Utah 2018, Chapter 359

ENACTS:

78B-22-102, Utah Code Annotated 1953
 78B-22-201, Utah Code Annotated 1953
 78B-22-202, Utah Code Annotated 1953
 78B-22-203, Utah Code Annotated 1953
 78B-22-204, Utah Code Annotated 1953
 78B-22-301, Utah Code Annotated 1953
 78B-22-302, Utah Code Annotated 1953
 78B-22-303, Utah Code Annotated 1953
 78B-22-304, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78B-22-101, (Renumbered from 77-32-101, as enacted by Laws of Utah 1997, Chapter 354)
 78B-22-401, (Renumbered from 77-32-801, as last amended by Laws of Utah 2018, Chapter 296)
 78B-22-402, (Renumbered from 77-32-802, as last amended by Laws of Utah 2018, Chapter 296)
 78B-22-403, (Renumbered from 77-32-803, as last amended by Laws of Utah 2018, Chapter 296)
 78B-22-404, (Renumbered from 77-32-804, as repealed and reenacted by Laws of Utah 2018, Chapter 296)
 78B-22-405, (Renumbered from 77-32-805, as repealed and reenacted by Laws of Utah 2018, Chapter 296)
 78B-22-406, (Renumbered from 77-32-806, as repealed and reenacted by Laws of Utah 2018, Chapter 296)
 78B-22-407, (Renumbered from 77-32-807, as repealed and reenacted by Laws of Utah 2018, Chapter 296)
 78B-22-501, (Renumbered from 77-32-401, as last amended by Laws of Utah 2012, Chapter 180)
 78B-22-502, (Renumbered from 77-32-402, as last amended by Laws of Utah 2017, Chapter 56)
 78B-22-601, (Renumbered from 77-32-501, as last amended by Laws of Utah 2009, Chapter 80)
 78B-22-602, (Renumbered from 77-32-502, as last amended by Laws of Utah 2009, Chapter 80)
 78B-22-701, (Renumbered from 77-32-601, as last amended by Laws of Utah 2011, Chapter 303)

78B-22-702, (Renumbered from 77-32-602, as last amended by Laws of Utah 1998, Chapter 333)

78B-22-703, (Renumbered from 77-32-603, as last amended by Laws of Utah 2018, Chapter 281)

78B-22-704, (Renumbered from 77-32-604, as last amended by Laws of Utah 2001, Chapter 209)

REPEALS:

77-32-201, as last amended by Laws of Utah 2017, Chapter 56

77-32-202, as last amended by Laws of Utah 2013, Chapter 245

77-32-301, as last amended by Laws of Utah 2016, Chapter 177

77-32-302, as last amended by Laws of Utah 2016, Chapter 177

77-32-303, as last amended by Laws of Utah 2012, Chapter 180

77-32-304, as last amended by Laws of Utah 2012, Chapter 180

77-32-304.5, as last amended by Laws of Utah 2012, Chapters 17 and 180

77-32-305, as renumbered and amended by Laws of Utah 1997, Chapter 354

77-32-305.5, as last amended by Laws of Utah 2012, Chapter 180

77-32-306, as last amended by Laws of Utah 2016, Chapter 177

77-32-307, as last amended by Laws of Utah 2012, Chapter 180

77-32-308, as renumbered and amended by Laws of Utah 1997, Chapter 354

77-32-401.5, as last amended by Laws of Utah 2017, Chapter 56

77-32-801.5, as enacted by Laws of Utah 2018, Chapter 296

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-704 is amended to read:

10-3-704. Form of ordinance.

The governing body shall ensure that any ordinance that the governing body passes contains the following, in substantially the following order and form:

- (1) a number;
- (2) a title which indicates the nature of the subject matter of the ordinance;
- (3) a preamble which states the need or reason for the ordinance;
- (4) an ordaining clause which states "Be it ordained by the _____ (name of the governing body and municipality).";
- (5) the body or subject of the ordinance;
- (6) when applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of a municipal ordinance; or, the penalty may establish a

classification of penalties and refer to such ordinance in which the penalty for such violation is established;

(7) when a penalty for a violation of the ordinance includes any possibility of imprisonment, a statement that the municipality is required, under Section [~~77-32-301~~] 78B-22-301, to provide for indigent [legal] defense[~~, as those terms are~~] services, as that term is defined in Section [~~77-32-201~~] 78B-22-102;

(8) a statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this chapter;

(9) a line for the signature of the mayor or acting mayor to sign the ordinance;

(10) a place for the municipal recorder to attest the ordinance and fix the seal of the municipality; and

(11) in municipalities where the mayor may disapprove an ordinance passed by the legislative body, a statement showing:

(a) if the mayor approves the ordinance, that the governing body passes the ordinance with the mayor's approval;

(b) if the mayor disapproves the ordinance, that the governing body passes the ordinance over the mayor's disapproval; or

(c) if the mayor neither approves or disapproves the ordinance, that the ordinance became effective without the approval or disapproval of the mayor.

Section 2. Section 17-53-223 is amended to read:

17-53-223. Ordinances -- Power to enact -- Penalty for violation.

- (1) A county legislative body may:
 - (a) pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging the powers and duties conferred by this title, and as are necessary and proper to provide for the safety, and preserve the health, promote the prosperity, improve the morals, peace, and good order, comfort, and convenience of the county and its inhabitants, and for the protection of property in the county;
 - (b) enforce obedience to ordinances with fines or penalties as the county legislative body considers proper; and
 - (c) pass ordinances to control air pollution.
- (2) (a) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or both fine and imprisonment.
 - (b) When a penalty for a violation of an ordinance includes any possibility of imprisonment, the county legislative body shall include in the ordinance a statement that the county is required, under Section [~~77-32-301~~] 78B-22-301, to provide

for indigent [legal] defense[, as those terms are] services, as that term is defined in Section [77-32-201] 78B-22-102.

(3) (a) Except as specifically authorized by statute, the county legislative body may not impose a civil penalty for the violation of a county traffic ordinance.

(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles on a highway.

Section 3. Section 63A-11-201 is amended to read:

63A-11-201. Child welfare indigent defense services contracts -- Qualifications.

(1) The department may enter into [contracts] a contract with a qualified [parental defense attorneys] indigent defense service provider as defined in Section 78B-22-102 to provide indigent defense services for an indigent [parent or parents] individual who [are] is the subject of a petition alleging abuse, neglect, or dependency[, and will require a parental defense attorney under Section 78A-6-111].

(2) Payment for the representation, costs, and expenses of a contracted parental defense attorney shall be made from the Child Welfare Parental Defense Fund as provided in Section 63A-11-203.

(3) The parental defense attorney shall maintain the minimum qualifications as provided by this chapter.

Section 4. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(37) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(38) The Relative Value Study Restricted Account created in Section 59-9-105.

(39) The Cigarette Tax Restricted Account created in Section 59-14-204.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(41) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(42) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(43) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(44) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(45) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(46) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(47) The Immigration Act Restricted Account created in Section 63G-12-103.

(48) Money received by the military installation development authority, as provided in Section 63H-1-504.

(49) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(50) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(51) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(52) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(53) The Motion Picture Incentive Account created in Section 63N-8-103.

(54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(57) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(58) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(59) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(60) Fees for certificate of admission created under Section 78A-9-102.

(61) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(62) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(63) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(64) Funds collected for indigent defense as provided in Title ~~[77, Chapter 32, Part 8]~~ 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) The primary care grant program created in Section 26-10b-102.

(7) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(8) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(11) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b).

(12) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(13) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(14) The Utah National Guard, created in Title 39, Militia and Armories.

(15) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(16) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(17) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(18) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(19) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(20) The State Board of Education, as provided in Section 53F-2-205.

(21) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(22) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(23) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(24) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(25) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(26) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(30) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

(31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(32) The Traffic Noise Abatement Program created in Section 72-6-112.

(33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(34) A state rehabilitative employment program, as provided in Section 78A-6-210.

(35) The Utah Geological Survey, as provided in Section 79-3-401.

(36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(38) Indigent defense as provided in Title [77, Chapter 32, Part 8] 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

Section 6. Section 78A-2-408 is amended to read:

78A-2-408. Transcripts and copies -- Fees.

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

(2) (a) The fee for a transcript of a court session, or any part of a court session, shall be \$4.50 per page, which includes the initial preparation of the transcript and one certified copy. The preparer shall deposit the original text file and printed transcript with the clerk of the court and provide the person requesting the transcript with the certified copy. The cost of additional copies shall be as provided in Subsection 78A-2-301(1). The transcript for an appeal shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.

(b) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in

equal proportion or as ordered by the court. The fee for a transcript in a criminal case in which the defendant is found to be [impecunious] indigent shall be paid pursuant to Section [~~77-32-305~~] 78B-22-302.

(3) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be as provided in Subsection (2)(a), and shall be payable to the person preparing the transcript. Payment for a transcript under this section is the responsibility of the party requesting the transcript.

Section 7. Section 78A-2-703 is amended to read:

78A-2-703. Appointment of attorney guardian ad litem in district court matters.

(1) A district court may appoint an attorney guardian ad litem to represent the best interests of a minor in the following district court matters:

(a) protective order proceedings; and

(b) district court actions when:

(i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint, petition, or counterclaim;

(ii) the child abuse, child sexual abuse, or neglect described in Subsection (1)(b)(i) has been reported to Child Protective Services;

(iii) the court makes a finding that the adult parties to the case are indigent individuals, as defined in Section [~~77-32-202~~] 78B-22-102; and

(iv) the district court determines that there are no private attorney guardians ad litem who are reasonably available to be appointed in the district court action.

(2) (a) A court may not appoint an attorney guardian ad litem in a criminal case.

(b) Subsection (2)(a) does not prohibit the appointment of an attorney guardian ad litem in a case where a court is determining whether to adjudicate a minor for committing an act that would be a crime if committed by an adult.

(c) Subsection (2)(a) does not prohibit an attorney guardian ad litem from entering an appearance, filing motions, or taking other action in a criminal case on behalf of a minor, if:

(i) the attorney guardian ad litem is appointed to represent the minor in a case that is not a criminal case; and

(ii) the interests of the minor may be impacted by:

(A) an order that has been, or may be, issued in the criminal case; or

(B) other proceedings that have occurred, or may occur, in the criminal case.

(3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the court shall:

(a) specify in the order appointing the attorney guardian ad litem the specific issues in the proceeding that the attorney guardian ad litem is required to be involved in resolving, which may include issues relating to the custody of children and parent-time schedules;

(b) to the extent possible, bifurcate the issues specified in the order described in Subsection (3)(a) from the other issues in the case, in order to minimize the time constraints placed upon the attorney guardian ad litem in the case; and

(c) except as provided in Subsection (5), within one year after the day on which the attorney guardian ad litem is appointed in the case, issue a final order:

(i) resolving the issues in the order described in Subsection (3)(a); and

(ii) terminating the appointment of the attorney guardian ad litem in the case.

(4) A court shall issue an order terminating the appointment of an attorney guardian ad litem made under this section, if:

(a) the court determines that the allegations of abuse or neglect are unfounded;

(b) after receiving input from the attorney guardian ad litem, the court determines that the children are no longer at risk of abuse or neglect; or

(c) there has been no activity in the case for which the attorney guardian ad litem is appointed for a period of six consecutive months.

(5) A court may issue a written order extending the one-year period described in Subsection (3)(c) for a time certain, if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (3)(c) within the one-year period.

(6) When appointing an attorney guardian ad litem for a minor under this section, a court may appoint the same attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that attorney guardian ad litem is available.

(7) The court is responsible for all costs resulting from the appointment of an attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad litem program to cover those costs.

(8) An attorney guardian ad litem appointed in accordance with the requirements of this section and Chapter 6, Part 9, Guardian Ad Litem, is, when serving in the scope of duties of an attorney guardian ad litem, considered an employee of this state for purposes of indemnification under the Governmental Immunity Act.

Section 8. Section 78A-2-705 is amended to read:

78A-2-705. Private attorney guardian ad litem -- Appointment -- Costs and fees --

Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

(1) The court may appoint an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:

(a) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent~~[, as defined by Section 77-32-202]~~ as determined under Section 78B-22-202; or

(b) the custody of, or parent-time with, a child is at issue.

(2) (a) The court shall consider the limited number of eligible private attorneys guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.

(b) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.

(c) A court may not appoint a private attorney guardian ad litem in a criminal case.

(3) (a) If the parties stipulate to a private attorney guardian ad litem, the office shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.

(b) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).

(c) The court shall state in an order that the court is appointing a private attorney guardian ad litem, to be assigned by the office, to represent the best interests of the child in the matter.

(d) The court shall send the order described in Subsection (3)(c) to the office, in care of the Private Attorney Guardian ad Litem program.

(4) The court shall:

(a) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

(b) to the extent possible, bifurcate the issues described in Subsection (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and

(c) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:

(i) resolving the issues described in Subsection (4)(a); and

(ii) terminating the private attorney guardian ad litem from the appointment to the case.

(5) The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:

(a) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or

(b) there has been no activity in the case for a period of six consecutive months.

(6) A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.

(7) When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.

(8) (a) Upon receipt of the court's order, described in Subsections (3)(c) and (d), the office shall assign the case to a private attorney guardian ad litem, if available, in accordance with this section.

(b) (i) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.

(ii) If, after the initial assignment of a private attorney guardian ad litem, either attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.

(iii) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.

(iv) If no alternative private attorney guardian ad litem is available, the office shall notify the court.

(9) (a) When appointing a private attorney guardian ad litem, the court shall:

(i) assess all or part of the private attorney guardian ad litem fees, court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and

(ii) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):

- (A) be paid a set fee and initial retainer;
- (B) not be paid and serve pro bono; or

(C) be paid at a rate less than the set fee established by court rule.

(b) If a party claims to be impecunious, the court shall follow the procedure and make a determination, described in Section 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.

(c) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.

(10) Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:

(a) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and

(b) represent the best interests of the minor until released by the court.

(11) The private attorney guardian ad litem:

(a) shall be certified by the director of the office as meeting the minimum qualifications for appointment; and

(b) may not be employed by, or under contract with, the office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.

(12) The private attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) (i) personally meet with the minor, unless:

- (A) the minor is outside of the state; or
- (B) meeting with the minor would be detrimental to the minor;

(ii) personally interview the minor, unless:

- (A) the minor is not old enough to communicate;
- (B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor;

(iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and

(iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:

- (A) the status of the minor's case;
- (B) all court and administrative proceedings;
- (C) discussions with, and proposals made by, other parties;
- (D) court action; and
- (E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;

(f) identify community resources to protect the best interests of the minor and advocate for those resources; and

(g) participate in all appeals unless excused by the court.

(13) (a) The private attorney guardian ad litem shall represent the best interests of a minor.

(b) If the minor's intent and desires differ from the private attorney guardian ad litem's determination of the minor's best interests, the private attorney guardian ad litem shall communicate to the court the minor's intent and desires and the private attorney guardian ad litem's determination of the minor's best interests.

(c) A difference between the minor's intent and desires and the private attorney guardian ad litem's determination of best interests is not sufficient to create a conflict of interest.

(d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:

(i) instructs the private attorney guardian ad litem to not disclose the minor's intent and desires; or

(ii) has not expressed an intent and desire.

(e) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(14) In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(15) A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts

performed within the scope of duties of the private attorney guardian ad litem.

(16) The office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.

(17) Upon the advice of the director and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

(a) the minimum qualifications and requirements for appointment by the court as a private attorney guardian ad litem;

(b) the standard fee rate and retainer amount for a private attorney guardian ad litem;

(c) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;

(d) a system to:

(i) select a private attorney guardian ad litem for a given appointment; and

(ii) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and

(e) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

(18) (a) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of an office guardian ad litem, shall be applied to the office to recruit and train attorneys for the private attorney guardian ad litem program.

(b) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

Section 9. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with ~~[the provisions of Section 78A-6-1111]~~ Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(ix) subject to Subsections 78A-6-105(35)(c)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter

37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105(35)(b), truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 10. Section 78A-6-317 is amended to read:

78A-6-317. All proceedings -- Persons entitled to be present.

(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:

(a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and

(b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.

(3) (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.

(b) ~~When it appears to the court that a parent or guardian of the child desires counsel but is financially unable to afford and cannot for that reason employ counsel, the~~ A court [shall] may appoint [counsel] an indigent defense service provider as provided in ~~[Section 78A-6-111]~~ Title 78B, Chapter 22, Indigent Defense Act.

(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).

(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:

(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of a person who has been a victim of domestic violence;

(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or

(vi) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

(i) the existence of all records in the possession of the division or any other state or local public agency;

(ii) the name and address of the person or agency that originally created the record; and

(iii) that the person must seek access to the record from the person or agency that originally created the record.

Section 11. Section 78A-6-703 is amended to read:

78A-6-703. Certification hearings -- Juvenile court to hold preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.

(1) If a criminal information filed in accordance with Subsection 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.

(2) At the preliminary hearing the state shall have the burden of going forward with its case and the burden of establishing:

(a) probable cause to believe that a crime was committed and that the defendant committed it; and

(b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.

(3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:

(a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;

(b) whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:

(i) in concert with two or more persons;

(ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;

(e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;

(f) the record and previous history of the minor;

(g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;

(h) the desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;

(i) whether the minor used a firearm in the commission of an offense; and

(j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.

(4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.

(5) (a) Written reports and other materials relating to the minor's mental, physical, educational, and social history may be considered by the court.

(b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.

(6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).

(7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.

(8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;

(f) the relative ability of the facility to meet the needs of the minor and protect the public;

(g) whether the minor presents an imminent risk of harm to the minor or others within the facility;

(h) the physical maturity of the minor;

(i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and

(j) any other factors the court considers relevant.

(9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.

(10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.

(11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.

(12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.

(13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).

(14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:

(a) certifying that finding; and

(b) directing that the minor be held for criminal proceedings in the district court.

(15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2)(b).

(16) ~~[The provisions of]~~ Title 78B, Chapter 22, Indigent Defense Act, Section 78A-6-115, ~~[Section 78A-6-1111,]~~ and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.

(17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

(18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.

(19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (21) or Section 78A-6-705.

(20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense

arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.

(21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

Section 12. Section 78A-6-1111 is amended to read:

78A-6-1111. Order for indigent defense service or guardian ad litem.

~~[(1)(a) In any action in juvenile court initiated by the state, a political subdivision of the state, or a private party, the parents, legal guardian, and the minor, where applicable, shall be informed that they may be represented by counsel at every stage of the proceedings.]~~

~~[(b) In any action initiated by a private party:]~~

~~[(i) the parents or legal guardian shall have the right to employ counsel of their own choice at their own expense; and]~~

~~[(ii) the court shall appoint counsel designated by the county where the petition is filed to represent a parent or legal guardian facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under Section 78B-6-112, if the parent or legal guardian:]~~

~~[(A) qualifies as indigent under Section 77-32-202; and]~~

~~[(B) does not, after being fully advised of the right to counsel, knowingly, intelligently, and voluntarily waive the right to counsel.]~~

~~[(c) If, in any action initiated by the state or a political subdivision of the state under Part 3, Abuse, Neglect, and Dependency Proceedings; Part 5, Termination of Parental Rights Act; or Part 10, Adult Offenses, of this chapter or under Section 78A-6-1101, a parent or legal guardian requests an attorney and is found by the court to be indigent, counsel shall be appointed by the court to represent the parent or legal guardian in all proceedings directly related to the petition or motion filed by the state, or a political subdivision of the state, subject to the provisions of this section.]~~

(1) A court shall order indigent defense services for a minor, parent, or legal guardian as provided by Title 78B, Chapter 22, Indigent Defense Act.

~~[(d)] (2) In any action [initiated by the state, a political subdivision of the state, or a private party] under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act, [of this chapter,] the child shall be represented by a guardian ad litem in accordance with Sections 78A-6-317 and 78A-6-902. The child shall also be represented by an attorney guardian ad litem in other actions initiated under~~

this chapter when appointed by the court under Section 78A-6-902 or as otherwise provided by law.

~~[(e) In any action initiated by the state or a political subdivision of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or against a minor under Section 78A-6-1101, the parents or legal guardian and the minor shall be informed that the minor has the right to be represented by counsel at every stage of the proceedings.]~~

~~[(i) In cases where a petition or information alleging a felony-level offense is filed, the court shall appoint counsel, who shall appear until counsel is retained on the minor's behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity to consult with a defense attorney. The court shall make findings on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary and the minor understands the consequences of waiving the right to counsel.]~~

~~[(ii) In all other cases in which a petition is filed the right to counsel may not be waived by a minor unless there has been a finding on the record, taking into consideration the minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the minor understands the consequences of waiving the right to counsel.]~~

~~[(iii) If the minor is found to be indigent, counsel shall be appointed by the court to represent the minor in all proceedings directly related to the petition or motion filed by the state or a political subdivision of the state, subject to the provisions of this section.]~~

~~[(f) Indigency of a parent, legal guardian, or minor shall be determined in accordance with the process and procedure defined in Section 77-32-202. The court shall take into account the income and financial ability of the parent or legal guardian to retain counsel in determining the indigency of the minor.]~~

~~[(g) The cost of appointed counsel for a party found to be indigent, including the cost of counsel and expense of the first appeal, shall be paid by the county in which the trial court proceedings are held. Counties may levy and collect taxes for these purposes or may apply for a grant for reimbursement, as provided in Subsection (6).]~~

~~[(2) Counsel appointed by the court may not provide representation as court-appointed counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify court orders in a proceeding initiated by, a private party, except as provided under Subsection (1)(b).]~~

~~[(3) If the county responsible to provide legal counsel for an indigent under Subsection (1)(g) has arranged by contract to provide services, the court shall appoint the contracting attorney as legal counsel to represent that indigent.]~~

~~[(4) The court may order a parent or legal guardian for whom counsel is appointed, and the parents or legal guardian of any minor for whom~~

counsel is appointed, to reimburse the county for the cost of appointed counsel.]

~~[(5) The state, or an agency of the state, may not be ordered to reimburse the county for expenses incurred under Subsection (1)(g).]~~

~~[(6) If a county incurs expenses in providing defense services to indigent individuals facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under Section 78B-6-112, the county may apply for a grant for reimbursement from the Utah Indigent Defense Commission under Section 77-32-806.]~~

Section 13. Section 78A-7-103 is amended to read:

78A-7-103. Minimum standards of justice courts -- Authority of Judicial Council over justice courts.

The Judicial Council shall ensure that:

(1) procedures include requirements that every municipality or county that establishes or maintains a justice court provide for the following minimum operating standards:

(a) a system to ensure the justice court records all proceedings with a digital audio recording device and maintains the audio recordings for a minimum of one year;

(b) sufficient prosecutors to perform the prosecutorial duties before the justice court;

(c) adequate funding to ~~[defend all persons charged with a public offense who are determined by the justice court to be indigent]~~ provide indigent defense services for indigent individuals under Title ~~[77, Chapter 32]~~ 78B, Chapter 22, Indigent Defense Act;

(d) sufficient local peace officers to provide security for the justice court and to attend to the justice court when required;

(e) sufficient clerical personnel to serve the needs of the justice court;

(f) sufficient funds to cover the cost of travel and training expenses of clerical personnel and judges at training sessions mandated by the Judicial Council;

(g) adequate courtroom and auxiliary space for the justice court, which need not be specifically constructed for or allocated solely for the justice court when existing facilities adequately serve the purposes of the justice court; and

(h) for each judge of its justice court, a current copy of the Utah Code, the Utah Court Rules Annotated, the justice court manual published by the state court administrator, the county, city, or town ordinances as appropriate, and other legal reference materials as determined to be necessary by the judge; and

(2) the Judicial Council's rules and procedures shall:

(a) presume that existing justice courts will be recertified at the end of each four-year term if the court continues to meet the minimum requirements for the establishment of a new justice court; or

(b) authorize the Judicial Council, upon request of a municipality or county or upon its own review, when a justice court does not meet the minimum requirements, to:

(i) decline recertification of a justice court;

(ii) revoke the certification of a justice court;

(iii) extend the time for a justice court to comply with the minimum requirements; or

(iv) suspend rules of the Judicial Council governing justice courts, if the council believes suspending those rules is the appropriate administrative remedy for the justice courts of this state.

Section 14. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction to terminate parental rights in a child if the party who filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, if terminating the person's parental rights is in the best interests of the child.

(6) The court shall appoint ~~the county where the petition is filed~~ an indigent defense service provider, under Title 78B, Chapter 22, Indigent Defense Act, to represent a party who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to termination under this section, ~~if:~~

~~[(a) the court determines that the party is indigent under Section 77-32-202; and]~~

~~[(b) the party does not, after being fully advised of the right to counsel, knowingly, intelligently and voluntarily waive the right to counsel.]~~

(7) If a county incurs expenses in providing indigent defense services to an indigent ~~individuals~~ individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under this section, the county may apply for ~~a grant for~~ reimbursement from the Utah Indigent Defense Commission under Section ~~[77-32-806]~~ 78B-22-406.

Section 15. Section 78B-22-101, which is renumbered from Section 77-32-101 is renumbered and amended to read:

CHAPTER 22. INDIGENT DEFENSE ACT

Part 1. General Provisions

[77-32-101]. 78B-22-101. Title.

This chapter is known as the "Indigent Defense Act."

Section 16. Section 78B-22-102 is enacted to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

(5) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

(6) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(7) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services in the city's or town's justice court;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, or the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(8) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (8)(a), who is appealing a first appeal from an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(9) "Minor" means the same as that term is defined in Section 78A-6-105.

(10) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 17. Section 78B-22-201 is enacted to read:

Part 2. Appointment of Counsel

78B-22-201. Right to counsel.

(1) A court shall advise the following of the individual's right to counsel when the individual first appears before the court:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing any action under:

(i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act;

(iii) Title 78A, Chapter 6, Part 10, Adult Offenses; or

(iv) Section 78B-6-112; or

(c) an individual described in this Subsection (1), who is appealing a first appeal from a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Section 18. Section 78B-22-202 is enacted to read:

78B-22-202. Determining indigency.

(1) A court shall find an individual indigent if the individual:

(a) has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; or

(b) has insufficient income or other means to pay for legal counsel and the necessary expenses of representation without depriving the individual or the individual's family of food, shelter, clothing, or other necessities, considering:

(i) the individual's ownership of, or any interest in, personal or real property;

(ii) the amount of debt owed by the individual or that might reasonably be incurred by the individual because of illness or other needs within the individual's family;

(iii) the number, ages, and relationships of any dependents;

(iv) the probable expense and burden of defending the case;

(v) the reasonableness of fees and expenses charged by an attorney and the scope of representation undertaken when represented by privately retained defense counsel; and

(vi) any other factor the court considers relevant.

(2) Notwithstanding Subsection (1), a court may not find an individual indigent if the individual transferred or otherwise disposed of assets since

the commission of the offense with the intent of becoming eligible to receive indigent defense services.

(3) The court may make a finding of indigency at any time.

Section 19. Section 78B-22-203 is enacted to read:

78B-22-203. Order for indigent defense services.

(1) (a) A court shall appoint an indigent defense service provider who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual as defined in Section 77B-22-102; and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2) (a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system only if the court finds by clear and convincing evidence that:

(i) all of the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3) (a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the

indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) Except as provided in this section, a court may not order indigent defense services.

Section 20. Section 78B-22-204 is enacted to read:

78B-22-204. Waiver by a minor.

A minor may not waive the right to counsel before:

(1) the minor has consulted with counsel; and

(2) the court is satisfied that in light of the minor's unique circumstances and attributes:

(a) the minor's waiver is knowing and voluntary; and

(b) the minor understands the consequences of the waiver.

Section 21. Section 78B-22-301 is enacted to read:

Part 3. Indigent Defense Systems and Services

78B-22-301. Standards for indigent defense systems.

An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the minimum guidelines adopted by the commission under Section 78B-22-404.

Section 22. Section 78B-22-302 is enacted to read:

78B-22-302. Compensation for indigent defense services.

An indigent defense system shall fund indigent defense services ordered by a court in accordance with Section 78B-22-203.

Section 23. Section 78B-22-303 is enacted to read:

78B-22-303. Pro bono provision of indigent defense services -- Liability limits.

A defense attorney is immune from suit if the defense attorney provides indigent defense services to an indigent individual:

(1) at no cost; and

(2) without gross negligence or willful misconduct.

Section 24. Section 78B-22-304 is enacted to read:

78B-22-304. Reimbursement for indigent defense services.

A court may order a parent or legal guardian of a minor who is appointed indigent defense services under this chapter to reimburse the cost of the minor's indigent defense services, as determined by the court, unless the court finds the parent or legal guardian indigent under Section 78B-22-202.

Section 25. Section 78B-22-401, which is renumbered from Section 77-32-801 is renumbered and amended to read:

Part 4. Utah Indigent Defense Commission

[77-32-801]. 78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.

(1) There is created within the State Commission on Criminal and Juvenile Justice the "Utah Indigent Defense Commission."

(2) The purpose of the commission is to assist the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code.

Section 26. Section 78B-22-402, which is renumbered from Section 77-32-802 is renumbered and amended to read:

[77-32-802]. 78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.

(1) The commission is composed of [14] 15 voting members and one ex officio, nonvoting member.

(a) The governor, with the consent of the Senate, shall appoint the following [12] 13 voting members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

(iv) one member recommended by the Utah Association of Counties from a county of the first or second class;

(v) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vi) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(vii) two members recommended by the Utah League of Cities and Towns from its membership;

(viii) a retired judge recommended by the Judicial Council;

(ix) ~~one member~~ two members of the Utah Legislature, one from the House of Representatives and one from the Senate, selected jointly by the Speaker of the House and President of the Senate; and

(x) one attorney practicing in the area of parental defense, recommended by an entity funded under Title 63A, Chapter 11, Child Welfare Parental Defense Program.

(b) The Judicial Council shall appoint a voting member from the Administrative Office of the Courts.

(c) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a voting member of the commission.

(d) The director of the commission, appointed under Section ~~[77-32-803]~~ 78B-22-403, is an ex officio, nonvoting member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The commission shall annually elect a chair from the commission's membership to serve a

one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

Section 27. Section 78B-22-403, which is renumbered from Section 77-32-803 is renumbered and amended to read:

~~[77-32-803]. 78B-22-403. Director -- Qualifications -- Staff.~~

(1) The commission shall appoint a director to carry out the following duties:

(a) establish an annual budget;

(b) assist the commission in performing the commission's statutory duties;

(c) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures; and

(d) perform all other duties as assigned.

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the commission, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills to carry out duties as outlined in Subsection ~~[77-32-804]~~ 78B-22-404(1)(c).

(4) The commission in appointing the director, and the director in hiring the assistant director, shall give a preference to individuals with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

Section 28. Section 78B-22-404, which is renumbered from Section 77-32-804 is renumbered and amended to read:

~~[77-32-804]. 78B-22-404. Powers and duties of the commission.~~

(1) The commission shall:

(a) adopt minimum guidelines for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States

Constitution, the Utah Constitution, and the Utah Code, which guidelines at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service ~~and conflict cases~~; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused ~~persons~~ individuals in criminal cases at ~~all~~ the critical stages, and at ~~all~~ the stages to indigent ~~parties~~ individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to ~~all~~ the indigent individuals;

(c) identify and collect data from any source, which is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's minimum guidelines for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure

compliance with the commission's minimum guidelines for effective representation of indigent individuals;

(e) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's minimum guidelines for the effective representation of indigent individuals;

(f) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(g) establish procedures to award grants to indigent defense systems under Section ~~77-32-806~~ 78B-22-406 consistent with the commission's minimum guidelines for the effective representation of indigent individuals and appropriations by the state;

(h) emphasize the importance of ensuring constitutionally effective indigent defense services;

(i) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;

(j) oversee individuals and entities involved in providing indigent defense services;

(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's minimum guidelines by indigent defense systems receiving grants from the commission;

(l) submit recommendations for improving indigent defense services in the state, to legislative, executive, and judicial leadership; and

(m) publish an annual report on the commission's website.

~~[(2) An indigent defense system within the state shall meet the minimum guidelines adopted by the commission under Subsection (1)(a).]~~

~~[(3) (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part.~~

Section 29. Section 78B-22-405, which is renumbered from Section 77-32-805 is renumbered and amended to read:

[77-32-805]. 78B-22-405. Indigent Defense Resources Restricted Account -- Administration.

(1) (a) There is created within the General Fund a restricted account known as the "Indigent Defense Resources Restricted Account."

(b) Appropriations from the account are nonlapsing.

(2) The account consists of:

(a) money appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;

(b) any other money received by the commission from any source to carry out the purposes of this part; and

(c) any interest and earnings from the investment of account money.

(3) The commission shall administer the account and, subject to appropriation, disburse money from the account for the following purposes:

(a) to establish and maintain a statewide indigent defense data collection system;

(b) to establish and administer a grant program to provide grants of state money to indigent defense systems as set forth in Section ~~[77-32-806]~~ 78B-22-406;

(c) to provide training and continuing legal education for indigent defense service providers; and

(d) for administrative costs.

Section 30. Section 78B-22-406, which is renumbered from Section 77-32-806 is renumbered and amended to read:

[77-32-806]. 78B-22-406. Indigent defense services grant program.

(1) The commission may award grants to supplement local spending by ~~[a county or municipality]~~ an indigent defense system for indigent defense ~~[services and defense resources]~~.

(2) Commission grant money may be used for the following expenses:

(a) to assist ~~[a county or municipality]~~ an indigent defense system to provide indigent defense services that meet the commission's minimum guidelines for the effective representation of indigent individuals;

(b) the establishment and maintenance of local indigent defense data collection systems;

(c) indigent defense services in addition to those currently being provided by ~~[a county or municipality]~~ an indigent defense system; and

(d) to provide training and continuing legal education for indigent defense service providers.

(3) To receive a grant from the commission, ~~[a county or municipality]~~ an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the ~~[county or municipality]~~ indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the ~~[county's or municipality's]~~ indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the ~~[county or municipality]~~ indigent defense system to meet the commission's minimum guidelines for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's minimum guidelines for the effective representation of indigent individuals.

Section 31. Section 78B-22-407, which is renumbered from Section 77-32-807 is renumbered and amended to read:

[77-32-807]. 78B-22-407. Cooperation and participation with the commission.

Indigent defense systems and ~~[entities or individuals engaged in providing]~~ indigent defense [services in the state] service providers shall cooperate and participate with the commission in the collection of data, investigation, audit, and review of ~~[all]~~ indigent defense services.

Section 32. Section 78B-22-501, which is renumbered from Section 77-32-401 is renumbered and amended to read:

Part 5. Indigent Defense Funds Board

[77-32-401]. 78B-22-501. Indigent Defense Funds Board -- Members -- Administrative support.

(1) There is created within the Division of Finance the Indigent Defense Funds Board composed of the following nine members:

(a) two members who are current commissioners or county executives of participating counties appointed by the board of directors of the Utah Association of Counties;

(b) one member at large appointed by the board of directors of the Utah Association of Counties;

(c) two members who are current county attorneys of participating counties appointed by the Utah Prosecution Council;

(d) the director of the Division of Finance or ~~[his]~~ the director's designee;

(e) one member appointed by the Administrative Office of the Courts; and

(f) two members who are private attorneys engaged in or familiar with the criminal defense practice appointed by the members of the board listed in Subsections (1)(a) through (e).

(2) Members appointed under Subsection (1)(a), (b), (c), or (f) shall serve four-year terms. ~~[One of the county commissioners and one of the county attorneys appointed to the initial board shall serve two-year terms, and the remaining other members of the initial board shall be appointed for four-year terms. After the initial two-year terms of the county commissioner and county attorney, those board positions shall have four-year terms.]~~

(3) A vacancy is created if a member appointed under:

(a) Subsection (1)(a) no longer serves as a county commissioner or county executive; or

(b) Subsection (1)(c) no longer serves as a county attorney.

(4) ~~When~~ If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(5) The Division of Finance may provide administrative support and may seek payment for the costs or the board may contract for administrative support [for up to \$15,000 annually] to be paid [proportionally from each fund] from the funds described in Subsection 78B-22-502(1)(a).

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) Per diem and expenses for board members shall be paid [proportionally from each fund] from the funds described in Subsection 78B-22-502(1)(a).

(8) Five members shall constitute a quorum and, if a quorum is present, the action of a majority of the members present shall constitute the action of the board.

Section 33. Section 78B-22-502, which is renumbered from Section 77-32-402 is renumbered and amended to read:

[77-32-402]. 78B-22-502. Duties of board.

(1) The board shall:

(a) establish rules and procedures for the application by ~~[counties]~~ a county for disbursements, and the screening and approval of the applications for money from the:

(i) Indigent Inmate Trust Fund established in Part ~~[5]~~ 6, Indigent Inmates; and

(ii) ~~[Indigent Capital Defense Trust Fund]~~ Indigent Aggravated Murder Defense Trust Fund, established in Part ~~[6, Indigent Capital Defense Trust Fund]~~ 7, Indigent Aggravated Murder Defense Trust Fund;

(b) receive, screen, and approve, or disapprove the application of ~~[counties]~~ a county for disbursements from ~~[each]~~ a fund described in Subsection (1)(a);

(c) calculate the amount of the annual contribution to be made to the ~~[funds]~~ fund described in Subsection (1)(a)(ii) by each participating county;

(d) prescribe forms for the application for money from ~~[each]~~ a fund described in Subsection (1)(a);

(e) oversee and approve the disbursement of money from ~~[each]~~ a fund described in Subsection (1)(a) as provided in Sections ~~[77-32-502 and 77-32-601]~~ 78B-22-602 and 78B-22-701;

(f) establish ~~[its]~~ the board's own rules of procedure, elect ~~[its]~~ the board's own officers, and appoint committees of ~~[its]~~ the board's members and other people as may be reasonable and necessary; and

(g) negotiate, enter into, and administer contracts with legal counsel, qualified under and meeting the standards consistent with this chapter, to provide indigent defense [counsel] services to:

(i) ~~[indigents]~~ an indigent individual prosecuted in a participating ~~[counties for serious offenses in violation of state law]~~ county for an offense involving aggravated murder; and

(ii) an indigent inmate who is incarcerated in ~~[certain counties]~~ a county described in Section 78B-22-601.

(2) The board may provide to the court a list of attorneys qualified under Utah Rules of Criminal Procedure, Rule 8, with which the board has a preliminary contract to ~~[defend indigent cases]~~ provide indigent defense services for an assigned rate.

Section 34. Section 78B-22-601, which is renumbered from Section 77-32-501 is renumbered and amended to read:

Part 6. Indigent Inmates.

[77-32-501]. 78B-22-601. Defense of indigent inmates.

(1) The board shall enter into contracts ~~[with qualified legal defense counsel]~~ to provide indigent defense [counsel] services for an indigent inmate who:

(a) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501~~[,]~~;

(b) is charged with having committed a crime within that ~~[facility,]~~ state prison; and

(c) will require defense counsel.

(2) Payment for ~~[the representation, costs, and expenses of legal defense counsel]~~ indigent defense services shall be made from the Indigent Inmate Trust Fund as provided in Section ~~[77-32-502]~~ 78B-22-602.

(3) ~~[The]~~ A contract under this part shall ensure that indigent defense ~~[counsel shall maintain]~~ services are provided in a manner consistent with the minimum ~~[qualifications as provided in Section 77-32-301]~~ guidelines described in Section 78B-22-301.

(4) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.

(5) (a) ~~[The]~~ A county of the third, fourth, fifth, or sixth class where a state prison is located may impose an additional tax levy by ordinance at .0001 per dollar of taxable value in the county.

(b) If the county governing body imposes the additional tax levy by ordinance, the money shall be deposited ~~[in]~~ into the Indigent Inmate Trust Fund as provided in Section ~~[77-32-502]~~ 78B-22-602 to fund the purposes of this ~~[section]~~ part.

(c) Upon notification that the fund has reached the amount specified in Subsection ~~[77-32-502(6), the]~~ 78B-22-602(6), a county shall deposit money derived from the levy into a county account used exclusively to provide ~~[defense counsel and defense]~~ indigent defense ~~[related]~~ services ~~[for indigent defendants]~~.

(d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate Trust ~~[fund]~~ Fund.

Section 35. Section 78B-22-602, which is renumbered from Section 77-32-502 is renumbered and amended to read:

~~[77-32-502]. 78B-22-602. Indigent Inmate Trust Fund.~~

(1) There is created a private-purpose trust fund known as the "Indigent Inmate Trust Fund" to be disbursed by the Division of Finance at the direction of the board and in accordance with contracts made under Section ~~[77-32-402]~~ 78B-22-502.

(2) Money deposited ~~[in]~~ into this trust fund shall ~~[shall]~~ be used:

(a) to pay ~~[for the representation, costs, and expenses of legal defense counsel]~~ indigent defense services for an indigent inmate in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501 who is charged with having committed a crime within the ~~[facility]~~ state prison, and who will require indigent defense ~~[counsel]~~ services; and

(b) for administrative costs pursuant to Section ~~[77-32-401]~~ 78B-22-501.

(3) The trust fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection ~~[77-32-501(5)]~~ 78B-22-601(5), which shall be the total county obligation for payment of costs listed in Subsection (2) for defense ~~[of]~~ services for indigent inmates;

(b) appropriations made to the fund by the Legislature; and

(c) interest and earnings from the investment of fund money.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation from the Legislature in the following general session to pay for the deficit. The state shall pay any or all of

the reasonable and necessary money for the deficit into the Indigent Inmate Trust Fund.

(6) The fund ~~[shall be]~~ is capped at \$1,000,000.

(7) The Division of Finance shall notify ~~[all]~~ the contributing counties when the fund approaches \$1,000,000 and provide each county with the amount of the balance in the fund.

(8) Upon notification by the Division of Finance that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach \$1,000,000 and discontinue contributions until notified by the Division of Finance that the balance has fallen below \$1,000,000, at which time counties that meet the requirements of Section ~~[77-32-501]~~ 78B-22-601 shall resume contributions.

Section 36. Section 78B-22-701, which is renumbered from Section 77-32-601 is renumbered and amended to read:

Part 7. Indigent Aggravated Murder Defense Trust Fund.

~~[77-32-601]. 78B-22-701. Establishment of Indigent Aggravated Murder Defense Trust Fund -- Use of fund -- Compensation for indigent legal defense from fund.~~

(1) For purposes of this part, "fund" means the Indigent Aggravated Murder Defense Trust Fund.

(2) (a) There is established a private-purpose trust fund known as the "Indigent Aggravated Murder Defense Trust Fund."

(b) The ~~[fund shall be disbursed by the]~~ Division of Finance shall disburse money from the fund at the direction of the board and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections ~~[77-32-602 and 77-32-603]~~ 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section ~~[77-32-603]~~ 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) ~~[Fund]~~ The state treasurer shall invest fund money ~~[shall be invested by the state treasurer]~~ with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of an adequate defense for ~~[indigents]~~ indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to

represent an indigent individual, other than a state inmate in a state prison, prosecuted for aggravated murder in a participating county; and

(b) for administrative costs pursuant to Section [77-32-401] 78B-22-501.

Section 37. Section 78B-22-702, which is renumbered from Section 77-32-602 is renumbered and amended to read:

[77-32-602]. 78B-22-702. County participation.

(1) (a) [Any] A county may participate in the fund subject to the provisions of this chapter. [Any] A county that [chooses] does not [to] participate, or is not current in [its contributions] the county's assessments, is ineligible to receive money from the fund.

(b) The board may revoke a county's participation in the fund if the county fails to pay [its] the county's assessments when due.

(2) To participate in the fund, the legislative body of a county shall:

(a) adopt a resolution approving participation in the fund and committing that county to fulfill the assessment requirements as set forth in Subsection (3) and Section [77-32-603] 78B-22-703; and

(b) submit a certified copy of that resolution together with an application to the board.

(3) By January 15 of each year, a participating county shall contribute to the fund an amount computed in accordance with Section [77-32-603] 78B-22-703.

(4) [Any] A participating county may withdraw from participation in the fund upon:

(a) adoption by [its] the county's legislative body of a resolution to withdraw; and

(b) notice to the board by January 1 of the year [prior to] before withdrawal.

(5) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay [its] the county's assessments when due, shall forfeit the right to:

(a) any previously paid assessment;

(b) relief from [its] the county's obligation to pay its assessment during the period of its participation in the fund; and

(c) any benefit from the fund, including reimbursement of costs [which] that accrued after the last day of the period for which the county has paid its assessment.

Section 38. Section 78B-22-703, which is renumbered from Section 77-32-603 is renumbered and amended to read:

[77-32-603]. 78B-22-703. County and state obligations.

(1) (a) Except as provided in Subsection (1)(b), [each] a participating county shall pay into the fund

annually an amount calculated by multiplying the average of the percent of its population to the total population of all participating counties and of the percent its taxable value of the locally and centrally assessed property located within that county to the total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the board to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.

(b) The fund minimum shall be equal to or greater than 50 cents per person of all counties participating.

(c) The amount paid by [the] a participating county pursuant to this Subsection (1) shall be the total county obligation for payment of costs pursuant to Section [77-32-601] 78B-22-701.

(2) (a) [After the first year of operation of the fund, any] A county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, [shall be] is required to make an equity payment in addition to the assessment [provided in] required by Subsection (1).

(b) The equity payment shall be determined by the board and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.

(3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least \$250,000, the board by a majority vote may terminate the fund.

(4) If the fund is terminated, [all] the remaining [funds] money shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.

(5) (a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the board shall increase the assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.

(6) In [any] a calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session. The state shall pay any or all of the reasonable and necessary money for the deficit into the [Indigent Capital Defense Trust Fund] fund.

Section 39. Section 78B-22-704, which is renumbered from Section 77-32-604 is renumbered and amended to read:

[77-32-604]. 78B-22-704. Application and qualification for fund money.

(1) [Any] A participating county may apply to the board for benefits from the fund if that county has

incurred, or reasonably anticipates incurring, expenses in the defense of an indigent individual for ~~[capital felonies in violation of state law arising out of a single criminal episode]~~ an offense involving aggravated murder.

(2) ~~[No]~~ An application [shall] may not be made nor benefits provided from the fund for ~~[eases]~~ a case filed before September 1, 1998.

(3) If the application of a participating county is approved by the board, the board shall negotiate, enter into, and administer a contract with counsel for the indigent individual and costs incurred for the defense of that indigent individual, including fees for counsel and reimbursement for indigent defense ~~[costs]~~ services incurred by ~~[defense counsel]~~ an indigent defense service provider.

(4) ~~[Nonparticipating counties are]~~ A nonparticipating county is responsible for paying for indigent ~~[costs in their]~~ defense services in the nonparticipating county and ~~[shall not be]~~ is not eligible for any legislative relief. [However, a nonparticipating counties may provide for payment of indigent costs through an increase in the county tax levy as provided in Section 77-32-307.]

~~[(5) This part may not become effective unless the board has received resolutions before August 1, 1998, from at least 15 counties adopted as described in Subsection 77-32-602(2).]~~

Section 40. Repealer.

This bill repeals:

Section 77-32-201, Definitions.

Section 77-32-202, Procedure for determination of indigency -- Standards.

Section 77-32-301, Minimum standards for defense of an indigent.

Section 77-32-302, Assignment of counsel on request of indigent or order of court.

Section 77-32-303, Standard for court to appoint noncontracting attorney or order the provision of defense resources -- Hearing.

Section 77-32-304, Duties of assigned counsel -- Compensation.

Section 77-32-304.5, Reasonable compensation for defense counsel for indigents.

Section 77-32-305, Expenses of printing briefs, depositions, and transcripts.

Section 77-32-305.5, Reimbursement of extraordinary expense.

Section 77-32-306, County or municipal legislative body to provide legal defense.

Section 77-32-307, Expenditures of county or municipal funds declared proper -- Tax levy authorized.

Section 77-32-308, Pro bono criminal representation -- Liability limits.

Section 77-32-401.5, Interim board --

Members -- Administrative support -- Duties.

Section 77-32-801.5, Definitions.

CHAPTER 327**S. B. 34**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

AFFORDABLE HOUSING MODIFICATIONS

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Val K. Potter

LONG TITLE**General Description:**

This bill modifies provisions related to a municipality's and a county's general plan related to moderate income housing.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the requirements of certain municipalities and counties related to the moderate income housing plan element of their general plan;
- ▶ modifies the reporting requirements of certain municipalities and counties related to the moderate income housing plan element of their general plan;
- ▶ modifies provisions related to the use of Transportation Investment Fund money;
- ▶ modifies provisions related to the Olene Walker Housing Loan Fund Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-9a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
 10-9a-401, as last amended by Laws of Utah 2018, Chapter 218
 10-9a-403, as last amended by Laws of Utah 2018, Chapter 218
 10-9a-408, as last amended by Laws of Utah 2018, Chapters 218 and 364
 17-27a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
 17-27a-401, as last amended by Laws of Utah 2018, Chapter 218
 17-27a-403, as last amended by Laws of Utah 2018, Chapter 218
 17-27a-408, as last amended by Laws of Utah 2018, Chapters 218 and 364
 35A-8-503, as renumbered and amended by Laws of Utah 2012, Chapter 212
 35A-8-505, as last amended by Laws of Utah 2018, Chapter 251
 35A-8-803, as renumbered and amended by Laws of Utah 2012, Chapter 212
 63B-18-401, as last amended by Laws of Utah 2013, Chapter 389
 63B-27-101, as last amended by Laws of Utah 2018, Chapter 280

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456
 72-1-304, as last amended by Laws of Utah 2018, Chapter 424
 72-2-124, as last amended by Laws of Utah 2018, Chapter 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:**10-9a-103. Definitions.**

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

~~[(1)]~~ (2) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

~~[(2)]~~ (3) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

~~[(3)]~~ (4) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

~~[(4)]~~ (5) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

~~[(5)]~~ (6) "Conditional use" means a land use that, because of its unique characteristics or potential

impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

[~~6~~] (7) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

[~~7~~] (8) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

[~~8~~] (9) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

[~~9~~] (10) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

[~~10~~] (11) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~10~~] (11)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~10~~] (11)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~10~~] (11)(a)(i); or

(ii) a therapeutic school.

[~~11~~] (12) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~12~~] (13) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~13~~] (14) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[~~14~~] (15) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~15~~] (16) “Historic preservation authority” means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[~~16~~] (17) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~17~~] (18) “Identical plans” means building plans submitted to a municipality that:

(a) are clearly marked as “identical plans”; and

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

- (c) describe a building that:
- (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
 - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
 - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- [~~(18)~~ (19) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- [~~(19)~~ (20) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
- (a) recording a subdivision plat; or
 - (b) development of a commercial, industrial, mixed use, or multifamily project.
- [~~(20)~~ (21) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:
- (a) complies with the municipality’s written standards for design, materials, and workmanship; and
 - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- [~~(21)~~ (22) “Improvement warranty period” means a period:
- (a) no later than one year after a municipality’s acceptance of required landscaping; or
 - (b) no later than one year after a municipality’s acceptance of required infrastructure, unless the municipality:
- (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
 - (ii) has substantial evidence, on record:
- (A) of prior poor performance by the applicant; or
 - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

[~~(22)~~ (23) “Infrastructure improvement” means permanent infrastructure that an applicant must install:

- (a) pursuant to published installation and inspection specifications for public improvements; and
 - (b) as a condition of:
 - (i) recording a subdivision plat; or
 - (ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.
- [~~(23)~~ (24) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:
- (a) runs with the land; and
 - (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
 - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- [~~(24)~~ (25) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.
- [~~(25)~~ (26) “Land use application”:
- (a) means an application that is:
 - (i) required by a municipality; and
 - (ii) submitted by a land use applicant to obtain a land use decision; and
 - (b) does not mean an application to enact, amend, or repeal a land use regulation.
- [~~(26)~~ (27) “Land use authority” means:
- (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or
 - (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- [~~(27)~~ (28) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:
- (a) a land use permit;
 - (b) a land use application; or
 - (c) the enforcement of a land use regulation, land use permit, or development agreement.
- [~~(28)~~ (29) “Land use permit” means a permit issued by a land use authority.
- [~~(29)~~ (30) “Land use regulation”:
- (a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;
 - (b) includes the adoption or amendment of a zoning map or the text of the zoning code; and
 - (c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

~~[(30)]~~ (31) "Legislative body" means the municipal council.

~~[(31)]~~ (32) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(32)]~~ (33) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

~~[(33)]~~ (34) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(35) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

~~[(34)]~~ (36) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

~~[(35)]~~ (37) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

~~[(36)]~~ (38) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

~~[(37)]~~ (39) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(38)]~~ (40) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

~~[(39)]~~ (41) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

~~[(40)]~~ (42) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(41)]~~ (43) "Plan for moderate income housing" means a written document adopted by a [city] municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the [city] municipality;

(b) an estimate of the need for moderate income housing in the [city] municipality for the next five years [as revised biennially];

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the [city's] municipality's program to encourage an adequate supply of moderate income housing.

[(42)] (44) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

[(43)] (45) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(44)] (46) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[(45)] (47) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[(46)] (48) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[(47)] (49) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[(48)] (50) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

[(49)] (51) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[(50)] (52) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[(51)] (53) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[(52)] (54) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[(53)] (55) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[(54)] (56) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[(55)] (57) "State" includes any department, division, or agency of the state.

[(56)] (58) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[(57)] (59) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [(57)] (59)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vi) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(57)]~~ (59) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~[(58)]~~ (60) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(59)]~~ (61) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

~~[(60)]~~ (62) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(61)]~~ (63) "Unincorporated" means the area outside of the incorporated area of a city or town.

~~[(62)]~~ (64) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(63)]~~ (65) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

- (g) the protection and promotion of air quality;
 - (h) historic preservation;
 - (i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
 - (j) an official map.
- (3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before ~~[July 1, 2019]~~ December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

- (i) a city of the first, second, third, or fourth class;
- (ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and
- (iii) a metro township with a population of 5,000 or more; ~~and~~.
- ~~(iv) a metro township with a population of less than 5,000, if the metro township is located within a county of the first, second, or third class.]~~

(c) The population figures described in Subsections (3)(b)(ii); and (iii); ~~and (iv)]~~ shall be derived from:

- (i) the most recent official census or census estimate of the United States Census Bureau; or
- (ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Estimates Committee.
- (4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

- (1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.
- (b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.
- (c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.
- (d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the

municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element ~~[consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and] that:~~

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people [desiring to live] of various income levels living, working, or desiring to live or work in the community; and

(B) to allow [persons with moderate] people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; [and]

(ii) for a town, may include, and for other municipalities, shall include, an analysis of [why the recommended means, techniques, or combination of means and techniques provide] how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years[, which means or techniques may include a recommendation to:];

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) [encourage] facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

~~[(E) consider utilization of]~~ (P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

~~[(F) consider utilization of]~~ (Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

~~[(G) consider utilization of]~~ (R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services; [and]

~~[(H) consider utilization of]~~ (S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act[-];

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection (2)(b)(iii)(G) or (H).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if

the municipality is not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 4. Section 10-9a-408 is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall ~~biennially~~ annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include ~~a description of~~:

~~[(a) efforts made by the municipality to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;]~~

~~(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;~~

~~[(b) actions taken by the municipality to encourage preservation of existing moderate income housing and development of new moderate income housing;]~~

~~[(e)] (b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on ~~[(i)]~~ the number of housing units in the municipality that are at or below:~~

~~[(A)] (i) 80% of the adjusted median family income for the municipality;~~

~~[(B)] (ii) 50% of the adjusted median family income for the municipality; and~~

~~[(C)] (iii) 30% of the adjusted median family income for the municipality;~~

~~[(ii) the number of housing units in the municipality that are subsidized by the municipality, the state, or the federal government; and]~~

~~[(iii) the number of housing units in the municipality that are deed-restricted;]~~

~~[(d) all efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities or associations of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;]~~

~~[(e)] (c) [all] a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a ~~redevelopment agency, a community development agency, or an economic development agency;~~ community reinvestment agency, redevelopment agency, or community development and renewal agency; and~~

~~[(f) money expended by the municipality to pay or waive construction-related fees required by the municipality; and]~~

~~[(g) programs of the Utah Housing Corporation that were utilized by the municipality.]~~

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).

(3) The legislative body of each ~~[city]~~ municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services ~~[and]~~, the association of governments in which the ~~[city]~~ municipality is located~~[-]~~, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) “Accessory dwelling unit” means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

~~[(4)]~~ (2) “Affected entity” means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity’s services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity’s general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

~~[(2)]~~ (3) “Appeal authority” means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

~~[(3)]~~ (4) “Billboard” means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

~~[(4)]~~ (5) (a) “Charter school” means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) “Charter school” does not include a therapeutic school.

~~[(5)]~~ (6) “Chief executive officer” means the person or body that exercises the executive powers of the county.

~~[(6)]~~ (7) “Conditional use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

~~[(7)]~~ (8) “Constitutional taking” means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

~~[(8)]~~ (9) “Culinary water authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

~~[(9)]~~ (10) “Development activity” means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

~~[(10)]~~ (11) (a) “Disability” means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) “Disability” does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

~~[(11)]~~ (12) “Educational facility”:

(a) means:

(i) a school district’s building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection ~~[(11)]~~ (12)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district’s administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection ~~[(11)]~~ (12)(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~[(11)]~~ (12)(a)(i); or

(ii) a therapeutic school.

~~[(12)]~~ (13) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(13)]~~ (14) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

~~[(14)]~~ (15) “Gas corporation” has the same meaning as defined in Section 54-2-1.

~~[(15)]~~ (16) “General plan” means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

~~[(16)]~~ (17) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

~~[(17)]~~ (18) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

~~[(18)]~~ (19) “Identical plans” means building plans submitted to a county that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

~~[(19)]~~ (20) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(20)]~~ (21) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

~~[(21)]~~ (22) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:

(a) complies with the county’s written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

~~[(22)]~~ (23) “Improvement warranty period” means a period:

(a) no later than one year after a county’s acceptance of required landscaping; or

(b) no later than one year after a county’s acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[(23)] (24) “Infrastructure improvement” means permanent infrastructure that an applicant must install:

(a) pursuant to published installation and inspection specifications for public improvements; and

(b) as a condition of:

(i) recording a subdivision plat; or

(ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[(24)] (25) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[(25)] (26) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[(26)] (27) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[(27)] (28) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.

[(28)] (29) “Land use application”:

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[(29)] (30) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[(30)] (31) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[(31)] (32) “Land use permit” means a permit issued by a land use authority.

[(32)] (33) “Land use regulation”:

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant’s cost of development compared to the existing specification; or

(B) impact a land use applicant’s use of land.

[(33)] (34) “Legislative body” means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[(34)] (35) “Local district” means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[(35)] (36) “Lot line adjustment” means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(37) “Major transit investment corridor” means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[(36)] (38) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[(37)] (39) “Mountainous planning district” means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

[(38)] (40) “Nominal fee” means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[(39)] (41) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[(40)] (42) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[(41)] (43) “Official map” means a map drawn by county authorities and recorded in the county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county’s general plan.

[(42)] (44) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(a) no additional parcel is created; and

(b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.

[(43)] (45) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[(44)] (46) “Plan for moderate income housing” means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years [as revised biennially];

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county’s program to encourage an adequate supply of moderate income housing.

[(45)] (47) “Planning advisory area” means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[(46)] (48) “Plat” means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

[(47)] (49) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(48)] (50) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[(49)] (51) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[(50)] (52) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[(51)] (53) “Receiving zone” means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[(52)] (54) “Record of survey map” means a map of a survey of land prepared in accordance with Section 17-23-17.

[~~453~~] (55) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act.

[~~454~~] (56) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~455~~] (57) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~456~~] (58) “Sending zone” means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~457~~] (59) “Site plan” means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner’s or developer’s proposed development activity meets a land use requirement.

[~~458~~] (60) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~459~~] (61) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~460~~] (62) “State” includes any department, division, or agency of the state.

[~~461~~] (63) “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[~~462~~] (64) (a) “Subdivision” means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection [~~462~~] (64)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or

(vii) a parcel boundary adjustment.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [~~462~~] (64) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county’s subdivision ordinance.

[~~63~~] (65) "Suspect soil" means soil that has:

- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
- (b) bedrock units with high shrink or swell susceptibility; or
- (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~64~~] (66) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
 - (i) at home;
 - (ii) in a public school; or
 - (iii) in a nonresidential private school; and
- (c) that offers:
 - (i) room and board; and
 - (ii) an academic education integrated with:
 - (A) specialized structure and supervision; or
 - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~65~~] (67) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~66~~] (68) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~67~~] (69) "Water interest" means any right to the beneficial use of water, including:

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
 - (i) a contract; or
 - (ii) a share in a water company, as defined in Section 73-3-3.5.

[~~68~~] (70) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 6. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan --

Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:

- (a) for present and future needs of the county;
- (b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or
- (ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and
- (c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

- (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
- (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
- (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
- (d) the use of energy conservation and solar and renewable energy resources;
- (e) the protection of urban development;
- (f) the protection and promotion of air quality;
- (g) historic preservation;
- (h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(i) an official map.

(3) (a) The general plan shall:

- (i) allow and plan for moderate income housing growth; and
- (ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) On or before [~~July 1, 2019~~] December 1, 2019, a county with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(c) The resource management plan described in Subsection (3)(a)(ii) shall address:

- (i) mining;

- (ii) land use;
- (iii) livestock and grazing;
- (iv) irrigation;
- (v) agriculture;
- (vi) fire management;
- (vii) noxious weeds;
- (viii) forest management;
- (ix) water rights;
- (x) ditches and canals;
- (xi) water quality and hydrology;
- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;
- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

- (i) establish findings pertaining to the item;
- (ii) establish defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan and takes precedence over a municipality's general plan for property located within the mountainous planning district.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 7. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element [~~consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan;~~] that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the

unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people [~~desiring to live there~~] of various income levels living, working, or desiring to live or work in the community; and

(B) to allow [~~persons with moderate~~] people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of [~~why the recommended means, techniques, or combination of means and techniques~~] how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which [~~means or techniques~~] may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) [~~encourage~~] facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

~~[(E) consider utilization of]~~ (P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

~~[(F) consider utilization of]~~ (Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity; [and]

~~[(G) consider utilization of]~~ (R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services[-];

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(V) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if

the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of blight; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 8. Section 17-27a-408 is amended to read:

17-27a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of each county of the first, second, or third class, which has a population in the county's unincorporated areas of more than 5,000 residents, shall annually:

(a) review the moderate income housing plan element of the county's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the county's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the unincorporated areas of the county for the next five years;

(b) a description of progress made within the unincorporated areas of the county to provide moderate income housing demonstrated by analyzing and publishing data on the number of housing units in the county that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the county to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or a community development and renewal agency; and

(d) a description of how the county has implemented any of the recommendations related to moderate income housing described in Subsection 17-27a-403(2)(b)(ii).

(3) The legislative body of each county described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the county is located, and, if the unincorporated area of the county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(6)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 9. Section 35A-8-503 is amended to read:

35A-8-503. Housing loan fund board -- Duties -- Expenses.

(1) There is created the Olene Walker Housing Loan Fund Board.

(2) The board is composed of 11 voting members.

(a) The governor shall appoint the following members to four-year terms:

(i) two members from local governments;

(ii) two members from the mortgage lending community;

(iii) one member from real estate sales interests;

(iv) one member from home builders interests;

(v) one member from rental housing interests;

(vi) one member from housing advocacy interests;

(vii) one member of the manufactured housing interest; ~~and~~

(viii) one member with expertise in transit-oriented developments; and

(ix) one member who represents rural interests.

~~[(viii) two members of the general public.]~~

(b) The director or the director's designee serves as the secretary of the board.

(c) The members of the board shall annually elect a chair from among the voting membership of the board.

(3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(4) (a) The board shall:

(i) meet regularly, at least quarterly to conduct business of the board, on dates fixed by the board;

(ii) meet twice per year, with at least one of the meetings in a rural area of the state, to provide information to and receive input from the public regarding the state's housing policies and needs;

~~[(iii)]~~ (iii) keep minutes of its meetings; and

~~[(iii)]~~ (iv) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(b) ~~[Seven]~~ Six members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.

(5) The board shall:

(a) review the housing needs in the state;

(b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;

(c) determine the means to implement the policies and goals of this chapter;

(d) select specific projects to receive grant or loan money; and

(e) determine how fund money shall be allocated and distributed.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 10. Section 35A-8-505 is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing; [and]

(f) the purchase of land that will be used as the site of low-income housing units; and

[~~(f)~~] (g) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons;

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 11. Section 35A-8-803 is amended to read:

35A-8-803. Division -- Functions.

(1) In addition to any other functions the governor or Legislature may assign:

(a) the division shall:

(i) provide a clearinghouse of information for federal, state, and local housing assistance programs;

(ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;

(iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:

(A) inadequate supply of dwellings;

(B) substandard dwellings; and

(C) inability of medium and low income families to obtain adequate housing;

(iv) provide the information obtained under Subsection (1)(a)(iii) to:

(A) political subdivisions;

(B) real estate developers;

(C) builders;

(D) lending institutions;

(E) affordable housing advocates; and

(F) others having use for the information;

(v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution; [and]

(vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction; and

(vii) submit an annual moderate income housing report to the department as described in Section 10-9a-408 or 17-27a-408:

(A) assist in the creation of the reports; and

(B) evaluate the reports for the purposes of Subsections 72-2-124(5) and (6); and

(b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services, except those administered by the Utah Housing Corporation, is governed by Sections 35A-8-501 through 35A-8-508.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules describing the evaluation process for moderate income housing reports described in Subsection (1)(a)(vii).

Section 12. Section 63B-18-401 is amended to read:

63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) The total amount of bonds issued under this section may not exceed \$2,077,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5)(7) have been met and certifies the amount of bond proceeds that it needs to provide funding for the projects described in Subsection (2) for the next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

- (a) Interstate 15 reconstruction in Utah County;
- (b) the Mountain View Corridor;
- (c) the Southern Parkway; and

(d) state and federal highways prioritized by the Transportation Commission through:

- (i) the prioritization process for new transportation capacity projects adopted under Section 72-1-304; or
- (ii) the state highway construction program.

(3) (a) Except as provided in Subsection (5), the bond proceeds issued under this section shall be provided to the Department of Transportation.

(b) The Department of Transportation shall use bond proceeds and the funds provided to it under Section 72-2-124 to pay for the costs of

right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highways:

(i) \$35 million to add highway capacity on I-15 south of the Spanish Fork Main Street interchange to Payson;

(ii) \$28 million for improvements to Riverdale Road in Ogden;

(iii) \$1 million for intersection improvements on S.R. 36 at South Mountain Road;

(iv) \$2 million for capacity enhancements on S.R. 248 between Sidewinder Drive and Richardson Flat Road;

(v) \$12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore Road;

(vi) \$7 million for 2600 South interchange modifications in Woods Cross;

(vii) \$9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder County;

(viii) \$18 million for the Provo west-side connector;

(ix) \$8 million for interchange modifications on I-15 in the Layton area;

(x) \$3,000,000 for an energy corridor study and environmental review for improvements in the Uintah Basin;

(xi) \$2,000,000 for highway improvements to Harrison Boulevard in Ogden City;

(xii) \$2,500,000 to be provided to Tooele City for roads around the Utah State University campus to create improved access to an institution of higher education;

(xiii) \$3,000,000 to be provided to the Utah Office of Tourism within the Governor's Office of Economic Development for transportation infrastructure improvements associated with annual tourism events that have:

(A) a significant economic development impact within the state; and

(B) significant needs for congestion mitigation;

(xiv) \$4,500,000 to be provided to the Governor's Office of Economic Development for transportation infrastructure acquisitions and improvements that have a significant economic development impact within the state;

(xv) \$125,000,000 to pay all or part of the costs of state and federal highway construction or reconstruction projects prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304; and

(xvi) \$10,000,000 for the Transportation Fund to pay all or part of the costs of state and federal highway construction or reconstruction projects as prioritized by the Transportation Commission.

(4) (a) The Department of Transportation shall use bond proceeds and the funds under Section

72-2-121 to pay for, or to provide funds to, a municipality, county, or political subdivision to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highway or transit projects in Salt Lake County:

(i) \$4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;

(ii) \$4,200,000 to Taylorsville City for highway improvements on or surrounding 6200 South and pedestrian crossings and system connections;

(iii) \$2,250,000 to Herriman City for highway improvements to the Salt Lake Community College Road;

(iv) \$5,300,000 to West Jordan City for highway improvements on 5600 West from 6200 South to 8600 South;

(v) \$4,000,000 to West Jordan City for highway improvements to 7800 South from 1300 West to S.R. 111;

(vi) \$7,300,000 to Sandy City for highway improvements on Monroe Street;

(vii) \$3,000,000 to Draper City for highway improvements to 13490 South from 200 West to 700 West;

(viii) \$5,000,000 to Draper City for highway improvements to Suncrest Road;

(ix) \$1,200,000 to Murray City for highway improvements to 5900 South from State Street to 900 East;

(x) \$1,800,000 to Murray City for highway improvements to 1300 East;

(xi) \$3,000,000 to South Salt Lake City for intersection improvements on West Temple, Main Street, and State Street;

(xii) \$2,000,000 to Salt Lake County for highway improvements to 5400 South from 5600 West to Mountain View Corridor;

(xiii) \$3,000,000 to West Valley City for highway improvements to 6400 West from Parkway Boulevard to SR-201 Frontage Road;

(xiv) \$4,300,000 to West Valley City for highway improvements to 2400 South from 4800 West to 7200 West and pedestrian crossings;

(xv) \$4,000,000 to Salt Lake City for highway improvements to 700 South from 2800 West to 5600 West;

(xvi) \$2,750,000 to Riverton City for highway improvements to 4570 West from 12600 South to Riverton Boulevard;

(xvii) \$1,950,000 to Cottonwood Heights for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard and Big Cottonwood Canyon;

(xviii) \$1,300,000 to Cottonwood Heights for highway improvements to Bengal Boulevard;

(xix) \$1,500,000 to Midvale City for highway improvements to 7200 South from I-15 to 1000 West;

(xx) \$1,000,000 to Bluffdale City for an environmental impact study on Porter Rockwell Boulevard;

(xxi) \$2,900,000 to the Utah Transit Authority for the following public transit studies:

(A) a circulator study; and

(B) a mountain transport study; and

(xxii) \$1,000,000 to South Jordan City for highway improvements to 2700 West.

(b) (i) Before providing funds to a municipality or county under this Subsection (4), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under this Subsection (4) solely for the projects described in Subsection (4)(a); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (4)(c), by January 1 of each year, the municipality or county receiving funds described in this Subsection (4) shall submit to the Department of Transportation a statement of cash flow for the next fiscal year detailing the funds necessary to pay project costs for the projects described in Subsection (4)(a).

(iii) After receiving the statement required under Subsection (4)(b)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the next fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsection (4)(a), the municipality or county receiving funds under this Subsection (4) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(c) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (4)(b)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(5) Twenty million dollars of the bond proceeds issued under this section and funds available under Section 72-2-124 shall be provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds available for transportation infrastructure loans and

transportation infrastructure assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund.

(6) The costs under Subsections (2), (3), and (4) may include the costs of studies necessary to make transportation infrastructure improvements, the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsections (2), (3), and (4) before the receipt of proceeds of bonds issued under this section.

(9) The Department of Transportation may enter into a new or amend an existing interlocal agreement related to the projects described in Subsections (3) and (4) to establish any necessary covenants or requirements not otherwise provided for by law.

Section 13. Section 63B-27-101 is amended to read:

63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124[(5)](7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed ~~one percent~~ 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would

result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) Thirty-nine million dollars of the bond proceeds issued under this section shall be provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, including the amounts as follows:

(a) \$14,000,000 to the military installation development authority created in Section 63H-1-201; and

(b) \$5,000,000 for right-of-way acquisition and highway construction in Salt Lake County for roads in the northwest quadrant of Salt Lake City.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Ten million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 14. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2020.

(2) (a) Subsection 17-27a-103(15)(b) is repealed June 1, 2020.

(b) Subsection 17-27a-103(~~(37)~~)(38) is repealed June 1, 2020.

(3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2020.

(4) (a) Subsection 17-27a-301(1)(b)(iii) is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c) is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2020.

(5) Subsection 17-27a-302(1), the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2020.

(6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2020.

(7) (a) Subsection 17-27a-401(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-401(6) is repealed June 1, 2020.

(8) (a) Subsection 17-27a-403(1)(b)(ii) is repealed June 1, 2020.

(b) Subsection 17-27a-403(1)(c)(iii) is repealed June 1, 2020.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2020.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2020.

(9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.

(10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.

(11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2020.

(12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.

(13) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, 2020.

(14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2020.

(15) On June 1, 2020, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(16) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(2)," is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states "or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018," is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018," is repealed.

(17) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section 15. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways, or public transit projects that add capacity to the public transit systems within the state.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the funds for the project as required by Subsection 72-2-124~~(7)~~(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

~~(B)~~ (C) recreation;

~~(C)~~ (D) commerce; and

~~(D)~~ (E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsection 72-2-124~~(7)~~(9)(e).

(3) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (4).

Section 16. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money ~~[only]~~ to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation

Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; and

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(5) (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or

Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

~~[(6)]~~ (8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

~~[(7)]~~ (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection ~~[(7)]~~ (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project if the public transit district or political subdivision provides funds of equal to or greater than 40% of the funds needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, to provide all or part of the 40% requirement described in Subsection ~~[(7)]~~ (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

CHAPTER 328**S. B. 51**

Passed February 7, 2019
Approved March 26, 2019
Effective May 14, 2019

HOSPITAL LIEN LAW AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Dan N. Johnson

LONG TITLE**General Description:**

This bill amends the Hospital Lien law regarding a release of lien.

Highlighted Provisions:

This bill:

- ▶ requires a hospital to provide notice of a release of lien to the injured person; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

38-7-5, as enacted by Laws of Utah 1965,
Chapter 75

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 38-7-5 is amended to read:**38-7-5. Release of lien by hospital -- Execution and filing -- Notification to injured patient.**

The hospital shall, upon receipt of payment of the lien or the portion recoverable under the lien[.];

(1) execute and file, at the expense of the hospital, a release of lien[.]; and

(2) mail, at the expense of the hospital, notice of the release of lien described in Subsection (1) to the injured patient, the patient's heirs, or the patient's personal representative.

CHAPTER 329**S. B. 58**

Passed February 28, 2019

Approved March 26, 2019

Effective May 14, 2019

KRATOM CONSUMER PROTECTION ACT

Chief Sponsor: Curtis S. Bramble

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill creates the Kratom Consumer Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a person that prepares, distributes, sells, or offers to sell a kratom product to follow certain labeling requirements;
- ▶ prohibits a person from preparing, distributing, selling, or offering for sale certain kratom products;
- ▶ establishes penalties for violating the Kratom Consumer Protection Act;
- ▶ requires registration with the Department of Agriculture and Food of any kratom product offered for sale in this state;
- ▶ requires the Department of Agriculture and Food to set a fee and create standards for registering a kratom product;
- ▶ creates a civil cause of action; and
- ▶ requires the Department of Agriculture and Food to make rules to administer and enforce the Kratom Consumer Protection Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

4-44-101, Utah Code Annotated 1953
 4-44-102, Utah Code Annotated 1953
 4-44-103, Utah Code Annotated 1953
 4-44-104, Utah Code Annotated 1953
 4-44-105, Utah Code Annotated 1953
 4-44-106, Utah Code Annotated 1953
 4-44-107, Utah Code Annotated 1953
 4-44-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-44-101 is enacted to read:**CHAPTER 44. KRATOM CONSUMER PROTECTION ACT****4-44-101. Title.**

This chapter is known as the "Kratom Consumer Protection Act."

Section 2. Section 4-44-102 is enacted to read:**4-44-102. Definitions.**

As used in this chapter:

(1) "Commissioner" means the commissioner of the department.

(2) "Department" means the Department of Agriculture and Food created in Section 4-2-102.

(3) "Food" means:

(a) an article used for food or drink for human or animal consumption or the components of the article;

(b) chewing gum or chewing gum components; or

(c) a food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.

(4) "Kratom processor" means a person who:

(a) sells, prepares, or maintains a kratom product; or

(b) advertises, represents, or holds oneself out as selling, preparing, or maintaining a kratom product.

(5) "Kratom product" mean food containing any part of a leaf of the plant *Mitragyna speciosa*.

Section 3. Section 4-44-103 is enacted to read:**4-44-103. Factual basis for claim as kratom product required -- Administrative penalty -- Request for hearing.**

(1) A kratom processor shall disclose on the product label of each kratom product that the kratom processor prepares, distributes, sells, or offers for sale the factual basis upon which the kratom processor represents the food as a kratom product.

(2) For a violation of Subsection (1), a kratom processor is subject to an administrative fine of:

(a) up to \$500 for the first offense; and

(b) up to \$1,000 for a second or subsequent offense.

(3) Upon the request of a kratom processor fined under this section, the commissioner shall conduct a hearing in accordance with Title 63G, Chapter 4, Utah Administrative Procedures Act.

Section 4. Section 4-44-104 is enacted to read:**4-44-104. Kratom processor requirements -- Criminal penalty.**

(1) A kratom processor may not prepare, distribute, sell, or offer for sale a kratom product:

(a) that is mixed or packed with a nonkratom substance that affects the quality or strength of the kratom product to such a degree as to render the kratom product injurious to a consumer;

(b) that contains a poisonous or otherwise deleterious nonkratom ingredient, including a controlled substance as defined in Section 58-37-2;

(c) containing a level of 7-hydroxymitragynine in the alkaloid fraction that is greater than 2% of the alkaloid composition of the kratom product;

(d) containing a synthetic alkaloid, including synthetic mitragynine, synthetic 7-hydroxymitragynine, or any other synthetically derived compound of the kratom plant; or

(e) that does not include a product label on the kratom product packaging that states the amount of mitragynine and 7-hydroxymitragynine contained in the packaged kratom product.

(2) A kratom processor who violates Subsection (1) is guilty of a class C misdemeanor for each violation.

(3) A kratom processor does not violate Subsection (1) if the kratom processor shows by a preponderance of the evidence that the kratom processor relied in good faith upon the representation of a manufacturer, processor, packer, or distributor of food represented to be a kratom product.

(4) A kratom processor may not prepare, distribute, sell, or offer for sale a kratom product that is not registered with the department in accordance with this chapter.

(5) A kratom processor shall register as a food establishment in accordance with Section 4-5-301.

Section 5. Section 4-44-105 is enacted to read:

4-44-105. Prohibition on sale to minors -- Criminal penalty.

(1) A kratom processor may not distribute, sell, or offer for sale a kratom product to an individual under 18 years of age.

(2) A kratom processor who violates this section is guilty of a class C misdemeanor for each violation.

Section 6. Section 4-44-106 is enacted to read:

4-44-106. Civil action available.

In addition to and distinct from any other remedy at law, an individual may bring a civil action, in a competent court of jurisdiction, for damages resulting from a violation of this chapter, including economic, noneconomic, or consequential damages.

Section 7. Section 4-44-107 is enacted to read:

4-44-107. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration and enforcement of this chapter.

(2) The rules described in Subsection (1) shall include standards for a registered kratom product, including standards for:

(a) testing to ensure the product is safe for human consumption;

(b) accurate labeling; and

(c) any other issue the department considers necessary.

Section 8. Section 4-44-108 is enacted to read:

4-44-108. Registration of kratom products -- Department duties.

(1) The department shall set a fee to register a kratom product, in accordance with Section 4-2-103.

(2) The fee described in Subsection (1) may be paid by a producer, manufacturer, or distributor of a kratom product, but a kratom product may not be registered with the department until the fee is paid.

(3) The department shall:

(a) set an administrative fine, larger than the fee described in Subsection (1), for a person who sells a kratom product that is not registered with the department; and

(b) assess the fine described in Subsection (3)(a) against any person who offers an unregistered kratom product for sale in this state.

(4) The department may seize and destroy any unregistered kratom product offered for sale in this state.

CHAPTER 330**S. B. 60**

Passed March 6, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**AUTOMATIC LOCAL DISTRICT
 WITHDRAWAL AMENDMENTS**

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill addresses the automatic withdrawal of an area from a local district in the case of certain annexations.

Highlighted Provisions:

This bill:

- ▶ provides for the automatic withdrawal of an area from a local district in the case of certain annexations; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-1-503, as last amended by Laws of Utah 2014, Chapter 156

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-503 is amended to read:**17B-1-503. Withdrawal or boundary adjustment with municipal approval.**

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality, including the expansion area identified in the annexation policy plan adopted by the municipality under Section 10-2-401.5, in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) (a) Notwithstanding any other provision of this title, a municipality annexing all or part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal services district organized under Chapter 2a, Part 11, Municipal Services District Act, may petition to withdraw the area from the municipal services district in accordance with this Subsection (2).

(b) For a valid withdrawal described in Subsection (2)(a):

(i) the annexation petition under Section 10-2-403 or a separate consent, signed by owners of at least 60% of the total private land area, shall

state that the signers request the area to be withdrawn from the municipal services district; and

(ii) the legislative body of the municipality shall adopt a resolution, which may be the resolution adopted in accordance with Subsection 10-2-418(5)(a), stating the municipal legislative body's intent to withdraw the area from the municipal services district.

(c) The board of trustees of the municipal services district shall consider the municipality's petition to withdraw the area from the municipal services district within 90 days after the day on which the municipal services district receives the petition.

(d) The board of trustees of the municipal services district:

(i) may hold a public hearing in accordance with the notice and public hearing provisions of Section 17B-1-508;

(ii) shall consider information that includes any factual data presented by the municipality and any owner of private real property who signed a petition or other form of consent described in Subsection (2)(b)(i); and

(iii) identify in writing the information upon which the board of trustees relies in approving or rejecting the withdrawal.

(e) The board of trustees of the municipal services district shall approve the withdrawal, effective upon the annexation of the area into the municipality or, if the municipality has already annexed the area, as soon as possible in the reasonable course of events, if the board of trustees makes a finding that:

(i) (A) the loss of revenue to the municipal services district due to a withdrawal of the area will be offset by savings associated with no longer providing municipal-type services to the area; or

(B) if the loss of revenue will not be offset by savings resulting from no longer providing municipal-type services to the area, the municipality agreeing to terms and conditions, which may include terms and conditions described in Subsection 17B-1-510(5), can mitigate or eliminate the loss of revenue;

(ii) the annexation petition under Section 10-2-403, or a separate petition meeting the same signature requirements, states that the signers request the area to be withdrawn from the municipal services district; or

(iii) the following have consented in writing to the withdrawal:

(A) owners of more than 60% of the total private land area; or

(B) owners of private land equal in assessed value to more than 60% of the assessed value of all private real property within the area proposed for withdrawal have consented in writing to the withdrawal.

(f) If the board of trustees of the municipal services district does not make any of the findings

described in Subsection (2)(e), the board of trustees may approve or reject the withdrawal based upon information upon which the board of trustees relies and that the board of trustees identifies in writing.

(g) (i) If a municipality annexes an island or a part of an island before May 14, 2019, the legislative body of the municipality may initiate the withdrawal of the area from the municipal services district by adopting a resolution that:

(A) requests that the area be withdrawn from the municipal services district; and

(B) a final local entity plat accompanies, identifying the area proposed to be withdrawn from the municipal services district.

(ii) (A) Upon receipt of the resolution and except as provided in Subsection (2)(g)(ii)(B), the board of trustees of the municipal services district shall approve the withdrawal.

(B) The board of trustees of the municipal services district may reject the withdrawal if the rejection is based upon a good faith finding that lost revenues due to the withdrawal will exceed expected cost savings resulting from no longer serving the area.

(h) (i) Based upon a finding described in Subsection (e) or (f):

(A) the board of trustees of the municipal services district shall adopt a resolution approving the withdrawal; and

(B) the chair of the board shall sign a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3).

(ii) The annexing municipality shall deliver the following to the lieutenant governor:

(A) the resolution and notice of impending boundary action described in Subsection (2)(g)(i);

(B) a copy of an approved final local entity plat as defined in Section 67-1a-6.5; and

(C) any other documentation required by law.

(i) (i) Once the lieutenant governor has issued an applicable certificate as defined in Section 67-1a-6.5, the municipality shall deliver the certificate, the resolution and notice of impending boundary action described in Subsection (2)(h)(i), the final local entity plat as defined in Section 67-1a-6.5, and any other document required by law, to the recorder of the county in which the area is located.

(ii) After the municipality makes the delivery described in Subsection (2)(i)(i), the area, for all purposes, is no longer part of the municipal services district.

(j) The annexing municipality and the municipal services district may enter into an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, stating:

(i) the municipality's and the district's duties and responsibilities in conducting a withdrawal under this Subsection (2); and

(ii) any other matter respecting an unincorporated island that the municipality surrounds on all sides.

[2] (3) After a boundary adjustment under Subsection (1) or a withdrawal under Subsection (2) is complete:

(a) the local district shall, without interruption, provide the same service to any area added to the local district as provided to other areas within the local district; and

(b) the municipality shall, without interruption, provide the same service that the local district previously provided to any area withdrawn from the local district.

[3] (4) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

CHAPTER 331**S. B. 67**

Passed March 7, 2019

Approved March 26, 2019

Effective May 1, 2019

**REAUTHORIZATION OF
ADMINISTRATIVE RULES**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Marc K. Roberts

LONG TITLE**General Description:**

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▶ reauthorizes all state agency administrative rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2019.

CHAPTER 332**S. B. 95**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

AUTISM AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Tim Quinn

LONG TITLE**General Description:**

This bill amends provisions related to insurance coverage for autism spectrum disorder.

Highlighted Provisions:

This bill:

- ▶ requires certain health benefit plans to provide coverage for behavioral health treatment for individuals with an autism spectrum disorder;
- ▶ prohibits certain health benefit plans from limiting hours of treatment for autism spectrum disorder; and
- ▶ removes a provision that allows the commissioner to waive the requirement that a health benefit plan cover the diagnosis and treatment of autism spectrum disorder.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-22-642, as last amended by Laws of Utah 2018, Chapter 183

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-642 is amended to read:**31A-22-642. Insurance coverage for autism spectrum disorder.**

(1) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism spectrum disorder" means pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a:

(A) board certified behavior analyst; or

(B) person licensed under Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, whose scope of practice includes mental health services.

(d) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests:

(i) performed by a licensed physician who is board certified in neurology, psychiatry, or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed psychologist with experience diagnosing autism spectrum disorder; and

(ii) necessary to diagnose whether an individual has an autism spectrum disorder.

(e) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(f) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(g) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(h) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists.

(i) "Treatment for autism spectrum disorder":

(i) means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a physician or a licensed psychologist described in Subsection (1)(d) who determines the care to be medically necessary; and

(ii) includes:

(A) behavioral health treatment, provided or supervised by a person described in Subsection (1)(c)(ii);

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(2) (a) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2016, and before January 1, 2020, shall provide coverage for the diagnosis and treatment of autism spectrum disorder:

~~(a)~~ (i) for a child who is at least two years old, but younger than 10 years old; and

~~(b)~~ (ii) in accordance with the requirements of this section and rules made by the commissioner.

(b) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the

individual market or the large group market and entered into or renewed on or after January 1, 2020, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in accordance with the requirements of this section and rules made by the commissioner.

(3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of autism spectrum disorder.

(4) Subject to Subsection (5), the rules described in Subsection (3) shall establish durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of autism spectrum disorder that are similar to, or identical to, the coverage provided for other illnesses or diseases.

(5) (a) Coverage for behavioral health treatment for a person with an autism spectrum disorder shall cover at least 600 hours a year.

(b) Notwithstanding Subsection (5)(a), for a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2020, coverage for behavioral health treatment for a person with an autism spectrum disorder may not have a limit on the number of hours covered.

(c) Other terms and conditions in the health benefit plan that apply to other benefits covered by the health benefit plan apply to coverage required by this section.

(b) (d) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under [Subsection (5)(a)] Subsections (5)(a) and (b) shall include in the plan's provider network both board certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

(6) A health care provider shall submit a treatment plan for autism spectrum disorder to the insurer within 14 business days of starting treatment for an individual. If an individual is receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a review of that treatment not more than once every [six] three months. A review of treatment under this Subsection (6) may include a review of treatment goals and progress toward the treatment goals. If an insurer makes a determination to stop treatment as a result of the review of the treatment plan under this subsection, the determination of the insurer may be reviewed under Section 31A-22-629.

[(7) (a) In accordance with Subsection (7)(b), the commissioner shall waive the requirements of this section for all insurers in the individual market or the large group market, if an insurer demonstrates to the commissioner that the insurer's entire pool of business in the individual market or the large group market has incurred claims for the autism coverage required by this section in a 12 consecutive month period that will cause a premium increase for the insurer's entire pool of business in the individual market or the large group market in excess of 1%

over the insurer's premiums in the previous 12 consecutive-month period.]

[(b) The commissioner shall waive the requirements of this section if:]

[(i) after a public hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commissioner finds that the insurer has demonstrated to the commissioner based on generally accepted actuarial principles and methodologies that the insurer's entire pool of business in the individual market or the large group market will experience a premium increase of 1% or greater as a result of the claims for autism services as described in this section; or]

[(ii) the attorney general issues a legal opinion that the limits under Subsection (5)(a) cannot be implemented by an insurer in a manner that complies with federal law.]

[(8) If a waiver is granted under Subsection (7), the insurer may:]

[(a) continue to offer autism coverage under the existing plan until the next renewal period for the plan, at which time the insurer:]

[(i) may delete the autism coverage from the plan without having to re-apply for the waiver under Subsection (7); and]

[(ii) file the plan with the commissioner in accordance with guidelines issued by the commissioner;]

[(b) discontinue offering plans subject to Subsection (2), no earlier than the next calendar quarter following the date the waiver is granted, subject to filing guidelines issued by the commissioner; or]

[(c) nonrenew existing plans that are subject to Subsection (2), in compliance with Subsection 31A-22-618.6(5) or Subsection 31A-22-618.7(3).]

CHAPTER 333**S. B. 98**

Passed March 7, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**COMMUNITY REINVESTMENT
 AGENCY AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- ▶ limits an agency's reporting requirements to only the reports required by law;
- ▶ prohibits a taxing entity from reducing the amount of project area funds under an interlocal agreement by a certain amount;
- ▶ removes the requirement for an agency to provide a housing allocation if the county and agency agree and the community reinvestment project area plan:
 - provides solely for nonresidential project area development; and
 - provides for a percentage of the jobs created within the project area to have a certain annual gross wage; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-5-204, as enacted by Laws of Utah 2016, Chapter 350

17C-5-307, as enacted by Laws of Utah 2016, Chapter 350

ENACTS:

17C-1-609, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-609 is enacted to read:**17C-1-609. Agency reporting limitations.**

Except as required under this title, an agency is not required to submit to a public entity information or a report related to the agency's operations or project areas.

Section 2. Section 17C-5-204 is amended to read:**17C-5-204. Community reinvestment project area subject to interlocal agreement -- Consent of a taxing entity to an agency receiving project area funds.**

(1) As used in this section, "successor taxing entity" means a taxing entity that:

(a) is created after the day on which an interlocal agreement is executed to allow an agency to receive a taxing entity's project area funds; and

(b) levies or imposes a tax within the community reinvestment project area.

(2) This section applies to a community reinvestment project area that is subject to an interlocal agreement under Subsection 17C-5-202(1)(a).

(3) For the purpose of implementing a community reinvestment project area plan, an agency may negotiate with a taxing entity for all or a portion of the taxing entity's project area funds.

(4) A taxing entity may agree to allow an agency to receive the taxing entity's project area funds by executing an interlocal agreement with the agency in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(5) Before an agency may use project area funds received under an interlocal agreement described in Subsection (4), the agency shall:

(a) obtain a written certification, signed by an attorney licensed to practice law in the state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the interlocal agreement; and

(b) provide a signed copy of the certification described in Subsection (5)(a) to the taxing entity.

(6) An interlocal agreement described in Subsection (4) shall:

(a) if the interlocal agreement provides for the agency to receive tax increment, state:

(i) the method of calculating the amount of the taxing entity's tax increment from the community reinvestment project area that the agency receives, including the base year and base taxable value;

(ii) the project area funds collection period; and

(iii) the percentage of the taxing entity's tax increment or the maximum cumulative dollar amount of the taxing entity's tax increment that the agency receives;

(b) if the interlocal agreement provides for the agency to receive the taxing entity's sales and use tax revenue, state:

(i) the method of calculating the amount of the taxing entity's sales and use tax revenue that the agency receives;

(ii) the project area funds collection period; and

(iii) the percentage of sales and use tax revenue or the maximum cumulative dollar amount of sales and use tax revenue that the agency receives; ~~and~~

(c) include a copy of the community reinvestment project area budget[-]; and

(d) prohibit a taxing entity from proportionately reducing the amount of project area funds the

taxing entity consents to pay to an agency under this section by the amount of any direct expenditures the taxing entity makes within the project area for the benefit of the project area or the agency.

(7) A school district may consent to allow an agency to receive tax increment from the school district's basic levy only to the extent that the school district also consents to allow the agency to receive tax increment from the school district's local levy.

(8) The parties may amend an interlocal agreement under this section by mutual consent.

(9) A taxing entity's consent to allow an agency to receive project area funds under this section is not subject to the requirements of Section 10-8-2.

(10) An interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Section 3. Section 17C-5-307 is amended to read:

17C-5-307. Allocating project area funds for housing.

(1) Except as provided in Subsection (4), an agency shall allocate the agency's project area funds for housing in accordance with this section.

~~[(4)]~~ (2) (a) For a community reinvestment project area that is subject to a taxing entity committee, an agency shall allocate at least 20% of the agency's annual tax increment for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual tax increment to be distributed to the agency.

(b) The taxing entity committee may waive a portion of the allocation described in Subsection ~~[(4)]~~ (2)(a) if:

(i) the taxing entity committee determines that 20% of the agency's annual tax increment is more than is needed to address the community's need for income targeted housing or homeless assistance; and

(ii) after the waiver, the agency's housing allocation is equal to at least 10% of the agency's annual tax increment.

~~[(2)]~~ (3) For a community reinvestment project area that is subject to an interlocal agreement, an agency shall allocate at least 10% of the project area funds for housing in accordance with Section 17C-1-412 if the community reinvestment project area budget provides for more than \$100,000 of annual project area funds to be distributed to the agency.

(4) An agency is not required to allocate the agency's community reinvestment project area funds for housing under this section if:

(a) the agency and the county mutually agree in the interlocal agreement described in Subsection (3) that the agency will not make the allocation; and

(b) the community reinvestment project area plan:

(i) provides solely for nonresidential project area development; and

(ii) provides for 60% of the jobs created within the project area to have an annual gross wage, not including healthcare or other paid or unpaid benefits, that is at least 125% of the average wage of the county in which the project area is located.

CHAPTER 334**S. B. 108**

Passed March 6, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**MODIFICATIONS TO
 GOVERNMENT RECORDS PROVISIONS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill modifies provisions of the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

- ▶ modifies the right to inspect and copy records;
- ▶ modifies a provision that states that a governmental entity is not required to fill a records request if the records are already publicly available;
- ▶ modifies a restriction on sharing records of a publicly funded library;
- ▶ prohibits a records request from being submitted to multiple governmental entities;
- ▶ modifies a provision relating to an award of attorney fees on an appeal relating to an access issue; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-2-201, as last amended by Laws of Utah 2017, Chapter 435
 63G-2-204, as last amended by Laws of Utah 2017, Chapter 435
 63G-2-206, as last amended by Laws of Utah 2012, Chapter 377
 63G-2-308, as renumbered and amended by Laws of Utah 2008, Chapter 382
 63G-2-400.5, as enacted by Laws of Utah 2015, Chapter 335
 63G-2-401, as last amended by Laws of Utah 2017, Chapter 435
 63G-2-802, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-201 is amended to read:

63G-2-201. Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1) (a) [Every] Except as provided in Subsection (1)(b), a person has the right to inspect a public record free of charge, and the right to take a copy of a

public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (8)(e); or

(iii) (A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5) (a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to persons other than those specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or a designee, determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the head of the governmental entity, or a designee, determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

- (II) the governmental entity; and
- (III) the public; and
- (B) serves a public purpose related to:
 - (I) public safety; or
 - (II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) (a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) This chapter applies to records described in Subsection (6)(a) insofar as this chapter is not inconsistent with the statute, rule, or regulation.

(7) A governmental entity shall provide a person with a certified copy of a record if:

- (a) the person requesting the record has a right to inspect it;
- (b) the person identifies the record with reasonable specificity; and
- (c) the person pays the lawful fees.

(8) ~~[(A)]~~ In response to a request, a governmental entity is not required to:

- ~~[(4)]~~ (a) create a record;
- ~~[(4ii)]~~ (b) compile, format, manipulate, package, summarize, or tailor information;
- ~~[(4iii)]~~ (c) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;
- ~~[(4iv)]~~ (d) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person; or
- ~~[(4v)]~~ (e) fill a person's records request if:
 - ~~[(4A)]~~ (i) the record requested is:
 - (A) publicly accessible ~~[in the identical physical form and content]~~ online; or
 - (B) included in a public publication or product produced by the governmental entity receiving the request; and
 - ~~[(4B)]~~ (ii) the governmental entity:
 - (A) specifies to the person requesting the record where the record is accessible online; or
 - (B) provides the person requesting the record with the public publication or product~~;~~ and ~~[(4C)] the governmental entity~~ specifies where the record can be found in the public publication or product.

- ~~[(4v)]~~ (e) fill a person's records request if:
- ~~[(4A)]~~ (i) the record requested is:
 - (A) publicly accessible ~~[in the identical physical form and content]~~ online; or
 - (B) included in a public publication or product produced by the governmental entity receiving the request; and
- ~~[(4B)]~~ (ii) the governmental entity:
 - (A) specifies to the person requesting the record where the record is accessible online; or
 - (B) provides the person requesting the record with the public publication or product~~;~~ and ~~[(4C)] the governmental entity~~ specifies where the record can be found in the public publication or product.
- ~~[(4)]~~ Upon request~~;~~

(9) (a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a ~~[particular form under Subsection (8)(a)(ii) or (iii) if:]~~ format, medium, or program not currently maintained by the governmental entity.

~~[(4) the]~~ (b) In determining whether to fulfill a request described in Subsection (9)(a), a governmental entity ~~[determines it is able to do so]~~ may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities~~;~~ and~~]~~.

~~[(ii) the requester agrees]~~

(c) A governmental entity may require a person who makes a request under Subsection (9)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record ~~[in the requested form in accordance with Section 63G-2-203]~~ as requested.

~~[(9)]~~ (10) (a) Notwithstanding any other provision of this chapter, and subject to Subsection ~~[(9)]~~ (10)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection ~~[(9)]~~ (10)(a) does not apply to:

- (i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection ~~[(9)]~~ (10)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or
- (ii) a record request that is submitted by an attorney of an individual described in Subsection ~~[(9)]~~ (10)(a).

~~[(10)]~~ (11) (a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

- (i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or controlled information from disclosure; and
- (ii) the governmental entity provides reasonable safeguards to protect the public from the potential for loss of a public record.

(b) If the requirements of Subsection ~~[(10)]~~ (11)(a) are met, the governmental entity may:

- (i) provide the requester with the facilities for copying the requested records and require that the requester make the copies; or
- (ii) allow the requester to provide the requester's own copying facilities and personnel to make the copies at the governmental entity's offices and waive the fees for copying the records.

~~[(11)]~~ (12) (a) A governmental entity that owns an intellectual property right and that offers the

intellectual property right for sale or license may control by ordinance or policy the duplication and distribution of the material based on terms the governmental entity considers to be in the public interest.

(b) Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the governmental entity under federal copyright or patent law as a result of its ownership of the intellectual property right.

~~[42]~~ (13) A governmental entity may not use the physical form, electronic or otherwise, in which a record is stored to deny, or unreasonably hinder the rights of a person to inspect and receive a copy of a record under this chapter.

~~[43]~~ (14) Subject to the requirements of Subsection (8), a governmental entity shall provide access to an electronic copy of a record in lieu of providing access to its paper equivalent if:

(a) the person making the request requests or states a preference for an electronic copy;

(b) the governmental entity currently maintains the record in an electronic format that is reproducible and may be provided without reformatting or conversion; and

(c) the electronic copy of the record:

(i) does not disclose other records that are exempt from disclosure; or

(ii) may be segregated to protect private, protected, or controlled information from disclosure without the undue expenditure of public resources or funds.

~~[44]~~ (15) In determining whether a record is properly classified as private under Subsection 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals board, or court shall consider and weigh:

(a) any personal privacy interests, including those in images, that would be affected by disclosure of the records in question; and

(b) any public interests served by disclosure.

Section 2. Section 63G-2-204 is amended to read:

63G-2-204. Record request -- Response -- Time for responding.

(1) (a) A person making a request for a record shall ~~[furnish]~~ submit to the governmental entity [with] that retains the record a written request containing:

~~[(a)]~~ (i) the person's:

(A) name[,];

(B) mailing address[,];

(C) email address, if the person has an email address and is willing to accept communications by email relating to the person's records request; and

(D) daytime telephone number[~~, if available~~]; and

~~[(b)]~~ (ii) a description of the record requested that identifies the record with reasonable specificity.

~~[(2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit the request to the governmental entity that prepares, owns, or retains the record.]~~

(b) (i) A single record request may not be submitted to multiple governmental entities.

(ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a separate record request to each of multiple governmental entities, even if each of the separate requests seeks access to the same record.

~~[(b)]~~ (2) (a) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record ~~[if]~~.

~~[the record was shared for the purpose of auditing, if]~~

~~[the governmental entity is authorized by state statute to conduct an audit.]~~

~~[(c)]~~ (b) If a governmental entity is prohibited from providing a record under Subsection ~~[(2)(b), if]~~ (2)(a), the governmental entity shall:

(i) deny the records request; and

(ii) inform the person making the request [that records requests must be submitted to the governmental entity that prepares, owns, or retains the record] of the identity of the governmental entity from which the shared record was received.

~~[(d)]~~ (3) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

~~[(3)]~~ (4) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection

[(5)] (6), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection [(6)] (7).

[(4)] (5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

[(5)] (6) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection [(6)] (7) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection [(3)] (4):

(a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;

(c) (i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or

(ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;

(d) the governmental entity is currently processing a large number of records requests;

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

[(6)] (7) If one of the extraordinary circumstances listed in Subsection [(5)] (6) precludes approval or denial within the time specified in Subsection [(3)] (4), the following time limits apply to the extraordinary circumstances:

(a) for claims under Subsection [(5)] (6)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;

(b) for claims under Subsection [(5)] (6)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsections [(5)] (6)(c), (d), and (e), the governmental entity shall:

(i) disclose the records that it has located which the requester is entitled to inspect;

(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;

(iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and

(iv) for any person that does not establish a right to an expedited response as authorized by Subsection [(3)] (4), a governmental entity may choose to:

(A) require the person to provide for copying of the records as provided in Subsection 63G-2-201(10); or

(B) treat a request for multiple records as separate record requests, and respond sequentially to each request;

(d) for claims under Subsection [(5)] (6)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;

(e) for claims under Subsection [(5)] (6)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or

(f) for claims under Subsection [(5)] (6)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.

[(7)] (8) (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection [(2)] (3), the office shall promptly forward the request to the appropriate office.

(b) If the request is forwarded promptly, the time limit for response begins when the [record] request is received by the office specified by rule.

[(8)] (9) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

**Section 3. Section 63G-2-206 is amended to read:
63G-2-206. Sharing records.**

(1) A governmental entity may provide a record that is private, controlled, or protected to another governmental entity, a government-managed corporation, a political subdivision, the federal government, or another state if the requesting entity:

(a) serves as a repository or archives for purposes of historical preservation, administrative maintenance, or destruction;

(b) enforces, litigates, or investigates civil, criminal, or administrative law, and the record is necessary to a proceeding or investigation;

(c) is authorized by state statute to conduct an audit and the record is needed for that purpose;

(d) is one that collects information for presentence, probationary, or parole purposes; or

(e) (i) is:

(A) the Legislature;

(B) a legislative committee;

(C) a member of the Legislature; or

(D) a legislative staff member acting at the request of the Legislature, a legislative committee, or a member of the Legislature; and

(ii) requests the record in relation to the Legislature's duties including:

(A) the preparation or review of a legislative proposal or legislation;

(B) appropriations; or

(C) an investigation or review conducted by the Legislature or a legislative committee.

(2) (a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:

(i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;

(ii) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and

(iii) that the use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series.

(b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b).

(3) (a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal

government, or another state if the requesting entity:

(i) is entitled by law to inspect the record;

(ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or

(iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).

(b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection 63G-2-305(4).

(4) Before disclosing a record or record series under this section to another governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:

(a) inform the recipient of the record's classification and the accompanying restrictions on access; and

(b) if the recipient is not a governmental entity to which this chapter applies, obtain the recipient's written agreement which may be by mechanical or electronic transmission that it will abide by those restrictions on access unless a statute, federal regulation, or interstate agreement otherwise governs the sharing of the record or record series.

(5) A governmental entity may disclose a record to another state, the United States, or a foreign government for the reasons listed in Subsections (1) and (2) without complying with the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state statute.

(6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this section is subject to the same restrictions on disclosure of the record as the originating entity.

(b) A contractor or a private provider may receive information under this section only if:

(i) the contractor or private provider's use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series;

(ii) the record or record series it requests:

(A) is necessary for the performance of a contract with a governmental entity;

(B) will only be used for the performance of the contract with the governmental entity;

(C) will not be disclosed to any other person; and

(D) will not be used for advertising or solicitation purposes; and

(iii) the contractor or private provider gives written assurance to the governmental entity that is providing the record or record series that it will adhere to the restrictions of this Subsection (6)(b).

(c) The classification of a record already held by a governmental entity and the applicable restrictions

on disclosure of that record are not affected by the governmental entity's receipt under this section of a record with a different classification that contains information that is also included in the previously held record.

(7) Notwithstanding any other provision of this section, if a more specific court rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing information, that rule, order, statute, or federal regulation controls.

(8) (a) The following records may not be shared under this section:

(~~(a)~~) (i) records held by the Division of Oil, Gas, and Mining that pertain to any person and that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining;

(~~(b)~~) (ii) except as provided in Subsection (8)(b), records of publicly funded libraries as described in Subsection 63G-2-302(1)(c); and

(~~(c)~~) (iii) a record described in Section 63G-12-210.

(b) A publicly funded library may share a record that is a private record under Subsection 63G-2-302(1)(c) with a law enforcement agency, as defined in Section 53-1-102, if:

(i) the record is a video surveillance recording of the library premises; and

(ii) the law enforcement agency certifies in writing that:

(A) the law enforcement agency believes that the record will provide important information for a pending investigation into criminal or potentially criminal behavior; and

(B) the law enforcement agency's receipt of the record will assist the agency to prevent imminent harm to an individual or imminent and substantial damage to property.

(9) Records that may evidence or relate to a violation of law may be disclosed to a government prosecutor, peace officer, or auditor.

Section 4. Section 63G-2-308 is amended to read:

63G-2-308. Allowing or denying access based on status of information in a record.

Notwithstanding any other provision in this chapter, if a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect under this chapter, and, if the information the requester is entitled to inspect is intelligible, the governmental entity:

(1) shall, except as provided in Subsection 63G-2-201(1)(b)(iii), allow access to information in the record that the requester is entitled to inspect under this chapter; and

(2) may deny access to information in the record if the information is exempt from disclosure to the

requester, issuing a notice of denial as provided in Section 63G-2-205.

Section 5. Section 63G-2-400.5 is amended to read:

63G-2-400.5. Definitions.

As used in this part:

(1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(~~(8)~~)(9) or Section 63G-2-205, in whole or in part, of a record request.

(2) "Appellate affirmation" means a decision of a chief administrative officer, local appeals board, or records committee affirming an access denial.

(3) "Interested party" means a person, other than a requester, who is aggrieved by an access denial or an appellate affirmation, whether or not the person participated in proceedings leading to the access denial or appellate affirmation.

(4) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

(5) "Record request" means a request for a record under Section 63G-2-204.

(6) "Records committee appellant" means:

(a) a political subdivision that seeks to appeal a decision of a local appeals board to the records committee; or

(b) a requester or interested party who seeks to appeal to the records committee a decision affirming an access denial.

(7) "Requester" means a person who submits a record request to a governmental entity.

Section 6. Section 63G-2-401 is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1) (a) A requester or interested party may appeal an access denial to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

(ii) the record request is considered denied under Subsection 63G-2-204(~~(8)~~)(9), if that subsection applies.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(~~(3)~~)(4), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice

of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a “determination” or its equivalent under Subsection 63G-2-204~~(8)~~(9).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4) (a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer’s determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5) (a) The chief administrative officer shall make a decision on the appeal within:

(i) (A) 10 business days after the chief administrative officer’s receipt of the notice of appeal; or

(B) five business days after the chief administrative officer’s receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b) (i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7) (a) The governmental entity shall send written notice of the chief administrative officer’s decision to all participants.

(b) If the chief administrative officer’s decision is to affirm the access denial in whole or in part, the notice under Subsection (7)(a) shall include:

(i) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:

(A) the records committee or district court; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

(ii) the time limits for filing an appeal; and

(iii) the name and business address of:

(A) the executive secretary of the records committee; and

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c).

(8) A person aggrieved by a governmental entity’s classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 7. Section 63G-2-802 is amended to read:

63G-2-802. Injunction -- Attorney fees.

(1) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.

(2) (a) A district court may assess against any governmental entity or political subdivision reasonable attorney fees and other litigation costs reasonably incurred in connection with a judicial

appeal ~~[of a denial of]~~ to determine whether a requester is entitled to access to records under a records request, if the requester substantially prevails.

(b) In determining whether to award attorneys' fees under this section, the court shall consider:

- (i) the public benefit derived from the case;
- (ii) the nature of the requester's interest in the records; and
- (iii) whether the governmental entity's or political subdivision's actions had a reasonable basis.

(c) Attorney fees shall not ordinarily be awarded if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.

(3) Neither attorney fees nor costs shall be awarded for fees or costs incurred during administrative proceedings.

(4) Notwithstanding Subsection (2), a court may only award fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) if the fees and costs were incurred 20 or more days after the requester provided to the governmental entity or political subdivision a statement of position that adequately explains the basis for the requester's position.

(5) Claims for attorney fees as provided in this section or for damages are subject to Title 63G, Chapter 7, Governmental Immunity Act of Utah.

CHAPTER 335**S. B. 128**

Passed March 13, 2019

Approved March 26, 2019

Effective May 14, 2019

(Exception clause in Section 35)

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill makes amendments to child welfare provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies that the division may support a finding of child abuse or neglect and that a judge may substantiate a finding;
- ▶ clarifies language regarding policies and rules;
- ▶ clarifies procedures for the Department of Human Services regarding child pornography;
- ▶ requires the Office of Licensing, within the Department of Human Services, to run a background check on employees of congregate care settings where a child may be placed by the Division of Child and Family Services;
- ▶ defines “threatened harm”;
- ▶ outlines requirements for a juvenile court to follow when a child is placed in a residential treatment program;
- ▶ clarifies who may be involved in the development of a child and family plan;
- ▶ clarifies when a court may order the division to provide protective supervision services;
- ▶ modifies provisions relating to who may adopt a child and with whom the division may place a child who is in foster care;
- ▶ modifies provisions relating to a court’s consideration of more than one petition for adoption;
- ▶ clarifies that termination of a parent’s rights does not prevent a relative of the parent from seeking adoption of the parent’s child; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 51-9-405, as last amended by Laws of Utah 2016, Chapter 144
- 62A-1-118, as last amended by Laws of Utah 2015, Chapter 255
- 62A-1-122, as enacted by Laws of Utah 2018, Chapter 285
- 62A-2-120, as last amended by Laws of Utah 2017, Chapters 78, 181, and 400
- 62A-4a-101, as last amended by Laws of Utah 2017, Chapters 209, 323, and 459
- 62A-4a-102, as last amended by Laws of Utah 2015, Chapter 258

- 62A-4a-105.5, as enacted by Laws of Utah 1994, Chapter 260
- 62A-4a-110, as last amended by Laws of Utah 2009, Chapter 75
- 62A-4a-112, as last amended by Laws of Utah 2009, Chapter 75
- 62A-4a-117, as last amended by Laws of Utah 2016, Chapter 231
- 62A-4a-118, as last amended by Laws of Utah 2017, Chapter 478
- 62A-4a-201, as last amended by Laws of Utah 2017, Chapter 330
- 62A-4a-202.6, as last amended by Laws of Utah 2018, Chapter 415
- 62A-4a-205, as last amended by Laws of Utah 2017, Chapter 323
- 62A-4a-412, as last amended by Laws of Utah 2017, Chapters 209 and 459
- 62A-4a-602, as last amended by Laws of Utah 2017, Chapter 148
- 62A-4a-711, as enacted by Laws of Utah 2017, Chapter 401
- 62A-4a-905, as last amended by Laws of Utah 2009, Chapter 75
- 62A-4a-1003, as last amended by Laws of Utah 2017, Chapter 209
- 63G-4-402, as last amended by Laws of Utah 2011, Chapter 208
- 76-5-110, as last amended by Laws of Utah 2011, Chapter 366
- 78A-6-105, as last amended by Laws of Utah 2018, Chapters 45, 91, 192, 235, 285, and 415
- 78A-6-117, as last amended by Laws of Utah 2018, Chapters 117 and 285
- 78A-6-302, as last amended by Laws of Utah 2018, Chapter 91
- 78A-6-306, as last amended by Laws of Utah 2018, Chapter 91
- 78A-6-312, as last amended by Laws of Utah 2018, Chapter 91
- 78A-6-317, as last amended by Laws of Utah 2014, Chapters 90 and 275
- 78A-6-902, as last amended by Laws of Utah 2018, Chapter 359
- 78A-6-1103, as last amended by Laws of Utah 2014, Chapter 265
- 78A-6-1302, as last amended by Laws of Utah 2017, Chapter 330
- 78B-6-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-6-117, as last amended by Laws of Utah 2018, Chapter 43 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 446
- 78B-6-133, as last amended by Laws of Utah 2015, Chapter 194

ENACTS:

78A-6-311.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-9-405 is amended to read:

51-9-405. Substance Abuse Prevention Account established -- Funding -- Uses.

(1) There is created a restricted account within the General Fund known as the Substance Abuse Prevention Account.

(2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention Account from the collected surcharge established in Section 51-9-401:

(i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the Legislature; and

(ii) 2.5% for the State Board of Education, but not to exceed the amount appropriated by the Legislature.

(b) The juvenile court shall use the allocation to pay for compensatory service programs required by [Subsection] Section 78A-6-117[(2)(m)].

(c) The State Board of Education shall use the allocation in public school programs for:

(i) substance abuse prevention and education;

(ii) substance abuse prevention training for teachers and administrators; and

(iii) district and school programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

Section 2. Section 62A-1-118 is amended to read:

62A-1-118. Access to abuse and neglect information to screen employees and volunteers.

(1) The department may conduct a background check, pursuant to Subsections 62A-2-120(1) through (4), of department employees and volunteers who have direct access, as defined in Section 62A-2-101, to a child or a vulnerable adult.

(2) In addition to conducting a background check described in Subsection (1), and subject to the requirements of this section, the department may search the Division of Child and Family Services' Management Information System described in Section 62A-4a-1003.

(3) With respect to department employees and volunteers, the department may only access information in the systems and databases described in Subsection 62A-2-120(3) and in the Division of Child and Family Services' Management Information System for the purpose of determining at the time of hire and each year thereafter whether a department employee or volunteer has a criminal history, an adjudication of abuse or neglect, or[, since January 1, 1994,] a substantiated or supported finding of abuse, neglect, or exploitation [after notice and an opportunity for a hearing consistent with Title 63G, Chapter 4, Administrative Procedures Act, but only if a criminal history or identification as a possible perpetrator of abuse or neglect is directly relevant to the employment or volunteer activities of that person].

(4) A department employee or volunteer to whom Subsection (1) applies shall submit to the department the employee or volunteer's name, other personal identifying information, and consent

for the background check on a form specified by the department.

(5) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, defining permissible and impermissible work-related activities for a department employee or volunteer with a criminal history or with one or more substantiated or supported findings of abuse, neglect, or exploitation.

Section 3. Section 62A-1-122 is amended to read:

62A-1-122. Child pornography.

(1) As used in this section:

(a) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child pornography as a result of an employee unlawfully viewing child pornography, the department or division shall consult with and follow the guidance of the Department of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child pornography.

(4) When the department or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall[: (a) document a written description of the child pornography in the appropriate case file; and (b) securely transfer] immediately secure the child pornography [to], or the electronic device if the child pornography is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

~~[(5) When the department or a division within the department transfers child pornography to law enforcement, the law enforcement office shall:]~~

~~[(a) seize and retain the child pornography as evidence, in accordance with Section 24-2-103;]~~

~~[(b) prohibit the distribution, release, or display of the child pornography, except to the following:]~~

~~[(i) an individual to whom a court has granted access by court order, as described in Subsection (6);]~~

~~[(ii) a department or division investigator, a supervisor of a department, or division investigator or an investigator authorized under Section 62A-4a-202.6, if necessary for the investigation;]~~

~~[(iii) an administrative law judge employed by the Department of Human Services, if necessary for an adjudication;]~~

~~[(iv) an office of the city attorney, county attorney, district attorney, or attorney general, if necessary for prosecution;]~~

~~[(v) a law enforcement agency, if necessary for an investigation; or]~~

~~[(vi) the guardian ad litem for the child who is the subject of the child pornography; and]~~

~~[(c) when the department determines that the child pornography no longer needs to be held as evidence, dispose of the child pornography under Subsection 24-3-103(6)(a)(iii).]~~

~~[(6) A court order described in Subsection (5)(b)(i):]~~

~~[(a) shall describe with particularity the individual to whom the child pornography may be released; and]~~

~~[(b) may impose reasonable restrictions on access to the child pornography to protect the privacy of the child victim.]~~

Section 4. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

~~[(i) a person described]~~ (A) the same as that term is defined in Section 62A-2-101;

~~[(ii)]~~ (B) an individual who~~[-(A)]~~ is associated with a licensee~~[:]~~ and ~~[(B)]~~ has or will likely have direct access to a child or a vulnerable adult;

~~[(iii)]~~ (C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

~~[(iv)]~~ (D) a department contractor; ~~[(E)]~~

~~[(v)]~~ (E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and~~[-(A)]~~ resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

~~[(B) is a person or individual described in Subsection (1)(a)(i), (ii), (iii), or (iv).]~~

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years of age or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection [13] (13), an applicant shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) a background check at the applicant's annual renewal;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant spent time outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant spent outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the ~~[Bureau]~~ bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the [Bureau] bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the [Bureau] bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the [Bureau] bureau when the license has expired or the individual's direct access to a child or a vulnerable adult has ceased;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the office employees responsible for processing the

applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3); ~~and~~

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a program under this section that serves children, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

~~(h)~~ (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the [Bureau] bureau under Subsection (3), the [Bureau] bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the [Bureau] bureau under Subsection (3), the [Bureau] bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the [Bureau] bureau under Subsection (3)(d), the [Bureau] bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The [Bureau] bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a

vulnerable adult has ceased, the [Bureau] bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a conviction for a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has a conviction for any felony offense, not described in Subsection (5)(a), regardless of the date of the conviction;

(ii) has a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within five years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years of age; or

(B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a); or

(ix) has a pending charge for an offense described in Subsection (5)(a).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical or mental harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) any other pertinent information.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) Upon receiving the results of the criminal history search of national criminal background databases, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor; and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have supervised or

unsupervised direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give written notice to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of its background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of licensing a prospective foster home or approving a prospective adoptive placement of a child in state custody, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is

listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a license renewal to a prospective foster parent or a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 5. Section 62A-4a-101 is amended to read:

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" means the same as that term is defined in Section 78A-6-105.

(2) "Adoption services" means:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 62A-4a-105;

(c) supervising adoption placements until the adoption is finalized by the court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, a person under 18 years of age.

(4) "Child protection team" means a team consisting of:

(a) the caseworker assigned to the case;

(b) the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) the peace officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) members of a child protection unit; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(5) "Child protection unit" means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:

(a) a law enforcement officer, as defined in Section 53-13-103; and

(b) a child advocate selected by the chief of police or a sheriff.

(6) "Chronic abuse" means repeated or patterned abuse.

(7) "Chronic neglect" means repeated or patterned neglect.

(8) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

(9) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(10) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

(11) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible person; or

- (b) outside of the child's home in a:
- (i) day-care center;
 - (ii) family group home; or
 - (iii) family child care home.
- (12) "Dependent child" or "dependency" means a child, or the condition of a child, who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- (13) "Director" means the director of the Division of Child and Family Services.
- (14) "Division" means the Division of Child and Family Services.
- (15) "Domestic violence services" means:
- (a) temporary shelter, treatment, and related services to:
 - (i) a person who is a victim of abuse, as defined in Section 78B-7-102; and
 - (ii) the dependent children of a person ~~described in Subsection (12)(a)(i)~~ who is a victim of abuse, as defined in Section 78B-7-102; and
 - (b) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.
- (16) "Harm" means the same as that term is defined in Section 78A-6-105.
- (17) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.
- (18) "Incest" means the same as that term is defined in Section 78A-6-105.
- (19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:
- (a) a child; or
 - (b) a person:
 - (i) who is at least 18 years of age and younger than 21 years of age; and
 - (ii) for whom the division has been specifically ordered by the juvenile court to provide services.
 - (22) "Molestation" means the same as that term is defined in Section 78A-6-105.
 - (23) "Mutual case" means a case that has been:
 - (a) opened by the division under the division's discretion and procedures;
 - (b) opened by the law enforcement agency with jurisdiction over the case; and
 - (c) accepted for investigation by the child protection unit established by the chief of police or sheriff, as applicable.
 - (24) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.
 - (25) "Neglect" means the same as that term is defined in Section 78A-6-105.
 - (26) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:
 - (a) the shelter hearing; or
 - (b) the child's return home.
 - (27) "Protective services" means expedited services that are provided:
 - (a) in response to evidence of neglect, abuse, or dependency of a child;
 - (b) to a cohabitant who is neglecting or abusing a child, in order to:
 - (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and
 - (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
 - (c) in cases where the child's welfare is endangered:
 - (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
 - (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and
 - (iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:
 - (A) removal from the child's home;
 - (B) placement in substitute care; and
 - (C) petitioning the court for termination of parental rights.
 - (28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.
 - (29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.
 - (30) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
 - (31) "Sexual exploitation" means the same as that term is defined in Section 78A-6-105.
 - (32) "Shelter care" means the temporary care of a minor in a nonsecure facility.
 - (33) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.
 - (34) "Sibling visitation" means services provided by the division to facilitate the interaction between

a child in division custody with a sibling of that child.

(35) “State” means:

- (a) a state of the United States;
- (b) the District of Columbia;
- (c) the Commonwealth of Puerto Rico;
- (d) the Virgin Islands;
- (e) Guam;
- (f) the Commonwealth of the Northern Mariana Islands; or
- (g) a territory or possession administered by the United States.

(36) “State plan” means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

(37) “Status offense” means a violation of the law that would not be a violation but for the age of the offender.

(38) “Substance abuse” means the same as that term is defined in Section 78A-6-105.

(39) “Substantiated” or “substantiation” means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.

(40) “Substitute care” means:

- (a) the placement of a minor in a family home, group care facility, or other placement outside the minor’s own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor’s own home would be contrary to the minor’s welfare;
- (b) services provided for a minor awaiting placement; and
- (c) the licensing and supervision of a substitute care facility.

(41) “Supported” means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.

(42) “Temporary custody,” with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.

(43) “Threatened harm” means the same as that term is defined in Section 78A-6-105.

[43] (44) “Transportation services” means travel assistance given to an individual with escort

service, if necessary, to and from community facilities and resources as part of a service plan.

[44] (45) “Unsubstantiated” means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

[45] (46) “Unsupported” means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division [worker] did not conclude that the allegation was without merit.

[46] (47) “Without merit” means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

Section 6. Section 62A-4a-102 is amended to read:

62A-4a-102. Rulemaking responsibilities of division.

(1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing [~~policies for the~~] division[, ~~by rule,~~] rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act, regarding abuse, neglect, and dependency proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.

(2) The division shall:

(a) approve fee schedules for programs within the division;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish[, ~~by rule,~~ ~~policies~~] rules to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new [~~policy~~] rule or proposed revision of an existing [~~policy~~] rule; and

(c) provide a mechanism for:

(i) systematic and regular review of existing [~~policies~~] rules, including an annual review of all division [~~policies~~] rules to ensure that [~~policies~~] rules comply with the Utah Code; and

(ii) consideration of [~~policy~~] rule changes proposed by the persons and agencies described in Subsection (2)(b).

(3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.

(b) The division may, by rule, establish eligibility standards for consumers.

(4) The division shall adopt and maintain rules regarding placement for adoption or foster care that

are consistent with, and no more restrictive than, applicable statutory provisions.

Section 7. Section 62A-4a-105.5 is amended to read:

62A-4a-105.5. Employees -- Failure to comply with division policy -- Termination.

(1) The director shall ensure that all employees are fully trained to comply with state ~~and~~ law, federal law, administrative rules, and division policy in order to effectively carry out their assigned duties and functions.

(2) If, after training and supervision, the employee consistently fails to comply with those laws, rules, ~~and policies, his~~ or policies, the individual's employment with the division shall be terminated.

Section 8. Section 62A-4a-110 is amended to read:

62A-4a-110. Receipt of gifts -- Volunteer services.

(1) The division may receive gifts, grants, devises, and donations. These gifts, grants, devises, donations, or their proceeds shall be credited to the program which the donor designates and may be used for the purposes requested by the donor, if the request conforms to state and federal ~~policy~~ law. If a donor makes no specific request, the division may use the gift, grant, devise, or donation for the best interest of the division.

(2) The division may:

(a) accept and use volunteer labor or services of applicants, recipients, and other members of the community. The division may reimburse volunteers for necessary expenses, including transportation, and provide recognition awards and recognition meals for services rendered. The division may cooperate with volunteer organizations in collecting funds to be used in the volunteer program. Those donated funds shall be considered as private, nonlapsing funds until used by the division, and may be invested under guidelines established by the state treasurer;

(b) encourage merchants and providers of services to donate goods and services or to provide them at a nominal price or below cost;

(c) distribute goods to applicants or consumers free or for a nominal charge and tax free; and

(d) appeal to the public for funds to meet applicants' and consumers' needs which are not otherwise provided for by law. Those appeals may include Sub-for-Santa Programs, recreational programs for minors, and requests for household appliances and home repairs, under rules established by the division.

Section 9. Section 62A-4a-112 is amended to read:

62A-4a-112. Request to examine family services payment.

(1) An individual who is a taxpayer and resident of this state and who desires to examine a payment for services offered by the division in accordance with this chapter, shall sign a statement using a form prescribed by the division. That statement shall include the assertion that the individual is a taxpayer and a resident, and shall include a commitment that any information obtained will not be used for commercial or political purposes. No partial or complete list of names, addresses, or amounts of payment may be made by any individual under this subsection, and none of that information may be removed from the offices of the division.

(2) The division shall, after due consideration of the public interest, define the nature of confidential information to be safeguarded by the division and shall establish ~~policies and~~ rules to govern the custody and disclosure of confidential information, as well as to provide access to information regarding payments for services offered by the division.

(3) This section does not prohibit the division or its agents, or individuals, commissions, or agencies duly authorized for the purpose, from making special studies or from issuing or publishing statistical material and reports of a general character. This section does not prohibit the division or its representatives or employees from conveying or providing to local, state, or federal governmental agencies written information that would affect an individual's eligibility or ineligibility for financial service, or other beneficial programs offered by that governmental agency. Access to the division's program plans, policies, and records, as well as consumer records and data, is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Violation of this section is a class B misdemeanor.

Section 10. Section 62A-4a-117 is amended to read:

62A-4a-117. Performance monitoring system -- Annual report.

(1) As used in this section:

(a) "Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.

(b) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.

(c) (i) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:

(A) child protection services;

(B) adoption;

(C) foster care; and

(D) other substitute care.

(ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court

oversight, as amended pursuant to Subsection (2), including:

- (A) the qualitative case review; and
 - (B) the case process review.
- (2) (a) The division may not amend the performance standards unless the amendment is:
- (i) necessary and proper for the effective administration of the division; or
 - (ii) necessary to comply with, or implement changes in, the law.
- (b) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.
- (c) The notice described in Subsection (2)(b) shall include:
- (i) the proposed amendment;
 - (ii) a summary of the reason for the proposed amendment; and
 - (iii) the proposed effective date of the amendment.
- (d) Within 45 days after the day on which the division provides the notice described in Subsection (2)(b) to the council, the council shall provide to the division written comments on the proposed amendment.
- (e) The division may not implement a proposed amendment to the performance standards until the earlier of:
- (i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(d); or
 - (ii) 52 days after the day on which the division provides the notice described in Subsection (2)(b) to the council.
- (f) The division shall:
- (i) give full, fair, and good faith consideration to all comments and objections received from the council;
 - (ii) notify the council in writing of:
 - (A) the division's decision regarding the proposed amendment; and
 - (B) the reasons that support the decision;
 - (iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and
 - (iv) post the changes on the division's website.
- (3) The division shall maintain a performance monitoring system to regularly:
- (a) collect information on performance indicators; and
 - (b) compare performance indicators to performance standards.

(4) Before January 1 each year, the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:

- (a) a comparison between the performance indicators for the prior fiscal year and the performance standards;
- (b) for each performance indicator that does not meet the performance standard:
 - (i) the reason the standard was not met;
 - (ii) the measures that need to be taken to meet the standard; and
 - (iii) the division's plan to comply with the standard for the current fiscal year;
- (c) data on the extent to which new and experienced division employees have received training pursuant to statute, administrative rule, and division policy; and
- (d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 11. Section 62A-4a-118 is amended to read:

62A-4a-118. Annual review of child welfare referrals and cases by executive director -- Accountability to the Legislature -- Review by legislative auditor general.

- (1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.
- (2) (a) In addition to development of quantifiable outcome measures and performance measures in accordance with Section 62A-4a-117, the executive director, or [his] the executive director's designee, shall annually review a randomly selected sample of child welfare referrals to and cases handled by the division. The purpose of that review shall be to assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act. The review shall focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.
- (b) The executive director shall report ~~regarding his review of those cases,~~ on the executive director's review to the legislative auditor general and the Child Welfare Legislative Oversight Panel.
- (c) Information obtained as a result of the review shall be provided to caseworkers, supervisors, and division personnel involved in the respective cases, for purposes of education, training, and performance evaluation.
- (3) The executive director's review and report to the ~~Legislature~~ legislative auditor general and the

Child Welfare Legislative Oversight Panel shall include:

(a) the criteria used by the executive director, or [his] the executive director's designee, in making the evaluation;

(b) findings regarding whether state statutes, division [~~policy, and~~] rule, legislative policy, and division policy were followed in each sample case;

(c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act, and division [~~policy~~] rule;

(d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and

(e) an assessment of the appropriateness of the division's assignment of priority.

(4) (a) In addition to the executive director's review under Subsection (2), the legislative auditor general shall audit, subject to the prioritization of the Legislative Audit Subcommittee, a sample of child welfare referrals to and cases handled by the division and report the findings to the Child Welfare Legislative Oversight Panel.

(b) An audit under Subsection (4)(a) may be initiated by:

(i) the Audit Subcommittee of the Legislative Management Committee;

(ii) the Child Welfare Legislative Oversight Panel; or

(iii) the legislative auditor general, based on the results of the executive director's review under Subsection (2).

(c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:

(i) findings regarding whether state statutes, division [~~policy, and~~] rule, legislative policy, and division policy were followed by the division and its employees;

(ii) a determination regarding whether referrals, removals, and cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act, and division [~~policy~~] rule;

(iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;

(iv) an assessment of the appropriateness of the division's assignment of priority;

(v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and

(vi) findings regarding any other issues identified by the auditor or others under this Subsection (4).

Section 12. Section 62A-4a-201 is amended to read:

62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental

liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court Act. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the

division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of "reasonable efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections 78A-6-105~~(35)(d)~~(36) and 78A-6-117(2) and Section 78A-6-301.5.

Section 13. Section 62A-4a-202.6 is amended to read:

62A-4a-202.6. Conflict child protective services investigations -- Authority of investigators.

(1) (a) The division shall contract with an independent child protective service investigator from the private sector to investigate reports of

abuse or neglect of a child that occur while the child is in the custody of the division.

(b) The executive director shall designate an entity within the department, other than the division, to monitor the contract for the investigators described in Subsection (1)(a).

(c) Subject to Subsection (4), when a report is made that a child is abused or neglected while in the custody of the division:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the division, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the division, conduct a conflict investigation of the report.

(d) Subsection (1)(c)(ii) does not prevent a law enforcement officer from, without the consent of the division, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) The investigators described in Subsections (1)(c) and (d) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) The investigators described in Subsection (1), if not ~~peace officers~~ law enforcement officers, shall have the same rights, duties, and authority of a child protective services investigator employed by the division to:

(a) make a thorough investigation upon receiving either an oral or written report of alleged abuse or neglect of a child, with the primary purpose of that investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of their investigation, including determination regarding whether the alleged abuse or neglect was ~~substantiated, unsubstantiated~~ supported, unsupported, or without merit, and forward a copy of that report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 when a report is based upon or includes an allegation of educational neglect.

(4) If there is a lapse in the contract with a private child protective service investigator and no other investigator is available under Subsection (1)(a) or (c), the department may conduct an independent investigation.

Section 14. Section 62A-4a-205 is amended to read:

62A-4a-205. Child and family plan -- Parent-time and relative visitation.

(1) No more than 45 days after a child enters the temporary custody of the division, the child's child and family plan shall be finalized.

(2) (a) The division may use an interdisciplinary team approach in developing each child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; and

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent~~;~~ and.

~~[(v) the child's guardian ad litem, if one has been appointed by the court.]~~

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

~~[(b)]~~ (c) In relation to all information considered by the division in developing a child and family plan, additional weight and attention shall be given to the input of the child's natural and foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

~~[(e)]~~ (d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to the:

(a) guardian ad litem;

(b) child's natural parents; and

(c) child's foster parents.

(5) Each child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law; and

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child.

(6) The child and family plan shall set forth, with specificity, at least the following:

(a) the reason the child entered into the custody of the division;

(b) documentation of the:

(i) reasonable efforts made to prevent placement of the child in the custody of the division; or

(ii) emergency situation that existed and that prevented the reasonable efforts described in Subsection (6)(b)(i), from being made;

(c) the primary permanency plan for the child and the reason for selection of that plan;

(d) the concurrent permanency plan for the child and the reason for the selection of that plan;

(e) if the plan is for the child to return to the child's family:

(i) specifically what the parents must do in order to enable the child to be returned home;

(ii) specifically how the requirements described in Subsection (6)(e)(i) may be accomplished; and

(iii) how the requirements described in Subsection (6)(e)(i) will be measured;

(f) the specific services needed to reduce the problems that necessitated placing the child in the division's custody;

(g) the name of the person who will provide for and be responsible for case management;

(h) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

(i) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(j) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(k) social summaries that include case history information pertinent to case planning; and

(l) subject to Subsection (12), a sibling visitation schedule.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) Each child and family plan shall be specific to each child and the child's family, rather than general.

(b) The division shall train its workers to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(c) All child and family plans and expectations shall be individualized and contain specific time frames.

(d) Subject to Subsection (8)(h), child and family plans shall address problems that:

(i) keep a child in placement; and

(ii) keep a child from achieving permanence in the child's life.

(e) Each child and family plan shall be designed to minimize disruption to the normal activities of the child's family, including employment and school.

(f) In particular, the time, place, and amount of services, hearings, and other requirements ordered by the court in the child and family plan shall be designed, as much as practicable, to help the child's parents maintain or obtain employment.

(g) The child's natural parents, foster parents, and where appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

(h) For purposes of Subsection (8)(d), a child and family plan may only include requirements that:

(i) address findings made by the court; or

(ii) (A) are requested or consented to by a parent or guardian of the child; and

(B) are agreed to by the division and the guardian ad litem.

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years of age or younger, if the plan is not to return the child home, the primary permanency plan for that child shall be adoption.

(b) Notwithstanding Subsection (9)(a), if the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 78A-6-306(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order

issued pursuant to Subsections 78A-6-312(3), (6), and (7).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for that session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time in order to:

- (i) protect the physical safety of the child;
- (ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

- (i) the child's fear of the parent; and
- (ii) the nature of the alleged abuse or neglect.

(11) The division shall consider visitation with their grandparents for children in state custody if the division determines visitation to be in the best interest of the child and:

(a) there are no safety concerns regarding the behavior or criminal background of the grandparents;

(b) allowing visitation would not compete with or undermine the reunification plan;

(c) there is a substantial relationship between the grandparents and children; and

(d) the visitation will not unduly burden the foster parents.

(12) The child and family plan shall incorporate reasonable efforts to:

(a) provide sibling visitation when:

(i) siblings are separated due to foster care or adoptive placement;

(ii) visitation is in the best interest of the child for whom the plan is developed; and

(iii) the division has consent for sibling visitation from the legal guardian of the sibling; and

(b) obtain consent for sibling visitation from the sibling's legal guardian when the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 15. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports and information confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private,

protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child

protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130; or

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency.

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (2)(a) to do so is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

Section 16. Section 62A-4a-602 is amended to read:

62A-4a-602. Licensure requirements -- Prohibited acts.

(1) No person may engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing, in accordance with Chapter 2, Licensure of Programs and Facilities. When a child-placing agency's license is suspended or revoked in accordance with that chapter, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.

(2) (a) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted. However, no payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for that assistance.

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that he is available to provide that assistance;

(ii) cause, permit, or allow any sign or marking indicating that he is available to provide that assistance, on or in any building or structure;

(iii) announce or cause, permit, or allow an announcement indicating that he is available to provide that assistance, to appear in any newspaper, magazine, directory, or on radio or television; or

(iv) advertise by any other means that he is available to provide that assistance.

(3) Nothing in this part precludes payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; and no provision of this part abrogates the right of procedures for independent adoption as provided by law.

(4) In accordance with federal law, only agents or employees of the division and of licensed child placing agencies may certify to the United States Immigration and Naturalization Service that a family meets the division's preadoption requirements.

(5) (a) ~~[Beginning May 1, 2000, neither]~~ Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with any individual or individuals that would not be

qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(b) ~~[Beginning May 1, 2000, the]~~ The division, as a licensed child-placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection (5)(b) limits the placement of a child in foster care with the child's biological or adoptive parent[-], a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(c) ~~[Beginning May 1, 2000, with]~~ With regard to children who are in the custody of the state, the division shall establish a ~~[policy]~~ rule providing that priority for ~~[foster care and adoptive]~~ placement shall be provided to families in which both a man and a woman are legally married under the laws of this state. However, nothing in this Subsection (5)(c) limits the placement of a child with the child's biological or adoptive parent[-], a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 17. Section 62A-4a-711 is amended to read:

62A-4a-711. Penalty.

An individual or entity that knowingly engages in an unregulated custody transfer, as defined in ~~[Subsection]~~ Section 78A-6-105~~[(56)]~~, is guilty of a class B misdemeanor.

Section 18. Section 62A-4a-905 is amended to read:

62A-4a-905. Supplemental adoption assistance.

(1) The division may, based upon annual legislative appropriations for adoption assistance and division rules, provide supplemental adoption assistance for ~~[children who have]~~ a child who has a special need. Supplemental adoption assistance shall be provided only after all other resources for which a child is eligible have been exhausted.

(2) (a) The department shall, by rule, establish in each region at least one advisory committee to review and make recommendations to the division on individual requests for supplemental adoption assistance. The committee shall be comprised of ~~[the following members]:~~

- (i) an adoption expert;
- (ii) an adoptive parent;
- (iii) a division representative;
- (iv) a foster parent; and
- (v) an adoption caseworker.

(b) The division ~~[policy]~~ rule required in Subsection (1) shall include a provision ~~[which]~~ that establishes a threshold amount for requests for supplemental adoption assistance that require

review by the committee established in this Subsection (2).

Section 19. Section 62A-4a-1003 is amended to read:

62A-4a-1003. Management Information System -- Requirements -- Contents -- Purpose -- Access.

(1) (a) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(b) The information and records contained in the Management Information System:

(i) are protected records under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) except as provided in Subsections (1)(c) and (d), are available only to a person with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information and records described in this Subsection (1)(b).

(c) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) are available to a person:

(i) as provided under Subsection (6) or Section 62A-4a-1006; or

(ii) who has specific statutory authorization to access the information or records for the purpose of assisting the state with state and federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need.

(d) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act, be provided by the division:

(i) to comply with abuse and neglect registry checks requested by other states; and

(ii) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect.

(2) With regard to all child welfare cases, the Management Information System shall provide each caseworker and the department's office of licensing, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in that worker's caseload, including:

(a) a record of all past action taken by the division with regard to that child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding that child and the child's siblings;

(c) the number of times the child has been in the custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to that child's parent, parents, or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated [~~by a juvenile court~~];

(D) unsubstantiated [~~by a juvenile court~~]; or

(E) without merit;

(f) the number of times the child's parent or parents failed any child and family plan; and

(g) the number of different caseworkers who have been assigned to that child in the past.

(3) The division's Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent or parents have failed that child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(4) With regard to all child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule [~~and policy~~];

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Except as provided in Subsection (6) regarding contract providers and Section 62A-4a-1006 regarding limited access to the Licensing Information System, all information contained in the division's Management Information System is available to the department, upon the approval of the executive director, on a need-to-know basis.

(6) (a) Subject to this Subsection (6), the division may allow the division's contract providers, court clerks designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or an Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from that specific contract provider or Indian tribe.

(c) (i) Designated court clerks may only have access to information necessary to comply with Subsection 78B-7-202(2).

(ii) The Office of Guardian Ad Litem may access only the information that:

(A) relates to children and families where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the children; and

(B) except as provided in Subsection (6)(d), is entered into the Management Information System on or after July 1, 2004.

(d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of Guardian Ad Litem shall have access to all abuse and neglect referrals about children and families where the office has been appointed by a court to represent the interests of the children, regardless of the date that the information is entered into the Management Information System.

(e) Each contract provider, designated representative of the Office of Guardian Ad Litem, and Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System as required by this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 62A-4a-412 and 63G-2-801 for improper release of information; and

(iii) monitor its employees to ensure that they protect the information contained in the Management Information System as required by law.

(f) The division shall take reasonable precautions to ensure that its contract providers comply with the requirements of this Subsection (6).

(7) The division shall take all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System.

Section 20. Section 63G-4-402 is amended to read:

63G-4-402. Judicial review -- Informal adjudicative proceedings.

(1) (a) The district courts have jurisdiction to review by trial de novo all final agency actions resulting from informal adjudicative proceedings, except that the juvenile courts have jurisdiction over all [state] final agency actions relating to:

(i) the removal or placement of children in state custody;

(ii) the support of children under Subsection (1)(a)(i) as determined administratively under Section 78A-6-1106; and

(iii) [substantiated] supported findings of abuse or neglect made by the Division of Child and Family Services[, after an evidentiary hearing].

(b) Venue for judicial review of informal adjudicative proceedings shall be as provided in the statute governing the agency or, in the absence of such a venue provision, in the county where the petitioner resides or maintains the petitioner's principal place of business.

(2) (a) The petition for judicial review of informal adjudicative proceedings shall be a complaint governed by the Utah Rules of Civil Procedure and shall include:

(i) the name and mailing address of the party seeking judicial review;

(ii) the name and mailing address of the respondent agency;

(iii) the title and date of the final agency action to be reviewed, together with a copy, summary, or brief description of the agency action;

(iv) identification of the persons who were parties in the informal adjudicative proceedings that led to the agency action;

(v) a copy of the written agency order from the informal proceeding;

(vi) facts demonstrating that the party seeking judicial review is entitled to obtain judicial review;

(vii) a request for relief, specifying the type and extent of relief requested; and

(viii) a statement of the reasons why the petitioner is entitled to relief.

(b) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(3) (a) The court, without a jury, shall determine all questions of fact and law and any constitutional issue presented in the pleadings.

(b) The Utah Rules of Evidence apply in judicial proceedings under this section.

Section 21. Section 76-5-110 is amended to read:

76-5-110. Abuse or neglect of a child with a disability.

(1) As used in this section:

(a) "Abuse" means:

(i) inflicting physical injury, as that term is defined in Section 76-5-109;

(ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or

(iii) unreasonable confinement.

(b) "Caretaker" means:

(i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

(ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

(c) "Child with a disability" means any person under 18 years of age who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

(d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

(2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.

(3) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.

(b) Subject to Subsection 78A-6-117(2)[(n)(iii)](m), the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Section 22. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

<p>As used in this chapter:</p> <p>(1) (a) “Abuse” means:</p> <p>(i) (A) nonaccidental harm of a child;</p> <p>(B) threatened harm of a child;</p> <p>(C) sexual exploitation;</p> <p>(D) sexual abuse; or</p> <p>(E) human trafficking of a child in violation of Section 76-5-308.5; or</p> <p>(ii) that a child’s natural parent:</p> <p>(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;</p> <p>(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or</p> <p>(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.</p> <p>(b) “Abuse” does not include:</p> <p>(i) reasonable discipline or management of a child, including withholding privileges;</p> <p>(ii) conduct described in Section 76-2-401; or</p> <p>(iii) the use of reasonable and necessary physical restraint or force on a child:</p> <p>(A) in self-defense;</p> <p>(B) in defense of others;</p> <p>(C) to protect the child; or</p> <p>(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).</p> <p>(2) “Abused child” means a child who has been subjected to abuse.</p> <p>(3) “Adjudication” means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.</p> <p>(4) “Adult” means an individual 18 years of age or over, except that an individual 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.</p> <p>(5) “Board” means the Board of Juvenile Court Judges.</p> <p>(6) “Child” means an individual under 18 years of age.</p> <p>(7) “Child placement agency” means:</p> <p>(a) a private agency licensed to receive a child for placement or adoption under this code; or</p> <p>(b) a private agency that receives a child for placement or adoption in another state, which</p>	<p>agency is licensed or approved where such license or approval is required by law.</p> <p>(8) “Clandestine laboratory operation” means the same as that term is defined in Section 58-37d-3.</p> <p>(9) “Commit” means, unless specified otherwise:</p> <p>(a) with respect to a child, to transfer legal custody; and</p> <p>(b) with respect to a minor who is at least 18 years of age, to transfer custody.</p> <p>(10) “Court” means the juvenile court.</p> <p>(11) “Criminogenic risk factors” means evidence-based factors that are associated with a minor’s likelihood of reoffending.</p> <p>(12) “Delinquent act” means an act that would constitute a felony or misdemeanor if committed by an adult.</p> <p>(13) “Dependent child” includes a child who is homeless or without proper care through no fault of the child’s parent, guardian, or custodian.</p> <p>(14) “Deprivation of custody” means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.</p> <p>(15) “Detention” means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:</p> <p>(a) pending court disposition or transfer to another jurisdiction; or</p> <p>(b) while under the continuing jurisdiction of the court.</p> <p>(16) “Detention risk assessment tool” means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor’s risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.</p> <p>(17) “Division” means the Division of Child and Family Services.</p> <p>(18) “Educational neglect” means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.</p> <p>(19) “Evidence-based” means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.</p> <p>(20) “Formal probation” means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.</p> <p>(21) “Formal referral” means a written report from a peace officer or other person informing the</p>
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court that a minor is or appears to be within the court's jurisdiction and that a case must be reviewed.

(22) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(23) "Guardianship of the person" includes the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(24) "Habitual truant" means the same as that term is defined in Section 53G-6-201.

(25) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

(26) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (26)(a) include:

- (i) blood relationships of the whole or half blood, without regard to legitimacy;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(27) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(28) "Intellectual disability" means:

- (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;
- (b) concurrent deficits or impairments in present adaptive functioning, regarding the individual's effectiveness in meeting the standards expected for the individual's age by the individual's cultural

group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and

(c) the onset is before the individual reaches the age of 18 years.

(29) "Legal custody" means a relationship embodying the following rights and duties:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- (d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(30) "Material loss" means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss;
- (c) lost wages; or
- (d) medical expenses.

(31) "Mental disorder" means a serious emotional and mental disturbance that severely limits a minor's development and welfare over a significant period of time.

(32) "Minor" means:

- (a) a child; or
- (b) an individual who is:
 - (i) at least 18 years of age and younger than 21 years of age; and
 - (ii) under the jurisdiction of the juvenile court.

(33) "Mobile crisis outreach team" means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

(34) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(35) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(36) (a) "Neglect" means action or inaction causing:

- (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(37) "Neglected child" means a child who has been subjected to neglect.

(38) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(39) "Not competent to proceed" means that a minor, due to a mental disorder, intellectual disability, or related condition as defined, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

(40) "Physical abuse" means abuse that results in physical injury or damage to a child.

(41) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(42) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(43) "Related condition" means a condition closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.

(44) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(45) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

(46) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(47) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(48) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (26), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(49) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual

exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(50) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(51) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(52) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(53) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(54) "Supported" means the same as that term is defined in Section 62A-4a-101.

(55) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(56) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(57) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

~~(57)~~ (58) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(59) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

~~(58)~~ (60) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

~~(59)~~ (61) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

~~(60)~~ (62) "Without merit" means the same as that term is defined in Section 62A-4a-101.

Section 23. Section 78A-6-117 is amended to read:

78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.

(1) (a) When a minor is found to come within Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within Subsection 78A-6-103(1), findings of fact are not necessary.

(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:

(i) the specific offenses for which the minor was adjudicated; and

(ii) if available, if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment. Results of the screening or assessment shall be used to inform disposition decisions and case planning. Assessment results, if available, may not be shared with the court before adjudication.

(2) Upon adjudication the court may make the following dispositions by court order:

(a) (i) the court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including community or compensatory service;

(ii) a condition ordered by the court under Subsection (2)(a)(i):

(A) shall be individualized and address a specific risk or need;

(B) shall be based on information provided to the court, including the results of a validated risk and needs assessment conducted under Subsection (1)(c); ~~and~~

(C) if the court orders treatment, shall be based on a validated risk and needs assessment conducted under Subsection (1)(c); and

(D) if the court orders protective supervision, may not designate the division as the provider of protective supervision unless there is a petition regarding abuse, neglect, or dependency before the court requesting that the division provide protective supervision;

(iii) a court may not issue a standard order that contains control-oriented conditions;

(iv) prohibitions on weapon possession, where appropriate, shall be specific to the minor and not the minor's family;

(v) if the court orders probation, the court may direct that notice of the court's order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety; and

(vi) an employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:

(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or other court-specified child welfare services, but the juvenile court may not assume the function of developing foster home services.

(c) (i) The court shall only vest legal custody of the minor in the Division of Juvenile Justice Services and order the Division of Juvenile Justice Services to provide dispositional recommendations and services if:

(A) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(B) the minor is adjudicated under this section for a felony offense, a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice Services for:

(A) contempt of court except to the extent permitted under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iii) (A) A minor who is 18 years old or older, but younger than 21 years old, may petition the court to express the minor's desire to be removed from the jurisdiction of the juvenile court and from the custody of the Division of Child and Family Services if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(B) If the minor's parent's rights have not been terminated in accordance with Part 5, Termination of Parental Rights Act, the minor's petition shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the Division of Child and Family Services.

(C) The minor and the minor's parent or guardian shall sign the petition.

(D) The court shall review the petition within 14 days.

(E) The court shall remove the minor from the custody of the Division of Child and Family Services if the minor and the minor's parent or guardian have met the requirements described in Subsections (2)(c)(iii)(B) and (C) and if the court finds, based on input from the Division of Child and Family Services, the minor's guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(F) A minor removed from custody under Subsection (2)(c)(iii)(E) may, within 90 days of the date of removal, petition the court to re-enter custody of the Division of Child and Family Services.

(G) Upon receiving a petition under Subsection (2)(c)(iii)(F), the court shall order the Division of Child and Family Services to take custody of the minor based on the findings the court entered when the court originally vested custody in the Division of Child and Family Services.

(d) (i) The court shall only commit a minor to the Division of Juvenile Justice Services for secure confinement if the court finds that the minor poses a risk of harm to others and is adjudicated under this section for:

(A) a felony offense;

(B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(C) a misdemeanor involving use of a dangerous weapon as defined in Section 76-1-601.

(ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the Division of Juvenile Justice Services.

(iii) The court may not commit a minor to the Division of Juvenile Justice Services for secure confinement for:

(A) contempt of court;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(e) The court may order nonresidential, diagnostic assessment, including substance use disorder, mental health, psychological, or sexual behavior risk assessment.

(f) (i) The court may commit a minor to a place of detention or an alternative to detention for a period not to exceed 30 cumulative days per adjudication subject to the court retaining continuing jurisdiction over the minor. This commitment may not be suspended upon conditions ordered by the court.

(ii) This Subsection (2)(f) applies only to a minor adjudicated for:

(A) an act which if committed by an adult would be a criminal offense; or

(B) contempt of court under Section 78A-6-1101.

(iii) The court may not commit a minor to a place of detention for:

(A) contempt of court except to the extent allowed under Section 78A-6-1101;

(B) a violation of probation;

(C) failure to pay a fine, fee, restitution, or other financial obligation;

(D) unfinished compensatory or community service hours;

(E) an infraction; or

(F) a status offense.

(iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (2)(f)(i). If the minor spent more than 30 days in a place of detention before disposition, the court may not commit a minor to detention under this section.

(B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure placement.

(v) Notwithstanding Subsection (2)(t), no more than seven days of detention may be ordered in combination with an order under Subsection (2)(c)(i).

(g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(h) (i) The court may order a minor to repair, replace, or otherwise make restitution for material loss caused by the minor's wrongful act or for conduct for which the minor agrees to make restitution.

(ii) A victim has the meaning defined under Subsection 77-38a-102(14). A victim of an offense

that involves as an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or pattern.

(iii) If the victim and the minor agree to participate, the court may refer the case to a restorative justice program such as victim offender mediation to address how loss resulting from the adjudicated act may be addressed.

(iv) For the purpose of determining whether and how much restitution is appropriate, the court shall consider the following:

(A) restitution shall only be ordered for the victim's material loss;

(B) restitution may not be ordered if the court finds that the minor is unable to pay or acquire the means to pay; and

(C) any amount paid by the minor to the victim in civil penalty shall be credited against restitution owed.

(v) Any amount paid to the victim in restitution shall be credited against liability in a civil suit.

(vi) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense.

(vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.

(viii) The prosecutor shall submit a request for restitution to the court at the time of disposition, if feasible, otherwise within three months after disposition.

(ix) A financial disposition ordered shall prioritize the payment of restitution.

(i) The court may issue orders necessary for the collection of restitution and fines ordered by the court, including garnishments, wage withholdings, and executions, except for an order that changes the custody of the minor, including detention or other secure or nonsecure residential placements.

(j) (i) The court may through its probation department encourage the development of nonresidential employment or work programs to enable minors to fulfill their obligations under Subsection (2)(h) and for other purposes considered desirable by the court.

(ii) Consistent with the order of the court, the probation officer may permit a minor found to be within the jurisdiction of the court to participate in a program of work restitution or compensatory service in lieu of paying part or all of the fine imposed by the court.

(iii) The court may order the minor to:

(A) pay a fine, fee, restitution, or other cost; or

(B) complete service hours.

(iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to complete service hours, those dispositions shall be considered collectively to ensure that the order is reasonable and prioritizes restitution.

(v) If the court orders a minor to pay a fine, fee, or other cost, or complete service hours, the cumulative order shall be limited per criminal episode as follows:

(A) for children under age 16 at adjudication, the court may impose up to \$180 or up to 24 hours of service; and

(B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to 36 hours of service.

(vi) The cumulative order under Subsection (2)(j)(v) does not include restitution.

(vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of conversion shall be no less than the minimum wage.

(k) (i) In violations of traffic laws within the court's jurisdiction, when the court finds that as part of the commission of the violation the minor was in actual physical control of a motor vehicle, the court may, in addition to any other disposition authorized by this section:

(A) restrain the minor from driving for periods of time the court considers necessary; and

(B) take possession of the minor's driver license.

(ii) The court may enter any other eligible disposition under Subsection (2)(k)(i) except for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

(l) (i) The court may order a minor to complete community or compensatory service hours in accordance with Subsections (2)(j)(iv) and (v).

(ii) When community service is ordered, the presumptive service order shall include between five and 10 hours of service.

(iii) Satisfactory completion of an approved substance use disorder prevention or treatment program or other court-ordered condition may be credited by the court as compensatory service hours.

(iv) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service ordered under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or

legal guardian shall report completion of the order to the court. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection (2)(h).

(m) (i) Subject to Subsection (2)(m)(iii), the court may order that a minor:

(A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(m)(i), the court may place the minor in a hospital or other suitable facility that is not a secure facility or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(m)(i), the court shall consider:

(A) the desires of the minor;

(B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(iv) The Division of Child and Family Services shall take reasonable measures to notify a parent or guardian of any non-emergency health treatment or care scheduled for a child, shall include the parent or guardian as fully as possible in making health care decisions for the child, and shall defer to the parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well being are not unreasonably compromised by the parent's or guardian's decision.

(v) The Division of Child and Family Services shall notify the parent or guardian of a child within five business days after a child in the custody of the Division of Child and Family Services receives emergency health care or treatment.

(vi) The Division of Child and Family Services shall use the least restrictive means to accomplish a compelling interest in the care and treatment of a child described in this Subsection (2)(m).

(n) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration

the religious preferences of the minor and of a child's parents.

(o) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:

(A) parent-time by the parents or one parent;

(B) restrictions on the minor's associates;

(C) restrictions on the minor's occupation and other activities; and

(D) requirements to be observed by the parents or custodian.

(ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time.

(p) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(q) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has an intellectual disability in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(q)(i).

(r) The court may terminate all parental rights upon a finding of compliance with Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(s) The court may make other reasonable orders for the best interest of the minor and as required for the protection of the public, except that a child may not be committed to jail, prison, secure detention, or the custody of the Division of Juvenile Justice Services under Subsections (2)(c) and (d).

(t) The court may combine the dispositions listed in this section if it is permissible and they are compatible.

(u) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

(v) Except as provided in Subsection (2)(x)(i), an order under this section for probation or placement of a minor with an individual or an agency shall

include a date certain for a review and presumptive termination of the case by the court in accordance with Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

(w) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.

(x) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an order for child support on behalf of the child against the natural or adoptive parents of the child.

(ii) Orders under Subsection (2)(x)(i):

(A) shall remain in effect until the child reaches majority;

(B) are not subject to review under Section 78A-6-118; and

(C) may be modified by petition or motion as provided in Section 78A-6-1103.

(iii) Orders permanently terminating the rights of a parent, guardian, or custodian and permanent orders of custody and guardianship do not expire with a termination of jurisdiction of the juvenile court.

(3) In addition to the dispositions described in Subsection (2), when a minor comes within the court's jurisdiction, the minor may be given a choice by the court to serve in the National Guard in lieu of other sanctions, provided:

(a) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(b) the minor is not under the jurisdiction of the court for any act that:

(i) would be a felony if committed by an adult;

(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) was committed with a weapon; and

(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).

(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that

the specimens are obtained in accordance with accepted protocol.

(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.

(5) (a) A disposition made by the court pursuant to this section may not be suspended, except for the following:

(i) If a minor qualifies for commitment to the Division of Juvenile Justice Services under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense during the three months following the day of disposition.

(ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not exceed three months post-disposition and may not be extended under any circumstance.

(iii) The court may only impose a custody order suspended under Subsection (5)(a)(i) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (5)(a)(ii) or if a new assessment or evaluation has been completed and recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate.

(iv) A suspended custody order may not be imposed without notice to the minor, notice to counsel, and a hearing.

(b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a program determined to be necessary by the results of a validated risk and needs assessment with completion found by the court after considering the recommendation of a licensed service provider on the basis of the minor completing the goals of the necessary treatment program;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) service hours have not been completed; or

(iv) there is an outstanding fine.

(6) When the court places a minor on probation under Subsection (2)(a) or vests legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall do so for a defined period of time pursuant to this section.

(a) For the purposes of placing a minor on probation under Subsection (2)(a), the court shall establish a presumptive term of probation as specified in this Subsection (6):

(i) the presumptive maximum length of intake probation may not exceed three months; and

(ii) the presumptive maximum length of formal probation may not exceed four to six months.

(b) For the purposes of vesting legal custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody and a maximum term of aftercare as specified in this Subsection (6):

(i) the presumptive maximum length of out-of-home placement may not exceed three to six months; and

(ii) the presumptive maximum length of aftercare supervision, for those previously placed out-of-home, may not exceed three to four months, and minors may serve the term of aftercare in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the Division of Juvenile Justice Services.

(c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the presumptive time frame unless at least one of the following circumstances exists:

(i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a court ordered program determined to be necessary by the results of a validated assessment, with completion found by the court after considering the recommendations of a licensed service provider or facilitator of court ordered treatment or intervention program on the basis of the minor completing the goals of the necessary treatment program;

(ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the completion of a program determined to be necessary by the results of a validated assessment, with completion determined on the basis of whether the minor has regularly and consistently attended the treatment program and completed the goals of the necessary treatment program as determined by the court or Youth Parole Authority after considering the recommendation of a licensed service provider or facilitator of court ordered treatment or intervention program;

(iii) the minor commits a new misdemeanor or felony offense;

(iv) service hours have not been completed; or

(v) there is an outstanding fine.

(d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to address the specific circumstance.

(ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i), (ii), (iii), or

(iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend jurisdiction for the time needed to address the specific circumstance.

(e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one time for up to three months.

(f) Grounds for extension of the presumptive length of supervision or placement and the length of any extension shall be recorded in the court record or records of the Youth Parole Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by the Administrative Office of the Courts and the Division of Juvenile Justice Services.

(g) (i) For a minor who is under the supervision of the juvenile court and whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued under the supervision of intake probation.

(ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may only be continued on parole and not in secure confinement.

(h) In the event of an unauthorized leave lasting more than 24 hours, the supervision period shall toll until the minor returns.

(7) Subsection (6) does not apply to any minor adjudicated under this section for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) a felony violation of Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm; or

(j) an offense other than those listed in Subsections (7)(a) through (i) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

Section 24. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsections 78A-6-105~~(35)(c)(i) through (iii)~~(36) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) (a) For purposes of Subsection (1), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

(4) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(5) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(6) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 25. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with the provisions of Section 78A-6-1111; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

- (b) The court:
- (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;
- (ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and
- (iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.
- (6) If the child is in the protective custody of the division, the division shall report to the court:
- (a) the reason why the child was removed from the parent's or guardian's custody;
- (b) any services provided to the child and the child's family in an effort to prevent removal;
- (c) the need, if any, for continued shelter;
- (d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and
- (e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.
- (7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.
- (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.
- (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).
- (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.
- (9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:
- (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;
- (ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and
- (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
- (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;
- (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:
- (A) parent or guardian;
- (B) member of the parent's household or the guardian's household; or
- (C) person known to the parent or guardian;
- (v) the parent or guardian is unwilling to have physical custody of the child;
- (vi) the child is without any provision for the child's support;
- (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;
- (viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
- (B) the whereabouts of the parent or guardian are unknown; and
- (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- (ix) subject to Subsections 78A-6-105[(35)(e)(i) through (iii)](36) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;
- (x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;
- (xi) (A) the child or a minor residing in the same household has been neglected; and
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;
- (xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or

to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as ~~[described in Subsection 78A-6-105(35)(b)]~~ defined in Section 78A-6-105, truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 26. Section 78A-6-311.5 is enacted to read:

78A-6-311.5. Placement in a qualified residential treatment program -- Review hearings.

(1) As used in this section:

(a) "Qualified individual" means the same as that term is defined in 42 U.S.C. Sec. 675a.

(b) "Qualified residential treatment program" means the same as that term is defined in 42 U.S.C. Sec. 672.

(2) Within 60 days of the date when a child is placed in a qualified residential treatment program, the court shall:

(a) review the assessment, determination, and documentation made by a qualified individual regarding the child;

(b) determine whether the needs of the child can be met through placement in a foster home;

(c) if the child's needs cannot be met through placement in a foster home, determine whether:

(i) placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment; and

(ii) placement in a qualified residential treatment program is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child; and

(d) approve or disapprove of the child's placement in a qualified residential treatment program.

(3) As long as a child remains placed in a qualified residential treatment program, the court shall review the placement decision at each subsequent hearing held with respect to the child.

(4) When the court conducts a review described in Subsection (3), the court shall review evidence submitted by the custodial division to:

(a) demonstrate an ongoing assessment of the strengths and needs of the child such that the child's needs cannot be met through placement in a foster home;

(b) demonstrate that placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(c) demonstrate that placement in the qualified residential treatment program is consistent with the short-term and long-term goals for the child, as specified by the permanency plan for the child;

(d) document the specific treatment or service needs that will be met for the child in the placement;

(e) document the length of time the child is expected to need the treatment or services; and

(f) document the efforts made by the custodial division to prepare the child to return home or transition to another setting, such as with a relative, with a friend of the child, with a legal guardian, with an adoptive parent, a foster home, or independent living.

Section 27. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), ~~78A-6-105(35)(c)(i) through (iii)~~ 78A-6-105(36), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

(iv) sibling visitation; or

(v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.

(10) (a) The court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection 10(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due

to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

- (i) the age of the minor;
- (ii) the degree of parent-child bonding;
- (iii) the length of the sentence;
- (iv) the nature of the treatment;
- (v) the nature of the crime or illness;
- (vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 28. Section 78A-6-317 is amended to read:

78A-6-317. All proceedings -- Persons entitled to be present -- Legal representation -- Records sharing.

(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:

(a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and

(b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.

(3) (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.

(b) When it appears to the court that a parent or guardian of the child desires counsel but is financially unable to afford and cannot for that reason employ counsel, the court shall appoint counsel as provided in Section 78A-6-1111.

(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).

(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:

(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of ~~[a person]~~ an individual who has been a victim of domestic violence;

(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or

(vi) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

(i) the existence of all records in the possession of the division or any other state or local public agency;

(ii) the name and address of the person or agency that originally created the record; and

(iii) that the requesting person must seek access to the record from the person or agency that originally created the record.

Section 29. Section 78A-6-902 is amended to read:

78A-6-902. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each child who may become the subject of a petition alleging abuse, neglect, or dependency, from the earlier of the day that:

(a) the child is removed from the child's home by the division; or

(b) the petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the Division of Child and Family Services in accordance with Section 62A-4a-205;

(b) prior to representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the Division of Child and Family Services to:

(i) maintain a minor in the minor's home; or

(ii) reunify a child with the child's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the guardian ad litem's position regarding the best interest of the child.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the child;

(C) counseling for the parent, if mandated by the court or recommended by the Division of Child and Family Services; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess those fees or costs against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be impecunious.

(d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the court shall:

(i) require that person to submit an affidavit of impecuniosity as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The child's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian ad litem's duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the child unless the child:

(i) instructs the guardian ad litem to not disclose the child's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(9) An attorney guardian ad litem shall be provided access to all Division of Child and Family Services records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what constitutes the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's Division of Child and Family Services caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the Division of Child and Family Services; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a Division of Child and Family Services caseworker.

(c) (i) [A] An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a Division of Child and Family Services caseworker is present for a purpose other than the attorney guardian ad litem's [visit] meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the child, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise. This subsection supersedes Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), records released in accordance with Subsection (12)(b) shall be maintained as confidential by the Legislature.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in its audits and reports to the Legislature.

(d) (i) Subsection (12)(b) constitutes an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility:

(I) to provide a guardian ad litem program; and

(II) as *parens patriae*, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 30. Section 78A-6-1103 is amended to read:

78A-6-1103. Modification or termination of custody order or decree -- Grounds -- Procedure.

(1) A parent or guardian of any child whose legal custody has been transferred by the court to an individual, agency, or institution, except a secure youth corrections facility, may petition the court for restoration of custody or other modification or revocation of the court's order, on the ground that a change of circumstances has occurred which requires such modification or revocation in the best interest of the child or the public.

(2) The court shall make a preliminary investigation. If the court finds that the alleged change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If the court finds that a further examination of the facts is needed, or if the court on its own motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall be given to all persons concerned. At the hearing, the court may enter an order continuing, modifying, or terminating the decree.

(3) (a) A parent may not file a petition under this section after the parent's parental rights have been terminated in accordance with Part 5, Termination of Parental Rights Act.

(b) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 78A-6-117(2)(~~4~~)(x).

(4) An individual, agency, or institution vested with legal custody of a child may petition the court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest. The court shall proceed upon the petition in accordance with Subsections (1) and (2).

Section 31. Section 78A-6-1302 is amended to read:

78A-6-1302. Procedure -- Standard.

(1) When a motion is filed pursuant to Section 78A-6-1301 raising the issue of a minor's competency to proceed, or when the court raises the issue of a minor's competency to proceed, the juvenile court in which proceedings are pending shall stay all delinquency proceedings.

(2) If a motion for inquiry is opposed by either party, the court shall, prior to granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion. If the court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and prior to a full competency hearing, the court may order the Department of Human Services to evaluate the

minor and to report to the court concerning the minor's mental condition.

(4) The minor shall be evaluated by a mental health examiner with experience in juvenile forensic evaluations and juvenile brain development, who is not involved in the current treatment of the minor. If it becomes apparent that the minor may be not competent due to an intellectual disability or related condition, the examiner shall be experienced in intellectual disability or related condition evaluations of minors.

(5) The petitioner or other party, as directed by the court, shall provide all information and materials to the examiners relevant to a determination of the minor's competency including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) known prior mental health evaluations and treatments; and

(e) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad litem, shall cooperate in providing the relevant information and materials to the examiners.

(7) In conducting the evaluation and in the report determining if a minor is competent to proceed as defined in [~~Subsection 78A-6-105(38)~~] Section 78A-6-105, the examiner shall consider the impact of a mental disorder, intellectual disability, or related condition on a minor's present capacity to:

(a) comprehend and appreciate the charges or allegations;

(b) disclose to counsel pertinent facts, events, or states of mind;

(c) comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the minor;

(d) engage in reasoned choice of legal strategies and options;

(e) understand the adversarial nature of the proceedings;

(f) manifest appropriate courtroom behavior; and

(g) testify relevantly, if applicable.

(8) In addition to the requirements of Subsection (7), the examiner's written report shall:

(a) identify the specific matters referred for evaluation;

(b) describe the procedures, techniques, and tests used in the evaluation and the purpose or purposes for each;

(c) state the examiner's clinical observations, findings, and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the examiner could not give an opinion;

(d) state the likelihood that the minor will attain competency and the amount of time estimated to achieve it; and

(e) identify the sources of information used by the examiner and present the basis for the examiner's clinical findings and opinions.

(9) The examiner shall provide an initial report to the court, the prosecuting and defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the court's order. If the examiner informs the court that additional time is needed, the court may grant, taking into consideration the custody status of the minor, up to an additional 30 days to provide the report to the court and counsel. The examiner must provide the report within 60 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the evaluation and provide the report. The report shall inform the court of the examiner's opinion concerning the competency and the likelihood of the minor to attain competency within a year. In the alternative, the examiner may inform the court in writing that additional time is needed to complete the report.

(10) Any statement made by the minor in the course of any competency evaluation, whether the evaluation is with or without the consent of the minor, any testimony by the examiner based upon any statement, and any other fruits of the statement may not be admitted in evidence against the minor in any delinquency or criminal proceeding except on an issue respecting the mental condition on which the minor has introduced evidence. The evidence may be admitted, however, where relevant to a determination of the minor's competency.

(11) Before evaluating the minor, examiners shall specifically advise the minor and the parents or guardian of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received the court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the court enlarges the time for good cause.

(13) A minor shall be presumed competent unless the court, by a preponderance of the evidence, finds the minor not competent to proceed. The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall proceed with the delinquency proceedings.

(c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall proceed consistent with Section 78A-6-1303.

(d) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings shall be initiated within seven days after the court's order, unless the court enlarges the time for good cause shown. The minor may be ordered to remain in custody until the commitment proceedings have been concluded.

(15) If the court finds the minor not competent to proceed, its order shall contain findings addressing each of the factors in Subsection (7).

Section 32. Section 78B-6-102 is amended to read:

78B-6-102. Legislative intent and findings -- Best interest of child -- Interests of each party.

(1) It is the intent and desire of the Legislature that in every adoption the best interest of the child should govern and be of foremost concern in the court's determination.

(2) The court shall make a specific finding regarding the best interest of the child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the child and the moral climate of the potential adoptive placement.

(3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.

(4) The Legislature specifically finds that it is not in a child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state. Nothing in this section limits or prohibits the court's placement of a child with a single adult who is not cohabiting ~~as defined in this part.~~ or a person who is a relative of the child or a

recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(5) The Legislature also finds that:

(a) the state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children;

(b) an unmarried mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the child, and is entitled to assurance regarding the permanence of an adoptive placement;

(c) adoptive children have a right to permanence and stability in adoptive placements;

(d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of an adopted child;

(e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when he demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child's birth; and

(f) the state has a compelling interest in requiring unmarried biological fathers to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal paternity, in accordance with the requirements of this chapter.

(6) (a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.

(b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with his child that are available to him, his biological parental interest may be lost entirely, or greatly diminished in constitutional significance by his failure to timely exercise it, or by his failure to strictly comply with the available legal steps to substantiate it.

(c) A certain degree of finality is necessary in order to facilitate the state's compelling interest. The Legislature finds that the interests of the state, the mother, the child, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with his child in accordance with the requirements of this chapter.

(d) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter. In balancing the rights and interests of the state, and of all parties affected by fraud,

specifically the child, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by him.

(e) An unmarried biological father has the primary responsibility to protect his rights.

(f) An unmarried biological father is presumed to know that the child may be adopted without his consent unless he strictly complies with the provisions of this chapter, manifests a prompt and full commitment to his parental responsibilities, and establishes paternity.

(7) The Legislature finds that an unmarried mother has a right of privacy with regard to her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity of an unmarried biological father prior to or during an adoption proceeding, and has no obligation to volunteer information to the court with respect to the father.

Section 33. Section 78B-6-117 is amended to read:

78B-6-117. Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult person, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to ~~[Subsection (4)]~~ Subsections (3) and (4), a single adult~~[-, except as provided in Subsection (3)].~~

(3) A child may not be adopted by a person who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state~~[-]~~ unless the person is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a man and a woman who are married to each other, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with a person who has already developed a substantial relationship with the child;

(d) the child is placed with a person who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the person with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the person with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single ~~person~~ adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering a person for adoption of a child except as provided in this Subsection (6).

(b) A person described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the person is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the person files a petition with the court seeking adoption, the person has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the person can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years of age or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the person can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the person who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 78A-6-307 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The person with the disqualifying offense bears the burden of proof regarding why adoption with that person is in the best interest of the child over another responsible relative or equally situated person who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the person who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 34. Section 78B-6-133 is amended to read:

78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

(2) (a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the child; and

(iii) award custody of the child in accordance with the child's best interest.

(c) Termination of a person's parental rights does not terminate the right of a relative of the parent to seek adoption of the child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:

(a) the person is unfit or incompetent to be a parent;

(b) the person has neglected or abandoned the child;

(c) the person is not interested in having custody of the child; or

(d) the person has forfeited the person's parental presumption.

(5) Any custody order entered pursuant to this section may also:

- (a) include provisions for:
 - (i) parent-time; or
 - (ii) visitation by an interested third party; and
- (b) provide for the financial support of the child.

(6) (a) If a person or entity whose consent is required for an adoption under Subsection 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the child.

(7) (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

- (i) was a party to the adoption proceeding;
- (ii) was served with notice of the adoption proceeding; or
- (iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

- (i) regardless of whether the adoption is contested directly or collaterally; and
- (ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

- (i) a final decree of adoption; or
- (ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

- (a) to a petitioner:
 - (i) with whom the child is placed;
 - (ii) who has custody or guardianship of the child;
 - (iii) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held:

(A) requesting immediate placement of the child with the petitioner; and

(B) expressing the petitioner's intention of adopting the child; ~~or~~

(iv) who is a relative~~[-(A)-]~~ with whom the child has a significant and substantial relationship~~[-]~~ and ~~[(B)-]~~ who was unaware, within the first 120 days after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(v) who is a relative with whom the child has a significant and substantial relationship and, in a case where the child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the child:

(A) was actively involved in the child's child welfare case with the division or the juvenile court while the child's parent engaged in reunification services; and

(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services;

(b) if the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.

(9) (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and

(ii) (A) with whom the child has continuously resided for six months;

(B) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

~~[(11) Neither the court nor the division is obligated to inform a petitioner of the petitioner's rights or duties under this section]~~

(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Section 35. Effective date.

This bill takes effect on May 14, 2019, except that
Section 78A-6-311.5 takes effect on
October 1, 2019.

CHAPTER 336**S. B. 132**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019
 (Exception clause in Section 6)

BEER AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
 House Sponsor: John Knotwell

LONG TITLE**General Description:**

This bill modifies and enacts provisions related to beer.

Highlighted Provisions:

This bill:

- ▶ modifies the permissible percentage of alcohol in beer and heavy beer;
- ▶ creates the Beer Availability Workgroup, staffed by the Department of Alcoholic Beverage Control, to study issues related to beer availability, alcohol content, and retail practices;
- ▶ requires the Beer Availability Workgroup to provide two annual reports to the Legislative Management Committee and the Business and Labor Interim Committee;
- ▶ increases the rate of the tax imposed on beer and directs the resulting revenue to the Alcoholic Beverage Enforcement and Treatment Restricted Account; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313
 59-15-101, as last amended by Laws of Utah 2010, Chapter 276
 59-15-109, as last amended by Laws of Utah 2013, Chapter 310
 63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

ENACTS:

32B-2-211.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:**32B-1-102. Definitions.**

As used in this title:

- (1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Banquet" means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) “Bar structure” means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

- (a) stored; or
- (b) dispensed.

(8) (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) “Bar establishment license” includes:

- (i) a dining club license;
- (ii) an equity license;
- (iii) a fraternal license; or
- (iv) a bar license.

(9) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(10) (a) Subject to Subsection (10)(d), “beer” means a product that:

(i) contains at least .5% of alcohol by volume, but not more than [4%] 5% of alcohol by volume or [3-2%] 4% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Beer” may or may not contain hops or other vegetable products.

(c) “Beer” includes a product that:

(i) contains alcohol in the percentages described in Subsection (10)(a); and

(ii) is referred to as:

- (A) beer;
- (B) ale;
- (C) porter;
- (D) stout;
- (E) lager; or
- (F) a malt or malted beverage.

(d) “Beer” does not include a flavored malt beverage.

(11) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(12) “Beer retailer” means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(13) “Beer wholesaling license” means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(14) “Billboard” means a public display used to advertise, including:

- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

(15) “Brewer” means a person engaged in manufacturing:

- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.

(16) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(17) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.

(18) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company’s tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(19) “Church” means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(20) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(21) "Commissioner" means a member of the commission.

(22) "Community location" means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(23) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(24) "Container" means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

(25) "Convention center" means a facility that is:

- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a "convention center" by the commission by rule.

(26) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(27) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

(28) "Department compliance officer" means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

(29) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(30) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(31) "Director," unless the context requires otherwise, means the director of the department.

(32) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(33) (a) Subject to Subsection (33)(b), "dispense" means:

- (i) drawing an alcoholic product; and
- (ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (33) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.

(34) "Dispensing structure" means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

(35) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(36) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(37) "Educational facility" includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

(38) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(39) "Event permit" means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(40) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(41) (a) "Flavored malt beverage" means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

(42) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(43) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(44) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(45) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(46) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

(47) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(48) (a) “Heavy beer” means a product that:

(i) contains more than [4%] 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

(49) “Hotel” is as defined by the commission by rule.

(50) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(51) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(52) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(53) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(54) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(55) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (55)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(56) “Investigator” means an individual who is:

(a) a department compliance officer; or

- (b) a nondepartment enforcement officer.
- (57) "Invitee" means the same as that term is defined in Section 32B-8-102.
- (58) "License" means:
- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.
- (59) "Licensee" means a person who holds a license.
- (60) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- (61) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:
- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.
- (62) (a) (i) "Liquor" means a liquid that:
- (A) is:
- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- (IV) other drink or drinkable liquid; and
- (B) (I) contains at least .5% alcohol by volume; and
- (II) is suitable to use for beverage purposes.
- (ii) "Liquor" includes:
- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.
- (b) "Liquor" does not include beer.
- (63) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- (64) "Liquor warehousing license" means a license that is issued:
- (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- (b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.
- (65) "Local authority" means:
- (a) for premises that are located in an unincorporated area of a county, the governing body of a county; or
- (b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township.
- (66) "Lounge or bar area" is as defined by rule made by the commission.
- (67) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.
- (68) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.
- (69) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:
- (i) (A) under the control of the United States Department of Defense; or
- (B) of the National Guard;
- (ii) that is located within the state; and
- (iii) including a leased facility.
- (b) "Military installation" does not include a facility used primarily for:
- (i) civil works;
- (ii) a rivers and harbors project; or
- (iii) a flood control project.
- (70) "Minor" means an individual under the age of 21 years.
- (71) "Nondepartment enforcement agency" means an agency that:
- (a) (i) is a state agency other than the department; or
- (ii) is an agency of a county, city, town, or metro township; and
- (b) has a responsibility to enforce one or more provisions of this title.
- (72) "Nondepartment enforcement officer" means an individual who is:
- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.
- (73) (a) "Off-premise beer retailer" means a beer retailer who is:
- (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(74) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

(75) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(76) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(77) "Opaque" means impenetrable to sight.

(78) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(79) "Package agent" means a person who holds a package agency.

(80) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

(81) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(82) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (82)(a) through (f); or

(ii) a package agent.

(83) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(84) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(85) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(86) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

- (C) includes date of birth; and
- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
- (A) includes date of birth;
- (B) has a picture affixed; and
- (C) is issued:
- (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- (II) in accordance with the laws of the state in which it is issued;
- (iv) a military identification card that:
- (A) includes date of birth; and
- (B) has a picture affixed; or
- (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.
- (87) (a) "Public building" means a building or permanent structure that is:
- (i) owned or leased by:
- (A) the state; or
- (B) a local government entity; and
- (ii) used for:
- (A) public education;
- (B) transacting public business; or
- (C) regularly conducting government activities.
- (b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.
- (88) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.
- (89) "Reception center" means a business that:
- (a) operates facilities that are at least 5,000 square feet; and
- (b) has as its primary purpose the leasing of the facilities described in Subsection (89)(a) to a third party for the third party's event.
- (90) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
- (91) (a) "Record" means information that is:
- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- (b) "Record" includes:
- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;
- (vi) a document; or
- (vii) a recording in any medium.
- (92) "Residence" means a person's principal place of abode within Utah.
- (93) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.
- (94) "Resort" means the same as that term is defined in Section 32B-8-102.
- (95) "Resort facility" is as defined by the commission by rule.
- (96) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
- (97) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:
- (a) over-serving alcoholic beverages to customers;
- (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
- (c) serving alcoholic beverages to minors.
- (98) "Restaurant" means a business location:
- (a) at which a variety of foods are prepared;
- (b) at which complete meals are served; and
- (c) that is engaged primarily in serving meals.
- (99) "Retail license" means one of the following licenses issued under this title:
- (a) a full-service restaurant license;
- (b) a master full-service restaurant license;
- (c) a limited-service restaurant license;
- (d) a master limited-service restaurant license;
- (e) a bar establishment license;
- (f) an airport lounge license;
- (g) an on-premise banquet license;
- (h) an on-premise beer license;
- (i) a reception center license;
- (j) a beer-only restaurant license;
- (k) a resort license; or
- (l) a hotel license.
- (100) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

- (a) hotel; or
- (b) resort facility.
- (101) (a) “School” means a building used primarily for the general education of minors.
- (b) “School” does not include an educational facility.
- (102) “Sell” or “offer for sale” means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.
- (103) “Serve” means to place an alcoholic product before an individual.
- (104) “Sexually oriented entertainer” means a person who while in a state of seminudity appears at or performs:
- (a) for the entertainment of one or more patrons;
- (b) on the premises of:
- (i) a bar licensee; or
- (ii) a tavern;
- (c) on behalf of or at the request of the licensee described in Subsection (104)(b);
- (d) on a contractual or voluntary basis; and
- (e) whether or not the person is designated as:
- (i) an employee;
- (ii) an independent contractor;
- (iii) an agent of the licensee; or
- (iv) a different type of classification.
- (105) “Single event permit” means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
- (106) “Small brewer” means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.
- (107) “Special use permit” means a permit issued in accordance with Chapter 10, Special Use Permit Act.
- (108) (a) “Spirituous liquor” means liquor that is distilled.
- (b) “Spirituous liquor” includes an alcoholic product defined as a “distilled spirit” by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- (109) “Sports center” is as defined by the commission by rule.
- (110) (a) “Staff” means an individual who engages in activity governed by this title:
- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
- (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
- (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
- (b) “Staff” includes:
- (i) an officer;
- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;
- (vi) an operator; or
- (vii) a representative.
- (111) “State of nudity” means:
- (a) the appearance of:
- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or
- (b) a state of dress that fails to opaquely cover:
- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.
- (112) “State of seminudity” means a state of dress in which opaque clothing covers no more than:
- (a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and
- (b) the human genitals, pubic area, and anus:
- (i) with no less than the following at its widest point:
- (A) four inches coverage width in the front of the human body; and
- (B) five inches coverage width in the back of the human body; and
- (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- (113) (a) “State store” means a facility for the sale of packaged liquor:
- (i) located on premises owned or leased by the state; and
- (ii) operated by a state employee.
- (b) “State store” does not include:
- (i) a package agency;
- (ii) a licensee; or

(iii) a permittee.

(114) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(115) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

(116) "Supplier" means a person who sells an alcoholic product to the department.

(117) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(118) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(119) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(120) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(121) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(122) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like

substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(123) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-2-211.1 is enacted to read:

32B-2-211.1. Beer Availability Workgroup.

(1) There is created the Beer Availability Workgroup consisting of the following 11 members:

(a) two members of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) the state prevention program administrator within the Division of Substance Abuse and Mental Health created in Section 62A-15-103;

(d) a representative of the Underage Drinking Prevention Workgroup of the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, appointed by the chair of the Utah Substance Use and Mental Health Advisory Council; and

(e) five members as follows, appointed jointly by the president of the Senate and the speaker of the House of Representatives:

(i) an individual who represents local beer distributors;

(ii) an individual who represents local beer manufacturers;

(iii) an individual who represents national brewers;

(iv) an individual who represents retail merchants in the state; and

(v) a community member.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the workgroup.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the workgroup.

(3) (a) A majority of the members of the workgroup constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the workgroup.

(4) (a) Salaries and expenses of the members of the workgroup who are legislators shall be paid in

accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the workgroup who is not a legislator:

(i) may not receive compensation for the member's work associated with the workgroup; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the workgroup at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The department shall provide staff support to the workgroup.

(6) The workgroup shall study the following issues:

(a) before October 31, 2019, the expected impact of increasing the allowable alcohol content of beer on the following:

(i) the availability and price of beer in the state, including rural areas within the state;

(ii) fiscal matters, including tax revenue, local jobs, and industry;

(iii) societal costs and harms, including impaired driving, underage drinking, and alcohol addiction;

(b) after October 31, 2019, the actual impacts of increasing the allowable alcohol content of beer on the items described in Subsections (6)(a)(i) through (iii);

(c) whether changes to beer distributor competition in the state could impact beer availability; and

(d) beer retail practices, including offering discount prices.

(7) On or before October 31, 2019, and on or before October 31, 2020, the workgroup shall provide an annual report on the workgroup's study under Subsection (6) to:

(a) the Legislative Management Committee; and

(b) the Business and Labor Interim Committee.

Section 3. Section 59-15-101 is amended to read:

59-15-101. Tax basis -- Rate.

(1) (a) A tax is imposed at the rate specified in Subsection (1)(b) on all beer, as defined in Section 32B-1-102, that is imported or manufactured for sale, use, or distribution in this state.

(b) The tax described in Subsection (1)(a) shall be imposed at a rate of:

(i) \$11 per 31-gallon barrel for beer imported or manufactured:

(A) before July 1, 2003; and

(B) for sale, use, or distribution in this state; and

(ii) [~~\$12.80~~] \$13.10 per 31-gallon barrel for beer imported or manufactured:

(A) on or after July 1, 2003; and

(B) for sale, use, or distribution in this state.

(c) The tax imposed under this Subsection (1):

(i) shall be imposed at a proportionate rate for:

(A) any quantity of beer other than a 31-gallon barrel; or

(B) the fractional parts of a 31-gallon barrel; and

(ii) may not be imposed more than once on the same beer.

(2) A tax may not be imposed on beer:

(a) sold to the United States and its agencies; or

(b) (i) manufactured or imported for sale, use, or distribution outside the state; and

(ii) exported from the state.

Section 4. Section 59-15-109 is amended to read:

59-15-109. Tax money to be paid to state treasurer.

(1) [~~Taxes~~] Except as provided in Subsection (2), taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to 40% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting \$30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) \$4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) For a fiscal year beginning on or after July 1, 2020, the state treasurer shall annually deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that exceeds:

(a) \$12.80 per 31-gallon barrel for beer imported or manufactured:

(i) on or after July 1, 2003; and

(ii) for sale, use, or distribution in this state; and

(b) a proportionate rate to the rate described in Subsection (2)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

~~[(2)]~~ (3) (a) The commission shall notify the entities described in Subsection ~~[(2)]~~ (3)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to 40% of the amount listed in Subsection ~~[(2)]~~ (3)(a)(i).

(b) The notification required by Subsection ~~[(2)]~~ (3)(a) shall be sent to:

(i) the Governor's Office of Management and Budget; and

(ii) the Legislative Fiscal Analyst.

Section 5. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

~~[(3) Subsection 32B-1-604(4) is repealed June 1, 2018.]~~

(3) Section 32B-2-211.1 is repealed November 1, 2020.

(4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

(5) Section 32B-6-205 is repealed July 1, 2022.

(6) Subsection 32B-6-205.2(15) is repealed July 1, 2022.

(7) Section 32B-6-205.3 is repealed July 1, 2022.

(8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

(9) Section 32B-6-305 is repealed July 1, 2022.

(10) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

(11) Section 32B-6-305.3 is repealed July 1, 2022.

(12) Section 32B-6-404.1 is repealed July 1, 2022.

(13) Section 32B-6-409 is repealed July 1, 2022.

(14) Section 32B-6-605.1 is repealed July 1, 2019.

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1(16) is repealed July 1, 2022.

(19) Section 32B-6-905.2 is repealed July 1, 2022.

~~[(20) Section 32B-7-303 is repealed March 1, 2019.]~~

~~[(21) Section 32B-7-304 is repealed March 1, 2019.]~~

~~[(22)]~~ (20) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2019.

(2) The actions affecting the following sections take effect on November 1, 2019:

(a) Section 32B-1-102;

(b) Section 59-15-101; and

(c) Section 59-15-109.

Section 7. Coordinating S.B. 132 with H.B. 453 -- Substantive and technical amendments.

If this S.B. 132 and H.B. 453, Alcohol Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall on November 1, 2019, prepare the Utah Code database for publication by amending the definition of heavy beer in Subsection 32B-1-102(49) to read:

“(49) (a) “Heavy beer” means a product that:

(i) contains more than:

(A) 5% alcohol by volume, less a tolerance of 0.18%; or

(B) 4% alcohol by weight, less a tolerance of 0.15%; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.”.

CHAPTER 337**S. B. 140**

Passed March 6, 2019
 Approved March 26, 2019
 Effective May 14, 2019

REAL ESTATE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Calvin R. Musselman

LONG TITLE**General Description:**

This bill amends provisions related to real estate.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the Division of Real Estate's issuance of a citation;
- ▶ establishes criteria and parameters for temporary authorization to act as a mortgage loan originator;
- ▶ beginning January 1, 2020, requires a background check for certain licenses to include ongoing monitoring through the Federal Bureau of Investigation's Next Generation Identification System's Rap Back Service;
- ▶ requires the Division of Real Estate to establish a fee for background checks;
- ▶ permits the Securities Commission to make rules, with the concurrence of the Division of Real Estate, in relation to background checks;
- ▶ amends the grounds for disciplinary action against a sales agent, principal broker, or association broker;
- ▶ permits a real estate appraiser to conduct an evaluation; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 61-2-203, as last amended by Laws of Utah 2018, Chapter 213
- 61-2c-201, as last amended by Laws of Utah 2010, Chapter 379
- 61-2f-204, as last amended by Laws of Utah 2016, Chapter 25
- 61-2f-401, as last amended by Laws of Utah 2018, Chapter 213
- 61-2g-102, as last amended by Laws of Utah 2014, Chapter 350
- 61-2g-205, as last amended by Laws of Utah 2018, Chapter 213
- 61-2g-301, as last amended by Laws of Utah 2016, Chapter 384
- 61-2g-304.5, as enacted by Laws of Utah 2014, Chapter 350

ENACTS:

- 61-2c-201.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2-203 is amended to read:**61-2-203. Adjudicative proceedings -- Citation authority.**

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

~~(a)~~ a citation, pursuant to Subsection (3);]

~~(b)~~ (a) a notice of agency action; or

~~(c)~~ (b) a notice of formal or informal proceeding.

(3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.

~~(4)~~ (4) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires entity licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of a specified legal ~~actions~~ action;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;

(k) Subsection 61-2e-201(1), which requires registration;

(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division request [~~by the division~~];

(o) Subsection 61-2f-201(1), which requires licensure;

(p) Subsection 61-2f-206(1), which requires entity registration;

(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records and prohibits failing to make the specified records available for inspection [~~by the division~~];

(u) Subsection 61-2f-401(13), which prohibits false, misleading, or deceptive advertising;

(v) Subsection 61-2f-401(20), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-501(2)(c), which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served;

~~[(y)]~~ (z) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

~~[(z)]~~ (aa) a rule made pursuant to any Subsection listed in this Subsection [~~(3)~~] (4);

~~[(aa)]~~ (bb) an order of the division; or

~~[(bb)]~~ (cc) an order of the commission or board that oversees the person's profession.

~~[(4)]~~ (5) (a) In accordance with Subsection [~~(9)~~] (10), the division may assess a fine against a person for a violation of a provision listed in Subsection [~~(3)~~] (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection [~~(4)~~] (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection [~~(3)~~] (4).

~~[(5)]~~ (6) Except as provided in Subsection [~~(7)~~] (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

~~[(6)]~~ (7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days [~~of service of]~~ after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

~~[(7)]~~ (8) (a) A citation becomes final:

(i) if within 20 calendar days [~~from the service of the citation]~~ after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation [~~may be extended by the division for cause~~].

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

~~[(8)]~~ (9) (a) The division may not issue a citation under this section after the expiration of one year [~~following the occurrence of a violation]~~ after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

~~[(9)]~~ (10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, \$1,000;

(b) for a second offense, \$2,000; and

(c) for each offense subsequent to a second offense, \$2,000 for each day of continued offense.

~~[(10)]~~ (11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

~~[(11)]~~ (12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or
(ii) bringing an action in the district court of the county:

(A) where the person resides; or

(B) where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action ~~[brought by]~~ the division brings to enforce the provisions of this section.

Section 2. Section 61-2c-201 is amended to read:

61-2c-201. Licensure required of person engaged in the business of residential mortgage loans.

~~[(1) Unless exempt from this chapter under Section 61-2c-105, a person may not transact the business of residential mortgage loans without obtaining a license under this chapter.]~~

(1) (a) Except as provided in Subsection (1)(b), a person may not transact the business of residential mortgage loans without first obtaining a license under this chapter.

(b) A person may transact the business of residential mortgage loans without first obtaining a license under this chapter if the person:

(i) is exempt from this chapter under Section 61-2c-105; or

(ii) qualifies for temporary authority to act as a mortgage loan originator under Section 61-2c-201.2.

(2) For purposes of this chapter, a person transacts the business of residential mortgage loans in this state if:

(a) (i) the person engages in an act that constitutes the business of residential mortgage loans; ~~and~~

(ii) ~~[(A)]~~ the act described in Subsection (2)(a)(i) is directed to or received in this state; and

~~[(B)]~~ (iii) the real property that is the subject of the act described in Subsection (2)(a)(i) is located in this state; or

(b) the person makes a representation ~~[is made by the person]~~ that the person transacts the business of residential mortgage loans in this state.

(3) An individual who has an ownership interest in an entity required to be licensed under this chapter is not required to obtain an individual license under this chapter unless the individual transacts the business of residential mortgage loans.

(4) Unless otherwise exempted under this chapter, licensure under this chapter is required of both:

(a) the individual who directly transacts the business of residential mortgage loans; and

(b) if the individual transacts business as an employee or agent of an entity or individual, the entity or individual for whom the employee or agent transacts the business of residential mortgage loans.

(5) (a) If an entity that is licensed to transact the business of residential mortgage loans transacts the business of residential mortgage loans under an assumed business name, the entity shall in accordance with rules made by the division:

(i) register the assumed name under this chapter; and

(ii) furnish proof that the assumed business name is filed with the Division of Corporations and Commercial Code pursuant to Title 42, Chapter 2, Conducting Business Under Assumed Name.

(b) The division may charge a fee established in accordance with Section 63J-1-504 for registering an assumed name ~~[pursuant to]~~ as described in this Subsection (5).

Section 3. Section 61-2c-201.2 is enacted to read:

61-2c-201.2. Temporary authorization to act as a mortgage loan originator.

(1) In accordance with the provisions of this section, an individual is temporarily authorized to act as a mortgage loan originator if:

(a) an entity licensed to transact the business of residential mortgage loans employs the individual;

(b) the individual submits an application for licensure as a mortgage loan originator in accordance with Section 61-2c-202;

(c) the individual demonstrates that the individual:

(i) (A) is registered as a mortgage loan originator with a depository institution; and

(B) was registered in the nationwide database as a mortgage loan originator during the one-year period before the day on which the individual submitted the application described in Subsection (1)(b); or

(ii) was licensed as a mortgage loan originator in another state during the 30-day period before the

day on which the individual submitted the application described in Subsection (1)(b); and

(d) the individual has not in any governmental jurisdiction:

(i) had an application for licensure as a mortgage loan originator denied;

(ii) had a mortgage loan originator license revoked or suspended;

(iii) been subject to, or served with, a cease and desist order in connection with a residential mortgage loan transaction; or

(iv) been convicted of, pled guilty to, pled no contest to, or resolved by a plea in abeyance agreement, a crime that would preclude the individual from licensure as a residential mortgage loan originator, as provided by rule the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Temporary authorization for an individual who meets the requirements described in Subsection (1) to act as a mortgage loan originator:

(a) begins the day on which the individual submits an application in accordance with Section 61-2c-202; and

(b) ends the day on which any of the following occurs:

(i) the individual withdraws the application described in Subsection (2)(a);

(ii) the division denies the application described in Subsection (2)(a);

(iii) the division grants the application described in Subsection (2)(a); or

(iv) 120 days pass after the day on which the individual submits an application for registration in the nationwide database.

(3) A person employing an individual with temporary authorization under this section is subject to the requirements of this chapter to the same extent as if the individual was licensed in this state as a mortgage loan originator.

(4) An individual with temporary authorization under this section is subject to the requirements of this chapter to the same extent as an individual licensed in this state as a mortgage loan originator.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the temporary authority of an individual to act as a mortgage loan originator in accordance with this section.

Section 4. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established

in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, or sales agent license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) A license issued under this Subsection (1) shall be issued for a period of not less than two years as ~~determined by~~ the division determines with the concurrence of the commission.

(d) (i) ~~Any~~ Each of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; ~~or~~ and

(C) an associate broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall at the time the licensee files an application:

(A) submit to the division fingerprint cards in a form acceptable to the ~~division at the time the license application is filed; and~~ Department of Public Safety;

(B) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service beginning January 1, 2020;

~~(B)~~ (C) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation ~~regarding the application;~~ and

(D) pay the fee the division establishes in accordance with Subsection (1)(d)(vi).

~~(iii) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant described in this Subsection (1)(d) through the national criminal history system or any successor system.]~~

~~(iv) The applicant shall pay the cost of the criminal background check and the fingerprinting.]~~

(iii) The Bureau of Criminal Identification shall:

(A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against the applicable state, regional, and national criminal records databases, including, beginning January 1, 2020, the Federal Bureau of Investigation Next Generation Identification System;

(B) report the results of the background check to the division;

(C) maintain a separate file of fingerprints that applicants submit under Subsection (1)(d) for search by future submissions to the local and regional criminal records databases, including latent prints;

(D) request that beginning January 1, 2020, the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(E) ensure that the division only receives notifications for an individual with whom the division maintains permission to receive notifications.

(iv) (A) The division shall assess an applicant who submits fingerprints under Subsection (1)(d) or (2)(g) a fee in an amount that the division sets in accordance with Section 63J-1-504 for services that the division and the Bureau of Criminal Identification or another authorized agency provide under Subsection (1)(d) or (2)(g).

(B) The Bureau of Criminal Identification may collect from the division money for services provided under this section.

(v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing.

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the commission may make rules for the administration of this Subsection (1)(d) and Subsection (2)(g) regarding criminal background checks with ongoing monitoring.

(e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check.

(ii) A license is immediately and automatically revoked if the criminal background check discloses the applicant fails to accurately disclose a criminal history involving:

(A) the real estate industry; or

(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.

(iii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history other than one described in Subsection (1)(e)(ii), the division:

(A) shall review the application; and

(B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(I) place a condition on a license;

(II) place a restriction on a license;

(III) revoke a license; or

(IV) refer the application to the commission for a decision.

(iv) (A) A person whose conditional license is automatically revoked under Subsection (1)(e)(ii) or whose license is conditioned, restricted, or revoked

under Subsection (1)(e)(iii) may have a hearing after the action is taken to challenge the action.

(B) The division shall conduct a hearing [~~shall be conducted~~] described in Subsection (1)(d)(iv)(A) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(v) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection (1)(e)(iv)(A):

(A) the division; or

(B) the division with the concurrence of the commission.

(vi) The [~~decision on~~] presiding officer shall decide whether relief from an action under this Subsection (1)(e) [~~will be~~] is granted [~~shall be made by the presiding officer~~].

(vii) Relief from an automatic revocation under Subsection (1)(e)(ii) may be granted only if:

(A) the criminal history upon which the division based the revocation:

(I) did not occur; or

(II) is the criminal history of another person;

(B) (I) the revocation is based on a failure to accurately disclose a criminal history; and

(II) the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or

(C) the division fails to follow the prescribed procedure for the revocation.

(viii) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the day on which the license is revoked.

(2) (a) (i) A license expires if it is not renewed on or before [~~its~~] the expiration date of the license.

(ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.

(iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

(A) evaluating continuing education on the basis of competency, rather than course time;

(B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and

(C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.

(iv) The division may award credit to a licensee for a continuing education requirement of this

Subsection (2)(a) for a reasonable period of time upon a finding of reasonable cause, including:

(A) military service; or

(B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For a period of 30 days after the day on which a license expires, the license may be reinstated:

(i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or

(ii) if the applicant's license was active on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504, and providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(c) After the 30-day period described in Subsection (2)(b), and until six months after the day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;

(ii) providing to the division proof of satisfactory completion of six hours of continuing education:

(A) in addition to the requirements for a timely renewal; and

(B) on a subject determined by the commission by rule with the concurrence of the division and made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required under Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(d) After the six-month period described in Subsection (2)(c), and until one year after the day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504;

(ii) providing to the division proof of satisfactory completion of 24 hours of continuing education:

(A) in addition to the requirements for a timely renewal; and

(B) on a subject determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division; and

(iii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(e) The division shall relicense a person who does not renew that person's license within one year as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the person complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

(g) Beginning January 1, 2020, each applicant for renewal or reinstatement of a license to practice as a sales agent, principal broker, or associate broker who is not already subject to ongoing monitoring of the individual's criminal history shall, at the time the application for renewal or reinstatement is filed:

(i) submit fingerprint cards in a form acceptable to the Department of Public Safety;

(ii) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service;

(iii) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(iv) pay the fee the division establishes in accordance with Subsection (1)(d)(vi).

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before [applying] the day on which the licensee applies to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have

been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 5. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration, as defined by the commission, to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) being convicted, within five years of the most recent application for licensure, of a criminal offense involving moral turpitude regardless of whether:

(a) the criminal offense is related to real estate; or

(b) the conviction is based upon a plea of nolo contendere;

(12) having, within five years of the most recent application for a license under this chapter, entered any of the following related to a criminal offense involving moral turpitude:

(a) a plea in abeyance agreement;

(b) a diversion agreement;

(c) a withheld judgment; or

(d) an agreement in which a charge was held in suspense during a period of time when the licensee was on probation or was obligated to comply with conditions outlined by a court;

(13) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(14) in the case of a principal broker or a branch broker, failing to exercise reasonable supervision

over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(15) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(16) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(17) any other conduct which constitutes dishonest dealing;

(18) unprofessional conduct as defined by statute or rule;

(19) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(20) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(21) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(22) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(23) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(24) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

[(24)] (25) as a principal broker, placing a lien on real property, unless authorized by law; or

[(25)] (26) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services.

Section 6. Section 61-2g-102 is amended to read:

61-2g-102. Definitions.

(1) As used in this chapter:

(a) (i) "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real estate or identified real property.

(ii) An appraisal is classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment in accordance with the following definitions:

(A) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that relates to the

nature, quality, or utility of identified real estate or identified real property.

(B) “Review assignment” means an unbiased analysis, opinion, or conclusion that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

(C) “Valuation appraisal” means an unbiased analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

(b) “Appraisal Foundation” means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(c) (i) “Appraisal report” means a communication, written or oral, of an appraisal.

(ii) An appraisal report is classified by the nature of the assignment as a valuation report, analysis report, or review report in accordance with the definitions provided in Subsection (1)(a)(ii).

(iii) The testimony of a person relating to the person’s analyses, conclusions, or opinions concerning identified real estate or identified real property is considered to be an oral appraisal report.

(d) “Appraisal Qualification Board” means the Appraisal Qualification Board of the Appraisal Foundation.

(e) “Board” means the Real Estate Appraiser Licensing and Certification Board that is established in Section 61-2g-204.

(f) “Certified appraisal report” means a written or oral appraisal report that is certified by a state-certified general appraiser or state-certified residential appraiser.

(g) “Concurrence” means that the entities that are given a concurring role jointly agree to an action.

(h) (i) (A) “Consultation service” means an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.

(B) “Consultation service” does not mean a valuation appraisal, analysis assignment, or review assignment.

(ii) Regardless of the intention of the client or employer, if a person prepares an unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to be an appraisal and not a consultation service.

(i) “Contingent fee” means a fee or other form of compensation, payment of which is dependent on or conditioned by:

(i) the reporting of a predetermined analysis, opinion, or conclusion by the person performing the analysis, opinion, or conclusion; or

(ii) achieving a result specified by the person requesting the analysis, opinion, or conclusion.

(j) “Credential” means a state-issued registration, license, or certification that allows an individual to perform any act or service that requires licensure or certification under this chapter.

(k) “Division” means the Division of Real Estate of the Department of Commerce.

(l) “Evaluation” means an opinion on the market value of real property or real estate that:

(i) is made in accordance with the Interagency Appraisal and Evaluation Guidelines; and

(ii) is provided to a financial institution for use in a real estate related transaction for which the regulations of the federal financial institutions regulatory agencies do not require an appraisal.

(4) (m) “Executive director” means the executive director of the Department of Commerce.

(n) “Federal financial institutions regulatory agencies” means:

(i) the Board of Governors of the Federal Reserve System;

(ii) the Federal Deposit Insurance Corporation;

(iii) the Office of the Comptroller of the Currency; and

(iv) the National Credit Union Administration.

~~(m)~~ (o) “Federally related transaction” means a real estate related transaction that is required by federal law or by federal regulation to be supported by an appraisal prepared by:

(i) a state-licensed appraiser; or

(ii) a state-certified appraiser.

(p) “Financial institution” means an insured:

(i) depository as defined in 12 U.S.C. Sec. 1813(c)(1); or

(ii) credit union as defined in 12 U.S.C. Sec. 1752(7).

(q) “Interagency Appraisal and Evaluation Guidelines” means the guidelines published as Interagency Appraisal and Evaluation Guidelines, 75 Fed. Reg. 77,450 (Dec. 10, 2010), and all amendments or updates thereto.

~~(n)~~ (r) “Real estate” means an identified parcel or tract of land including improvements if any.

~~(o)~~ (s) “Real estate appraisal activity” means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

~~(p)~~ (t) “Real estate related transaction” means:

(i) the sale, lease, purchase, investment in, or exchange of real property or an interest in real property, or the financing of such a transaction;

(ii) the refinancing of real property or an interest in real property; or

(iii) the use of real property or an interest in real property as security for a loan or investment, including mortgage-backed securities.

~~[(q)]~~ (u) “Real property” means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~[(r)]~~ (v) “State-certified general appraiser” means a person who holds a current, valid certification as a state-certified general appraiser issued under this chapter.

~~[(s)]~~ (w) “State-certified residential appraiser” means a person who holds a current, valid certification as a state-certified residential real estate appraiser issued under this chapter.

~~[(t)]~~ (x) “State-licensed appraiser” means a person who holds a current, valid license as a state-licensed appraiser issued under this chapter.

~~[(u)]~~ (y) “Trainee” means an individual who:

(i) does not hold an appraiser license or appraiser certification issued under this chapter;

(ii) works under the direct supervision of a state-certified appraiser to earn experience for licensure; and

(iii) is registered as a trainee under this chapter.

~~[(v)]~~ (z) “Unbiased analysis, opinion, or conclusion” means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property that is prepared by a person who is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third-party in rendering the analysis, opinion, or conclusion.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 7. Section 61-2g-205 is amended to read:

61-2g-205. Duties of board.

(1) (a) The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications.

(b) The board has the powers and duties listed in this section.

(2) The board shall:

(a) determine the experience and education requirements appropriate for a person licensed under this chapter;

(b) determine the experience and education requirements appropriate for a person certified under this chapter:

(i) in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

(ii) consistent with the intent of this chapter;

(c) determine the appraisal related acts that may be performed by:

(i) a trainee on the basis of the trainee’s education and experience;

(ii) clerical staff; and

(iii) a person who:

(A) does not hold a license or certification; and

(B) assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services;

(d) determine the procedures for a trainee to register and to renew a registration with the division; and

(e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.

(3) The experience and education requirements determined by the board for a person licensed or certified under this chapter shall meet or exceed the minimum criteria established by the Appraisal Qualification Board.

(4) The board shall:

(a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed the minimum criteria established by the Appraisal Qualification Board;

(b) develop one or more programs to upgrade and improve continuing education; and

(c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.

(5) (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:

(i) an interpretation or explanation is necessary in the enforcement of this chapter; and

(ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

(b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(c) (i) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for:

(A) an activity engaged in on behalf of a governmental entity; or

(B) the act of an individual licensed or certified in accordance with this chapter providing an evaluation.

(ii) In providing an exemption as described in Subsection (5)(c)(i)(B), the board may not exempt an individual from the following provisions of the Uniform Standards of Professional Appraisal Practice:

(A) the Ethics Rule;

(B) the Record Keeping Rule;

(C) the Competency Rule; and

(D) the Scope of Work Rule.

(6) (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:

(i) a person required to be licensed, certified, or registered under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.

(b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the division shall implement disciplinary action determined through concurrence of the board and the division.

(7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

(8) (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community of an applicant for:

(i) original licensure, certification, or registration; and

(ii) renewal licensure, certification, or registration.

(b) The board may delegate to the division the authority to:

(i) review a class or category of applications for an original or renewed license, certification, or registration;

(ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;

(iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and

(iv) approve, approve with condition or restriction, or deny an application for an original or renewed license, certification, or registration.

(c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is approved with a condition or restriction or denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.

(d) If the board delegates to the division the authority to approve, approve with a condition or restriction, or deny an application without the concurrence of the board under Subsection (8)(b), and the division approves with a condition or restriction, or denies, an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order approving with a condition or restriction, or denying, the applicant's application.

(e) If the board approves with a condition or restriction, or denies, an applicant's application for licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's approval with a condition or restriction, or denial, within 30 days after the day on which the board issues the order approving with a condition or restriction, or denying, the applicant's application.

Section 8. Section 61-2g-301 is amended to read:

61-2g-301. License or certification required.

(1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.

(2) This section does not apply to:

(a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by

this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion regarding the value of real estate:

(i) to a potential seller or third-party recommending a listing price of real estate; or

(ii) to a potential buyer or third-party recommending a purchase price of real estate;

(b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the company's use;

(c) an official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;

(d) an auditor or accountant who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property while performing an audit;

(e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the individual has an ownership interest;

(f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;

(g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion;

(h) an attorney authorized to practice law in any state who, in the course of the attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or who states an opinion of the value of real estate; or

(i) an individual who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal in accordance with Section 59-2-1017.

(3) An opinion of value or report containing value conclusions exempt under Subsection (2) may not be referred to as an appraisal.

(4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state an appraisal, an appraisal report, or a certified appraisal report, an individual shall:

(a) apply in writing for licensure or certification as provided in this chapter in the form the division may prescribe; and

(b) become licensed or certified under this chapter.

(5) Subject to rules made in accordance with Section 61-2g-205, a person licensed or certified under this chapter may provide an evaluation.

Section 9. Section 61-2g-304.5 is amended to read:

61-2g-304.5. Background checks.

(1) An individual applying for licensure, certification, or registration under this chapter shall, at the time the individual files an application for licensure:

(a) submit to the division, with the individual's application, a fingerprint card in a form acceptable to the ~~[division; and]~~ Department of Public Safety;

(b) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service beginning January 1, 2020;

~~[(b)]~~ (c) consent to a criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation[-]; and

(d) pay the fee the division establishes in accordance with Subsection (3)(d).

(2) Beginning January 1, 2020, each applicant for renewal or reinstatement of a license, certification, or registration who does not have the applicant's fingerprints registered in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service shall, at the time the application for renewal or reinstatement is filed:

(a) submit to the division, with the individual's application, a fingerprint card in a form acceptable to the Department of Public Safety;

(b) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service;

(c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation; and

(d) pay the fee the division establishes in accordance with Subsection (3)(d).

(3) (a) The Bureau of Criminal Identification shall:

(i) check the fingerprints an applicant submits under Subsection (1) or (2) against the applicable state, regional, and national criminal records databases, including, beginning January 1, 2020, the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the division;

(iii) maintain a separate file of fingerprints that individuals submit under this section for search by

future submissions to the local and regional criminal records databases, including latent prints;

(iv) request, beginning January 1, 2020, that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) ensure that the division only receives notifications for an individual with whom the division maintains permission to receive notifications.

(b) (i) The division shall assess an applicant who submits fingerprints under this section a fee in an amount that the division sets in accordance with Section 63J-1-504 for services that the division and the Bureau of Criminal Identification or another authorized agency provide under this section.

(ii) The Bureau of Criminal Identification may collect from the division money for services provided under this section.

~~[(2) The division shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each applicant through the national criminal history system or any system that succeeds the national criminal history system.]~~

~~[(3) The applicant shall pay the cost of:]~~

~~[(a) the fingerprint card described in Subsection (1)(a); and]~~

~~[(b) a criminal background check.]~~

~~(4) (a) A license, certification, [or] registration, or renewal issued under this chapter is conditional pending completion of a criminal background check.~~

~~(b) A license, certification, [or] registration, or renewal issued under this chapter is immediately and automatically revoked if a criminal background check reveals that the applicant failed to accurately disclose a criminal history that:~~

~~(i) relates to the appraisal industry; or~~

~~(ii) includes a felony conviction based on fraud, misrepresentation, or deceit.~~

~~(c) If a criminal background check reveals that an applicant failed to accurately disclose a criminal history other than a type described in Subsection (4)(b), the division shall review the application and, in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:~~

~~(i) place one or more conditions on the license, certification, or registration;~~

~~(ii) place one or more restrictions on the license, certification, or registration;~~

~~(iii) revoke the license, certification, or registration; or~~

(iv) refer the application to the board for a decision.

(d) An individual whose conditional license, certification, or registration is automatically revoked under Subsection (4)(b) or whose license, certification, or registration is conditioned, restricted, or revoked under Subsection (4)(c) may appeal the action in a hearing conducted by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The board may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

(f) The board, the division, or an administrative law judge may reverse an automatic revocation under Subsection (4)(b) only if:

(i) the criminal history upon which the revocation was based did not occur or is the criminal history of another individual;

(ii) at the time the applicant disclosed the applicant's criminal history, the applicant had a reasonable good faith belief that there was no criminal history to be disclosed; or

(iii) the division failed to follow the prescribed procedure for the revocation.

(5) (a) If an individual's conditional license, certification, or registration is revoked under Subsection (4) and the individual does not appeal the revocation in accordance with Subsection (4)(d), the individual may not apply for a new certification, license, or registration under this chapter for a period of 12 months after the day on which the conditional license, certification, or registration is revoked.

(b) If an individual's conditional license, certification, or registration is revoked, the individual appeals that revocation in accordance with Subsection (4)(d), and the revocation is upheld, the individual may not apply for a new license, certification, or registration under this chapter for a period of 12 months after the day on which the decision from the appeal is issued.

(6) The board may delegate to the division the authority to make a decision on whether relief from a revocation should be granted.

(7) Money an applicant pays for the cost of the criminal background check is nonlapsing.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the commission may make rules for the administration of this section regarding criminal background checks with ongoing monitoring.

CHAPTER 338**S. B. 144**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**ENVIRONMENTAL QUALITY
 MONITORING AMENDMENTS**

Chief Sponsor: Luz Escamilla
 House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions relating to the duties of the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- ▶ directs the Department of Environmental Quality to establish and maintain monitoring facilities to measure environmental impacts from inland port development and to report the results of the monitoring.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-1-201, as last amended by Laws of Utah 2018, Chapter 200

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-201 is amended to read:**19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.**

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

- (A) board meeting attendance; and
- (B) conflicts of interest procedures; and
- (ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5; and

(e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department.

(2) The department shall establish a committee that consists of:

- (a) the executive director or the executive director's designee;
- (b) two representatives of the department appointed by the executive director; and
- (c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(3) The committee established in Subsection (2) shall:

- (a) review the allocation of environmental quality resources between the department and the local health departments;
- (b) evaluate department policies that affect local health departments;
- (c) consider policy changes proposed by the department or by local health departments;
- (d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and
- (e) review each department application for any grant from the federal government that affects a

local health department before the department submits the application.

(4) The committee shall create bylaws to govern the committee's operations.

(5) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and

(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;

(j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(l) upon the request of any board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services; and

(m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service in order to efficiently utilize department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(6) In providing service under Subsection (5)(m), the department may not provide service in a manner that impairs any other person's service from the department.

(7) (a) As used in this Subsection (7):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage which are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

CHAPTER 339**S. B. 147**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

LOBBYIST LICENSING MODIFICATIONS

Chief Sponsor: Don L. Ipson
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ clarifies provisions relating to financial reports;
- ▶ requires the lieutenant governor to provide, and a lobbyist to take, an annual training course relating to workplace discrimination and harassment;
- ▶ amends existing rulemaking authority within the Office of the Lieutenant Governor;
- ▶ amends lobbyist licensing provisions;
- ▶ prohibits a lobbyist from:
 - violating federal laws governing workplace harassment and discrimination; and
 - violating policies governing workplace harassment and discrimination adopted by the Utah Senate, the Utah House, and the Utah executive branch;
- ▶ provides penalties for a lobbyist who violates the provisions of this bill;
- ▶ permits a lobbyist to file a complaint of workplace discrimination or harassment against an executive worker or a legislative worker; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 36-11-103, as last amended by Laws of Utah 2015, Chapter 188
 36-11-106, as last amended by Laws of Utah 2002, Chapter 317
 36-11-307, as enacted by Laws of Utah 2011, Chapter 389
 36-11-401, as last amended by Laws of Utah 2015, Chapter 258
 36-11-404, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

36-11-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-11-103 is amended to read:**36-11-103. Licensing requirements.**

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal's name;

(B) the principal's business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and

(vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section; ~~and~~

(ii) ~~completes the training required by Section 36-11-307; and~~

~~(iii)~~ (iii) pays a ~~[\$110]~~ \$60 filing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 ~~[of]~~ each ~~[even-numbered]~~ year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) ~~[for]~~ during the term of any suspension imposed under Section 36-11-401;

(iv) if the applicant has not complied with Subsection 36-11-307(6);

(v) during the term of a suspension imposed under Subsection 36-11-501(3);

(vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

~~[(iv)]~~ (vii) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

~~[(v)]~~ (viii) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall deposit each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

Section 2. Section 36-11-106 is amended to read:

36-11-106. Financial reports are public documents.

(1) Any person may:

(a) without charge, inspect a license application or financial report filed with the lieutenant governor in accordance with this chapter; and

(b) make a copy of a financial report after paying for the actual costs of the copy.

(2) The lieutenant governor shall make financial reports filed in accordance with this chapter available for viewing on the Internet at the lieutenant governor's website within seven calendar days after the day on which the report is received by the lieutenant governor.

Section 3. Section 36-11-307 is amended to read:

36-11-307. Ethics and unlawful harassment training course for lobbyists -- Internet availability -- Content -- Participation tracking -- Penalty.

(1) The lieutenant governor shall develop and maintain ~~[an ethics training course for]~~ online training courses educating lobbyists~~[-]~~ about:

(a) federal workplace discrimination and harassment prohibitions and requirements;

(b) the Utah Senate's, Utah House's, and the executive branch's policies governing workplace discrimination and harassment prohibitions, policies, and procedures; and

(c) state and federal requirements governing lobbyists, including lobbyist ethical requirements.

(2) ~~[The ethics]~~ A training course described in Subsection (1) shall include training materials and exercises that are available on the Internet to lobbyists and to the public.

(3) The lieutenant governor shall design the ethics training course ~~[shall be designed]~~ to assist lobbyists in understanding and complying with current ethical and campaign finance requirements under state law, legislative rules, and federal law.

(4) The lieutenant governor may enter into an agreement with the Department of Human Resource Management to assist the lieutenant governor in providing the workplace discrimination and harassment training described in this section.

~~[(4)]~~ (5) ~~[The ethics]~~ A training course described in this section shall include provisions for verifying when a lobbyist has successfully completed ~~[key training exercises]~~ the training.

~~[(5)]~~ A lobbyist shall successfully complete the key training exercises of the ethics training course once each year.

~~[(6)]~~ A lobbyist who does not complete the training required by this section is subject to a penalty as provided in Section 36-11-401.

(6) (a) A lobbyist shall, within 30 days after the day on which the lobbyist applies for a lobbying license or a lobbying license renewal:

(i) successfully complete the training courses described in this section; and

(ii) provide to the lieutenant governor a document, signed by the lobbyist, certifying that the lobbyist has:

(A) completed the training courses required by this section; and

(B) received, read, understands, and will comply with the workplace discrimination and harassment policies adopted by the Utah Senate, the Utah House, and Utah's executive branch.

(b) The lieutenant governor may not issue a lobbying license, or renew a lobbying license, until the lieutenant governor has received from the lobbyist the document required by Subsection (6)(a).

(7) A signature described in Subsection (6)(b) may be an electronic signature.

Section 4. Section 36-11-401 is amended to read:

36-11-401. Penalties.

(1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to \$5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

~~[(6) A lobbyist who does not complete the training required by Section 36-11-307 is subject to the following penalties:]~~

~~[(a) an administrative penalty of up to \$1,000 for each failure to complete the training required by Section 36-11-307; and]~~

~~[(b) for two or more failures to complete the training required by Section 36-11-307 within 24 months, suspension of the lobbyist's lobbying license.]~~

~~[(7)] (6) Nothing in this chapter creates a third-party cause of action or appeal rights.~~

Section 5. Section 36-11-404 is amended to read:

36-11-404. Lieutenant governor's procedures.

(1) ~~[The lieutenant governor]~~ Except as otherwise provided under Section 36-11-501, the director of elections within the Office of the Lieutenant Governor shall make rules that provide:

(a) for the appointment of an administrative law judge to adjudicate alleged violations of this ~~[section]~~ chapter and to impose penalties under this ~~[section]~~ chapter;

(b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) The lieutenant governor shall develop forms needed for the registration and disclosure provisions ~~[of]~~ described in this chapter.

Section 6. Section 36-11-501 is enacted to read:

Part 5. Unlawful Harassment

36-11-501. Unlawful harassment -- Investigation -- Penalties.

(1) A lobbyist may not engage in conduct that violates:

(a) federal workplace discrimination and harassment requirements;

(b) Utah Senate or Utah House policies governing workplace discrimination or harassment;

(c) Utah executive branch policies governing workplace discrimination or harassment; or

(d) any combination of Subsections (1) (a), (b), or (c).

(2) (a) The lieutenant governor may take an action described in Subsection (3) against a lobbyist if the lieutenant governor finds, after giving the lobbyist notice and an opportunity to be heard, that the lobbyist engaged in a serious violation, or multiple violations, of this section.

(b) The lieutenant governor shall post on the lieutenant governor's website a copy of the Utah Senate's harassment policy, the Utah House's harassment policy, and the executive branch's harassment policies.

(3) If the lieutenant governor makes a finding described in Subsection (2)(a), the lieutenant governor may, taking into account the seriousness of the violation or the seriousness or frequency of multiple violations, do either or both of the following:

(a) impose an administrative fine against the lobbyist, not to exceed \$2,000; or

(b) suspend the lobbyist's license for a period of up to five years.

(4) A record that relates to an investigation under this section is a protected record, to the extent permitted by Title 63G, Chapter 2, Government Records Access and Management Act.

(5) (a) A lobbyist who is a victim of workplace discrimination or harassment by an executive worker may file a complaint under the state executive branch's applicable workplace discrimination and harassment policy.

(b) A lobbyist who is a victim of workplace discrimination or harassment by a legislative worker may file a complaint under the Utah Senate's workplace discrimination and harassment policy or the Utah House's workplace discrimination and harassment policy.

CHAPTER 340**S. B. 156**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**CONSTRUCTION TRADES
 LICENSING AMENDMENTS**

Chief Sponsor: Karen Mayne
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ creates a certification for fire sprinkler fitting granted by the Division of Occupational and Professional Licensing;
- ▶ describes the requirements to receive a certification in fire sprinkler fitting; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-55-308, as last amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-308 is amended to read:**58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement of gas appliance, combustion system, or automatic fire sprinkler system -- Rules.**

(1) (a) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry.

(b) The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's education, training, experience, knowledge, and financial responsibility.

(2) (a) The work and scope of practice covered by this Subsection (2) and Subsection (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas appliance or combustion system.

(b) The provisions of this Subsection (2) apply to any:

(i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and

(ii) person exempt from licensure under Subsection 58-55-305(1)(h).

(c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):

(i) must first receive training and certification as specified in rules adopted by ~~the division~~ the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.

(d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.

(3) The division may exempt the following individuals from the certification requirements adopted under Subsection (2)(c):

(a) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training; and

(b) a person working under the immediate one-to-one supervision of a certified natural gas technician or a person exempt from certification.

(4) (a) The work and scope of practice covered by this Subsection (4) is the installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

(b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for a business entity in accordance with Section 58-55-304, where the business entity seeks to perform the work described in Subsection (4)(a).

(c) Before a business entity described in Subsection (4)(b) may perform the work described in Subsection (4)(a), the qualifier for the business entity shall:

(i) be a licensed general building contractor; or

(ii) obtain a certification in fire sprinkler fitting from the division by providing evidence to the division that the qualifier has met the following requirements:

(A) completing a Department of Labor federally approved apprentice training program or completing two-years experience under the immediate supervision of a licensee who has obtained a certification in fire sprinkler fitting; and

(B) passing the Star fire sprinklerfitting mastery examination offered by the National Inspection

Testing and Certification Corporation or an equivalent examination approved by the division.

(d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a business entity who has received training and experience equivalent to the requirements of Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[4] (5) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.

CHAPTER 341**S. B. 161**

Passed March 12, 2019
 Approved March 26, 2019
 Effective March 26, 2019

MEDICAL CANNABIS ACT AMENDMENTS

Chief Sponsor: Luz Escamilla
 House Sponsor: Brad M. Daw
 Cosponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill amends provisions related to the Utah Medical Cannabis Act.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the transportation of cannabis and cannabis products to certain facilities;
- ▶ provides for testing of cannabis at additional stages of production;
- ▶ delays a provision during the decriminalization period that requires labeling with a barcode on a blister pack containing unprocessed cannabis flower;
- ▶ amends the request for proposal requirements for a third-party electronic verification system to ensure that the provider does not have an ownership interest in a cannabis production establishment or a medical cannabis pharmacy;
- ▶ subjects appointees to the compassionate use board to Senate confirmation;
- ▶ provides an exception allowing certain medical professionals to recommend medical cannabis before qualified medical provider registration is available;
- ▶ clarifies an exception to an employment protection regarding a public employee's lawful use of medical cannabis in the context of certain positions related to federal requirements;
- ▶ requires a state or political subdivision employer to provide a written notice to an employee or prospective employee whose assignments or duties under the state's medical cannabis programs may violate federal law;
- ▶ provides that a public employee who signs a notice regarding assignments or duties that may violate federal law may not subsequently rely on state whistleblower protections to refuse to carry out an assignment or duty that may violate federal law;
- ▶ requires the Department of Human Resource Management to create and publish a form notice for public employees regarding the employees' involvement in the state's medical cannabis programs;
- ▶ prohibits a court in a custody determination from:
 - considering a parent's lawful possession or use of medical cannabis any differently than the lawful possession or use of an opioid or opiate;
 - discriminating against a parent based on the parent's status in relation to the state's medical cannabis programs;
- ▶ allows a certain insurer to issue workers' compensation insurance coverage for an

- employer that is a cannabis production establishment or a medical cannabis pharmacy;
- ▶ allows a certain workers' compensation insurer to issue coverage to a cannabis production establishment or a medical cannabis pharmacy;
 - ▶ amends the decriminalization provision to include protections for parents and legal guardians of certain minor patients;
 - ▶ clarifies quantity limits for possession during the decriminalization period; and
 - ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 4-41a-404, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41a-701, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-102, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-103, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-105, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-106, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 26-61a-111, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 30-3-10, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 31A-15-103, as last amended by Laws of Utah 2018, Chapter 319
- 58-37-3.7, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

ENACTS:

- 4-41a-107, Utah Code Annotated 1953
- 31A-22-1016, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-107 is enacted to read:**4-41a-107. Notice to prospective and current public employees.**

(1) (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:

(i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(b) The employer described in Subsection (1)(a) shall give the employee or prospective employee

described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:

(i) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(2) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).

(3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (1) may not:

(a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (1).

Section 2. Section 4-41a-404 is amended to read:

4-41a-404. Cannabis, cannabis product, or medical cannabis device transportation.

(1) (a) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivating facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; ~~or~~

(C) a medical cannabis pharmacy~~[-];~~ or

(D) the state central fill medical cannabis pharmacy.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative

enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Section 3. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.

~~[(1)]~~ (2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that is not safe for human consumption.

~~[(2)]~~ (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) may determine the amount of any substance described in Subsections ~~[(1)]~~ (2)(b) and (c) that is safe for human consumption; and

(b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.

~~[(3)]~~ (4) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

~~[(4)]~~ (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

~~[(5)]~~ (6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 4. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(7) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(9) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

(10) "Department" means the Department of Health.

(11) "Designated caregiver" means an individual:

(a) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(b) who registers with the department under Section 26-61a-202.

(12) "Dosing parameters" means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(13) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-41a-102.

(14) "Inventory control system" means the system described in Section 4-41a-103.

(15) “Local health department” means the same as that term is defined in Section 26A-1-102.

(16) “Local health department distribution agent” means an agent designated and registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.

(17) “Marijuana” means the same as that term is defined in Section 58-37-2.

(18) “Medical cannabis” means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(19) “Medical cannabis card” means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

(20) “Medical cannabis cardholder” means a holder of a medical cannabis card.

(21) “Medical cannabis caregiver card” means an official card that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(22) (a) “Medical cannabis device” means a device that an individual uses to ingest cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) “Medical cannabis device” does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(23) “Medical cannabis guardian card” means an official card that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(24) “Medical cannabis patient card” means an official card that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(25) “Medical cannabis pharmacy” means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

(26) “Medical cannabis pharmacy agent” means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(27) “Medical cannabis pharmacy agent registration card” means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(28) “Medical cannabis treatment” means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(29) (a) “Medicinal dosage form” means:

(i) for processed medical cannabis or a medical cannabis product, the following [~~in single dosage form~~] with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual’s qualifying condition has failed to substantially respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) after December 31, 2020, labeled with a barcode that provides information connected to an inventory control system and the individual blister’s content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) “Medicinal dosage form” includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection (29)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (29)(a)(ii).

(c) “Medicinal dosage form” does not include:

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection (29)(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(30) “Pharmacy medical provider” means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

(31) “Provisional patient card” means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor’s parent or legal guardian; and

(b) is connected to the electronic verification system.

(32) “Qualified medical provider” means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

(33) “Qualified Distribution Enterprise Fund” means the enterprise fund created in Section 26-61a-110.

(34) “Qualified Patient Enterprise Fund” means the enterprise fund created in Section 26-61a-109.

(35) “Qualifying condition” means a condition described in Section 26-61a-104.

(36) “State central fill agent” means an employee of the state central fill medical cannabis pharmacy that the department registers in accordance with Section 26-61a-602.

(37) “State central fill medical cannabis pharmacy” means the central fill pharmacy that the department creates in accordance with Section 26-61a-601.

(38) “State central fill medical provider” means a physician or pharmacist that the state central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders in accordance with Section 26-61a-601.

(39) “State central fill shipment” means a shipment of cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis cardholder in a local health department.

(40) “State electronic verification system” means the system described in Section 26-61a-103.

Section 5. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b)[-]; and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual, with the individual’s qualified medical provider in the qualified medical provider’s office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis

treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy and the state central fill medical cannabis pharmacy use to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or the state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

(f) provides access to and interaction with the state central fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process;

(g) provides access to state or local law enforcement:

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is in compliance with state medical cannabis law; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) The department may release de-identified data that the system collects for the purpose of:

(a) conducting medical research; and

(b) providing the report required by Section 26-61a-703.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information on the patient with the patient.

Section 6. Section 26-61a-105 is amended to read:

26-61a-105. Compassionate use board.

(1) (a) The department shall establish a compassionate use board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the board may serve until a successor is appointed.

(3) Four members constitute a quorum of the compassionate use board.

(4) A member of the board may receive:

(a) compensation or benefits for the member's service; and

(b) per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The compassionate use board shall:

(a) review and recommend for department approval an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(c) complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition; and

(d) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board approved compassionate use.

(6) (a) (i) The department shall review any compassionate use for which the board recommends approval under Subsection (5)(c) to determine whether the board properly exercised the board's discretion under this section.

(ii) If the department determines that the board properly exercised the board's discretion in recommending approval under Subsection (5)(c), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the board's recommendation for denial under Subsection (5)(c) was arbitrary or capricious:

(A) the department shall notify the board of the department's determination; and

(B) the board shall reconsider the board's refusal to recommend approval under this section.

(c) In reviewing the board's recommendation for approval or denial under Subsection (5)(c) in accordance with this Subsection (6), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(7) Any individually identifiable health information contained in a petition that the board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(8) The compassionate use board shall annually report the board's activity to the Cannabinoid Product Board created in Section 26-61-201.

Section 7. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may

recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider or a state central fill medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment or a medical cannabis pharmacy.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) Except as provided in Subsection (4)(c), a qualified medical provider may recommend a medical cannabis treatment to up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

(ii) a licensed business employs or contracts the qualified medical provider for the specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a \$100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not advertise that the qualified medical provider recommends medical cannabis treatment.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 8. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of opioids and opiates.

(b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer of an employee who has signed the notice described in Subsection (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

Section 9. Section 30-3-10 is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;

(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and

(v) those factors outlined in Section 30-3-10.2.

(b) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) (i) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(ii) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(e) (i) The court may inquire of the child's and take into consideration the [the] child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) (i) If an interview with a child is conducted by the court pursuant to Subsection (1)(e), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(6) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall

resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(7) In considering the past conduct and demonstrated moral standards of each party under Subsection (1)(a)(i) or any other factor a court finds relevant, the court may not ~~discriminate against a parent because of or otherwise consider the parent's~~]:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, [except as it relates to that parent's ability to care for a child] any differently than the court would consider or treat the lawful possession or use of an opioid or opiate; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) state central fill agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 10. Section 31A-15-103 is amended to read:

31A-15-103. Surplus lines insurance -- Unauthorized insurers.

(1) Notwithstanding Section 31A-15-102, when this state is the home state as defined in Section 31A-3-305, a nonadmitted insurer may make an insurance contract for coverage of a person in this state and on a risk located in this state, subject to the limitations and requirements of this section.

(2) (a) For a contract made under this section, the insurer may, in this state:

(i) inspect the risks to be insured;

(ii) collect premiums;

(iii) adjust losses; and

(iv) do another act reasonably incidental to the contract.

(b) An act described in Subsection (2)(a) may be done through:

(i) an employee; or

(ii) an independent contractor.

(3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on behalf of an insurer that has no certificate of authority.

(b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines producer licensed under Chapter 23a, Insurance Marketing -

Licensing Producers, Consultants, and Reinsurance Intermediaries.

(c) The commissioner may by rule prescribe how a surplus lines producer may:

(i) pay or permit the payment, commission, or other remuneration on insurance placed by the surplus lines producer under authority of the surplus lines producer's license to one holding a license to act as an insurance producer; and

(ii) advertise the availability of the surplus lines producer's services in procuring, on behalf of a person seeking insurance, a contract with a nonadmitted insurer.

(4) For a contract made under this section, a nonadmitted insurer is subject to Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

(5) A nonadmitted insurer may not issue workers' compensation insurance coverage to an employer located in this state, except:

(a) for stop loss coverage issued to an employer securing workers' compensation under Subsection 34A-2-201(2)[.];

(b) a cannabis production establishment as defined in Section 4-41a-102; or

(c) a medical cannabis pharmacy as defined in Section 26-61a-102.

(6) (a) The commissioner may by rule prohibit making a contract under Subsection (1) for a specified class of insurance if authorized insurers provide an established market for the class in this state that is adequate and reasonably competitive.

(b) The commissioner may by rule place a restriction or a limitation on and create special procedures for making a contract under Subsection (1) for a specified class of insurance if:

(i) there have been abuses of placements in the class; or

(ii) the policyholders in the class, because of limited financial resources, business experience, or knowledge, cannot protect their own interests adequately.

(c) The commissioner may prohibit an individual insurer from making a contract under Subsection (1) and all insurance producers from dealing with the insurer if:

(i) the insurer willfully violates:

(A) this section;

(B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

(C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

(ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

(iii) the commissioner has reason to believe that the insurer is:

(A) in an unsound condition;

(B) operated in a fraudulent, dishonest, or incompetent manner; or

(C) in violation of the law of its domicile.

(d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers whose:

(A) solidity the commissioner doubts; or

(B) practices the commissioner considers objectionable.

(ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the commissioner considers to be reliable and solid.

(iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner may issue other relevant evaluations of nonadmitted insurers.

(iv) An action may not lie against the commissioner or an employee of the department for a written or oral communication made in, or in connection with the issuance of, a list or evaluation described in this Subsection (6)(d).

(e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list only if the nonadmitted insurer:

(i) delivers a request to the commissioner to be on the list;

(ii) establishes satisfactory evidence of good reputation and financial integrity;

(iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current annual statement certified by the insurer and, each subsequent year, delivers to the commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day on which the nonadmitted insurer files the annual statement with the insurance regulatory authority where the nonadmitted insurer is domiciled; or

(B) files the nonadmitted insurer's annual statements with the National Association of Insurance Commissioners and the nonadmitted insurer's annual statements are available electronically from the National Association of Insurance Commissioners;

(iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is greater; or

(B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group of alien individual insurers, maintains a trust fund that:

(I) shall be in an amount not less than \$50,000,000 as security to its full amount for all policyholders and creditors in the United States of each member of the group;

(II) may consist of cash, securities, or investments of substantially the same character

and quality as those which are "qualified assets" under Section 31A-17-201; and

(III) may include as part of this trust arrangement a letter of credit that qualifies as acceptable security under Section 31A-17-404.1; and

(v) for an alien insurer not domiciled in the United States or a territory of the United States, is listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners International Insurers Department.

(7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly or without reasonable investigation of the financial condition and general reputation of the insurer, place insurance under this section with:

(i) a financially unsound insurer;

(ii) an insurer engaging in unfair practices; or

(iii) an otherwise substandard insurer.

(b) A surplus line producer may place insurance under this section with an insurer described in Subsection (7)(a) if the surplus line producer:

(i) gives the applicant notice in writing of the known deficiencies of the insurer or the limitations on the surplus line producer's investigation; and

(ii) explains the need to place the business with that insurer.

(c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the surplus line producer for at least five years.

(d) To be financially sound, an insurer shall satisfy standards that are comparable to those applied under the laws of this state to an authorized insurer.

(e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed substandard.

(8) (a) A policy issued under this section shall:

(i) include a description of the subject of the insurance; and

(ii) indicate:

(A) the coverage, conditions, and term of the insurance;

(B) the premium charged the policyholder;

(C) the premium taxes to be collected from the policyholder; and

(D) the name and address of the policyholder and insurer.

(b) If the direct risk is assumed by more than one insurer, the policy shall state:

(i) the names and addresses of all insurers; and

(ii) the portion of the entire direct risk each assumes.

(c) A policy issued under this section shall have attached or affixed to the policy the following statement: "The insurer issuing this policy does not hold a certificate of authority to do business in this state and thus is not fully subject to regulation by the Utah insurance commissioner. This policy receives no protection from any of the guaranty associations created under Title 31A, Chapter 28, Guaranty Associations."

(9) Upon placing a new or renewal coverage under this section, a surplus lines producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the insurance consisting either of:

(a) the policy as issued by the insurer; or

(b) if the policy is not available upon placing the coverage, a certificate, cover note, or other confirmation of insurance complying with Subsection (8).

(10) If the commissioner finds it necessary to protect the interests of insureds and the public in this state, the commissioner may by rule subject a policy issued under this section to as much of the regulation provided by this title as is required for a comparable policy written by an authorized foreign insurer.

(11) (a) A surplus lines transaction in this state shall be examined to determine whether it complies with:

(i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

(ii) the solicitation limitations of Subsection (3);

(iii) the requirement of Subsection (3) that placement be through a surplus lines producer;

(iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

(v) the policy form requirements of Subsections (8) and (10).

(b) The examination described in Subsection (11)(a) shall take place as soon as practicable after the transaction. The surplus lines producer shall submit to the examiner information necessary to conduct the examination within a period specified by rule.

(c) (i) The examination described in Subsection (11)(a) may be conducted by the commissioner or by an advisory organization created under Section 31A-15-111 and authorized by the commissioner to conduct these examinations. The commissioner is not required to authorize an additional advisory organization to conduct an examination under this Subsection (11)(c).

(ii) The commissioner's authorization of one or more advisory organizations to act as examiners under this Subsection (11)(c) shall be:

(A) by rule; and

(B) evidenced by a contract, on a form provided by the commissioner, between the authorized advisory organization and the department.

(d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall collect a stamping fee of an amount not to exceed 1% of the policy premium payable in connection with the transaction.

(B) A stamping fee collected by the commissioner shall be deposited in the General Fund.

(C) The commissioner shall establish a stamping fee by rule.

(ii) A stamping fee collected by an advisory organization is the property of the advisory organization to be used in paying the expenses of the advisory organization.

(iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1) for taxes imposed under Section 31A-3-301.

(iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If a stamping fee is not paid when due, the commissioner or advisory organization may impose a penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until full payment of the stamping fee.

(e) The commissioner, representatives of the department, advisory organizations, representatives and members of advisory organizations, authorized insurers, and surplus lines insurers are not liable for damages on account of statements, comments, or recommendations made in good faith in connection with their duties under this Subsection (11)(e) or under Section 31A-15-111.

(f) An examination conducted under this Subsection (11) and a document or materials related to the examination are confidential.

(12) (a) For a surplus lines insurance transaction in the state entered into on or after May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines insurer:

(i) shall exercise due diligence to initiate an audit of an insured, to determine whether additional premium is owed by the insured, by no later than six months after the expiration of the term for which premium is paid; and

(ii) may not audit an insured more than three years after the surplus lines insurance policy expires.

(b) A surplus lines insurer that does not comply with this Subsection (12) may not charge or collect additional premium in excess of the premium agreed to under the surplus lines insurance policy.

Section 11. Section 31A-22-1016 is enacted to read:

31A-22-1016. Workers' compensation coverage for medical cannabis operations.

A licensed and admitted workers' compensation insurer may issue coverage to:

(1) a cannabis production establishment as defined in Section 4-41a-102; or

(2) a medical cannabis pharmacy as defined in Section 26-61a-102.

Section 12. Section 58-37-3.7 is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question; ~~[or]~~

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

~~[(ii)]~~ (iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition

under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in ~~[a quantity described in Subsection 26-61a-502(2)]~~ one of the following amounts:

(i) no more than 56 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.

(3) An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) at the time of the arrest or citation, the individual:

(i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

(ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

Section 13. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 342**S. B. 166**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

SCHOOL READINESS AMENDMENTS

Chief Sponsor: Ann Millner
 House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends and enacts preschool provisions.

Highlighted Provisions:

This bill:

- ▶ renumbers and amends provisions of the High Quality School Readiness Program and the School Readiness Initiative and enacts, under the School Readiness Board (Readiness Board) within the Department of Workforce Services (Department), Title 35A, Chapter 15, Preschool Programs, including enacting and amending:
 - definitions;
 - provisions related to the membership and duties of the Readiness Board;
 - provisions governing grants to become or expand an existing high quality school readiness program;
 - provisions requiring the State Board of Education (State Board) to conduct preschool evaluations and provide reports; and
 - provisions governing results-based contracts for a school readiness program;
- ▶ amends school readiness assessment provisions;
- ▶ amends UPSTART definitions;
- ▶ requires a contractor to cooperate with certain private preschool provider personnel;
- ▶ directs the State Board, when entering a contract with an UPSTART provider, to require the provider to prioritize enrollment of preschool children living within the boundaries of a qualified school or enrolled in a qualified preschool;
- ▶ allows certain qualified participants to obtain a computer and other services for the duration of the qualified participant's participation in UPSTART;
- ▶ allows the State Board to use certain appropriations for administration of the UPSTART program;
- ▶ requires the UPSTART program evaluator to use certain assessments;
- ▶ requires the State Board to report on the number of private preschool providers and public preschools participating in the program;
- ▶ repeals:
 - the Intergenerational Poverty School Readiness Scholarship Program and related provisions;
 - the home-based technology high quality school readiness program;
 - provisions authorizing the State Board or a school district to purchase computers, peripheral equipment, and Internet service for low income families;

- provisions requiring an UPSTART contractor to obtain certain supporting documentation from participating individuals; and
 - provisions requiring the Department to provide certain training to early childhood teachers; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to Department of Workforce Services - Operations and Policy - Workforce Development Division, as an ongoing appropriation:
 - from the General Fund, \$6,000,000;
- ▶ to State Board of Education - General System Support - Teaching and Learning, as an ongoing appropriation:
 - from the Education Fund, \$500,000; and
- ▶ to the State Board of Education - Initiative Programs - UPSTART, as an ongoing appropriation:
 - from the Education Fund, \$5,500,000.

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 53E-4-308, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-4-314, as enacted by Laws of Utah 2018, Chapter 389
- 53E-9-301, as last amended by Laws of Utah 2018, Chapters 304, 389 and renumbered and amended by Laws of Utah 2018, Chapter 1
- 53F-4-401, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-4-402, as last amended by Laws of Utah 2018, Chapter 163 and renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-4-403, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-4-404, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-4-406, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-4-407, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

- 35A-15-101, Utah Code Annotated 1953
- 35A-15-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 35A-15-102, (Renumbered from 53F-6-301, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2)
- 35A-15-201, (Renumbered from 35A-3-209, as renumbered and amended by Laws of Utah 2018, Chapter 389)
- 35A-15-202, (Renumbered from 53F-6-304, as renumbered and amended by Laws of Utah 2018, Chapter 2)

- 35A-15-203, (Renumbered from 35A-3-210, as renumbered and amended by Laws of Utah 2018, Chapter 389)
- 35A-15-301, (Renumbered from 53F-6-305, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2)
- 35A-15-302, (Renumbered from 53F-5-303, as renumbered and amended by Laws of Utah 2018, Chapter 2)
- 35A-15-401, (Renumbered from 53F-6-306, as renumbered and amended by Laws of Utah 2018, Chapter 2 and repealed and reenacted by Laws of Utah 2018, Chapter 389)
- 35A-15-402, (Renumbered from 53F-6-309, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2)

REPEALS:

- 35A-9-401, as last amended by Laws of Utah 2018, Chapter 415
- 53F-4-405, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-301, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-302, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-304, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-305, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-306, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-5-307, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-303, as last amended by Laws of Utah 2018, Chapter 389
- 53F-6-310, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2

Utah Code Sections Affected by Coordination Clause:

- 35A-15-102, Utah Code Annotated 1953
- 35A-15-202, Utah Code Annotated 1953
- 35A-15-301, Utah Code Annotated 1953
- 35A-15-302, Utah Code Annotated 1953
- 35A-15-303, Utah Code Annotated 1953
- 35A-15-401, Utah Code Annotated 1953
- 35A-15-402, Utah Code Annotated 1953
- 53E-1-201, as enacted by Laws of Utah 2018, Chapter 1
- 53F-5-303, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-301, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-304, as renumbered and amended by Laws of Utah 2018, Chapter 2

- 53F-6-305, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-6-306, as renumbered and amended by Laws of Utah 2018, Chapter 2 and repealed and reenacted by Laws of Utah 2018, Chapter 389
- 53F-6-309, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-101 is enacted to read:

CHAPTER 15. PRESCHOOL PROGRAMS**Part 1. General Provisions****35A-15-101. Title.**

This chapter is known as "Preschool Programs."

Section 2. Section 35A-15-102, which is renumbered from Section 53F-6-301 is renumbered and amended to read:

[53F-6-301]. 35A-15-102. Definitions.

As used in this ~~part~~ chapter:

- (1) "Board" means the School Readiness Board, created in Section ~~[35A-3-209]~~ 35A-15-201.
- (2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.
- (3) "Eligible home-based educational technology provider" means a provider that ~~[intends to offer]~~ offers a home-based educational technology program to develop the school readiness skills of an eligible student.
- (4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) ~~[(A) except as provided in Subsection (5)(b),]~~ is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

~~[(B)]~~ (ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403[; and].

~~[(ii) meets other criteria as established by the board, consistent with Utah Constitution, Article X, Section 1.]~~

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section ~~26-39-102[;]~~ or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) “Eligible student” means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

~~[(a)]~~ (b) (i) (A) who is economically disadvantaged; and

~~[(b)]~~ (B) whose parent or legal guardian reports that the student has experienced at least one risk factor[-]; or

(ii) is an English learner.

(7) [~~“Evaluator”~~] “Evaluation” means an [~~independent evaluator selected in accordance with Section 53F-3-309.~~] evaluation conducted in accordance with Section 35A-15-303.

(8) “High quality school readiness program” means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section [~~53F-6-304~~] 35A-15-202.

(9) “Investor” means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section [~~53F-6-309~~] 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) “Kindergarten assessment” means the kindergarten entry assessment described in Section 53F-4-205.

(11) “Kindergarten transition plan” means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

~~[(10)]~~ (12) “Local Education Agency” or “LEA” means a school district or charter school.

~~[(11)]~~ “Pay for success program” means a program funded through a model in which the program is initially funded through private funding and the entity providing the private funding receives repayment through public funding if the program achieves certain outcomes.[-]

~~[(12)]~~ (13) “Performance outcome measure” means [~~a cost avoidance in special education use for a student at risk for later special education placement in kindergarten through grade 12 who receives preschool education funded pursuant to a results-based contract.~~];

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

~~[(13)]~~ “Program intermediary” means an entity selected by the board under Section 35A-3-209 to coordinate with the Department of Workforce Services to provide program support to the board.[-]

(14) “Results-based contract” means a contract that:

(a) is entered into in accordance with Section [~~53F-3-309~~] 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between~~[(4)]~~ the board, a provider of a high quality school readiness program, and an investor~~[-]; or~~;

~~[(ii)]~~ the board and a provider of a high quality school readiness program.[-]

(15) “Risk factor” means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child’s household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child’s home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child’s home is a language other than English; or

(j) having at least one parent who has not completed high school.

~~[(16)]~~ “Student at risk for later special education placement” means an eligible student who, at preschool entry, scores at least two standard deviations below the mean on the assessment selected by the board under Section 53F-6-309.[-]

(16) “School readiness assessment” means the same as that term is defined in Section 53E-4-314.

(17) “Tool” means the tool developed in accordance with Section 35A-15-303.

Section 3. Section 35A-15-201, which is renumbered from Section 35A-3-209 is renumbered and amended to read:

Part 2. School Readiness Board and Account

[35A-3-209]. 35A-15-201. Establishment of the School Readiness Board -- Membership -- Funding prioritization.

~~[(1) The terms defined in Section 53F-6-301 apply to this section.]~~

~~[(2)] (1) There is created the School Readiness Board within the [Department of Workforce Services] department composed of:~~

~~(a) the executive director [of the Department of Workforce Services] or the executive director's designee;~~

~~(b) one member appointed by the State Board of Education;~~

~~(c) one member appointed by the chair of the State Charter School Board;~~

~~(d) [one member who has] two members who have research experience in the area of early childhood development, [including special education,] with:~~

~~(i) one member who is not a legislator and is appointed by the speaker of the House of Representatives; and~~

~~(ii) one member who represents the Utah Data Research Center appointed by the executive director;~~

~~(e) one member, who is not a legislator and is appointed by the president of the Senate, who:~~

~~(i) has expertise in [pay for success programs] results-based contracts; or~~

~~(ii) represents a financial institution that has experience managing a portfolio that meets the requirements of the Community Reinvestment Act, 12 U.S.C. Sec. 2901 et seq.;~~

~~(f) one member, appointed by the executive director, who has expertise in early childhood education;~~

~~(g) one member, appointed by the state superintendent, who has expertise in early childhood education;~~

~~(h) one member, appointed by the governor, who represents a nonprofit corporation that focuses on early childhood education; and~~

~~(i) one member, appointed by the executive director, who owns and operates a licensed child care center located in the state.~~

~~[(3)] (2) (a) A member described in Subsection [(2)] (1)(b), (c), (d), [or] (e), (f), (g), or (h) shall serve for a term of two years.~~

~~(b) If a vacancy occurs for a member described in Subsection [(2)] (1)(b), (c), (d), [or] (e), (f), (g), or (h), the [person] individual appointing the member shall appoint a replacement to serve the remainder of the member's term.~~

~~[(4)] (3) (a) A member may not receive compensation or benefits for the member's service.~~

~~(b) A member may serve more than one term.~~

~~[(5)] (4) The department shall provide staff support to the board.~~

~~[(6)] (5) (a) The board members shall elect a chair of the board from the board's membership.~~

~~(b) The board shall meet upon the call of the chair or a majority of the board members.~~

~~(6) In allocating funding received under this chapter, the board shall:~~

~~(a) give first priority to repayment of an investor who is a party to a results-based contract under the Laws of Utah, 2014, Chapter 304, Section 10; and~~

~~(b) determine prioritization of funding for the remaining programs described in this chapter.~~

~~[(7) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and subject to Subsection (8), the board shall:]~~

~~[(a) select a program intermediary that:]~~

~~[(i) is a nonprofit entity; and]~~

~~[(ii) has experience:]~~

~~[(A) developing and executing contracts;]~~

~~[(B) structuring the terms and conditions of a pay for success program;]~~

~~[(C) coordinating the funding and management of a pay for success program; and]~~

~~[(D) raising private investment capital necessary to fund program services related to a pay for success program; and]~~

~~[(b) enter into a contract with the program intermediary.]~~

~~[(8) The board may not enter into a contract described in Subsection (7) without the consent of the department regarding:]~~

~~[(a) the program intermediary selected; and]~~

~~[(b) the terms of the contract.]~~

~~[(9) A contract described in Subsection (7)(b) shall:]~~

~~[(a) require the program intermediary to:]~~

~~[(i) seek out participants for results-based contracts;]~~

~~[(ii) advise the board on results-based contracts; and]~~

~~[(iii) make recommendations directly to the board on:]~~

~~[(A) when to enter a results-based contract; and]~~

~~[(B) the terms of a results-based contract; and]~~

~~[(b) include a provision that the program intermediary is not eligible to receive or view personally identifiable student data of eligible students funded under the School Readiness~~

Initiative described in this part and Title 53F, Chapter 6, Part 3, School Readiness Initiative.]

~~[(10) In allocating funding, the board shall:]~~

~~[(a) give first priority to a results-based contract described in Subsection 53F-6-309(3) to fund a high-quality school readiness program directly;]~~

~~[(b) give second priority to a results-based contract that includes an investor; and]~~

~~[(c) give third priority to a grant described in Section 53F-6-305.]~~

~~[(11) Other powers and duties of the board are described in Title 53F, Chapter 6, Part 3, School Readiness Initiative.]~~

Section 4. Section 35A-15-202, which is renumbered from Section 53F-6-304 is renumbered and amended to read:

[53F-6-304]. 35A-15-202. Elements of a high quality school readiness program.

(1) A high quality school readiness program run by an eligible LEA or eligible private provider shall include the following components:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah Early Childhood Standards adopted by the State Board of Education[, and] that incorporates:

(i) intentional and differentiated instruction in whole group, small group, and child-directed learning[, including the following academic content areas:]; and

(ii) explicit instruction in key areas of literacy and numeracy, as determined by the State Board of Education, that:

(A) is teacher led or through a partnership with a contractor as defined in Section 53F-4-401;

(B) includes specific literary and numeracy skills, such as phonological awareness; and

(C) includes provider monitoring and ongoing professional learning and coaching;

~~[(i) oral language and listening comprehension;]~~

~~[(ii) phonological awareness and prereading;]~~

~~[(iii) alphabet and word knowledge;]~~

~~[(iv) prewriting;]~~

~~[(v) book knowledge and print awareness;]~~

~~[(vi) numeracy;]~~

~~[(vii) creative arts;]~~

~~[(viii) science and technology; and]~~

~~[(ix) social studies, health, and safety;]~~

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and developmental progress to inform instruction;

~~(d) [a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a school readiness program receiving funding under this part, is selected by the board in accordance with Section 53F-6-309] administration of the school readiness assessment to each student;~~

(e) for a preschool program run by an eligible LEA, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; ~~[and]~~

(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field;]; and

(j) a kindergarten transition plan.

(2) A high quality school readiness program run by a home-based educational technology provider shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah early childhood core standards;

(d) require the administration of a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section ~~[53F-6-309]~~ 35A-15-402; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

Section 5. Section 35A-15-203, which is renumbered from Section 35A-3-210 is renumbered and amended to read:

[35A-3-210]. 35A-15-203. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

~~[(1) The terms defined in Section 53F-6-301 apply to this section.]~~

~~[(2)] (1) There is created in the General Fund a restricted account known as the "School Readiness Restricted Account".~~

~~[(3)] (2) The School Readiness Restricted Account consists of:~~

- ~~(a) money appropriated by the Legislature;~~
- ~~(b) all income and interest derived from the deposit and investment of money in the account;~~
- ~~(c) federal grants; and~~
- ~~(d) private donations.~~

~~[(4)] (3) Subject to legislative appropriations, money in the restricted account may be used:~~

~~(a) to award a grant under [the High Quality School Readiness Grant Program described in Section 53F-6-305] Section 35A-15-301 or 35A-15-302;~~

~~(b) to contract with an evaluator;~~

~~(c) to fund the participation of eligible students in a high quality school readiness program through a results-based contract; and~~

~~(d) for administration costs and to monitor the programs described in [Section 35A-3-209 and Title 53F, Chapter 6, Part 3, School Readiness Initiative] this part.~~

Section 6. Section 35A-15-301, which is renumbered from Section 53F-6-305 is renumbered and amended to read:

Part 3. Grants for High Quality School Readiness Programs

[53F-6-305]. 35A-15-301. Becoming High Quality School Readiness Grant Program.

(1) The High Quality School Readiness Grant Program is created to provide grants to the following, in order to [upgrade] assist an existing preschool or home-based educational technology program [to] in becoming a high quality school readiness program:

- (a) an eligible private provider;
- (b) an eligible LEA; or
- (c) an eligible home-based educational technology provider.

(2) The board, in cooperation with the department and the State Board of Education, shall~~[(a)]~~ solicit proposals from eligible LEAs; and, eligible private providers, and eligible home-based educational technology providers.

~~[(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).]~~

~~[(3) The Department of Workforce Services shall:]~~

~~[(a) —solicit proposals from eligible private providers and eligible home-based educational technology providers; and]~~

~~[(b) make recommendations to the board to award grants to respondents based on criteria described in Subsection (5).]~~

~~[(4)] (3) Subject to legislative appropriations, and the prioritization described in Section [35A-3-209] 35A-15-201, the board shall award grants to respondents based on:~~

~~[(a) the recommendations of the State Board of Education;]~~

~~[(b) the recommendations of the Department of Workforce Services; and]~~

~~[(c) the criteria described in Subsection (5).]~~

~~[(5) (a) In awarding a grant under Subsection (4), the State Board of Education, Department of Workforce Services, and the board shall consider:]~~

~~[(i)] (a) a respondent's capacity to effectively implement the components described in Section [53F-6-304] 35A-15-202;~~

~~[(ii)] (b) the percentage of a respondent's students who are eligible students; and~~

~~[(iii)] (c) the level of administrative support and leadership at a respondent's program to effectively implement, monitor, and evaluate the program.~~

~~[(b) The board may not award a grant to an LEA without obtaining approval from the State Board of Education to award the grant to the LEA.]~~

~~[(6)] (4) To receive a grant under this section, a respondent [that is an eligible LEA] shall submit a proposal to the [State Board of Education] board detailing:~~

~~(a) the respondent's strategy to implement the high quality components described in Section [53F-6-304] 35A-15-202;~~

~~(b) the number of students the respondent plans to serve, categorized by age and whether the students are eligible students;~~

~~(c) for an eligible LEA or eligible private provider, the number of high quality school readiness program classrooms the respondent plans to operate; and~~

~~(d) the estimated cost per student.~~

~~[(7) To receive a grant under this section, a respondent that is an eligible private provider or an eligible home-based educational technology provider shall submit a proposal to the Department of Workforce Services detailing:]~~

~~[(a) the respondent's strategy to implement the high quality components described in Section 53F-6-304;]~~

~~[(b) the number of students the respondent plans to serve, categorized by age and whether the students are eligible students;]~~

~~[(c) for a respondent that is an eligible private provider, the number of high quality school readiness program classrooms the respondent plans to operate; and]~~

~~[(d) the estimated cost per student.]~~

~~[(48)] (5) (a) A recipient of a grant under this section shall use the grant to move the recipient's preschool program toward achieving the components described in Section [53F-6-304] 35A-15-202.~~

~~(b) A recipient of a grant under this section may not:~~

~~(i) enter into a results-based contract while the recipient receives the grant[.]; or~~

~~(ii) receive grant funds under Section 35A-15-302.~~

~~[(9) (a) A grant recipient shall allow classroom or other visits by an evaluator.]~~

~~[(b) The evaluator shall:]~~

~~[(i) determine whether a grant recipient has effectively implemented the components described in Section 53F-6-304; and]~~

~~[(ii) report the evaluator's findings to the board.]~~

~~[(10)] (6) A recipient of a grant under this section shall ensure that each student who is enrolled in a classroom or who uses a home-based educational technology program supported by the grant has a unique student identifier by:~~

~~(a) if the recipient is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or~~

~~(b) if the recipient is an eligible private provider or eligible home-based educational technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology program.~~

~~[(11)] (7) A grant recipient that is an eligible LEA shall report annually to the board and the State Board of Education the following:~~

~~(a) number of students served by the preschool, including the number of students who are eligible students;~~

~~(b) attendance;~~

~~(c) cost per student; and~~

~~(d) [assessment results] assessment results, including the school readiness assessment, kindergarten assessment, and other assessments as determined by the board.~~

~~[(12)] (8) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report~~

annually to the board and the [Department of Workforce Services] department the following:

~~(a) number of students served by the preschool or program, including the number of students who are eligible students;~~

~~(b) attendance;~~

~~(c) cost per student; and~~

~~(d) [assessment results] assessment results, including the school readiness assessment and other assessments as determined by the board.~~

~~[(13)] (9) The [State Board of Education and the Department of Workforce Services] board shall make rules to effectively administer and monitor the grant program described in this section, including:~~

~~(a) requiring grant recipients to use [the pre- and post-assessment selected by the board in accordance with Section 53F-6-309] assessments, including the school readiness assessment, as determined by the board; and~~

~~(b) establishing reporting requirements for grant recipients.~~

~~[(14) At the request of the board, the State Board of Education and the Department of Workforce Services shall annually share the information received from grant recipients described in Subsections (11) and (12) with the board.]~~

Section 7. Section 35A-15-302, which is renumbered from Section 53F-5-303 is renumbered and amended to read:

[53F-5-303]. 35A-15-302. Expanded Student Access to High Quality School Readiness Programs Grant Program -- Determination of high quality school readiness program -- Reporting requirement.

(1) There is created the Student Access to High Quality School Readiness Programs Grant Program to expand access to high quality school readiness programs for eligible students through grants administered by the board for eligible LEAs and eligible private providers.

~~[(a) grants for LEAs administered by the board; and]~~

~~[(b) grants for eligible private providers administered by the department.]~~

~~[(2) The board, in coordination with the department, shall develop a tool to determine whether a school readiness program is a high quality school readiness program.]~~

~~[(3) (a)] (2) The board, in cooperation with the department and the State Board of Education, shall solicit proposals from eligible LEAs and eligible private providers to fund increases in the number of eligible students high quality school readiness programs can serve.~~

~~[(b) The department shall solicit proposals from eligible private providers to fund increases in the~~

~~number of eligible students high quality school readiness programs can serve.]~~

~~[(4)] (3) (a) Except as provided in Subsection [(4)] (3)(c), a respondent shall submit a proposal that includes the information described in Subsection [(4)] (3)(b)[:(4)] to the board[, for a respondent that is an LEA, or].~~

~~[(ii) to the department, for a respondent that is an eligible private provider.]~~

(b) A respondent's proposal for the grant solicitation described in Subsection [(3)] (2) shall include:

(i) the respondent's existing and proposed school readiness program, including:

(A) the number of students served by the respondent's school readiness program;

(B) the respondent's policies and procedures for admitting students into the school readiness program;

(C) the estimated cost per student; and

(D) any fees the respondent charges to a parent or legal guardian for the school readiness program;

(ii) the respondent's plan to use funding sources, in addition to a grant described in this section, including:

(A) federal funding; or

(B) private grants or donations;

(iii) existing or planned partnerships between the respondent and an LEA, eligible private provider, or eligible home-based technology provider to increase access to high quality school readiness programs for eligible students;

(iv) how the respondent would use a grant to:

(A) expand the number of eligible students served by the respondent's school readiness program; and

(B) target the funding toward the highest risk students[, including addressing the particular needs of children at risk of experiencing intergenerational poverty];

~~[(v) how the respondent's school readiness program is a high quality school readiness program; and]~~

~~[(vi)] (v) the results of any evaluations of the respondent's school readiness program[.]; and]~~

(vi) a demonstration that the respondent's existing school readiness program meets performance outcome measures.

(c) In addition to the requirements described in Subsection [(4)] (3)(b), a respondent that is an eligible LEA shall describe in the respondent's proposal the percentage of the respondent's kindergarten through grade 12 students who are economically disadvantaged [children].

~~[(5) (a)] (4) For each [LEA] proposal received in response to the solicitation described in Subsection~~

~~[(3)(a)] (2), the board shall determine if the [LEA] respondent school readiness program is a high quality school readiness program by:~~

~~[(i)] (a) applying the tool [described in Subsection (2)]; and~~

~~[(ii) conducting at least one site visit to the program.]~~

(b) reviewing performance outcome measures.

(5) (a) Subject to legislative appropriations and Subsection (9), the board shall award a grant to a respondent.

~~[(b) For each eligible private provider proposal received in response to the solicitation described in Subsection (3)(b), the department shall determine if the school readiness program is a high quality school readiness program by:]~~

~~[(i) applying the tool described in Subsection (2); and]~~

~~[(ii) conducting at least one site visit to the program.]~~

~~[(6) (a) Subject to legislative appropriations and Subsection (6)(b), the board shall award grants, on a competitive basis, to respondents that are LEAs.]~~

(b) The board may only award a grant to [an LEA] a respondent if:

(i) the [LEA] respondent submits a proposal that includes the information required under Subsection [(4)] (3); and

(ii) the board determines that the [LEA's] respondent's program is a high quality school readiness program [as described in Subsection (5); and] in accordance with Subsection (4).

~~[(iii) the LEA agrees to the evaluation requirements described in Section 53F-5-307.]~~

~~[(7) (a) Subject to legislative appropriations and Subsection (7)(b), the department shall award grants, on a competitive basis, to respondents that are eligible private providers.]~~

~~[(b) The department may only award a grant to a respondent if:]~~

~~[(i) the respondent submits a proposal that includes the information required under Subsection (4);]~~

~~[(ii) the department determines that the respondent's school readiness program is a high quality school readiness program as described in Subsection (5); and]~~

~~[(iii) the respondent agrees to the evaluation requirements described in Section 53F-5-307.]~~

(c) (i) A recipient of a grant may use funds received under this section to supplement an existing program but not supplant other funding.

(ii) An eligible LEA or an eligible private provider may not receive funding under this section if the eligible LEA or eligible private provider receives funding under Section 35A-15-301 or 35A-15-401.

~~[(8)] (6) In evaluating a proposal received in response to the solicitation described in Subsection~~

~~[(3)] (2), the board [and the department] shall consider:~~

(a) the number and percent of students in the respondent's high quality school readiness program that are eligible students at the highest risk;

(b) geographic diversity, including whether the respondent is urban or rural;

(c) the extent to which the respondent intends to participate in a partnership with an LEA, eligible private provider, or eligible home-based technology provider; and

(d) the respondent's level of administrative support and leadership to effectively implement, monitor, and evaluate the program.

~~[(9) (a) The board shall ensure that an LEA that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.]~~

~~[(b) The department shall ensure that a private provider that receives a grant under this section funded by TANF funds uses the grant to provide a high quality school readiness program for eligible students who are eligible to receive assistance through TANF.]~~

~~[(10) (7) A respondent that receives a grant under this section shall:~~

(a) use the grant to expand access for eligible students to high quality school readiness programs by enrolling eligible students in a high quality school readiness program;

(b) report to the board annually regarding:

(i) how the respondent used the grant awarded under Subsection ~~[(6) or (7)]~~ (5);

(ii) participation in any partnerships between an LEA, eligible private provider, or eligible home-based technology provider; and

(iii) the results of any evaluations;

(c) allow classroom or other visits ~~[by an independent evaluator selected by the board under Section 53F-5-307] for an evaluation; and~~

(d) for a respondent that is an eligible LEA, notify a parent or legal guardian who expresses interest in enrolling the parent or legal guardian's child in the LEA's high quality school readiness program of each state-funded high quality school readiness program operating within the eligible LEA's geographic boundaries.

~~[(11) An LEA that receives a grant under this section may charge a student fee to participate in an LEA's school readiness program if:]~~

~~[(a) the LEA's local school board or charter school governing board approves the fee;]~~

~~[(b) the fee for a student does not exceed the actual cost of providing the high quality school readiness program to the student; and]~~

~~[(c) the fee structure for the program is designed on a sliding scale, based on household income.]~~

~~[(12) (8) (a) The board shall establish interventions for a grantee [that is an LEA] that fails to comply with the requirements described in this section or meet the benchmarks described in Subsection (8)(c).]~~

~~[(b) The department shall establish interventions for a grantee that is an eligible private provider that fails to comply with the requirements described in this section.]~~

~~[(e) (b) An intervention under this Subsection [(12) (8)] may include discontinuing or reducing funding.]~~

~~(c) (i) The board shall adopt benchmarks for success on the performance outcome measures for a grant recipient under this section.~~

~~(ii) If a grant recipient fails to meet the board's benchmarks for success on the performance outcome measures, the grant recipient may not receive additional funding under this section.~~

~~[(13) (9) Subject to legislative appropriations, the board [and the department] shall give first priority in awarding grants to a respondent that has previously received a grant under this section if the respondent:~~

(a) makes the annual report described in Subsection ~~[(9) (7)]~~ (7)(b);

(b) participates in the [annual] evaluation ~~[described in Section 53F-5-307]; and~~

(c) continues to offer a high quality school readiness program as determined during an annual site visit by:

(i) the ~~[board]~~ State Board of Education, for an eligible LEA; or

(ii) the department, for an eligible private provider.

~~[(14) (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[(a)], the board shall make rules to:~~

~~[(i) (a) implement the tool [described in Subsection (2)]; and~~

~~[(ii) (b) administer the grant program [for LEAs described in this section; and].]~~

~~[(b) the department shall make rules to administer the grant program for eligible private providers described in this section.]~~

Section 8. Section 35A-15-303 is enacted to read:

35A-15-303. Evaluation -- Tool -- Reporting.

(1) The State Board of Education shall, in consultation with the board, conduct the ongoing review and evaluation each school year of:

(a) a grant recipient under Section 35A-15-301; and

(b) a grant recipient under Section 35A-15-302.

(2) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the State Board of Education may enter into a contract with an evaluator to assist with the evaluation process.

(b) An evaluation described in Subsection (1) shall include:

(i) outcomes of onsite observations utilizing the tool developed under Subsection (4) at a frequency and number of classrooms visits established by the board;

(ii) performance on the performance outcome measures; and

(iii) whether any of the programs improved kindergarten readiness through funding provided under Section 35A-15-301 or 35A-15-302.

(3) The board shall determine whether there is a correlation between the tool and the performance outcome measure.

(4) The board, in coordination with the department and the State Board of Education:

(a) shall:

(i) develop a tool to determine whether a school readiness program is a high quality school readiness program; and

(ii) establish how the board will apply the tool to make a determination described in Subsection (4)(a); and

(b) may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of this Subsection (4).

(5) (a) The State Board of Education shall annually submit a report to the Education Interim Committee.

(b) The report described in Subsection (5)(a) shall include a summary of an evaluation and the efficacy of:

(i) the grant program described in Section 35A-15-301; and

(ii) the grant program described in Section 35A-15-302, including whether any recipients failed to meet benchmarks for success on performance outcome measures as described in Subsection 35A-15-302(8)(c).

(6) The board shall report to the Education Interim Committee by November 30, 2020, on benchmarks adopted by the board under Section 35A-15-302.

Section 9. Section 35A-15-401, which is renumbered from Section 53F-6-306 is renumbered and amended to read:

Part 4. Results-based Contract Funded Programs

[53F-6-306]. 35A-15-401. Requirements for a school readiness program to receive funding through a results-based contract.

(1) As used in this section:

(a) "Participating program operator" means an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider, that is a party to a results-based contract.

(b) "Program" means a school readiness program funded through a results-based contract.

(2) (a) Subject to the requirements of this part, an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider that operates a high quality school readiness program may enter into and receive funding through a results-based contract.

(b) An eligible LEA, an eligible private provider, or an eligible home-based educational technology provider may not enter into a results-based contract while receiving a grant under [Section 53F-6-305] Part 3, Grants for High Quality School Readiness Programs.

(3) A participating program operator shall ensure that each student who is enrolled in a classroom, or who uses a home-based educational technology, that is part of a participating program operator's program has a unique student identifier by:

(a) if the participating program operator is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the participating program operator is an eligible private provider or eligible home-based technology provider, working with the State Board of Education to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology.

(4) A participating program operator may not use funds received through a results-based contract to supplant funds for an existing high quality school readiness program, but may use the funds to supplement an existing high quality school readiness program.

(5) (a) If not prohibited by the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 6301-6576, a participating program operator may charge a sliding scale fee, based on household income, to a student enrolled in the participating program operator's program.

(b) A participating program operator may use grants, scholarships, or other money to help fund the program.

~~[(6) A participating program operator shall:]~~

~~[(a) select an evaluator to annually evaluate:]~~

~~[(i) the results of the pre- and post-assessment described in Section 53F-6-309 for each eligible student funded through a results-based contract;]~~

~~[(ii) performance on the performance outcome measure as described in Section 53F-6-309; and]~~

~~[(iii) for a participating program operator that is a home-based educational technology provider, whether the home-based educational technology is being used with fidelity; and]~~

~~[(b) allow classroom visits to ensure the program meets the requirements described in this part by:]~~

~~[(i) the evaluator;]~~

~~[(ii) the program intermediary;]~~

~~[(iii) the investor, if applicable;]~~

~~[(iv) the State Board of Education; and]~~

~~[(v) the Department of Workforce Services.]~~

~~[(7)] (6) (a) A participating program operator that is an eligible LEA may contract with an eligible private provider to provide a high quality school readiness program to a portion of the eligible LEA's eligible students if:~~

~~(i) the results-based contract specifies the number of students to be served by the eligible private provider; and~~

~~(ii) the eligible private provider meets the requirements described in this section for a participating program operator[;]~~

~~[(iii) the eligible private provider reports the information described in Section 53F-6-310 to the board and the contracting eligible LEA; and]~~

~~[(iv) the contractual partnership is consistent with Utah Constitution, Article X, Section 1.]~~

(b) An eligible LEA that contracts with an eligible private provider shall provide supportive services to the eligible private provider, which may include:

(i) professional development;

(ii) staffing or staff support;

(iii) materials; or

(iv) assessments.

Section 10. Section 35A-15-402, which is renumbered from Section 53F-6-309 is renumbered and amended to read:

[53F-6-309]. 35A-15-402. Results-based contracts -- Assessment.

(1) The board may enter into a results-based contract to fund participation of eligible students in a high quality school readiness program in accordance with ~~[Section 35A-3-209 and]~~ this part.

(2) (a) ~~[Except as provided in Subsection (3), the]~~ The board shall include an investor as a party to a results-based contract.

(b) The board may provide for a repayment to an investor to include a return of investment and an additional return on investment, dependent on achievement of the performance outcome measures set in the results-based contract.

(c) The additional return on investment described in Subsection (2)(b) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based contract.

(d) Funding obtained for an early education program through a results-based contract that includes an investor is not a procurement item under Section 63G-6a-103.

(e) A results-based contract that includes an investor shall include:

(i) a requirement that the repayment to the investor be conditioned on achieving the performance outcome measures set in the results-based contract;

(ii) a requirement for an independent evaluator to determine whether the performance outcome measures have been achieved;

(iii) a provision that repayment to the investor is:

(A) based upon available money in the School Readiness Restricted Account described in Section ~~[35A-3-210]~~ 35A-15-203; and

(B) subject to legislative appropriations; and

(iv) a provision that the investor is not eligible to receive or view personally identifiable student data of students funded through the results-based contract.

(f) The board may not issue a results-based contract ~~[that includes an investor as a party to the contract]~~ if the total outstanding obligations of results-based contracts that include an investor as a party to the contract would exceed \$15,000,000 at any one time.

~~[(3) (a) The board may enter into a results-based contract to directly fund a high quality school readiness program that has at least four years of data for at least one cohort of students showing that the high quality school readiness program has met a performance outcome measure.]~~

~~[(b) A results-based contract described in Subsection (3)(a):]~~

~~[(i) does not require an investor; and]~~

~~[(ii) shall include a provision that:]~~

~~[(A) requires that in order to continue receiving funding, the high quality school readiness program continue to meet a performance outcome measure; and]~~

~~[(B) provides an improvement time frame during which the high quality school readiness program may continue to receive funding if the high quality school readiness program fails to continue to meet the performance outcome measure.]~~

~~[(4) The board shall select a uniform assessment of age appropriate cognitive or language skills that:]~~

~~[(a) is nationally norm-referenced;]~~

~~[(b) has established reliability;]~~

~~[(c) has established validity with other similar measures and with later school outcomes; and]~~

~~[(d) has strong psychometric characteristics.]~~

(3) The board shall require an independent evaluation to determine if a school readiness

program meets the performance outcome measures included in a results-based contract.

~~[(5) (a) In] (4) If the board enters into a results-based contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select [at least three independent evaluators with experience in:] an independent evaluator with experience in evaluating school readiness programs.~~

~~[(i) evaluating school readiness programs; and]~~

~~[(ii) administering the assessment selected under Subsection (4).]~~

~~[(b) An eligible LEA, eligible private provider, or eligible home-based educational technology provider that has a results-based contract shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-306.]~~

~~[(c) The board shall select one of the evaluators described in Subsection (5)(a) to conduct an evaluation described in Section 53F-6-305.]~~

~~[(6)] (5) (a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator [described in Subsection (5)(b)] shall determine whether the performance outcome measures set in the results-based contract have been met.~~

(b) The board may not pay an investor unless the evaluation described in Subsection ~~[(6)] (5)(a)~~ determines that the performance outcome measures in the results-based contract have been met.

~~[(7)] (6) (a) The board shall ensure that a parent or guardian of an eligible student participating in a program funded through a results-based contract has given permission and signed an acknowledgment that the student's data may be shared [with an independent evaluator] for research and evaluation purposes, subject to federal law.~~

(b) The board shall maintain documentation of parental permission required in Subsection ~~[(7)] (6)(a)~~.

Section 11. Section 53E-4-308 is amended to read:

53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent of public instruction, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the State Board of Regents shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.

(4) The board and the State Board of Regents shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(5) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection (5)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The state board, the Department of Workforce Services, and a contractor as defined in Section 53F-4-401, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 12. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" ~~[means the preschool entry assessment described in this section]~~ means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under~~[:]~~ Title 35A, Chapter 15, Preschool Programs.

~~[(A) Title 53F, Chapter 5, Part 3, High Quality School Readiness Program; or]~~

~~[(B) Title 53F, Chapter 6, Part 3, School Readiness Initiative.]~~

(2) The ~~[State Board of Education]~~ state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section 53F-4-205.

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program ~~[(4)] the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and~~

~~[(ii) the kindergarten entry assessment described in Section 53E-4-205 at the end of the student's participation in the school readiness program; and]~~

(b) report the results of the assessments described in Subsection (3)(a) or (4) to ~~[(3)] the School Readiness Board created in Section 35A-15-201.~~

~~[(4) the State Board of Education; and]~~

~~[(ii) the Department of Workforce Services.]~~

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.

Section 13. Section 53E-9-301 is amended to read:

53E-9-301. Definitions.

As used in this part:

(1) "Adult student" means a student who:

(a) is at least 18 years old;

(b) is an emancipated student; or

(c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;

(b) do not reveal personally identifiable student data; and

(c) are collected in accordance with board rule.

(3) (a) "Biometric identifier" means a:

(i) retina or iris scan;

(ii) fingerprint;

(iii) human biological sample used for valid scientific testing or screening; or

(iv) scan of hand or face geometry.

(b) "Biometric identifier" does not include:

(i) a writing sample;

(ii) a written signature;

(iii) a voiceprint;

(iv) a photograph;

(v) demographic data; or

(vi) a physical description, such as height, weight, hair color, or eye color.

(4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:

(a) based on an individual's biometric identifier; and

(b) used to identify the individual.

(5) "Board" means the State Board of Education.

(6) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.

(7) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of an education entity data governance staff member;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between an education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the education entity's website.

(8) "Education entity" means:

(a) the board;

(b) a local school board;

(c) a charter school governing board;

(d) a school district;

(e) a charter school; or

(f) the Utah Schools for the Deaf and the Blind~~[(3)]~~.

~~[(g) for purposes of implementing the School Readiness Initiative described in Title 53E, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.]~~

(9) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.

(10) “General audience application” means an Internet website, online service, online application, mobile application, or software program that:

(a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and

(b) is not subject to a contract between an education entity and a third-party contractor.

(11) “Higher education outreach student data” means the following student data for a student:

- (a) name;
- (b) parent name;
- (c) grade;
- (d) school and school district; and
- (e) contact information, including:
 - (i) primary phone number;
 - (ii) email address; and
 - (iii) physical address.

(12) “Individualized education program” or “IEP” means a written statement:

(a) for a student with a disability; and

(b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(13) “Local education agency” or “LEA” means:

- (a) a school district;
- (b) a charter school; or
- (c) the Utah Schools for the Deaf and the Blind[; ~~or~~].

~~[(d) for purposes of implementing the School Readiness Initiative described in Title 53E, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.]~~

(14) “Metadata dictionary” means a record that:

(a) defines and discloses all personally identifiable student data collected and shared by the education entity;

(b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:

(i) the purpose for sharing the data with the recipient;

(ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and

(iii) how sharing the data is permitted under federal or state law; and

(c) without disclosing personally identifiable student data, is displayed on the education entity’s website.

(15) “Necessary student data” means data required by state statute or federal law to conduct the regular activities of an education entity, including:

- (a) name;
- (b) date of birth;
- (c) sex;
- (d) parent contact information;
- (e) custodial parent information;
- (f) contact information;
- (g) a student identification number;

(h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;

(i) courses taken and completed, credits earned, and other transcript information;

(j) course grades and grade point average;

(k) grade level and expected graduation date or graduation cohort;

(l) degree, diploma, credential attainment, and other school exit information;

(m) attendance and mobility;

(n) drop-out data;

(o) immunization record or an exception from an immunization record;

(p) race;

(q) ethnicity;

(r) tribal affiliation;

(s) remediation efforts;

(t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;

(u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;

(v) student injury information;

(w) a disciplinary record created and maintained as described in Section 53E-9-306;

(x) juvenile delinquency records;

(y) English language learner status; and

(z) child find and special education evaluation data related to initiation of an IEP.

(16) (a) “Optional student data” means student data that is not:

(i) necessary student data; or

(ii) student data that an education entity may not collect under Section 53E-9-305.

(b) “Optional student data” includes:

(i) information that is:

(A) related to an IEP or needed to provide special needs services; and

(B) not necessary student data;

(ii) biometric information; and

(iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(17) "Parent" means:

(a) a student's parent;

(b) a student's legal guardian; or

(c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.

(18) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(19) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(20) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(21) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.

(22) (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(23) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

(24) "Written consent" means written authorization to collect or share a student's student data, from:

(a) the student's parent, if the student is not an adult student; or

(b) the student, if the student is an adult student.

Section 14. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the [State Board of Education] state board under Section 53F-4-402.

~~(2) "Low income" means an income below 185% of the federal poverty guideline.]~~

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(3) “Preschool [~~children~~] child” means [~~children who are~~] a child who is:

(a) age four or five; and

(b) [~~have not entered kindergarten.~~] not eligible for enrollment under Subsection 53G-4-402(6).

(4) (a) “Private preschool provider” means a child care program that:

(i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) “Private preschool provider” does not include:

(i) a residential certificate provider described in Section 26-39-402; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) “Public preschool” means a preschool program that is provided by a school district or charter school.

(6) “Qualifying participant” means a preschool child who:

(a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or

(b) is enrolled in a qualifying preschool.

(7) “Qualifying preschool” means a public preschool or private preschool provider that:

(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;

(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or

(c) is located within the boundaries of a qualifying school.

(8) “Qualifying school” means a school district elementary school that:

(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;

(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or

(c) is located in one of the following school districts:

(i) Beaver School District;

(ii) Carbon School District;

(iii) Daggett School District;

(iv) Duchesne School District;

(v) Emery School District;

(vi) Garfield School District;

(vii) Grand School District;

(viii) Iron School District;

(ix) Juab School District;

(x) Kane School District;

(xi) Millard School District;

(xii) Morgan School District;

(xiii) North Sanpete School District;

(xiv) North Summit School District;

(xv) Piute School District;

(xvi) Rich School District;

(xvii) San Juan School District;

(xviii) Sevier School District;

(xix) South Sanpete School District;

(xx) South Summit School District;

(xxi) Tintic School District;

(xxii) Uintah School District; or

(xxiii) Wayne School District.

[4] (9) “UPSTART” means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 15. Section 53F-4-402 is amended to read:

53F-4-402. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) (a) The [~~State Board of Education~~] state board shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

~~[(b) (i) The State Board of Education may, on or before July 1, 2019, issue a request for proposals for two-year pilot proposals from, and enter into a contract with, one or more educational technology providers that do not have an existing contract under this part with the state for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).]~~

~~[(ii) If the State Board of Education enters into a contract for a two-year pilot as described in Subsection (3)(b)(i), the State Board of Education may enter into a contract with one or more educational technology providers that have participated in a Utah pilot.]~~

~~[(e) (b) Every five years [after July 1, 2021, the State Board of Education], the state board may issue a new request for proposals described in this section.~~

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of ~~[low income families that cannot afford the equipment and service]~~ qualifying participants described in Subsection 53-4-404(3)(d);

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

(d) the program shall include the following components:

(i) computer-assisted, individualized instruction in reading, mathematics, and science;

(ii) a multisensory reading tutoring program; and

(iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;

(e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;

(f) the contractor shall work in cooperation with ~~[school district]~~ public preschool or private preschool provider personnel who will provide administrative and technical support of the program as provided in Section 53F-4-403;

(g) the contractor shall solicit families to participate in the program as provided in Section 53F-4-404; and

(h) in implementing the home-based educational technology program, the contractor shall seek the ~~[advise]~~ advice and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:

(i) soliciting families to participate in the program;

(ii) providing training to families; and

(iii) motivating families to regularly use the instructional software.

(5) ~~[(a)]~~ The contract shall provide funding for a home-based educational technology program for preschool children, subject to the appropriation of money by the Legislature for UPSTART.

~~[(b) An appropriation for a request for proposals described in Subsection (3)(b)(i) shall be separate from an appropriation described in Subsection (5)(a).]~~

(6) The ~~[State Board of Education]~~ state board shall evaluate a proposal based on:

(a) whether the home-based educational technology program meets the standards specified in Subsection (4);

(b) the results of an independent evaluation of the home-based educational technology program;

(c) the experience of the home-based educational technology program provider; and

(d) the per pupil cost of the home-based educational technology program.

Section 16. Section 53F-4-403 is amended to read:

53F-4-403. School district participation in UPSTART.

(1) A school district may participate in UPSTART if the local school board agrees, or a private preschool provider may participate in UPSTART if the private preschool provider agrees, to work in cooperation with the contractor to provide administrative and technical support for UPSTART.

~~[(2) Family participants in UPSTART shall be solicited from school districts that participate in UPSTART.]~~

~~[(3) A school district that participates in UPSTART shall:]~~

~~[(a) receive funding for:]~~

~~[(i) paraprofessional and technical support staff; and]~~

~~[(ii) travel, materials, and meeting costs of the program;]~~

~~(b) participate in program training by the contractor; and]~~

~~(c) agree to adopt standardized policies and procedures in implementing UPSTART.]~~

(2) A contractor may require a local school board or private preschool provider participating in UPSTART to enter into an agreement with the contractor to:

(a) dictate targets for program usage and terms for failure to meet those targets;

(b) determine data sharing terms; and

(c) agree to other reasonable terms required for successful implementation.

Section 17. Section 53F-4-404 is amended to read:

53F-4-404. Family participation in UPSTART -- Priority enrollment.

(1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the ~~[State Board of Education]~~ state board to solicit participation from families of ~~[children experiencing intergenerational poverty, as defined in Section 35A-9-102,]~~ qualifying participants to participate in UPSTART.

(2) ~~[(a)]~~ Preschool children who participate in UPSTART shall:

~~[(i)]~~ (a) be from families with diverse socioeconomic and ethnic backgrounds;

~~[(ii)]~~ (b) reside in different regions of the state in both urban and rural areas; and

~~[(iii)]~~ (c) be given preference to participate if the preschool ~~[child's family resides in a rural area with limited prekindergarten services]~~ children are qualifying participants.

~~[(b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.]~~

~~[(ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.]~~

~~[(3) A low income family that cannot afford a computer and Internet service to operate the instructional software]~~

(3) (a) In a contract entered into with an educational technology provider as described in Section 53F-4-402, the state board shall require the provider to prioritize enrollment of qualified participants based on a first come, first served basis.

(b) The state board shall provide a list of qualifying schools and qualifying preschools and other applicable information to the contractor for verification of qualifying participants.

(c) The contractor shall annually provide participant information to the state board as part of the verification process.

(d) A qualifying participant may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the [family's] qualified participant's participation in UPSTART[,] if the qualifying participant:

(i) is eligible to receive free or reduced lunch; and

(ii) the qualifying participant participates in UPSTART at home.

~~(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the [State Board of Education] state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.~~

~~(b) The [State Board of Education] state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).~~

~~[(5) (a) The contractor shall:]~~

~~[(i) determine if a family is a low income family for purposes of this part; and]~~

~~[(ii) use the same application form as described in Section 35A-9-401 or create an application form that requires an individual to provide and certify the information necessary for the contractor to make the determination described in Subsection (5)(a)(i).]~~

~~[(b) The contractor may:]~~

~~[(i) require an individual to submit supporting documentation; and]~~

~~[(ii) create a deadline for an individual to submit an application, if necessary.]~~

(c) A preschool child may only participate in UPSTART through legislative funding once.

Section 18. Section 53F-4-406 is amended to read:

53F-4-406. Audit and evaluation.

(1) The state auditor shall every three years:

(a) conduct an ~~[annual]~~ audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an ~~[annual]~~ audit.

(2) The ~~[State Board of Education]~~ state board shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section 53F-4-205 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section 53F-4-402.

~~(3)~~ (4) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% of the appropriation not to exceed \$600,000 may be used for the evaluation and administration of the program.

Section 19. Section 53F-4-407 is amended to read:

53F-4-407. Annual report.

(1) ~~The [State Board of Education] state board~~ shall make a report on UPSTART to the Education Interim Committee by November 30 each year.

(2) The report shall:

(a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53F-4-402; and

(b) include the following information:

(i) the number of families:

(A) volunteering to participate in the program;

(B) selected to participate in the program;

(C) requesting computers; and

(D) furnished computers;

(ii) the number of private preschool providers and public preschool providers participating in the program;

~~(iii)~~ (iii) the frequency of use of the instructional software;

~~(iii)~~ (iv) obstacles encountered with software usage, hardware, or providing technical assistance to families;

~~(iv)~~ (v) student performance on [pre-kindergarten and post-kindergarten] entry and exit kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and

~~(v)~~ (vi) as available, the evaluation of the program conducted pursuant to Section 53F-4-406.

Section 20. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section 26-62-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section ~~[35A-3-210]~~ 35A-15-203.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(37) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(38) The Relative Value Study Restricted Account created in Section 59-9-105.

(39) The Cigarette Tax Restricted Account created in Section 59-14-204.

(40) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(41) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(42) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(43) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(44) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(45) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(46) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(47) The Immigration Act Restricted Account created in Section 63G-12-103.

(48) Money received by the military installation development authority, as provided in Section 63H-1-504.

(49) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(50) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(51) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(52) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(53) The Motion Picture Incentive Account created in Section 63N-8-103.

(54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(55) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(57) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(58) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(59) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(60) Fees for certificate of admission created under Section 78A-9-102.

(61) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(62) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

(63) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(64) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 21. Repealer.

This bill repeals:

Section 35A-9-401, Eligibility determination -- Awarding of scholarship.

Section 53F-4-405, Purchase of equipment and service through cooperative purchasing contracts.

Section 53F-5-301, Definitions.

Section 53F-5-302, Administration of programs.

Section 53F-5-304, Home-based technology high quality school readiness program.

Section 53F-5-305, Intergenerational Poverty School Readiness Scholarship Program.

Section 53F-5-306, Early childhood teacher training.

Section 53F-5-307, Evaluation -- Reporting requirements.

Section 53F-6-303, School Readiness Restricted Account.

Section 53F-6-310, Reporting requirements for a recipient of funding through a results-based contract -- Reporting to the Legislature.

Section 22. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Operations and Policy

From General Fund \$6,000,000

Schedule of Programs:

Workforce Development Division \$6,000,000

The Legislature intends that the School Readiness Board use the ongoing appropriation for awarding grants and payment of results-based contracts for preschool programs in Title 35A, Chapter 15, Preschool Programs.

ITEM 2

To State Board of Education -- General System Support

From Education Fund \$500,000

Schedule of Programs:

Teaching and Learning \$500,000

The Legislature intends that the State Board of Education use the ongoing appropriation for conducting the ongoing review and evaluation of a school readiness program in accordance with Section 35A-15-303.

ITEM 3

To State Board of Education -- Initiative Programs

From Education Fund \$5,500,000

Schedule of Programs:

UPSTART \$5,500,000

Section 23. Coordinating S.B. 166 with S.B. 14 -- Substantive language.

If this S.B. 166 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) replacing the language in Subsection 35A-15-303(5)(a) with the following:

“(5) (a) The State Board of Education shall annually prepare a report for the Education Interim Committee in accordance with Section 53E-1-201.”;

(2) (a) inserting the following language as a new Subsection 53E-1-201(1)(b):

“(b) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;”; and

(b) renumbering remaining subsections accordingly;

(3) (a) inserting the following language as a new Subsection 53E-1-201(2)(a):

“(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;”; and

(b) renumbering remaining subsections accordingly;

(4) (a) repealing Subsection 53E-1-201(1)(k) regarding the report by the state board and Department of Workforce Services on an independent evaluation; and

(b) renumbering remaining subsections accordingly; and

(5) (a) repealing Subsection 53E-1-201(2)(h) regarding the report by the School Readiness Board; and

(b) renumbering remaining subsections accordingly.

Section 24. Coordinating S.B. 166 with H.B. 27 -- Superseding technical and substantive amendments.

If this S.B. 166 and H.B. 27, Public Education Definitions Amendments, both pass and become law, it is the intent of the Legislature when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication that:

(1) Section 35A-15-102 in this bill supersede Section 53F-6-301 in H.B. 27;

(2) Section 35A-15-202 in this bill supersede Section 53F-6-304 in H.B. 27;

(3) Section 35A-15-301 in this bill supersede Section 53F-6-305 in H.B. 27;

(4) Section 35A-15-302 in this bill supersede Section 53F-5-303 in H.B. 27;

(5) Section 35A-15-401 in this bill supersede Section 53F-6-306 in H.B. 27; and

(6) Section 35A-15-402 in this bill supersede Section 53F-6-309 in H.B. 27..

Section 25. Coordinating S.B. 166 with H.B. 249 -- Superseding technical and substantive amendments.

If this S.B. 166 and H.B. 249, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication that Section 35A-15-102 in this bill supersede Section 53F-6-301 in H.B. 249.

Section 26. Coordinating S.B. 166 with H.B. 387 -- Superseding technical and substantive amendments.

If this S.B. 166 and H.B. 387, Boards and Commissions Amendments, both pass and become law, it is the intent of the Legislature when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication that Section 35A-15-201 in this bill supersede Section 35A-3-209 in H.B. 387.

CHAPTER 343**S. B. 170**

Passed March 8, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**PHARMACY AND
 PHARMACEUTICALS AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions relating to the practice of pharmacy.

Highlighted Provisions:

This bill:

- ▶ amends the definition of “closed door pharmacy” and “practice as a licensed pharmacy technician”;
- ▶ changes the requirements for certain supervising pharmacists;
- ▶ adds a drug to the list of long-acting injectable drug therapies that can be administered by certain pharmacists;
- ▶ adds certain board certified urologists to the list of individuals who are qualified to be a dispensing medical practitioner; and
- ▶ reschedules certain drugs that are approved by the United States Food and Drug Administration and contain a component of cannabis.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-17b-102, as last amended by Laws of Utah 2018, Chapter 295
 58-17b-612, as last amended by Laws of Utah 2014, Chapter 72
 58-17b-625, as enacted by Laws of Utah 2017, Chapter 384
 58-17b-805, as enacted by Laws of Utah 2014, Chapter 72
 58-37-4, as last amended by Laws of Utah 2018, Chapter 146

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-102 is amended to read:**58-17b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Administering” means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) “Adulterated drug or device” means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) “Analytical laboratory” means a facility in possession of prescription drugs for the purpose of analysis.

(b) “Analytical laboratory” does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) “Animal euthanasia agency” means an agency performing euthanasia on animals by the use of prescription drugs.

(5) “Automated pharmacy systems” includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) “Beyond use date” means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) “Board of pharmacy” or “board” means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) “Branch pharmacy” means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) “Centralized prescription processing” means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) “Class A pharmacy” means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) “Class B pharmacy”:

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company[, ~~but not including~~]; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic

Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) “Nuclear pharmacy” means a pharmacy providing radio-pharmaceutical service.

(42) “Out-of-state mail service pharmacy” means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) “Patient counseling” means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) “Pharmaceutical administration facility” means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) “Pharmaceutical care” means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient’s disease;

(ii) eliminating or reducing a patient’s symptoms; or

(iii) arresting or slowing a disease process.

(b) “Pharmaceutical care” does not include prescribing of drugs without consent of a prescribing practitioner.

(46) “Pharmaceutical facility” means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) “Pharmaceutical wholesaler or distributor” means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) “Pharmaceutical wholesaler or distributor” does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility’s total distribution-related sales of prescription drugs does not exceed 5% of the facility’s total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) “Pharmacist” means an individual licensed by this state to engage in the practice of pharmacy.

(49) “Pharmacist-in-charge” means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) “Pharmacist preceptor” means a licensed pharmacist in good standing with one or more years

of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

- (a) drugs are dispensed;
- (b) pharmaceutical care is provided;
- (c) drugs are processed or handled for eventual use by a patient; or
- (d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

- (i) using a vending type of dispenser as defined by the division by administrative rule; or
- (ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) ~~[(a)]~~ "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

~~[(b) "Practice as a licensed pharmacy technician" does not include:]~~

~~[(i) performing a drug utilization review, prescription drug order clarification from a prescriber, final review of the prescription, dispensing of the drug, or counseling a patient with respect to a prescription drug;]~~

~~[(ii) except as permitted by rules made by the division in consultation with the board, final review of a prescribed drug prepared for dispensing;]~~

~~[(iii) counseling regarding nonprescription drugs and dietary supplements unless delegated by the supervising pharmacist; or]~~

~~[(iv) receiving new prescription drug orders when communicating telephonically or electronically unless the original information is recorded so the pharmacist may review the prescription drug order as transmitted.]~~

(57) "Practice of pharmacy" includes the following:

- (a) providing pharmaceutical care;
- (b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;
- (c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

- (i) pursuant to a lawful order of a practitioner when one is required by law; and
- (ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

- (d) participating in drug utilization review;
- (e) ensuring proper and safe storage of drugs and devices;
- (f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention; and

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(68) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(71) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(73) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Section 58-17b-612 is amended to read:

58-17b-612. Supervision -- Pharmacist-in-charge.

(1) (a) Any pharmacy, except a wholesaler, distributor, out-of-state mail service pharmacy, or

class E pharmacy, shall be under the general supervision of at least one pharmacist licensed to practice in Utah. One pharmacist licensed in Utah shall be designated as the pharmacist-in-charge, whose responsibility it is to oversee the operation of the pharmacy.

(b) Notwithstanding Subsection 58-17b-102~~(68)~~(70), a supervising pharmacist does not have to be in the pharmacy or care facility but shall be available via a telepharmacy system for immediate contact with the supervised pharmacy technician or pharmacy intern if:

(i) the pharmacy is located in ~~an~~ an area of need as defined by the division, in consultation with the board, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

~~[(A) a remote rural hospital, as defined in Section 26-21-13.6; or]~~

~~[(B) a clinic located in a remote rural county with less than 20 people per square mile;]~~

(ii) the supervising pharmacist described in Subsection (1)(a) is not available; ~~and]~~

(iii) the telepharmacy system maintains records and files quarterly reports as required by division rule to assure that patient safety is not compromised~~[-]; and~~

(iv) the arrangement is approved by the division in collaboration with the board.

(c) Subsection (1)(b) applies to a pharmacy that is located in a hospital only if the hospital is controlled by a local board that owns no more than two hospitals; and

(d) A supervising pharmacist may not supervise more than two pharmacies simultaneously under Subsection (1)(b).

(2) Each out-of-state mail service pharmacy shall designate and identify to the division a pharmacist holding a current license in good standing issued by the state in which the pharmacy is located and who serves as the pharmacist-in-charge for all purposes under this chapter.

Section 3. Section 58-17b-625 is amended to read:

58-17b-625. Administration of a long-acting injectable drug therapy.

(1) A pharmacist may, in accordance with this section, administer a drug described in Subsection (2).

(2) Notwithstanding the provisions of Subsection 58-17b-102~~(57)~~(c)(ii)(B), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing training for a pharmacist to administer the following long-acting injectables intramuscularly:

(a) aripiprazole;

(b) aripiprazole lauroxil;

~~[(b)]~~ (c) paliperidone;

~~[(e)]~~ (d) risperidone;

~~[(d)]~~ (e) olanzapine;

~~[(e)]~~ (f) naltrexone;

~~[(f)]~~ (g) naloxone; and

~~[(g)]~~ (h) drugs approved and regulated by the United States Food and Drug Administration for the treatment of the Human Immunodeficiency Virus.

(3) A pharmacist may not administer a drug listed under Subsection (2) unless the pharmacist:

(a) completes the training described in Subsection (2);

(b) administers the drug at a clinic or community pharmacy, as those terms are defined by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) is directed by the physician, as that term is defined in Section 58-67-102 or Section 58-68-102, who issues the prescription to administer the drug.

Section 4. Section 58-17b-805 is amended to read:

58-17b-805. Dispensing medical practitioner -- Cancer drug treatment regimen.

(1) For purposes of this section:

(a) "Cancer drug treatment regimen" means a prescription drug used to treat cancer, manage its symptoms, or provide continuity of care for a cancer patient.

(b) "Cancer drug treatment regimen" includes:

(i) a chemotherapy drug administered intravenously, orally, rectally, or by dermal methods; and

(ii) a drug used to support cancer treatment, including a drug used to treat, alleviate, or minimize physical and psychological symptoms or pain, to improve patient tolerance of cancer treatments, or to prepare a patient for a subsequent course of therapy.

(c) "Cancer drug treatment regimen" does not mean a drug listed under federal law as a Schedule I, II, or III drug.

(2) An individual may be licensed as a dispensing medical practitioner with a scope of practice that permits the dispensing medical practitioner to prescribe and dispense a cancer drug treatment regimen if the individual:

(a) is licensed as described in Subsections 58-17b-102~~(23)~~(a)(i) and (ii); and

(b) is certified or eligible to be certified by:

(i) the American Board of Internal Medicine in medical oncology~~[-]; or~~

(ii) the American Board of Urology.

(3) A dispensing medical practitioner authorized to prescribe and dispense a cancer drug treatment regimen under this section may prescribe and dispense a cancer drug treatment regimen:

(a) to the practitioner's patient who is currently undergoing chemotherapy in an outpatient clinic setting; and

(b) if the practitioner determines that providing the cancer drug treatment regimen to the patient in the outpatient clinic setting is in the best interest of the patient or provides better access to care for the patient.

Section 5. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropane carboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoxin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-*o*-chlorophenyl-8-ethyl-4*H*-*s*-triazolo[3,4-*c*]thieno[2,3-*e*]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxidine;

(II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenacymorphan;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

(PP) Morpheridine;

(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenomorphan;

(BBB) Phenoperidine;

(CCC) Piritramide;

(DDD) Proheptazine;

(EEE) Properidine;

(FFF) Propiram;

(GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

(III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);

(JJJ) Tilidine;

(KKK) Trimeperidine;

(LLL) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidinyl]-N-phenylpropanamide);

(MMM) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide);

(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine-N-Oxide;

(F) Cyprenorphine;

(G) Desomorphine;

(H) Dihydromorphine;

(I) Drotebanol;

(J) Etorphine (except hydrochloride salt);

(K) Heroin;

(L) Hydromorphanol;

(M) Methyldesorphine;

(N) Methylhydromorphine;

(O) Morphine methylbromide;

(P) Morphine methylsulfonate;

(Q) Morphine-N-Oxide;

(R) Myrophine;

(S) Nicocodeine;

(T) Nicomorphine;

(U) Normorphine;

(V) Pholcodine; and

(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)indole; α -ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:

4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(2-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenz[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or

trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (\bar{n})cis-4-methylaminorex ((\bar{n})cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N- α -trimethyl-benzeneethanamine; N,N- α -trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thethylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextroprhan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

- (I) Raw opium;
- (II) Opium extracts;
- (III) Opium fluid;
- (IV) Powdered opium;
- (V) Granulated opium;
- (VI) Tincture of opium;
- (VII) Codeine;
- (VIII) Ethylmorphine;
- (IX) Etorphine hydrochloride;
- (X) Hydrocodone;
- (XI) Hydromorphone;
- (XII) Metopon;
- (XIII) Morphine;
- (XIV) Oxycodone;
- (XV) Oxymorphone; and
- (XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextroprhan and levopropoxyphene:

- (A) Alfentanil;
- (B) Alphaprodine;
- (C) Anileridine;
- (D) Bezitramide;
- (E) Bulk dextropropoxyphene (nondosage forms);
- (F) Carfentanil;
- (G) Dihydrocodeine;
- (H) Diphenoxylate;
- (I) Fentanyl;
- (J) Isomethadone;
- (K) Levo-alpha-cetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- (L) Levomethorphan;
- (M) Levorphanol;
- (N) Metazocine;
- (O) Methadone;
- (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;
- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;

- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanyl; and
- (AA) Sufentanyl.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Methamphetamine, its salts, isomers, and salts of its isomers;

(C) Phenmetrazine and its salts; and

(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(B) Glutethimide;

(C) Pentobarbital;

(D) Phencyclidine;

(E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and

(F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (n)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any

quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: n-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrzapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebolone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25

micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;
- (B) Barbitol;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;
- (U) Ethyl loflazepate;
- (V) Fludiazepam;
- (W) Flunitrazepam;
- (X) Flurazepam;
- (Y) Halazepam;
- (Z) Haloxazolam;
- (AA) Ketazolam;
- (BB) Loprazolam;
- (CC) Lorazepam;
- (DD) Lormetazepam;
- (EE) Mebutamate;
- (FF) Medazepam;
- (GG) Meprobamate;
- (HH) Methohexital;
- (II) Methylphenobarbital (mephobarbital);

- (JJ) Midazolam;
- (KK) Nimetazepam;
- (LL) Nitrazepam;
- (MM) Nordiazepam;
- (NN) Oxazepam;
- (OO) Oxazolam;
- (PP) Paraldehyde;
- (QQ) Pentazocine;
- (RR) Petrichloral;
- (SS) Phenobarbital;
- (TT) Pinazepam;
- (UU) Prazepam;
- (VV) Quazepam;
- (WW) Temazepam;
- (XX) Tetrazepam;
- (YY) Triazolam;
- (ZZ) Zaleplon; and
- (AAA) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;
- (H) Pemoline, including organometallic complexes and chelates thereof;
- (I) Phentermine;
- (J) Pipradrol;
- (K) Sibutramine; and
- (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers; and

(H) all forms of Tramadol.

(ii) [~~Cannabidiol in a~~] A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

CHAPTER 344**S. B. 173**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**DUAL LANGUAGE
 IMMERSION AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: A. Cory Maloy

LONG TITLE**General Description:**

This bill requires the State Board of Education to establish a pilot program related to dual language immersion.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to:
 - establish a pilot program that provides for a local education agency (LEA) to offer an online language course to certain students who intend to enroll in dual language immersion; and
 - select schools to participate in the pilot program;
- ▶ requires an LEA that participates in the pilot program to offer an online language course;
- ▶ under certain conditions, allows a student to enroll in dual language immersion in a higher grade than the student's LEA typically allows a student to initially enroll in dual language immersion; and
- ▶ provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-253, as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and 453

ENACTS:

53F-5-212, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-212 is enacted to read:

53F-5-212. Pilot program for late enrollment in dual language immersion.

(1) As used in this section:

(a) "Dual language immersion" means the same as that term is defined in Section 53F-2-502.

(b) "Eligible LEA" means an LEA that receives funding under Section 53F-2-502.

(c) "Late entrant to dual language immersion" or "late entrant" means a student who enters dual language immersion in a higher grade than the

student's LEA generally permits initial enrollment in dual language immersion.

(d) "Local education agency" or "LEA" means a school district or a charter school.

(e) "Online language course" means a course described in Subsection (2).

(f) "Partner language" means the same as that term is defined in Section 53F-2-502.

(g) "Program" means the pilot program described in this section.

(2) The state board shall:

(a) establish a program to provide an eligible LEA with a grant to offer an online language course to a student in the LEA to develop proficiency in a partner language so that the student may participate in dual language immersion as a late entrant;

(b) solicit eligible LEAs to participate in the program; and

(c) based on the applications described in Subsection (3), provide grants to LEAs for up to 10 total schools to participate in the program.

(3) To participate in the program, an eligible LEA shall submit an application to the board describing:

(a) the schools in the eligible LEA that offer dual language immersion for which the eligible LEA intends to allow late entrants;

(b) the anticipated space available for late entrants in the schools described in Subsection (3)(a); and

(c) the partner languages for which the LEA intends to offer an online language course.

(4) An LEA that participates in the program shall:

(a) use a grant to offer an online language course to a student who intends to be a late entrant;

(b) allow a student who completes an online language course to enroll in dual language immersion as a late entrant at a school in the LEA if:

(i) the student demonstrates proficiency in the partner language on an assessment described in Section 53F-2-502; and

(ii) the school has space available in dual language immersion; and

(c) report to the state board on:

(i) the online language course offered by the LEA;

(ii) the number of students in the LEA who participate in an online language course; and

(iii) the number of students in the LEA who enroll as late entrants.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

The following provisions are repealed on the following dates:

(1) Subsection 53-10-202(18) is repealed July 1, 2018.

(2) Section 53-10-202.1 is repealed July 1, 2018.

(3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(4) Section 53B-18-1501 is repealed July 1, 2021.

(5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(8) Section 53E-3-515 is repealed January 1, 2023.

(9) Section 53F-2-514 is repealed July 1, 2020.

(10) Section 53F-5-203 is repealed July 1, 2019.

(11) Section 53F-5-212 is repealed July 1, 2023.

~~[(11)]~~ (12) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, is repealed July 1, 2022.

~~[(12)]~~ (13) Section 53F-6-201 is repealed July 1, 2019.

~~[(13)]~~ (14) Section 53F-9-501 is repealed January 1, 2023.

~~[(14)]~~ (15) Subsection 53G-8-211(4) is repealed July 1, 2020.

CHAPTER 345**S. B. 180**

Passed March 12, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**LIMITATIONS ON LANDOWNER
 LIABILITY AMENDMENTS**

Chief Sponsor: Daniel Hemmert
 House Sponsor: Brady Brammer

LONG TITLE**General Description:**

This bill amends and enacts provisions related to landowner liability in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends the liability of landowners in certain circumstances involving an activity with a recreational purpose;
- ▶ limits the available noneconomic damages in a claim against a landowner; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

57-14-102, as last amended by Laws of Utah 2013, Chapter 278 and renumbered and amended by Laws of Utah 2013, Chapter 212
 57-14-401, as enacted by Laws of Utah 2013, Chapter 212

ENACTS:

57-14-501, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-14-102 is amended to read:**57-14-102. Definitions.**

As used in this chapter:

(1) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.

(2) "Child" means an individual who is 16 years of age or younger.

~~[(3) "Inherent risks" means those dangers, conditions, and potentials for personal injury or property damage that are an integral and natural part of participating in an activity for a recreational purpose.]~~

[(4)] (3) (a) "Land" means any land within the state boundaries.

(b) "Land" includes roads, railway corridors, water, water courses, private ways and buildings,

structures, and machinery or equipment when attached to the realty.

[(5)] (4) "Owner" means the possessor of any interest in the land, whether public or private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.

[(6)] (5) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

[(7)] (6) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof:

- (a) hunting;
 - (b) fishing;
 - (c) swimming;
 - (d) skiing;
 - (e) snowshoeing;
 - (f) camping;
 - (g) picnicking;
 - (h) hiking;
 - (i) studying nature;
 - (j) waterskiing;
 - (k) engaging in water sports;
 - (l) engaging in equestrian activities;
 - (m) using boats;
 - (n) mountain biking;
 - (o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge;
 - (p) using off-highway vehicles or recreational vehicles;
 - (q) viewing or enjoying historical, archaeological, scenic, or scientific sites;
 - (r) aircraft operations; and
 - (s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller skating, ice skating, walking, running, jogging, bike riding, or in-line skating.
- [(8)] (7) "Serious physical injury" means any physical injury or set of physical injuries that:
- (a) seriously impairs a person's health;
 - (b) was caused by use of a dangerous weapon as defined in Section 76-1-601;
 - (c) involves physical torture or causes serious emotional harm to a person; or
 - (d) creates a reasonable risk of death.
- [(9)] (8) "Trespasser" means a person who enters on the land of another without:
- (a) express or implied permission; or
 - (b) invitation.

Section 2. Section 57-14-401 is amended to read:

Part 4. Activities with a Recreational Purpose on Certain Lands

57-14-401. Activities with a recreational purpose on certain lands.

(1) Notwithstanding Section 57-14-202 to the contrary, a person may not make a claim against or recover from an owner of any land, [~~as defined in this chapter,~~] including land in developed or improved, urban or semi-rural areas opened to the general public without charge, such as a lake, pond, park, trail, waterway, or other recreation site, for personal injury or property damage caused [~~by the inherent risks of~~] either directly or indirectly by participating in an activity with a recreational purpose on the land.

(2) Nothing in this section may be construed to relieve a person participating in a recreational purpose from an obligation that the person would have in the absence of this section to exercise due care or from the legal consequences of a failure to exercise due care.

Section 3. Section 57-14-501 is enacted to read:

Part 5. Limitation on Award

57-14-501. Limitation of award of noneconomic damages.

(1) In an action arising on or after May 14, 2019, against an owner of land for an injury to a person or damage to property, if a plaintiff is awarded noneconomic losses, the amount of the award for noneconomic losses may not exceed \$450,000.

(2) The limit described in Subsection (1) does not apply to:

- (a) an award of punitive damages;
- (b) a claim for wrongful death; or
- (c) a liability described in Subsection 57-14-204(1).

CHAPTER 346**S. B. 188**

Passed March 12, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**CONSENT FOR MEDICAL
PROCEDURE AMENDMENTS**

Chief Sponsor: Daniel McCay
 House Sponsor: Kim F. Coleman
 Cosponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill enacts provisions relating to certain patient examinations.

Highlighted Provisions:

This bill:

- ▶ creates requirements for certain examinations on an unconscious or anesthetized patient;
- ▶ amends provisions relating to informed consent for health care procedures; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8a-503, as last amended by Laws of Utah 2017, Chapter 326
 78B-3-406, as last amended by Laws of Utah 2017, Chapter 113

ENACTS:

58-1-509, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-503 is amended to read:**26-8a-503. Discipline of emergency medical services personnel.**

(1) The department may refuse to issue a license or renewal, or revoke, suspend, restrict, or place on probation an individual's license if:

(a) the individual does not meet the qualifications for licensure under Section 26-8a-302;

(b) the individual has engaged in conduct, as defined by committee rule, that:

(i) is unprofessional;

(ii) is adverse to the public health, safety, morals, or welfare; or

(iii) would adversely affect public trust in the emergency medical service system;

(c) the individual has violated Section 26-8a-502 or other provision of this chapter;

(d) the individual has violated Section 58-1-509;

[(d)] (e) a court of competent jurisdiction has determined the individual to be mentally incompetent for any reason; or

[(e)] (f) the individual is unable to provide emergency medical services with reasonable skill and safety because of illness, drunkenness, use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a clear and unjustifiable threat or potential threat to oneself, coworkers, or the public health, safety, or welfare that cannot be reasonably mitigated.

(2) (a) An action to revoke, suspend, restrict, or place a license on probation shall be done in:

(i) consultation with the peer review board created in Section 26-8a-105; and

(ii) accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) Notwithstanding Subsection (2)(a), the department may issue a cease and desist order under Section 26-8a-507 to immediately suspend an individual's license pending an administrative proceeding to be held within 30 days if there is evidence to show that the individual poses a clear, immediate, and unjustifiable threat or potential threat to the public health, safety, or welfare.

(3) An individual whose license has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the license by statute, committee rule, or the terms of the suspension, revocation, or restriction.

(4) In addition to taking disciplinary action under Subsection (1), the department may impose sanctions in accordance with Section 26-23-6.

Section 2. Section 58-1-509 is enacted to read:**58-1-509. Patient consent for certain medical examinations.**

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual who is:

(A) a healthcare provider as defined in Section 78B-3-403; and

(B) licensed under this title;

(ii) emergency medical service personnel as defined in Section 26-8a-102; or

(iii) an individual described in Subsection 58-1-307(1)(b) or (c).

(b) "Patient examination" means a medical examination that requires contact with the patient's sexual organs.

(2) A health care provider may not perform a patient examination on an anesthetized or unconscious patient unless:

(a) the health care provider obtains consent from the patient or the patient's representative in accordance with Subsection (3);

(b) a court orders performance of the patient examination for the collection of evidence;

(c) the performance of the patient examination is within the scope of care for a procedure or diagnostic examination scheduled to be performed on the patient; or

(d) the patient examination is immediately necessary for diagnosis or treatment of the patient.

(3) To obtain consent to perform a patient examination on an anesthetized or unconscious patient, before performing the patient examination, the health care provider shall:

(a) provide the patient or the patient's representative with a written or electronic document that:

(i) is provided separately from any other notice or agreement;

(ii) contains the following heading at the top of the document in not smaller than 18-point bold face type: "CONSENT FOR EXAMINATION OF PELVIC REGION";

(iii) specifies the nature and purpose of the patient examination;

(iv) names one or more primary health care providers whom the patient or the patient's representative may authorize to perform the patient examination;

(v) states whether there may be a student or resident that the patient or the patient's representative authorizes to:

(A) perform an additional patient examination; or

(B) observe or otherwise be present at the patient examination, either in person or through electronic means; and

(vi) provides the patient or the patient's representative with a series of check boxes that allow the patient or the patient's representative to:

(A) consent to the patient examination for diagnosis or treatment and an additional patient examination performed by a student or resident for an educational or training purpose;

(B) consent to the patient examination only for diagnosis or treatment; or

(C) refuse to consent to the patient examination;

(b) obtain the signature of the patient or the patient's representative on the written or electronic document while witnessed by a third party; and

(c) sign the written or electronic document.

Section 3. Section 78B-3-406 is amended to read:

78B-3-406. Failure to obtain informed consent -- Proof required of patient -- Defenses -- Consent to health care.

(1) (a) When a person submits to health care rendered by a health care provider, it is presumed that actions taken by the health care provider are either expressly or impliedly authorized to be done.

(b) For a patient to recover damages from a health care provider in an action based upon the provider's failure to obtain informed consent, the patient must prove the following:

~~[(a)]~~ (i) that a provider-patient relationship existed between the patient and health care provider;

~~[(b)]~~ (ii) the health care provider rendered health care to the patient;

~~[(c)]~~ (iii) the patient suffered personal injuries arising out of the health care rendered;

~~[(d)]~~ (iv) the health care rendered carried with it a substantial and significant risk of causing the patient serious harm;

~~[(e)]~~ (v) the patient was not informed of the substantial and significant risk;

~~[(f)]~~ (vi) a reasonable, prudent person in the patient's position would not have consented to the health care rendered after having been fully informed as to all facts relevant to the decision to give consent; and

~~[(g)]~~ (vii) the unauthorized part of the health care rendered was the proximate cause of personal injuries suffered by the patient.

(2) In determining what a reasonable, prudent person in the patient's position would do under the circumstances, the finder of fact shall use the viewpoint of the patient before health care was provided and before the occurrence of any personal injuries alleged to have arisen from said health care.

(3) It shall be a defense to any malpractice action against a health care provider based upon alleged failure to obtain informed consent if:

(a) the risk of the serious harm which the patient actually suffered was relatively minor;

(b) the risk of serious harm to the patient from the health care provider was commonly known to the public;

(c) the patient stated, prior to receiving the health care complained of, that he would accept the health care involved regardless of the risk; or that he did not want to be informed of the matters to which he would be entitled to be informed;

(d) the health care provider, after considering all of the attendant facts and circumstances, used reasonable discretion as to the manner and extent to which risks were disclosed, if the health care provider reasonably believed that additional disclosures could be expected to have a substantial and adverse effect on the patient's condition; or

(e) the patient or [his] the patient's representative executed a written consent which sets forth the nature and purpose of the intended health care and which contains a declaration that the patient accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial results of health care and which acknowledges that health care providers involved have explained [his] the patient's condition and the proposed health care in a satisfactory manner and that all questions asked about the health care and its attendant risks have been answered in a manner satisfactory to the patient or [his] the patient's representative.

(4) The written consent shall be a defense to an action against a health care provider based upon failure to obtain informed consent unless the patient proves that the person giving the consent lacked capacity to consent or shows by clear and convincing evidence that the execution of the written consent was induced by the defendant's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) This act may not be construed to prevent any person 18 years of age or over from refusing to consent to health care for [his] the patient's own person upon personal or religious grounds.

(6) Except as provided in Section 76-7-304.5, the following persons are authorized and empowered to consent to any health care not prohibited by law:

(a) any parent, whether an adult or a minor, for the parent's minor child;

(b) any married person, for a spouse;

(c) any person temporarily standing in loco parentis, whether formally serving or not, for the minor under that person's care and any guardian for the guardian's ward;

(d) any person 18 years of age or over for that person's parent who is unable by reason of age, physical or mental condition, to provide such consent;

(e) any patient 18 years of age or over;

(f) any female regardless of age or marital status, when given in connection with her pregnancy or childbirth;

(g) in the absence of a parent, any adult for the adult's minor brother or sister;

(h) in the absence of a parent, any grandparent for the grandparent's minor grandchild;

(i) an emancipated minor as provided in Section 78A-6-805;

(j) a minor who has contracted a lawful marriage; and

(k) an unaccompanied homeless minor, as that term is defined in the McKinney-Vento Homeless Assistance Act of 1987, Pub. L. 100-77, as amended, who is 15 years of age or older.

(7) A person who in good faith consents or authorizes health care treatment or procedures for

another as provided by this act may not be subject to civil liability.

(8) Notwithstanding any other provision of this section, if a health care provider fails to comply with the requirement in Section 58-1-509, the health care provider is presumed to have lacked informed consent with respect to the patient examination, as defined in Section 58-1-509.

CHAPTER 347**S. B. 192**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

ATTORNEY GENERAL AMENDMENTS

Chief Sponsor: Ronald Winterton
 House Sponsor: Logan Wilde

LONG TITLE**General Description:**

This bill requires the attorney general to provide a special advisor to the Office of the Governor and the Office of the Attorney General regarding Native American and tribal issues.

Highlighted Provisions:

This bill:

- ▶ requires the attorney general to:
 - provide a special advisor to the Office of the Governor and the Office of the Attorney General regarding Native American and tribal issues; and
 - annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Attorney General, as an ongoing appropriation:
 - from the General Fund, \$225,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-5-1, as last amended by Laws of Utah 2018, Chapters 200, 473, and 474

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-1 is amended to read:**67-5-1. General duties.**

The attorney general shall:

- (1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;
- (2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;
- (3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(a) in accordance with Section 67-5-1.1, to the Legislature or either house;

(b) to any state officer, board, or commission; and

(c) to any county attorney or district attorney;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to

the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes the status and progress of any lawsuits that challenge the constitutionality of state law that were pending at the time the attorney general submitted the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered; or

(iii) judgments issued; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee;

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(24) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements; ~~and~~

(25) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(a) the constitutionality of a state statute;

(b) the validity of legislation; or

(c) any action of the Legislature[-]; and

(26) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(i) establish outreach to the tribes and affected counties and communities; and

(ii) foster better relations and a cooperative framework; and

(b) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(i) the status of the work of the special advisor described in Subsection (26)(a); and

(ii) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (26)(a).

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Attorney General

<u>From General Fund</u>	<u>\$225,000</u>
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Schedule of Programs:

<u>Civil</u>	<u>\$225,000</u>
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The Legislature intends that the attorney general use the appropriation under this item to implement the requirement described in Subsection 67-5-1(26).

CHAPTER 348**S. B. 193**

Passed March 12, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**ATTORNEY GENERAL
 ENFORCEMENT AMENDMENTS**

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill amends provisions enforced by the attorney general.

Highlighted Provisions:

This bill:

- ▶ modifies the applicability of the Protection of Personal Information Act;
- ▶ amends the penalty for a violation of the Protection of Personal Information Act or the Consumer Credit Protection Act;
- ▶ establishes a statute of limitations for an enforcement action under the Protection of Personal Information Act or the Consumer Credit Protection Act;
- ▶ allows funds in the Attorney General Litigation Fund to be used for education and outreach on certain matters;
- ▶ modifies the available remedies in an action under the Utah Antitrust Act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-44-102, as enacted by Laws of Utah 2006, Chapter 343
 13-44-201, as enacted by Laws of Utah 2006, Chapter 343
 13-44-202, as last amended by Laws of Utah 2009, Chapter 388
 13-44-301, as last amended by Laws of Utah 2017, Chapter 308
 13-45-401, as last amended by Laws of Utah 2017, Chapter 308
 76-10-3108, as renumbered and amended by Laws of Utah 2013, Chapter 187
 76-10-3109, as last amended by Laws of Utah 2013, Chapter 278 and renumbered and amended by Laws of Utah 2013, Chapter 187
 76-10-3114, as last amended by Laws of Utah 2013, Chapter 400 and renumbered and amended by Laws of Utah 2013, Chapter 187

ENACTS:

13-44-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-44-102 is amended to read:**13-44-102. Definitions.**

As used in this chapter:

(1) (a) "Breach of system security" means an unauthorized acquisition of computerized data maintained by a person that compromises the security, confidentiality, or integrity of personal information.

(b) "Breach of system security" does not include the acquisition of personal information by an employee or agent of the person possessing unencrypted computerized data unless the personal information is used for an unlawful purpose or disclosed in an unauthorized manner.

(2) "Consumer" means a natural person.

(3) "Financial institution" means the same as that term is defined in 15 U.S.C. Sec. 6809.

~~[(3)]~~ (4) (a) "Personal information" means a person's first name or first initial and last name, combined with any one or more of the following data elements relating to that person when either the name or date element is unencrypted or not protected by another method that renders the data unreadable or unusable:

(i) Social Security number;

(ii) (A) financial account number, or credit or debit card number; and

(B) any required security code, access code, or password that would permit access to the person's account; or

(iii) driver license number or state identification card number.

(b) "Personal information" does not include information regardless of its source, contained in federal, state, or local government records or in widely distributed media that are lawfully made available to the general public.

~~[(4)]~~ (5) "Record" includes materials maintained in any form, including paper and electronic.

Section 2. Section 13-44-103 is enacted to read:**13-44-103. Applicability.**

This chapter does not apply to a financial institution or an affiliate, as defined in 15 U.S.C. Sec. 6809, of a financial institution.

Section 3. Section 13-44-201 is amended to read:**13-44-201. Protection of personal information.**

(1) Any person who conducts business in the state and maintains personal information shall implement and maintain reasonable procedures to:

(a) prevent unlawful use or disclosure of personal information collected or maintained in the regular course of business; and

(b) destroy, or arrange for the destruction of, records containing personal information that are not to be retained by the person.

(2) The destruction of records under Subsection (1)(b) shall be by:

- (a) shredding;
- (b) erasing; or

(c) otherwise modifying the personal information to make the information indecipherable.

~~[(3) This section does not apply to a financial institution as defined by 15 U.S.C. Section 6809.]~~

Section 4. Section 13-44-202 is amended to read:

13-44-202. Personal information -- Disclosure of system security breach.

(1) (a) A person who owns or licenses computerized data that includes personal information concerning a Utah resident shall, when the person becomes aware of a breach of system security, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused for identity theft or fraud purposes.

(b) If an investigation under Subsection (1)(a) reveals that the misuse of personal information for identity theft or fraud purposes has occurred, or is reasonably likely to occur, the person shall provide notification to each affected Utah resident.

(2) A person required to provide notification under Subsection (1) shall provide the notification in the most expedient time possible without unreasonable delay:

- (a) considering legitimate investigative needs of law enforcement, as provided in Subsection (4)(a);
- (b) after determining the scope of the breach of system security; and
- (c) after restoring the reasonable integrity of the system.

(3) (a) A person who maintains computerized data that includes personal information that the person does not own or license shall notify and cooperate with the owner or licensee of the information of any breach of system security immediately following the person's discovery of the breach if misuse of the personal information occurs or is reasonably likely to occur.

(b) Cooperation under Subsection (3)(a) includes sharing information relevant to the breach with the owner or licensee of the information.

(4) (a) Notwithstanding Subsection (2), a person may delay providing notification under Subsection (1) at the request of a law enforcement agency that determines that notification may impede a criminal investigation.

(b) A person who delays providing notification under Subsection (4)(a) shall provide notification in good faith without unreasonable delay in the most

expedient time possible after the law enforcement agency informs the person that notification will no longer impede the criminal investigation.

(5) (a) A notification required by this section may be provided:

- (i) in writing by first-class mail to the most recent address the person has for the resident;
- (ii) electronically, if the person's primary method of communication with the resident is by electronic means, or if provided in accordance with the consumer disclosure provisions of 15 U.S.C. Section 7001;
- (iii) by telephone, including through the use of automatic dialing technology not prohibited by other law; or

(iv) for residents of the state for whom notification in a manner described in Subsections (5)(a)(i) through (iii) is not feasible, by publishing notice of the breach of system security:

- (A) in a newspaper of general circulation; and
- (B) as required in Section 45-1-101.

(b) If a person maintains the person's own notification procedures as part of an information security policy for the treatment of personal information the person is considered to be in compliance with this chapter's notification requirements if the procedures are otherwise consistent with this chapter's timing requirements and the person notifies each affected Utah resident in accordance with the person's information security policy in the event of a breach.

(c) A person who is regulated by state or federal law and maintains procedures for a breach of system security under applicable law established by the primary state or federal regulator is considered to be in compliance with this part if the person notifies each affected Utah resident in accordance with the other applicable law in the event of a breach.

(6) A waiver of this section is contrary to public policy and is void and unenforceable.

Section 5. Section 13-44-301 is amended to read:

13-44-301. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce this chapter's provisions.

(2) (a) Nothing in this chapter creates a private right of action.

(b) Nothing in this chapter affects any private right of action existing under other law, including contract or tort.

(3) A person who violates this chapter's provisions is subject to a civil penalty of:

- (a) no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and
- (b) no greater than \$100,000 in the aggregate for related violations concerning more than one consumer[-], unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(4) (a) In addition to the penalties provided in Subsection (3), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) The attorney general shall bring an action under this chapter in:

(i) the district court located in Salt Lake City; or

(ii) the district court for the district in which resides a consumer who is affected by the violation.

(5) The attorney general shall deposit any amount received under Subsection (3), (4), or (10) into the Attorney General Litigation Fund created in Section 76-10-3114.

(6) In enforcing this chapter, the attorney general may:

(a) investigate the actions of any person alleged to violate Section 13-44-201 or 13-44-202;

(b) subpoena a witness;

(c) subpoena a document or other evidence;

(d) require the production of books, papers, contracts, records, or other information relevant to an investigation;

(e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to enforce a civil provision under this chapter; and

(f) enter into a confidentiality agreement in accordance with Subsection (7).

(7) (a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (7)(a).

(c) A confidentiality agreement entered into under Subsection (7)(a) or a confidentiality order issued under Subsection (7)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(8) A subpoena issued under Subsection (6) may be served by certified mail.

(9) A person's failure to respond to a request or subpoena from the attorney general under Subsection (6)(b), (c), or (d) is a violation of this chapter.

(10) (a) The attorney general may inspect and copy all records related to the business conducted by the person alleged to have violated this chapter, including records located outside the state.

(b) For records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general's expenses to inspect the records, including travel costs.

(c) Upon notification from the attorney general of the attorney general's intent to inspect records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general \$500, or a higher amount if \$500 is estimated to be insufficient, to cover the attorney general's expenses to inspect the records.

(d) To the extent an amount paid to the attorney general by a person who is found to have violated this chapter is not expended by the attorney general, the amount shall be refunded to the person who is found to have violated this chapter.

(e) The Division of Corporations and Commercial Code or any other relevant entity shall revoke any authorization to do business in this state of a person who fails to pay any amount required under this Subsection (10).

(11) (a) Subject to Subsection (11)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, produced the document, or produced material waives confidentiality in writing.

(b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony or produced the document or material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony or produced the document or material, or the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(12) (a) An administrative action filed under this chapter shall be commenced no later than 10 years after the day on which the alleged breach of system security last occurred.

(b) A civil action under this chapter shall be commenced no later than five years after the day on which the alleged breach of system security last occurred.

Section 6. Section 13-45-401 is amended to read:

13-45-401. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce the provisions of this chapter.

(2) A person who violates a provision of this chapter is subject to a civil fine of:

(a) no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than \$100,000 in the aggregate for related violations concerning more than one consumer[-], unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(3) (a) In addition to the penalties provided in Subsection (2), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) The attorney general shall bring an action under this chapter in:

(i) the district court located in Salt Lake City; or

(ii) the district court for the district in which resides a consumer who is the subject of a credit report on which a violation occurs.

(4) The attorney general shall deposit any amount received under Subsection (2) or (3) into the Attorney General Litigation Fund created in Section 76-10-3114.

(5) (a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (5)(a).

(c) A confidentiality agreement entered into under Subsection (5)(a) or a confidentiality order issued under Subsection (5)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(6) (a) Subject to Subsection (6)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, or produced the document or material waives confidentiality in writing.

(b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a

document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony, produced the document, or produced the material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony, produced the document, or produced the material, or without the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(7) A civil action filed under this chapter shall be commenced no later than five years after the day on which the alleged violation last occurred.

Section 7. Section 76-10-3108 is amended to read:

76-10-3108. Attorney general may bring action for injunctive relief, damages, and civil penalty.

(1) The attorney general may bring an action for appropriate injunctive relief, ~~and for damages or~~ a civil penalty, and damages in the name of the state, any of its political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state, for a violation of this act. Actions may be brought under this section regardless of whether the plaintiff dealt directly or indirectly with the defendant. This remedy is an additional remedy to any other remedies provided by law. It may not diminish or offset any other remedy.

(2) Any individual who violates this act is subject to a civil penalty of not more than \$100,000 for each violation. Any person, other than an individual, who violates this act is subject to a civil penalty of not more than \$500,000 for each violation.

Section 8. Section 76-10-3109 is amended to read:

76-10-3109. Person may bring action for injunctive relief and damages -- Treble damages -- Recovery of actual damages or

civil penalty by state or political subdivisions -- Immunity of political subdivisions from damages, costs, or attorney fees.

(1) (a) A person who is a citizen of this state or a resident of this state and who is injured or is threatened with injury in his business or property by a violation of the Utah Antitrust Act may bring an action for injunctive relief and damages, regardless of whether the person dealt directly or indirectly with the defendant. This remedy is in addition to any other remedies provided by law. It may not diminish or offset any other remedy.

(b) Subject to the provisions of Subsections (3), (4), and (5), the court shall award three times the amount of damages sustained, plus the cost of suit and a reasonable attorney fees, in addition to granting any appropriate temporary, preliminary, or permanent injunctive relief.

(2) (a) If the court determines that a judgment in the amount of three times the damages awarded plus attorney fees and costs will directly cause the insolvency of the defendant, the court shall reduce the amount of judgment to the highest sum that would not cause the defendant's insolvency.

(b) The court may not reduce a judgment to an amount less than the amount of damages sustained plus the costs of suit and reasonable attorney fees.

(3) The state or any of its political subdivisions may recover ~~the actual~~ three times the amount of damages it sustains ~~or~~ and the civil penalty provided by the Utah Antitrust Act, in addition to injunctive relief, costs of suit, and reasonable attorney fees.

(4) No damages, costs, or attorney fees may be recovered under this section:

(a) from any political subdivision;

(b) from the official or employee of any political subdivision acting in an official capacity; or

(c) against any person based on any official action directed by a political subdivision or its official or employee acting in an official capacity.

(5) Subsection (4) does not apply to cases filed before April 27, 1987, unless the defendant establishes and the court determines that in light of all the circumstances, including the posture of litigation and the availability of alternative relief, it would be inequitable not to apply Subsection (4) to a pending case.

(6) When a defendant has been sued in one or more actions by both direct and indirect purchasers, whether in state court or federal court, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the damages incurred by the plaintiff or plaintiffs have been passed on to others who are entitled to recover so as to avoid duplication of recovery of damages. In an action by indirect purchasers, any damages or settlement amounts paid to direct purchasers for the same alleged antitrust violations shall constitute a defense in the amount paid on a claim by indirect purchasers under this chapter so as to avoid duplication of recovery of damages.

(7) It shall be presumed, in the absence of proof to the contrary, that the injured persons who dealt directly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages. It shall also be presumed, in the absence of proof to the contrary, that the injured persons who dealt indirectly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages. The final 1/3 of the damages shall be awarded by the court to those injured persons determined by the court as most likely to have absorbed the damages.

(8) There is a presumption, in the absence of proof to the contrary and subject to Subsection (7), that each level in a product's or service's distribution chain passed on any and all increments in its cost due to an increase in the cost of an ingredient or a component product or service that was caused by a violation of this chapter. This amount will be presumed, in the absence of evidence to the contrary, to be equal to the change in the cost, in dollars and cents, of the ingredient, component product, or service to its first purchaser.

(9) The attorney general shall be notified by the plaintiff about the filing of any class action involving antitrust violations that includes plaintiffs from this state. The attorney general shall receive a copy of each filing from each plaintiff. The attorney general may, in his or her discretion, intervene or file amicus briefs in the case, and may be heard on the question of the fairness or appropriateness of any proposed settlement agreement.

(10) If, in a class action or parens patriae action filed under this chapter, including the settlement of any action, it is not feasible to return any part of the recovery to the injured plaintiffs, the court shall order the residual funds be applied to benefit the specific class of injured plaintiffs, to improve antitrust enforcement generally by depositing the residual funds into the Attorney General Litigation Fund created by Section 76-10-3114, or both.

(11) In any action brought under this chapter, the court shall approve all attorney fees and arrangements for the payment of attorney fees, including contingency fee agreements.

Section 9. Section 76-10-3114 is amended to read:

76-10-3114. Attorney General Litigation Fund.

(1) (a) There is created an expendable special revenue fund known as the Attorney General Litigation Fund for the purpose of providing funds to pay for:

(i) any costs and expenses incurred by the state attorney general in relation to actions under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act[-]; and

(ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).

(b) ~~[These]~~ The funds described in Subsection (1)(a) are in addition to other funds as may be appropriated by the Legislature to the attorney general for the administration and enforcement of the laws of this state.

~~[(b)]~~ (c) At the close of any fiscal year, any balance in the fund in excess of ~~[\$2,000,000]~~ \$4,000,000 shall be transferred to the General Fund.

~~[(e)]~~ (d) The attorney general may expend money from the Attorney General Litigation Fund for the purposes in Subsection (1)(a).

(2) (a) All money received by the state or its agencies by reason of any judgment, settlement, or compromise as the result of any action commenced, investigated, or prosecuted by the attorney general, after payment of any fines, restitution, payments, costs, or fees allocated by the court, shall be deposited in the Attorney General Litigation Fund, except as provided in Subsection (2)(b).

(b) (i) Any expenses advanced by the attorney general in any of the actions under Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.

(ii) Any money recovered by the attorney general on behalf of any private person or public body other than the state shall be paid to those persons or bodies from funds remaining after payment of expenses under Subsection (2)(b)(i).

~~[(3) The Division of Finance shall transfer any money remaining in the Antitrust Revolving Account on July 1, 2002, to the Attorney General Litigation Fund created in Subsection (1).]~~

CHAPTER 349**S. B. 203**

Passed March 11, 2019
 Approved March 26, 2019
 Effective May 14, 2019

PHYSICIAN ASSISTANT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill amends provisions relating to practice as a physician assistant.

Highlighted Provisions:

This bill:

- ▶ amends the Insect Infestation Emergency Control Act to allow a physician assistant to sign an affidavit stating that a planned treatment for controlling an insect infestation emergency is a danger to the health of the owner or occupant of a property;
- ▶ amends the Residential, Vocational and Life Skills Program Act to allow a physician assistant to grant certain clearances;
- ▶ amends the Professional Corporation Act's definition of "professional service" to include a personal service rendered by a physician assistant;
- ▶ amends the Election Code to allow a physician assistant to certify that a party's candidate has acquired a physical or mental disability;
- ▶ amends the Wildlife Resources Code of Utah to allow a physician assistant to make certain certifications with respect to licenses, certificates, or permits;
- ▶ amends the Utah Vital Statistics Act to allow a physician assistant to complete and file a birth certificate for a live birth that occurs outside a birthing facility;
- ▶ amends the Utah Medical Examiner Act to:
 - include the death of a person who has not been seen by a physician assistant in the definition of an "unattended death";
 - allow a physician assistant to certify cause of death in certain instances; and
 - require the state medical examiner to provide a copy of a final report of examination to a physician assistant, upon written request by the physician assistant;
- ▶ amends the Utah Communicable Disease Control Act to include a physician assistant among those:
 - from whom the Department of Health suggests a person should seek screening for a sexually transmitted disease;
 - to whom a person with venereal disease is required to report;
 - recognized to provide medical care or services to a minor who may be afflicted with a sexually transmitted disease;
 - to whom a person may be required by the Department of Health to report at the time of the expiration of the person's term of imprisonment; and

- authorized to take a blood sample from a pregnant or recently delivered woman;
- ▶ amends the Utah Health Code to include a physician assistant among those who may find that an individual or group is subject to examination, treatment, isolation, or quarantine;
- ▶ amends the Utah Emergency Medical Services System Act by:
 - amending the composition of the Trauma System Advisory Committee within the Department of Health; and
 - extending certain immunities to a physician assistant;
- ▶ amends the composition of certain committees within the Utah Statewide Stroke and Cardiac Registry Act to include physician assistants;
- ▶ amends the Utah Health Code to include a physician assistant among those whose diagnosis of hearing loss in a child younger than six years old satisfies a requirement for obtaining hearing aids from a program offered by the Department of Health;
- ▶ amends the Medical Assistance Act to prohibit a pharmacist from altering an outpatient drug therapy prescribed by a physician assistant without the consent of the physician assistant when conducting a prospective drug utilization review;
- ▶ amends the Revised Uniform Anatomical Gift Act to include a physician assistant who:
 - attends a decedent's death and a physician assistant who determines the time of a decedent's death among those who are prohibited from participating in the procedures for removing or transplanting a part from the decedent; and
 - is qualified to remove a donated part from the body of a donor among those authorized to remove the part;
- ▶ amends the Utah Health Data Authority Act definition of "health care provider" to include a physician assistant;
- ▶ amends the Insurance Code to include certain physician assistants among those from whom an insured may be required by a health insurance policy to select as a primary care provider;
- ▶ amends the Motor Vehicle Act to include a physician assistant among those who may certify specified information about a person with a disability who is applying for a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard;
- ▶ amends the Traffic Code to include a physician assistant among those who may administer certain chemical tests or draw blood under certain circumstances;
- ▶ amends the Motor Vehicle Safety Belt Usage Act to include a physician assistant among those who may provide written verification that an operator or passenger of a motor vehicle is unable to wear a safety belt for physical or medical reasons;
- ▶ amends the Unincorporated Business Entity Act definition of "professional services" to include a personal service provided by a physician assistant;
- ▶ amends the Public Employees' Contributory Retirement Act to include a physician assistant among those who may be appointed by the Utah

State Retirement Board to conduct certain medical examinations;

- ▶ amends the Firefighters' Retirement Act to include a physician assistant among those who may make certain evaluations, diagnoses, and recommendations;
- ▶ amends the Public Employees' Long-Term Disability Act to include a physician assistant among those:
 - under whom an eligible employee may receive ongoing care and treatment; and
 - who may set forth the limitations of an office-approved rehabilitation program;
- ▶ amends the Statewide Mutual Aid Act definition of "emergency responder" to include a physician assistant;
- ▶ amends the Criminal Investigations and Technical Services Act to include a physician assistant among those who may draw a blood sample in a medically acceptable manner;
- ▶ permits a physician assistant to:
 - receive information from a behavioral health information form completed by school personnel at the request of a student's parent;
 - be included in a list of health care providers that a school counselor or other mental health professional working within a school system may provide to a parent or guardian;
 - permit a student to possess or self-apply certain sunscreens;
 - train nonlicensed volunteers to administer glucagon; and
 - train a nonlicensed school employee who volunteers to administer a seizure rescue medication;
- ▶ amends the Public Telecommunications Law to include a physician assistant among those who may certify that a state resident is deaf, hard of hearing, or severely speech impaired;
- ▶ amends the Division of Occupational and Professional Licensing Act to require the Department of Health to establish certain procedures to authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication;
- ▶ amends the Speech-Language Pathology and Audiology Licensing Act to exempt certain physician assistants from the licensing requirement;
- ▶ amends the Hearing Instrument Specialist Licensing Act to:
 - exempt certain physician assistants from the licensing requirement; and
 - permit a physician assistant to receive certain referrals and issue certain prescriptions;
- ▶ amends the Massage Therapy Practice Act to exempt a physician assistant from the licensing requirement;
- ▶ renames the Physician Assistant Act as the Utah Physician Assistant Act;
- ▶ amends the Genetic Counselors Licensing Act to exempt certain physician assistants from the licensing requirement;
- ▶ amends the Utah Human Services Code to permit a physician assistant to take photographs of the areas of trauma visible on a child and, if

medically indicated, perform radiological examinations;

- ▶ amends the Government Records Access and Management Act to include a physician assistant among those to whom a governmental entity shall, under certain conditions, disclose a controlled record upon request;
- ▶ amends the Pete Suazo Utah Athletic Commission Act to include a physician assistant in certain definitions;
- ▶ allows a physician assistant to serve on a Children's Justice Center local advisory board or the Advisory Board on Children's Justice;
- ▶ amends the Utah Criminal Code to specify that certain sexual offenses committed by a "health professional" include offenses committed by a physician assistant;
- ▶ amends the Utah Code of Criminal Procedure to include a physician assistant among those who may draw blood;
- ▶ amends the Judicial Code to include physician assistants in certain provisions relating to other health care professionals; and
- ▶ makes corresponding and other technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 4-35-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 13-53-107, as enacted by Laws of Utah 2018, Chapter 252
- 16-11-2, as last amended by Laws of Utah 2011, Chapter 289
- 20A-1-501, as last amended by Laws of Utah 2016, Chapter 16
- 23-19-36, as last amended by Laws of Utah 2011, Chapter 366
- 23-19-38, as last amended by Laws of Utah 2010, Chapter 288
- 26-2-5, as last amended by Laws of Utah 2008, Chapter 3
- 26-4-2, as last amended by Laws of Utah 2018, Chapters 326 and 414
- 26-4-14, as last amended by Laws of Utah 1993, Chapter 38
- 26-4-17, as last amended by Laws of Utah 2018, Chapter 414
- 26-6-3, as last amended by Laws of Utah 2011, Chapter 297
- 26-6-17, as enacted by Laws of Utah 1981, Chapter 126
- 26-6-18, as last amended by Laws of Utah 2011, Chapter 297
- 26-6-19, as enacted by Laws of Utah 1981, Chapter 126
- 26-6-20, as last amended by Laws of Utah 2011, Chapter 297
- 26-6b-5, as last amended by Laws of Utah 2008, Chapter 115
- 26-8a-251, as enacted by Laws of Utah 2000, Chapter 305
- 26-8a-601, as last amended by Laws of Utah 2017, Chapter 326

26-8d-104, as enacted by Laws of Utah 2018, Chapter 104

26-8d-105, as enacted by Laws of Utah 2018, Chapter 104

26-10-11, as last amended by Laws of Utah 2018, Chapter 415

26-18-107, as enacted by Laws of Utah 1992, Chapter 273

26-21-7, as last amended by Laws of Utah 2011, Chapter 161

26-28-114, as last amended by Laws of Utah 2011, Chapter 297

26-33a-102, as last amended by Laws of Utah 2016, Chapter 74

31A-22-624, as last amended by Laws of Utah 2002, Chapter 308

41-1a-420, as last amended by Laws of Utah 2017, Chapter 41

41-6a-520, as last amended by Laws of Utah 2018, Chapter 35

41-6a-523, as last amended by Laws of Utah 2017, Chapter 326

41-6a-1804, as last amended by Laws of Utah 2018, Chapter 113

48-1d-102, as enacted by Laws of Utah 2013, Chapter 412

48-3a-1101, as enacted by Laws of Utah 2013, Chapter 412

49-12-601, as last amended by Laws of Utah 2011, Chapter 366

49-16-102, as last amended by Laws of Utah 2017, Chapter 93

49-16-602, as last amended by Laws of Utah 2011, Chapter 366

49-21-402, as last amended by Laws of Utah 2018, Chapter 185

49-21-406, as last amended by Laws of Utah 2015, Chapter 328

53-2a-302, as renumbered and amended by Laws of Utah 2013, Chapter 295

53-10-405, as last amended by Laws of Utah 2017, Chapter 326

53G-9-203, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-208, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-504, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-505, as renumbered and amended by Laws of Utah 2018, Chapter 3

54-8b-10, as last amended by Laws of Utah 2017, Chapters 43 and 423

58-1-307, as last amended by Laws of Utah 2017, Chapter 326

58-41-4, as last amended by Laws of Utah 2018, Chapter 415

58-46a-305, as last amended by Laws of Utah 2004, Chapter 90

58-46a-502, as last amended by Laws of Utah 2015, Chapter 252

58-47b-304, as last amended by Laws of Utah 2014, Chapters 330, 348 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 330

58-70a-101, as enacted by Laws of Utah 1997, Chapter 229

58-70a-305, as last amended by Laws of Utah 2016, Chapter 238

58-75-304, as enacted by Laws of Utah 2001, Chapter 100

62A-4a-406, as last amended by Laws of Utah 2008, Chapter 299

63G-2-202, as last amended by Laws of Utah 2018, Chapter 270

63N-10-102, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-10-301, as renumbered and amended by Laws of Utah 2015, Chapter 283

67-5b-105, as last amended by Laws of Utah 2016, Chapter 290

67-5b-106, as last amended by Laws of Utah 2016, Chapter 290

76-5-406, as last amended by Laws of Utah 2018, Chapter 176

77-23-213, as enacted by Laws of Utah 2018, Chapter 35

78B-1-137, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-2-114, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-3-403, as last amended by Laws of Utah 2013, Chapter 104

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-35-107 is amended to read:

4-35-107. Notice to owner or occupant -- Corrective action required -- Directive issued by department -- Costs -- Owner or occupant may prohibit treatment.

(1) The department or an authorized agent of the department shall notify the owner or occupant of the problem and the available alternatives to remedy the problem. The owner or occupant shall take corrective action within 30 days.

(2) (a) If the owner or occupant fails to take corrective action under Subsection (1), the department may issue a directive for corrective action which shall be taken within 15 days.

(b) If the owner or occupant fails to act within the required time, the department shall take the necessary action.

(c) The department may recover costs incurred for controlling an insect infestation emergency from the owner or occupant of the property on whose property corrective action was taken.

(3) (a) Owners or occupants of property may prohibit treatment by presenting an affidavit from the owner's or occupant's attending physician or physician assistant to the department which states that the treatment as planned is a danger to the owner's or occupant's health.

(b) The department shall provide the owner or occupant with alternatives to treatment which will abate the infestation.

Section 2. Section 13-53-107 is amended to read:

13-53-107. Participant screening.

(1) A residential, vocational and life skills program shall interview and screen all prospective participants for medical prescriptions, physical and mental health history, and recent alcohol or drug use.

(2) Unless an individual obtains a medical clearance from a physician or physician assistant, a residential, vocational and life skills program may not have as a participant an individual who:

(a) has a recent diagnosis of a mental, social, psychiatric, or psychological illness; or

(b) has an active prescription for medication for a mental, social, psychiatric, or psychological illness.

(3) A residential, vocational and life skills program may not admit a minor.

Section 3. Section 16-11-2 is amended to read:

16-11-2. Definitions.

As used in this chapter:

(1) "Filed" means the division has received and approved, as to form, a document submitted under this chapter, and has marked on the face of the document a stamp or seal indicating the time of day and date of approval, the name of the division, the division director's signature and division seal, or facsimiles of the signature or seal.

(2) "Professional corporation" means a corporation organized under this chapter.

(3) "Professional service" means the personal service rendered by:

(a) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of medicine;

(b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

(c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of osteopathy;

(d) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, and any subsequent laws regulating the practice as a physician assistant;

~~[(d)]~~ (e) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, and any subsequent laws regulating the practice of chiropractics;

~~[(e)]~~ (f) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

~~[(f)]~~ (g) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice

Act, and any subsequent laws regulating the practice of optometry;

~~[(g)]~~ (h) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, and any subsequent laws regulating the practice of veterinary medicine;

~~[(h)]~~ (i) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, and any subsequent laws regulating the practice of architecture;

~~[(i)]~~ (j) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, and any subsequent laws regulating the practice of public accounting;

~~[(j)]~~ (k) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;

~~[(k)]~~ (l) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, and any subsequent laws regulating the practice of pharmacy;

~~[(l)]~~ (m) an attorney granted the authority to practice law by:

(i) the Utah Supreme Court; or

(ii) the Supreme Court, other court, agency, instrumentality, or regulating board that licenses or regulates the authority to practice law in any state or territory of the United States other than Utah;

~~[(m)]~~ (n) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

~~[(n)]~~ (o) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, and any subsequent laws regulating the selling, exchanging, purchasing, renting, or leasing of real estate;

~~[(o)]~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, and any subsequent laws regulating the practice of psychology;

~~[(p)]~~ (q) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social work;

~~[(q)]~~ (r) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, and any subsequent laws regulating the practice of physical therapy;

~~[(r)]~~ (s) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act;

~~[(s)]~~ (t) a landscape architect licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, and any subsequent laws regulating landscape architects; or

(u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, and any subsequent laws regulating the practice of appraising real estate.

(4) "Regulating board" means the board that is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, apply to this chapter unless the context clearly indicates that a different meaning is intended.

Section 4. Section 20A-1-501 is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician or physician assistant, that prevents the candidate from continuing the candidacy; or

(C) is disqualified by an election officer for improper filing or nominating procedures;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States; or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician or physician assistant;

(iii) is disqualified by an election officer for improper filing or nominating procedures; or

(iv) resigns to become a candidate for president or vice president of the United States.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) after the deadline described in Subsection (1)(a) may not appear on the primary election ballot.

(b) The name of a candidate who is certified under Subsection (1)(b) after the deadline described in Subsection (1)(b) may not appear on the general election ballot.

(c) The name of a candidate who is certified under Subsection (1)(c) after the deadline described in Subsection (1)(c) may not appear on the general election ballot.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

Section 5. Section 23-19-36 is amended to read:

23-19-36. Persons with a physical or intellectual disability, terminally ill persons, and children in the custody of the state -- License to fish for free.

(1) A resident who is blind, has paraplegia, or has another permanent disability so as to be permanently confined to a wheelchair or the use of

crutches, or who has lost either or both lower extremities, may receive a free license to fish upon furnishing satisfactory proof of this fact to the Division of Wildlife Resources.

(2) A resident who has an intellectual disability and is not eligible under Section 23-19-14 to fish without a license may receive a free license to fish upon furnishing verification from a physician or physician assistant that the person has an intellectual disability.

(3) A resident who is terminally ill, and has less than five years to live, may receive a free license to fish:

(a) upon furnishing verification from a physician or physician assistant; and

(b) if the resident qualifies for assistance under any low income public assistance program administered by a state agency.

(4) A child placed in the custody of the state by a court order may receive a free fishing license upon furnishing verification of custody to the Division of Wildlife Resources.

Section 6. Section 23-19-38 is amended to read:

23-19-38. Sales of licenses, certificates, or permits final -- Exceptions -- Reallocation of surrendered permits.

(1) Sales of all licenses, certificates, or permits are final, and no refunds may be made by the division except as provided in Subsections (2) and (3).

(2) The division may refund the amount of the license, certificate, or permit if:

(a) the division or the Wildlife Board discontinues the activity for which the license, certificate, or permit was obtained;

(b) the division determines that it has erroneously collected a fee;

(c) (i) the person to whom the license, certificate, or permit is issued becomes ill or suffers an injury that precludes the person from using the license, certificate, or permit;

(ii) the person furnishes verification of illness or injury from a physician or physician assistant;

(iii) the person does not actually use the license, certificate, or permit; and

(iv) the license, certificate, or permit is surrendered before the end of the season for which the permit was issued; or

(d) the person to whom the license, certificate, or permit is issued dies prior to the person being able to use the license, certificate, or permit.

(3) The Wildlife Board may establish additional exceptions in rule to the refund prohibitions in Subsection (1).

(4) The division director may reallocate surrendered permits in accordance with rules adopted by the Wildlife Board.

Section 7. Section 26-2-5 is amended to read:

26-2-5. Birth certificates -- Execution and registration requirements.

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26-21-2.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this chapter.

(3) (a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this chapter on the certificate, securing the required signatures, and filing the certificate.

(b) (i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4) (a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal

consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6) (a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 62A-11-104.

Section 8. Section 26-4-2 is amended to read:

26-4-2. Definitions.

As used in this chapter:

(1) "Dead body" is as defined in Section 26-2-2.

(2) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces, and includes death which appears to have been due to homicide, death which

occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(5) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; and

(b) reports that the medical examiner makes regarding a decedent.

(6) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

(7) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(8) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(9) "Suicide" means death caused by an intentional and voluntary act of a person who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(10) "Unattended death" means the death of a person who has not been seen by a physician or physician assistant within the scope of the physician's or physician assistant's professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.

(11) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(12) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 9. Section 26-4-14 is amended to read:

26-4-14. Certification of death by attending physician or physician assistant -- Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.

The physician or physician assistant in attendance at the last illness of a deceased person who, in the judgment of the physician or physician assistant, does not appear to have died in a manner described in Section 26-4-7, shall certify the cause of death to his best knowledge and belief. When there is no physician or physician assistant in attendance during the last illness or when an attending physician or physician assistant is unable to determine with reasonable certainty the cause of death, the physician, physician assistant, or person with custody of the body shall so notify the medical examiner. If the medical examiner has reason to believe there may be criminal responsibility for the death, he shall notify the district attorney or county attorney having criminal jurisdiction or the head of the law enforcement agency having jurisdiction to make further investigation of the death.

Section 10. Section 26-4-17 is amended to read:

26-4-17. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) Upon written request from an individual described in Subsections (2)(a) through (d), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to:

(a) a decedent's immediate relative;

(b) a decedent's legal representative;

(c) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(d) as necessary for the performance of the individual's professional duties, a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the Department of Health; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26-1-6, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(8) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 11. Section 26-6-3 is amended to read:

26-6-3. Authority to investigate and control epidemic infections and communicable disease.

(1) The department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) [suggest] suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information required by Subsection (2)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).

(ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

Section 12. Section 26-6-17 is amended to read:

26-6-17. Venereal disease -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with venereal disease. Persons infected with venereal disease shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section 13. Section 26-6-18 is amended to read:

26-6-18. Venereal disease -- Consent of minor to treatment.

(1) A consent to medical care or services by a hospital or public clinic or the performance of medical care or services by a licensed physician or physician assistant executed by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as a consent given by a person

of full legal age and capacity, the infancy of the minor and any contrary provision of law notwithstanding.

(2) The consent of the minor is not subject to later disaffirmance by reason of minority at the time it was given and the consent of no other person or persons shall be necessary to authorize hospital or clinical care or services to be provided to the minor by a licensed physician or physician assistant.

(3) The provisions of this section shall apply also to minors who profess to be in need of hospital or clinical care and services or medical care or services provided by a physician or physician assistant for suspected sexually transmitted disease, regardless of whether such professed suspicions are subsequently substantiated on a medical basis.

Section 14. Section 26-6-19 is amended to read:

26-6-19. Venereal disease -- Examination and treatment of persons in prison or jail.

(1) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for venereal diseases by the health authorities. The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with venereal disease at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) The department may require persons suffering with venereal disease at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation. Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 15. Section 26-6-20 is amended to read:

26-6-20. Serological testing of pregnant or recently delivered women.

(1) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter. The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis. The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

(2) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant. The blood sample shall be submitted to

an approved laboratory for a standard serological test for syphilis.

(3) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title. In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.

(4) For the purpose of this chapter, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

(5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician or physician assistant.

Section 16. Section 26-6b-5 is amended to read:

26-6b-5. Petition for judicial review of order of restriction -- Court-ordered examination period.

(1) (a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the district court of the county in which the individual or group of individuals reside or are located.

(b) (i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under this chapter.

(ii) The Office of the Attorney General shall represent the department when the petitioner is the Department of Health in any proceedings under this chapter.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the district court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section 26-6b-6, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with:

(i) a communicable or possible communicable disease that poses a threat to public health;

(ii) an infectious agent or possibly infectious agent that poses a threat to public health;

(iii) a chemical or biological agent that poses a threat to public health; or

(iv) a condition that poses a threat to public health;

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Section 17. Section 26-8a-251 is amended to read:

26-8a-251. Trauma system advisory committee.

(1) There is created within the department the trauma system advisory committee.

(2) (a) The committee shall be comprised of individuals knowledgeable in adult or pediatric trauma care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations.

(b) Representation on the committee shall be broad and balanced among the health care delivery systems in the state with no more than three representatives coming from any single delivery system.

(3) The committee shall:

(a) advise the department regarding trauma system needs throughout the state;

(b) assist the department in evaluating the quality and outcomes of the overall trauma system;

(c) review and comment on proposals and rules governing the statewide trauma system; and

(d) make recommendations for the development of statewide triage, treatment, transportation, and transfer guidelines.

(4) The department shall:

(a) determine, by rule, the term and causes for removal of committee members;

(b) establish committee procedures and administration policies consistent with this chapter and department rule; and

(c) provide administrative support to the committee.

Section 18. Section 26-8a-601 is amended to read:

26-8a-601. Persons and activities exempt from civil liability.

(1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written instructions to any of the following is not liable for any civil damages as a result of issuing the instructions:

(i) an individual licensed under Section 26-8a-302;

(ii) a person who uses a fully automated external defibrillator, as defined in Section 26-8b-102; or

(iii) a person who administers CPR, as defined in Section 26-8b-102.

(b) The liability protection described in Subsection (1)(a) does not apply if the instructions given were the result of gross negligence or willful misconduct.

(2) An individual licensed under Section 26-8a-302, during either training or after licensure, a licensed physician, a ~~physician's~~ physician assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) An individual licensed under Section 26-8a-302 is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by this chapter to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency medical care, provided that the licensed individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization,

institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an individual licensed under Section 26-8a-302 is not liable for any civil damages for any act or omission in connection with such sponsorship, authorization, support, finance, or supervision of the licensed individual where the act or omission occurs in connection with the licensed individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the licensed individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician or physician assistant who gratuitously and in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician or physician assistant has secured an agreement from the receiving facility to accept and render necessary treatment to the patient.

(6) A person who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section 62A-15-629 is not liable for civil damages for transporting the individual.

Section 19. Section 26-8d-104 is amended to read:

26-8d-104. Stroke registry advisory committee.

(1) There is created within the department a stroke registry advisory committee.

(2) The stroke registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric stroke care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and

persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the stroke registry;

(c) assist the department in evaluating the quality and outcomes of the stroke registry; and

(d) review and comment on proposals and rules governing the statewide stroke registry.

Section 20. Section 26-8d-105 is amended to read:

26-8d-105. Cardiac registry advisory committee.

(1) There is created within the department a cardiac registry advisory committee.

(2) The cardiac registry advisory committee created in Subsection (1) shall:

(a) be composed of individuals knowledgeable in adult and pediatric cardiac care, including physicians, physician assistants, nurses, hospital administrators, emergency medical services personnel, government officials, consumers, and persons affiliated with professional health care associations;

(b) advise the department regarding the development and implementation of the cardiac registry;

(c) assist the department in evaluating the quality and outcomes of the cardiac registry; and

(d) review and comment on proposals and rules governing the statewide cardiac registry.

Section 21. Section 26-10-11 is amended to read:

26-10-11. Children's Hearing Aid Program.

(1) The department shall offer a program to provide hearing aids to children who qualify under this section.

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

(b) is a resident of Utah;

(c) has been diagnosed with hearing loss by:

(i) an audiologist with pediatric expertise; and

(ii) a physician or physician assistant;

(d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

(e) has obtained medical clearance by a medical provider for hearing aid fitting;

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's Medicaid program or the Utah Children's Health Insurance Program; and

(g) meets the financial need qualification criteria established by the department by rule, made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.

(3) (a) There is established the Children's Hearing Aid Advisory Committee.

(b) The committee shall be composed of five members appointed by the executive director, and shall include:

(i) one audiologist with pediatric expertise;

(ii) one speech language pathologist;

(iii) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;

(iv) one ear, nose, and throat specialist; and

(v) one parent whose child:

(A) is six years old or older; and

(B) has hearing loss.

(c) A majority of the members constitutes a quorum.

(d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.

(e) The committee shall elect a chair from its members.

(f) The committee shall:

(i) meet at least quarterly;

(ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and

(iii) review rules developed by the department.

(g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.

(h) The department shall provide staff to the committee.

(4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."

(b) The Children's Hearing Aid Program Restricted Account shall consist of:

(i) amounts appropriated to the account by the Legislature; and

(ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.

(c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.

(d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.

(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

(5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

(a) identifying the children who are financially eligible to receive services under the program; and

(b) reviewing and paying for services provided to a child under the program.

(6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.

Section 22. Section 26-18-107 is amended to read:

26-18-107. Retrospective and prospective DUR.

(1) The board, in cooperation with the division, shall include in its state plan the creation and implementation of a retrospective and prospective DUR program for Medicaid outpatient drugs to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

(2) The retrospective and prospective DUR program shall be operated under guidelines established by the board under Subsections (3) and (4).

(3) The retrospective DUR program shall be based on guidelines established by the board, using the mechanized drug claims processing and information retrieval system to analyze claims data in order to:

(a) identify patterns of fraud, abuse, gross overuse, and inappropriate or medically unnecessary care; and

(b) assess data on drug use against explicit predetermined standards that are based on the compendia and other sources for the purpose of monitoring:

(i) therapeutic appropriateness;

(ii) overutilization or underutilization;

(iii) therapeutic duplication;

(iv) drug-disease contraindications;

(v) drug-drug interactions;

(vi) incorrect drug dosage or duration of drug treatment; and

(vii) clinical abuse and misuse.

(4) The prospective DUR program shall be based on guidelines established by the board and shall provide that, before a prescription is filled or

delivered, a review will be conducted by the pharmacist at the point of sale to screen for potential drug therapy problems resulting from:

- (a) therapeutic duplication;
- (b) drug-drug interactions;
- (c) incorrect dosage or duration of treatment;
- (d) drug-allergy interactions; and
- (e) clinical abuse or misuse.

(5) In conducting the prospective DUR, a pharmacist may not alter the prescribed outpatient drug therapy without the consent of the prescribing physician or physician assistant. This section does not effect the ability of a pharmacist to substitute a generic equivalent.

Section 23. Section 26-21-7 is amended to read:

26-21-7. Exempt facilities.

This chapter does not apply to:

(1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;

(2) a health care facility owned or operated by an agency of the United States;

(3) the office of a physician, physician assistant, or dentist whether it is an individual or group practice, except that it does apply to an abortion clinic;

(4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;

(5) any health care facility owned or operated by the Department of Corrections, created in Section 64-13-2; and

(6) a residential facility providing 24-hour care:

(a) that does not employ direct care staff;

(b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

(c) that meets other requirements for an exemption as designated by administrative rule.

Section 24. Section 26-28-114 is amended to read:

26-28-114. Rights and duties of procurement organization and others.

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to

ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 26-28-111 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under Subsection (3) or (4) may include an examination of all medical and dental records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under Subsection (1), a procurement organization shall make a reasonable search for any person listed in Section 26-28-109 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to Subsection 26-28-111(9) and Section 26-28-123, the rights of the person to which a part passes under Section 26-28-111 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 26-28-111, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician or physician assistant who attends the decedent at death nor the physician or physician assistant who determines the time of the decedent's death may participate in

the procedures for removing or transplanting a part from the decedent.

(10) A physician, physician assistant, or technician may remove a donated part from the body of a donor that the physician, physician assistant, or technician is qualified to remove.

Section 25. Section 26-33a-102 is amended to read:

26-33a-102. Definitions.

As used in this chapter:

(1) “Committee” means the Health Data Committee created by Section 26-1-7.

(2) “Control number” means a number assigned by the committee to an individual’s health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) “Data supplier” means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this chapter.

(4) “Disclosure” or “disclose” means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

(5) “Executive director” means the director of the department.

(6) (a) “Health care facility” means a facility that is licensed by the department under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this chapter.

(7) “Health care provider” means any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or professional services as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(8) “Health data” means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26-2-2 shall be excluded.

(9) “Health maintenance organization” has the meaning set forth in Section 31A-8-101.

(10) “Identifiable health data” means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(11) “Individual” means a natural person.

(12) “Organization” means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

(13) “Research and statistical analysis” means activities using health data analysis including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the noncompliance among the various characteristics of individuals or organizations;

(c) conducting statistical procedures or studies to improve the quality of health data;

(d) designing sample surveys and selecting samples of individuals or organizations; and

(e) preparing and publishing reports describing these matters.

(14) “Self-funded employer” means an employer who provides for the payment of health care services for employees directly from the employer’s funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

(15) “Plan” means the plan developed and adopted by the Health Data Committee under Section 26-33a-104.

(16) “Third party payor” means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 18, Medical Assistance Act; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title

63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Section 26. Section 31A-22-624 is amended to read:

31A-22-624. Primary care physician or physician assistant.

An accident and health insurance policy that requires an insured to select a primary care physician to receive optimum coverage:

(1) shall permit an insured to select a participating provider who:

(a) is an:

(i) obstetrician;

(ii) gynecologist; ~~or~~

(iii) pediatrician; ~~and~~ or

(iv) physician assistant who works with a physician:

(A) providing primary care; or

(B) described in Subsections (1)(a)(i), (ii), or (iii); and

(b) is qualified and willing to provide primary care services, as defined by the health care plan, as the insured's provider from whom primary care services are received;

(2) shall clearly state in literature explaining the policy the option available to insureds under Subsection (1); and

(3) may not impose a higher premium, higher copayment requirement, or any other additional expense on an insured because the insured selected a primary care physician in accordance with Subsection (1).

Section 27. Section 41-1a-420 is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

(1) As used in this section:

(a) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner.

(c) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~(d)~~ (e) "Temporary wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability that is not permanent.

~~(e)~~ (f) "Walking disability" means a physical disability that requires the use of a walking-assistive device or wheelchair or similar low-powered motorized or mechanically propelled vehicle that is designed to specifically assist a person who has a limited or impaired ability to walk.

~~(f)~~ (g) "Wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability.

(2) (a) The division shall issue a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard to an applicant who is either:

(i) a qualifying person with a disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(b) The division shall issue a temporary wheelchair user placard or a wheelchair user placard to an applicant who is either:

(i) a qualifying person with a walking disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with walking disabilities.

(c) The division shall require that an applicant under Subsection (2)(b) certifies that the person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's walking-assistive device or wheelchair and requires a van accessible parking space.

(3) (a) The person with a disability shall ensure that the initial application contains the certification of a physician, physician assistant, or nurse practitioner that:

(i) the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

(ii) if the person is applying for a temporary wheelchair user placard or a wheelchair user placard, the applicant has a walking disability; and

(iii) specifies the period of time that the physician, physician assistant, or nurse practitioner determines the applicant will have the disability, not to exceed six months in the case of a temporary disability or a temporary walking disability.

(b) The division shall issue a disability special group license plate, a removable windshield

placard, or a wheelchair user placard, as applicable, to a person with a permanent disability.

(c) The issuance of a person with a disability special group license plate does not preclude the issuance to the same applicant of a removable windshield placard or wheelchair user placard.

(d) (i) On request of an applicant with a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard, the division shall issue one additional placard.

(ii) On request of a qualified applicant with a disability special group license plate, the division shall issue up to two temporary wheelchair user placards or two wheelchair user placards.

(iii) On request of a qualified applicant with a temporary wheelchair user placard or a wheelchair user placard, the division shall issue one additional placard.

(e) The division shall ensure that a temporary wheelchair user placard and a wheelchair user placard have the following visible features:

(i) a large "W" next to the internationally recognized disabled persons symbol; and

(ii) the words "Wheelchair User" printed on a portion of the placard.

(f) A disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space reserved for persons with a disability if:

(i) the person with a disability:

(A) is using a motorcycle; and

(B) displays on the motorcycle a disability special group license plate, temporary removable windshield placard, or a removable windshield placard;

(ii) the person who shares the parking space assists the person with a disability with the parking accommodation; and

(iii) the parking space is sufficient size to accommodate both motorcycles without interfering with other parking spaces or traffic movement.

(4) (a) When a vehicle is parked in a parking space reserved for persons with disabilities, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the placard is visible from the front of the vehicle.

(b) If a motorcycle is being used, the temporary removable windshield placard or removable windshield placard shall be displayed in plain sight on or near the handle bars of the motorcycle.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with this section;

(b) establish the maximum number of numerals or characters for a disability special group license plate;

(c) require all temporary removable windshield placards, removable windshield placards, temporary wheelchair user placards, and wheelchair user placards to include:

(i) an identification number;

(ii) an expiration date not to exceed:

(A) six months for a temporary removable windshield placard; and

(B) two years for a removable windshield placard; and

(iii) the seal or other identifying mark of the division.

(6) The commission shall insert the following on motor vehicle registration certificates:

"State law prohibits persons who do not lawfully possess a disability placard or disability special group license plate from parking in an accessible parking space designated for persons with disabilities. Persons who possess a disability placard or disability special group license plate are discouraged from parking in an accessible parking space designated as van accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

Section 28. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation

of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall:

(A) take the Utah license certificate or permit, if any, of the operator;

(B) issue a temporary license certificate effective for only 29 days from the date of arrest; and

(C) supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) A citation issued by a peace officer may, if provided in a manner specified by the Driver

License Division, also serve as the temporary license certificate.

(d) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

Section 29. Section 41-6a-523 is amended to read:

41-6a-523. Persons authorized to draw blood -- Immunity from liability.

(1) (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

~~(iii)~~ (iii) a registered nurse;

~~(iii)~~ (iv) a licensed practical nurse;

~~(iv)~~ (v) a paramedic;

~~(v)~~ (vi) as provided in Subsection (1)(b), emergency medical service personnel other than paramedics; or

~~(vi)~~ (vii) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section

26-8a-102, are authorized to draw blood under Subsection [(1)(a)(v)] (1)(a)(vi), based on the type of license under Section 26-8a-302.

(c) Subsection (1)(a) does not apply to taking a urine, breath, or oral fluid specimen.

(2) The following are immune from civil or criminal liability arising from drawing a blood sample from a person whom a peace officer has reason to believe is driving in violation of this chapter, if the sample is drawn in accordance with standard medical practice:

(a) a person authorized to draw blood under Subsection (1)(a); and

(b) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 30. Section 41-6a-1804 is amended to read:

41-6a-1804. Exceptions.

(1) This part does not apply to an operator or passenger of:

(a) a motor vehicle manufactured before July 1, 1966;

(b) a motor vehicle in which the operator or passengers possess a written verification from a licensed physician or physician assistant that the person is unable to wear a safety belt for physical or medical reasons; or

(c) a motor vehicle or seating position which is not required to be equipped with a safety belt system under federal law.

(2) This part does not apply to a passenger if all seating positions are occupied by other passengers.

(3) This part does not apply to a passenger of a public transit vehicle with a gross vehicle weight rating exceeding 10,000 pounds.

Section 31. Section 48-1d-102 is amended to read:

48-1d-102. Definitions.

As used in this chapter:

(1) "Business" includes every trade, occupation, and profession.

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-1d-501 which is provided by a person to a partnership to become a partner or in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) a comparable order under federal, state, or foreign law governing insolvency.

(4) "Distribution" means a transfer of money or other property from a partnership to a person on account of a transferable interest or in a person's capacity as a partner. The term:

(a) includes:

(i) a redemption or other purchase by a partnership of a transferable interest; and

(ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the partnership's activities and affairs or have access to records or other information concerning the partnership's activities and affairs; and

(b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(5) "Division" means the Division of Corporations and Commercial Code.

(6) "Foreign limited liability partnership" means a foreign partnership whose partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to Subsection 48-1d-306(3).

(7) "Foreign partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a partnership if formed under the law of this state. The term includes a foreign limited liability partnership.

(8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

(a) under whose law the entity is formed; or

(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.

(10) "Limited liability partnership," except in the phrase "foreign limited liability partnership," means a partnership that has filed a statement of qualification under Section 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.

(11) "Partner" means a person that:

(a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a partnership when the partnership became subject to this chapter under Section 48-1d-1405; and

(b) has not dissociated as a partner under Section 48-1d-701.

(12) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under this chapter or that becomes subject to this chapter under Part 10, Merger,

Interest Exchange, Conversion, and Domestication, or Section 48-1d-1405. The term includes a limited liability partnership.

(13) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1). The term includes the agreement as amended or restated.

(14) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(15) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(16) "Principal office" means the principal executive office of a partnership or a foreign limited liability partnership, whether or not the office is located in this state.

(17) "Professional services" means a personal service provided by:

(a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

(b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;

(c) an attorney granted the authority to practice law by the:

(i) Utah Supreme Court; or

(ii) one or more of the following that licenses or regulates the authority to practice law in a state or territory of the United States other than Utah:

(A) a supreme court;

(B) a court other than a supreme court;

(C) an agency;

(D) an instrumentality; or

(E) a regulating board;

(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or a subsequent law regulating the practice of chiropractics;

(e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist

Practice Act, or a subsequent law regulating the practice of dentistry;

(f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers or land surveyors;

(g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a subsequent law regulating the practice of naturopathy;

(h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;

(i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;

(j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of osteopathy;

(k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;

(l) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of medicine;

(m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, or a subsequent law regulating the practice as a physician assistant;

~~(n)~~ (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

~~(o)~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

~~(p)~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or a subsequent law regulating the practice of psychology;

~~(q)~~ (q) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale, exchange, purchase, rental, or leasing of real estate;

~~(r)~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social work;

~~(s)~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, or a subsequent law regulating the practice of mental health therapy;

~~(s)~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, or a subsequent law regulating the practice of veterinary medicine; or

~~(t)~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of appraising real estate.

(18) "Property" means all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.

(19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Registered agent" means an agent of a limited liability partnership or foreign limited liability partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the partnership.

(21) "Registered foreign limited liability partnership" means a foreign limited liability partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.

(22) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(24) "Transfer" includes:

(a) an assignment;

(b) a conveyance;

(c) a sale;

(d) a lease;

(e) an encumbrance, including a mortgage or security interest;

(f) a gift; and

(g) a transfer by operation of law.

(25) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(26) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

(27) "Tribal partnership" means a partnership:

(a) formed under the law of a tribe; and

(b) that is at least 51% owned or controlled by the tribe under whose law the partnership is formed.

(28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

Section 32. Section 48-3a-1101 is amended to read:

48-3a-1101. Definitions.

As used in this part:

(1) "Professional services" means a personal service provided by:

(a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

(b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;

(c) an attorney granted the authority to practice law by the:

(i) Utah Supreme Court; or

(ii) one or more of the following that licenses or regulates the authority to practice law in a state or territory of the United States other than Utah:

(A) a supreme court;

(B) a court other than a supreme court;

(C) an agency;

(D) an instrumentality; or

(E) a regulating board;

(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or any subsequent law regulating the practice of chiropractics;

(e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, or a subsequent law regulating the practice of dentistry;

(f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers and land surveyors;

(g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act,

or a subsequent law regulating the practice of naturopathy;

(h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;

(i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;

(j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of osteopathy;

(k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;

(l) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of medicine;

(m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, or a subsequent law regulating the practice as a physician assistant;

~~(m)~~ (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

~~(n)~~ (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

~~(o)~~ (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or any subsequent law regulating the practice of psychology;

~~(p)~~ (q) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale, exchange, purchase, rental, or leasing of real estate;

~~(q)~~ (r) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social work;

~~(r)~~ (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, or a subsequent law regulating the practice of mental health therapy;

~~(s)~~ (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, or a subsequent law regulating the practice of veterinary medicine; or

~~(t)~~ (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, or a

subsequent law regulating the practice of appraising real estate.

(2) "Regulating board" means the entity organized pursuant to state law that licenses and regulates the practice of the profession that a limited liability company is organized to provide.

Section 33. Section 49-12-601 is amended to read:

49-12-601. Disability retirement -- Medical examinations -- Reemployment of retirant with a disability -- Cancellation of benefit -- Service credit -- Retirant with a disability engaging in gainful employment -- Reduction of allowance -- Refusal to submit to medical examination.

(1) Only members of this system who became eligible for a disability retirement allowance before January 1, 1983, are covered under this section.

(2) (a) The board may, upon the recommendation of the administrator, require any retirant who has been retired for disability and who has not attained the age of 60 years, to undergo a medical examination by a physician, physician assistant, or surgeon, appointed by the board, at the place of residence of the retirant or other place mutually agreed upon.

(b) Upon the basis of the examination, the board shall determine whether the retirant with a disability is still incapacitated, physically or mentally, for service under this chapter.

(c) If the board determines that the retirant is not incapacitated, the retirement allowance shall be cancelled and the retirant shall be reinstated immediately to a position of the same class as that held by the retirant when retired for disability.

(d) If any employing unit is unable to reinstate the retirant, the board shall continue the disability retirement allowance of the retirant until employment is available.

(3) (a) If a retirant with a disability under this system reenters covered service and is eligible for membership in the retirement system, the retirement allowance shall be cancelled and the retirant shall immediately become a member of the retirement system.

(b) (i) The member's individual account shall be credited with an amount which is the actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the member's retirement allowance which was derived from the member's accumulated contributions.

(ii) The amount credited may not exceed the amount of accumulated contributions standing at the time of retirement.

(c) Each member shall receive credit for the service in the member's account at the time of retirement.

(4) If the retirement allowance of any retirant with a disability is cancelled for any cause other than reentry into service, the retirant shall be paid

the accumulated contributions less the amounts prescribed by Subsection (6).

(5) (a) If any member retired for disability engages in a gainful occupation prior to attaining age 60, the administrator shall reduce the amount of the retirement allowance to an amount which, when added to the compensation earned monthly by the retirant in that occupation, may not exceed the amount of the final average monthly salary on the basis of which the current service retirement allowance was determined.

(b) If the earning capacity of the retirant is further altered, the administrator may further alter the retirement allowance as provided in this Subsection (5).

(c) In no event, however, may the retirement benefit be reduced below that portion of the retirant's allowance derived from the retirant's own accumulated contributions.

(d) When the retirant reaches age 60, the retirement allowance shall be made equal to the amount upon which the retirant was originally retired and may not again be modified for any cause.

(6) (a) If any member who retired for disability under age 60, refuses to submit to a medical examination, the retirement allowance may be discontinued until the retirant withdraws that refusal.

(b) If the refusal continues for one year the disability status may be cancelled and membership terminated.

(c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent on the date of the retirant's change of status, based on a disabled life, of that portion of the disability retirement allowance which was derived from the retirant's accumulated contributions.

(ii) The amount credited may not exceed the amount of the retirant's accumulated contributions at the time of disability retirement.

Section 34. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

(c) The annual compensation used to calculate final average salary shall be based on:

(i) a calendar year for a member employed by a participating employer that is not an educational institution; or

(ii) a contract year for a member employed by an educational institution.

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(i) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.

(6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness which is diagnosed by a physician or physician assistant and which is based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Participating employer" means an employer which meets the participation requirements of Section 49-16-201.

(9) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) "System" means the Firefighters' Retirement System created under this chapter.

(12) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 35. Section 49-16-602 is amended to read:

**49-16-602. Disability retirement --
Disability allowance eligibility --
Conversion to service retirement --
Examinations -- Reemployment.**

(1) A member of this system who applies and is qualified for disability retirement shall receive a disability retirement benefit until the earlier of:

(a) the date the member of this system no longer has a disability;

(b) the date the member of this system has accumulated 20 years of firefighter service credit, including years earned while the member of this system had a disability; or

(c) the date the member of this system has received disability retirement benefits for the following time periods:

(i) if the member is under age 60 on the date of disability, the disability retirement benefit is payable until age 65;

(ii) if the member is 60 or 61 years of age on the date of disability, the disability retirement benefit is payable for five years;

(iii) if the member is 62 or 63 years of age on the date of disability, the disability retirement benefit is payable for four years;

(iv) if the member is 64 or 65 years of age on the date of disability, the disability retirement benefit is payable for three years;

(v) if the member is 66, 67, or 68 years of age on the date of disability, the disability retirement benefit is payable for two years; and

(vi) if the member is 69 years of age or older on the date of disability, the disability retirement benefit is payable for one year.

(2) (a) (i) The retiree with a disability shall receive service credit in this system during the period of disability.

(ii) If the retiree with a disability is employed by a participating employer during the period of disability, the retiree with a disability may not receive service credit for that employment.

(b) The disability retirement shall be converted to a service retirement at the time the disability retirement benefits terminate.

(3) The office shall approve or disapprove applications for disability retirement benefits based upon:

(a) the evaluation and recommendations of one or more treating physicians or physician assistants along with medical records relating to the condition;

(b) the evaluation and recommendations of one or more independent physicians or physician assistants selected by the office; and

(c) receipt of documentation by the office from the participating employer that the member is mentally or physically unable to perform firefighter service.

(4) (a) A retiree with a disability who receives benefits under this section shall, upon request of the executive director, submit to a medical examination by one or more physicians or physician assistants as directed by the office.

(b) If, after an examination, the examiners report that the retiree with a disability is physically and mentally able and capable of resuming firefighter service employment, the retiree with a disability shall be reinstated by the participating employer for which the retiree with a disability last worked at the former classification and rank of the retiree with a disability, and the disability retirement benefit shall terminate.

(c) A retiree with a disability may not be required to submit to an examination under this Subsection (4) more than once every year.

(d) A retiree with a disability who returns to firefighter service employment with a participating employer in this system shall immediately begin accruing service credit that shall be added to that service credit that has been previously accrued, including service credit while disabled.

(5) A retiree with a disability is not subject to medical examinations after reaching age 55.

(6) Refusal or neglect of a member to submit to an examination as requested by the office either before

or after a decision regarding disability benefits has been made is sufficient cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect continues for one year, the rights of the member or retiree with a disability to disability retirement benefits may be revoked by the office.

(7) (a) A retiree with a disability who receives benefits under this part shall file a sworn statement with the office on or before March 15 of each year for the first five years a retiree with a disability receives benefits.

(b) The sworn statement shall indicate whether or not the retiree with a disability engaged in any employment during the preceding year and, if so, the amount of earnings received during the calendar year.

(c) If the total amount received in one year by a retiree with a disability for disability retirement benefits and gross earnings from other employment exceeds 125% of the final average salary of the retiree with a disability, the office shall offset the disability retirement benefit paid the following year by the amount in excess of 125% of the final average salary of the retiree with a disability.

(d) (i) If a retiree with a disability refuses or neglects to file a sworn statement as required under this Subsection (7), the executive director may suspend payment of any and all benefits pending receipt of the statement.

(ii) Upon filing the statement, the payments of the retiree with a disability shall be resumed.

(8) The disability retirement benefit shall be improved by the annual cost-of-living increase factor applied to retirees of the system that covered the firefighter service employee at the time of disability.

(9) A line of duty disability allowance paid on or after January 1, 2002, under Section 49-16-601 is exempt from taxation to the extent permitted under federal law.

(10) (a) An active member of this system with five or more years of firefighter service credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease, lung disease, or respiratory tract disease.

(b) An active member of this system who receives a line-of-duty disability benefit for more than six months due to violence or illness other than heart disease, lung disease, or respiratory tract disease, and then returns to paid firefighter service, is not eligible for a line-of-duty death or disability benefit due to those diseases for two years after the member returned to paid firefighter service unless clear and convincing evidence is presented that the heart, lung, or respiratory tract disease was directly a result of firefighter service.

(11) Disability retirement benefits shall be considered an allowance for purposes of Section 49-11-701.

Section 36. Section 49-21-402 is amended to read:

49-21-402. Reduction or reimbursement of benefit -- Circumstances -- Application for other benefits required.

(1) A monthly disability benefit may be terminated unless:

(a) the eligible employee is under the ongoing care and treatment of a physician or physician assistant other than the eligible employee; and

(b) the eligible employee provides the information and documentation requested by the office.

(2) (a) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same injury or illness that is the basis for the monthly disability benefit from the following sources:

(i) workers' compensation indemnity benefits, regardless of whether the amount is received as an ongoing monthly benefit, as a lump sum, or in a settlement with a workers' compensation indemnity carrier;

(ii) any money received by judgment, legal action, or settlement from a third party liable to the employee for the monthly disability benefit;

(iii) automobile no-fault, medical payments, or similar insurance payments;

(iv) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; or

(v) annual leave or similar lump-sum payments.

(b) The monthly disability benefit shall be reduced or reimbursed by any amount received by, or payable to, the eligible employee for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit from the following sources:

(i) social security disability benefits, including all benefits received by the eligible employee, the eligible employee's spouse, and the eligible employee's children as determined by the Social Security Administration;

(ii) unemployment compensation benefits;

(iii) sick leave benefits; or

(iv) compensation received for employment, including self-employment, except for eligible amounts from approved rehabilitative employment in accordance with Section 49-21-406.

(3) The monthly disability benefit shall be reduced by any amount in excess of one-third of the eligible employee's regular monthly salary received by, or payable to, the eligible employee from the following sources for the same period of time during which the eligible employee is entitled to receive a monthly disability benefit:

(a) any retirement payment earned through or provided by public or private employment; and

(b) any disability benefit, other than social security or workers' compensation indemnity benefits, resulting from the disability for which benefits are being received under this chapter.

(4) After the date of disability, cost-of-living increases to any of the benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability benefit.

(5) Any amounts payable to the eligible employee from one or more of the sources under Subsection (2) are considered as amounts received whether or not the amounts were actually received by the eligible employee.

(6) (a) An eligible employee shall first apply for all disability benefits from governmental entities under Subsection (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the applications.

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

(7) During a period of total disability, an eligible employee has an affirmative duty to keep the program informed regarding:

(a) the award or receipt of an amount from a source that could result in the monthly disability benefit being reduced or reimbursed under this section within 10 days of the award or receipt of the amount; and

(b) any employment, including self-employment, of the eligible employee and the compensation for that employment within 10 days of beginning the employment or a material change in the compensation from that employment.

(8) The program shall use commercially reasonable means to collect any amounts of overpayments and reimbursements.

(9) (a) If the program is unable to reduce or obtain reimbursement for the required amount from the monthly disability benefit for any reason, the employee will have received an overpayment of monthly disability benefits.

(b) If an eligible employee receives an overpayment of monthly disability benefits, the eligible employee shall repay to the office the amount of the overpayment, plus interest as determined by the program, within 30 days from the date the overpayment is received by:

(i) the eligible employee; or

(ii) a third party related to the eligible employee.

(c) The executive director may waive the interest on an overpayment of monthly disability benefits under Subsection (9)(b) if good cause is shown for the delay in repayment of the overpayment of monthly disability benefits.

Section 37. Section 49-21-406 is amended to read:

49-21-406. Rehabilitative employment -- Interview by disability specialist --

Maintaining eligibility -- Additional treatment and care.

(1) (a) If an eligible employee, during a period of total disability for which the monthly disability benefit is payable, engages in approved rehabilitative employment, the monthly disability benefit otherwise payable shall be reduced:

(i) by an amount equal to 50% of the income to which the eligible employee is entitled for the employment during the month; and

(ii) so that the combined amount received from the rehabilitative employment and the monthly disability payment does not exceed 100% of the eligible employee's monthly salary prior to the employee's disability.

(b) This rehabilitative benefit is payable for up to two years or to the end of the maximum benefit period, whichever occurs first.

(2) (a) Each eligible employee receiving a monthly disability benefit shall be interviewed by the office.

(b) The office may refer the eligible employee to a rehabilitative or vocational specialist for a review of the eligible employee's condition and a written rehabilitation plan and return to work assistance.

(3) If an eligible employee receiving a monthly disability benefit fails to participate in an office-approved rehabilitation program within the limitations set forth by a physician or physician assistant, the monthly disability benefit may be suspended or terminated.

(4) The office may, as a condition of paying a monthly disability benefit, require that the eligible employee receive medical care and treatment if that treatment is reasonable or usual according to current medical practices.

Section 38. Section 53-2a-302 is amended to read:

53-2a-302. Definitions.

As used in this part:

(1) "Emergency responder":

(a) means a person in the public or private sector:

(i) who has special skills, qualification, training, knowledge, or experience, whether or not possessing a license, certificate, permit, or other official recognition for the skills, qualification, training, knowledge, or experience, that would benefit a participating political subdivision in responding to a locally declared emergency or in an authorized drill or exercise; and

(ii) whom a participating political subdivision requests or authorizes to assist in responding to a locally declared emergency or in an authorized drill or exercise; and

(b) includes:

(i) a law enforcement officer;

(ii) a firefighter;

(iii) an emergency medical services worker;

(iv) a physician, physician assistant, nurse, or other public health worker;

(v) an emergency management official;

(vi) a public works worker;

(vii) a building inspector;

(viii) an architect, engineer, or other design professional; or

(ix) a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

(2) "Participating political subdivision" means each county, municipality, public safety district, and public safety interlocal entity that has not adopted a resolution under Section 53-2a-306 withdrawing itself from the statewide mutual aid system.

(3) "Public safety district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, that provides public safety service.

(4) "Public safety interlocal entity" means an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act, that provides public safety service.

(5) "Public safety service" means a service provided to the public to protect life and property and includes fire protection, police protection, emergency medical service, and hazardous material response service.

(6) "Requesting political subdivision" means a participating political subdivision that requests emergency assistance under Section 53-2a-207 from one or more other participating political subdivisions.

(7) "Responding political subdivision" means a participating political subdivision that responds to a request under Section 53-2a-307 from a requesting political subdivision.

(8) "State" means the state of Utah.

(9) "Statewide mutual aid system" or "system" means the aggregate of all participating political subdivisions and the state.

Section 39. Section 53-10-405 is amended to read:

53-10-405. DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.

(1) (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).

(b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.

(2) (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:

- (i) a physician;
- (ii) a physician assistant;
- ~~[(iii)]~~ (iii) a registered nurse;
- ~~[(iii)]~~ (iv) a licensed practical nurse;
- ~~[(iv)]~~ (v) a paramedic;

~~[(v)]~~ (vi) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or

~~[(vi)]~~ (vii) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection ~~[(2)(a)(v)]~~ (2)(a)(vi), based on the type of license under Section ~~26-8a-302~~.

(c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.

(3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.

(4) A DNA specimen is not required to be obtained if:

(a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or

(b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Section 40. Section 53G-9-203 is amended to read:

53G-9-203. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent or guardian about that student,

including observations and concerns in the following areas:

- (i) progress;
- (ii) health and wellness;
- (iii) social interactions;
- (iv) behavior; or

(v) topics consistent with Subsection 53E-9-203(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and

(f) complete a behavioral health evaluation form if requested by a student's parent or guardian to provide information to a licensed physician or physician assistant.

(3) School personnel shall:

(a) report suspected child abuse consistent with Section 62A-4a-403;

(b) comply with applicable state and local health department laws, rules, and policies; and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:

(a) recommend to a parent or guardian that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

(c) recommend that a parent or guardian seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and

Family Services, solely or primarily on the basis that a parent or guardian refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the State Board of Education, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

(d) provide to a parent or guardian, upon the specific request of the parent or guardian, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent or guardian.

Section 41. Section 53G-9-208 is amended to read:

53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.

(1) As used in this section, "sunscreen" means a compound topically applied to prevent sunburn.

(2) A public school shall permit a student, without a ~~[parent or physician's]~~ parent's physician's, or physician assistant's authorization, to possess or self-apply sunscreen that is regulated by the Food and Drug Administration.

(3) If a student is unable to self-apply sunscreen, a volunteer school employee may apply the sunscreen on the student if the student's parent or legal guardian provides written consent for the assistance.

(4) A volunteer school employee who applies sunscreen on a student in compliance with Subsection (3) and the volunteer school employee's employer are not liable for:

(a) an adverse reaction suffered by the student as a result of having the sunscreen applied; or

(b) discontinuing the application of the sunscreen at any time.

Section 42. Section 53G-9-504 is amended to read:

53G-9-504. Administration of glucagon -- Training of volunteer school personnel -- Authority to use glucagon -- Immunity from liability.

(1) As used in this section, "glucagon authorization" means a signed statement from a parent or guardian of a student with diabetes:

(a) certifying that glucagon has been prescribed for the student;

(b) requesting that the student's public school identify and train school personnel who volunteer to be trained in the administration of glucagon in accordance with this section; and

(c) authorizing the administration of glucagon in an emergency to the student in accordance with this section.

(2) (a) A public school shall, within a reasonable time after receiving a glucagon authorization, train two or more school personnel who volunteer to be trained in the administration of glucagon, with training provided by the school nurse or another qualified, licensed medical professional.

(b) A public school shall allow all willing school personnel to receive training in the administration of glucagon, and the school shall assist and may not obstruct the identification or training of volunteers under this Subsection (2).

(c) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design a glucagon authorization form to be used by public schools in accordance with this section.

(3) (a) Training in the administration of glucagon shall include:

(i) techniques for recognizing the symptoms that warrant the administration of glucagon;

(ii) standards and procedures for the storage and use of glucagon;

(iii) other emergency procedures, including calling the emergency 911 number and contacting, if possible, the student's parent or guardian; and

(iv) written materials covering the information required under this Subsection (3).

(b) A school shall retain for reference the written materials prepared in accordance with Subsection (3)(a)(iv).

(4) A public school shall permit a student or school personnel to possess or store prescribed glucagon so that it will be available for administration in an emergency in accordance with this section.

(5) (a) A person who has received training in accordance with this section may administer glucagon at a school or school activity to a student with a glucagon authorization if:

(i) the student is exhibiting the symptoms that warrant the administration of glucagon; and

(ii) a licensed health care professional is not immediately available.

(b) A person who administers glucagon in accordance with Subsection (5)(a) shall direct a responsible person to call 911 and take other appropriate actions in accordance with the training materials retained under Subsection (3)(b).

(6) School personnel who provide or receive training under this section and act in good faith are not liable in any civil or criminal action for any act taken or not taken under the authority of this section with respect to the administration of glucagon.

(7) Section 53G-9-502 does not apply to the administration of glucagon in accordance with this section.

(8) Section 53G-8-205 does not apply to the possession and administration of glucagon in accordance with this section.

(9) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist who, in good faith, trains nonlicensed volunteers to administer glucagon in accordance with this section.

Section 43. Section 53G-9-505 is amended to read:

53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.

(c) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent or legal guardian has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(d) (i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(e) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2) (a) The Department of Health shall, with input from the State Board of Education and a

children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student's parent or legal guardian;

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed health care professional.

(3) (a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10) (a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 44. Section 54-8b-10 is amended to read:

54-8b-10. Imposing a surcharge to provide deaf, hard of hearing, and speech impaired individuals with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

(1) As used in this section:

(a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) a licensed physician assistant;

~~(B)~~ (C) an otolaryngologist;

~~(C)~~ (D) a speech language pathologist;

~~(D)~~ (E) an audiologist; or

~~(E)~~ (F) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf,

hard of hearing, or severely speech impaired individual to use the telephone.

(ii) "Telecommunication device" includes:

(A) telecommunication devices for the deaf (TDD);

(B) telephone amplifiers;

(C) telephone signal devices;

(D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

(2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.

(5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:

(a) for the purchase, maintenance, repair, and distribution of telecommunication devices;

(b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

(c) for the general administration of the program;

(d) to train individuals in the use of telecommunications devices; and

(e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(i) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or

(ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).

(7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

Section 45. Section 58-1-307 is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the individual holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified individuals;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to

the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods; and

(j) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, provided:

(i) the spouse holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division; and

(ii) the license is current and the spouse is in good standing in the state of licensure.

(2) (a) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice.

(b) Violation of a limitation imposed by this section constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of individuals who are licensed in another state for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for individuals who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure Compact;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act; and

(vii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(c) suspend the requirements for licensure under this title and modify the scope of practice in the circumstances described in this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be licensed under Section 26-8a-302;

(d) suspend requirements in Subsections 58-17b-620(3) through (6) which require certain prescriptive procedures;

(e) exempt or modify the requirement for licensure of an individual who is activated as a member of a medical reserve corps during a time of emergency as provided in Section 26A-1-126; and

(f) exempt or modify the requirement for licensure of an individual who is registered as a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

(5) Individuals exempt under Subsection (4)(c) and individuals operating under modified scope of practice provisions under Subsection (4)(b):

(a) are exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for:

(i) a local or state department of health; or

(ii) a host entity as defined in Section 26-49-102.

(6) In accordance with the protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health or a local health department shall coordinate with public safety authorities as defined in Subsection 26-23b-110(1) and may:

(a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance to prevent or treat a disease or condition that gave rise to, or was a consequence of, the emergency; or

(b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not a controlled substance:

(i) if necessary, to replenish a commercial pharmacy in the event that the commercial pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication is exhausted; or

(ii) for dispensing or direct administration to treat the disease or condition that gave rise to, or was a consequence of, the emergency by:

(A) a pharmacy;

(B) a prescribing practitioner;

(C) a licensed health care facility;

(D) a federally qualified community health clinic; or

(E) a governmental entity for use by a community more than 50 miles from a person described in Subsections (6)(b)(ii)(A) through (D).

(7) In accordance with protocols established under Subsection (8), upon the declaration of a national, state, or local emergency, the Department of Health shall coordinate the distribution of medications:

(a) received from the strategic national stockpile to local health departments; and

(b) from local health departments to emergency personnel within the local health departments' geographic region.

(8) The Department of Health shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing, and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance in the event of a declaration of a national, state, or local emergency. The protocol shall establish procedures for the Department of Health or a local health department to:

(a) coordinate the distribution of:

(i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance received by the Department of Health from the strategic national stockpile to local health departments; and

(ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication received by a local health department to emergency personnel within the local health department's geographic region;

(b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a controlled substance to the contact of a patient without a patient-practitioner relationship, if the contact's condition is the same as that of the physician's or physician assistant's patient; and

(c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral, an antibiotic, or other non-controlled prescription medication to an individual who:

(i) is working in a triage situation;

(ii) is receiving preventative or medical treatment in a triage situation;

(iii) does not have coverage for the prescription in the individual's health insurance plan;

(iv) is involved in the delivery of medical or other emergency services in response to the declared national, state, or local emergency; or

(v) otherwise has a direct impact on public health.

(9) The Department of Health shall give notice to the division upon implementation of the protocol established under Subsection (8).

Section 46. Section 58-41-4 is amended to read:

58-41-4. Exemptions from chapter.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, ~~from~~ engaging in the profession for which he is licensed;

(b) a medical doctor, physician, physician assistant, or surgeon licensed in this state, ~~from~~ engaging in his or her specialty in the practice of medicine;

(c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons under the age of 18 years except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the State Board of Education while performing specifically the functions of a speech-language pathologist or audiologist, in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and only in the academic interest of the schools by which employed in this state;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and in the specific interest of that agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other

compensation, without being licensed; however, such person may elect to be subject to the requirements of this chapter;

(g) a person employed by accredited colleges or universities as a speech-language pathologist or audiologist from performing the services or functions described in this chapter when they are:

(i) performed solely as an assigned teaching function of employment;

(ii) solely in academic interest and pursuit as a function of that employment;

(iii) in no way for their own interest; and

(iv) provided for no fee, monetary or otherwise, other than their agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided those activities constitute an assigned, directed, and supervised part of his curricular study, and in no other interest, and that all examinations, tests, histories, charts, progress notes, reports, correspondence, and all documents and records which he produces be identified clearly as having been conducted and prepared by a student in training and that such a person is obviously identified and designated by appropriate title clearly indicating the training status and provided that he does not hold himself out directly or indirectly as being qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by a licensed medical doctor to perform solely for him while under his direct supervision, the elementary conventional audiometric tests of air conduction screening, air conduction threshold testing, and tympanometry;

(j) a person while performing as a speech-language pathologist or audiologist for the purpose of obtaining required professional experience under the provisions of this chapter, if he meets all training requirements and is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology. This provision is applicable only during the time that person is obtaining the required professional experience;

(k) a corporation, partnership, trust, association, group practice, or like organization engaging in speech-language pathology or audiology services without certification or license, if it acts only through employees or consists only of persons who are licensed under this chapter;

(l) performance of speech-language pathology or audiology services in this state by a speech-language pathologist or audiologist who is not a resident of this state and is not licensed under this chapter if those services are performed for no more than one month in any calendar year in

association with a speech-language pathologist or audiologist licensed under this chapter, and if that person meets the qualifications and requirements for application for licensure described in Section 58-41-5; and

(m) a person certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf, from providing the services or performing the functions he is certified to perform.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech-language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech-language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section 47. Section 58-46a-305 is amended to read:

58-46a-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts and practices included within the definition of practice as a hearing instrument specialist or hearing instrument intern, subject to their professional licensure authorization and restrictions, without being licensed under this chapter:

(1) an audiologist licensed under the provisions of ~~[Title 58,] Chapter 41, Speech-Language Pathology and Audiology Licensing Act; and~~

(2) a physician and surgeon licensed under the provisions of ~~[Title 58,] Chapter 67, Utah Medical Practice Act, or osteopathic physician licensed under the provisions of [Title 58,] Chapter 68, Utah Osteopathic Medical Practice Act[.]; and~~

(3) a physician assistant licensed under the provisions of Chapter 70a, Utah Physician Assistant Act.

Section 48. Section 58-46a-502 is amended to read:

58-46a-502. Additional requirements for practicing as a hearing instrument specialist.

A person engaging in the practice of a hearing instrument specialist shall:

(1) have a regular place or places of business from which the person conducts business as a hearing instrument specialist and the place or places of business shall be represented to a patient and others with whom business is conducted by the street address at which the place of business is located;

(2) include in all advertising or other representation the street address at which the business is located and the telephone number of the business at that street address;

(3) provide as part of each transaction between a licensee and a patient related to testing for hearing loss and selling of a hearing instrument written documentation provided to the patient that includes:

(a) identification of all services and products provided to the patient by the hearing instrument specialist and the charges for each service or product;

(b) a statement whether any hearing instrument provided to a patient is “new,” “used,” or “reconditioned” and the terms and conditions of any warranty or guarantee that applies to each instrument; and

(c) the identity and license number of each hearing instrument specialist or hearing instrument intern who provided services or products to the patient;

(4) before providing services or products to a patient:

(a) advise the patient regarding services and products offered to the patient, including the expected results of the services and products;

(b) inform each patient who is being offered a hearing instrument about hearing instruments that work with assistive listening systems that are compliant with the ADA Standards for Accessible Design adopted by the United States Department of Justice in accordance with the Americans with Disabilities Act, 42 U.S.C. Sec. 12101 et seq.; and

(c) obtain written informed consent from the patient regarding offered services, products, and the expected results of the services and products in a form approved by the division in collaboration with the board;

(5) refer all individuals under the age of 18 who seek testing of hearing to a physician or surgeon, osteopathic physician, physician assistant, or audiologist, licensed under the provisions of [Title 58, Occupations and Professions] this title, and shall dispense a hearing aid to that individual only on prescription of a physician or surgeon, osteopathic physician, physician assistant, or audiologist;

(6) obtain the patient’s informed consent and agreement to purchase the hearing instrument based on that informed consent either by the hearing instrument specialist or the hearing instrument intern, before designating an appropriate hearing instrument; and

(7) if a hearing instrument does not substantially enhance the patient’s hearing consistent with the representations of the hearing instrument specialist at the time informed consent was given prior to the sale and fitting of the hearing instrument, provide:

(a) necessary intervention to produce satisfactory hearing recovery results consistent with representations made; or

(b) for the refund of fees paid by the patient for the hearing instrument to the hearing instrument specialist within a reasonable time after finding that the hearing instrument does not substantially enhance the patient’s hearing.

Section 49. Section 58-47b-304 is amended to read:

58-47b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) a physician or surgeon licensed under [Title 58,] Chapter 67, Utah Medical Practice Act;

(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

~~(b)~~ (c) a nurse licensed under [Title 58,] Chapter 31b, Nurse Practice Act, or under [Title 58,] Chapter 44a, Nurse Midwife Practice Act;

~~(e)~~ (d) a physical therapist licensed under [Title 58,] Chapter 24b, Physical Therapy Practice Act;

~~(d)~~ (e) a physical therapist assistant licensed under [Title 58,] Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

~~(e)~~ (f) an osteopathic physician or surgeon licensed under [Title 58,] Chapter 68, Utah Osteopathic Medical Practice Act;

~~(f)~~ (g) a chiropractic physician licensed under [Title 58,] Chapter 73, Chiropractic Physician Practice Act;

~~(g)~~ (h) a hospital staff member employed by a hospital, who practices massage as part of the staff member’s responsibilities;

~~(h)~~ (i) an athletic trainer licensed under [Title 58,] Chapter 40a, Athletic Trainer Licensing Act;

(i) (j) a student in training enrolled in a massage therapy school approved by the division;

(j) (k) a naturopathic physician licensed under [Title 58,] Chapter 71, Naturopathic Physician Practice Act;

~~(k)~~ (l) an occupational therapist licensed under [Title 58,] Chapter 42a, Occupational Therapy Practice Act;

(l) (m) an individual performing gratuitous massage; and

~~(m)~~ (n) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division, and that represents a profession with established standards and ethics;

(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet, and outer ears only, including the practice of reflexology and foot zone therapy; or

(B) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy;

(iii) whose clients remain fully clothed from the shoulders to the knees; and

(iv) whose clients do not receive gratuitous massage from the individual.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) require insurance coverage or reimbursement for massage therapy from third party payors; or

(b) prevent an insurance carrier from offering coverage for massage therapy.

Section 50. Section 58-70a-101 is amended to read:

CHAPTER 70a. UTAH PHYSICIAN ASSISTANT ACT

Part 1. General Provisions

58-70a-101. Title.

This chapter is known as the “Utah Physician Assistant Act.”

Section 51. Section 58-70a-305 is amended to read:

58-70a-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts included within the definition of practice as a physician assistant, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) a student enrolled in an accredited physician assistant education program while engaged in activities as a physician assistant:

(a) that are a part of the education program;

(b) that are conducted at an affiliated medical facility under the direct supervision of a:

(i) physician associated with the program; or

(ii) licensed physician assistant~~[, at the request of the supervising physician and on a temporary basis, as defined by rule]~~ associated with the medical faculty;

(c) for which the program accepts in writing the responsibility for the student; and

(2) a “medical assistant,” as defined in Sections 58-67-102 and 58-68-102, who:

(a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any person; and

(b) for whom the supervising physician accepts responsibility.

Section 52. Section 58-75-304 is amended to read:

58-75-304. Exemptions from licensure.

In addition to the exemptions from licensure set forth in Section 58-1-307, the following persons may engage in the practice of genetic counseling subject to the stated circumstances and limitations without being licensed under this chapter:

(1) an individual licensed as a physician and surgeon or osteopathic physician and surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act; ~~[and]~~

(2) a commissioned physician or surgeon serving in the armed forces of the United States or other federal agency~~[-]~~; and

(3) an individual licensed as a physician assistant under Chapter 70a, Utah Physician Assistant Act.

Section 53. Section 62A-4a-406 is amended to read:

62A-4a-406. Photographs.

(1) Any physician, surgeon, physician assistant, medical examiner, peace officer, law enforcement official, or public health officer or official may take photographs of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.

(2) Photographs may be taken of the premises or of objects relevant to a reported circumstance of abuse or neglect.

(3) Photographs or X-rays, and all other medical records pertinent to an investigation for abuse or neglect shall be made available to the division, law enforcement officials, and the court.

Section 54. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care

provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsection 63G-2-302(1)(j) or (k), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal

representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(u).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the records committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under

Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.

(11) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(e).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

(12) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection (12)(a) shall retain its character as private, protected, or controlled.

Section 55. Section 63N-10-102 is amended to read:

63N-10-102. Definitions.

As used in this chapter:

(1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

(i) the rules of the contest are not approved by the commission;

(ii) a licensed physician [or], osteopath, or physician assistant approved by the commission is not in attendance;

(iii) a correct HIV negative test regarding each contestant has not been provided to the commission;

(iv) the contest is not conducted in accordance with commission rules; or

(v) the contestants are not matched by the weight standards established in accordance with Section 63N-10-316.

(b) "Club fighting" does not include sparring if:

(i) it is conducted for training purposes;

(ii) no tickets are sold to spectators;

(iii) no concessions are available for spectators;

(iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and

(v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:

(a) attend and supervise a particular contest; and

(b) act on the behalf of the commission at a contest venue.

(8) "Director" means the director appointed by the commission.

(9) "Elimination unarmed combat contest" means a contest where:

(a) a number of contestants participate in a tournament;

(b) the duration is not more than 48 hours; and

(c) the loser of each contest is eliminated from further competition.

(10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.

(11) "Judge" means an individual qualified by training or experience to:

(a) rate the performance of contestants;

(b) score a contest; and

(c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.

(12) "Licensee" means an individual licensed by the commission to act as a:

(a) contestant;

(b) judge;

(c) manager;

(d) promoter;

(e) referee;

(f) second; or

(g) other official established by the commission by rule.

(13) "Manager" means an individual who represents a contestant for the purpose of:

(a) obtaining a contest for a contestant;

(b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or

(c) arranging for a second for the contestant at a contest.

(14) "Promoter" means a person who engages in producing or staging contests and promotions.

(15) "Promotion" means a single contest or a combination of contests that:

(a) occur during the same time and at the same location; and

(b) is produced or staged by a promoter.

(16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.

(17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:

(a) enforcing the rules relating to the contest;

(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and

(c) acting as a judge if so designated by the commission.

(18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.

(19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.

(20) "Serious bodily injury" has the same meaning as defined in Section 76-1-601.

(21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.

(22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:

(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;

(b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;

(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

(23) (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or

(h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than \$35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;

(vii) the contest is no longer than three rounds of no longer than three minutes each; and

(viii) no winner or loser is declared or recorded.

Section 56. Section 63N-10-301 is amended to read:

63N-10-301. Licensing.

(1) A license is required for a person to act as or to represent that the person is:

(a) a promoter;

(b) a manager;

(c) a contestant;

(d) a second;

(e) a referee;

(f) a judge; or

(g) another official established by the commission by rule.

(2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:

(a) promoter;

(b) manager;

(c) contestant;

(d) second;

(e) referee;

(f) judge; or

(g) another official who meets the requirements established by rule under Subsection (1)(g).

(3) All money collected under this section and Sections 63N-10-304, 63N-10-307, 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission expenses.

(4) Each applicant for licensure as a promoter shall:

(a) submit an application in a form prescribed by the commission;

(b) pay the fee determined by the commission under Section 63J-1-504;

(c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;

(d) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(5) Each applicant for licensure as a contestant shall:

(a) be not less than 18 years of age at the time the application is submitted to the commission;

(b) submit an application in a form prescribed by the commission;

(c) pay the fee established by the commission under Section 63J-1-504;

(d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon or physician assistant certifying that the applicant is free from any physical or mental

condition that indicates the applicant should not engage in activity as a contestant;

(e) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(6) Each applicant for licensure as a manager or second shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(7) Each applicant for licensure as a referee or judge shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

(e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material effect on the integrity of a contest held under this chapter.

(9) (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

(b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Section 57. Section 67-5b-105 is amended to read:

67-5b-105. Local advisory boards -- Membership.

(1) The cooperating public agencies and other persons shall make up each center's local advisory board, which shall be composed of the following people from the county or area:

(a) the local center director or the director's designee;

(b) a district attorney or county attorney having criminal jurisdiction or any designee;

(c) a representative of the attorney general's office, designated by the attorney general;

(d) at least one official from a local law enforcement agency or the local law enforcement agency's designee;

(e) the county executive or the county executive's designee;

(f) a licensed nurse practitioner, physician assistant, or physician;

(g) a licensed mental health professional;

(h) a criminal defense attorney;

(i) at least four members of the community at large provided, however, that the Advisory Board on Children's Justice may authorize fewer members, although not less than two, if the local advisory board so requests;

(j) a guardian ad litem or representative of the Office of Guardian Ad Litem, designated by the director;

(k) a representative of the Division of Child and Family Services within the Department of Human Services, designated by the employee of the division who has supervisory responsibility for the county served by the center;

(l) if a center serves more than one county, one representative from each county served, appointed by the county executive; and

(m) additional members appointed as needed by the county executive.

(2) The members on each local advisory board who serve due to public office as provided in Subsections (1)(b) through (e) shall select the remaining members. The members on each local advisory board shall select a chair of the local advisory board.

(3) The local advisory board may not supersede the authority of the contracting county as designated in Section 67-5b-104.

(4) Appointees and designees shall serve a term or terms as designated in the bylaws of the local advisory board.

Section 58. Section 67-5b-106 is amended to read:

67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms -- Duties -- Authority.

(1) The attorney general shall create an Advisory Board on Children's Justice to advise him about the Children's Justice Center Program.

(2) The board shall be composed of:

(a) the director of each Children's Justice Center;

(b) the attorney general or the attorney general's designee;

(c) a representative of the Utah Sheriffs Association, appointed by the attorney general;

(d) a chief of police, appointed by the attorney general;

(e) one juvenile court judge and one district court judge, appointed by the chief justice of the Supreme Court;

(f) one representative of the Office of Guardian Ad Litem and one representative of the Court Appointed Special Advocates, appointed by the chief justice of the Supreme Court;

(g) a designated representative of the Division of Child and Family Services within the Department

of Human Services, appointed by the director of that division;

(h) a licensed mental health professional, appointed by the attorney general;

(i) a person experienced in working with children with disabilities, appointed by the attorney general;

(j) one criminal defense attorney, licensed by the Utah State Bar and in good standing, appointed by the Utah Bar Commission;

(k) one criminal prosecutor, licensed by the Utah State Bar and in good standing, appointed by the Utah Prosecution Council;

(l) a member of the governor's staff, appointed by the governor;

(m) a member from the public, appointed by the attorney general, who exhibits sensitivity to the concerns of parents;

(n) a licensed nurse practitioner, physician assistant, or physician, appointed by the attorney general;

(o) one senator, appointed by the president of the Senate;

(p) one representative, appointed by the speaker of the House; and

(q) additional members appointed as needed by the attorney general.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The Advisory Board on Children's Justice shall:

(a) coordinate and support the statewide purpose of the program;

(b) recommend statewide guidelines for the administration of the program;

(c) recommend training and improvements in training;

(d) review, evaluate, and make recommendations concerning state investigative, administrative, and judicial handling in child abuse cases;

(e) recommend programs to improve the prompt and fair resolution of civil and criminal court proceedings; and

(f) recommend changes to state laws and procedures to provide comprehensive protection for children from abuse, child sexual abuse, neglect, and other crimes involving children where the child

is a primary victim or a critical witness, such as in drug-related child endangerment cases.

(5) The Advisory Board on Children's Justice may not supersede the authority of contracting counties regarding operation of the centers, including the budget, costs, personnel, and management pursuant to Section 67-5b-104 and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 59. Section 76-5-406 is amended to read:

76-5-406. Sexual offenses against the victim without consent of victim -- Circumstances.

An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, sodomy, attempted sodomy, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

(1) the victim expresses lack of consent through words or conduct;

(2) the actor overcomes the victim through the actual application of physical force or violence;

(3) the actor is able to overcome the victim through concealment or by the element of surprise;

(4) (a) (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or

(ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;

(b) as used in this Subsection (4), "to retaliate" includes threats of physical force, kidnapping, or extortion;

(5) the actor knows the victim is unconscious, unaware that the act is occurring, or physically unable to resist;

(6) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:

(a) appraise the nature of the act;

(b) resist the act;

(c) understand the possible consequences to the victim's health or safety; or

(d) appraise the nature of the relationship between the actor and the victim.

(7) the actor knows that the victim submits or participates because the victim erroneously believes that the actor is the victim's spouse;

(8) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;

(9) the victim is younger than 14 years of age;

(10) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;

(11) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2) or (4); or

(12) the actor is a health professional or religious counselor, as those terms are defined in this Subsection (12), the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested; for purposes of this Subsection (12):

(a) "health professional" means an individual who is licensed or who holds himself or herself out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling including, but not limited to, a physician, osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor; and

(b) "religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.

Section 60. Section 77-23-213 is amended to read:

77-23-213. Blood testing.

(1) As used in this section:

(a) "Law enforcement purpose" means duties that consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of this state's political subdivisions.

(b) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer Classification.

(2) A peace officer may require an individual to submit to a blood test for a law enforcement purpose only if:

(a) the individual or legal representative of the individual with authority to give consent gives oral or written consent to the blood test;

(b) the peace officer obtains a warrant to administer the blood test; or

(c) a judicially recognized exception to obtaining a warrant exists as established by the Utah Court of Appeals, Utah Supreme Court, Court of Appeals of the Tenth Circuit, or the Supreme Court of the United States.

(3) (a) Only the following, acting at the request of a peace officer, may draw blood to determine the blood's alcohol or drug content:

(i) a physician;

(ii) a physician assistant;

~~(iii)~~ (iii) a registered nurse;

~~(iiii)~~ (iv) a licensed practical nurse;

~~(ivv)~~ (v) a paramedic;

~~(vv)~~ (vi) as provided in Subsection (3)(b), emergency medical service personnel other than a paramedic; or

~~(vvi)~~ (vii) a person with a valid permit issued by the Department of Health under Section 26-1-30.

(b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection ~~[(3)(a)(v)]~~ (3)(a)(vi), based on the type of license under Section ~~26-8a-302~~.

(c) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer requests, for law enforcement purposes, if the sample is drawn in accordance with standard medical practice:

(i) a person authorized to draw blood under Subsection (3)(a); and

(ii) if the blood is drawn at a hospital or other medical facility, the medical facility.

Section 61. Section 78B-1-137 is amended to read:

78B-1-137. Witnesses -- Privileged communications.

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

(1) (a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.

(b) This exception does not apply:

(i) to a civil action or proceeding by one spouse against the other;

(ii) to a criminal action or proceeding for a crime committed by one spouse against the other;

(iii) to the crime of deserting or neglecting to support a spouse or child;

(iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or

(v) if otherwise specifically provided by law.

(2) An attorney cannot, without the consent of the client, be examined as to any communication made by the client to the attorney or any advice given regarding the communication in the course of the professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any fact, the knowledge of which has been acquired as an employee.

(3) A member of the clergy or priest cannot, without the consent of the person making the confession, be examined as to any confession made to either of them in their professional character in the course of discipline enjoined by the church to which they belong.

(4) A physician [ø], surgeon, or physician assistant cannot, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable the physician [ø], surgeon, or physician assistant to prescribe or act for the patient. However, this privilege shall be waived by the patient in an action in which the patient places the patient's medical condition at issue as an element or factor of the claim or defense. Under those circumstances, a physician [ø], surgeon, or physician assistant who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.

(5) A public officer cannot be examined as to communications made in official confidence when the public interests would suffer by the disclosure.

(6) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 77-38-203 made by the victim.

Section 62. Section 78B-2-114 is amended to read:

78B-2-114. Separate trial of statute of limitations issue in malpractice actions.

(1) An issue raised by the defense regarding the statute of limitations in a case may be tried separately if the action is for professional negligence or for rendering professional services without consent, and against:

(a) a physician;

(b) a surgeon;

(c) a physician assistant;

[~~(e)~~] (d) a dentist;

[~~(d)~~] (e) an osteopathic physician;

[~~(e)~~] (f) a chiropractor;

[~~(f)~~] (g) a physical therapist;

[~~(g)~~] (h) a registered nurse;

[~~(h)~~] (i) a clinical laboratory bioanalyst;

[~~(i)~~] (j) a clinical laboratory technologist; or

[~~(j)~~] (k) a licensed hospital, person, firm, or corporation as the employer of any of the persons in Subsection (1)(a) through [~~(k)~~] (j).

(2) The issue raised may be tried before any other issues in the case are tried. If the issue raised by the defense of the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried.

Section 63. Section 78B-3-403 is amended to read:

78B-3-403. Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.

(8) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(9) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.

(10) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider

for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(11) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

(12) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(13) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

(15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

(16) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

(17) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

(18) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

(19) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

(21) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

(22) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(23) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

(24) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

(25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

(26) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

(27) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

(28) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

(29) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~[(29)]~~ (30) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

~~[(30)]~~ (31) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(31)]~~ (32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

~~[(32)]~~ (33) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

~~[(33)]~~ (34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

~~[(34)]~~ (35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

[~~(35)~~] (36) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

[~~(36)~~] (37) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

[~~(37)~~] (38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

[~~(38)~~] (39) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

CHAPTER 350**S. B. 210**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

REVISED ATHLETIC AGENT ACT

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions of the Revised Uniform Athlete Agents Act.

Highlighted Provisions:

This bill:

- ▶ modifies provisions related to prohibited conduct for an athlete agent; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-87-401, as last amended by Laws of Utah 2018, Chapter 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-87-401 is amended to read:**58-87-401. Prohibited conduct.**

(1) ~~[An]~~ Subject to Subsection (3), an athlete agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

(a) give materially false or misleading information or make a materially false promise or representation;

(b) furnish anything of value to the athlete before the athlete enters into the contract; or

(c) furnish anything of value to an individual other than the athlete or another registered athlete agent.

(2) An athlete agent may not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

(a) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter into an agency contract unless registered under this chapter;

(b) fail to create or retain or to permit inspection of the records required by Section 58-87-304;

(c) fail to register when required by Section 58-87-201;

(d) provide materially false or misleading information in an application for registration or renewal of registration;

(e) predate or postdate an agency contract; or

(f) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

(3) An athlete agent registered under this chapter who is certified as an athlete agent in a particular sport by a national association that promotes or regulates intercollegiate athletics and establishes eligibility standards for participation by a student athlete in the sport may pay expenses incurred before the signing of an agency contract by a student athlete, a family member of the student athlete, and an individual who is a member of a class of individuals authorized to receive payment for the expenses by the national association that certified the agent if the expenses are:

(a) for the benefit of an athlete who is a member of a class of athletes authorized to receive the benefit by the national association that certified the agent;

(b) of a type authorized to be paid by a certified agent by the national association that certified the agent; and

(c) for a purpose authorized by the national association that certified the agent.

CHAPTER 351**S. B. 211**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**TAX ADMINISTRATIVE
 REMEDIES AMENDMENTS**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies provisions related to exhausting administrative remedies in a tax proceeding.

Highlighted Provisions:

This bill:

- ▶ requires a party in a tax proceeding to request a formal hearing before the State Tax Commission to exhaust all of the party's administrative remedies; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-1-502.5, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

59-1-612, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-502.5 is amended to read:

59-1-502.5. Initial hearing -- Formal hearing to exhaust administrative remedies.

(1) At least 30 days before any formal hearing is held in response to a party's request for agency action, one or more tax commissioners or an administrative law judge designated by the commission shall hold an initial hearing ~~shall be held before one or more tax commissioners or an administrative law judge designated by the commission~~ at which proffers of evidence, including testimony, documents, and other exhibits may be made and oral or written argument on legal issues may be received.

(2) Any party participating in an initial hearing shall have the right to informal discovery under any rules established by the commission.

(3) ~~[Parties]~~ A party may appear at the initial hearing in person or through ~~[agents, employees, or other representatives]~~ an agent, an employee, or another representative, but any person appearing on behalf of another party or entity shall have full settlement authority on behalf of the party the person is representing.

(4) A record may not be kept of the initial hearing and all initial hearing proceedings are privileged and do not constitute admissions against interest of any party participating in the hearing.

(5) At the initial hearing, or as soon thereafter as reasonably practicable, the commission may take any action ~~[it]~~ the commission deems appropriate to settle, compromise, or reduce the deficiency, or adjust the assessed valuation of any property.

(6) Nothing in this section may limit a party's right to a formal hearing under Title 63G, Chapter 4, Administrative Procedures Act.

(7) A party has not exhausted the party's administrative remedies in accordance with Section 63G-4-401 unless:

(a) the party requests a formal hearing within the time period provided by law; and

(b) the commission has issued a final unappealable administrative order.

Section 2. Section 59-1-612 is enacted to read:

59-1-612. Formal hearing to exhaust administrative remedies.

A party has not exhausted the party's administrative remedies in accordance with Section 63G-4-401 unless:

(1) the party requests a formal hearing within the time period provided by law; and

(2) the commission has issued a final unappealable administrative order.

CHAPTER 352**S. B. 212**

Passed March 12, 2019
Approved March 26, 2019
Effective May 14, 2019

USTAR AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Tim Quinn

LONG TITLE**General Description:**

This bill modifies provisions related to the Utah Science Technology and Research Initiative (USTAR).

Highlighted Provisions:

This bill:

- ▶ modifies provisions of the Workforce Development Restricted Account;
- ▶ dissolves the USTAR Governing Authority;
- ▶ puts the program director of USTAR under the supervision of the executive director of the Governor's Office of Economic Development (GOED);
- ▶ modifies provisions related to grants offered by USTAR;
- ▶ modifies the reporting requirements of USTAR, including requiring the reporting of a plan to move USTAR programs to GOED; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Utah Science Technology and Research Governing Authority -- Support Programs, as an ongoing appropriation:
 - from the General Fund, (\$3,282,600); and
 - from Dedicated Credits Revenue, (\$16,100);
- ▶ to the Utah Science Technology and Research Governing Authority -- Grant Programs, as a one-time appropriation:
 - from the General Fund, (\$4,500,000);
- ▶ to the Governor's Office of Economic Development -- Pass-Through, as a one-time appropriation:
 - from the General Fund, \$1,705,900;
- ▶ to the Governor's Office of Economic Development -- Pass-Through, as an ongoing appropriation:
 - from the General Fund, \$385,600; and
 - from Dedicated Credits Revenue, \$16,100;
- ▶ to the General Fund Restricted -- Workforce Development Restricted Account, as an ongoing appropriation:
 - from the General Fund, \$2,897,000; and
- ▶ to the General Fund Restricted -- Workforce Development Restricted Account, as a one-time appropriation:
 - from the General Fund, \$2,794,100.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

13-1-14, as enacted by Laws of Utah 2018, Chapter 453
63M-2-102, as last amended by Laws of Utah 2016, Chapter 240
63M-2-301, as last amended by Laws of Utah 2016, Chapter 240
63M-2-302, as repealed and reenacted by Laws of Utah 2016, Chapter 240
63M-2-302.5, as last amended by Laws of Utah 2016, Chapter 240
63M-2-304, as enacted by Laws of Utah 2018, Chapter 427
63M-2-502, as last amended by Laws of Utah 2018, Chapter 453
63M-2-503, as enacted by Laws of Utah 2016, Chapter 240
63M-2-504, as enacted by Laws of Utah 2016, Chapter 240
63M-2-703, as enacted by Laws of Utah 2016, Chapter 240
63M-2-802, as last amended by Laws of Utah 2018, Chapter 453
63M-2-803, as renumbered and amended by Laws of Utah 2016, Chapter 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-1-14 is amended to read:**13-1-14. Workforce Development Restricted Account.**

(1) There is created a restricted account within the General Fund known as the Workforce Development Restricted Account.

(2) The restricted account shall be administered to provide funding for collaborative projects that support:

- (a) economic development in the state;
- (b) workforce development in the state; and
- (c) ~~[the support of]~~ scientific and technical innovation and entrepreneurship in the state; and;

~~[(d) the programs and duties of the governing authority in accordance with this chapter.]~~

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited into the restricted account.

(4) The restricted account shall be funded by appropriations made to the account by the Legislature.

(5) Subject to appropriation and direction from the Legislature, account money may be used in accordance with this ~~[part]~~ section.

Section 2. Section 63M-2-102 is amended to read:**63M-2-102. Definitions.**

As used in this chapter:

[~~(1)~~] ~~“Executive director” means the individual appointed under Subsection 63M-2-301(9).]~~

[~~(2)~~] (1) “Governing authority” means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.

[~~(3)~~] (2) “Higher education institution” means an institution listed in Section 53B-2-101.

[~~(4)~~] (3) “Principal researcher” means an individual who:

(a) (i) on May 10, 2016, is employed, alone or as part of a research team, by a research university;

(ii) before May 10, 2016, received funding from USTAR for some or all of the researcher’s startup costs or research university salary;

(iii) was recruited by a research university to become a member of a research university’s faculty; and

(iv) on or after May 10, 2016, continues to receive USTAR support; or

(b) (i) is employed on or after May 10, 2016 as a researcher by a higher education institution;

(ii) receives USTAR support; and

(iii) is recruited by the governing authority and the higher education institution to become a member of the higher education institution’s faculty.

[~~(5)~~] (4) “Private entity”:

(a) means a privately owned corporation, limited liability company, partnership, or other business entity or association; and

(b) does not include an individual or a sole proprietorship.

(5) “Program director” means the individual appointed under Subsection 63M-2-301(9).

(6) “Research building” means a building:

(a) for which the governing authority holds title; and

(b) that is located on the campus of a research university.

(7) “Research university” means:

(a) the University of Utah; or

(b) Utah State University.

(8) “USTAR” means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

(9) “USTAR researcher” means:

(a) a principal researcher; or

(b) an individual, other than a principal researcher, who:

(i) is employed by a higher education institution; and

(ii) receives USTAR support.

(10) “USTAR support” means assistance provided by USTAR including:

(a) financial support;

(b) technical assistance;

(c) mentoring; and

(d) the use of:

(i) research or laboratory space controlled by USTAR in a building other than a research building; and

(ii) equipment in space described in Subsection (10)(d)(i).

Section 3. Section 63M-2-301 is amended to read:

63M-2-301. The Utah Science Technology and Research Initiative -- Governing authority -- Program director.

(1) There is created the Utah Science Technology and Research Initiative.

(2) [~~It~~] Subject to Subsection (10), to oversee USTAR, there is created the Utah Science Technology and Research Governing Authority consisting of:

(a) the state treasurer or the state treasurer’s designee;

(b) the executive director of the Governor’s Office of Economic Development;

(c) three members appointed by the governor, with the consent of the Senate;

(d) two members appointed by the president of the Senate;

(e) two members appointed by the speaker of the House of Representatives; and

(f) one member appointed by the commissioner of higher education.

(3) (a) The eight appointed members under Subsections (2)(c) through (f) shall serve four-year staggered terms.

(b) An appointed member under Subsection (2)(c), (d), (e), or (f):

(i) may not serve more than two full consecutive terms; and

(ii) may be removed from the governing authority for any reason before the member’s term is completed:

(A) at the discretion of the original appointing authority; and

(B) after the original appointing authority consults with the governing authority.

(4) A vacancy on the governing authority in an appointed position under Subsection (2)(c), (d), (e), or (f) shall be filled for the unexpired term by the appointing authority in the same manner as the original appointment.

(5) (a) Except as provided in Subsection (5)(b), the governor, with the consent of the Senate, shall

select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

(c) The executive director of the Governor's Office of Economic Development shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member of the governing authority may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance:

(i) pursuant to Sections 63A-3-106 and 63A-3-107; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) ~~[After consultation with the governing authority, the]~~ The governor, with the consent of the Senate, ~~[shall] may~~ appoint a ~~[full-time executive] program director to [provide staff support for the governing authority]~~ oversee USTAR.

(b) The ~~[executive] program director~~ is an at-will employee who may be terminated with or without cause by~~[:]~~ the governor or the executive director of the Governor's Office of Economic Development.

~~[(i) the governor; or]~~

~~[(ii) majority vote of the governing authority.]~~

(10) On July 1, 2019, the governing authority is dissolved and the program director is under the supervision of the executive director of the Governor's Office of Economic Development.

Section 4. Section 63M-2-302 is amended to read:

63M-2-302. USTAR powers and duties.

~~[(1) The governing authority shall:]~~

(1) Before July 1, 2019, the governing authority shall, and on or after July 1, 2019, the program director and the executive director of the Governor's Office of Economic Development shall:

(a) ensure that funds appropriated to USTAR are used appropriately, effectively, and efficiently in accordance with this chapter;

(b) in cooperation with a research university's administration, work to expand research at the research university;

(c) enhance technology transfer and commercialization of research and technology developed at a higher education institution to create high-quality jobs and new industries in the private sector in the state;

(d) ensure that USTAR programs do not duplicate existing or planned programs of other state agencies;

(e) establish written economic development objectives for USTAR that are measurable and verifiable;

(f) consider input from the Governor's Office of Economic Development and higher education institutions;

(g) establish and administer a grant program, as provided in Section 63M-2-503, and provide USTAR support, as provided in Section 63M-2-504, consistent with and to further economic development objectives that ~~[the governing authority]~~ USTAR establishes; and

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this chapter.

~~[(2) The governing authority may:]~~

(2) Before July 1, 2019, the governing authority may, and on or after July 1, 2019, the program director and the executive director of the Governor's Office of Economic Development may:

(a) in addition to receiving money appropriated by the Legislature, receive contributions to USTAR from any source, in the form of money, property, labor, or other thing of value;

(b) subject to restrictions imposed by a donor or legislative appropriation, allocate money for programs and activities described in this chapter;

(c) enter into an agreement necessary to obtain private equity investment in USTAR;

(d) charge and collect rent for space in a facility or building that USTAR controls;

(e) in fulfilling ~~[the governing authority's]~~ USTAR's duties and responsibilities under this chapter, collaborate with:

(i) the Governor's Office of Economic Development and other state agencies with an interest in economic development; and

(ii) private entities with an interest in economic development; and

(f) delegate powers and duties to the executive director.

~~[(3) A state agency, higher education institution, or political subdivision with which the governing authority seeks to collaborate in fulfilling the governing authority's duties under this chapter shall cooperate with the governing authority as reasonably necessary to enable the governing authority to fulfill its duties under this chapter.]~~

Section 5. Section 63M-2-302.5 is amended to read:

63M-2-302.5. USTAR requirements.

~~[The governing authority]~~ USTAR is subject to the requirements of an executive branch agency and is:

- (1) an agency for purposes of Title 63J, Chapter 1, Budgetary Procedures Act;
- (2) an executive branch procurement unit for purposes of Title 63G, Chapter 6a, Utah Procurement Code;
- (3) a governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act; and
- (4) a public body for purposes of Title 52, Chapter 4, Open and Public Meetings Act.

Section 6. Section 63M-2-304 is amended to read:

63M-2-304. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, ~~[the governing authority]~~ USTAR:

(a) shall require all applicants for Schedule A positions, in accordance with Section 67-19-15, to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment; and

(b) may require applicants for time limited positions to submit to a fingerprint-based, local, regional, and national criminal history background check and ongoing monitoring as a condition of employment if the applicant, as an employee:

(i) will interact with children, or vulnerable adults as defined in Section 62A-2-120; or

(ii) may have access to sensitive personal and financial information.

(3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to ~~[the governing authority]~~ USTAR upon request.

(4) The ~~[governing authority]~~ program director shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by ~~[the governing authority]~~ USTAR that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), ~~[the governing authority]~~ USTAR shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) ~~[The governing authority]~~ USTAR is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) ~~[The governing authority]~~ USTAR may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how ~~[the governing authority]~~ USTAR will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 7. Section 63M-2-502 is amended to read:

63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing funding.

(1) Subject to Subsection (6) and legislative appropriation, the governing authority shall:

(a) provide funding to help a research university honor its commitments to principal researchers employed by the research university; and

(b) give priority to funding provided under Subsection (1)(a).

(2) The governing authority shall enter into a written agreement with a higher education institution that employs a principal researcher:

(a) establishing performance standards and expectations for a principal researcher; and

(b) requiring the higher education institution to require a principal researcher to comply with reporting requirements set forth in Section 63M-2-702.

(3) (a) A principal researcher may not be hired on or after May 10, 2016 without the approval of the governing authority and the higher education institution.

(b) A higher education institution that enters into or renews an agreement with a principal researcher on or after May 10, 2016 shall include in the agreement:

(i) a specific time period for the commitment of USTAR funding;

(ii) the amount of USTAR funding committed to the higher education institution for the principal researcher, specifying the purpose of the funding;

(iii) an acknowledgment that the principal researcher understands and agrees to the reporting requirements and performance standards under this chapter; and

(iv) the governing authority's written approval of the terms of the new or renewed agreement.

(4) The governing authority may not allocate money to a higher education institution for a principal researcher unless the higher education institution provides the reporting required under Section 63M-2-702.

(5) The governing authority may discontinue allocating money to a higher education institution for a principal researcher if the governing authority and the president of the higher education institution employing the principal researcher agree in writing that:

(a) the principal researcher:

(i) fails to meet the performance standards and expectations established under Subsection (2)(a);

(ii) receives a reasonable opportunity to remedy the failure to meet performance standards and expectations; and

(iii) fails to remedy the failure to meet performance standards and expectations; and

(b) under the circumstances, discontinuing USTAR funding to the higher education institution for the principal researcher is appropriate and justified.

(6) Beginning on July 1, 2018, and subject to Subsection (7), USTAR may not provide funding to help a research university honor its commitments to principal researchers employed by the research university.

(7) (a) Beginning on July 1, 2019, and until December 31, 2019, USTAR may liquidate funds from one or more escrow accounts that were created before July 1, 2018, related to a research university's commitments to principal researchers, and provide the funds to a research university as previously agreed in a written agreement entered into before July 1, 2018.

(b) On January 1, 2020, 66.6% of any money left in an escrow account described in Subsection (7)(a) shall be transferred by USTAR to the University of Utah, and 33.4% of any money left in an escrow account described in Subsection (7)(a) shall be transferred by USTAR to Utah State University.

Section 8. Section 63M-2-503 is amended to read:

63M-2-503. USTAR grant programs.

(1) ~~[The governing authority]~~ USTAR shall establish at least one competitive grant program that:

(a) is designed to:

(i) address market gaps in technology development in the state; or

(ii) facilitate research and development of promising technologies;

(b) does not overlap with or duplicate other state funded programs; and

(c) offers grants, on a competitive basis, to:

(i) researchers employed by higher education institutions;

(ii) private entities; or

(iii) partnerships between researchers employed by higher education institutions and private entities.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[the governing authority]~~ USTAR shall make rules that describe, for each grant program:

(a) the purpose;

(b) eligibility criteria to receive a grant;

(c) how ~~[the governing authority]~~ USTAR determines which proposals receive grants;

(d) reporting requirements in accordance with Part 7, Reporting by Recipients of USTAR Support; and

(e) other information ~~[the governing authority]~~ USTAR determines is necessary or appropriate.

(3) ~~[The governing authority]~~ USTAR:

(a) shall solicit proposals for each grant program; and

(b) may, subject to legislative appropriation and Subsection 63M-2-502(1)(b), award grants for each program.

(4) In evaluating a grant proposal received in response to a solicitation under this section, ~~[the governing authority]~~ USTAR shall consider, as applicable:

(a) the extent to which the planned research has the potential for commercialization;

(b) the market gap the technology or research fills; and

(c) other factors ~~[the governing authority]~~ USTAR determines are relevant, important, or necessary.

(5) ~~[The governing authority]~~ USTAR shall require a recipient of a grant under this section, as a condition of receiving a grant, to comply with the reporting requirements described in:

(a) Section 63M-2-702, for a USTAR researcher; or

(b) Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

(6) Beginning on July 1, 2019, USTAR:

(a) may not establish any new competitive grant programs;

(b) may not award new grants related to any existing competitive grant program; and

(c) may continue to pay grant money for a grant awarded before July 1, 2019, in accordance with the written terms of the grant.

Section 9. Section 63M-2-504 is amended to read:

63M-2-504. Other USTAR support.

(1) ~~[The governing authority shall]~~ USTAR may:

(a) provide mentoring, networking, and entrepreneurial training for a private entity or USTAR researcher to help take a new technology to market;

(b) provide support to a private entity or USTAR researcher in assessing the potential for bringing a technology to market; and

(c) encourage industry partnerships between a private entity and a USTAR researcher.

(2) ~~[The governing authority]~~ USTAR shall require a recipient of USTAR support under this section, as a condition of receiving USTAR support, to comply with the reporting requirements in:

(a) Section 63M-2-702, for a USTAR researcher; or

(b) Section 63M-2-703, for a private entity or for a partnership between a USTAR researcher and a private entity.

Section 10. Section 63M-2-703 is amended to read:

63M-2-703. Reporting requirements for private entities.

(1) On or before September 1 of each year, the ~~[governing authority]~~ program director shall collect the information described in Subsection (2) from each private entity that:

(a) receives USTAR support;

(b) receives more than 20 hours of training from USTAR;

(c) purchases a private entity that previously received USTAR support; or

(d) licenses a technology developed by a USTAR researcher.

(2) The ~~[governing authority]~~ program director shall collect information on:

(a) public or private investment received by the private entity after the private entity:

(i) begins to receive USTAR support;

(ii) licenses a technology from a USTAR researcher; or

(iii) purchases a private entity that previously received USTAR support;

(b) sales or revenue generated by the product or technology;

(c) the number of jobs created by the private entity and the average wage for each position; and

(d) the location of the private entity.

(3) (a) To collect the information described in Subsection (2), the ~~[governing authority]~~ program director shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an independent third party to conduct a survey of each private entity described in Subsection (1).

(b) The independent third party selected under Subsection (3)(a) shall use industry standard practices to collect the information described in Subsection (2).

(4) The ~~[governing authority]~~ program director and Department of Workforce Services shall coordinate to verify the job and average wage information described in Subsection (2)(c).

Section 11. Section 63M-2-802 is amended to read:

63M-2-802. USTAR annual report.

(1) (a) On or before October 1 of each year, ~~[the governing authority]~~ USTAR shall submit, in accordance with Section 68-3-14, an annual written report for the preceding fiscal year to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

(b) An annual report under Subsection (1)(a) is subject to modification as provided in Subsection (5) after an audit described in Section 63M-2-803 is released.

(2) An annual report described in Subsection (1) shall include:

(a) information reported to ~~[the governing authority]~~ USTAR through the survey described in Section 63M-2-703;

(b) a clear description of the methodology used to arrive at any information in the report that is based on an estimate;

(c) starting with fiscal year 2017 data as a baseline, data from previous years for comparison with the annual data reported under this Subsection (2);

(d) relevant federal and state statutory references and requirements;

(e) contact information for the executive director;

(f) other information determined by ~~[the governing authority]~~ USTAR that promotes accountability and transparency; and

(g) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of progress or challenges in meeting the objectives.

(3) ~~[The governing authority]~~ USTAR shall design the annual report to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) ~~[The governing authority]~~ USTAR shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) place a link to the annual report and previous annual reports on USTAR's website.

(5) Following the completion of an annual audit described in Section 63M-2-803, ~~[the governing authority]~~ USTAR shall:

- (a) publicly issue a revised annual report that:
 - (i) addresses the audit;
 - (ii) responds to audit findings; and
 - (iii) incorporates any revisions to the annual report based on audit findings;
- (b) publish the revised annual report on USTAR's website, with a link to the audit; and
- (c) submit, in accordance with Section 68-3-14, written notification of any revisions of the annual report to:
 - (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
 - (ii) the Economic Development and Workforce Services Interim Committee;
 - (iii) the Business and Labor Interim Committee; and
 - (iv) the governor.

(6) In addition to the annual written report described in this section, ~~[the governing authority]~~ USTAR shall:

- (a) provide information and progress reports to a legislative committee upon request; ~~[and]~~
- (b) on or before August 1, 2018, and every five years after August 1, 2018, provide to the same entities that receive the annual report described in Subsection (1)(a) a written analysis and recommendations concerning the usefulness of the information required in the annual report and USTAR's ongoing effectiveness, including whether:
 - (i) the reporting requirements are effective at measuring USTAR's performance;
 - (ii) the reporting requirements should be modified;
 - (iii) USTAR is beneficial to the state and should continue; and
 - (iv) whether programs in other agencies could provide similar benefits to the state more effectively or at a lower cost~~[-]; and~~
- (c) on or before July 1, 2019, and in cooperation with the executive director of the Governor's Office of Economic Development, provide to the same entities that receive the annual report described in Subsection (1)(a) a written analysis and recommendations describing:

(i) the most efficient way to move existing USTAR programs to the Governor's Office of Economic Development by July 1, 2020;

(ii) the most cost-effective way to discontinue incubation centers and similar programs by November 30, 2019;

(iii) a complete accounting of USTAR grants and an analysis of any technology that USTAR or the

state may have a financial interest in if the technology is or was successful;

(iv) a complete accounting of whether USTAR is owed any money as a result of previous agreements or the commercialization of technology funded by USTAR;

(v) any technology funded in any part by USTAR that has been or should be commercialized; and

(vi) a plan to do the following by November 30, 2019:

(A) move USTAR's headquarters to office space within the Governor's Office of Economic Development;

(B) subject to Subsection (6)(c)(vi)(C), terminate USTAR building leases;

(C) transfer the lease of the Sparrowhawk building at Falcon Hill Drive in Clearfield, Utah to the Military Installation Development Authority; and

(D) transfer ownership and title of any USTAR-owned building on the campus of Utah State University to Utah State University.

Section 12. Section 63M-2-803 is amended to read:

63M-2-803. Audit requirements.

(1) Every third year beginning 2018, an audit of USTAR shall be made as described in this section.

(2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be conducted by:

- (i) the legislative auditor; or
- (ii) an independent auditor engaged by the legislative auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) may not have a direct financial conflict of interest with USTAR ~~[or the governing authority]~~.

(3) ~~[The governing authority]~~ USTAR shall pay the costs associated with the ~~[annual]~~ audit.

(4) The ~~[annual]~~ audit shall:

(a) include a verification of the accuracy of the information required to be included in the annual report described in Section 63M-2-802; and

(b) be completed by December 1 of the year the report is required under Subsection (1).

Section 13. Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 13(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the

use and support of the government of the state of Utah.

ITEM 1

To Utah Science Technology and Research Governing Authority -- Support Programs

From General Fund (\$3,282,600)

From Dedicated Credits (\$16,100)

Schedule of Programs:

Incubation Programs (\$2,160,600)

Regional Outreach (\$736,400)

SBIR/STTR Assistance Center (\$401,700)

ITEM 2

To Utah Science Technology and Research Governing Authority -- Grant Programs

From General Fund, One-time (\$4,500,000)

Schedule of Programs:

Industry Partnership Program (\$2,375,000)

Technology Acceleration Program (\$2,125,000)

ITEM 3

To Governor's Office of Economic Development -- Pass-Through

From General Fund, One-time \$1,705,900

Schedule of Programs:

Pass-Through \$1,705,900

The Legislature intends that:

(1) the Governor's Office of Economic Development shall pass-through the appropriation described in this item to the Military Installation Development Authority; and

(2) the Military Installation Development Authority shall expend this appropriation to pay for at least three years of lease payments for the Sparrowhawk building at Falcon Hill Drive in Clearfield, Utah, and to manage the administration of programs at the Sparrowhawk building at Falcon Hill Drive in Clearfield, Utah.

ITEM 4

To Governor's Office of Economic Development -- Pass-Through

From General Fund \$385,600

From Dedicated Credits Revenue \$16,100

Schedule of Programs:

Pass-Through \$401,700

The Legislature intends that the Governor's Office of Economic Development shall pass-through the appropriation described in this item to the Small Business Innovation Research and Small Business Technology Transfer

Assistance Center, also known as the SBIR/SBTTR Assistance Center.

Subsection 13(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 5

To General Fund Restricted -- Workforce Development Restricted Account

From General Fund \$2,897,000

Schedule of Programs:

Workforce Development Restricted Account \$2,897,000

ITEM 6

To General Fund Restricted -- Workforce Development Restricted Account

From General Fund, One-time \$2,794,100

Schedule of Programs:

Workforce Development Restricted Account \$2,794,100

CHAPTER 353**S. B. 213**

Passed March 12, 2019

Approved March 26, 2019

Effective May 14, 2019

BLOCKCHAIN TECHNOLOGY ACT

Chief Sponsor: Daniel Hemmert
House Sponsor: Michael K. McKell

LONG TITLE**General Description:**

This bill enacts provisions related to blockchain technology.

Highlighted Provisions:

This bill:

- ▶ defines and clarifies terms related to blockchain technology;
- ▶ exempts a person who facilitates the creation, exchange, or sale of certain blockchain technology-related products from Title 7, Chapter 25, Money Transmitter Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

7-25-102, as enacted by Laws of Utah 2015, Chapter 284

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-25-102 is amended to read:**7-25-102. Definitions.**

As used in this chapter:

(1) "Applicant" means a person filing an application for a license under this chapter.

(2) "Authorized agent" means a person designated by the licensee under this chapter to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee.

(3) "Blockchain" or "blockchain technology" means an electronic method of storing data that is:

(a) maintained by consensus of multiple unaffiliated parties;

(b) distributed across multiple locations; and

(c) mathematically verified.

(4) "Blockchain token" means an electronic record that is:

(a) recorded on a blockchain; and

(b) capable of being traded between persons without an intermediary.

~~[(3)]~~ (5) "Executive officer" means the licensee's president, chair of the executive committee,

executive vice president, treasurer, chief financial officer, or any other person who performs similar functions.

~~[(4)]~~ (6) "Key shareholder" means a person, or group of persons acting in concert, who is the owner of 20% or more of a class of an applicant's stock.

~~[(5)]~~ (7) "Licensee" means a person licensed under this chapter.

~~[(6)]~~ (8) "Material litigation" means litigation that, according to generally accepted accounting principles, is considered significant to a person's financial health and would be required to be referenced in an annual audited financial statement, report to shareholders, or similar document.

~~[(7)]~~ (9) (a) "Money transmission" means the sale or issuance of a payment instrument or engaging in the business of receiving money for transmission or transmitting money within the United States or to locations abroad by any and all means, including payment instrument, wire, facsimile, or electronic transfer.

(b) "Money transmission" does not include a blockchain token.

~~[(8)]~~ (10) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan originators.

~~[(9)]~~ (11) "Outstanding payment instrument" means a payment instrument issued by the licensee that has been sold in the United States directly by the licensee or a payment instrument issued by the licensee that has been sold and reported to the licensee as having been sold by an authorized agent of the licensee in the United States, and that has not yet been paid by or for the licensee.

~~[(10)]~~ (12) (a) "Payment instrument" means a check, draft, money order, travelers check, or other instrument or written order for the transmission or payment of money, sold or issued to one or more persons, whether or not the instrument is negotiable.

(b) "Payment instrument" does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

~~[(11)]~~ (13) "Remit" means either to make direct payment of the money to the licensee or its representatives authorized to receive the money, or to deposit the money in a depository institution in an account in the name of the licensee.

CHAPTER 354**S. B. 215**

Passed March 14, 2019
 Approved March 26, 2019
 Effective May 14, 2019

**ADOPTION SERVICE
 AGENCIES AMENDMENTS**

Chief Sponsor: Luz Escamilla
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to adoption services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies provisions prohibiting advertisements for certain adoption-related services;
- ▶ requires the Office of Licensing within the Department of Human Services to provide notice to certain persons upon finding the person is providing certain adoption-related services without a license; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-602, as last amended by Laws of Utah 2017, Chapter 148

62A-4a-603, as renumbered and amended by Laws of Utah 1994, Chapter 260

78B-6-124, as last amended by Laws of Utah 2017, Chapter 148

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-602 is amended to read:

62A-4a-602. Licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) “Advertisement” means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) “Advertisement” includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) (i) “Matching advertisement” means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of

whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) “Matching advertisement” includes a statement or representation described in Subsection (1)(b)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(c) “Clearly and conspicuously disclose” means the same as that term is defined in Section 13-11a-2.

~~(1) No person may~~

(2) (a) A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing, in accordance with Chapter 2, Licensure of Programs and Facilities.

(b) When a child-placing agency’s license is suspended or revoked in accordance with that chapter, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.

~~(2)~~ (3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent’s child, or in identifying or locating a child to be adopted. ~~However, no~~

(ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for ~~that~~ the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that ~~he~~ the attorney, physician, or other person is available to provide ~~that~~ the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that ~~he~~ the attorney, physician, or other person is available to provide ~~that~~ the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce ~~or~~, cause, permit, or allow an announcement indicating that ~~he~~ the attorney, physician, or other person is available to provide ~~that~~ the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, ~~or~~ on radio or television, or an Internet website relating to a business; ~~or~~

~~(iv) advertise by any other means that he is available to provide that assistance.]~~

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection

(3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) “comprehensive”;

(B) “complete”;

(C) “one-stop”;

(D) “all-inclusive”; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the Office of Licensing within the department shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the Office of Licensing within the department.

~~[(3)]~~ (4) Nothing in this part:

(a) precludes payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings~~;~~ and ~~no provision of this part~~; or

(b) abrogates the right of procedures for independent adoption as provided by law.

~~[(4)]~~ (5) In accordance with federal law, only agents or employees of the division and of licensed child placing agencies may certify to the United States Immigration and Naturalization Service that a family meets the division’s preadoption requirements.

~~[(5) (a) Beginning May 1, 2000, neither]~~

(6) (a) Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(b) ~~Beginning May 1, 2000, the~~ The division, as a licensed child-placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection ~~[(5)]~~ (6)(b) limits the placement of a child in foster care with the child’s biological or adoptive parent.

(c) ~~Beginning May 1, 2000, with~~ With regard to children who are in the custody of the state, the division shall establish a policy providing that priority for foster care and adoptive placement shall be provided to families in which both a man and a woman are legally married under the laws of this state. However, nothing in this Subsection ~~[(5)]~~ (6)(c) limits the placement of a child with the child’s biological or adoptive parent.

Section 2. Section 62A-4a-603 is amended to read:

62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.

(1) The division, Office of Licensing within the department, or any interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association violating Section 62A-4a-602.

(2) The Office of Licensing shall:

(a) solicit information from the public relating to violations of Section 62A-4a-602; and

(b) upon identifying a violation of Section 62A-4a-602:

(i) send a written notice to the person who violated Section 62A-4a-602 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Occupational and Professional Licensing.

~~[(2)]~~ (3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 62A-4a-602 ~~when informed of any~~ after being informed of an alleged violation.

(b) If ~~the~~ a county attorney does not take action within 30 days after ~~being informed~~ the day on which the county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

~~[(3)]~~ (4) (a) In addition to the remedies provided in Subsections (1) and ~~[(2)]~~ (3), any person, agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than \$10,000 for each violation. ~~Every]~~

(b) Each act in violation of Section 62A-4a-602, including each placement or attempted placement of a child, is a separate violation.

~~[(4)]~~ (5) (a) All amounts recovered as penalties under Subsection ~~[(3)]~~ (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the penalty amounts recovered shall be apportioned by the court among the entities, according to their involvement.

~~[(5)]~~ (6) A judgment ordering the payment of any penalty or forfeiture under Subsection ~~[(3) constitutes]~~ (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 3. Section 78B-6-124 is amended to read:

78B-6-124. Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

(a) a judge of any court that has jurisdiction over adoption proceedings;

(b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it shall be signed before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

(d) a person authorized, under the laws of the state where the consent or relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.

(3) The consent or relinquishment of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.

(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the adoptee's immediate family.

(7) Except as provided in Subsection 62A-4a-602[(1)](2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a Notary Public.

CHAPTER 355**S. B. 224**

Passed March 13, 2019
 Approved March 26, 2019
 Effective May 14, 2019

HEBER VALLEY HISTORIC RAILROAD AMENDMENTS

Chief Sponsor: David P. Hinkins
 House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill modifies the duties of the Heber Valley Historic Railroad Authority (authority).

Highlighted Provisions:

This bill:

- ▶ requires the authority to maintain railroad bridges where the authority's trains operate.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ To the Department of Heritage and Arts -- Pass Through, as a one-time appropriation:
 - from the General Fund, \$315,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63H-4-109, as renumbered and amended by Laws of Utah 2011, Chapter 370

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-4-109 is amended to read:**63H-4-109. Duty to maintain rails.**

The authority shall maintain the rails, bed, right-of-way, railroad bridges, and related property upon which the authority's train shall operate in compliance with state and federal statutes, rules, and regulations.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Heritage and Arts -- Pass Through

<u>From General Fund, One-time</u>	<u>\$315,000</u>
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Schedule of Programs:

<u>Pass Through</u>	<u>\$315,000</u>
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The Legislature intends that:

(1) the Department of Heritage and Arts passthrough the appropriation described in this item to the Heber Valley Historic Railroad Authority; and

(2) the Heber Valley Historic Railroad Authority shall expend this appropriation on:

(a) track maintenance, including tie replacement, track-bed improvements, siding and switch repairs, and rail replacement; and

(b) the purchase and configuration of a railroad car and related depot area modifications to accommodate customers in wheelchairs.

CHAPTER 356**S. B. 230**

Passed March 14, 2019
Approved March 26, 2019
Effective May 14, 2019

**CHILD PROTECTION
REGISTRY AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill modifies provisions relating to the Child Protection Registry.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Internet Crimes Against Children (ICAC) unit within the Office of the Attorney General to establish and operate the Child Protection Registry; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-39-102, as last amended by Laws of Utah 2006, Chapter 336
13-39-201, as last amended by Laws of Utah 2009, Chapter 183
13-39-202, as last amended by Laws of Utah 2006, Chapter 336
13-39-203, as last amended by Laws of Utah 2008, Chapter 382
13-39-301, as enacted by Laws of Utah 2004, Chapter 338
13-39-303, as enacted by Laws of Utah 2004, Chapter 338
13-39-304, as enacted by Laws of Utah 2004, Chapter 338

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-39-102 is amended to read:**13-39-102. Definitions.**

As used in this chapter:

(1) "Attorney general" means the same as that term is defined in Section 77-42-102.

(2) "Contact point" means an electronic identification to which a communication may be sent, including:

(a) an email address; ~~or~~

~~(b) subject to Subsection 13-39-201(2);~~

(3) (b) an instant message identity, subject to rules made by the ~~[division]~~ unit under Subsection 13-39-203(1);

~~(4) (c) a mobile or other telephone number;~~

~~(5) (d) a facsimile number; or~~

~~(6) (e) an electronic address;~~

~~(A) (i) similar to a contact point listed in this Subsection (4) (2); and~~

~~(B) (ii) defined as a contact point by rule made by the [division] unit under Subsection 13-39-203(1).~~

~~(2) "Division" means the Division of Consumer Protection in the Department of Commerce.]~~

(3) "Registry" means the child protection registry established in Section 13-39-201.

(4) "Unit" means the Internet Crimes Against Children unit within the Office of the Attorney General created in Section 67-5-21.

Section 2. Section 13-39-201 is amended to read:**13-39-201. Establishment of child protection registry.**

(1) The ~~[division]~~ unit shall:

(a) establish and operate a child protection registry to compile and secure a list of contact points the ~~[division]~~ unit has received pursuant to this section; or

(b) contract with a third party to establish and secure the registry described in Subsection (1)(a).

~~(2) (a) The division shall implement the registry described in this section with respect to email addresses beginning on July 1, 2005.]~~

~~(b) The division shall implement the registry described in this section with respect to instant message identities.]~~

~~(c) The division shall implement the registry described in this section with respect to mobile or other telephone numbers.]~~

(3) (2) (a) A person may register a contact point with the ~~[division]~~ unit pursuant to rules established by the ~~[division]~~ unit under Subsection 13-39-203(1) if:

(i) the contact point belongs to a minor;

(ii) a minor has access to the contact point; or

(iii) the contact point is used in a household in which a minor is present.

(b) A school or other institution that primarily serves minors may register its domain name with the ~~[division]~~ unit pursuant to rules made by the ~~[division]~~ unit under Subsection 13-39-203(1).

(c) The ~~[division]~~ unit shall provide a disclosure in a confirmation message sent to a person who registers a contact point under this section that reads: "No solution is completely secure. The most effective way to protect children on the Internet is to supervise use and review all email messages and other correspondence. Under law, theft of a contact point from the Child Protection Registry is a second degree felony. While every attempt will be made to secure the Child Protection Registry, registrants

and their guardians should be aware that their contact points may be at a greater risk of being misappropriated by marketers who choose to disobey the law.”

[4] (3) A person desiring to send a communication described in Subsection 13-39-202(1) to a contact point or domain shall:

(a) use a mechanism established by rule made by the [division] unit under Subsection 13-39-203(2); and

(b) pay a fee for use of the mechanism described in Subsection [4] (3)(a) determined by the [division] unit in accordance with Section 63J-1-504.

[5] (4) The [division] unit may implement a program to offer discounted compliance fees to senders who meet enhanced security conditions established and verified by the division, the third party registry provider, or a designee.

[6] (5) The contents of the registry, and any complaint filed about a sender who violates this chapter, are not subject to public disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

[7] (6) The state shall promote the registry on the state's official Internet website.

Section 3. Section 13-39-202 is amended to read:

13-39-202. Prohibition of sending certain materials to a registered contact point -- Exception for consent.

(1) A person may not send, cause to be sent, or conspire with a third party to send a communication to a contact point or domain that has been registered for more than 30 calendar days with the [division] unit under Section 13-39-201 if the communication:

(a) has the primary purpose of advertising or promoting a product or service that a minor is prohibited by law from purchasing; or

(b) contains or has the primary purpose of advertising or promoting material that is harmful to minors, as defined in Section 76-10-1201.

(2) Except as provided in Subsection (4), consent of a minor is not a defense to a violation of this section.

(3) An Internet service provider does not violate this section for solely transmitting a message across the network of the Internet service provider.

(4) (a) Notwithstanding Subsection (1), a person may send a communication to a contact point if, before sending the communication, the person sending the communication receives consent from an adult who controls the contact point.

(b) Any person who proposes to send a communication under Subsection (4)(a) shall:

(i) verify the age of the adult who controls the contact point by inspecting the adult's government-issued identification card in a face-to-face transaction;

(ii) obtain a written record indicating the adult's consent that is signed by the adult;

(iii) include in each communication:

(A) a notice that the adult may rescind the consent; and

(B) information that allows the adult to opt out of receiving future communications; and

(iv) notify the [division] unit that the person intends to send communications under this Subsection (4).

(c) The [division] unit shall implement rules to verify that a person providing notification under Subsection (4)(b)(iv) complies with this Subsection (4).

Section 4. Section 13-39-203 is amended to read:

13-39-203. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [division] unit shall make rules to establish procedures under which:

(1) (a) a person may register a contact point with the [division] unit under Section 13-39-201, including:

(i) the information necessary to register an instant message identity; and

(ii) for purposes of Subsection 13-39-102[(1)](2)(b)(iv), an electronic address that is similar to a contact point listed in Subsection 13-39-102[(1)](2); and

(b) a school or other institution that primarily serves minors may register its domain name with the [division] unit under Section 13-39-201;

(2) the [division] unit shall:

(a) provide a mechanism under which a person described in Subsection 13-39-201[(4)](3) may verify compliance with the registry to remove registered contact points from the person's communications; and

(b) establish the mechanism described in Subsection (2)(a) in a manner that protects the privacy and security of a contact point registered with the [division] unit under Section 13-39-201; and

(3) the [division] unit may:

(a) implement a program offering discounted fees to a sender who meets enhanced security conditions established and verified by the [division] unit, the third party registry provider, or a designee; and

(b) allow the third party registry provider to assist in any public or industry awareness campaign promoting the registry.

Section 5. Section 13-39-301 is amended to read:

13-39-301. Criminal penalty.

(1) A person who violates Section 13-39-202 commits a computer crime and is guilty of a:

(a) ~~[is guilty of a]~~ class B misdemeanor for a first offense with respect to a contact point registered with the ~~[division]~~ unit under Subsection 13-39-201~~(3)~~(2)(a); and

(b) ~~[is guilty of a]~~ class A misdemeanor:

(i) for each subsequent violation with respect to a contact point registered with the ~~[division]~~ unit under Subsection 13-39-201~~(3)~~(2)(a); or

(ii) for each violation with respect to a domain name registered with the ~~[division]~~ unit under Subsection 13-39-201~~(3)~~(2)(b).

(2) A person commits a computer crime and is guilty of a second degree felony if the person:

(a) uses information obtained from the ~~[division]~~ unit under this chapter to violate Section 13-39-202;

(b) improperly:

(i) obtains contact points from the registry; or

(ii) attempts to obtain contact points from the registry; or

(c) uses, or transfers to a third party to use, information from the registry to send a solicitation.

(3) A criminal conviction or penalty under this section does not relieve a person from civil liability in an action under Section 13-39-302.

(4) Each communication sent in violation of Section 13-39-202 is a separate offense under this section.

Section 6. Section 13-39-303 is amended to read:

13-39-303. Administrative enforcement.

(1) The ~~[division shall]~~ attorney general:

(a) shall investigate violations of this chapter; and

~~[(b) assess cease and desist orders and administrative fines under this section for violations of this chapter.]~~

(b) may bring an action against a person who violates this chapter.

(2) A person who violates this chapter is subject to:

(a) a cease and desist order or other injunctive relief; and

(b) ~~[an administrative]~~ a fine of not more than \$2,500 for each separate communication sent in violation of Section 13-39-202.

(3) (a) A person who intentionally violates this chapter is subject to ~~[an administrative]~~ a fine of not

more than \$5,000 for each communication intentionally sent in violation of Section 13-39-202.

(b) For purposes of this section, a person intentionally violates this chapter if the violation occurs after the ~~[division,]~~ attorney general~~]~~ or a district or county attorney notifies the person by certified mail that the person is in violation of this chapter.

~~[(4) All administrative fines collected under this section shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.]~~

Section 7. Section 13-39-304 is amended to read:

13-39-304. Defenses.

It is a defense to an action brought under this chapter that a person:

(1) reasonably relied on the mechanism established by the ~~[division]~~ unit under Subsection 13-39-203(2); and

(2) took reasonable measures to comply with this chapter.

CHAPTER 357**S. B. 232**

Passed March 14, 2019
 Approved March 26, 2019
 Effective July 1, 2019

UTAH STATE UNIVERSITY AMENDMENTS

Chief Sponsor: David P. Hinkins
 House Sponsor: Christine F. Watkins

LONG TITLE**General Description:**

This bill amends provisions related to Utah State University and Utah State University's regional colleges and campuses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions related to the Utah State University board of trustees;
- ▶ amends provisions related to a career and technical education advisory committee for Utah State University, including provisions related to membership on the committee;
- ▶ amends provisions related to Utah State University regional campuses, including provisions related to Utah State University's regional campus in Moab;
- ▶ establishes a comprehensive regional college of Utah State University called Utah State University Blanding;
- ▶ removes from Utah State University Eastern the Utah State University campus in Blanding;
- ▶ enacts provisions related to Utah State University Blanding, including provisions related to:
 - governance and administration; and
 - a regional advisory council;
- ▶ makes other changes related to Utah State University's regional colleges and campuses; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53B-1-103, as last amended by Laws of Utah 2018, Chapter 200
 53B-2-104, as last amended by Laws of Utah 2018, Chapter 382
 53B-16-207, as last amended by Laws of Utah 2013, Chapter 465
 53B-16-208, as last amended by Laws of Utah 2013, Chapter 465
 53B-18-301, as enacted by Laws of Utah 1987, Chapter 167
 53B-18-302, as enacted by Laws of Utah 1987, Chapter 167
 53B-26-102, as last amended by Laws of Utah 2018, Chapter 421

53B-26-103, as last amended by Laws of Utah 2018, Chapter 421

53E-3-507, as renumbered and amended by Laws of Utah 2018, Chapter 1

63N-12-212, as last amended by Laws of Utah 2017, Chapter 382

ENACTS:

53B-18-1202, Utah Code Annotated 1953

REPEALS AND REENACTS:

53B-18-1201, as last amended by Laws of Utah 2013, Chapter 465

Utah Code Sections Affected by Coordination Clause:

53B-8-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-103 is amended to read:**53B-1-103. Establishment of State Board of Regents -- Powers, duties, and authority.**

- (1) There is established a State Board of Regents.
 - (2) (a) Except as provided in Subsection (2)(b), the board shall control, manage, and supervise the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to the board.
 - (b) The board may only exercise powers relating to the Utah System of Technical Colleges Board of Trustees, the Utah System of Technical Colleges, or a technical college that are specifically provided in this title.
 - (3) The board shall, for the Utah System of Higher Education:
 - (a) provide strategic leadership and link system capacity to the economy and workforce needs;
 - (b) enhance the impact and efficiency of the system;
 - (c) establish measurable goals and metrics and delineate the expected contributions of individual institutions of higher education toward these goals;
 - (d) evaluate presidents based on institutional performance;
 - (e) delegate to presidents the authority to manage the presidents' institutions of higher education;
 - (f) administer statewide functions including system data collection and reporting;
 - (g) establish unified budget, finance, and capital funding priorities and practices; and
 - (h) provide system leadership on issues that have a system-wide impact, including:
 - (i) statewide college access and college preparedness initiatives;
 - (ii) learning opportunities drawn from multiple campuses or online learning options, including new modes of delivery of content at multiple locations;

(iii) degree program requirement guidelines including credit hour limits, articulation agreements, and transfer across institutions;

(iv) alignment of general education requirements across institutions of higher education;

(v) incorporation of evidence-based practices that increase college completion; and

(vi) monitoring of workforce needs, with an emphasis on credentials that build upon one another.

(4) The board shall coordinate and support articulation agreements between the Utah System of Technical Colleges or a technical college and other institutions of higher education.

(5) The board shall prepare and submit an annual report detailing the board's progress and recommendations on career and technical education issues and addressing workforce needs to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education described in Subsection 53B-1-102(1)(a), including the access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, ~~and~~ Utah State University Eastern, and Utah State University Blanding;

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(6) The board may modify the name of an institution described in Subsection 53B-1-102(1)(a) to reflect the role and general course of study of the institution.

(7) The board may not conduct a feasibility study or perform another act relating to merging a technical college with another institution of higher education.

(8) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(9) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G,

Chapter 22, State Training and Certification Requirements.

Section 2. Section 53B-2-104 is amended to read:

53B-2-104. Institution of higher education board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) (a) Except as provided in Subsection (10), the board of trustees of an institution of higher education consists of the following:

(i) except as provided in Subsection ~~[53B-18-1201(3)(b)]~~ (1)(c), eight individuals appointed by the governor with the consent of the Senate; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the consent of the Senate.

(ii) One of the nine individuals described in Subsection (1)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(2) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (2)(d), a member appointed under Subsection (1)(a)(i) or (1)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection (1)(a)(i) or (1)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member appointed under Subsection (1)(a)(i) or (1)(c)(i).

(3) When a vacancy occurs in the membership of a board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(5) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(6) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(7) A quorum is required to conduct business and consists of six members.

(8) A board of trustees may establish advisory committees.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) This section does not apply to a technical college board of directors described in Section 53B-2a-108.

Section 3. Section 53B-16-207 is amended to read:

53B-16-207. Utah State University regional institutions -- Career and technical education -- Supervision and administration.

(1) As used in this section:

(a) "USU regional institution" means:

(i) Utah State University Eastern;

(ii) Utah State University Blanding; or

(iii) Utah State University Moab.

(b) "Utah State University Moab" means the Utah State University regional campus located at or near Moab described in Section 53B-18-301.

~~(1) Utah State University Eastern shall;~~

(2) A USU regional institution shall:

(a) maintain a strong curriculum in career and technical education courses at ~~its~~ the USU regional institution's campus and within the region ~~it~~ the USU regional institution serves ~~which~~ that can be transferred to other institutions within the

higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education;

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program; and

(c) provide for open-entry, open-exit competency-based career and technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market and serve the geographic area encompassing:

(i) for Utah State University Eastern, the Carbon School District~~;~~ ~~(ii)~~ and the Emery School District;

~~(iii) the Grand School District; and~~

~~(iv)~~ (ii) for Utah State University Blanding, the San Juan School District~~;~~; and

(iii) for Utah State University Moab, the Grand School District.

~~(2) Utah State University Eastern]~~

(3) A USU regional institution may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of ~~Utah State University Eastern~~ the USU regional institution.

~~(3) Utah State University Eastern]~~

(4) A USU regional institution shall report to the ~~State Board of Regents~~ board annually on:

(a) the status of and maintenance of the effort for career and technical education in the region served by ~~Utah State University Eastern~~ the USU regional institution, including access to open-entry, open-exit competency-based career and technical education programs; and

(b) student tuition and fees.

~~(4)~~ (5) Legislative appropriations to Utah State University ~~Eastern~~ career and technical education described in this section shall be made as line items that are separate from other appropriations for Utah State University ~~Eastern~~.

Section 4. Section 53B-16-208 is amended to read:

53B-16-208. Utah State University career and technical education advisory committee -- Membership -- Duties.

(1) As used in this section:

(a) "Service regions" means the service regions, as established by the Utah State University board of trustees, for:

(i) Utah State University Eastern;

(ii) Utah State University Blanding; and

(iii) Utah State University Moab.

(b) "Utah State University Moab" means the Utah State University regional campus located at or near Moab described in Section 53B-18-301.

~~[(1)]~~ (2) Utah State University ~~[Eastern shall have]~~ shall establish a career and technical education advisory committee composed of the following ~~[14]~~ 13 members:

(a) one elected local school board member appointed by the board of education for the Carbon School District;

(b) one elected local school board member appointed by the board of education for the Emery School District;

(c) one elected local school board member appointed by the board of education for the Grand School District;

(d) one elected local school board member appointed by the board of education for the San Juan School District;

(e) nine members appointed by the Utah State University president that include:

~~[(e)]~~ (i) one member of the Utah State University Eastern ~~[Regional Advisory Council appointed by the chancellor of Utah State University Eastern; and]~~ regional advisory council described in Section 53B-18-1201;

(ii) one member of the Utah State University Blanding regional advisory council described in Section 53B-18-1202;

(iii) one member representing Utah State University Moab; and

~~[(f)]~~ (iv) six representatives of business or industry ~~[within the region appointed by the chancellor of Utah State University Eastern]~~ from members of the program advisory committees overseeing career and technical education in the ~~[region]~~ service regions.

~~[(2)]~~ (3) The career and technical education advisory committee shall:

(a) ~~[after consulting with Utah State University Eastern, school districts, and charter schools within its region,]~~ prepare a comprehensive strategic plan for delivering career and technical education within ~~[its region,]~~ the service regions, after consulting with:

(i) Utah State University Eastern;

(ii) Utah State University Blanding;

(iii) Utah State University Moab; and

(iv) school districts and charter schools within the service regions;

(b) make recommendations regarding what skills are needed for employment in Utah businesses and industries;

(c) recommend programs based upon the information gathered in accordance with Subsection ~~[(2)]~~ (3)(b);

(d) review annual program evaluations;

(e) provide counsel, support, and recommendations for updating and improving the

effectiveness of career and technical education programs and services, including expedited program approval and termination of procedures, consistent with ~~[Board of Regents']~~ board policy;

(f) monitor program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services; and

(g) coordinate with local school boards, districts, and charter schools to meet the career and technical education needs of secondary students.

Section 5. Section 53B-18-301 is amended to read:

Part 3. Regional Campuses

53B-18-301. Regional campuses -- Administration -- Location.

Utah State University shall operate and administer ~~[area education centers]~~ regional campuses located at or near Roosevelt and Moab.

Section 6. Section 53B-18-302 is amended to read:

53B-18-302. Courses offered at regional campuses.

~~[The area education centers]~~ A regional campus described in Section 53B-18-301 shall offer academic courses comparable to those offered in an accredited institution of higher education.

Section 7. Section 53B-18-1201 is repealed and reenacted to read:

53B-18-1201. Utah State University Eastern -- Establishment -- Regional advisory council.

(1) As used in this section:

(a) "University" means Utah State University.

(b) "Vice president" means the vice president described in Subsection (5).

(2) (a) There is established a comprehensive regional college of the university called Utah State University Eastern.

(b) The university shall:

(i) possess all rights, title, privileges, powers, immunities, franchises, endowments, property, and claims of the College of Eastern Utah; and

(ii) fulfill and perform all obligations of Utah State University Eastern, including obligations relating to outstanding bonds and notes.

(3) (a) Utah State University Eastern has a campus that serves Price, Utah, and surrounding areas.

(b) The university board of trustees shall establish Utah State University Eastern's service region.

(4) Utah State University Eastern is under the authority and direction of the university president and the university board of trustees.

(5) Utah State University Eastern shall be administered by a vice president of the university appointed by the university president.

(6) (a) The university president shall appoint a regional advisory council to advise the university president and the vice president regarding local issues relating to Utah State University Eastern.

(b) The vice president shall provide the university president with recommendations for membership on the regional advisory council.

(c) The regional advisory council may include:

(i) a student representative; or

(ii) residents of the counties in the Utah State University Eastern service region.

Section 8. Section 53B-18-1202 is enacted to read:

53B-18-1202. Utah State University Blanding -- Establishment -- Regional advisory council.

(1) As used in this section:

(a) “University” means Utah State University.

(b) “Vice president” means the vice president described in Subsection (5).

(2) There is established a comprehensive regional college of the university called Utah State University Blanding.

(3) (a) Utah State University Blanding has a campus that serves Blanding, Utah, and surrounding areas.

(b) The university board of trustees shall establish Utah State University Blanding’s service region.

(4) Utah State University Blanding is under the authority and direction of the university president and the university board of trustees.

(5) Utah State University Blanding shall be administered by a vice president of the university appointed by the university president.

(6) (a) The university president shall appoint a regional advisory council to advise the university president and the vice president regarding local issues relating to Utah State University Blanding.

(b) The vice president shall provide the university president with recommendations for membership on the regional advisory council.

(c) The regional advisory council may include:

(i) a student representative; or

(ii) residents of the counties in the Utah State University Blanding service region.

Section 9. Section 53B-26-102 is amended to read:

53B-26-102. Definitions.

As used in this chapter:

(1) “CTE” means career and technical education.

(2) “CTE region” means an economic service area created in Section 35A-2-101.

(3) “Eligible partnership” means:

(a) a regional partnership; or

(b) a statewide partnership.

(4) “Employer” means a private employer, public employer, industry association, the military, or a union.

(5) “Industry advisory group” means:

(a) a group of at least five employers that represent the workforce needs to which a proposal submitted under Section 53B-26-103 responds; and

(b) a representative of the Governor’s Office of Economic Development, appointed by the executive director of the Governor’s Office of Economic Development.

(6) “Institution of higher education” means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(7) “Regional partnership” means a partnership that:

(a) provides educational services within one CTE region; and

(b) is between at least two of the following located in the CTE region:

(i) a technical college;

(ii) a school district or charter school; or

(iii) an institution of higher education.

(8) “Stackable sequence of credentials” means a sequence of credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) is part of a career pathway system;

(c) provides a pathway culminating in the equivalent of an associate’s or bachelor’s degree;

(d) facilitates multiple exit and entry points; and

(e) recognizes sub-goals or momentum points.

(9) “Statewide partnership” means a partnership between at least two regional partnerships.

(10) “Technical college” means:

(a) a college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;

(c) Utah State University Eastern established under Section 53B-18-1201; ~~or~~

(d) Utah State University Blanding established under Section 53B-18-1202; or

[~~(d)~~] (e) the Snow College Richfield campus established under Section 53B-16-205.

Section 10. Section 53B-26-103 is amended to read:

53B-26-103. GOED reporting requirement -- Proposals -- Funding.

(1) Every other year, the Governor's Office of Economic Development shall report to the Legislature, the board, and the Utah System of Technical Colleges Board of Trustees on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters:

- (a) aerospace and defense;
- (b) energy and natural resources;
- (c) financial services;
- (d) life sciences;
- (e) outdoor products;
- (f) software development and information technology; and
- (g) any other strategic industry cluster designated by the Governor's Office of Economic Development.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Legislature on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) A proposal described in Subsection (2) shall include:

- (a) a program of instruction that:
 - (i) is responsive to the workforce needs of a strategic industry cluster described in Subsection (1);
 - (A) in one CTE region, for a proposal submitted by a regional partnership; or
 - (B) in at least two CTE regions, for a proposal submitted by a statewide partnership;
 - (ii) leads to the attainment of a stackable sequence of credentials; and
 - (iii) includes a non-duplicative progression of courses that include both academic and CTE content;
 - (b) expected student enrollment, attainment rates, and job placement rates;
 - (c) evidence of input and support for the proposal from an industry advisory group;
 - (d) a description of any financial or in-kind contributions for the program from an industry advisory group;
 - (e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;

(f) evidence of an official action in support of the proposal from:

(i) the Utah System of Technical Colleges Board of Trustees, if the eligible partnership includes a technical college described in Subsection 53B-26-102(10)(a); or

(ii) the board, if the eligible partnership includes:

- (A) an institution of higher education; or
- (B) a college described in [~~Subsection~~] Subsections 53B-26-102(10)(b)[~~, (c), or (d)~~] through (e);

(g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and

(h) a funding request, including justification for the request.

(4) The Legislature shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet state or regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) fund the proposal through the appropriations process.

(5) An eligible partnership that receives funding under this section:

(a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and

(b) may not use the money for administration.

Section 11. Section 53E-3-507 is amended to read:

53E-3-507. Powers of the board.

The State Board of Education:

(1) shall establish minimum standards for career and technical education programs in the public education system;

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

(3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;

(4) shall cooperate with the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, [~~and~~] Utah State University Eastern,

and Utah State University Blanding to ensure that students in the public education system have access to career and technical education at Utah System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, ~~and~~ Utah State University Eastern, and Utah State University Blanding;

(5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:

(a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and

(b) provided specific written consent for the student's participation in the program and clinical experience; and

(6) shall, after consulting with school districts, charter schools, the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, ~~and~~ Utah State University Eastern, and Utah State University Blanding, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, ~~and~~ Utah State University Eastern, and Utah State University Blanding.

Section 12. Section 63N-12-212 is amended to read:

63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) a technical college described in Section 53B-2a-105;

(b) Salt Lake Community College;

(c) Snow College;

(d) Utah State University Eastern; ~~or~~

(e) Utah State University Blanding; or

~~(e)~~ (f) a private sector employer.

Section 13. Effective date.

This bill takes effect on July 1, 2019.

Section 14. Coordinating S.B. 232 with S.B. 136 -- Substantive language.

If this S.B. 232 and S.B. 136, Scholarships for Career and Technical Education, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by replacing Subsection 53B-8-114(1)(a) with the following language:

"(a) "Eligible institution" means:

(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;

(ii) Snow College;

(iii) Utah State University Eastern established in Section 53B-18-1201;

(iv) Utah State University Blanding established in Section 53B-18-1202; or

(v) the Utah State University regional campus located at or near Moab described in Section 53B-18-301."

CHAPTER 358**H. B. 3**

Passed March 12, 2019
Approved March 27, 2019
Effective July 1, 2019

**CURRENT AND NEW FISCAL YEAR
SUPPLEMENTAL APPROPRIATIONS ACT**

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019 and for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ balances the overall state budget between funding sources in higher education.

Money Appropriated in this Bill:

This bill appropriates \$0 in operating and capital budgets for fiscal year 2019, including:

- ▶ (\$294,000,000) from the General Fund;
- ▶ \$294,000,000 from the Education Fund.

This bill appropriates \$0 in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$169,000,000) from the General Fund;
- ▶ \$169,000,000 from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately.
Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

HIGHER EDUCATION**UNIVERSITY OF UTAH****Item 1**

To University of Utah - Education and General
From General Fund, One-Time (25,000,000)
From Education Fund, One-Time 25,000,000

UTAH STATE UNIVERSITY**Item 2**

To Utah State University - Education and General
From General Fund, One-Time (83,000,000)
From Education Fund, One-Time 83,000,000

Item 3

To Utah State University - Regional Campuses
From General Fund, One-Time (3,500,000)
From Education Fund, One-Time 3,500,000

Item 4

To Utah State University - Blanding Campus
From General Fund, One-Time (1,500,000)
From Education Fund, One-Time 1,500,000

WEBER STATE UNIVERSITY**Item 5**

To Weber State University - Education
and General
From General Fund, One-Time (63,000,000)
From Education Fund, One-Time 63,000,000

SOUTHERN UTAH UNIVERSITY**Item 6**

To Southern Utah University - Education
and General
From General Fund, One-Time (12,000,000)
From Education Fund, One-Time 12,000,000

UTAH VALLEY UNIVERSITY**Item 7**

To Utah Valley University - Education and General
From General Fund, One-Time (59,000,000)
From Education Fund, One-Time 59,000,000

SNOW COLLEGE**Item 8**

To Snow College - Education and General
From General Fund, One-Time (1,500,000)
From Education Fund, One-Time 1,500,000

Item 9

To Snow College - Career and Technical Education
From General Fund, One-Time (1,000,000)
From Education Fund, One-Time 1,000,000

DIXIE STATE UNIVERSITY**Item 10**

To Dixie State University - Education and General
From General Fund, One-Time (2,500,000)
From Education Fund, One-Time 2,500,000

SALT LAKE COMMUNITY COLLEGE**Item 11**

To Salt Lake Community College - Education
and General
From General Fund, One-Time (10,000,000)
From Education Fund, One-Time 10,000,000

Item 12

To Salt Lake Community College -
School of Applied Technology
From General Fund, One-Time (4,000,000)
From Education Fund, One-Time 4,000,000

STATE BOARD OF REGENTS

Item 13

To State Board of Regents - Administration
From General Fund, One-Time (3,000,000)
From Education Fund, One-Time 3,000,000

Item 14

To State Board of Regents - Student Assistance
From General Fund, One-Time (5,500,000)
From Education Fund, One-Time 5,500,000

Item 15

To State Board of Regents - Technology
From General Fund, One-Time (3,500,000)
From Education Fund, One-Time 3,500,000

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 16

To Utah System of Technical Colleges -
Bridgerland Technical College
From General Fund, One-Time (4,000,000)
From Education Fund, One-Time 4,000,000

Item 17

To Utah System of Technical Colleges -
Davis Technical College
From General Fund, One-Time (4,000,000)
From Education Fund, One-Time 4,000,000

Item 18

To Utah System of Technical Colleges -
Ogden-Weber Technical College
From General Fund, One-Time (5,000,000)
From Education Fund, One-Time 5,000,000

Item 19

To Utah System of Technical Colleges -
Uintah Basin Technical College
From General Fund, One-Time (1,000,000)
From Education Fund, One-Time 1,000,000

Item 20

To Utah System of Technical Colleges -
USTC Administration
From General Fund, One-Time (2,000,000)
From Education Fund, One-Time 2,000,000

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 21

To University of Utah - Education and General
From General Fund (25,000,000)
From Education Fund 25,000,000

WEBER STATE UNIVERSITY

Item 22

To Weber State University - Education and General
From General Fund (63,000,000)
From Education Fund 63,000,000

SOUTHERN UTAH UNIVERSITY

Item 23

To Southern Utah University - Education and General
From General Fund (12,000,000)
From Education Fund 12,000,000

UTAH VALLEY UNIVERSITY

Item 24

To Utah Valley University - Education and General
From General Fund (59,000,000)
From Education Fund 59,000,000

SALT LAKE COMMUNITY COLLEGE

Item 25

To Salt Lake Community College - Education and General
From General Fund (10,000,000)
From Education Fund 10,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 359

H. B. 8

Passed March 14, 2019
 Approved March 27, 2019
 Effective July 1, 2019

**STATE AGENCY AND HIGHER EDUCATION
 COMPENSATION APPROPRIATIONS**

Chief Sponsor: Jefferson Moss
 Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides funding for a 2.5% labor market increase for state and higher education employees;
- ▶ provides funding for an average 4.35% increase in health insurance benefits rates for state and higher education employees;
- ▶ adjusts funding for a 0.12% decrease in workers' compensation rates (a 17% decrease) for state agencies (excluding the Department of Transportation);
- ▶ provides funding for a 0.02% increase in unemployment compensation rates (a 20% increase) for state agencies;
- ▶ provides funding for retirement rate changes for certain state employees;
- ▶ provides funding for an up-to \$26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- ▶ provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates \$91,945,700 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$21,849,800 from the General Fund;
- ▶ \$35,664,700 from the Education Fund;
- ▶ \$34,431,200 from various sources as detailed in this bill.

This bill appropriates \$181,600 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$253,900 in business-like activities for fiscal year 2020.

This bill appropriates \$0 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$11,300 from the General Fund;
- ▶ (\$11,300) from various sources as detailed in this bill.

This bill appropriates \$2,000 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

This bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Subsection 1(a). Operating and Capital

Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General

From General Fund	627,300
From General Fund, One-Time	90,800
From Federal Funds	66,100
From Federal Funds, One-Time	10,100
From Dedicated Credits Revenue	208,900
From Dedicated Credits Revenue, One-Time	32,600
From Attorney General Litigation Fund	300
From Revenue Transfers	23,000
From Revenue Transfers, One-Time	3,500
From Other Financing Sources	2,300
From Other Financing Sources, One-Time ..	400
Schedule of Programs:	
Administration	161,200
Child Protection	250,400
Civil	54,600
Criminal Prosecution	599,100

Item 2

To Attorney General - Children's Justice Centers

From General Fund	11,900
From General Fund, One-Time	1,700
From Dedicated Credits Revenue	1,200
From Dedicated Credits Revenue, One-Time	200
Schedule of Programs:	
Children's Justice Centers	15,000

Item 3

To Attorney General - Prosecution Council

From General Fund	3,300
From General Fund, One-Time	600
From Dedicated Credits Revenue	1,600
From Dedicated Credits Revenue, One-Time	200
From General Fund Restricted - Public Safety Support	10,200
From General Fund Restricted - Public Safety Support, One-Time	1,600
From Revenue Transfers	5,100
From Revenue Transfers, One-Time	900
Schedule of Programs:	
Prosecution Council	23,500

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole

From General Fund	118,900
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From General Fund, One-Time 22,700
 Schedule of Programs:
 Board of Pardons and Parole 141,600

UTAH DEPARTMENT OF CORRECTIONS

Item 5

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 5,328,100
 From General Fund, One-Time 1,221,000
 Schedule of Programs:
 Adult Probation and Parole
 Administration 69,500
 Adult Probation and Parole
 Programs 1,925,900
 Department Administrative Services .. 386,600
 Department Executive Director 159,800
 Department Training 54,200
 Prison Operations Administration 36,300
 Prison Operations Central Utah/
 Gunnison 1,222,400
 Prison Operations Draper Facility ... 2,087,400
 Prison Operations Inmate
 Placement 101,400
 Programming Administration 15,800
 Programming Skill Enhancement 337,100
 Programming Treatment 152,700

Item 6

To Utah Department of Corrections -
 Department Medical Services
 From General Fund 528,400
 From General Fund, One-Time 77,000
 Schedule of Programs:
 Medical Services 605,400

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 7

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 2,815,600
 From General Fund, One-Time 464,800
 From Federal Funds 11,100
 From Federal Funds, One-Time 2,300
 Schedule of Programs:
 Administrative Office 110,900
 Court of Appeals 121,900
 Courts Security 3,300
 Data Processing 154,800
 District Courts 1,491,100
 Grants Program 13,400
 Judicial Education 9,800
 Justice Courts 19,600
 Juvenile Courts 1,251,500
 Law Library 23,100
 Supreme Court 94,400

Item 8

To Judicial Council/State Court Administrator -
 Contracts and Leases
 From General Fund 1,600
 Schedule of Programs:
 Contracts and Leases 1,600

Item 9

To Judicial Council/State Court Administrator -
 Guardian ad Litem
 From General Fund 219,400
 From General Fund, One-Time 36,900
 Schedule of Programs:
 Guardian ad Litem 256,300

Item 10

To Judicial Council/State Court Administrator -
 Jury and Witness Fees
 From General Fund 11,700
 From General Fund, One-Time 2,600
 Schedule of Programs:
 Jury, Witness, and Interpreter 14,300

GOVERNOR'S OFFICE

Item 11

To Governor's Office - Commission on
 Criminal and Juvenile Justice
 From General Fund 55,900
 From General Fund, One-Time 8,200
 From Federal Funds 47,100
 From Federal Funds, One-Time 9,500
 From Dedicated Credits Revenue 500
 From Dedicated Credits Revenue,
 One-Time 100
 From Crime Victim Reparations Fund ... 39,900
 From Crime Victim Reparations
 Fund, One-Time 8,800
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 1,700
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account, One-Time 100
 From General Fund Restricted -
 Law Enforcement Operations 1,700
 From General Fund Restricted - Law
 Enforcement Operations, One-Time 100
 Schedule of Programs:
 CCJJ Commission 57,300
 Extraditions 1,400
 Judicial Performance Evaluation
 Commission 10,800
 Sentencing Commission 4,100
 State Asset Forfeiture Grant Program ... 1,800
 State Task Force Grants 1,800
 Substance Use and Mental
 Health Advisory Council 4,000
 Utah Office for Victims of Crime 92,400

Item 12

To Governor's Office
 From General Fund 99,300
 From General Fund, One-Time 11,800
 From Dedicated Credits Revenue 13,600
 From Dedicated Credits Revenue,
 One-Time 1,700
 Schedule of Programs:
 Administration 74,900
 Governor's Residence 6,700
 Literacy Projects 4,100
 Lt. Governor's Office 34,700
 Washington Funding 6,000

Item 13

To Governor's Office - Governor's
 Office of Management and Budget

From General Fund	79,600
From General Fund, One-Time	11,900
Schedule of Programs:	
Administration	22,300
Operational Excellence	18,700
Planning and Budget Analysis	50,500

Item 14

To Governor's Office - Indigent Defense Commission	
From General Fund Restricted - Indigent Defense Resources	17,100
From General Fund Restricted - Indigent Defense Resources, One-Time	2,600
Schedule of Programs:	
Indigent Defense Commission	19,700

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund	1,522,000
From General Fund, One-Time	397,400
From Federal Funds	68,400
From Federal Funds, One-Time	19,100
From Dedicated Credits Revenue	10,300
From Dedicated Credits Revenue, One-Time	2,600
From Revenue Transfers	14,300
From Revenue Transfers, One-Time	3,600
Schedule of Programs:	
Administration	104,300
Community Programs	131,200
Correctional Facilities	410,300
Early Intervention Services	518,200
Rural Programs	646,400
Youth Parole Authority	11,300
Case Management	216,000

OFFICE OF THE STATE AUDITOR

Item 16

To Office of the State Auditor - State Auditor	
From General Fund	71,200
From General Fund, One-Time	14,800
From Dedicated Credits Revenue	61,100
From Dedicated Credits Revenue, One-Time	12,700
Schedule of Programs:	
State Auditor	159,800

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety - Driver License	
From Department of Public Safety Restricted Account	509,900
From Department of Public Safety Restricted Account, One-Time	131,900
From Public Safety Motorcycle Education Fund	2,200
From Public Safety Motorcycle Education Fund, One-Time	700
From Pass-through	1,100
From Pass-through, One-Time	300

Schedule of Programs:	
Driver License Administration	30,600
Driver Records	169,000
Driver Services	443,600
Motorcycle Safety	2,900

Item 18

To Department of Public Safety - Emergency Management	
From General Fund	84,700
From General Fund, One-Time	16,700
From Dedicated Credits Revenue	29,600
From Dedicated Credits Revenue, One-Time	5,900
Schedule of Programs:	
Emergency Management	136,900

Item 19

To Department of Public Safety - Highway Safety	
From General Fund	400
From General Fund, One-Time	100
From Federal Funds	29,100
From Federal Funds, One-Time	7,300
Schedule of Programs:	
Highway Safety	36,900

Item 20

To Department of Public Safety - Peace Officers' Standards and Training	
From General Fund	2,100
From General Fund, One-Time	300
From Dedicated Credits Revenue	1,500
From Dedicated Credits Revenue, One-Time	100
From General Fund Restricted - Public Safety Support	65,300
From General Fund Restricted - Public Safety Support, One-Time	7,000
Schedule of Programs:	
Basic Training	39,400
POST Administration	22,000
Regional/Inservice Training	14,900

Item 21

To Department of Public Safety - Programs & Operations	
From General Fund	1,601,300
From General Fund, One-Time	303,800
From Federal Funds	18,800
From Federal Funds, One-Time	1,800
From Dedicated Credits Revenue	167,900
From Dedicated Credits Revenue, One-Time	34,000
From Department of Public Safety Restricted Account	166,600
From Department of Public Safety Restricted Account, One-Time	27,300
From General Fund Restricted - DNA Specimen Account	24,400
From General Fund Restricted - DNA Specimen Account, One-Time	4,900
From General Fund Restricted - Fire Academy Support	69,400
From General Fund Restricted - Fire Academy Support, One-Time	8,700
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct.	54,400
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-Time	10,100

From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account	1,800
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-Time	200
From Revenue Transfers	9,400
From Revenue Transfers, One-Time	900
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau	2,900
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-Time	100
Schedule of Programs:	
Aero Bureau	14,100
CITS Administration	12,200
CITS Communications	248,900
CITS State Bureau of Investigation	101,100
CITS State Crime Labs	152,200
Department Commissioner's Office	89,500
Department Fleet Management	1,900
Department Grants	30,900
Department Intelligence Center	25,500
Fire Marshall - Fire Fighter Training ..	18,700
Fire Marshall - Fire Operations	76,100
Highway Patrol - Administration	28,500
Highway Patrol - Commercial Vehicle	122,200
Highway Patrol - Federal/State Projects ..	300
Highway Patrol - Field Operations	1,175,200
Highway Patrol - Protective Services	136,000
Highway Patrol - Safety Inspections	23,500
Highway Patrol - Special Enforcement	123,100
Highway Patrol - Special Services	109,000
Highway Patrol - Technology Services	19,800

Item 22

To Department of Public Safety - Bureau of Criminal Identification	
From General Fund	700
From General Fund, One-Time	100
From Dedicated Credits Revenue	110,200
From Dedicated Credits Revenue, One-Time	27,000
From General Fund Restricted - Concealed Weapons Account	63,000
From General Fund Restricted - Concealed Weapons Account, One-Time	15,300
From Revenue Transfers	400
From Revenue Transfers, One-Time	100
Schedule of Programs:	
Non-Government/Other Services	216,800

STATE TREASURER

Item 23

To State Treasurer	
From General Fund	21,500
From General Fund, One-Time	2,400
From Dedicated Credits Revenue	16,200
From Dedicated Credits Revenue, One-Time	1,600
From Unclaimed Property Trust	34,000

From Unclaimed Property Trust, One-Time	6,700
Schedule of Programs:	
Money Management Council	3,100
Treasury and Investment	38,600
Unclaimed Property	40,700

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 24

To Department of Administrative Services - Administrative Rules	
From General Fund	9,600
From General Fund, One-Time	2,700
Schedule of Programs:	
DAR Administration	12,300

Item 25

To Department of Administrative Services - Building Board Program	
From Capital Projects Fund	10,700
From Capital Projects Fund, One-Time	2,700
Schedule of Programs:	
Building Board Program	13,400

Item 26

To Department of Administrative Services - DFCM Administration	
From General Fund	109,600
From General Fund, One-Time	17,300
From Education Fund	16,300
From Education Fund, One-Time	2,700
From Dedicated Credits Revenue	35,500
From Dedicated Credits Revenue, One-Time	5,800
Schedule of Programs:	
DFCM Administration	176,300
Energy Program	10,900

Item 27

To Department of Administrative Services - Executive Director	
From General Fund	21,100
From General Fund, One-Time	2,700
Schedule of Programs:	
Executive Director	23,800

Item 28

To Department of Administrative Services - Finance - Mandated	
From General Fund, One-Time	(4,500,000)
Schedule of Programs:	
State Employee Benefits	(4,500,000)

Item 29

To Department of Administrative Services - Finance Administration	
From General Fund	100,200
From General Fund, One-Time	20,900
From Dedicated Credits Revenue	34,200
From Dedicated Credits Revenue, One-Time	7,700
From Gen. Fund Rest. - Internal Service Fund Overhead	19,600
From Gen. Fund Rest. - Internal Service Fund Overhead, One-Time	3,100
Schedule of Programs:	

Finance Director's Office	19,100
Financial Information Systems	40,100
Financial Reporting	54,600
Payables/Disbursing	50,400
Payroll	21,500

Item 30

To Department of Administrative Services - Inspector General of Medicaid Services	
From General Fund	27,100
From General Fund, One-Time	5,200
From Federal Funds	800
From Federal Funds, One-Time	100
From Medicaid Expansion Fund	800
From Medicaid Expansion Fund, One-Time	100
From Revenue Transfers	53,400
From Revenue Transfers, One-Time	10,100
Schedule of Programs:	
Inspector General of Medicaid Services	97,600

Item 31

To Department of Administrative Services - Judicial Conduct Commission	
From General Fund	5,500
From General Fund, One-Time	700
Schedule of Programs:	
Judicial Conduct Commission	6,200

Item 32

To Department of Administrative Services - Purchasing	
From General Fund	35,600
From General Fund, One-Time	3,600
Schedule of Programs:	
Purchasing and General Services	39,200

Item 33

To Department of Administrative Services - State Archives	
From General Fund	54,500
From General Fund, One-Time	11,700
From Federal Funds	1,300
From Federal Funds, One-Time	400
From Dedicated Credits Revenue	1,400
From Dedicated Credits Revenue, One-Time	400
Schedule of Programs:	
Archives Administration	7,200
Open Records	11,400
Patron Services	23,500
Preservation Services	10,900
Records Analysis	13,100
Records Services	3,600

**DEPARTMENT OF
TECHNOLOGY SERVICES**

Item 34

To Department of Technology Services - Chief Information Officer	
From General Fund	11,900
From General Fund, One-Time	700
Schedule of Programs:	
Chief Information Officer	12,600

Item 35

To Department of Technology Services - Integrated Technology Division	
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From General Fund	13,700
From General Fund, One-Time	2,700
From Federal Funds	3,200
From Federal Funds, One-Time	700
From Dedicated Credits Revenue	15,800
From Dedicated Credits Revenue, One-Time	3,100
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.	4,700
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-Time	900
Schedule of Programs:	
Automated Geographic Reference Center	44,800

TRANSPORTATION

Item 36

To Transportation - Aeronautics	
From Dedicated Credits Revenue	7,600
From Dedicated Credits Revenue, One-Time	1,300
From Aeronautics Restricted Account	29,500
From Aeronautics Restricted Account, One-Time	4,400
Schedule of Programs:	
Administration	19,100
Airplane Operations	23,700

Item 37

To Transportation - Engineering Services	
From Transportation Fund	534,500
From Transportation Fund, One-Time ..	101,200
From Federal Funds	213,200
From Federal Funds, One-Time	40,000
From Dedicated Credits Revenue	26,300
From Dedicated Credits Revenue, One-Time	5,300
Schedule of Programs:	
Civil Rights	7,800
Construction Management	53,600
Engineer Development Pool	62,600
Engineering Services	79,800
Environmental	67,800
Highway Project Management Team	10,600
Materials Lab	138,700
Preconstruction Admin	74,800
Program Development	192,700
Research	35,900
Right-of-Way	83,400
Structures	112,800

Item 38

To Transportation - Operations/ Maintenance Management	
From Transportation Fund	2,106,400
From Transportation Fund, One-Time ..	456,300
From Federal Funds	192,000
From Federal Funds, One-Time	42,900
From Dedicated Credits Revenue	18,000
From Dedicated Credits Revenue, One-Time	3,700
Schedule of Programs:	
Field Crews	450,700
Maintenance Planning	67,200
Region 1	332,400
Region 2	427,600
Region 3	289,500
Region 4	616,500
Shops	226,800

Traffic Operations Center 309,900
 Traffic Safety/Tramway 98,700

Item 39

To Transportation - Region Management
 From Transportation Fund 642,400
 From Transportation Fund, One-Time .. 129,000
 From Federal Funds 74,200
 From Federal Funds, One-Time 14,900
 From Dedicated Credits Revenue 29,500
 From Dedicated Credits Revenue,
 One-Time 6,000
 Schedule of Programs:
 Cedar City 9,500
 Price 9,900
 Region 1 203,000
 Region 2 299,600
 Region 3 168,200
 Region 4 199,100
 Richfield 6,700

Item 40

To Transportation - Support Services
 From Transportation Fund 408,900
 From Transportation Fund, One-Time ... 80,300
 From Federal Funds 72,700
 From Federal Funds, One-Time 16,000
 Schedule of Programs:
 Administrative Services 92,400
 Community Relations 31,200
 Comptroller 88,200
 Data Processing 3,900
 Human Resources Management 30,200
 Internal Auditor 31,600
 Ports of Entry 241,900
 Procurement 39,400
 Risk Management 19,100

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF ALCOHOLIC
 BEVERAGE CONTROL**

Item 41

To Department of Alcoholic Beverage Control -
 DABC Operations
 From Liquor Control Fund 526,300
 From Liquor Control Fund, One-Time ... 90,300
 Schedule of Programs:
 Administration 18,500
 Executive Director 84,100
 Stores and Agencies 434,700
 Warehouse and Distribution 79,300

DEPARTMENT OF COMMERCE

Item 42

To Department of Commerce - Building
 Inspector Training
 From Dedicated Credits Revenue 1,400
 From Dedicated Credits Revenue,
 One-Time 600
 Schedule of Programs:
 Building Inspector Training 2,000

Item 43

To Department of Commerce - Commerce
 General Regulation

From General Fund 1,300
 From General Fund, One-Time 200
 From Federal Funds 7,700
 From Federal Funds, One-Time 1,500
 From Dedicated Credits Revenue 33,300
 From Dedicated Credits Revenue,
 One-Time 5,700
 From General Fund Restricted -
 Commerce Service Account 400,900
 From General Fund Restricted -
 Commerce Service Account,
 One-Time 75,200
 From General Fund Restricted -
 Factory Built Housing Fees 1,500
 From General Fund Restricted -
 Factory Built Housing Fees, One-Time ... 300
 From Gen. Fund Rest. - Geologist
 Education and Enforcement 400
 From Gen. Fund Rest. - Geologist
 Education and Enforcement, One-Time ... 100
 From Gen. Fund Rest. - Nurse
 Education & Enforcement Acct. 400
 From Gen. Fund Rest. - Nurse Education
 & Enforcement Acct., One-Time 100
 From General Fund Restricted -
 Pawnbroker Operations 2,900
 From General Fund Restricted -
 Pawnbroker Operations, One-Time 600
 From General Fund Restricted -
 Public Utility Restricted Acct. 93,700
 From General Fund Restricted - Public
 Utility Restricted Acct., One-Time 18,600
 From Pass-through 2,100
 From Pass-through, One-Time 400
 Schedule of Programs:
 Administration 54,900
 Consumer Protection 58,000
 Corporations and Commercial Code 67,400
 Occupational and Professional
 Licensing 230,000
 Office of Consumer Services 21,500
 Public Utilities 102,800
 Real Estate 51,500
 Securities 60,800

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 44

To Governor's Office of Economic Development -
 Administration
 From General Fund 48,400
 From General Fund, One-Time 8,100
 Schedule of Programs:
 Administration 56,500

Item 45

To Governor's Office of Economic Development -
 Business Development
 From General Fund 79,000
 From General Fund, One-Time 11,400
 From Federal Funds 4,300
 From Federal Funds, One-Time 500
 From Dedicated Credits Revenue 3,000
 From Dedicated Credits Revenue,
 One-Time 400
 From General Fund Restricted -
 Industrial Assistance Account 2,000

From General Fund Restricted -
 Industrial Assistance Account,
 One-Time 200
 Schedule of Programs:
 Corporate Recruitment and
 Business Services 65,700
 Outreach and International Trade 35,100

Item 46

To Governor's Office of Economic Development -
 Office of Tourism
 From General Fund 57,800
 From General Fund, One-Time 10,500
 From Dedicated Credits Revenue 5,200
 From Dedicated Credits Revenue,
 One-Time 1,200
 From General Fund Rest. -
 Motion Picture Incentive Acct. 8,700
 From General Fund Rest. - Motion
 Picture Incentive Acct., One-Time 1,400
 Schedule of Programs:
 Administration 19,200
 Film Commission 16,400
 Operations and Fulfillment 49,200

Item 47

To Governor's Office of Economic Development -
 Pete Suazo Utah Athletics Commission
 From General Fund 3,500
 From General Fund, One-Time 500
 From Dedicated Credits Revenue 1,500
 From Dedicated Credits Revenue,
 One-Time 200
 Schedule of Programs:
 Pete Suazo Utah Athletics
 Commission 5,700

Item 48

To Governor's Office of Economic Development -
 STEM Action Center
 From General Fund 17,000
 From General Fund, One-Time 2,100
 From Dedicated Credits Revenue 15,100
 From Dedicated Credits Revenue,
 One-Time 1,300
 Schedule of Programs:
 STEM Action Center 33,200
 STEM Action Center - Grades 6-8 2,300

Item 49

To Governor's Office of Economic Development -
 Talent Ready Utah Center
 From General Fund 5,100
 From General Fund, One-Time 1,400
 Schedule of Programs:
 Talent Ready Utah Center 6,500

FINANCIAL INSTITUTIONS

Item 50

To Financial Institutions - Financial
 Institutions Administration
 From General Fund Restricted -
 Financial Institutions 155,700
 From General Fund Restricted -
 Financial Institutions, One-Time 33,200
 Schedule of Programs:
 Administration 188,900

DEPARTMENT OF HERITAGE AND ARTS

Item 51

To Department of Heritage and Arts -
 Administration
 From General Fund 55,400
 From General Fund, One-Time 8,800
 From Dedicated Credits Revenue 1,200
 From Dedicated Credits Revenue,
 One-Time 200
 Schedule of Programs:
 Administrative Services 35,600
 Executive Director's Office 17,100
 Information Technology 3,600
 Utah Multicultural Affairs Office 9,300

Item 52

To Department of Heritage and Arts -
 Division of Arts and Museums
 From General Fund 38,200
 From General Fund, One-Time 8,200
 From Federal Funds 1,800
 From Federal Funds, One-Time 400
 From Dedicated Credits Revenue 1,800
 From Dedicated Credits Revenue,
 One-Time 400
 Schedule of Programs:
 Administration 11,900
 Community Arts Outreach 38,900

Item 53

To Department of Heritage and Arts -
 Commission on Service and Volunteerism
 From General Fund 900
 From General Fund, One-Time 200
 From Federal Funds 16,000
 From Federal Funds, One-Time 3,100
 Schedule of Programs:
 Commission on Service and
 Volunteerism 20,200

Item 54

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 5,000
 From General Fund, One-Time 500
 From Dedicated Credits Revenue 800
 From Dedicated Credits Revenue,
 One-Time 100
 From General Fund Restricted -
 Native American Repatriation 800
 From General Fund Restricted - Native
 American Repatriation, One-Time 100
 Schedule of Programs:
 Indian Affairs 7,300

Item 55

To Department of Heritage and Arts - State History
 From General Fund 48,600
 From General Fund, One-Time 8,900
 From Federal Funds 19,400
 From Federal Funds, One-Time 2,600
 From Dedicated Credits Revenue 1,500
 From Dedicated Credits Revenue,
 One-Time 200
 Schedule of Programs:
 Administration 9,200
 Historic Preservation and Antiquities ... 38,200
 Library and Collections 17,700
 Public History, Communication and
 Information 16,100

Item 56

To Department of Heritage and Arts - State Library

From General Fund	43,500
From General Fund, One-Time	8,700
From Federal Funds	17,000
From Federal Funds, One-Time	3,500
From Dedicated Credits Revenue	35,200
From Dedicated Credits Revenue, One-Time	6,700
Schedule of Programs:	
Administration	7,500
Blind and Disabled	46,700
Library Development	45,800
Library Resources	14,600

INSURANCE DEPARTMENT

Item 57

To Insurance Department - Bail Bond Program

From General Fund Restricted - Bail Bond Surety Administration	1,100
From General Fund Restricted - Bail Bond Surety Administration, One-Time	200
Schedule of Programs:	
Bail Bond Program	1,300

Item 58

To Insurance Department - Health Insurance Actuary

From General Fund Rest. - Health Insurance Actuarial Review	4,300
From General Fund Rest. - Health Insurance Actuarial Review, One-Time	600
Schedule of Programs:	
Health Insurance Actuary	4,900

Item 59

To Insurance Department - Insurance Department Administration

From Federal Funds	23,100
From Federal Funds, One-Time	4,000
From General Fund Restricted - Captive Insurance	27,700
From General Fund Restricted - Captive Insurance, One-Time	5,500
From General Fund Restricted - Insurance Department Acct.	147,200
From General Fund Restricted - Insurance Department Acct., One-Time	26,900
From General Fund Rest. - Insurance Fraud Investigation Acct.	33,100
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time	2,900
Schedule of Programs:	
Administration	199,400
Captive Insurers	33,200
Insurance Fraud Program	37,800

Item 60

To Insurance Department - Title Insurance Program

From General Fund Rest. - Title Licensee Enforcement Acct.	1,900
From General Fund Rest. - Title Licensee Enforcement Acct., One-Time	600
Schedule of Programs:	
Title Insurance Program	2,500

LABOR COMMISSION

Item 61

To Labor Commission

From General Fund	136,500
From General Fund, One-Time	23,900
From Federal Funds	69,200
From Federal Funds, One-Time	14,000
From Dedicated Credits Revenue	700
From Dedicated Credits Revenue, One-Time	100
From Employers' Reinsurance Fund	1,600
From Employers' Reinsurance Fund, One-Time	200
From General Fund Restricted - Industrial Accident Account	72,600
From General Fund Restricted - Industrial Accident Account, One-Time	12,600
From Trust and Agency Funds	2,500
From Trust and Agency Funds, One-Time	400
From General Fund Restricted - Workplace Safety Account	12,200
From General Fund Restricted - Workplace Safety Account, One-Time	2,300
Schedule of Programs:	
Adjudication	41,700
Administration	35,200
Antidiscrimination and Labor	65,200
Boiler, Elevator and Coal Mine Safety Division	47,700
Industrial Accidents	45,600
Utah Occupational Safety and Health	111,400
Workplace Safety	2,000

PUBLIC SERVICE COMMISSION

Item 62

To Public Service Commission

From General Fund Restricted - Public Utility Restricted Acct.	57,900
From General Fund Restricted - Public Utility Restricted Acct., One-Time	10,800
From Revenue Transfers	300
Schedule of Programs:	
Administration	69,000

UTAH STATE TAX COMMISSION

Item 63

To Utah State Tax Commission - Tax Administration

From General Fund	550,200
From General Fund, One-Time	124,200
From Education Fund	432,300
From Education Fund, One-Time	97,100
From Federal Funds	14,700
From Federal Funds, One-Time	3,300
From Dedicated Credits Revenue	136,100
From Dedicated Credits Revenue, One-Time	29,900
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account	78,100
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-Time	14,300
From General Fund Rest. - Sales and Use Tax Admin Fees	222,700

From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time	50,000
From Revenue Transfers	4,300
From Revenue Transfers, One-Time	900
From Uninsured Motorist Identification Restricted Account	3,100
From Uninsured Motorist Identification Restricted Account, One-Time	700
Schedule of Programs:	
Administration Division	250,700
Auditing Division	363,200
Motor Vehicle Enforcement Division	95,300
Motor Vehicles	396,900
Property Tax Division	153,200
Seasonal Employees	3,700
Tax Payer Services	344,400
Tax Processing Division	154,500

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 64

To Utah Science Technology and Research Governing Authority - Support Programs	
From General Fund	30,800
From General Fund, One-Time	3,800
From Dedicated Credits Revenue	400
From Dedicated Credits Revenue, One-Time	100
Schedule of Programs:	
Incubation Programs	12,800
Regional Outreach	12,900
SBIR/STTR Assistance Center	9,400

Item 65

To Utah Science Technology and Research Governing Authority - USTAR Administration	
From General Fund	35,900
From General Fund, One-Time	4,700
From Dedicated Credits Revenue	8,000
From Dedicated Credits Revenue, One-Time	1,200
Schedule of Programs:	
Administration	15,300
Project Management & Compliance	34,500

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 66

To Department of Health - Children's Health Insurance Program	
From General Fund	3,200
From General Fund, One-Time	(1,800)
From Federal Funds	10,700
From Federal Funds, One-Time	4,000
From Dedicated Credits Revenue	600
From Dedicated Credits Revenue, One-Time	100
Schedule of Programs:	
Children's Health Insurance Program	16,800

Item 67

To Department of Health - Disease Control and Prevention	
From General Fund	230,100
From General Fund, One-Time	36,500
From Federal Funds	451,500

From Federal Funds, One-Time	104,800
From Dedicated Credits Revenue	157,200
From Dedicated Credits Revenue, One-Time	28,000
From Department of Public Safety Restricted Account	2,000
From Department of Public Safety Restricted Account, One-Time	200
From Gen. Fund Rest. - State Lab Drug Testing Account	9,000
From Gen. Fund Rest. - State Lab Drug Testing Account, One-Time	1,800
From Revenue Transfers	18,100
From Revenue Transfers, One-Time	4,200
Schedule of Programs:	
Clinical and Environmental Lab Certification Programs	16,600
Epidemiology	283,400
General Administration	44,300
Health Promotion	344,500
Utah Public Health Laboratory	199,600
Office of the Medical Examiner	155,000

Item 68

To Department of Health - Executive Director's Operations	
From General Fund	98,800
From General Fund, One-Time	16,700
From Federal Funds	77,900
From Federal Funds, One-Time	13,300
From Dedicated Credits Revenue	43,800
From Dedicated Credits Revenue, One-Time	7,500
From Revenue Transfers	43,600
From Revenue Transfers, One-Time	7,400
Schedule of Programs:	
Adoption Records Access	1,600
Center for Health Data and Informatics	130,000
Executive Director	64,400
Office of Internal Audit	21,000
Program Operations	92,000

Item 69

To Department of Health - Family Health and Preparedness	
From General Fund	207,300
From General Fund, One-Time	43,600
From Federal Funds	354,700
From Federal Funds, One-Time	74,600
From Dedicated Credits Revenue	81,800
From Dedicated Credits Revenue, One-Time	17,000
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account	900
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account, One-Time	200
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp.	700
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp., One-Time	200
From General Fund Restricted - Home Visiting Restricted Account	2,000
From General Fund Restricted - Home Visiting Restricted Account, One-Time	200
From Revenue Transfers	61,300
From Revenue Transfers, One-Time	12,300
Schedule of Programs:	
Child Development	99,000

Children with Special Health Care Needs	241,600
Director's Office	66,100
Emergency Medical Services and Preparedness	60,400
Health Facility Licensing and Certification	170,400
Maternal and Child Health	117,300
Primary Care	33,900
Public Health and Health Care Preparedness	65,900
Nurse Home Visiting Pay-for-Success Program	2,200

Item 70

To Department of Health - Medicaid and Health Financing	
From General Fund	81,300
From General Fund, One-Time	16,800
From Federal Funds	343,700
From Federal Funds, One-Time	72,200
From Dedicated Credits Revenue	104,500
From Dedicated Credits Revenue, One-Time	21,400
From Nursing Care Facilities Provider Assessment Fund	16,500
From Nursing Care Facilities Provider Assessment Fund, One-Time	3,600
From Revenue Transfers	44,900
From Revenue Transfers, One-Time	9,700
Schedule of Programs:	
Authorization and Community Based Services	100,100
Coverage and Reimbursement Policy ..	86,700
Director's Office	71,900
Eligibility Policy	80,000
Financial Services	106,400
Managed Health Care	133,400
Medicaid Operations	136,100

Item 71

To Department of Health - Medicaid Services	
From General Fund	78,000
From General Fund, One-Time	14,100
From Federal Funds	157,000
From Federal Funds, One-Time	22,000
From Dedicated Credits Revenue	32,300
From Dedicated Credits Revenue, One-Time	6,200
From Medicaid Expansion Fund	3,500
From Medicaid Expansion Fund, One-Time	400
From Revenue Transfers	21,100
From Revenue Transfers, One-Time	4,100
Schedule of Programs:	
Home and Community Based Waivers	28,300
Medicaid Expansion 2017	9,000
Other Services	140,300
Pharmacy	20,600
Provider Reimbursement Information System for Medicaid	140,500

Item 72

To Department of Health - Primary Care Workforce Financial Assistance	
From General Fund	4,600
From General Fund, One-Time	100
Schedule of Programs:	

Primary Care Workforce Financial Assistance	4,700
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Item 73

To Department of Health - Rural Physicians Loan Repayment Assistance	
From General Fund	4,800
From General Fund, One-Time	200
Schedule of Programs:	
Rural Physicians Loan Repayment Program	5,000

DEPARTMENT OF HUMAN SERVICES**Item 74**

To Department of Human Services - Division of Aging and Adult Services	
From General Fund	105,800
From General Fund, One-Time	19,800
From Federal Funds	17,800
From Federal Funds, One-Time	3,200
Schedule of Programs:	
Administration - DAAS	39,700
Adult Protective Services	95,700
Aging Alternatives	3,400
Aging Waiver Services	7,800

Item 75

To Department of Human Services - Division of Child and Family Services	
From General Fund	1,537,700
From General Fund, One-Time	326,000
From Federal Funds	481,100
From Federal Funds, One-Time	101,700
From Dedicated Credits Revenue	1,700
From Dedicated Credits Revenue, One-Time	300
From Gen. Fund Rest. - Victims of Domestic Violence Services Acct	2,000
From Gen. Fund Rest. - Victims of Domestic Violence Services Acct, One-Time	500
Schedule of Programs:	
Administration - DCFS	115,200
Child Welfare Management Information System	42,600
Domestic Violence	21,800
Facility-Based Services	15,000
Minor Grants	40,900
Service Delivery	2,215,500

Item 76

To Department of Human Services - Executive Director Operations	
From General Fund	175,100
From General Fund, One-Time	39,000
From Federal Funds	128,200
From Federal Funds, One-Time	27,700
From Dedicated Credits Revenue	1,800
From Dedicated Credits Revenue, One-Time	400
From Revenue Transfers	124,700
From Revenue Transfers, One-Time	28,300
Schedule of Programs:	
Executive Director's Office	161,100
Fiscal Operations	76,600
Information Technology	8,100
Legal Affairs	14,100
Office of Licensing	135,800
Office of Quality and Design	119,300

Utah Developmental Disabilities
Council 10,200

Item 77

To Department of Human Services - Office
of Public Guardian
From General Fund 9,300
From General Fund, One-Time 2,200
From Federal Funds 700
From Federal Funds, One-Time 200
From Revenue Transfers 6,000
From Revenue Transfers, One-Time 1,600
Schedule of Programs:
Office of Public Guardian 20,000

Item 78

To Department of Human Services -
Office of Recovery Services
From General Fund 198,600
From General Fund, One-Time 49,300
From Federal Funds 367,000
From Federal Funds, One-Time 90,800
From Dedicated Credits Revenue 177,700
From Dedicated Credits Revenue,
One-Time 43,500
From Revenue Transfers 48,400
From Revenue Transfers, One-Time 12,000
Schedule of Programs:
Administration - ORS 31,600
Child Support Services 711,800
Children in Care Collections 22,000
Electronic Technology 68,700
Financial Services 66,800
Medical Collections 86,400

Item 79

To Department of Human Services - Division of
Services for People with Disabilities
From General Fund 393,800
From General Fund, One-Time 66,400
From Federal Funds 10,200
From Federal Funds, One-Time 2,100
From Dedicated Credits Revenue 37,800
From Dedicated Credits Revenue,
One-Time 5,100
From Revenue Transfers 675,700
From Revenue Transfers, One-Time 99,900
Schedule of Programs:
Administration - DSPD 125,200
Service Delivery 154,400
Utah State Developmental Center ... 1,011,400

Item 80

To Department of Human Services - Division of
Substance Abuse and Mental Health
From General Fund 1,187,500
From General Fund, One-Time 170,700
From Federal Funds 43,100
From Federal Funds, One-Time 8,300
From Dedicated Credits Revenue 52,500
From Dedicated Credits Revenue,
One-Time 7,600
From Revenue Transfers 340,600
From Revenue Transfers, One-Time 49,600
Schedule of Programs:
Administration - DSAMH 89,300
Community Mental Health Services 20,000
State Hospital 1,714,600
State Substance Abuse Services 36,000

**DEPARTMENT OF WORKFORCE
SERVICES**

Item 81

To Department of Workforce Services -
Administration
From General Fund 47,700
From General Fund, One-Time 10,700
From Federal Funds 136,100
From Federal Funds, One-Time 30,400
From Dedicated Credits Revenue 2,500
From Dedicated Credits Revenue,
One-Time 400
From Navajo Revitalization Fund 300
From Permanent Community Impact
Loan Fund 1,900
From Permanent Community Impact
Loan Fund, One-Time 500
From Revenue Transfers 35,100
From Revenue Transfers, One-Time 8,000
Schedule of Programs:
Administrative Support 188,400
Communications 30,100
Executive Director's Office 22,600
Internal Audit 32,500

Item 82

To Department of Workforce Services -
General Assistance
From General Fund 16,800
From General Fund, One-Time 4,100
From Revenue Transfers 900
From Revenue Transfers, One-Time 200
Schedule of Programs:
General Assistance 22,000

Item 83

To Department of Workforce Services -
Housing and Community Development
From General Fund 14,100
From General Fund, One-Time 2,900
From Federal Funds 49,200
From Federal Funds, One-Time 11,200
From Dedicated Credits Revenue 4,000
From Dedicated Credits Revenue,
One-Time 1,000
From Gen. Fund Rest. - Pamela
Atkinson Homeless Account 900
From Gen. Fund Rest. - Pamela
Atkinson Homeless Account, One-Time ... 200
From Gen. Fund Rest. - Homeless Housing
Reform Rest. Acct 11,600
From Gen. Fund Rest. - Homeless Housing
Reform Rest. Acct, One-Time 2,300
From Permanent Community Impact
Loan Fund 18,600
From Permanent Community Impact
Loan Fund, One-Time 3,800
Schedule of Programs:
Community Development 35,700
Community Development
Administration 23,100
Community Services 2,900
HEAT 6,800
Homeless Committee 18,500
Housing Development 21,400
Weatherization Assistance 11,400

Item 84

To Department of Workforce Services - Office of Child Care	
From General Fund	1,900
From General Fund, One-Time	600
Schedule of Programs:	
Intergenerational Poverty School Readiness Scholarship	2,500

Item 85

To Department of Workforce Services - Operations and Policy	
From General Fund	602,000
From General Fund, One-Time	148,500
From Federal Funds	1,134,500
From Federal Funds, One-Time	279,800
From Dedicated Credits Revenue	22,300
From Dedicated Credits Revenue, One-Time	5,300
From Medicaid Expansion Fund	47,400
From Medicaid Expansion Fund, One-Time	11,600
From General Fund Restricted - School Readiness Account	35,200
From General Fund Restricted - School Readiness Account, One-Time	8,900
From Revenue Transfers	425,700
From Revenue Transfers, One-Time	104,200
Schedule of Programs:	
Eligibility Services	1,550,500
Workforce Development	1,204,000
Workforce Research and Analysis	70,900

Item 86

To Department of Workforce Services - State Office of Rehabilitation	
From General Fund	250,700
From General Fund, One-Time	59,000
From Federal Funds	515,300
From Federal Funds, One-Time	106,600
From Dedicated Credits Revenue	12,700
From Dedicated Credits Revenue, One-Time	3,700
From Revenue Transfers	700
From Revenue Transfers, One-Time	200
Schedule of Programs:	
Aspire Grant	26,300
Blind and Visually Impaired	77,600
Deaf and Hard of Hearing	87,800
Disability Determination	221,000
Executive Director	16,900
Rehabilitation Services	519,300

Item 87

To Department of Workforce Services - Unemployment Insurance	
From General Fund	15,200
From General Fund, One-Time	3,200
From Federal Funds	386,700
From Federal Funds, One-Time	96,100
From Dedicated Credits Revenue	10,600
From Dedicated Credits Revenue, One-Time	2,600
From Revenue Transfers	2,200
From Revenue Transfers, One-Time	500
Schedule of Programs:	
Adjudication	85,300
Unemployment Insurance Administration	431,800

HIGHER EDUCATION**UNIVERSITY OF UTAH****Item 88**

To University of Utah - Education and General	
From Education Fund	9,548,100
From Dedicated Credits Revenue	3,155,400
Schedule of Programs:	
Education and General	12,621,300
Operations and Maintenance	82,200

Item 89

To University of Utah - Educationally Disadvantaged	
From Education Fund	10,900
Schedule of Programs:	
Educationally Disadvantaged	10,900

Item 90

To University of Utah - School of Medicine	
From Education Fund	984,800
From Dedicated Credits Revenue	328,200
Schedule of Programs:	
School of Medicine	1,313,000

Item 91

To University of Utah - University Hospital	
From Education Fund	145,500
Schedule of Programs:	
University Hospital	135,500
Miners' Hospital	10,000

Item 92

To University of Utah - School of Dentistry	
From Education Fund	77,200
From Dedicated Credits Revenue	25,700
Schedule of Programs:	
School of Dentistry	102,900

Item 93

To University of Utah - Public Service	
From Education Fund	41,900
Schedule of Programs:	
Seismograph Stations	16,800
Natural History Museum of Utah	21,800
State Arboretum	3,300

Item 94

To University of Utah - Statewide TV Administration	
From Education Fund	62,800
Schedule of Programs:	
Public Broadcasting	62,800

Item 95

To University of Utah - Poison Control Center	
From General Fund	72,700
Schedule of Programs:	
Poison Control Center	72,700

Item 96

To University of Utah - Center on Aging	
From General Fund	2,900
Schedule of Programs:	
Center on Aging	2,900

Item 97

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health	
From General Fund Restricted - Workplace Safety Account	4,600

Schedule of Programs:
 Center for Occupational and
 Environmental Health 4,600

UTAH STATE UNIVERSITY

Item 98

To Utah State University - Education and General
 From Education Fund 4,411,500
 From Dedicated Credits Revenue 1,456,100
 Schedule of Programs:
 Education and General 5,751,400
 USU - School of Veterinary Medicine ... 72,400
 Operations and Maintenance 43,800

Item 99

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 231,600
 From Dedicated Credits Revenue 77,200
 Schedule of Programs:
 USU - Eastern Education and
 General 308,800

Item 100

To Utah State University -
 Educationally Disadvantaged
 From General Fund 300
 Schedule of Programs:
 Educationally Disadvantaged 300

Item 101

To Utah State University - USU - Eastern
 Career and Technical Education
 From Education Fund 33,400
 Schedule of Programs:
 USU - Eastern Career and Technical
 Education 33,400

Item 102

To Utah State University - Regional Campuses
 From Education Fund 584,500
 From Dedicated Credits Revenue 159,500
 Schedule of Programs:
 Administration 105,900
 Uintah Basin Regional Campus 190,000
 Brigham City Regional Campus 220,700
 Tooele Regional Campus 227,400

Item 103

To Utah State University - Water
 Research Laboratory
 From Education Fund 103,200
 Schedule of Programs:
 Water Research Laboratory 103,200

Item 104

To Utah State University - Agriculture
 Experiment Station
 From Education Fund 328,700
 Schedule of Programs:
 Agriculture Experiment Station 328,700

Item 105

To Utah State University - Cooperative Extension
 From Education Fund 419,200
 Schedule of Programs:
 Cooperative Extension 419,200

Item 106

To Utah State University - Prehistoric Museum
 From Education Fund 12,100
 Schedule of Programs:
 Prehistoric Museum 12,100

Item 107

To Utah State University - Blanding Campus
 From Education Fund 70,100
 From Dedicated Credits Revenue 23,400
 Schedule of Programs:
 Blanding Campus 93,500

WEBER STATE UNIVERSITY

Item 108

To Weber State University - Education
 and General
 From Education Fund 2,623,900
 From Dedicated Credits Revenue 874,700
 Schedule of Programs:
 Education and General 3,472,300
 Operations and Maintenance 26,300

Item 109

To Weber State University -
 Educationally Disadvantaged
 From Education Fund 8,400
 Schedule of Programs:
 Educationally Disadvantaged 8,400

SOUTHERN UTAH UNIVERSITY

Item 110

To Southern Utah University - Education
 and General
 From Education Fund 1,399,200
 From Dedicated Credits Revenue 466,100
 Schedule of Programs:
 Education and General 1,856,900
 Operations and Maintenance 8,400

Item 111

To Southern Utah University -
 Educationally Disadvantaged
 From Education Fund 1,400
 Schedule of Programs:
 Educationally Disadvantaged 1,400

Item 112

To Southern Utah University - Rural Development
 From Education Fund 2,600
 Schedule of Programs:
 Rural Development 2,600

UTAH VALLEY UNIVERSITY

Item 113

To Utah Valley University - Education and General
 From Education Fund 4,274,000
 From Dedicated Credits Revenue 1,424,600
 Schedule of Programs:
 Education and General 5,628,600
 Operations and Maintenance 70,000

Item 114

To Utah Valley University -
 Educationally Disadvantaged
 From Education Fund 4,800
 Schedule of Programs:

Educationally Disadvantaged 4,800

SNOW COLLEGE

Item 115

To Snow College - Education and General
From Education Fund 588,100
From Dedicated Credits Revenue 195,900
Schedule of Programs:
Education and General 761,400
Operations and Maintenance 22,600

Item 116

To Snow College - Career and Technical Education
From Education Fund 39,300
Schedule of Programs:
Career and Technical Education 39,300

DIXIE STATE UNIVERSITY

Item 117

To Dixie State University - Education and General
From Education Fund 1,145,000
From Dedicated Credits Revenue 378,400
Schedule of Programs:
Education and General 1,513,400
Operations and Maintenance 10,000

Item 118

To Dixie State University -
Zion Park Amphitheater
From Education Fund 700
From Dedicated Credits Revenue 400
Schedule of Programs:
Zion Park Amphitheater 1,100

SALT LAKE COMMUNITY COLLEGE

Item 119

To Salt Lake Community College - Education
and General
From Education Fund 2,344,000
From Dedicated Credits Revenue 781,400
Schedule of Programs:
Education and General 3,116,900
Operations and Maintenance 8,500

Item 120

To Salt Lake Community College -
School of Applied Technology
From Education Fund 182,400
Schedule of Programs:
School of Applied Technology 182,400

STATE BOARD OF REGENTS

Item 121

To State Board of Regents - Administration
From General Fund 70,900
Schedule of Programs:
Administration 70,900

Item 122

To State Board of Regents - Student Assistance
From Education Fund 8,300
Schedule of Programs:
Regents' Scholarship 8,000
Western Interstate Commission for
Higher Education 300

Item 123

To State Board of Regents - Student Support
From Education Fund 18,500
Schedule of Programs:
Concurrent Enrollment 11,300
Articulation Support 7,200

Item 124

To State Board of Regents - Economic Development
From Education Fund 8,400
Schedule of Programs:
Economic Development Initiatives 8,400

Item 125

To State Board of Regents - Education Excellence
From Education Fund 10,000
Schedule of Programs:
Education Excellence 10,000

Item 126

To State Board of Regents - Math
Competency Initiative
From Education Fund 400
Schedule of Programs:
Math Competency Initiative 400

Item 127

To State Board of Regents - Medical
Education Council
From General Fund 16,200
Schedule of Programs:
Medical Education Council 16,200

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 128

To Utah System of Technical Colleges -
Bridgerland Technical College
From Education Fund 366,600
Schedule of Programs:
Bridgerland Technical College 366,600

Item 129

To Utah System of Technical Colleges -
Davis Technical College
From Education Fund 402,800
Schedule of Programs:
Davis Technical College 402,800

Item 130

To Utah System of Technical Colleges -
Dixie Technical College
From Education Fund 177,800
Schedule of Programs:
Dixie Technical College 177,800

Item 131

To Utah System of Technical Colleges -
Mountainland Technical College
From Education Fund 300,300
Schedule of Programs:
Mountainland Technical College 300,300

Item 132

To Utah System of Technical Colleges -
Ogden-Weber Technical College
From Education Fund 345,300
Schedule of Programs:
Ogden-Weber Technical College 345,300

Item 133

To Utah System of Technical Colleges -
Southwest Technical College

From Education Fund 104,700
 Schedule of Programs:
 Southwest Technical College 104,700

Item 134

To Utah System of Technical Colleges -
 Tooele Technical College
 From Education Fund 112,400
 Schedule of Programs:
 Tooele Technical College 112,400

Item 135

To Utah System of Technical Colleges -
 Uintah Basin Technical College
 From Education Fund 189,700
 Schedule of Programs:
 Uintah Basin Technical College 189,700

Item 136

To Utah System of Technical Colleges -
 USTC Administration
 From Education Fund 40,600
 Schedule of Programs:
 Administration 40,600

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 137

To Department of Agriculture and Food -
 Administration
 From General Fund 55,300
 From General Fund, One-Time 9,800
 From Federal Funds 8,200
 From Federal Funds, One-Time 1,500
 From Dedicated Credits Revenue 8,900
 From Dedicated Credits Revenue,
 One-Time 1,600
 From General Fund Restricted -
 Cat and Dog Community Spay and
 Neuter Program Restricted Account 600
 From General Fund Restricted - Cat and
 Dog Community Spay and Neuter
 Program Restricted Account, One-Time ... 100
 From Revenue Transfers 900
 From Revenue Transfers, One-Time 200
 Schedule of Programs:
 Chemistry Laboratory 25,100
 General Administration 62,000

Item 138

To Department of Agriculture and Food -
 Animal Health
 From General Fund 54,400
 From General Fund, One-Time 10,700
 From Federal Funds 39,500
 From Federal Funds, One-Time 7,000
 From Dedicated Credits Revenue 1,200
 From Dedicated Credits Revenue,
 One-Time 300
 From General Fund Restricted -
 Livestock Brand 29,900
 From General Fund Restricted -
 Livestock Brand, One-Time 6,100
 Schedule of Programs:
 Animal Health 34,000

Brand Inspection 49,600
 Meat Inspection 65,500

Item 139

To Department of Agriculture and Food -
 Marketing and Development
 From General Fund 10,900
 From General Fund, One-Time 2,300
 From Dedicated Credits Revenue 400
 From Dedicated Credits Revenue,
 One-Time 100
 Schedule of Programs:
 Marketing and Development 13,700

Item 140

To Department of Agriculture and Food -
 Plant Industry
 From General Fund 12,300
 From General Fund, One-Time 2,900
 From Federal Funds 42,600
 From Federal Funds, One-Time 8,800
 From Dedicated Credits Revenue 47,200
 From Dedicated Credits Revenue,
 One-Time 10,100
 From Agriculture Resource Development
 Fund 1,700
 From Agriculture Resource Development
 Fund, One-Time 400
 From Revenue Transfers 3,600
 From Revenue Transfers, One-Time 700
 From Pass-through 3,000
 From Pass-through, One-Time 700
 Schedule of Programs:
 Environmental Quality 4,000
 Grain Inspection 10,800
 Grazing Improvement Program 24,100
 Insect Infestation 11,800
 Plant Industry 83,300

Item 141

To Department of Agriculture and Food -
 Predatory Animal Control
 From General Fund 13,700
 From General Fund, One-Time 2,700
 From Revenue Transfers 11,200
 From Revenue Transfers, One-Time 2,300
 From Gen. Fund Rest. - Agriculture and
 Wildlife Damage Prevention 10,400
 From Gen. Fund Rest. - Agriculture and
 Wildlife Damage Prevention,
 One-Time 2,100
 Schedule of Programs:
 Predatory Animal Control 42,400

Item 142

To Department of Agriculture and
 Food - Rangeland Improvement
 From Gen. Fund Rest. - Rangeland
 Improvement Account 4,300
 From Gen. Fund Rest. - Rangeland
 Improvement Account, One-Time 700
 Schedule of Programs:
 Rangeland Improvement 5,000

Item 143

To Department of Agriculture and
 Food - Regulatory Services
 From General Fund 47,000
 From General Fund, One-Time 10,600
 From Federal Funds 23,900

From Federal Funds, One-Time	5,400
From Dedicated Credits Revenue	50,600
From Dedicated Credits Revenue, One-Time	11,400
From Pass-through	1,400
From Pass-through, One-Time	300
Schedule of Programs:	
Regulatory Services	150,600

Item 144

To Department of Agriculture and Food - Resource Conservation	
From General Fund	20,500
From General Fund, One-Time	4,700
From Federal Funds	12,200
From Federal Funds, One-Time	2,900
From Agriculture Resource Development Fund	13,900
From Agriculture Resource Development Fund, One-Time	3,000
From Revenue Transfers	5,600
From Revenue Transfers, One-Time	1,400
From Utah Rural Rehabilitation Loan State Fund	1,900
From Utah Rural Rehabilitation Loan State Fund, One-Time	300
Schedule of Programs:	
Resource Conservation	57,100
Resource Conservation Administration ..	9,300

**DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Item 145

To Department of Environmental Quality - Air Quality	
From General Fund	101,900
From General Fund, One-Time	21,800
From Federal Funds	102,900
From Federal Funds, One-Time	22,000
From Dedicated Credits Revenue	79,100
From Dedicated Credits Revenue, One-Time	16,900
From Clean Fuel Conversion Fund	1,800
From Clean Fuel Conversion Fund, One-Time	400
Schedule of Programs:	
Air Quality	346,800

Item 146

To Department of Environmental Quality - Drinking Water	
From General Fund	22,900
From General Fund, One-Time	3,700
From Federal Funds	68,600
From Federal Funds, One-Time	10,900
From Dedicated Credits Revenue	5,000
From Dedicated Credits Revenue, One-Time	800
From Water Dev. Security Fund - Drinking Water Loan Prog.	16,700
From Water Dev. Security Fund - Drinking Water Loan Prog., One-Time ..	2,700
From Water Dev. Security Fund - Drinking Water Orig. Fee	3,600
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-Time	700
Schedule of Programs:	
Drinking Water	135,600

Item 147

To Department of Environmental Quality - Environmental Response and Remediation	
From General Fund	13,200
From General Fund, One-Time	2,600
From Federal Funds	78,100
From Federal Funds, One-Time	15,700
From Dedicated Credits Revenue	11,700
From Dedicated Credits Revenue, One-Time	2,300
From General Fund Restricted - Petroleum Storage Tank	900
From General Fund Restricted - Petroleum Storage Tank, One-Time	200
From Petroleum Storage Tank Cleanup Fund	9,300
From Petroleum Storage Tank Cleanup Fund, One-Time	1,900
From Petroleum Storage Tank Trust Fund	29,100
From Petroleum Storage Tank Trust Fund, One-Time	5,800
From General Fund Restricted - Voluntary Cleanup	10,800
From General Fund Restricted - Voluntary Cleanup, One-Time	2,200
Schedule of Programs:	
Environmental Response and Remediation	183,800

Item 148

To Department of Environmental Quality - Executive Director's Office	
From General Fund	52,400
From General Fund, One-Time	10,200
From Federal Funds	6,400
From Federal Funds, One-Time	1,300
From General Fund Restricted - Environmental Quality	20,600
From General Fund Restricted - Environmental Quality, One-Time	4,000
Schedule of Programs:	
Executive Director's Office	94,900

Item 149

To Department of Environmental Quality - Waste Management and Radiation Control	
From General Fund	12,500
From General Fund, One-Time	2,600
From Federal Funds	22,400
From Federal Funds, One-Time	4,700
From Dedicated Credits Revenue	37,400
From Dedicated Credits Revenue, One-Time	7,800
From General Fund Restricted - Environmental Quality	96,600
From General Fund Restricted - Environmental Quality, One-Time	20,100
From Gen. Fund Rest. - Used Oil Collection Administration	13,400
From Gen. Fund Rest. - Used Oil Collection Administration, One-Time	2,800
From Waste Tire Recycling Fund	2,400
From Waste Tire Recycling Fund, One-Time	500
Schedule of Programs:	
Waste Management and Radiation Control	223,200

Item 150

To Department of Environmental Quality -
 Water Quality

From General Fund	57,000
From General Fund, One-Time	11,800
From Federal Funds	86,800
From Federal Funds, One-Time	17,900
From Dedicated Credits Revenue	34,700
From Dedicated Credits Revenue, One-Time	7,200
From Gen. Fund Rest. - Underground Wastewater System	1,600
From Gen. Fund Rest. - Underground Wastewater System, One-Time	300
From Water Dev. Security Fund - Utah Wastewater Loan Prog.	27,500
From Water Dev. Security Fund - Utah Wastewater Loan Prog., One-Time	5,700
From Water Dev. Security Fund - Water Quality Orig. Fee	1,800
From Water Dev. Security Fund - Water Quality Orig. Fee, One-Time	400
Schedule of Programs: Water Quality	252,700

GOVERNOR'S OFFICE

Item 151

To Governor's Office - Office of
 Energy Development

From General Fund	24,200
From General Fund, One-Time	4,900
From Federal Funds	12,400
From Federal Funds, One-Time	2,500
From Dedicated Credits Revenue	3,300
From Dedicated Credits Revenue, One-Time	700
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	3,200
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-Time	700
Schedule of Programs: Office of Energy Development	51,900

DEPARTMENT OF NATURAL RESOURCES

Item 152

To Department of Natural Resources -
 Administration

From General Fund	57,200
From General Fund, One-Time	12,300
From General Fund Restricted - Sovereign Lands Management	3,300
From General Fund Restricted - Sovereign Lands Management, One-Time	700
Schedule of Programs: Administrative Services	32,000
Executive Director	26,300
Lake Commissions	4,000
Law Enforcement	4,500
Public Information Office	6,700

Item 153

To Department of Natural Resources -
 Contributed Research

From Dedicated Credits Revenue	2,600
From Dedicated Credits Revenue, One-Time	500

Schedule of Programs:

Contributed Research	3,100
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Item 154

To Department of Natural Resources -
 Cooperative Agreements

From Federal Funds	72,600
From Federal Funds, One-Time	12,300
From Dedicated Credits Revenue	4,900
From Dedicated Credits Revenue, One-Time	900
From Revenue Transfers	26,000
From Revenue Transfers, One-Time	4,500
Schedule of Programs: Cooperative Agreements	121,200

Item 155

To Department of Natural Resources -
 Forestry, Fire and State Lands

From General Fund	16,100
From General Fund, One-Time	4,400
From Federal Funds	81,800
From Federal Funds, One-Time	23,400
From Dedicated Credits Revenue	91,800
From Dedicated Credits Revenue, One-Time	21,800
From General Fund Restricted - Sovereign Lands Management	93,500
From General Fund Restricted - Sovereign Lands Management, One-Time	26,500
Schedule of Programs: Division Administration	24,400
Fire Management	22,400
Fire Suppression Emergencies	4,200
Forest Management	12,100
Lands Management	31,900
Lone Peak Center	93,400
Program Delivery	170,900

Item 156

To Department of Natural Resources -
 Oil, Gas and Mining

From General Fund	47,600
From General Fund, One-Time	12,900
From Federal Funds	73,700
From Federal Funds, One-Time	19,800
From Dedicated Credits Revenue	5,100
From Dedicated Credits Revenue, One-Time	1,400
From Gen. Fund Rest. - Oil & Gas Conservation Account	74,200
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-Time	20,300
Schedule of Programs: Abandoned Mine	33,200
Administration	57,400
Coal Program	50,400
Minerals Reclamation	30,000
Oil and Gas Program	84,000

Item 157

To Department of Natural Resources -
 Parks and Recreation

From General Fund	46,200
From General Fund, One-Time	8,900
From Federal Funds	23,300
From Federal Funds, One-Time	5,400
From Dedicated Credits Revenue	14,700
From Dedicated Credits Revenue, One-Time	3,100

From General Fund Restricted - Boating	64,600
From General Fund Restricted - Boating, One-Time	13,000
From Gen. Fund Rest. - Off-highway Access and Education	400
From Gen. Fund Rest. - Off-highway Access and Education, One-Time	100
From General Fund Restricted - Off-highway Vehicle	85,800
From General Fund Restricted - Off-highway Vehicle, One-Time	17,300
From General Fund Restricted - State Park Fees	272,500
From General Fund Restricted - State Park Fees, One-Time	52,200
From Revenue Transfers	400
From Revenue Transfers, One-Time	100
Schedule of Programs:	
Executive Management	18,400
Park Operation Management	501,900
Planning and Design	9,600
Recreation Services	41,300
Support Services	36,800

Item 158

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	9,100
From General Fund Restricted - Species Protection, One-Time	1,800
Schedule of Programs:	
Species Protection	10,900

Item 159

To Department of Natural Resources - Utah Geological Survey	
From General Fund	102,100
From General Fund, One-Time	25,200
From Federal Funds	16,400
From Federal Funds, One-Time	4,200
From Dedicated Credits Revenue	12,300
From Dedicated Credits Revenue, One-Time	3,300
From General Fund Restricted - Mineral Lease	37,300
From General Fund Restricted - Mineral Lease, One-Time	9,000
From Gen. Fund Rest. - Land Exchange Distribution Account	600
From Gen. Fund Rest. - Land Exchange Distribution Account, One-Time	100
Schedule of Programs:	
Administration	19,100
Energy and Minerals	41,100
Geologic Hazards	33,000
Geologic Information and Outreach	45,700
Geologic Mapping	38,700
Ground Water	32,900

Item 160

To Department of Natural Resources - Water Resources	
From General Fund	67,900
From General Fund, One-Time	11,200
From Federal Funds	15,200
From Federal Funds, One-Time	3,000

From Water Resources Conservation and Development Fund	50,100
From Water Resources Conservation and Development Fund, One-Time	9,700
Schedule of Programs:	
Administration	15,200
Construction	58,600
Interstate Streams	3,900
Planning	79,400

Item 161

To Department of Natural Resources - Water Rights	
From General Fund	162,400
From General Fund, One-Time	31,500
From Federal Funds	3,500
From Federal Funds, One-Time	600
From Dedicated Credits Revenue	75,300
From Dedicated Credits Revenue, One-Time	15,100
Schedule of Programs:	
Adjudication	51,500
Administration	18,900
Applications and Records	119,600
Canal Safety	700
Dam Safety	34,600
Field Services	39,500
Technical Services	23,600

Item 162

To Department of Natural Resources - Watershed	
From General Fund	1,800
From General Fund, One-Time	300
Schedule of Programs:	
Watershed	2,100

Item 163

To Department of Natural Resources - Wildlife Resources	
From General Fund	105,700
From General Fund, One-Time	22,300
From Federal Funds	320,300
From Federal Funds, One-Time	70,100
From Dedicated Credits Revenue	2,000
From Dedicated Credits Revenue, One-Time	400
From General Fund Restricted - Boating	15,900
From General Fund Restricted - Boating, One-Time	3,200
From General Fund Restricted - Mule Deer Protection Account	4,300
From General Fund Restricted - Mule Deer Protection Account, One-Time	1,100
From General Fund Restricted - Predator Control Account	7,300
From General Fund Restricted - Predator Control Account, One-Time	1,600
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account	400
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-Time	100
From Revenue Transfers	2,000
From Revenue Transfers, One-Time	400
From General Fund Restricted - Wildlife Habitat	14,200
From General Fund Restricted - Wildlife Habitat, One-Time	1,400

From General Fund Restricted - Wildlife Resources	501,500
From General Fund Restricted - Wildlife Resources, One-Time	106,800
Schedule of Programs:	
Administrative Services	116,600
Aquatic Section	263,900
Conservation Outreach	101,900
Director's Office	53,100
Habitat Council	15,600
Habitat Section	153,400
Law Enforcement	259,100
Wildlife Section	217,400

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 164

To Public Lands Policy Coordinating Office	
From General Fund	35,300
From General Fund, One-Time	5,700
From General Fund Restricted - Constitutional Defense	14,700
From General Fund Restricted - Constitutional Defense, One-Time	2,400
Schedule of Programs:	
Public Lands Policy Coordinating Office	58,100

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 165

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	211,800
From Land Grant Management Fund, One-Time	36,200
Schedule of Programs:	
Accounting	14,600
Administration	12,300
Auditing	12,100
Development - Operating	35,400
Director	11,800
External Relations	6,700
Grazing and Forestry	14,500
Information Technology Group	34,700
Legal/Contracts	19,600
Mining	14,300
Oil and Gas	20,600
Surface	51,400

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 166

To State Board of Education - Child Nutrition	
From Federal Funds	38,600
From Federal Funds, One-Time	8,500
From Dedicated Credit - Liquor Tax	9,500
From Dedicated Credit - Liquor Tax, One-Time	2,100
Schedule of Programs:	
Child Nutrition	58,700

Item 167

To State Board of Education - Educator Licensing	
From Education Fund	37,800

From Education Fund, One-Time	7,900
From Dedicated Credits Revenue	600
From Dedicated Credits Revenue, One-Time	100
Schedule of Programs:	
Educator Licensing	46,400

Item 168

To State Board of Education - Initiative Programs	
From General Fund	3,800
From General Fund, One-Time	200
From Education Fund	14,400
From Education Fund, One-Time	1,000
From Revenue Transfers	3,300
From Revenue Transfers, One-Time	200
Schedule of Programs:	
Carson Smith Scholarships	2,800
General Financial Literacy	2,300
Intergenerational Poverty Interventions	1,100
Kindergarten Supplement Enrichment Program	3,500
Partnerships for Student Success	1,600
School Turnaround and Leadership Development Act	6,500
ULEAD	3,900
Educational Improvement Opportunities Outside of the Regular School Day Grant Program	1,200

Item 169

To State Board of Education - MSP Categorical Program Administration	
From Education Fund	38,100
From Education Fund, One-Time	4,600
Schedule of Programs:	
Adult Education	6,000
Beverly Taylor Sorenson Elem. Arts Learning Program	3,200
CTE Comprehensive Guidance	2,900
Digital Teaching and Learning	9,900
Dual Immersion	2,400
Enhancement for At-Risk Students	6,000
Special Education State Programs	2,200
Youth-in-Custody	10,100

Item 170

To State Board of Education - State Administrative Office	
From Education Fund	190,400
From Education Fund, One-Time	35,200
From Federal Funds	171,100
From Federal Funds, One-Time	29,500
From General Fund Restricted - Mineral Lease	12,600
From General Fund Restricted - Mineral Lease, One-Time	2,100
From General Fund Restricted - School Readiness Account	900
From General Fund Restricted - School Readiness Account, One-Time	100
From General Fund Restricted - Substance Abuse Prevention	400
From General Fund Restricted - Substance Abuse Prevention, One-Time ..	100
From Revenue Transfers	119,400
From Revenue Transfers, One-Time	19,800
From Uniform School Fund Rest. - Trust Distribution Account	7,200

From Uniform School Fund Rest. -
Trust Distribution Account, One-Time 500

From Education Fund Restricted -
Underage Drinking Prevention
Program Restricted Account 1,000

From Education Fund Restricted -
Underage Drinking Prevention
Program Restricted Account, One-Time . . . 200

Schedule of Programs:
Board and Administration 31,400
Data and Statistics 22,600
Financial Operations 80,700
Indirect Cost Pool 139,200
Information Technology 98,900
Law and Legislation 4,900
Policy and Communication 26,700
School Trust 8,600
Special Education 84,000
Statewide Online Education Program . . . 5,100
Student Advocacy Services 88,400

Item 171

To State Board of Education -
General System Support

From General Fund 600
From General Fund, One-Time 100
From Education Fund 54,000
From Education Fund, One-Time 8,200
From Federal Funds 104,000
From Federal Funds, One-Time 14,600
From Dedicated Credits Revenue 12,500
From Dedicated Credits Revenue,
One-Time 1,500

From General Fund Restricted -
Mineral Lease 900

From General Fund Restricted -
Mineral Lease, One-Time 100

Schedule of Programs:
Student Achievement 5,700
Teaching and Learning 74,100
Assessment and Accountability 51,700
Career and Technical Education 65,000

Item 172

To State Board of Education - State Charter
School Board

From Education Fund 19,200
From Education Fund, One-Time 2,300

Schedule of Programs:
State Charter School Board 21,500

Item 173

To State Board of Education - Teaching
and Learning

From Revenue Transfers 4,000
From Revenue Transfers, One-Time 1,000

Schedule of Programs:
Student Access to High Quality School
Readiness Progs 5,000

Item 174

To State Board of Education - Utah Schools
for the Deaf and the Blind

From Education Fund 2,584,300
From Education Fund, One-Time 69,200
From Federal Funds 1,700
From Federal Funds, One-Time 200
From Dedicated Credits Revenue 30,000

From Dedicated Credits Revenue,
One-Time 4,200

From Revenue Transfers 108,100
From Revenue Transfers, One-Time 14,500

Schedule of Programs:
Educational Services 390,800
Support Services 390,600
Administration 2,030,800

**SCHOOL AND INSTITUTIONAL
TRUST FUND OFFICE**

Item 175

To School and Institutional Trust Fund Office

From School and Institutional
Trust Fund Management Acct. 17,500

From School and Institutional Trust
Fund Management Acct., One-Time 700

Schedule of Programs:
School and Institutional Trust
Fund Office 18,200

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 176

To Career Service Review Office

From General Fund 6,300
From General Fund, One-Time 1,400

Schedule of Programs:
Career Service Review Office 7,700

**UTAH EDUCATION AND
TELEHEALTH NETWORK**

Item 177

To Utah Education and Telehealth Network -
Digital Teaching and Learning Program

From Education Fund 3,600

Schedule of Programs:
Digital Teaching and Learning
Program 3,600

Item 178

To Utah Education and Telehealth Network

From General Fund 16,700
From Education Fund 281,000
From Federal Funds 76,700
From Dedicated Credits Revenue 12,200

Schedule of Programs:
Administration 59,900
Instructional Support 67,500
KUEN Broadcast 8,000
Public Information 6,700
Technical Services 212,300
Utah Telehealth Network 32,200

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 179

To Capitol Preservation Board

From General Fund 23,800
From General Fund, One-Time 4,100

Schedule of Programs:
Capitol Preservation Board 27,900

LEGISLATURE

Item 180

To Legislature - Senate
 From General Fund 43,900
 From General Fund, One-Time 2,600
 Schedule of Programs:
 Administration 46,500

Item 181

To Legislature - House of Representatives
 From General Fund 67,400
 From General Fund, One-Time 5,100
 Schedule of Programs:
 Administration 72,500

Item 182

To Legislature - Legislative Printing
 From General Fund 6,400
 From General Fund, One-Time 1,800
 From Dedicated Credits Revenue 2,800
 From Dedicated Credits Revenue,
 One-Time 800
 Schedule of Programs:
 Administration 11,800

Item 183

To Legislature - Office of Legislative
 Research and General Counsel
 From General Fund 225,300
 From General Fund, One-Time 32,100
 Schedule of Programs:
 Administration 257,400

Item 184

To Legislature - Office of the Legislative
 Fiscal Analyst
 From General Fund 80,000
 From General Fund, One-Time 11,600
 Schedule of Programs:
 Administration and Research 91,600

Item 185

To Legislature - Office of the Legislative
 Auditor General
 From General Fund 103,100
 From General Fund, One-Time 16,100
 Schedule of Programs:
 Administration 119,200

Item 186

To Legislature - Legislative Services
 From General Fund 8,400
 From General Fund, One-Time 1,300
 Schedule of Programs:
 Human Resources 9,700

UTAH NATIONAL GUARD

Item 187

To Utah National Guard
 From General Fund 67,800
 From General Fund, One-Time 9,200
 From Federal Funds 461,800
 From Federal Funds, One-Time 69,000
 Schedule of Programs:
 Administration 32,200
 Operations and Maintenance 575,600

**DEPARTMENT OF VETERANS
 AND MILITARY AFFAIRS**

Item 188

To Department of Veterans and Military Affairs -
 Veterans and Military Affairs
 From General Fund 40,800
 From General Fund, One-Time 6,800
 From Federal Funds 9,400
 From Federal Funds, One-Time 2,400
 From Dedicated Credits Revenue 1,400
 From Dedicated Credits Revenue,
 One-Time 300
 Schedule of Programs:
 Administration 15,400
 Cemetery 12,000
 Military Affairs 4,100
 Outreach Services 23,800
 State Approving Agency 5,800

**Subsection 1(b). Expendable Funds and
 Accounts.** The Legislature has reviewed the
 following expendable funds. The Legislature
 authorizes the State Division of Finance to
 transfer amounts between funds and accounts
 as indicated. Outlays and expenditures from the
 funds or accounts to which the money is
 transferred may be made without further
 legislative action, in accordance with statutory
 provisions relating to the funds or accounts.

**EXECUTIVE OFFICES AND
 CRIMINAL JUSTICE**

DEPARTMENT OF PUBLIC SAFETY

Item 189

To Department of Public Safety - Alcoholic
 Beverage Control Act Enforcement Fund
 From Dedicated Credits Revenue 83,900
 From Dedicated Credits Revenue,
 One-Time 17,400
 Schedule of Programs:
 Alcoholic Beverage Control Act
 Enforcement Fund 101,300

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 190

To Department of Administrative Services -
 State Debt Collection Fund
 From Dedicated Credits Revenue 21,800
 From Dedicated Credits Revenue,
 One-Time 5,500
 Schedule of Programs:
 State Debt Collection Fund 27,300

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

DEPARTMENT OF COMMERCE

Item 191

To Department of Commerce -
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund

From Licenses/Fees 1,800
 From Licenses/Fees, One-Time 600
 Schedule of Programs:
 Cosmetologist/Barber, Esthetician,
 Electrologist Fund 2,400

Item 192

To Department of Commerce - Real Estate
 Education, Research, and Recovery Fund
 From Dedicated Credits Revenue 3,600
 From Dedicated Credits Revenue,
 One-Time 600
 Schedule of Programs:
 Real Estate Education, Research, and
 Recovery Fund 4,200

Item 193

To Department of Commerce -
 Residential Mortgage Loan Education,
 Research, and Recovery Fund
 From Licenses/Fees 2,300
 From Licenses/Fees, One-Time 500
 From Interest Income 300
 Schedule of Programs:
 RMLERR Fund 3,100

Item 194

To Department of Commerce - Securities
 Investor Education/Training/Enforcement Fund
 From Licenses/Fees 1,700
 From Licenses/Fees, One-Time 600
 Schedule of Programs:
 Securities Investor Education/
 Training/ Enforcement Fund 2,300

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 195

To Governor's Office of Economic Development -
 Outdoor Recreation Infrastructure Account
 From Dedicated Credits Revenue 7,000
 From Dedicated Credits Revenue,
 One-Time 900
 Schedule of Programs:
 Outdoor Recreation Infrastructure
 Account 7,900

PUBLIC SERVICE COMMISSION

Item 196

To Public Service Commission - Universal
 Public Telecom Service
 From Dedicated Credits Revenue 4,800
 From Dedicated Credits Revenue,
 One-Time 700
 Schedule of Programs:
 Universal Public Telecommunications
 Service Support 5,500

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 197

To Utah National Guard - National
 Guard MWR Fund
 From Dedicated Credits Revenue 7,900

From Dedicated Credits Revenue,
 One-Time 700
 Schedule of Programs:
 National Guard MWR Fund 8,600

**DEPARTMENT OF VETERANS
 AND MILITARY AFFAIRS**

Item 198

To Department of Veterans and Military Affairs -
 Utah Veterans Nursing Home Fund
 From Federal Funds 17,700
 From Federal Funds, One-Time 1,300
 Schedule of Programs:
 Veterans Nursing Home Fund 19,000

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES
 AND CRIMINAL JUSTICE**

UTAH DEPARTMENT OF CORRECTIONS

Item 199

To Utah Department of Corrections -
 Utah Correctional Industries
 From Dedicated Credits Revenue 200,800
 From Dedicated Credits Revenue,
 One-Time 45,400
 Schedule of Programs:
 Utah Correctional Industries 246,200

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 200

To Department of Agriculture and Food -
 Agriculture Loan Programs
 From Agriculture Resource
 Development Fund 4,100
 From Agriculture Resource Development
 Fund, One-Time 900
 From Utah Rural Rehabilitation Loan
 State Fund 2,200
 From Utah Rural Rehabilitation Loan
 State Fund, One-Time 500
 Schedule of Programs:
 Agriculture Loan Program 7,700

Subsection 1(d). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated.

Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

Item 201

To General Fund Restricted - Indigent
Defense Resources Account

From General Fund	8,700
From General Fund, One-Time	2,600
From Revenue Transfers	(8,700)
From Revenue Transfers, One-Time	(2,600)

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 202

To Labor Commission - Uninsured
Employers Fund

From Dedicated Credits Revenue	1,000
From Interest Income	300
From Premium Tax Collections	700
Schedule of Programs:	
Uninsured Employers Fund	2,000

Section 2. Effective Date.
This bill takes effect on July 1, 2019.

CHAPTER 360**H. B. 14**

Passed February 8, 2019
 Approved March 27, 2019
 Effective May 14, 2019

STATE MONUMENTS ACT AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: David P. Hinkins
 Cosponsors: Susan Duckworth
 Ken Ivory
 Keven J. Stratton
 Mike Winder

LONG TITLE**General Description:**

This bill creates the State Monuments Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Division of State Parks and Recreation to:
 - periodically evaluate and report on state property for state monument status; and
 - create rules for the management of prospective state monuments;
- ▶ requires the Division of State Parks and Recreation to prepare a proposal in the event that the Division of State Parks and Recreation determines that a state monument designation is appropriate; and
- ▶ outlines the process for designating a state monument.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

79-4-1201, Utah Code Annotated 1953
 79-4-1202, Utah Code Annotated 1953
 79-4-1203, Utah Code Annotated 1953
 79-4-1204, Utah Code Annotated 1953
 79-4-1205, Utah Code Annotated 1953
 79-4-1206, Utah Code Annotated 1953
 79-4-1207, Utah Code Annotated 1953
 79-4-1208, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 79-4-1201 is enacted to read:**Part 12. State Monuments Act****79-4-1201. Title.**

This part is known as the "State Monuments Act."

Section 2. Section 79-4-1202 is enacted to read:**79-4-1202. Definitions.**

As used in this section:

(1) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee or the House or Senate Natural Resources, Agriculture, and Environment Standing Committee.

(2) "State monument" means public land:

(a) owned or managed by the state;

(b) designated by the state for preservation of a historic landmark, historic or prehistoric structure, geologic formation, cultural site, or archeological resource; and

(c) confined to the smallest area compatible with proper care and management of the historic landmark, historic or prehistoric structure, geologic formation, cultural site, or archeological resource to be protected.

Section 3. Section 79-4-1203 is enacted to read:**79-4-1203. Division duties.**

(1) (a) The division shall periodically:

(i) evaluate state property for potential designation as a state monument; and

(ii) report the results of the evaluation described in Subsection (1)(a)(i) to the committee.

(b) The division may:

(i) evaluate private and federal land with the potential to be purchased by, transferred to, or leased to, the state for potential designation as a state monument; and

(ii) enter into negotiations with the relevant federal agency or private entity to pursue the transfer, sale, or lease of federal land for the proposed state monument, as appropriations allow.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of a state monument, subject to valid existing rights and Section 79-4-1208.

Section 4. Section 79-4-1204 is enacted to read:**79-4-1204. County proposal.**

A county may evaluate the land within the county's jurisdictional boundaries to determine if a parcel is appropriate for state monument designation.

Section 5. Section 79-4-1205 is enacted to read:**79-4-1205. Report.**

(1) (a) If the division determines a state property is appropriate for state monument designation, the director shall submit a written proposal to the committee outlining the division's determination.

(b) The division shall submit the written proposal described in Subsection (1)(a) to the county commission or county council of any county that will contain some or all of the proposed monument within the county's geographic borders.

(c) Within 45 days of the day on which a county commission or county council receives a written proposal from the division, the county commission or county council shall:

(i) pass a resolution stating the county commission or county council's support or opposition to the proposed monument; and

(ii) submit the resolution to the committee.

(2) (a) Within 90 days of the day on which the committee receives a written proposal, and subject to Subsections (2)(b) and (4), the committee shall vote to either recommend the proposal to the Legislature or return the proposal to the division for further study and evaluation.

(b) If the county commission or county council opposes the proposal through resolution, as described in Subsection (1)(c), the committee may not take action.

(3) (a) If a county determines that a parcel within the county's jurisdictional boundaries is appropriate for state monument designation, as described in Section 79-4-1204, the county shall:

(i) pass a resolution in support of designation; and

(ii) submit the resolution in support of designation to the division and the committee.

(b) Within 45 days of the day on which the division receives a county resolution in support of a state monument, the division shall prepare a report accepting or rejecting the county's proposal, including an analysis of the state's financial cost of maintaining the proposed state monument, and submit that report to the committee. The financial analysis shall include identifying an ongoing funding source to ensure costs associated with maintaining and protecting the state monument are available.

(c) Within 90 days of the day on which the committee receives the report described in Subsection (3)(b), and subject to Subsection (4), the committee shall vote to either recommend the proposal to the Legislature or reject the proposal.

(4) If a proposed state monument falls within the jurisdictional boundaries of a city or town, and the city or town passes a resolution in opposition to designation of the state monument, the committee may not take action.

(5) If a proposed state monument falls within state land managed by a state agency other than the division:

(a) the division shall consult with the managing state agency regarding the monument designation proposal; and

(b) the committee may not recommend the proposal to the Legislature if designating the state land may cause the managing state agency to breach a fiduciary, contractual, or other legal obligation governing management or use of the state land.

Section 6. Section 79-4-1206 is enacted to read:

79-4-1206. Designation.

A state monument is created by the approval of the Legislature and the governor through concurrent resolution.

Section 7. Section 79-4-1207 is enacted to read:

79-4-1207. Management committee.

(1) Once a state monument is created, as described in Section 79-4-1206, the board shall appoint a management committee to assist the division in:

(a) making rules for the state monument; or

(b) the creation of any management plan or changes to a management plan governing the state monument.

(2) The management committee shall represent state and local interests as well as stakeholders.

(3) In appointing the management committee, the board shall include:

(a) one conservationist, if relevant to the particular state monument;

(b) one recreationist, if relevant to the particular state monument;

(c) one cultural representative, if relevant to the particular state monument;

(d) one energy and mining representative, if relevant to the particular state monument;

(e) one small business owner, if relevant to the particular state monument;

(f) one farming or ranching representative, if relevant to the particular state monument;

(g) one county elected official; and

(h) one legislator whose district, in full or in part, covers the monument.

(4) The board shall consider geographic diversity in appointing the members described in Subsection (3), and include at least one resident from each county covered by the monument, with no county having majority representation if the state monument covers two or more counties.

(5) (a) Compensation and expenses of a member of the management committee who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) Other management committee members shall receive no compensation or expenses for the members' service on the committee.

(6) The division shall provide staff support to the committee, except as provided in Section 79-4-1208.

Section 8. Section 79-4-1208 is enacted to read:

79-4-1208. Management.

(1) Subject to Subsection (2), the division may be responsible for the management of a state monument or contract with another organization, agency, or entity for management services.

(2) Upon Title 63L, Chapter 8, Utah Public Land Management Act, becoming effective as described in Section 63L-8-602, the government entity responsible for management of the public lands shall:

(a) be responsible for the management of a state monument; and

(b) provide staff support to a management committee created in Section 79-4-1207.

CHAPTER 361**H. B. 53**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**VICTIM COMMUNICATIONS
 AMENDMENTS**

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill enacts provisions related to victim communications.

Highlighted Provisions:

This bill:

- ▶ enacts the Privileged Communications with Victim Advocates Act, including:
 - providing a purpose statement;
 - defining terms;
 - outlining the scope of the part;
 - providing a privilege for confidential communications;
 - addressing government records; and
 - requiring certain notices;
- ▶ addresses examination of a victim advocate; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-1-137, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

77-38-401, Utah Code Annotated 1953
 77-38-402, Utah Code Annotated 1953
 77-38-403, Utah Code Annotated 1953
 77-38-404, Utah Code Annotated 1953
 77-38-405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-38-401 is enacted to read:**Part 4. Privileged Communications with Victim Advocates Act.****77-38-401. Title.**

This part is known as the "Privileged Communications with Victim Advocates Act."

Section 2. Section 77-38-402 is enacted to read:**77-38-402. Purpose.**

It is the purpose of this part to enhance and promote the mental, physical, and emotional recovery of victims by restricting the circumstances

under which a confidential communication with the victim may be disclosed.

Section 3. Section 77-38-403 is enacted to read:**77-38-403. Definitions.**

As used in this part:

(1) "Advocacy services" means assistance provided that supports, supplements, intervenes, or links a victim or a victim's family with appropriate resources and services to address the wide range of potential impacts of being victimized.

(2) "Advocacy services provider" means an entity that has the primary focus of providing advocacy services in general or with specialization to a specific crime type or specific type of victimization.

(3) "Confidential communication" means a communication that is intended to be confidential between a victim and a victim advocate for the purpose of obtaining advocacy services.

(4) "Criminal justice system victim advocate" means an individual who: (a) is employed or authorized to volunteer by a government agency that possesses a role or responsibility within the criminal justice system;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;

(c) completes a minimum 40 hours of trauma-informed training:

(i) in crisis response, the effects of crime and trauma on victims, victim advocacy services and ethics, informed consent, and this part regarding privileged confidential communication; and

(ii) that have been approved or provided by the Utah Office for Victims of Crime; and

(d) is under the supervision of the director or director's designee of the government agency.

(5) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Nongovernment organization victim advocate" means an individual who:

(a) is employed or authorized to volunteer by a nongovernment organization advocacy services provider;

(b) has as a primary responsibility addressing the mental, physical, or emotional recovery of victims;

(c) has a minimum 40 hours of trauma-informed training:

(i) in assisting victims specific to the specialization or focus of the nongovernment organization advocacy services provider and includes this part regarding privileged confidential communication; and

(ii) (A) that have been approved or provided by the Utah Office for Victims of Crime; or

(B) that meets other minimally equivalent standards set forth by the nongovernment organization advocacy services provider; and

(d) is under the supervision of the director or the director's designee of the nongovernment organization advocacy services provider.

(8) "Record" means a book, letter, document, paper, map, plan, photograph, file, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics.

(9) "Victim" means:

(a) a "victim of a crime" as defined in Section 77-38-2;

(b) an individual who is a victim of domestic violence as defined in Section 77-36-1; or

(c) an individual who is a victim of dating violence as defined in Section 78B-7-402.

(10) "Victim advocate" means:

(a) a criminal justice system victim advocate;

(b) a nongovernment organization victim advocate; or

(c) an individual who is employed or authorized to volunteer by a public or private entity and is designated by the Utah Office for Victims of Crime as having the specific purpose of providing advocacy services to or for the clients of the public or private entity.

(d) "Victim advocate" does not include an employee of the Utah Office for Victims of Crime.

Section 4. Section 77-38-404 is enacted to read:

77-38-404. Scope of part.

This part governs the disclosure of a confidential communication to a victim advocate, except that:

(1) if Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, applies, that part governs; and

(2) if Part 2, Confidential Communications for Sexual Assault Act, applies, that part governs.

Section 5. Section 77-38-405 is enacted to read:

77-38-405. Disclosure of a communication given to a victim advocate.

(1) (a) A victim advocate may not disclose a confidential communication with a victim, including a confidential communication in a group therapy session, except:

(i) that a criminal justice system victim advocate shall provide the confidential communication to a prosecutor who is responsible for determining whether the confidential communication is exculpatory or goes to the credibility of a witness;

(ii) that a criminal justice system victim advocate may provide the confidential communication to a parent or guardian of a victim if the victim is a minor and the parent or guardian is not the accused, or a law enforcement officer, health care provider, mental health therapist, domestic violence shelter employee, an employee of the Utah Office for Victims of Crime, or member of a multidisciplinary team assembled by a Children's Justice Center or a law enforcement agency for the purpose of providing advocacy services; or

(iii) to the extent allowed by the Utah Rules of Evidence.

(b) If a prosecutor determines that the confidential communication is exculpatory or goes to the credibility of a witness, after the court notifies the victim and the defense attorney of the opportunity to be heard at an in camera review, the prosecutor will present the confidential communication to the victim, defense attorney, and the court for in camera review in accordance with the Utah Rules of Evidence.

(2) A record that contains information from a confidential communication between a victim advocate and a victim may not be disclosed under Title 63G, Chapter 2, Government Records Access and Management Act, to the extent that it includes the information about the confidential communication.

(3) A criminal justice system victim advocate, as soon as reasonably possible, shall notify a victim, or a parent or guardian of the victim if the victim is a minor and the parent or guardian is not the accused:

(a) whether a confidential communication with the criminal justice system victim advocate will be disclosed to a prosecutor and whether a statement relating to the incident that forms the basis for criminal charges or goes to the credibility of a witness will also be disclosed to the defense attorney; and

(b) of the name, location, and contact information of one or more nongovernment organization advocacy services providers specializing in the victim's service needs, when a nongovernment organization advocacy services provider exists and is known to the criminal justice system victim advocate.

Section 6. Section 78B-1-137 is amended to read:

78B-1-137. Witnesses -- Privileged communications.

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in the following cases:

(1) (a) Neither a wife nor a husband may either during the marriage or afterwards be, without the consent of the other, examined as to any communication made by one to the other during the marriage.

(b) This exception does not apply:

(i) to a civil action or proceeding by one spouse against the other;

(ii) to a criminal action or proceeding for a crime committed by one spouse against the other;

(iii) to the crime of deserting or neglecting to support a spouse or child;

(iv) to any civil or criminal proceeding for abuse or neglect committed against the child of either spouse; or

(v) if otherwise specifically provided by law.

(2) An attorney cannot, without the consent of the client, be examined as to any communication made by the client to the attorney or any advice given regarding the communication in the course of the professional employment. An attorney's secretary, stenographer, or clerk cannot be examined, without the consent of the attorney, concerning any fact, the knowledge of which has been acquired as an employee.

(3) A member of the clergy or priest cannot, without the consent of the person making the confession, be examined as to any confession made to either of them in their professional character in the course of discipline enjoined by the church to which they belong.

(4) A physician or surgeon cannot, without the consent of the patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable the physician or surgeon to prescribe or act for the patient. However, this privilege shall be waived by the patient in an action in which the patient places the patient's medical condition at issue as an element or factor of the claim or defense. Under those circumstances, a physician or surgeon who has prescribed for or treated that patient for the medical condition at issue may provide information, interviews, reports, records, statements, memoranda, or other data relating to the patient's medical condition and treatment which are placed at issue.

(5) A public officer cannot be examined as to communications made in official confidence when the public interests would suffer by the disclosure.

(6) (a) A sexual assault counselor as defined in Section 77-38-203 cannot, without the consent of the victim, be examined in a civil or criminal proceeding as to any confidential communication as defined in Section 77-38-203 made by the victim.

(b) A victim advocate as defined in Section 77-38-403 may not, without the written consent of the victim, or the victim's guardian or conservator if the guardian or conservator is not the accused, be examined in a civil or criminal proceeding as to a confidential communication, as defined in Section 77-38-403, unless the victim advocate is a criminal justice system victim advocate, as defined in Section 77-38-403, and is examined in camera by a court to determine whether the confidential communication is privileged.

CHAPTER 362**H. B. 57**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**ELECTRONIC INFORMATION
OR DATA PRIVACY**

Chief Sponsor: Craig Hall
 Senate Sponsor: Todd Weiler

LONG TITLE**General Description:**

This bill modifies provisions related to privacy of electronic information or data.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires issuance of a search warrant to obtain certain electronic information or data;
- ▶ addresses notification that electronic information or data was obtained;
- ▶ provides for transmission of electronic information or data to a remote computing service, including restrictions on government entities;
- ▶ provides that the individual who transmits electronic information or data is the presumed owner of the electronic information or data;
- ▶ provides for the exclusion of electronic information or data obtained without a warrant; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-23c-102, as last amended by Laws of Utah 2016, Chapter 161

77-23c-103, as enacted by Laws of Utah 2014, Chapter 223

ENACTS:

77-23c-101.1, Utah Code Annotated 1953

77-23c-104, Utah Code Annotated 1953

77-23c-105, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

77-23c-101.2, (Renumbered from 77-23c-101, as enacted by Laws of Utah 2014, Chapter 223)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-23c-101.1 is enacted to read:**CHAPTER 23c. ELECTRONIC
INFORMATION OR DATA PRIVACY ACT****77-23c-101.1. Title.**

This chapter is known as the "Electronic Information or Data Privacy Act."

Section 2. Section 77-23c-101.2, which is renumbered from Section 77-23c-101 is renumbered and amended to read:**[77-23c-101]. 77-23c-101.2. Definitions.**

As used in this chapter:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

~~[(3) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.]~~

(3) (a) "Electronic information or data" means information or data including a sign, signal, writing, image, sound, or intelligence of any nature transmitted or stored in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(b) "Electronic information or data" includes the location information, stored data, or transmitted data of an electronic device.

(c) "Electronic information or data" does not include:

(i) a wire or oral communication;

(ii) a communication made through a tone-only paging device; or

(iii) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of money.

(4) "Law enforcement agency" means an entity of the state or a political subdivision of the state that exists to primarily prevent, detect, or prosecute crime and enforce criminal statutes or ordinances.

~~[(4)]~~ (5) "Location information" means information, obtained by means of a tracking device, concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

~~[(5)]~~ (6) "Location information service" means the provision of a global positioning service or other mapping, location, or directional information service.

(7) "Oral communication" means the same as that term is defined in Section 77-23a-3.

~~[(6)]~~ (8) "Remote computing service" means the provision to the public of computer storage or

processing services by means of an electronic communications system.

(9) "Transmitted data" means electronic information or data that is transmitted wirelessly:

(a) from an electronic device to another electronic device without the use of an intermediate connection or relay; or

(b) from an electronic device to a nearby antenna.

(10) "Wire communication" means the same as that term is defined in Section 77-23a-3.

Section 3. Section 77-23c-102 is amended to read:

77-23c-102. Electronic information or data privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2) [~~or a government entity~~], for a criminal investigation or prosecution, a law enforcement agency may not obtain, without a search warrant issued by a court upon probable cause:

(i) the location information, stored data, or transmitted data of an electronic device [~~without a search warrant issued by a court upon probable cause~~]; or

(ii) electronic information or data transmitted by the owner of the electronic information or data to a remote computing service provider.

(b) Except as provided in Subsection (1)(c), a [~~government entity~~] law enforcement agency may not use, copy, or disclose, for any purpose, the location information, stored data, [~~or~~] transmitted data of an electronic device, or electronic information or data provided by a remote computing service provider, that [~~is not the subject of the warrant that is collected as part of an effort to obtain the location information, stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).~~];

(i) is not the subject of the warrant; and

(ii) is collected as part of an effort to obtain the location information, stored data, transmitted data of an electronic device, or electronic information or data provided by a remote computing service provider that is the subject of the warrant in Subsection (1)(a).

(c) A [~~government entity~~] law enforcement agency may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the [~~government entity~~] law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The electronic information or data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the [~~government entity~~] law enforcement agency as soon as reasonably possible after the electronic information or data is collected.

(2) (a) A [~~government entity~~] law enforcement agency may obtain location information without a warrant for an electronic device:

(i) in accordance with Section 53-10-104.5;

(ii) if the device is reported stolen by the owner;

(iii) with the informed, affirmative consent of the owner or user of the electronic device;

(iv) in accordance with a judicially recognized [~~exceptions~~] exception to warrant requirements; [~~or~~]

(v) if the owner has voluntarily and publicly disclosed the location information[.]; or

(vi) from the remote computing service provider if the remote computing service provider voluntarily discloses the location information:

(A) under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking; or

(B) that is inadvertently discovered by the remote computing service provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

(b) A law enforcement agency may obtain stored or transmitted data from an electronic device, or electronic information or data transmitted by the owner of the electronic information or data to a remote computing service provider, without a warrant:

(i) with the informed consent of the owner of the electronic device or electronic information or data;

(ii) in accordance with a judicially recognized exception to warrant requirements;

(iii) in connection with a report forwarded by the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A; or

(iv) subject to Subsection 77-23c-102(2) (a)(vi)(B), from a remote computing service provider if the remote computing service provider voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

[~~(b)~~] (c) A prosecutor may obtain a judicial order as [~~defined~~] described in Section 77-22-2.5 for the purposes enumerated in Section 77-22-2.5.

(3) An electronic communication service provider[~~—its~~] or remote computing service provider, the provider's officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in [~~accordance with~~] good faith reliance on the terms of the warrant issued under this section or without a warrant [~~pursuant to~~] in accordance with Subsection (2).

[~~(4) (a) Notwithstanding Subsections (1) through (3), a government entity may receive and utilize electronic data containing the location information of an electronic device from a non-government~~]

entity as long as the electronic data contains no information that includes, or may reveal, the identity of an individual.]

~~[(b) Electronic data collected in accordance with this subsection may not be used for investigative purposes by a law enforcement agency.]~~

(4) Nothing in this chapter limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) Nothing in this chapter affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63F-1-206.

Section 4. Section 77-23c-103 is amended to read:

77-23c-103. Notification required -- Delayed notification.

(1) (a) Except as provided in Subsection (2), a ~~[government entity]~~ law enforcement agency that executes a warrant pursuant to Subsection 77-23c-102(1)(a) or 77-23c-104(3) shall, within 14 days after the day on which the ~~[operation concludes]~~ electronic information or data that is the subject of the warrant is obtained by the law enforcement agency, issue a notification to the owner of the electronic device or electronic information or data specified in the warrant that states:

~~[(a)]~~ (i) that a warrant was applied for and granted;

~~[(b)]~~ (ii) the kind of warrant issued;

~~[(e)]~~ (iii) the period of time during which the collection of the electronic information or data ~~[from the electronic device]~~ was authorized;

~~[(d)]~~ (iv) the offense specified in the application for the warrant;

~~[(e)]~~ (v) the identity of the ~~[government entity]~~ law enforcement agency that filed the application; and

~~[(f)]~~ (vi) the identity of the judge who issued the warrant.

(b) The notification requirement under Subsection (1)(a) is not triggered until the owner of the electronic device or electronic information or data specified in the warrant is known, or could be reasonably identified, by the law enforcement agency.

(2) A ~~[government entity]~~ law enforcement agency seeking a warrant pursuant to Subsection 77-23c-102(1)(a) or 77-23c-104(3) may submit a request, and the court may grant permission, to delay the notification required by Subsection (1) for a period not to exceed 30 days, if the court determines that there is ~~[probable]~~ reasonable cause to believe that the notification may:

(a) endanger the life or physical safety of an individual;

(b) cause a person to flee from prosecution;

(c) lead to the destruction of or tampering with evidence;

(d) intimidate a potential witness; or

(e) otherwise seriously jeopardize an investigation or unduly delay a trial.

(3) (a) When a delay of notification is granted under Subsection (2) and upon application by the ~~[government entity]~~ law enforcement agency, the court may grant additional extensions of up to 30 days each.

(b) Notwithstanding Subsection (3)(a), when a delay of notification is granted under Subsection (2), and upon application by a law enforcement agency, the court may grant an additional extension of up to 60 days if the court determines that a delayed notification is justified because the investigation involving the warrant:

(i) is interstate in nature and sufficiently complex; or

(ii) is likely to extend up to or beyond an additional 60 days.

(4) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), the ~~[government entity]~~ law enforcement agency shall serve upon or deliver by first-class mail, or by other means if delivery is impracticable, to the owner of the electronic device or electronic information or data a copy of the warrant together with notice that:

(a) states with reasonable specificity the nature of the law enforcement inquiry; and

(b) contains:

(i) the information described in Subsections (1)(a)(i) through ~~[(f)]~~ (vi);

(ii) a statement that notification of the search was delayed;

(iii) the name of the court that authorized the delay of notification; and

(iv) a reference to the provision of this chapter that allowed the delay of notification.

(5) A ~~[government entity]~~ law enforcement agency is not required to notify the owner of the electronic device or electronic information or data if the owner is located outside of the United States.

Section 5. Section 77-23c-104 is enacted to read:

77-23c-104. Third-party electronic information or data.

(1) As used in this section, "subscriber record" means a record or information of a provider of an electronic communication service or remote computing service that reveals the subscriber's or customer's:

(a) name;

(b) address;

(c) local and long distance telephone connection record, or record of session time and duration;

- (d) length of service, including the start date;
- (e) type of service used;
- (f) telephone number, instrument number, or other subscriber or customer number or identification, including a temporarily assigned network address; and

(g) means and source of payment for the service, including a credit card or bank account number.

(2) Except as provided in Chapter 22, Subpoena Powers for Aid of Criminal Investigation and Grants of Immunity, a law enforcement agency may not obtain, use, copy, or disclose a subscriber record.

(3) A law enforcement agency may not obtain, use, copy, or disclose, for a criminal investigation or prosecution, any record or information, other than a subscriber record, of a provider of an electronic communication service or remote computing service related to a subscriber or customer without a warrant.

(4) Notwithstanding Subsections (2) and (3), a law enforcement agency may obtain, use, copy, or disclose a subscriber record, or other record or information related to a subscriber or customer, without a warrant:

(a) with the informed, affirmed consent of the subscriber or customer;

(b) in accordance with a judicially recognized exception to warrant requirements;

(c) if the subscriber or customer voluntarily discloses the record in a manner that is publicly accessible; or

(d) if the provider of an electronic communication service or remote computing service voluntarily discloses the record:

(i) under a belief that an emergency exists involving the imminent risk to an individual of:

- (A) death;
- (B) serious physical injury;
- (C) sexual abuse;
- (D) live-streamed sexual exploitation;
- (E) kidnapping; or
- (F) human trafficking;

(ii) that is inadvertently discovered by the provider, if the record appears to pertain to the commission of:

- (A) a felony; or
- (B) a misdemeanor involving physical violence, sexual abuse, or dishonesty; or

(iii) subject to Subsection 77-23c-104(4)(d)(ii), as otherwise permitted under 18 U.S.C. Sec. 2702.

(5) A provider of an electronic communication service or remote computing service, or the provider's officers, employees, agents, or other

specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of a warrant issued under this section, or without a warrant in accordance with Subsection (3).

Section 6. Section 77-23c-105 is enacted to read:

77-23c-105. Exclusion of records.

All electronic information or data and records of a provider of an electronic communications service or remote computing service pertaining to a subscriber or customer that are obtained in violation of the provisions of this chapter shall be subject to the rules governing exclusion as if the records were obtained in violation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 14.

CHAPTER 363**H. B. 64**

Passed February 20, 2019

Approved March 27, 2019

Effective May 14, 2019

LOBBYIST EXPENDITURES AMENDMENTS

Chief Sponsor: Michael K. McKell

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill amends provisions relating to expenditures for a public official.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions relating to an approved activity;
- ▶ requires a lobbyist to file certain reports related to the lobbyist's expenditure on a local official or education official;
- ▶ establishes limits for a lobbyist's expenditures on a local official or education official;
- ▶ establishes provisions for the disposal of a publication that qualifies as an expenditure;
- ▶ establishes criminal and civil penalties;
- ▶ grants rulemaking authority to the director of elections within the Office of the Lieutenant Governor; and
- ▶ makes most of the provisions of the Lobbyist Disclosure and Regulation Act applicable to expenditures for a local official or an education official by incorporating those provisions into a Local Government and Board of Education Lobbyist Disclosure and Regulation Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-11-102, as last amended by Laws of Utah 2018, Chapters 19 and 67

63A-14-202, as last amended by Laws of Utah 2018, Chapter 461

63A-15-201, as renumbered and amended by Laws of Utah 2018, Chapter 461

63E-1-401, as enacted by Laws of Utah 2001, Chapter 201

63E-1-404, as enacted by Laws of Utah 2001, Chapter 201

76-10-1602, as last amended by Laws of Utah 2014, Chapter 167

ENACTS:

36-11a-101, Utah Code Annotated 1953

36-11a-102, Utah Code Annotated 1953

36-11a-201, Utah Code Annotated 1953

36-11a-202, Utah Code Annotated 1953

36-11a-203, Utah Code Annotated 1953

36-11a-301, Utah Code Annotated 1953

36-11a-302, Utah Code Annotated 1953

36-11a-303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-11-102 is amended to read:**36-11-102. Definitions.**

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (8)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public;

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) a publication having a cash value not exceeding \$30;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit contributions reportable under:

(I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

(II) 2 U.S.C. Sec. 434; or

(B) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of ~~[an event that is]~~ an approved activity;

(xiv) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(13) "Lobbying" means communicating with a public official for the purpose of influencing the

passage, defeat, amendment, or postponement of legislative or executive action.

(14) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers

who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(18) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(19) "Public official" means:

- (a) (i) a member of the Legislature;
- (ii) an individual elected to a position in the executive branch of state government; or
- (iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (19)(a).

(20) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(b) an immediate family member of a person described in Subsection (19)(a).

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,

parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(24) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 2. Section 36-11a-101 is enacted to read:

CHAPTER 11a. LOCAL GOVERNMENT AND BOARD OF EDUCATION LOBBYIST DISCLOSURE AND REGULATION ACT

Part 1. General Provisions

36-11a-101. Title.

This chapter is known as the "Local Government and Board of Education Lobbyist Disclosure and Regulation Act."

Section 3. Section 36-11a-102 is enacted to read:

36-11a-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual local official or education official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual local official or education official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual local official or education official, regardless of whether the expenditures were attributed to different clients.

(2) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(3) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(4) "Compensation payor" means a person who pays compensation to a local official or education official in the ordinary course of business:

(a) because of the local official's or education official's ownership interest in the compensation payor; or

(b) for services rendered by the local official or education official on behalf of the compensation payor.

(5) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(6) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (6)(a) or (b).

(7) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a local official or education official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Finance Reporting Requirements, Section 10-3-208 or Section 17-16-6.5, or an applicable ordinance described in Subsection 10-3-208(5) or Subsection 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (8)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (8)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the local official's or education official's position as a local official or education official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than \$10, and the aggregate daily expenditures do not exceed \$10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to a local official or education official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(vii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(viii) a publication having a cash value not exceeding \$30;

(ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under 2 U.S.C. Sec. 434, Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208 or Section 17-16-6.5, or an applicable ordinance described in Subsection 10-3-208(5) or Subsection 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (8)(b)(ix)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(x) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting for a local official or education official:

(A) that is sponsored by a governmental entity, a public school, a charter school, or an organization that represents only local governmental entities, public schools, or charter schools, including the Utah Association of Counties, the Utah League of Cities and Towns, the Utah Association of Special Districts, the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(B) that is widely attended and related to a governmental duty of the local official or education official; or

(xi) travel to a widely attended tour or meeting related to a governmental duty of a local official or education official if that travel results in a financial savings to the local government or board of education to which the local official or education official belongs.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (10)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Lobbying" means communicating with a local official or education official for the purpose of influencing a local action or education action.

(13) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a local official or education official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by a local government or board of education;

(iv) a representative of a political party;

(v) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a local official or education official;

(vi) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge local action or education action;

(vii) an individual who appears on the individual's own behalf before a board of education, the governing body of a local government, or a committee of a local government or board of education, solely for the purpose of testifying in support of or in opposition to local action or education action; or

(viii) an individual representing a business, entity, or industry, who:

(A) interacts with a local official or education official, in the local official's or education official's capacity as a local official or education official, while accompanied by a lobbyist who is lobbying in relation to the subject of the interaction; and

(B) does not make an expenditure for, or on behalf of, a local official or education official in relation to the interaction or during the period of interaction.

(14) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a local official or education official or member of the local official's or education official's immediate family.

(15) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(16) "Local government" means:

(a) a county, city, town, or metro township;

(b) a local district governed by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint or cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(17) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (17)(a) or (b).

(18) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(19) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a local official or education official or member of the local official's or education official's immediate family between two or more of those clients.

(20) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Section 36-11a-201.

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (23)(b).

(24) "Tour" means the visit of a location by a local official or education official, for a purpose relating to the duties of the local official or education official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a local official or education official may need to take action within the scope of the local official's or education official's duties.

(25) "Type of public official" means a notation to identify whether an individual is:

(a) a local official, including a notation of the type of local government for which the individual is a local official;

(b) an education official, including a notation of the type of board of education for which the individual is an education official; or

(c) an immediate family member of an individual described in Subsection (6)(a), (6)(b), (17)(a), or (17)(b).

Section 4. Section 36-11a-201 is enacted to read:

Part 2. Disclosure of Expenditures

36-11a-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

(ii) A lobbyist who has not made an expenditure during a quarterly reporting period is not required to file a quarterly financial report for that quarterly reporting period.

(iii) A lobbyist who is not required to file any quarterly reports under this section for a calendar year shall, on or before January 10 of the following year, file a financial report listing the amount of the expenditures for the entire preceding year as "none."

(b) Except as provided in Subsection (1)(c), a government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(c) (i) As used in this Subsection (1)(c), "same local government type" means:

(A) for a county government, another county government;

(B) for a municipal government, another municipal government;

(C) for a local board of education, another local board of education;

(D) for a local district, another local district or a special service district; or

(E) for a special service district, another special service district or a local district.

(ii) A government officer or local official is not required, under this section, to report an expenditure made by the government officer or local official to another government officer or local official if the government officer or local official making the expenditure is of the same local government type as the government officer or local official receiving the expenditure.

(2) (a) A financial report is due quarterly on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report is due on the next succeeding business day.

(c) A financial report is timely filed if it is filed electronically before the close of regular office hours on or before the due date.

(3) A financial report shall contain:

(a) the total amount of expenditures made to benefit any local official or education official during the quarterly reporting period;

(b) the total amount of expenditures made, by the type of official, during the quarterly reporting period;

(c) for the financial report due on January 10:

(i) the total amount of expenditures made to benefit any local official or education official during the last calendar year; and

(ii) the total amount of expenditures made, by the type of official, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a local official or education official, including:

(i) each travel destination and each lodging location;

(ii) the name of each local official or education official who benefitted from the expenditure on travel or lodging;

(iii) the type of official of each local official or education official named;

(iv) for each local official or education official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and

(v) the total amount of expenditures listed under Subsection (3)(d)(iv);

(e) a disclosure of aggregate daily expenditures greater than \$10 made during the quarterly reporting period including:

(i) the date and purpose of the expenditure;

(ii) the location of the expenditure;

(iii) the name of any local official or education official benefitted by the expenditure;

(iv) the type of official benefitted by the expenditure; and

(v) the total monetary worth of the benefit that the expenditure conferred on any local official or education official;

(f) for each local official or education official who was employed by the lobbyist, principal, or government officer, a list that provides:

(i) the name of the local official or education official; and

(ii) the nature of the employment with the local official or education official;

(g) a description of each local action or education action regarding which the lobbyist, principal, or

government officer made an expenditure to a local official or education official;

(h) the general purposes, interests, and nature of the entities that the lobbyist, principal, or government officer filing the report represents; and

(i) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a local official or education official under circumstances that would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(5) The lieutenant governor:

(a) shall provide a reporting system that allows a lobbyist, principal, or government officer to submit a financial report required by this chapter via the Internet; and

(b) may integrate the reporting system described in Subsection (5)(a) with the reporting system described in Subsection 36-11-201(5)(b).

(6) (a) A lobbyist and a principal shall continue to file a financial report required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) (A) for a lobbyist, states that the lobbyist has ceased lobbying activities; or

(B) for a principal, states that the principal no longer employs an individual as a lobbyist;

(ii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iii) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure requirements of this chapter.

(b) Except as provided in Subsection (1)(a)(ii), a lobbyist or principal that is required to file a financial report under this section is required to file the report quarterly until the lobbyist or principal files the statement required by Subsection (6)(a).

Section 5. Section 36-11a-202 is enacted to read:

36-11a-202. Expenditures over certain amounts prohibited -- Exceptions.

(1) Except as provided in Subsection (2) or (3), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed:

(a) for food or beverage, the food reimbursement rate; or

(b) \$10 for expenditures other than food or beverage.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed the limits described in Subsection (1):

(a) for the following items, if the expenditure is reported in accordance with Section 36-11a-201:

(i) food;

(ii) beverage;

(iii) travel;

(iv) lodging; or

(v) admission to or attendance at a tour or meeting; or

(b) if the expenditure is made for a purpose solely unrelated to the local official's or education official's position as a local official or education official.

(3) (a) As used in this Subsection (3), "same local government type" means:

(i) for a county government, another county government;

(ii) for a municipal government, another municipal government;

(iii) for a local board of education, another local board of education;

(iv) for a local district, another local district or a special service district; or

(v) for a special service district, another special service district or a local district.

(b) This section does not apply to an expenditure made by a government officer or local official to another government officer or local official if the government officer or local official making the expenditure is of the same local government type as the government officer or local official receiving the expenditure.

Section 6. Section 36-11a-203 is enacted to read:

36-11a-203. Disposal of publications.

If a lobbyist, principal, or government officer makes an expenditure, in the form of a publication, to a local official or education official, the local official or education official may return the publication to the lobbyist, principal, or government officer, donate the publication to a charity or a government entity, or destroy the publication.

Section 7. Section 36-11a-301 is enacted to read:

Part 3. Penalties and Statutory Construction

36-11a-301. Penalties.

(1) A person who intentionally violates Section 36-11a-201 or 36-11a-202 is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

- (i) an administrative penalty of up to \$5,000; or
- (ii) suspension of the violator's lobbying license for up to one year, if the person is a registered lobbyist under Section 36-11-103.

(2) Any person who intentionally fails to file a financial report required by this chapter, omits material information from a financial report, or files false information on a financial report, is subject to the following penalties:

- (a) an administrative penalty of up to \$1,000 for each violation; or
- (b) suspension of the violator's lobbying license for up to one year, if the person is a registered lobbyist under Section 36-11-103.

(3) In addition to any penalty imposed under Subsection (1) or (2), a person who intentionally fails to file a financial report required by this chapter on the date the report is due is subject to a penalty of up to \$50 per day for each day that the report is late.

(4) A person with evidence of a possible violation of this chapter may submit the evidence to the lieutenant governor for investigation.

(5) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 8. Section 36-11a-302 is enacted to read:

36-11a-302. Lieutenant governor's procedures.

The director of elections within the Office of the Lieutenant Governor shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide for the appointment of an administrative law judge to adjudicate alleged violations of this chapter and to impose penalties under this chapter.

Section 9. Section 36-11a-303 is enacted to read:

36-11a-303. Construction and interpretation -- Freedom of expression, participation, and press -- Non-preemption.

(1) No provision of this chapter may be construed in a manner that limits:

- (a) a person's right of freedom of expression and participation in government; or
- (b) freedom of the press.

(2) This chapter does not prevent a local government or public education entity from enacting an ordinance or adopting a policy, that the local government or public education entity otherwise has the lawful authority to enact or adopt, that is stricter than the requirements of this chapter.

Section 10. Section 63A-14-202 is amended to read:

63A-14-202. Independent Executive Branch Ethics Commission -- Membership.

(1) (a) There is created the Independent Executive Branch Ethics Commission, consisting of the following five members appointed by the governor, each of whom shall be registered to vote in the state at the time of appointment:

- (i) two members who served:

(A) as elected officials in state government no more recently than four years before the day on which the member is appointed; or

(B) in a management position in the state executive branch no more recently than four years before the day on which the member is appointed;

- (ii) one member who:

(A) has served, but no longer actively serves, as a judge of a court in the state; or

(B) is a licensed attorney in the state and is not, and has not been, a judge; and

- (iii) two citizen members.

(b) The governor shall make appointments to the commission as follows:

(i) each executive branch elected official, other than the governor, shall select, and provide to the governor, at least two names for potential appointment to one of the membership positions described in Subsection (1)(a);

(ii) the governor shall determine which of the executive branch elected officials described in Subsection (1)(b)(i) shall select names for which membership position;

(iii) the governor shall appoint to the commission one of the names provided by each executive branch elected official described in Subsection (1)(b)(i);

(iv) the governor shall directly appoint the remaining member of the commission; and

(v) if an executive branch elected official fails to submit names to the governor within 15 days after the day on which the governor makes the determination described in Subsection (1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership position.

(2) A member of the commission may not, during the member's term of office on the commission, act or serve as:

- (a) an officeholder as defined in Section 20A-11-101;
- (b) an agency head as defined in Section 67-16-3;
- (c) a lobbyist as defined in Section 36-11-102 or 36-11a-102;
- (d) a principal as defined in Section 36-11-102 or 36-11a-102; or
- (e) an employee of the state.

(3) (a) Except as provided in Subsection (3)(b), each member of the commission shall serve a four-year term.

(b) The governor shall set the first term of two of the members of the commission at two years, so that approximately half of the commission is appointed, or reappointed, every two years.

(c) When a vacancy occurs in the commission's membership for any reason, the governor shall appoint a replacement member for the unexpired term of the vacating member, in accordance with Subsection (1).

(d) The governor may not appoint a member to serve more than two full terms, whether those terms are two or four years.

(e) (i) The governor, or a majority of the commission, may remove a member from the commission only for cause.

(ii) The governor may not remove a member from the commission during any period of time when the commission is investigating or considering a complaint alleging an ethics violation against the governor or lieutenant governor.

(f) If a commission member determines that the commission member has a conflict of interest in relation to a complaint, the remaining members of the commission shall appoint an individual to serve in that member's place for the purpose of reviewing that complaint.

(4) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(5) (a) The commission members shall convene a meeting annually each January and elect, by majority vote, a chair from among the commission members.

(b) An individual may not serve as chair for more than two consecutive years.

(6) The commission:

(a) is an independent entity established within the department for budgetary and general administrative purposes only; and

(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department.

Section 11. Section 63A-15-201 is amended to read:

63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a local district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) (a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102 or 36-11a-102; or

(v) a principal as defined in Section 36-11-102 or 36-11a-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in

Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) (i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Section 12. Section 63E-1-401 is amended to read:

63E-1-401. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash, except reasonable compensation or salary for services rendered;

(b) stock or other investments;

(c) goodwill;

(d) real property;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Business interest" means:

(a) holding the position of trustee, director, officer, or other similar position with a business entity; or

(b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity, being held by:

(i) an individual;

(ii) the individual's spouse;

(iii) a minor child of the individual; or

(iv) any combination of Subsections (2)(b)(i) through (iii).

(3) "Interested party" means a person that held or holds the position of trustee, director, officer, or other similar position with an independent entity within:

(a) five years prior to the date of an action described in Subsection (5); or

(b) during the privatization of an independent entity.

(4) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in Section 36-11-102 or 36-11a-102, within:

(a) five years prior to the date of an action described in Subsection (5); or

(b) during the privatization of an independent entity.

(5) (a) "Privatized" means an action described in Subsection (5)(b) taken under circumstances in which the operations of the independent entity are continued by a successor entity that:

- (i) is privately owned;
- (ii) is unaffiliated to the state; and
- (iii) receives any asset of the independent entity.

(b) An action referred to in Subsection (5)(a) includes:

(i) the repeal of the authorizing statute of an independent entity and the revision to state laws to terminate the relationship between the state and the independent entity;

(ii) the dissolution of the independent entity;

(iii) the merger or consolidation of the independent entity with another entity; or

(iv) the sale of all or substantially all of the assets of the independent entity.

Section 13. Section 63E-1-404 is amended to read:

63E-1-404. Penalties for violation.

(1) A person who knowingly violates this part:

(a) is guilty of a third degree felony if the combined value of any compensation or assets received by the person as a result of the violation is equal to or greater than \$10,000; or

(b) is guilty of a class A misdemeanor if the combined value of any compensation or assets received by the person as a result of the violation is less than \$10,000.

(2) (a) In addition to any penalty imposed under Subsection (1), a person that violates this part shall return to the successor of the independent entity any compensation or assets received in violation of this part.

(b) If the assets received by the person in violation of this part are no longer in the possession of the person, the person shall pay the successor of the independent entity an amount equal to the fair market value of the asset at the time the person received the asset.

(3) Notwithstanding [Subsection] Subsections 36-11-401(3) and 36-11a-301(3), if a lobbyist violates Subsection 63E-1-402(2)(b)(i), the lobbyist is guilty of the crime outlined in Subsection (1), which crime shall be determined by the value of compensation or assets received by the lobbyist.

Section 14. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business

trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, [Ø] Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(ijj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

CHAPTER 364**H. B. 75**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

SEX OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Ken Ivory
 Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill reduces the offense level for individuals under 21 years old for certain crimes and clarifies when an individual is required to register as a sex offender.

Highlighted Provisions:

This bill:

- ▶ clarifies that an individual convicted of the offense of unlawful sexual activity with a minor is required to register as a sex offender unless the individual was less than four years older than the minor at the time of the offense;
- ▶ reduces the offense level for an individual who is under 21 years old and who commits the crime of unlawful sexual activity with a minor;
- ▶ provides that an individual who is under 21 years old and who commits the crime of unlawful sexual activity with a minor does not have to register as a sex offender; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-401, as last amended by Laws of Utah 2017, Chapter 397
 77-41-102, as last amended by Laws of Utah 2017, Chapter 434

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-401 is amended to read:**76-5-401. Unlawful sexual activity with a minor -- Elements -- Penalties -- Evidence of age raised by defendant.**

(1) For purposes of this section "minor" is a person who is 14 years of age or older, but younger than 16 years of age, at the time the sexual activity described in this section occurred.

(2) A person 18 years [of age] old or older commits unlawful sexual activity with a minor if, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405, the actor:

- (a) has sexual intercourse with the minor;

(b) engages in any sexual act with the minor involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant; or

(c) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

(3) (a) Except under Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony.

(b) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, the offense is a class B misdemeanor. An offense under this Subsection (3)(b) is not subject to registration under Subsection 77-41-102(17)(a)(iii).

(c) If the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor. An offense under this Subsection (3)(c) is not subject to registration under Subsection 77-41-102(17)(a)(iii).

Section 2. Section 77-41-102 is amended to read:**77-41-102. Definitions.**

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) “Jurisdiction” means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) “Kidnap offender” means any [person] individual other than a natural parent of the victim who:

(a) has been convicted in this state of a violation of:

- (i) Subsection 76-5-301(1)(c) or (d), kidnapping;
- (ii) Section 76-5-301.1, child kidnapping;
- (iii) Section 76-5-302, aggravated kidnapping;
- (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

(v) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iv);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) is required to register as a kidnap offender in any other jurisdiction of original conviction, who is required to register as a kidnap offender by any state, federal, or military court, or who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction, or as a result of the conviction, is required to register in the [person's] individual's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a) and who has been committed to the division for secure

confinement for that offense and remains in the division's custody 30 days prior to the [person's] individual's 21st birthday.

(10) “Natural parent” means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) “Offender” means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) “Online identifier” or “Internet identifier”:

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) “Primary residence” means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) “Register” means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) “Registration website” means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) “Secondary residence” means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) “Sex offender” means any [person] individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) ~~[a felony violation of]~~ Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(iv) Section 76-5-401.1, sexual abuse of a minor, except [under] as provided in Subsection 76-5-401.1(3)(a);

(v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(vi) Section 76-5-402, rape;

(vii) Section 76-5-402.1, rape of a child;

(viii) Section 76-5-402.2, object rape;

(ix) Section 76-5-402.3, object rape of a child;

(x) a felony violation of Section 76-5-403, forcible sodomy;

(xi) Section 76-5-403.1, sodomy on a child;

(xii) Section 76-5-404, forcible sexual abuse;

(xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xiv) Section 76-5-405, aggravated sexual assault;

(xv) Section 76-5-412, custodial sexual relations, when the [person] individual in custody is younger than 18 years of age, if the offense is committed on or after May 10, 2011;

(xvi) Section 76-5b-201, sexual exploitation of a minor;

(xvii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xviii) Section 76-7-102, incest;

(xix) Section 76-9-702, lewdness, if the [person] individual has been convicted of the offense four or more times;

(xx) Section 76-9-702.1, sexual battery, if the [person] individual has been convicted of the offense four or more times;

(xxi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxii) Section 76-9-702.5, lewdness involving a child;

(xxiii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxiv) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxv) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) who is required to register as a sex offender in any other jurisdiction of original conviction, who is required to register as a sex offender by any state, federal, or military court, or who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) who is a nonresident regularly employed or working in this state or who is a student in this state

and was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required to register in the [person's] individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) who is adjudicated delinquent based on one or more offenses listed in Subsection (17)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days prior to the [person's] individual's 21st birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

CHAPTER 365**H. B. 100**

Passed March 12, 2019
 Approved March 27, 2019
 Effective July 1, 2019

SEXUAL VIOLENCE PROTECTIVE ORDERS

Chief Sponsor: V. Lowry Snow
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill establishes the Sexual Violence Protection Act.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ creates a sexual violence protective order and an ex parte sexual violence protective order;
- ▶ establishes procedures for the application, modification, and enforcement of a sexual violence protective order and an ex parte sexual violence protective order; and
- ▶ requires that a sexual violence protective order and a dating violence protective order be placed on the statewide warrant system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-10-208, as last amended by Laws of Utah 2009, Chapters 292 and 356

53-10-208.1, as last amended by Laws of Utah 2011, Chapter 366

78B-7-201, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

78B-7-501, Utah Code Annotated 1953

78B-7-502, Utah Code Annotated 1953

78B-7-503, Utah Code Annotated 1953

78B-7-504, Utah Code Annotated 1953

78B-7-505, Utah Code Annotated 1953

78B-7-506, Utah Code Annotated 1953

78B-7-507, Utah Code Annotated 1953

78B-7-508, Utah Code Annotated 1953

78B-7-509, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-208 is amended to read:

53-10-208. Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

(a) records of criminal warrant information; and
 (b) after notice and hearing, records of protective orders issued pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; [øf]

(ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act[-];

(iii) Title 78B, Chapter 7, Part 4, Dating Violence Protection Act; or

(iv) Title 78B, Chapter 7, Part 5, Sexual Violence Protection Act.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(4) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Section 2. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

- (1) all dispositions of criminal matters, including:
- (a) guilty pleas;
 - (b) convictions;
 - (c) dismissals;
 - (d) acquittals;
 - (e) pleas held in abeyance;
 - (f) judgments of not guilty by reason of insanity for a violation of:
 - (i) a felony offense;
 - (ii) Title 76, Chapter 5, Offenses Against the Person; or
 - (iii) Title 76, Chapter 10, Part 5, Weapons;
 - (g) judgments of guilty with a mental illness;
 - (h) finding of mental incompetence to stand trial for a violation of:
 - (i) a felony offense;
 - (ii) Title 76, Chapter 5, Offenses Against the Person; or
 - (iii) Title 76, Chapter 10, Part 5, Weapons; or
 - (i) probations granted; ~~and~~
 - (2) orders of civil commitment under the terms of Section 62A-15-631;
 - (3) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and
 - (4) protective orders issued after notice and hearing, pursuant to:
 - (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; ~~or~~
 - (b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act~~[-]~~;
 - (c) Title 78B, Chapter 7, Part 4, Dating Violence Protection Act; or
 - (d) Title 78B, Chapter 7, Part 5, Sexual Violence Protection Act.

Section 3. Section 78B-7-201 is amended to read:

78B-7-201. Definitions.

As used in this chapter:

- (1) "Abuse" means:
- (a) physical abuse ~~or~~;

(b) sexual abuse;

(c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or

(d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.

(2) "Court" means the district court or juvenile court.

(3) All other terms have the same meaning as defined in Section 78A-6-105.

Section 4. Section 78B-7-501 is enacted to read:

Part 5. Sexual Violence Protection Act

78B-7-501. Title.

This part is known as the "Sexual Violence Protection Act."

Section 5. Section 78B-7-502 is enacted to read:

78B-7-502. Definitions.

As used in this part:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Dating partner" means the same as that term is defined in Section 78B-7-402.

(3) "Ex parte sexual violence protective order" means an order issued without notice to the respondent in accordance with the requirements of this part.

(4) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(5) "Sexual violence" means the commission or the attempt to commit:

(a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;

(b) human trafficking for forced sexual exploitation under Section 76-5-308; or

(c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

(6) "Sexual violence protective order" means an order issued after notice and a hearing in accordance with the requirements of this part.

Section 6. Section 78B-7-503 is enacted to read:

78B-7-503. Sexual violence -- Sexual violence protective orders.

(1) (a) An individual may seek a protective order under this part if the individual has been subjected to sexual violence and is neither a cohabitant nor a dating partner of the respondent.

(b) An individual may not seek a protective order on behalf of a child under this part.

(2) A petition seeking a sexual violence protective order may not be withdrawn without written order of the court.

Section 7. Section 78B-7-504 is enacted to read:

78B-7-504. Sexual violence protective orders -- Ex parte protective orders -- Modification of orders.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that sexual violence has occurred, the district court may:

(a) without notice, immediately issue an ex parte sexual violence protective order against the respondent or modify an existing sexual violence protective order ex parte, if necessary to protect the petitioner or any party named in the petition; or

(b) upon notice to the respondent, issue a sexual violence protective order or modify a sexual violence protective order after a hearing, regardless of whether the respondent appears.

(2) The district court may grant the following relief with or without notice in a protective order or in a modification to a protective order:

(a) prohibit the respondent from threatening to commit or committing sexual violence against the petitioner and a family or household member designated in the protective order;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or a family or household member designated in the protective order, directly or indirectly;

(c) order that the respondent:

(i) is excluded and shall stay away from the petitioner's residence and its premises;

(ii) subject to Subsection (4), stay away from the petitioner's:

(A) school and its premises;

(B) place of employment and its premises; or

(C) place of worship and its premises; or

(iii) stay away from any specified place frequented by the petitioner or a family or household member designated in the protective order;

(d) prohibit the respondent from being within a specified distance of the petitioner; or

(e) order any further relief that the district court considers necessary to provide for the safety and welfare of the petitioner and a family or household member designated in the protective order.

(3) The district court may grant the following relief in a sexual violence protective order or a modification of a sexual violence protective order, after notice and a hearing, regardless of whether the respondent appears:

(a) the relief described in Subsection (2); and

(b) subject to Subsection (5), upon finding that the respondent's use or possession of a weapon poses a

serious threat of harm to the petitioner or a family or household member designated in the protective order, prohibit the respondent from purchasing, using, or possessing a weapon specified by the district court.

(4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship as the respondent, the court may enter an order:

(a) that excludes the respondent from the respondent's school, place of employment, or place of worship; or

(b) governing the respondent's conduct at the respondent's school, place of employment, or place of worship.

(5) The district court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent committed sexual violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to the petitioner or a family or household member designated in the protective order.

(6) After the day on which the district court issues a sexual violence protective order, the district court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the petitioner and the respondent, if present, understand the sexual violence protective order;

(c) transmit electronically, by the end of the business day after the day on which the court issues the order, a copy of the sexual violence protective order to a local law enforcement agency designated by the petitioner; and

(d) transmit a copy of the sexual violence protective order in the same manner as described in Section 78B-7-113.

(7) (a) A respondent may request the court modify or vacate a protective order in accordance with Subsection (7)(b).

(b) Upon a respondent's request, the district court may modify or vacate a protective order after notice and a hearing, if the petitioner:

(i) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the district court to give specific consent to the modification or vacation of the provisions of the protective order; or

(ii) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

(8) To the extent that the provisions of this part are more specific than the Utah Rules of Civil Procedure regarding a protective order, the provisions of this part govern.

Section 8. Section 78B-7-505 is enacted to read:

78B-7-505. Hearings -- Expiration -- Extension.

(1) (a) Within 20 days after the day on which a district court issues an ex parte sexual violence protective order, the district court shall set a date for a hearing on the petition for a sexual violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the district court does not issue a sexual violence protective order, the ex parte sexual violence protective order expires, unless extended by the district court.

(c) The district court may extend the 20-day period described in Subsection (1)(a) only if:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the district court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.

(e) A sexual violence protective order remains in effect for one year after the day on which the district court issues the order.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within 10 calendar days after the day on which the commissioner enters the recommended order, and the assigned judge shall hold a hearing on the objection within 20 days after the day on which the objection is filed.

(2) If the district court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the district court shall, upon the petitioner's request:

(a) set the matter for hearing; and

(b) notify and serve the respondent.

(3) (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless:

(i) the petitioner files a motion before the day on which the sexual violence protective order expires

requesting an extension of the sexual violence protective order; and

(ii) after notice and a hearing on the motion, the district court finds that an extension of the sexual violence protective order is necessary to protect the petitioner or any party named in the sexual violence protective order.

(b) (i) If the district court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).

(ii) If the district court grants the motion described in Subsection (3)(a), the district court shall set a new date on which the sexual violence protective order expires.

(iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than one year after the day on which the court issues the order for extension.

(iv) A sexual violence protective order may not be extended more than once.

(c) After the day on which the district court issues an extension of a sexual violence protective order, the district court shall take the action described in Subsection 78B-7-504(6).

(4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Section 9. Section 78B-7-506 is enacted to read:

78B-7-506. Service of process.

(1) (a) The county sheriff that receives an order from the court under Subsection 78B-7-504(6) or 78B-7-505(3) shall:

(i) provide expedited service for the sexual violence protective order; and

(ii) after the sexual violence protective order is served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(b) This section does not prohibit another law enforcement agency from providing service of process if the law enforcement agency:

(i) has contact with the respondent; or

(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interest of the petitioner.

(2) When a sexual violence protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

Section 10. Section 78B-7-507 is enacted to read:

78B-7-507. Fees -- Forms.

(1) A fee may not be imposed by a court clerk, sheriff, constable, or law enforcement agency for:

(a) filing a petition for a protective order;

(b) obtaining a protective order; or

(c) service of a protective order.

(2) (a) The office of the court clerk shall provide forms and nonlegal assistance to an individual seeking to proceed under this part.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for a petition for a protective order and a protective order in accordance with this part; and

(ii) provide the forms to the clerk of each court authorized to issue a protective order.

(c) The forms described in this Subsection (2) shall include:

(i) a statement notifying a petitioner for a protective order that knowing falsification of any statement or information provided for the purpose of obtaining a protective order may subject the petitioner to criminal prosecution;

(ii) language stating violation of a protective order is a class A misdemeanor; and

(iii) a space for any information a petitioner is able to provide to facilitate identification of the respondent, including social security number, driver license number, date of birth, address, telephone number, or physical description.

(3) If the individual seeking to proceed under this part is not represented by an attorney, it is the responsibility of the court clerk's office to provide:

(a) the forms adopted in accordance with Subsection (2);

(b) all other forms required to petition for a protective order, including forms for service of process;

(c) except as provided in Subsection (4), clerical assistance in filling out the forms and filing the petition, in accordance with Subsection (2);

(d) information regarding the means available for service of process;

(e) a list of legal service organizations that may represent an individual in an action brought under this part, with the phone numbers of the organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to a protective order hearing.

(4) A court clerk's office may designate another entity, agency, or individual to provide the service described in Subsection (3)(c), but the court clerk's office is responsible to see that the service of process is provided.

(5) A petition for a protective order shall be in writing and verified.

(6) (a) A protective order shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (2).

(b) A sexual violence protective order or a modification to a protective order issued after notice and a hearing shall include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

Section 11. Section 78B-7-508 is enacted to read:

78B-7-508. Enforcement -- Penalties.

(1) A law enforcement officer shall, without a warrant, arrest an individual if the officer has probable cause to believe that the individual has intentionally or knowingly violated a protective order issued under this part, regardless of whether the violation occurred in the presence of the officer.

(2) A violation of a protective order issued under this part is a class A misdemeanor.

(3) A petitioner may be subject to criminal prosecution under Title 76, Chapter 8, Part 5, Falsification in Official Matters, for knowingly falsifying any statement or information provided for the purpose of obtaining a protective order.

Section 12. Section 78B-7-509 is enacted to read:

78B-7-509. Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of sexual violence shall use all reasonable means to protect the victim and prevent further sexual violence, including:

(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(b) making arrangements for the victim and any child to obtain emergency housing or shelter;

(c) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(d) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of the victim and of the remedies and services available to victims of sexual violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this part.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain a protective order are available from the

court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

Section 13. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 366**H. B. 125**

Passed February 25, 2019

Approved March 27, 2019

Effective May 14, 2019

QUANTITY IMPAIRMENT MODIFICATIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill deals with change applications.

Highlighted Provisions:

This bill:

- ▶ states that there is a rebuttable presumption of quantity impairment to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:
 - diverted from the approved point of diversion; or
 - beneficially used at the approved place of use.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

73-3-8, as last amended by Laws of Utah 2015, Chapter 245 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 249

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals.

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

- (i) for an application to appropriate, there is unappropriated water in the proposed source;
- (ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;
- (iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

- (i) the essential purpose of the original application has not been satisfied;
- (ii) the need for an extension is not the result of any default or neglect by the applicant; and
- (iii) the water is still available.

(e) No extension shall exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by

precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked in the event of the failure of the applicant to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that it will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe it would impair an existing right.

(5) (a) With respect to a change application for a permanent change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a permanent or temporary change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in Subsection

73-3-3(1), to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; ~~and~~ or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, all protestants, and all persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

CHAPTER 367**H. B. 137**

Passed March 12, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**DOMESTIC VIOLENCE
 ENHANCEMENT AMENDMENTS**

Chief Sponsor: Stephanie Pitcher
 Senate Sponsor: Karen Mayne
 Cosponsors: Lee B. Perry
 Val K. Potter
 Paul Ray
 Mike Winder

LONG TITLE**General Description:**

This bill amends provisions regarding the penalty enhancement for a domestic violence offense.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the duration between certain domestic violence offenses for purposes of applying a penalty enhancement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-36-1.1, as last amended by Laws of Utah 2015, Chapter 426

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

~~[(1) For purposes of this section, "qualifying domestic violence offense" means:]~~

~~(1) As used in this section:~~

~~(a) "Criminal mischief offense" means commission or attempt to commit an offense under Section 76-6-106 by one cohabitant against another.~~

~~(b) "Qualifying domestic violence offense" means:~~

~~[(a)] (i) a domestic violence offense in Utah; or~~

~~[(b)] (ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.~~

~~(2) [A person] An individual who is convicted of a domestic violence offense is:~~

~~(a) guilty of a class B misdemeanor if:~~

~~(i) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and~~

~~(ii) (A) the domestic violence offense described in this Subsection (2) is committed within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or~~

~~(B) the [person] individual is convicted of the domestic violence offense described in this Subsection (2) within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense;~~

~~(b) guilty of a class A misdemeanor if:~~

~~(i) the domestic violence offense described in this Subsection (2) is designated by law as a class B misdemeanor; and~~

~~(ii) (A) the domestic violence offense described in this Subsection (2) is committed within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or~~

~~(B) the [person] individual is convicted of the domestic violence offense described in this Subsection (2) within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or~~

~~(c) guilty of a felony of the third degree if:~~

~~(i) the domestic violence offense described in this Subsection (2) is designated by law as a class A misdemeanor; and~~

~~(ii) (A) the domestic violence offense described in this Subsection (2) is committed within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or~~

~~(B) the [person] individual is convicted of the domestic violence offense described in this Subsection (2) within [five] 10 years after the [person] individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense.~~

~~(3) An individual who is convicted of a domestic violence offense is:~~

~~(a) guilty of a class B misdemeanor if:~~

~~(i) the domestic violence offense described in this Subsection (3) is designated by law as a class C misdemeanor; and~~

~~(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or~~

~~(B) the individual is convicted of the domestic violence offense described in~~

~~this Subsection (3) within five years after the individual is convicted of a criminal mischief offense;~~

(b) guilty of a class A misdemeanor if:

(i) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or

(B) the individual is convicted of the domestic violence offense described in this Subsection (3) within five years after the individual is convicted of a criminal mischief offense; or

(c) guilty of a third degree felony if:

(i) the domestic violence offense described in this Subsection (3) is designated by law as a class A misdemeanor; and

(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or

(B) the individual is convicted of the domestic violence offense described in this Subsection (3) within five years after the individual is convicted of a criminal mischief offense.

CHAPTER 368**H. B. 144**

Passed March 14, 2019
Approved March 27, 2019
Effective May 14, 2019

STATE REPTILE

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill designates the state reptile.

Highlighted Provisions:

This bill:

- designates the Gila monster as the state reptile.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63G-1-601, as last amended by Laws of Utah 2018,
Chapter 87

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-601 is amended to read:**63G-1-601. State symbols.**

- (1) Utah's state animal is the elk.
- (2) Utah's state bird is the sea gull.
- (3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.
- (4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.
- (5) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.
- (6) Utah's state cooking pot is the dutch oven.
- (7) Utah's state emblem is the beehive.
- (8) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:
 - (a) a red field covering the top two-thirds of the flag;
 - (b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

(9) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

(10) Utah's state fish is the Bonneville cutthroat trout.

(11) Utah's state flower is the sego lily.

(12) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

(13) Utah's state reptile is the Gila Monster (*Heloderma suspectum*), whose habitat includes Southwest Utah.

~~(13)~~ (14) Utah's state dinosaur is the Utahraptor.

~~(14)~~ (15) Utah's state fossil is the Allosaurus.

~~(15)~~ (16) Utah's state fruit is the cherry.

~~(16)~~ (17) Utah's state vegetable is the Spanish sweet onion.

~~(17)~~ (18) Utah's historic state vegetable is the sugar beet.

~~(18)~~ (19) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

~~(19)~~ (20) Utah's state grass is Indian rice grass.

~~(20)~~ (21) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

~~(21)~~ (22) Utah's state insect is the honeybee.

~~(22)~~ (23) Utah's state mineral is copper.

~~(23)~~ (24) Utah's state motto is "Industry."

~~(24)~~ (25) Utah's state railroad museum is Ogden Union Station.

~~(25)~~ (26) Utah's state rock is coal.

~~(26)~~ (27) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

~~(27)~~ (28) Utah's state tree is the quaking aspen.

~~(28)~~ (29) Utah's state winter sports are skiing and snowboarding.

~~(29)~~ (30) Utah's state works of art are Native American rock art.

~~(30)~~ (31) Utah's state work of land art is the Spiral Jetty.

CHAPTER 369**H. B. 152**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**VOLUNTARY COMMITMENT
 OF A FIREARM AMENDMENTS**

Chief Sponsor: A. Cory Maloy
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill defines "owner cohabitant" for the purpose of the voluntary commitment of a firearm to law enforcement.

Highlighted Provisions:

This bill:

- ▶ defines "cohabitant" as any adult living in the home.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-5c-201, as last amended by Laws of Utah 2017, Chapter 334

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5c-201 is amended to read:**53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law enforcement to hold firearm.**

(1) As used in this section, "cohabitant" means any individual 18 years of age or older residing in the home who:

- (a) is living as if a spouse of the owner cohabitant;
- (b) is related by blood or marriage to the owner cohabitant;
- (c) has one or more children in common with the owner cohabitant; or
- (d) has an interest in the safety and wellbeing of the owner cohabitant.

[~~(1)~~] (2) (a) [~~An owner~~] A cohabitant may voluntarily commit a firearm to a law enforcement agency for safekeeping if the [~~owner~~] cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

- (i) himself or herself;
- (ii) the owner cohabitant; or
- (iii) any other person.

(b) A law enforcement agency may not hold a firearm under this section if the law enforcement agency obtains the firearm in a manner other than

the owner cohabitant voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's office.

[~~(2)~~] (3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

- (a) record:
 - (i) the owner cohabitant's name, address, and phone number;
 - (ii) the firearm serial number and the make and model of each firearm committed; and
 - (iii) the date that the firearm was voluntarily committed;

(b) require the [~~owner~~] cohabitant to sign a document attesting that the [~~owner~~] cohabitant resides in the home [~~has an ownership interest in the firearm~~];

(c) hold the firearm in safe custody for 60 days after the day on which the firearm is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) the owner cohabitant after the expiration of the 60-day period or, if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

[~~(3)~~] (4) The law enforcement agency shall hold the firearm for an additional 60 days:

- (a) if the initial 60-day period expires; and
- (b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

[~~(4)~~] (5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

[~~(5)~~] (6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection [~~(2)~~] (3), Subsection 53-5c-202[~~(4)~~](3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

- (a) [~~returning~~] return of a firearm in accordance with Subsection [~~(2)~~] (3)(d); or
- (b) [~~disposing~~] disposal of the firearm in accordance with Section 53-5c-202.

[~~(6)~~] (7) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

[~~(7)~~] (8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

CHAPTER 370**H. B. 178**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

TRANSPARENCY WEBSITE AMENDMENTS

Chief Sponsor: Brad M. Daw
 Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill relates to certain websites administered by the state auditor.

Highlighted Provisions:

This bill:

- ▶ amends certain reporting requirements;
- ▶ requires the state auditor to create and maintain a health care price transparency tool that is accessible by the public;
- ▶ makes the state auditor responsible for administering the Utah Public Finance Website;
- ▶ modifies provisions relating to the administration of the Utah Public Finance Website;
- ▶ amends the composition of the Utah Transparency Advisory Board;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-21-106, as enacted by Laws of Utah 2018, Chapter 393
- 4-22-107, as last amended by Laws of Utah 2017, Chapter 221 and renumbered and amended by Laws of Utah 2017, Chapter 345
- 11-13-603, as renumbered and amended by Laws of Utah 2016, Chapter 382
- 17D-3-107, as last amended by Laws of Utah 2018, Chapter 173
- 26-33a-106.1, as last amended by Laws of Utah 2017, Chapter 419
- 26-33a-106.5, as last amended by Laws of Utah 2016, Chapters 74 and 222
- 53B-8a-103, as last amended by Laws of Utah 2018, Chapter 306
- 53D-1-103, as last amended by Laws of Utah 2017, Chapter 221
- 53E-3-705, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 63A-3-103, as last amended by Laws of Utah 2017, Chapter 56
- 63E-2-109, as last amended by Laws of Utah 2017, Chapter 221
- 63H-4-108, as last amended by Laws of Utah 2017, Chapter 221
- 63H-5-108, as last amended by Laws of Utah 2017, Chapter 221

63H-6-103, as last amended by Laws of Utah 2017, Chapter 221

63H-7a-803, as last amended by Laws of Utah 2017, Chapters 221 and 430

63H-8-204, as last amended by Laws of Utah 2017, Chapter 221

63I-1-267, as last amended by Laws of Utah 2017, Chapter 192

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469

ENACTS:

67-3-11, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-1-201, (Renumbered from 63A-3-401, as last amended by Laws of Utah 2018, Chapter 173)

63A-1-202, (Renumbered from 63A-3-402, as last amended by Laws of Utah 2018, Chapter 415)

63A-1-203, (Renumbered from 63A-3-403, as last amended by Laws of Utah 2018, Chapter 95)

63A-1-204, (Renumbered from 63A-3-404, as last amended by Laws of Utah 2014, Chapters 75, 185, and 387)

63A-1-205, (Renumbered from 63A-3-405, as last amended by Laws of Utah 2018, Chapter 173)

63A-1-206, (Renumbered from 63A-3-406, as enacted by Laws of Utah 2013, Chapter 435)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-21-106 is amended to read:**4-21-106. Exemption from certain operational requirements.**

- (1) The council is exempt from:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 63A, Utah Administrative Services Code, except as provided in Subsection (2)(c);
 - (c) Title 63J, Chapter 1, Budgetary Procedures Act; and
 - (d) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The council is subject to:
 - (a) Title 51, Chapter 7, State Money Management Act;
 - (b) Title 52, Chapter 4, Open and Public Meetings Act;
 - (c) Title 63A, [~~Chapter 3, Part 4~~] Chapter 1, Part 2, Utah Public Finance Website;
 - (d) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (e) other Utah Code provisions not specifically exempted under Subsection 4-21-106(1); and
 - (f) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor pursuant to Section 36-12-15.

Section 2. Section 4-22-107 is amended to read:

4-22-107. Exemption from certain operational requirements.

- (1) The commission is exempt from:
- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) Title 51, Chapter 7, State Money Management Act;
- (c) except as provided in Subsection (2), Title 63A, Utah Administrative Services Code;
- (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
- (e) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The commission is subject to Title 63A, [Chapter 3, Part 4] Chapter 1, Part 2, Utah Public Finance Website.

Section 3. Section 11-13-603 is amended to read:

11-13-603. Taxed interlocal entity.

- (1) Notwithstanding any other provision of law:
- (a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;
- (b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;
- (c) an official of a project entity is not a public treasurer; and
- (d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.
- (2) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.
- (3) (a) A taxed interlocal entity is not a participating local entity as defined in Section [63A-3-401] 63A-1-201.
- (b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:
- (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:
- (A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or
- (B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and
- (ii) the accompanying auditor's report and management's discussion and analysis with respect

to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b):

- (i) in a manner described in Subsection [63A-3-405(3)] 63A-1-205(3); and
- (ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

- (i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and
- (ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section [63A-3-401] 63A-1-201.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

- (a) Part 4, Governance;
- (b) Part 5, Fiscal Procedures for Interlocal Entities;
- (c) Subsection 11-13-204(1)(a)(i) or (ii)(J);
- (d) Subsection 11-13-206(1)(f);
- (e) Subsection 11-13-218(5)(a);
- (f) Section 11-13-225;
- (g) Section 11-13-226; or
- (h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7) (a) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection

number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity.”

(b) Sections 11-13-601 through 11-13-608 constitute an exception to Subsection (7)(a) and are applicable to and binding upon a taxed interlocal entity.

Section 4. Section 17D-3-107 is amended to read:

17D-3-107. Annual budget and financial reports requirements.

(1) Upon agreement with the commission, the state auditor may modify:

(a) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or

(b) for filing a financial report, a requirement in Section 17B-1-639.

(2) Beginning on July 1, 2019, a conservation district is a participating local entity, as that term is defined in Section ~~[63A-3-401]~~ 63A-1-201, and subject to Title 63A, ~~[Chapter 3, Part 4]~~ Chapter 1, Part 2, Utah Public Finance Website.

Section 5. Section 26-33a-106.1 is amended to read:

26-33a-106.1. Health care cost and reimbursement data.

(1) The committee shall, as funding is available:

(a) establish a plan for collecting data from data suppliers, as defined in Section 26-33a-102, to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; and

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the committee;

(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider; ~~[and]~~

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26-8a-203[-]; and

(f) share data collected under this chapter with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

(2) (a) The Medicaid Office of Inspector General shall annually report to the Legislature's Health and Human Services Interim Committee regarding how the office used the data obtained under Subsection (1)(d)(i) and the results of obtaining the data.

(b) A data supplier shall not be liable for a breach of or unlawful disclosure of the data obtained by an entity described in Subsection (1)(b).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

Section 6. Section 26-33a-106.5 is amended to read:

26-33a-106.5. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this chapter or from any other source.

(2) (a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this chapter or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually; ~~and~~

(ii) list, as determined by the committee, the median paid amount for at least the top 50 medical procedures performed in the state by volume;

(iii) describe the methodology approved by the committee to determine the amounts described in Subsection (2)(b)(ii); and

~~(iii)~~ (iv) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3) (a) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name.

(b) The evaluation described in this Subsection (3) shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice.

(c) The independent analyst described in Subsection (3)(a) shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access.

(d) The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, shall adopt by rule a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available ~~(a)~~ free of charge and easily accessible to the public ~~(a)~~.

~~(b) on the Health Insurance Exchange either directly or through a link.]~~

(6) (a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:

(i) ~~[beginning December 31, 2014,]~~ results for health care facilities or institutions;

(ii) ~~[beginning December 31, 2014,]~~ results for health care providers by geographic regions of the state;

(iii) ~~[beginning July 1, 2016,]~~ a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) ~~[beginning July 1, 2016,]~~ a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations;

(ii) may use a private, independent analyst under Subsection (3)(a) in preparing the report required by this section; and

(iii) shall identify and report to the Legislature's Health and Human Services Interim Committee by July 1, 2014, and every July 1 thereafter until July 1, 2019, at least three new measures of quality to be added to the report each year.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26-33a-107; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7) (a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c) (i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the

department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 7. Section 53B-8a-103 is amended to read:

53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.

(1) There is created the Utah Educational Savings Plan, which may also be known and do business as:

- (a) the Utah Educational Savings Plan Trust; or
- (b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

- (i) consistent with sound fiduciary principles; and
- (ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

- (i) contracts for goods and services; and
- (ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any institution of higher education, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation

for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.

(ii) Financial information that is provided by the plan to the Division of Finance and posted on the Utah Public Finance Website in accordance with Section ~~[63A-3-402]~~ 63A-1-202 is a public record.

Section 8. Section 53D-1-103 is amended to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63A, ~~[Chapter 3, Part 4]~~ Chapter 1, Part 2, Utah Public Finance Website.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).

(iii) (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section 9. Section 53E-3-705 is amended to read:

53E-3-705. School plant capital outlay report.

(1) The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section ~~[63A-3-402]~~ 63A-1-202.

Section 10. Section 63A-1-201, which is renumbered from Section 63A-3-401 is renumbered and amended to read:
Part 2. Utah Public Finance Website

~~[63A-3-401].~~ 63A-1-201. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section ~~[63A-3-403]~~ 63A-1-203.

(2) ~~["Division" means the Division of Finance of]~~ "Department" means the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities:

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(f) a school district;

(g) a charter school;

(h) except for a taxed interlocal entity as defined in Section 11-13-602:

(i) an interlocal entity as defined in Section 11-13-103;

(ii) a joint or cooperative undertaking as defined in Section 11-13-103; and

(iii) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (4)(a) through (h), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board; and

(j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(5) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section ~~[63A-3-404]~~ 63A-1-204.

Section 11. Section 63A-1-202, which is renumbered from Section 63A-3-402 is renumbered and amended to read:

~~[63A-3-402]. 63A-1-202. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.~~

(1) There is created the Utah Public Finance Website to be administered by the ~~[Division of Finance with the technical assistance of the Department of Technology Services.]~~ state auditor.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section ~~[63A-3-404]~~ 63A-1-204;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section ~~[63A-3-404]~~ 63A-1-204;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section ~~[63A-3-404]~~ 63A-1-204; and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(3) (a) The ~~division~~ state auditor shall:

~~[(a)]~~ (i) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

~~[(b)]~~ (ii) maintain an archive of all information posted to the website;

~~[(c)]~~ (iii) coordinate and process the receipt and posting of public financial information from participating state entities; and

~~[(d)]~~ (iv) coordinate and regulate the posting of public financial information by participating local entities and independent entities~~[- and]~~.

~~[(e)]~~ (b) The department shall provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the ~~division~~ state auditor for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the ~~division~~ state auditor, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the ~~division~~ state auditor for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63N-6-301;

(ii) the Utah Housing Corporation, created in Section 63H-8-201; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the ~~division~~ state auditor, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means:

(A) the construction of a school or school facility that did not previously exist in a local education agency; or

(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.

(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than \$2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the ~~[division]~~ state auditor for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable ~~[division]~~ policy established by the state auditor.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The ~~[division]~~ state auditor may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the ~~[division]~~ state auditor a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the ~~[division]~~ state auditor annually by a date designated by the ~~[division]~~ state auditor.

(8) A person who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 12. Section 63A-1-203, which is renumbered from Section 63A-3-403 is renumbered and amended to read:

[63A-3-403]. 63A-1-203. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) the state auditor or the state auditor's designee;

~~(a)~~ (b) an individual appointed by the executive director of the ~~[Division of Finance]~~ department;

~~(b)~~ (c) an individual appointed by the executive director of the Governor's Office of Management and Budget;

~~(c)~~ (d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

~~(d)~~ (e) one member of the Senate, appointed by the governor on advice from the president of the Senate;

~~(e)~~ (f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

~~(f)~~ (g) an individual appointed by the director of the Department of Technology Services;

~~(g)~~ (h) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

~~(h)~~ (i) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

~~(i)~~ (j) an individual representing counties, appointed by the governor;

~~(j)~~ (k) an individual representing municipalities, appointed by the governor;

~~(k)~~ (l) an individual representing special districts, appointed by the governor;

~~(l)~~ (m) an individual representing the State Board of Education, appointed by the State Board of Education; and

~~(m)~~ (n) ~~[two individuals]~~ one individual who ~~[are members]~~ is a member of the public and who ~~[have]~~ has knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through ~~(l)~~ (m).

(3) The board shall:

(a) advise the ~~[division]~~ state auditor and the department on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section [63A-3-402] 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) Every two years, the board shall elect a chair and a vice chair from its members.

(5) (a) (i) The term of a member appointed for an unexpired two-year term before May 8, 2018, shall be extended by two years from the date of the original appointment.

(ii) Each member appointed on or after May 8, 2018, shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a four-year term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section [63A-3-402] 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 13. Section 63A-1-204, which is renumbered from Section 63A-3-404 is renumbered and amended to read:

[63A-3-404]. 63A-1-204. Rulemaking authority.

(1) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the ~~Division of Finance~~ department shall make rules to:

(a) require participating state entities to provide public financial information for inclusion on the Utah Public Finance Website;

(b) define, either uniformly for all participating state entities, or on an entity by entity basis, the

term “public financial information” using the standards provided in Subsection [63A-3-403(3)(e)] 63A-1-203(3)(c); and

(c) establish procedures for obtaining, submitting, reporting, storing, and providing public financial information on the Utah Public Finance Website, which may include a specified reporting frequency and form.

(2) After consultation with the board, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [Division of Finance] department may make rules to:

(a) require a participating state or local entity to list certain expenditures made by a person under a contract with the entity; and

(b) if a list is required under Subsection (2)(a), require the following information to be included:

(i) the name of the participating state or local entity making the expenditure;

(ii) the name of the person receiving the expenditure;

(iii) the date of the expenditure;

(iv) the amount of the expenditure;

(v) the purpose of the expenditure;

(vi) the name of each party to the contract;

(vii) an electronic copy of the contract; or

(viii) any other criteria designated by rule.

Section 14. Section 63A-1-205, which is renumbered from Section 63A-3-405 is renumbered and amended to read:

[63A-3-405]. 63A-1-205. Participation by local entities.

(1) (a) On or before May 15, 2010, the following participating local entities, in accordance with the board’s policies, shall provide public financial information through the Utah Public Finance Website or the participating local entity’s own website and provide a link to the participating local entity’s website through the Utah Public Finance Website:

(i) school districts;

(ii) charter schools; and

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(b) Participating local entities subject to this Subsection (1) shall permit information that is generated not later than the fiscal year that begins July 1, 2009, to be accessible via the website.

(2) (a) On or before May 15, 2011, the following participating local entities, in accordance with the board’s policies, shall provide public financial information through the Utah Public Finance Website or the participating local entity’s own website and provide a link to the participating local entity’s website through the Utah Public Finance Website:

(i) counties;

(ii) municipalities;

(iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, that are not already required to report; and

(iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

(b) Participating local entities subject to this Subsection (2) shall permit information that is generated not later than the fiscal year that begins July 1, 2010, to be accessible via the website.

(3) (a) On or before May 15, 2013, an interlocal entity that is a participating local entity in accordance with the board’s policies, shall, subject to Subsection (3)(b), provide public financial information through the Utah Public Finance Website or the interlocal entity’s own website and provide a link to the interlocal entity’s website through the Utah Public Finance Website.

(b) A participating local entity subject to this Subsection (3) shall provide public financial information that is generated on or after the fiscal year that begins July 1, 2012, to be accessible via the website.

(4) A participating local entity that makes public financial information accessible via the Utah Public Finance Website on or after May 10, 2016, and that was not previously required to make financial information accessible via the website shall permit information that is generated on or after the first day of the participating local entity’s fiscal year that includes January 1, 2017, to be accessible via the website.

(5) (a) Except as provided in Subsection (5)(b), a participating local entity described in Subsection (4) shall comply with the provisions of this part on or before January 1, 2017.

(b) A participating local entity described in Subsection (4) that has an annual budget of \$100,000 or less shall comply with the provisions of this part on or before July 1, 2017.

(6) Beginning on July 1, 2019, in accordance with the board’s policies, a conservation district shall provide the district’s public financial information that is generated for the district’s fiscal year which includes July 1, 2018, through the Utah Public Finance Website or the district’s own website and provide a link to the district’s website through the Utah Public Finance Website.

Section 15. Section 63A-1-206, which is renumbered from Section 63A-3-406 is renumbered and amended to read:

[63A-3-406]. 63A-1-206. Submission of public financial information by a school district or charter school.

When submitting public financial information to the Utah Public Finance Website, a school district or charter school shall classify transactions in accordance with the uniform chart of accounts that school districts and charter schools are required to

use for budgeting, accounting, financial reporting, and auditing purposes pursuant to rules adopted by the State Board of Education.

Section 16. Section 63A-3-103 is amended to read:

63A-3-103. Duties of director of division -- Application to institutions of higher education.

- (1) The director of the Division of Finance shall:
 - (a) define fiscal procedures relating to approval and allocation of funds;
 - (b) provide for the accounting control of funds;
 - (c) promulgate rules that:
 - (i) establish procedures for maintaining detailed records of all types of leases;
 - (ii) account for all types of leases in accordance with generally accepted accounting principles;
 - (iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and
 - (iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;
 - (d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
 - (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
 - (ii) other information or analysis requested by the Rate Committee;
 - (e) oversee the Office of State Debt Collection;
 - (f) publish the state's current constitutional debt limit on the Utah Public Finance Website, created in Section ~~[63A-3-402]~~ 63A-1-202; and
 - (g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.
 - (2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the State Board of Regents under Title 53B, State System of Higher Education.
 - (b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.
 - (3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally

accepted accounting principles for the state auditor's examination and certification:

- (a) not later than 60 days after a request from the state auditor; and
- (b) at the end of each fiscal year.

Section 17. Section 63E-2-109 is amended to read:

63E-2-109. State statutes.

- (1) Except as specifically modified in its authorizing statute, each independent corporation shall be exempt from the statutes governing state agencies, including:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) Title 51, Chapter 7, State Money Management Act;
 - (c) except as provided in Subsection (2), Title 63A, Utah Administrative Services Code;
 - (d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (e) Title 63G, Chapter 4, Administrative Procedures Act;
 - (f) Title 63G, Chapter 6a, Utah Procurement Code;
 - (g) Title 63J, Chapter 1, Budgetary Procedures Act;
 - (h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
 - (i) Title 67, Chapter 19, Utah State Personnel Management Act.
 - (2) Except as specifically modified in its authorizing statute, each independent corporation shall be subject to:
 - (a) Title 52, Chapter 4, Open and Public Meetings Act;
 - (b) Title 63A, ~~[Chapter 3, Part 4]~~ Chapter 1, Part 2, Utah Public Finance Website; and
 - (c) Title 63G, Chapter 2, Government Records Access and Management Act.
 - (3) Each independent corporation board may adopt its own policies and procedures governing its:
 - (a) funds management;
 - (b) audits; and
 - (c) personnel.
- Section 18. Section 63H-4-108 is amended to read:**
- 63H-4-108. Relation to certain acts -- Participation in Risk Management Fund.**
- (1) The authority is exempt from:
 - (a) Title 51, Chapter 5, Funds Consolidation Act;
 - (b) except as provided in Subsection (2), Title 63A, Utah Administrative Services Code;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) Title 63J, Chapter 1, Budgetary Procedures Act; and

(e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to Title 63A, [~~Chapter 3, Part 4~~] Chapter 1, Part 2, Utah Public Finance Website.

(3) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

(4) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 19. Section 63H-5-108 is amended to read:

63H-5-108. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2), Title 63A, Utah Administrative Services Code;

(c) Title 63G, Chapter 6a, Utah Procurement Code;

(d) Title 63J, Chapter 1, Budgetary Procedures Act; and

(e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 63A, [~~Chapter 3, Part 4~~] Chapter 1, Part 2, Utah Public Finance Website; and

(b) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

Section 20. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 6a, Utah Procurement Code;

(v) Title 63J, Chapter 1, Budgetary Procedures Act; and

(vi) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

(i) the provisions of Title 63A, [~~Chapter 3, Part 4~~] Chapter 1, Part 2, Utah Public Finance Website; and

(ii) the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 21. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Administrative Services Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act.

(3) (a) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(b) The authority is subject to Title 63A, ~~Chapter 3, Part 4~~ Chapter 1, Part 2, Utah Public Finance Website.

Section 22. Section 63H-8-204 is amended to read:

63H-8-204. Relation to certain acts.

(1) The corporation is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) except as provided in Subsection (2), Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code;

(e) Title 63J, Chapter 1, Budgetary Procedures Act;

(f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(g) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, ~~Chapter 3, Part 4~~ Chapter 1, Part 2, Utah Public Finance Website; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 23. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates, Title 67.

(1) Section 67-1-15 is repealed December 31, 2027.

(2) Sections 67-1a-10 and 67-1a-11 creating the Commission on Civic and Character Education and establishing its duties are repealed on July 1, 2021.

(3) Section 67-3-11 is repealed July 1, 2024.

Section 24. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection ~~[63A-3-403(5)(a)(i)]~~ 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection ~~[63A-3-403(5)(a)(ii)]~~ 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(3) Section 63H-7a-303 is repealed on July 1, 2022.

(4) On July 1, 2019:

(a) in Subsection 63J-1-206(2)(c)(i), the language that states "Subsection(2)(c)(ii) and" is repealed; and

(b) Subsection 63J-1-206(2)(c)(ii) is repealed.

(5) Section 63J-4-708 is repealed January 1, 2023.

(6) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

(7) Section 63N-3-110 is repealed July 1, 2020.

Section 25. Section 67-3-11 is enacted to read:

67-3-11. Health care price transparency tool -- Transparency tool requirements.

(1) The state auditor shall create a health care price transparency tool:

(a) subject to appropriations from the Legislature and any available funding from third-party sources;

(b) with technical support from the Public Employees' Benefit and Insurance Program created in Section 49-20-103, the Department of Health, and the Insurance Department; and

(c) in accordance with the requirements in Subsection (2).

(2) A health care price transparency tool created by the state auditor under this section shall:

(a) present health care price information for consumers in a manner that is clear and accurate;

(b) be available to the public in a user-friendly manner;

(c) incorporate existing data collected under Section 26-33a-106.1;

(d) group billing codes for common health care procedures;

(e) be updated on a regular basis; and

(f) be created and operated in accordance with all applicable state and federal laws.

(3) The state auditor may make the health care pricing data from the health care price transparency tool available to the public through an application program interface format if the data meets state and federal data privacy requirements.

(4) (a) Before making a health care price transparency tool available to the public, the state auditor shall:

(i) seek input from the Health Data Committee created in Section 26-1-7 on the overall accuracy and effectiveness of the reports provided by the health care price transparency tool; and

(ii) establish procedures to give data providers a 30-day period to review pricing information before the state auditor publishes the information on the health care price transparency tool.

(b) If the state auditor complies with the requirements of Subsection (4)(a), the health care price transparency tool is not subject to the requirements of Section 26-33a-107.

(5) Each year in which a health care price transparency tool is operational, the state auditor shall report to the Health and Human Services Interim Committee before November 1 of that year:

(a) the utilization of the health care price transparency tool; and

(b) policy options for improving access to health care price transparency data.

CHAPTER 371**H. B. 212**

Passed March 4, 2019
 Approved March 27, 2019
 Effective May 14, 2019

EXPUNGEMENT CHANGES

Chief Sponsor: Stewart E. Barlow
 Senate Sponsor: Jani Iwamoto

LONG TITLE**General Description:**

This bill amends the labor code regarding an applicant's expunged criminal history.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits public employer inquiry into an applicant's expunged criminal history, except in certain circumstances;
- ▶ permits an applicant to answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred, except in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-52-102, as enacted by Laws of Utah 2017, Chapter 242
 34-52-201, as enacted by Laws of Utah 2017, Chapter 242

ENACTS:

34-52-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-52-102 is amended to read:**34-52-102. Definitions.**

As used in this chapter:

(1) "Applicant" means an individual who provides information to a public or private employer for the purpose of obtaining employment.

(2) (a) "Criminal conviction" means a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

(b) "Criminal conviction" does not include an expunged criminal conviction.

(3) (a) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(b) "Private employer" does not include a public employer.

[~~(3)~~] (4) "Public employer" means an employer that is:

(a) the state or any administrative subunit of the state, including a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government;

(b) a state institution of higher education; or

(c) a municipal corporation, county, municipality, school district, local district, special service district, or other political subdivision of the state.

Section 2. Section 34-52-201 is amended to read:**34-52-201. Public employer requirements.**

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

[~~(3)~~] (4) Subject to Subsections (1) [~~and (2)~~] through (3), nothing in this section prevents ~~an~~ a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction history when making a hiring decision.

[~~(4)~~] (5) Subsections (1) [~~and (2)~~] through (3) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage Control created in Section 32B-2-203;

(g) to the State Tax Commission; and

(h) to a public employer whose primary purpose is performing financial or fiduciary functions.

Section 3. Section 34-52-301 is enacted to read:

Part 3. Applicants for Private Employment

34-52-301. Permitted applicant response regarding expunged criminal history.

An applicant seeking employment from a private employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

CHAPTER 372**H. B. 223**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**UNLAWFUL INSTALLATION
OF A TRACKING DEVICE**

Chief Sponsor: Marie H. Poulson
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill imposes criminal penalties for installing a tracking device without proper authorization.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it a class A misdemeanor for a person to unlawfully install a tracking device; and
- ▶ describes the circumstances under which a peace officer is not governed under the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-9-408, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-408 is enacted to read:**76-9-408. Unlawful installation of a tracking device.**

(1) As used in this section:

(a) “Motor vehicle” means the same as that term is defined in Subsection 41-12a-103(4).

(b) “Private investigator” means an individual who is:

(i) licensed as a private investigator under Title 53, Chapter 9, Private Investigator Regulation Act; and

(ii) acting in the capacity of a private investigator.

(c) “Protective order” means a protective order, stalking injunction, or restraining order issued by a court of any jurisdiction.

(d) (i) “Tracking device” means a device used for the primary purpose of revealing the device’s location or movement by the transmission or recording of an electronic signal.

(ii) “Tracking device” does not include location technology installed on a vehicle by the vehicle manufacturer or a commercial vehicle dealer that

transmits electronic signals for the purpose of data collection, if the data collection is anonymized.

(2) Except as provided in Subsection (3), a person is guilty of unlawful installation of a tracking device if the person knowingly installs, or directs another to install, a tracking device on a motor vehicle owned or leased by another person, without the permission of the owner or lessee of the vehicle.

(3) A person is not guilty of unlawful installation of a tracking device if the person:

(a) (i) is a licensed private investigator installing the tracking device for a legitimate business purpose; and

(ii) installs the tracking device on a motor vehicle that is not:

(A) owned or leased by an individual under the protection of a protective order; or

(B) operated by an individual under the protection of a protective order who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle; or

(b) installs the tracking device pursuant to a court order.

(4) Unlawful installation of a tracking device is a class A misdemeanor.

(5) This section does not apply to a peace officer, acting in the peace officer’s official capacity, who installs a tracking device on a motor vehicle in the course of a criminal investigation or pursuant to a court order.

(6) Before installing a tracking device on a motor vehicle under Subsection (3), a private investigator shall request confirmation from a state entity with access to updated protective order records, that:

(a) the owner or lessee of the vehicle is not under the protection of a protective order; and

(b) an individual who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle is not under the protection of a protective order.

(7) On request from a licensed private investigator, a state entity, including a law enforcement agency, with access to protective order records shall confirm or deny the existence of a protective order, disclosing only whether an individual named by the private investigator is under the protection of a protective order issued in any jurisdiction.

(8) A private investigator may not disclose the information obtained under Subsection (7) to any person, except as permitted by law.

(9) On request from the Bureau of Criminal Identification, a private investigator who installs a tracking device on a motor vehicle shall disclose the purpose of the tracking device to the Bureau of Criminal Identification.

CHAPTER 373**H. B. 228**

Passed March 14, 2019
Approved March 27, 2019
Effective May 14, 2019

TOWING REVISIONS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill revises provisions related to towing, including state impound yards and towing rotations.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends provisions related to state impound yards, including fencing requirements for state impound yards;
- ▶ amends provisions related to fees and background checks in relation to inclusion on a towing rotation;
- ▶ requires a political subdivision or state agency to provide an appeals process regarding suspension or removal from a towing rotation; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-102, as last amended by Laws of Utah 2018, Chapters 166 and 424
41-1a-1101, as last amended by Laws of Utah 2018, Chapter 29
41-6a-1406, as last amended by Laws of Utah 2017, Chapters 100 and 261
72-9-102, as last amended by Laws of Utah 2017, Chapter 96
72-9-603, as last amended by Laws of Utah 2017, Chapter 298
72-9-604, as last amended by Laws of Utah 2017, Chapter 298

ENACTS:

72-9-607, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-102 is amended to read:**41-1a-102. Definitions.**

As used in this chapter:

- (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- (2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered by a fuel other than:
 - (i) motor fuel;
 - (ii) diesel fuel;
 - (iii) natural gas; or
 - (iv) propane.

(7) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(10) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(11) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(12) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(13) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(14) "Commission" means the State Tax Commission.

(15) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(16) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or

outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(17) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(18) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(19) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(20) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(21) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(22) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(23) "Fleet" means one or more commercial vehicles.

(24) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(25) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(26) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(27) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(28) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(29) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(30) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(31) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(32) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(33) "Lienholder" means a person with a security interest in particular property.

(34) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(35) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(36) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(37) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(38) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(39) "Motorboat" means the same as that term is defined in Section 73-18-2.

(40) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

(41) "Natural gas" means a fuel of which the primary constituent is methane.

(42) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(43) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(44) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(45) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(46) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(47) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(48) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee,

mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(49) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(50) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(51) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(52) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(53) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(54) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(55) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(56) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(57) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction

by the removal, addition, or substitution of essential parts, new or used.

(58) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(59) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(60) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(61) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(62) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(63) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(64) "Sailboat" means the same as that term is defined in Section 73-18-2.

(65) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(66) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(67) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(68) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (68)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(69) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(70) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(71) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

~~(71)~~ (72) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

~~(72)~~ (73) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

~~(73)~~ (74) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

~~(74)~~ (75) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift,

or any other means except by the creation of a security interest.

[(75)] (76) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[(76)] (77) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[(77)] (78) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[(78)] (79) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[(79)] (80) "Vessel" means the same as that term is defined in Section 73-18-2.

[(80)] (81) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[(81)] (82) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[(82)] (83) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-1101 is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

(a) that the division or the peace officer has reason to believe has been stolen;

(b) on which any identification number has been defaced, altered, or obliterated;

(c) that has been abandoned in accordance with Section 41-6a-1408;

(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration;

(f) that is being operated on a highway:

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked; or

(g) (i) that the division or the peace officer has reason to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

(ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.

(2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant:

(i) shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 and the vehicle was involved in an accident; or

(ii) may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 after the division or any peace officer makes a reasonable determination whether the vehicle would:

(A) present a public safety concern to the operator or any of the occupants in the vehicle; or

(B) prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection (2)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

(3) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

(4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(c) A crusher, dismantler, or salvage dealer may not operate as a state impound yard unless the crusher, dismantler, or salvage dealer meets all of the requirements for a state impound yard set forth in this section and rules made in accordance with Subsection (5)(a).

(d) (i) Rules made by the commission shall include a requirement that a state impound yard have opaque fencing on any side of the state impound yard that has frontage with a highway.

(ii) The opaque fencing described in Subsection (5)(d)(i) may be opaque chain link fencing.

(6) (a) Except as provided under Subsection (6)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection (6)(a).

(7) A person who violates the provisions of Subsection (6) is guilty of a class C misdemeanor.

(8) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

- (a) the vehicle is equipped with an odometer; and
- (b) the odometer reading is accessible to the division or the peace officer.

Section 3. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to ~~[(a)]~~ a state impound yard ~~[-, or]~~.

~~[(b) if none, a garage, docking area, or other place of safety.]~~

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow

truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(b) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(c) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place

where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be

deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 4. Section 72-9-102 is amended to read:

72-9-102. Definitions.

As used in this chapter:

(1) (a) "Commercial vehicle" includes:

(i) an interstate commercial vehicle; and

(ii) an intrastate commercial vehicle.

(b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or

(iv) vehicles owned by the state or a local government.

(2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(b) is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and

(ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:

(a) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(b) is designed to transport more than 15 passengers, including the driver; or

(c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as that term is defined in Section 41-1a-102.

(6) "Property owner" means the owner or lessee of real property.

(7) "State impound yard" means the same as that term is defined in Section 41-1a-102.

~~(5)~~ (8) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.

(10) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

~~(6)~~ (11) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

~~(7)~~ (12) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the

apparent authority and with the knowledge of the motor carrier.

Section 5. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4)(b); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) ~~[vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency;]~~ description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

(2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):

(A) a mobile home park as defined in Section 57-16-3; or

(B) a multifamily dwelling of more than eight units.

(ii) Signage under Subsection (2)(b)(i) shall display:

(A) where parking is subject to towing; and

(B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or

(II) one of the following:

(Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

(Bb) the name of the mobile home park or multifamily dwelling and the phone number of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

(c) Signage is not required under Subsection (2)(b) for parking in a location:

(i) that is prohibited by law; or

(ii) if it is reasonably apparent that the location is not open to parking.

(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on parking.

(3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection (4)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the fees described in Subsection (3); and

(ii) removes the vehicle, vessel, or outboard motor from the ~~secure storage facility~~ state impound yard.

(5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the fees described in Subsection (3); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the ~~Department of Transportation~~ department shall:

(a) subject to the restriction in Subsection (8), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal.

(8) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (7).

~~(9)~~ (ii) In addition to the maximum rates established under Subsection (7) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (7).

(10) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

Section 6. Section 72-9-604 is amended to read:

72-9-604. Preemption of local authorities -- Tow trucks.

(1) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

(i) any provision of this part;

(ii) Section 41-6a-1401;

(iii) Section 41-6a-1407; or

(iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(2) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(3) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(4) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(5) A tow truck shall be subject to only one annual safety inspection under Subsection (4)(b). A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(6) (a) Beginning on July 1, 2021, a political subdivision or state agency may not charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that political subdivision or state agency.

(b) In addition to the fees set by the department in rules made in accordance with Subsection 72-9-603(7), a tow truck motor carrier may charge a fee to cover the costs of a dispatch charge described in Subsection (6)(a).

(c) The amount of the fee described in Subsection (6)(b) may not exceed the amount charged to the tow truck motor carrier by the political subdivision or state agency for dispatch services.

(d) A political subdivision or state agency that does not charge a dispatch fee as of January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a).

(7) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

Section 7. Section 72-9-607 is enacted to read:

72-9-607. Required process before removal from towing rotation.

(1) Each political subdivision or state agency that establishes a towing rotation to facilitate tows initiated by the political subdivision or state agency shall establish a policy for an appeals process to hear and decide appeals from a decision to suspend or remove a tow truck motor carrier or tow truck operator from a towing rotation.

(2) In conducting an appeal as described in Subsection (1):

(a) the appeal process may be conducted by a single appeal officer or a panel; and

(b) an individual hearing an appeal, whether as a single appeal officer or as part of a panel, may not be the same individual who made the decision to suspend or remove the tow truck motor carrier or tow truck operator from the towing rotation.

CHAPTER 374**H. B. 229**

Passed March 12, 2019
 Approved March 27, 2019
 Effective May 14, 2019

LAND TRANSFER AMENDMENTS

Chief Sponsor: Brady Brammer
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill enacts provisions relating to the duties of the Public Lands Policy Coordinating Office.

Highlighted Provisions:

This bill:

- ▶ modifies duties and responsibilities of the Public Lands Policy Coordinating Office and of the public lands policy coordinator;
- ▶ requires the office and coordinator to:
 - develop expertise concerning applications of state and local government entities to the United States Interior Secretary for the sale or lease of federal land to the state and local government entities;
 - advise and consult with state and local government entities in the process of submitting applications for the acquisition of federal land;
 - establish a prioritization of federal land applications;
 - maintain an inventory of applications and decisions on applications; and
 - report the activities of the office and coordinator; and
- ▶ establishes an advisory committee to advise and make recommendations to the office and coordinator.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63J-4-608, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-4-608 is enacted to read:**63J-4-608. Facilitating the acquisition of federal land -- Advisory committee.**

- (1) As used in this section:
- (a) “Advisory committee” means the committee established under Subsection (3).
- (b) “Federal land” means land that the secretary is authorized to dispose of under the federal land disposal law.
- (c) “Federal land disposal law” means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(d) “Government entity” means any state or local government entity allowed to submit a land application under the federal land disposal law.

(e) “Land application” means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

(f) “Land application process” means all actions involved in the process of submitting and obtaining a final decision on a land application.

(g) “Secretary” means the Secretary of the Interior of the United States.

(2) The coordinator and the office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the coordinator or the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the coordinator or the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) with the advice and recommendations of the advisory committee:

(i) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest; and

(ii) recommend a prioritization of all land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(f)(i);

(f) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Commission for the Stewardship of Public Lands;

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the coordinator and the office under this section;

(B) on the land applications and potential land applications in the state; and

(C) on the decisions of the secretary on land applications submitted by government entities in the state and the quantity of land acquired under the land applications;

(g) present a summary of information contained in the report described in Subsection (3)(f):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Commission for the Stewardship of Public Lands;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

(h) report to the Executive Appropriations Committee of the Legislature, as frequently as the coordinator considers appropriate or as requested by the committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) (a) There is created a committee comprised of:

(i) an individual designated by the chairs of the Commission for the Stewardship of Public Lands;

(ii) an individual designated by the director of the Division of Facilities Construction and Management;

(iii) a representative of the Antiquities Section, created in Section 9-8-304, designated by the director of the Division of State History;

(iv) a representative of municipalities designated by the Utah League of Cities and Towns;

(v) a representative of counties designated by the Utah Association of Counties;

(vi) an individual designated by the Governor's Office of Economic Development; and

(vii) an individual designated by the director of the Division of Parks and Recreation, created in Section 79-4-201.

(b) The seven members of the advisory committee under Subsection (3)(a) may, by majority vote, appoint up to four additional volunteer members of the advisory committee.

(c) The advisory committee shall advise and provide recommendations to the coordinator and the office on:

(i) factors the coordinator and office should consider in determining the degree to which a land application or potential land application is in the public interest; and

(ii) the prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(f)(i).

(d) A member of the advisory committee may not receive compensation, benefits, or expense reimbursement for the member's service on the advisory committee.

(e) The advisory committee may:

(i) select a chair from among the advisory committee members; and

(ii) meet as often as necessary to perform the advisory committee's duties under this section.

(f) The coordinator shall facilitate the convening of the first meeting of the advisory committee.

CHAPTER 375**H. B. 243**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

DOMESTIC VIOLENCE MODIFICATIONS

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

Cosponsors: Carl R. Albrecht

Kay J. Christofferson

Kim F. Coleman

Ken Ivory

Karianne Lisonbee

Merrill F. Nelson

Lee B. Perry

Marc K. Roberts

Robert M. Spendlove

Keven J. Stratton

Steve Waldrip

Raymond P. Ward

Logan Wilde

Mike Winder

LONG TITLE**General Description:**

This bill modifies provisions related to a victim of domestic violence or dating violence who carries a concealed firearm without a permit.

Highlighted Provisions:

This bill:

- ▶ provides that certain criminal penalties for carrying a concealed firearm without a permit do not apply to a victim of domestic violence or dating violence, who is not otherwise prohibited from possessing a firearm, for a limited period after the day on which the victim is issued a protective order; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-523, as last amended by Laws of Utah 2014, Chapter 248

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-523 is amended to read:**76-10-523. Persons exempt from weapons laws.**

(1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

- (a) a United States marshal;
- (b) a federal official required to carry a firearm;
- (c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711; or

(f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to ~~any~~:

(a) a person to whom a permit to carry a concealed firearm has been issued:

~~(a)~~ (i) pursuant to Section 53-5-704; or

~~(b)~~ (ii) by another state or county~~[-];~~ or

(b) a person who is issued a protective order under Subsection 78B-7-106(1)(b) or 78B-7-404(1)(b), unless the person is a restricted person as described in Subsection 76-10-503(1), for a period of 120 days after the day on which the person is issued the protective order.

(3) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or through the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased as defined in Section 76-10-501.

CHAPTER 376**H. B. 245**

Passed March 13, 2019
Approved March 27, 2019
Effective May 14, 2019

**COMMUNITY REINVESTMENT
AGENCY REVISIONS**

Chief Sponsor: Mike Winder
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends provisions related to community reinvestment agencies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ replaces the term “blight” with “development impediment”;
- ▶ beginning on May 14, 2019, prohibits an agency from creating a taxing entity committee for a community reinvestment project area;
- ▶ requires an agency that allocates the agency’s community reinvestment project area funds for housing to:
 - adopt a housing plan; or
 - implement the housing plan that the community that created the agency adopted;
- ▶ amends requirements for an agency’s notice when the agency considers and executes an interlocal agreement for a community reinvestment project area; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-2, as last amended by Laws of Utah 2014, Chapter 59
10-9a-403, as last amended by Laws of Utah 2018, Chapter 218
11-58-601, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
17-27a-403, as last amended by Laws of Utah 2018, Chapter 218
17-50-303, as last amended by Laws of Utah 2014, Chapter 66
17C-1-102, as last amended by Laws of Utah 2018, Chapter 364
17C-1-207, as last amended by Laws of Utah 2018, Chapters 364 and 366
17C-1-402, as last amended by Laws of Utah 2018, Chapter 364
17C-1-407, as last amended by Laws of Utah 2016, Chapter 350
17C-1-409, as last amended by Laws of Utah 2018, Chapter 312
17C-1-412, as last amended by Laws of Utah 2018, Chapter 312
17C-1-802, as renumbered and amended by Laws of Utah 2016, Chapter 350

17C-1-803, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-1-804, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-1-805, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-1-807, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-1-902, as last amended by Laws of Utah 2018, Chapter 364
17C-2-101.5, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-2-102, as last amended by Laws of Utah 2016, Chapter 350
17C-2-103, as last amended by Laws of Utah 2016, Chapter 350
17C-2-106, as last amended by Laws of Utah 2016, Chapter 350
17C-2-110, as last amended by Laws of Utah 2018, Chapter 364
17C-2-202, as last amended by Laws of Utah 2007, Chapter 364
17C-2-301, as last amended by Laws of Utah 2008, Chapter 125
17C-2-302, as last amended by Laws of Utah 2007, Chapter 364
17C-2-303, as last amended by Laws of Utah 2016, Chapter 350
17C-2-304, as last amended by Laws of Utah 2007, Chapter 364
17C-5-103, as last amended by Laws of Utah 2017, Chapter 456
17C-5-104, as last amended by Laws of Utah 2018, Chapter 364
17C-5-105, as last amended by Laws of Utah 2018, Chapter 364
17C-5-108, as last amended by Laws of Utah 2018, Chapter 364
17C-5-112, as last amended by Laws of Utah 2018, Chapter 364
17C-5-202, as last amended by Laws of Utah 2017, Chapter 456
17C-5-203, as last amended by Laws of Utah 2017, Chapter 456
17C-5-205, as enacted by Laws of Utah 2016, Chapter 350
17C-5-401, as enacted by Laws of Utah 2016, Chapter 350
17C-5-402, as last amended by Laws of Utah 2017, Chapter 456
17C-5-403, as last amended by Laws of Utah 2017, Chapter 456
17C-5-404, as enacted by Laws of Utah 2016, Chapter 350
17C-5-405, as last amended by Laws of Utah 2018, Chapter 422
17C-5-406, as enacted by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose --

Procedure -- Notice of intent to acquire real property.

- (1) (a) A municipal legislative body may:
- (i) appropriate money for corporate purposes only;
 - (ii) provide for payment of debts and expenses of the corporation;
 - (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;
 - (iv) improve, protect, and do any other thing in relation to this property that an individual could do; and
 - (v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.
- (b) A municipality may:
- (i) furnish all necessary local public services within the municipality;
 - (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and
 - (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.
- (c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.
- (d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.
- (2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).
- (b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.
- (3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral

well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject ~~to the following:~~ to this Subsection (3).

- (a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.
- (b) (i) ~~[The] A municipal legislative body shall establish the criteria for a determination under this Subsection (3) [shall be established by the municipality's legislative body. A determination of value received, made by the municipality's legislative body, shall be].~~
 - (ii) A municipal legislative body's determination of value received is presumed valid unless ~~[it can be shown]~~ a person can show that the determination was arbitrary, capricious, or illegal.
- (c) The municipality may consider intangible benefits received by the municipality in determining net value received.
- (d) (i) ~~[Prior to] Before the municipal legislative body [making] makes any decision to appropriate any funds for a corporate purpose under this section, [a public hearing shall be held] the municipal legislative body shall hold a public hearing.~~
 - (ii) ~~[Notice of the hearing described in Subsection (3)(d)(i) shall be published] The municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i):~~
 - (A) ~~[(1)]~~ in a newspaper of general circulation at least 14 days before the date of the hearing~~;~~ or, ~~[(11)]~~ if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and
 - (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.
 - ~~[(e) A study shall be performed before notice of the public hearing is given and shall be made available at the municipality for review by interested parties at least 14 days immediately prior to the public hearing, setting forth an analysis and demonstrating the purpose for the appropriation. In making the study, the following factors shall be considered:]~~
 - (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).
 - (ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).
 - (iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):
 - ~~[(4)]~~ (A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(iii) (B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(iii) (C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, [blight] elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) ~~[The appeal shall be filed within 30 days after the date of that decision, to the district court.] A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.~~

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action

affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live in the community; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) for a town, may include, and for other municipalities, shall include, an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the next five years, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies to waive construction related fees that are otherwise generally imposed by the city;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity;

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services; and

(H) consider utilization of programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of [blight] a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of

basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 11-58-601 is amended to read:

11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.

(1) (a) The authority may:

(i) subject to Subsections (1)(b), (c), and (d), receive up to 100% of the property tax differential for a period ending up to 25 years after a certificate of occupancy is issued with respect to improvements on a parcel, as determined by the board and as provided in this part; and

(ii) use the property tax differential during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.

(c) The authority may not receive property tax differential from an area included within a community reinvestment project area [~~as defined in Section 17C-1-102,~~] under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before March 1, 2018, from a taxing entity that has, before March 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan.

(d) The authority shall pay to a community reinvestment agency 10% of the property tax differential generated from land located within that community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.

(2) A county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(3) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax differential.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax differential.

Section 4. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation that the planning commission considers appropriate, all correlated with the population projections and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the

unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people desiring to live there; and

(B) to allow persons with moderate incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of why the recommended means, techniques, or combination of means and techniques provide a realistic opportunity for the development of moderate income housing within the planning horizon, which means or techniques may include a recommendation to:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) encourage the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies to waive construction related fees that are otherwise generally imposed by the county;

(E) consider utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(F) consider utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(G) consider utilization of affordable housing programs administered by the Department of Workforce Services.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of ~~blight~~ a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 5. Section 17-50-303 is amended to read:

17-50-303. County may not give or lend credit -- County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities.

(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(2) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the

conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation

will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, [blight] elimination of a development impediment, as defined in Section 17C-1-102, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C):

(i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

Section 6. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

(c) a contribution, loan, grant, or other financial assistance from any public or private source.

(6) "Annual income" means the same as that term is defined in regulations of the United States

Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

~~[(11) "Blight" or "blighted" means the condition of an area that meets the requirements described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.]~~

~~[(12) "Blight hearing" means a public hearing regarding whether blight exists within a proposed:]~~

~~[(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or]~~

~~[(b) community reinvestment project area under Section 17C-5-405.]~~

~~[(13) "Blight study" means a study to determine whether blight exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.]~~

~~[(14)]~~ (11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

~~[(15)]~~ (12) "Budget hearing" means the public hearing on a proposed project area budget required

under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

[416] (13) “Closed military base” means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

[417] (14) “Combined incremental value” means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency’s boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

[418] (15) “Community” means a county or municipality.

[419] (16) “Community development project area plan” means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

[420] (17) “Community legislative body” means the legislative body of the community that created the agency.

[421] (18) “Community reinvestment project area plan” means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

[422] (19) “Contest” means to file a written complaint in the district court of the county in which the agency is located.

(20) “Development impediment” means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) “Development impediment hearing” means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) “Development impediment study” means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) “Economic development project area plan” means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) “Fair share ratio” means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are

publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) “Family” means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) “Greenfield” means land not developed beyond agricultural, range, or forestry use.

(27) “Hazardous waste” means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) “Housing allocation” means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) “Housing fund” means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds allocated for the purposes described in Section 17C-1-411; or

(b) an agency’s housing allocation.

(30) (a) “Inactive airport site” means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) “Inactive airport site” includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) “Inactive industrial site” means land that:

- (i) consists of at least 1,000 acres;
- (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and
- (iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) “Inactive industrial site” includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) “Income targeted housing” means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) “Incremental value” means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) “Loan fund board” means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) “Local government building” means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

- (i) a fire station;
- (ii) a police station;
- (iii) a city hall; or
- (iv) a court or other judicial building.

(b) “Local government building” does not include a building the primary purpose of which is cultural or recreational in nature.

(36) “Marginal value” means the difference between actual taxable value and base taxable value.

(37) “Military installation project area” means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(38) “Municipality” means a city, town, or metro township as defined in Section 10-2a-403.

(39) “Participant” means one or more persons that enter into a participation agreement with an agency.

(40) “Participation agreement” means a written agreement between a person and an agency that:

- (a) includes a description of:
 - (i) the project area development that the person will undertake;

- (ii) the amount of project area funds the person may receive; and

- (iii) the terms and conditions under which the person may receive project area funds; and

- (b) is approved by resolution of the board.

(41) “Plan hearing” means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(42) “Post-June 30, 1993, project area plan” means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan’s adoption.

(43) “Pre-July 1, 1993, project area plan” means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan’s adoption.

(44) “Private,” with respect to real property, means property not owned by a public entity or any other governmental entity.

(45) “Project area” means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(46) “Project area budget” means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

- (a) for an urban renewal project area, Section ~~[17C-2-202]~~ 17C-2-201;
- (b) for an economic development project area, Section ~~[17C-3-202]~~ 17C-3-201;
- (c) for a community development project area, Section 17C-4-204; or
- (d) for a community reinvestment project area, Section 17C-5-302.

(47) “Project area development” means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

- (a) promoting, creating, or retaining public or private jobs within the state or a community;
- (b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;
- (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;
- (d) providing residential, commercial, industrial, public, or other structures or spaces, including

recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating ~~[blight]~~ a development impediment or the causes of ~~[blight]~~ a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (47) outside of a project area that the board determines to be a benefit to the project area.

(48) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(49) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(50) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(51) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(52) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, community reinvestment agency, or interlocal cooperation entity.

(53) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(54) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(55) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(56) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (56)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(57) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) ~~[blight]~~ a development impediment exists within the survey area.

(58) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(59) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(60) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within

a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(61) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(62) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(63) "Unincorporated" means not within a municipality.

(64) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 7. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property from an agency;

(ii) lease property from an agency;

(iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to an agency.

(2) The following are not subject to [Sections] Section 10-8-2 [œ], 17-50-312, or 17-50-303:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance on:

(a) the Utah Public Notice Website described in Section 63F-1-701; and

(b) the public entity's public website.

Section 8. Section 17C-1-402 is amended to read:

17C-1-402. Taxing entity committee.

(1) The provisions of this section apply to a taxing entity committee that is created by an agency for:

(a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;

(b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and

(c) a community reinvestment project area plan adopted before May 14, 2019, that is subject to a taxing entity committee.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed in accordance with Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency is created by a municipality, two representatives appointed by resolution of the legislative body of the municipality;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative described in Subsection (2)(a) shall be appointed within 30 days after the day on which the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the board may appoint an individual to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace

an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At a taxing entity committee's first meeting, the taxing entity committee shall adopt an organizing resolution that:

(a) designates a chair and a secretary of the taxing entity committee; and

(b) if the taxing entity committee considers it appropriate, governs the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area plan;

(ii) an economic development project area plan; or

(iii) a community reinvestment project area plan that is subject to a taxing entity committee.

(b) A taxing entity committee may:

(i) cast votes that are binding on all taxing entities;

(ii) negotiate with the agency concerning a proposed project area plan;

(iii) approve or disapprove:

(A) an urban renewal project area budget as described in Section 17C-2-204;

(B) an economic development project area budget as described in Section 17C-3-203; or

(C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;

(iv) approve or disapprove an amendment to a project area budget as described in Section 17C-2-206, 17C-3-205, or 17C-5-306;

(v) approve an exception to the limits on the value and size of a project area imposed under this title;

(vi) approve:

(A) an exception to the percentage of tax increment to be paid to the agency;

(B) except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and

(C) an exception to the requirement for an urban renewal project area budget, an economic

development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as described in Subsection 17C-1-409(1)(a)(iii)(D);

(viii) waive the restrictions described in Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate the base taxable value for a project area budget; and

(x) give other taxing entity committee approval or consent required or allowed under this title.

(c) (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.

(ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).

(5) A quorum of a taxing entity committee consists of:

(a) if the project area is located within a municipality, five members; or

(b) if the project area is not located within a municipality, four members.

(6) Taxing entity committee approval, consent, or other action requires:

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a ~~[finding of blight]~~ development impediment determination within, a project area or proposed project area that contains:

(A) an inactive industrial site;

(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if the documents exist and are to be considered at the meeting:

(A) the project area plan or proposed project area plan;

(B) the project area budget or proposed project area budget;

(C) the analysis required under Subsection 17C-2-103(2), 17C-3-103(2), or 17C-5-105(12);

(D) the ~~[blight]~~ development impediment study;

(E) the agency's resolution making a ~~[finding of blight]~~ development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) or ~~[Subsection]~~ 17C-5-402(2)(c)(ii); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), a taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed project area budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a proposed project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

(9) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

(10) A taxing entity committee's records shall be:

(a) considered the records of the agency that created the taxing entity committee; and

(b) maintained by the agency in accordance with Section 17C-1-209.

(11) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to receive tax increment, to increase the amount of tax increment the agency receives, or to extend a project area funds collection period, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(12) (a) The auditor of each county in which an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection (12)(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that each project area funds collection period ends.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection (12):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee considers whether to allow the agency to receive tax increment, to increase the amount of tax increment that the agency receives, or to extend a project area funds collection period.

(13) This section does not apply to:

(a) a community development project area plan; or

(b) a community reinvestment project area plan that is subject to an interlocal agreement.

(14) (a) A taxing entity committee resolution approving a ~~[blight finding]~~ development impediment determination, approving a project area budget, or approving an amendment to a project area budget:

(i) is final; and

(ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

(b) The provisions of Subsection (14)(a) apply regardless of when the resolution is adopted.

Section 9. Section 17C-1-407 is amended to read:

17C-1-407. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless the agency makes a ~~[finding of blight is made]~~ development impediment determination under Chapter 2, Part 3, [Blight] Development Impediment Determination in Urban Renewal Project Areas.

(b) Development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) After July 1, 2005, an agency may not receive or use tax increment generated from the value of

property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

(2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.

(b) If the taxing entity committee does not approve payment of the increased taxes to the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

(c) Notwithstanding any other provision of this section, if, before tax year 2013, increased taxes are paid to an agency without the approval of the taxing entity committee, and notwithstanding the law at the time that the tax was collected or increased:

(i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

(ii) the county is not liable to a taxing entity or any other person or entity for the increased taxes that were paid to the agency; and

(iii) tax increment, including the increased taxes, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.

(3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:

(a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or

(b) for more tax years than specified in the project area budget.

Section 10. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area; or

(v) subject to Subsection (5), to transfer funds to a community that created the agency.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for

agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412 ~~[(4)]~~ (3)(a)(x) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 11. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation~~[, if applicable,]~~ to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of

the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where [blight has been found to exist] a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development; or

(x) subject to Subsection (6), transfer funds to a community that created the agency.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county; or

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(2) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(3) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.

(4) (a) Except as provided in Subsection (4)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (4)(a) does not apply in a year in which tax increment is insufficient.

(5) (a) Except as provided in Subsection (4)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and ~~[, if applicable,]~~ the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (5)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(6) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 12. Section 17C-1-802 is amended to read:

17C-1-802. Combining hearings.

A board may combine any combination of a [blight] development impediment hearing, a plan hearing, and a budget hearing.

Section 13. Section 17C-1-803 is amended to read:

17C-1-803. Continuing a hearing.

Subject to Section 17C-1-804, the board may continue:

- (1) a [blight] development impediment hearing;
- (2) a plan hearing;
- (3) a budget hearing; or
- (4) a combined hearing under Section 17C-1-802.

Section 14. Section 17C-1-804 is amended to read:

17C-1-804. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section ~~[17C-1-802]~~ 17C-1-803 by announcing at the hearing:

- (1) the date, time, and place the hearing will be resumed; or
- (2) (a) that the hearing is being continued to a later time; and
- (b) that the board will cause a notice of the continued hearing to be published on the Utah Public Notice Website created in Section 63F-1-701, at least seven days before the day on which the hearing is scheduled to resume.

Section 15. Section 17C-1-805 is amended to read:

17C-1-805. Agency to provide notice of hearings.

- (1) Each agency shall provide notice, in accordance with this part, of each:
 - (a) [blight] development impediment hearing;
 - (b) plan hearing; or
 - (c) budget hearing.
- (2) The notice required under Subsection (1) may be combined with the notice required for any of the other hearings if the hearings are combined under Section 17C-1-802.

Section 16. Section 17C-1-807 is amended to read:

17C-1-807. Additional requirements for notice of a development impediment hearing.

Each notice under Section 17C-1-806 for a [blight] development impediment hearing shall also include:

- (1) a statement that:
 - (a) a project area is being proposed;
 - (b) the proposed project area may be ~~declared~~ determined to have [blight] a development impediment;
 - (c) the record owner of property within the proposed project area has the right to present evidence at the [blight] development impediment

hearing contesting the existence of [blight] a development impediment;

(d) except for a hearing continued under Section 17C-1-803, the agency will notify the record owner of property referred to in Subsection 17C-1-806(1)(b)(i) of each additional public hearing held by the agency concerning the proposed project area before the adoption of the project area plan; and

(e) a person contesting the existence of [blight] a development impediment in the proposed project area may appear before the board and show cause why the proposed project area should not be designated as a project area; and

(2) if the agency anticipates acquiring property in an urban renewal project area or a community reinvestment project area by eminent domain, a clear and plain statement that:

- (a) the project area plan may require the agency to use eminent domain; and
- (b) the proposed use of eminent domain will be discussed at the [blight] development impediment hearing.

Section 17. Section 17C-1-902 is amended to read:

17C-1-902. Use of eminent domain -- Conditions.

(1) Except as provided in Subsection (2), an agency may not use eminent domain to acquire property.

(2) Subject to the provisions of this part, an agency may, in accordance with Title 78B, Chapter 6, Part 5, Eminent Domain, use eminent domain to acquire an interest in property:

- (a) within an urban renewal project area if:
 - (i) the board makes a ~~[finding of blight]~~ development impediment determination under Chapter 2, Part 3, [Blight] Development Impediment Determination in Urban Renewal Project Areas; and
 - (ii) the urban renewal project area plan provides for the use of eminent domain;
- (b) that is owned by an agency board member or officer and located within a project area, if the board member or officer consents;
- (c) within a community reinvestment project area if:
 - (i) the board makes a ~~[finding of blight in accordance with]~~ development impediment determination under Chapter 5, Part 4, [Blight] Development Impediment Determination in a Community Reinvestment Project Area;
 - (ii) (A) the original community reinvestment project area plan provides for the use of eminent domain; or
 - (B) the community reinvestment project area plan is amended in accordance with Subsection 17C-5-112(4); and

(iii) the agency creates a taxing entity committee in accordance with Section 17C-1-402;

(d) that:

(i) is owned by a participant or a property owner that is entitled to receive tax increment or other assistance from the agency;

(ii) is within a project area, regardless of when the project area is created, for which the ~~[agency made a finding of blight under Section 17C-2-102 or 17C-5-405]~~ board made a development impediment determination under Chapter 2, Part 3, Development Impediment Determination in Urban Renewal Project Areas, or Chapter 5, Part 4, Development Impediment Determination in a Community Reinvestment Project Area; and

(iii) (A) the participant or property owner described in Subsection (2)(d)(i) fails to develop or improve in accordance with the participation agreement or the project area plan; or

(B) for a period of 36 months does not generate the amount of tax increment that the agency projected to receive under the project area budget; or

(e) if a property owner requests in writing that the agency exercise eminent domain to acquire the property owner's property within a project area.

(3) An agency shall, in accordance with the provisions of this part, commence the acquisition of property described in Subsections (2)(a) through (c) by adopting a resolution authorizing eminent domain within five years after the day on which the project area plan is effective.

Section 18. Section 17C-2-101.5 is amended to read:

17C-2-101.5. Resolution designating survey area -- Request to adopt resolution.

(1) A board may begin the process of adopting an urban renewal project area plan by adopting a resolution that:

(a) designates an area located within the agency's boundaries as a survey area;

(b) contains a statement that the survey area requires study to determine whether:

(i) one or more urban renewal project areas within the survey area are feasible; and

(ii) [blight] a development impediment exists within the survey area; and

(c) contains a boundary description or map of the survey area.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the project area development proposed for an area within the agency's boundaries.

(c) The board may, in the board's sole discretion, grant or deny a request under Subsection (2)(a).

Section 19. Section 17C-2-102 is amended to read:

17C-2-102. Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.

(1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection 17C-2-101.5(1) the agency shall:

(i) unless a [finding of blight] development impediment determination is based on a [finding] determination made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:

(A) cause a [blight] development impediment study to be conducted within the survey area as provided in Section 17C-2-301;

(B) provide notice of a [blight] development impediment hearing as required under Chapter 1, Part 8, Hearing and Notice Requirements; and

(C) hold a [blight] development impediment hearing as described in Section 17C-2-302;

(ii) after the [blight] development impediment hearing has been held or, if no [blight] development impediment hearing is required under Subsection (1)(a)(i), after adopting a resolution under Subsection 17C-2-101.5(1), hold a board meeting at which the board shall:

(A) consider:

(I) ~~[the issue of blight and]~~ the evidence and information relating to the existence or nonexistence of [blight] a development impediment; and

(II) whether adoption of one or more urban renewal project area plans should be pursued; and

(B) by resolution:

(I) make a [finding] determination regarding the existence of [blight] a development impediment in the proposed urban renewal project area;

(II) select one or more project areas comprising part or all of the survey area; and

(III) authorize the preparation of a proposed project area plan for each project area;

(iii) prepare a proposed project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(iv) make the proposed project area plan available to the public at the agency's offices during normal business hours;

(v) provide notice of the plan hearing in accordance with Sections 17C-1-806 and 17C-1-808;

(vi) hold a plan hearing on the proposed project area plan and, at the plan hearing:

(A) allow public comment on:

(I) the proposed project area plan; and

(II) whether the proposed project area plan should be revised, approved, or rejected; and

(B) receive all written and hear all oral objections to the proposed project area plan;

(vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the proposed project area plan;

(viii) if applicable, hold the election required under Subsection 17C-2-105(3);

(ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(A) the oral and written objections to the proposed project area plan and evidence and testimony for and against adoption of the proposed project area plan; and

(B) whether to revise, approve, or reject the proposed project area plan;

(x) approve the proposed project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and

(xi) submit the project area plan to the community legislative body for adoption.

(b) (i) If an agency makes a ~~[finding]~~ determination under Subsection (1)(a)(ii)(B) that ~~[blight]~~ a development impediment exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the ~~[finding of blight]~~ development impediment determination.

(ii) (A) A taxing entity committee may not disapprove an agency's ~~[finding of blight]~~ development impediment determination unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project area that support the agency's ~~[finding of blight]~~ development impediment determination under Section 17C-2-303:

(I) do not exist; or

(II) do not constitute ~~[blight]~~ a development impediment.

(B) (I) If the taxing entity committee questions or disputes the existence of some or all of the ~~[blight]~~ development impediment conditions that the agency ~~[found]~~ determined to exist in the urban renewal project area or that those conditions constitute ~~[blight]~~ a development impediment, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed ~~[blight]~~ development impediment conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The ~~[findings]~~ determination of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), a board may not approve a project area plan more than one year after adoption of a resolution making a ~~[finding of blight]~~ development impediment determination under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a proposed project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17C-1-806 and 17C-1-808.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a proposed project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the proposed project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Section 20. Section 17C-2-103 is amended to read:

17C-2-103. Urban renewal project area plan requirements.

(1) ~~[Each]~~ An agency shall ensure that each urban renewal project area plan and proposed project area plan ~~[shall]~~:

(a) ~~[describe]~~ describes the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) ~~[contain]~~ contains a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project

area and how they will be affected by the project area development;

(c) [state] states the standards that will guide the project area development;

(d) [show] shows how the purposes of this title will be attained by the project area development;

(e) [be] is consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) [describe] describes how the project area development will reduce or eliminate [blight] a development impediment in the project area;

(g) [describe] describes any specific project or projects that are the object of the proposed project area development;

(h) [identify] identifies how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

(i) [state] states the reasons for the selection of the project area;

(j) [describe] describes the physical, social, and economic conditions existing in the project area;

(k) [describe] describes any tax incentives offered private entities for facilities located in the project area;

(l) [include] includes the analysis described in Subsection (2);

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, [state] states that the agency shall comply with Section 9-8-404 as though the agency were a state agency; and

(n) [include] includes other information that the agency determines to be necessary or advisable.

(2) [Each] An agency shall ensure that each analysis under Subsection (1)(l) [shall consider] considers:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of the project area development;

(ii) efforts the agency or participant has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the project area funds collection period; and

(b) the anticipated public benefit to be derived from the project area development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate [blight] a development impediment.

Section 21. Section 17C-2-106 is amended to read:

17C-2-106. Board resolution approving urban renewal project area plan -- Requirements.

[Each board] A board shall ensure that each resolution approving a proposed urban renewal project area plan as the project area plan under Subsection 17C-2-102(1)(a)(x) [shall contain] contains:

(1) a boundary description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference;

(4) a statement that the board previously made a [finding of blight] development impediment determination within the project area and the date of the board's [finding of blight] determination; and

(5) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Section 22. Section 17C-2-110 is amended to read:

17C-2-110. Amending an urban renewal project area plan.

(1) [An] An agency may amend an urban renewal project area plan [may be amended] as provided in this section.

(2) If an agency proposes to amend an urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993, project area plan, the base year for the new area added to the project area

shall be determined under Subsection 17C-1-102(9) using the effective date of the amended project area plan;

(c) for a post-June 30, 1993, project area plan:

(i) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a ~~[finding]~~ determination regarding the existence of ~~[blight]~~ a development impediment in the area proposed to be added to the project area by following the procedure set forth in Chapter 2, Part 3, [Blight] Development Impediment Determination in Urban Renewal Project Areas; and

(e) the agency need not make a ~~[finding regarding the existence of blight]~~ development impediment determination in the project area as described in the original project area plan, if the agency made a ~~[finding of the existence of blight]~~ development impediment determination regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, a board may adopt a resolution approving an amendment to a project area plan after:

(a) the agency gives notice, as provided in Section 17C-1-806, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan.

(4) (a) ~~[An]~~ An agency may amend an urban renewal project area plan ~~[may be amended]~~ without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes one or more parcels from a project area because the agency determines that each parcel removed is:

(A) tax exempt;

(B) ~~[no longer blighted]~~ without a development impediment; or

(C) no longer necessary or desirable to the project area.

(b) ~~[An]~~ An agency may make an amendment removing one or more parcels from a project area under Subsection (4)(a)(ii) ~~[may be made]~~ without the consent of the record property owner of each parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 23. Section 17C-2-202 is amended to read:

17C-2-202. Combined incremental value -- Restriction against adopting an urban renewal project area budget -- Taxing entity committee may waive restriction.

(1) Except as provided in Subsection (2), an agency may not adopt an urban renewal project area budget if, at the time the urban renewal project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's

boundaries in the year that the urban renewal project area budget is being considered.

(2) (a) A taxing entity committee may waive the restrictions imposed by Subsection (1).

(b) Subsection (1) does not apply to an urban renewal project area budget if the agency's [~~finding of blight~~] development impediment determination in the project area to which the budget relates is based on a [~~finding~~] determination under Subsection 17C-2-303(1)(b).

Section 24. Section 17C-2-301 is amended to read:

Part 3. Development Impediment Determination in Urban Renewal Project Areas

17C-2-301. Development impediment study -- Requirements -- Deadline.

(1) [~~Each blight~~] An agency shall ensure that each development impediment study required under Subsection 17C-2-102(1)(a)(i)(A) [shall]:

(a) [~~undertake~~] undertakes a parcel by parcel survey of the survey area;

(b) [~~provide~~] provides data so the board and taxing entity committee may determine:

(i) whether the conditions described in Subsection 17C-2-303(1):

(A) exist in part or all of the survey area; and

(B) qualify an area within the survey area as a project area; and

(ii) whether the survey area contains all or part of a superfund site, an inactive industrial site, or inactive airport site;

(c) [~~include~~] includes a written report setting forth:

(i) the conclusions reached;

(ii) any recommended area within the survey area qualifying as a project area; and

(iii) any other information requested by the agency to determine whether an urban renewal project area is feasible; and

(d) [~~be~~] is completed within one year after the adoption of the survey area resolution.

(2) (a) If a [~~blight~~] development impediment study is not completed within one year after the adoption of the resolution under Subsection 17C-2-101.5(1) designating a survey area, the agency may not approve an urban renewal project area plan based on that [~~blight~~] development impediment study unless [it] the agency first adopts a new resolution under Subsection 17C-2-101.5(1).

(b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-2-101.5(1) adopted for the first time, except that any actions taken toward completing a [~~blight~~] development impediment study under the resolution that the new resolution

replaces shall be considered to have been taken under the new resolution.

Section 25. Section 17C-2-302 is amended to read:

17C-2-302. Development impediment hearing -- Owners may review evidence of a development impediment.

(1) In each hearing required under Subsection 17C-2-102(1)(a)(i)(C), the agency shall:

(a) permit all evidence of the existence or nonexistence of [~~blight~~] a development impediment within the proposed urban renewal project area to be presented; and

(b) permit each record owner of property located within the proposed urban renewal project area or the record property owner's representative the opportunity to:

(i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of [~~blight~~] a development impediment; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of [~~blight~~] a development impediment.

(2) The agency shall allow record owners of property located within a proposed urban renewal project area the opportunity, for at least 30 days before the hearing, to review the evidence of [~~blight~~] a development impediment compiled by the agency or by the person or firm conducting the [~~blight~~] development impediment study for the agency, including any expert report.

Section 26. Section 17C-2-303 is amended to read:

17C-2-303. Conditions on board determination of a development impediment -- Conditions of a development impediment caused by the participant.

(1) A board may not make a [~~finding of blight~~] development impediment determination in a resolution under Subsection 17C-2-102(1)(a)(ii)(B) unless the board finds that:

(a) (i) the proposed project area consists predominantly of nongreenfield parcels;

(ii) the proposed project area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the proposed project area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes, or any combination of those uses;

(iv) the present condition or use of the proposed project area substantially impairs the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic liability or is detrimental to the public health, safety, or welfare, as shown by the existence

within the proposed project area of at least four of the following factors:

(A) one of the following, although sometimes interspersed with well maintained buildings and infrastructure:

(I) substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure; or

(II) significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, that require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the project area, higher than that of comparable ~~nonblighted~~ areas in the municipality or county that are without a development impediment; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately-owned parcels within the proposed project area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately-owned acreage of the proposed project area; or

(b) the proposed project area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

(2) No single parcel comprising 10% or more of the acreage of the proposed project area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of that parcel is occupied by buildings or improvements.

(3) (a) For purposes of Subsection (1), if a participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area, that condition may not be used in the determination of ~~blight~~ a development impediment.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who becomes a participant.

Section 27. Section 17C-2-304 is amended to read:

17C-2-304. Challenging a development impediment determination -- Time limit -- De novo review.

(1) If the board makes a ~~[finding of blight]~~ development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) and that ~~[finding]~~ determination is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the ~~[finding]~~ determination by filing an action with the district court for the county in which the property is located.

(2) ~~[Each]~~ A person shall file a challenge under Subsection (1) ~~[shall be filed]~~ within 30 days after the taxing entity committee approves the board's ~~[finding of blight]~~ development impediment determination.

(3) In each action under this section, the district court shall review the ~~[finding of blight]~~ development impediment determination under the standards of review provided in Subsection 10-9a-801(3).

Section 28. Section 17C-5-103 is amended to read:

17C-5-103. Initiating a community reinvestment project area plan.

(1) Subject to Subsection (2), a board shall initiate the process of adopting a community reinvestment project area plan by adopting a survey area resolution that:

(a) designates a geographic area located within the agency's boundaries as a survey area;

(b) contains a description or map of the boundaries of the survey area;

(c) contains a statement that the survey area requires study to determine whether project area development is feasible within one or more proposed community reinvestment project areas within the survey area; and

(d) authorizes the agency to:

(i) prepare a proposed community reinvestment project area plan for each proposed community reinvestment project area; and

(ii) conduct any examination, investigation, or negotiation regarding the proposed community reinvestment project area that the agency considers appropriate.

(2) If an agency anticipates using eminent domain to acquire property within the survey area, the resolution described in Subsection (1) shall include:

(a) a statement that the survey area requires study to determine whether ~~blight~~ a development impediment exists within the survey area; and

(b) authorization for the agency to conduct a ~~blight~~ development impediment study in accordance with Section 17C-5-403.

Section 29. Section 17C-5-104 is amended to read:

17C-5-104. Process for adopting a community reinvestment project area plan -- Prerequisites -- Restrictions.

(1) An agency may not propose a community reinvestment project area plan unless the community in which the proposed community reinvestment project area plan is located:

- (a) has a planning commission; and
- (b) has adopted a general plan under:

(i) if the community is a municipality, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(2) (a) Before an agency may adopt a proposed community reinvestment project area plan, the agency shall conduct a ~~[blight]~~ development impediment study and make a ~~[blight]~~ development impediment determination in accordance with Part 4, ~~[Blight]~~ Development Impediment Determination in a Community Reinvestment Project Area, if the agency anticipates using eminent domain to acquire property within the proposed community reinvestment project area.

(b) If applicable, an agency may not approve a community reinvestment project area plan more than one year after the agency adopts a resolution making a ~~[finding of blight]~~ development impediment determination under Section 17C-5-402.

(3) To adopt a community reinvestment project area plan, an agency shall:

(a) prepare a proposed community reinvestment project area plan in accordance with Section 17C-5-105;

(b) make the proposed community reinvestment project area plan available to the public at the agency's office during normal business hours for at least 30 days before the plan hearing described in Subsection (3)(e);

(c) before holding the plan hearing described in Subsection (3)(e), provide an opportunity for the State Board of Education and each taxing entity that levies or imposes a tax within the proposed community reinvestment project area to consult with the agency regarding the proposed community reinvestment project area plan;

(d) provide notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(e) hold a plan hearing on the proposed community reinvestment project area plan and, at the plan hearing:

- (i) allow public comment on:

(A) the proposed community reinvestment project area plan; and

(B) whether the agency should revise, approve, or reject the proposed community reinvestment project area plan; and

(ii) receive all written and oral objections to the proposed community reinvestment project area plan; and

(f) following the plan hearing described in Subsection (3)(e), or at a subsequent agency meeting:

- (i) consider:

(A) the oral and written objections to the proposed community reinvestment project area plan and evidence and testimony for and against adoption of the proposed community reinvestment project area plan; and

(B) whether to revise, approve, or reject the proposed community reinvestment project area plan;

(ii) adopt a resolution in accordance with Section 17C-5-108 that approves the proposed community reinvestment project area plan, with or without revisions, as the community reinvestment project area plan; and

(iii) submit the community reinvestment project area plan to the community legislative body for adoption.

(4) (a) Except as provided in Subsection (4)(b), an agency may not modify a proposed community reinvestment project area plan to add one or more parcels to the proposed community reinvestment project area unless the agency holds a plan hearing to consider the addition and gives notice of the plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements.

(b) The notice and hearing requirements described in Subsection (4)(a) do not apply to a proposed community reinvestment project area plan being modified to add one or more parcels to the proposed community reinvestment project area if:

(i) each parcel is contiguous to one or more parcels already included in the proposed community reinvestment project area under the proposed community reinvestment project area plan;

(ii) the record owner of each parcel consents to adding the parcel to the proposed community reinvestment project area; and

- (iii) each parcel is located within the survey area.

Section 30. Section 17C-5-105 is amended to read:

17C-5-105. Community reinvestment project area plan requirements.

~~[Each]~~ An agency shall ensure that each community reinvestment project area plan and proposed community reinvestment project area plan ~~[shall]~~:

(1) subject to Section 17C-1-414, if applicable, ~~[include]~~ includes a boundary description and a map of the community reinvestment project area;

(2) [contain] contains a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by project area development;

(3) [state] states the standards that will guide project area development;

(4) [show] shows how project area development will further purposes of this title;

(5) [be] is consistent with the general plan of the community in which the community reinvestment project area is located and [show] shows that project area development will conform to the community's general plan;

(6) if applicable, [describe] describes how project area development will eliminate or reduce [blight] a development impediment in the community reinvestment project area;

(7) [describe] describes any specific project area development that is the object of the community reinvestment project area plan;

(8) if applicable, [explain] explains how the agency plans to select a participant;

(9) [state] states each reason the agency selected the community reinvestment project area;

(10) [describe] describes the physical, social, and economic conditions that exist in the community reinvestment project area;

(11) [describe] describes each type of financial assistance that the agency anticipates offering a participant;

(12) [include] includes an analysis or description of the anticipated public benefit resulting from project area development, including benefits to the community's economic activity and tax base;

(13) if applicable, [state] states that the agency shall comply with Section 9-8-404 as required under Section 17C-5-106;

(14) [state] for a community reinvestment project area plan that an agency adopted before May 14, 2019, states whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

(15) [include] includes other information that the agency determines to be necessary or advisable.

Section 31. Section 17C-5-108 is amended to read:

17C-5-108. Board resolution approving a community reinvestment project area plan -- Requirements.

A board shall ensure that a resolution approving a proposed community reinvestment area plan as the community reinvestment project area plan under Section 17C-5-104 [shall contain] contains:

(1) a boundary description of the community reinvestment project area that is the subject of the community reinvestment project area plan;

(2) the agency's purposes and intent with respect to the community reinvestment project area;

(3) the proposed community reinvestment project area plan incorporated by reference;

(4) the board findings and determinations that the proposed community reinvestment project area plan:

(a) serves a public purpose;

(b) produces a public benefit as demonstrated by the analysis described in Subsection 17C-5-105(12);

(c) is economically sound and feasible;

(d) conforms to the community's general plan; and

(e) promotes the public peace, health, safety, and welfare of the community in which the proposed community reinvestment project area is located; and

(5) if the board made a [finding of blight] development impediment determination under Section 17C-5-402, a statement that the board made a [finding of blight] development impediment determination within the proposed community reinvestment project area and the date on which the board made the [finding of blight] determination.

Section 32. Section 17C-5-112 is amended to read:

17C-5-112. Amending a community reinvestment project area plan.

(1) An agency may amend a community reinvestment project area plan in accordance with this section.

(2) (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:

(i) comply with this part as though the agency were creating a community reinvestment project area;

(ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:

(A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and

(iii) if the agency anticipates acquiring property in the area proposed to be added to the community reinvestment project area by eminent domain, follow the procedures described in Section 17C-5-402.

(b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:

(i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or

(ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).

(3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:

(a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) gives notice in accordance with Section 17C-1-806; and

(ii) holds a public hearing on the proposed amendment that meets the requirements described in Subsection 17C-5-104(3); or

(b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) complies with Subsection (3)(a)(i) and (ii); and

(ii) (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.

~~[(4) (a) An agency may amend a community reinvestment project area plan for a community reinvestment project area that is subject to an interlocal agreement for the purpose of using eminent domain to acquire one or more parcels within the community reinvestment project area.]~~

(4) (a) If a board has not made a determination under Part 4, Development Impediment Determination in a Community Reinvestment Project Area, but intends to use eminent domain within a community reinvestment project area, the agency may amend the community reinvestment project area plan in accordance with this Subsection (4).

(b) To amend a community reinvestment project area plan as described in Subsection (4)(a), an agency shall:

(i) adopt a survey area resolution that identifies each parcel that the agency intends to study to determine whether [blight] a development impediment exists;

(ii) in accordance with Part 4, [Blight] Development Impediment Determination in a Community Reinvestment Project Area, conduct a

[blight] development impediment study within the survey area and make a [blight] development impediment determination; and

~~[(iii) create a taxing entity committee whose sole purpose is to approve any finding of blight in accordance with Subsection 17C-5-402(3); and]~~

~~[(iv)] (iii)~~ obtain approval to amend the community reinvestment project area plan from each taxing entity that is a party to an interlocal agreement.

(c) Amending a community reinvestment project area plan as described in this Subsection (4) does not affect:

(i) the base year of the parcel or parcels that are the subject of an amendment under this Subsection (4); and

(ii) any interlocal agreement under which the agency is authorized to receive project area funds from the community reinvestment project area.

(5) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:

(a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(b) removes one or more parcels from a community reinvestment project area because the agency determines that each parcel is:

(i) tax exempt;

(ii) [no longer blighted] without a development impediment; or

(iii) no longer necessary or desirable to the project area.

(6) (a) An amendment approved by board resolution under this section may not take effect until the community legislative body adopts an ordinance approving the amendment.

(b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (6)(a), the agency shall comply with the requirements described in Sections 17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.

(7) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (7)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 33. Section 17C-5-202 is amended to read:

17C-5-202. Community reinvestment project area funding.

(1) (a) ~~[Except]~~ Beginning on May 14, 2019, and except as provided in Subsection (2), for the purpose of receiving project area funds for use within a community reinvestment project area, an agency shall negotiate and enter into an interlocal agreement with a taxing entity in accordance with Section 17C-5-204 to receive all or a portion of the taxing entity's tax increment or sales and use tax revenue in accordance with the interlocal agreement.

(b) If a community reinvestment project area is subject to an interlocal agreement under Subsection (1)(a) and the agency subsequently amends the community reinvestment project area plan as described in Subsection 17C-5-112(4), the agency shall continue to receive project area funds under the interlocal agreement.

~~[(2) If an agency plans to create a community reinvestment project area and adopt a community reinvestment project area plan that provides for the use of eminent domain to acquire property within the community reinvestment project area, the agency shall create a taxing entity committee as described in Section 17C-1-402 and receive tax increment in accordance with Section 17C-5-203.]~~

(2) Notwithstanding Subsection (1), an agency may receive tax increment in accordance with Section 17C-5-203 if the agency created a community reinvestment project area before May 14, 2019, that is subject to a taxing entity committee and provides for the use of eminent domain to acquire property within the community reinvestment project area.

(3) An agency shall comply with ~~[Chapter 5,]~~ Part 3, Community Reinvestment Project Area Budget, regardless of whether an agency enters into an interlocal agreement under Subsection ~~[(1) or creates a taxing entity committee]~~ (1) or receives tax increment under Subsection (2).

Section 34. Section 17C-5-203 is amended to read:

17C-5-203. Community reinvestment project area subject to taxing entity committee -- Tax increment.

(1) This section applies to a community reinvestment project area that an agency created before May 14, 2019, and that is subject to a taxing entity committee under Subsection 17C-5-202(2).

(2) Subject to the taxing entity committee's approval of a community reinvestment project area budget under Section 17C-5-304, and for the purpose of implementing a community reinvestment project area plan, an agency may receive up to 100% of a taxing entity's tax increment, or any specified dollar amount of tax increment, for any period of time.

(3) Notwithstanding Subsection (2), an agency that adopts a community reinvestment project area plan that is subject to a taxing entity committee may negotiate and enter into an interlocal agreement with a taxing entity and receive all or a portion of the taxing entity's sales and use tax revenue for any period of time.

Section 35. Section 17C-5-205 is amended to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) ~~[The]~~ An agency shall:

(a) approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting~~[-];~~ and

(b) provide a notice of the meeting titled "Diversion of Property Tax for a Community Reinvestment Project Area."

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section 63F-1-701.

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement:

(A) is available for public inspection and the hours for inspection; and

(B) authorizes the agency to receive all or a portion of a taxing entity's tax increment or sales and use tax revenue.

(3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 36. Section 17C-5-401 is amended to read:

Part 4. Development Impediment Determination in a Community Reinvestment Project Area

17C-5-401. Title.

This part is known as "[Blight] Development Impediment Determination in a Community Reinvestment Project Area."

Section 37. Section 17C-5-402 is amended to read:

17C-5-402. Development impediment determination in a community reinvestment project area -- Prerequisites -- Restrictions.

(1) An agency shall comply with the provisions of this section before the agency may use eminent domain to acquire property under Chapter 1, Part 9, Eminent Domain.

(2) An agency shall, after adopting a survey area resolution as described in Section 17C-5-103:

(a) cause a [blight] development impediment study to be conducted within the survey area in accordance with Section 17C-5-403;

(b) provide notice and hold a [blight] development impediment hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements; and

(c) after the [blight] development impediment hearing, at the same or at a subsequent meeting:

(i) consider [the issue of blight and] the evidence and information relating to the existence or nonexistence of [blight] a development impediment; and

(ii) by resolution, make a [finding] determination regarding whether [blight] a development impediment exists in all or part of the survey area.

~~[(3) (a) If an agency makes a finding of blight under Subsection (2), the agency may not adopt an original community reinvestment project area plan or an amendment to a community reinvestment project area plan under Subsection 17C-5-112(4) until the taxing entity committee approves the finding of blight.]~~

~~[(b) (i) A taxing entity committee shall approve an agency's finding of blight unless the taxing entity committee demonstrates that the conditions the agency found to exist in the survey area that support the agency's finding of blight:]~~

~~[(A) do not exist; or]~~

~~[(B) do not constitute blight under Section 17C-5-405.]~~

~~[(ii) (A) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the survey area, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee in making a determination as to the existence of the questioned or disputed blight conditions.]~~

~~[(B) The agency shall pay the fees and expenses of each consultant hired under Subsection (3)(b)(ii)(A).]~~

~~[(C) The findings of a consultant hired under Subsection (3)(b)(ii)(A) are binding on the taxing entity committee and the agency.]~~

Section 38. Section 17C-5-403 is amended to read:

17C-5-403. Development impediment study -- Requirements -- Deadline.

(1) [A blight] An agency shall ensure that a development impediment study [shall]:

(a) [undertake] undertakes a parcel by parcel survey of the survey area;

(b) [provide] provides data so the board [and taxing entity committee] may determine:

(i) whether the conditions described in Section 17C-5-405:

(A) exist in part or all of the survey area; and

(B) meet the qualifications for a [finding of blight] development impediment determination in all or part of the survey area; and

(ii) whether the survey area contains all or part of a superfund site;

(c) [include] includes a written report that states:

(i) the conclusions reached;

(ii) any area within the survey area that meets the statutory criteria of [blight] a development impediment under Section 17C-5-405; and

(iii) any other information requested by the agency to determine whether [blight] a development impediment exists within the survey area; and

(d) [be] is completed within one year after the day on which the survey area resolution is adopted.

(2) (a) If a [blight] development impediment study is not completed within the time described in Subsection (1)(d), the agency may not approve a community reinvestment project area plan or an amendment to a community reinvestment project area plan under Subsection 17C-5-112(4) based on a [blight] development impediment study unless the agency first adopts a new resolution under Subsection 17C-5-103(1).

(b) A new resolution described in Subsection (2)(a) shall in all respects be considered to be a

resolution under Subsection 17C-5-103(1) adopted for the first time, except that any actions taken toward completing a [blight] development impediment study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

(3) (a) For the purpose of making a [blight] development impediment determination under Subsection 17C-5-402(2)(c)(ii), a [blight] development impediment study is valid for one year from the day on which the [blight] development impediment study is completed.

(b) (i) Except as provided in Subsection (3)(b)(ii), an agency that makes a [blight] development impediment determination under a valid [blight] development impediment study and subsequently adopts a community reinvestment project area plan in accordance with Section 17C-5-104 may amend the community reinvestment project area plan without conducting a new [blight] development impediment study.

(ii) An agency shall conduct a supplemental [blight] development impediment study for the area proposed to be added to the community reinvestment project area if the agency proposes an amendment to a community reinvestment project area plan that:

(A) increases the community reinvestment project area's geographic boundary and the area proposed to be added was not included in the original [blight] development impediment study; and

(B) provides for the use of eminent domain within the area proposed to be added to the community reinvestment project area.

Section 39. Section 17C-5-404 is amended to read:

17C-5-404. Development impediment hearing -- Owners may review evidence of a development impediment.

(1) In a hearing required under Subsection 17C-5-402(2)(b), an agency shall:

(a) permit all evidence of the existence or nonexistence of [blight] a development impediment within the survey area to be presented; and

(b) permit each record owner of property located within the survey area or the record property owner's representative the opportunity to:

(i) examine and cross-examine each witness that provides evidence of the existence or nonexistence of [blight] a development impediment; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of [blight] a development impediment.

(2) An agency shall allow each record owner of property located within a survey area the opportunity, for at least 30 days before the day on which the hearing takes place, to review the evidence of [blight] a development impediment

compiled by the agency or by the person or firm conducting the [blight] development impediment study for the agency, including any expert report.

Section 40. Section 17C-5-405 is amended to read:

17C-5-405. Conditions on a development impediment determination -- Conditions of a development impediment caused by a participant.

(1) A board may not make a [finding-of blight] development impediment determination in a resolution under Subsection 17C-5-402(2)(c)(ii) unless the board finds that:

(a) (i) the survey area consists predominantly of nongreenfield parcels;

(ii) the survey area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the survey area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes;

(iv) the present condition or use of the survey area substantially impairs the sound growth of the community, delays the provision of housing accommodations, constitutes an economic liability, or is detrimental to the public health, safety, or welfare, as shown by the existence within the survey area of at least four of the following factors:

(A) although sometimes interspersed with well maintained buildings and infrastructure, substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure, or significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the survey area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, which require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the survey area, higher than that of comparable [nonblighted] areas in the municipality or county that are without a development impediment; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately owned parcels within the survey area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately owned acreage within the survey area; or

- (b) the survey area includes some or all of:
- (i) a superfund site;
 - (ii) a site used for the disposal of solid waste or hazardous waste, as those terms are defined in Section 19-6-102;
 - (iii) an inactive industrial site; or
 - (iv) an inactive airport site.

(2) A single parcel comprising 10% or more of the acreage within the survey area may not be counted as satisfying the requirement described in Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of the parcel is occupied by buildings or improvements.

(3) (a) Except as provided in Subsection (3)(b), for purposes of Subsection (1), if a participant or proposed participant involved in the project area development has caused a condition listed in Subsection (1)(a)(iv) within the survey area, that condition may not be used in the determination of ~~[blight]~~ a development impediment.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who later becomes a participant.

Section 41. Section 17C-5-406 is amended to read:

17C-5-406. Challenging a finding of development impediment determination -- Time limit -- Standards governing court review.

(1) If a board makes a ~~[finding of blight]~~ development impediment determination under Subsection 17C-5-402(2)(c)(ii) ~~[and the finding is approved by resolution adopted by the taxing entity committee]~~, a record owner of property located within the survey area may challenge the ~~[finding]~~ determination by filing an action in the district court in the county in which the property is located no later than 30 days after the day on which the board makes the determination.

~~[(2) A person shall file an action under Subsection (1) no later than 30 days after the day on which the taxing entity committee approves the board's finding of blight.]~~

~~[(3)]~~ (2) In an action under this section:

(a) the agency shall transmit to the district court the record of the agency's proceedings, including any minutes, findings, determinations, orders, or transcripts of the agency's proceedings;

(b) the district court shall review the ~~[finding of blight]~~ development impediment determination under the standards of review provided in Subsection 10-9a-801(3); and

(c) (i) if there is a record:

(A) the district court's review is limited to the record provided by the agency; and

(B) the district court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and

the district court determines that the agency improperly excluded the evidence; or

(ii) if there is no record, the district court may call witnesses and take evidence.

CHAPTER 377**H. B. 251**

Passed March 6, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**DRUG DIVERSION
 REPORTING REQUIREMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill relates to the duty to report drug diversion.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ makes it a class B misdemeanor to knowingly fail to report known or suspected drug diversion to law enforcement, unless reporting would violate HIPAA.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-10-2203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-2203 is enacted to read:

76-10-2203. Duty to report drug diversion.

(1) As used in this section:

(a) “Diversion” means a practitioner’s transfer of a significant amount of drugs to another for an unlawful purpose.

(b) “Drug” means a Schedule II or Schedule III controlled substance, as defined in Section 58-37-4, that is an opiate.

(c) “HIPAA” means the same as that term is defined in Section 26-18-17.

(d) “Opiate” means the same as that term is defined in Section 58-37-2.

(e) “Practitioner” means an individual:

(i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

(ii) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.

(f) “Significant amount” means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance

with guidelines developed by the Centers for Disease Control and Prevention (CDC).

(2) An individual is guilty of a class B misdemeanor if the individual:

(a) knows that a practitioner is involved in diversion; and

(b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

(3) Subsection (2) does not apply to the extent that an individual is prohibited from reporting by 42 C.F.R. Part 2 or HIPAA.

CHAPTER 378**H. B. 270**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

CRIMINAL CODE AMENDMENTS

Chief Sponsor: Michael K. McKell
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to distribution of an intimate image and indecent liberties.

Highlighted Provisions:

This bill:

- ▶ changes the intent provisions for the crime of distribution of an intimate image from intent to cause emotional distress to knowing that the distribution would cause a reasonable person emotional distress;
- ▶ provides that indecent liberties includes the touching of certain areas of the body or causing certain areas of the body to be touched; and
- ▶ adds particular offenses to provisions in which any touching is sufficient as an element of the offense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-5-407, as last amended by Laws of Utah 2000, Chapter 128
 76-5-416, as enacted by Laws of Utah 2018, Chapter 192
 76-5b-203, as enacted by Laws of Utah 2014, Chapter 124

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-407 is amended to read:**76-5-407. Applicability of part -- "Penetration" or "touching" sufficient to constitute offense.**

(1) The provisions of this part do not apply to consensual conduct between persons married to each other.

(2) In any prosecution for:

(a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving sexual intercourse;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving sexual intercourse; or

(iii) rape, a violation of Section 76-5-402; or

(b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:

(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving acts of sodomy;

(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving acts of sodomy;

(iii) sodomy, a violation of Subsection 76-5-403(1);

(iv) forcible sodomy, a violation of Subsection 76-5-403(2);

(v) rape of a child, a violation of Section 76-5-402.1; or

(vi) object rape of a child, a violation of Section 76-5-402.3.

(3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:

(a) sodomy on a child, a violation of Section 76-5-403.1; ~~or~~

(b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section 76-5-404.1;

(c) sexual abuse of a minor, a violation of Section 76-5-401.1;

(d) unlawful sexual conduct with a 16- or 17-year-old, a violation of Section 76-5-401.2;

(e) forcible sexual abuse, a violation of Section 76-5-404;

(f) custodial sexual relations, a violation of Section 76-5-412; or

(g) custodial sexual relations or misconduct with youth receiving state services, a violation of Section 76-5-413.

Section 2. Section 76-5-416 is amended to read:**76-5-416. Indecent liberties -- Definition.**

As used in this part, "takes indecent liberties" means:

(1) the actor touching the [actor's] victim's genitals, anus, buttocks, pubic area, or female breast [against any part of the body of the victim];

(2) causing any part of the [victim] victim's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(3) simulating or pretending to engage in sexual intercourse with the victim, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(4) causing the victim to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

Section 3. Section 76-5b-203 is amended to read:**76-5b-203. Distribution of an intimate image -- Penalty.**

(1) As used in this section:

(a) “Distribute” means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

(b) “Intimate image” means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct.

(c) “Sexually explicit conduct” means actual or simulated:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) masturbation;

(iii) bestiality;

(iv) sadistic or masochistic activities;

(v) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(vi) visual depiction of nudity or partial nudity;

(vii) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(viii) explicit representation of the defecation or urination functions.

(d) “Simulated sexually explicit conduct” means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(2) An actor commits the offense of distribution of intimate images if the actor ~~with the intent to cause emotional distress or harm,~~ knowingly or intentionally distributes to any third party any intimate image of an individual who is 18 years of age or older and knows or should know that the distribution would cause a reasonable person to suffer emotional distress or harm, if:

(a) the actor knows that the depicted individual has not given consent to the actor to distribute the intimate image;

(b) the intimate image was created by or provided to the actor under circumstances in which the individual has a reasonable expectation of privacy; and

(c) actual emotional distress or harm is caused to the person as a result of the distribution under this section.

(3) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; ~~or~~

(c) an intimate image that is portrayed in a lawful commercial setting~~];~~ or

(d) an intimate image that is related to a matter of public concern or interest.

(4) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider’s function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company’s function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific

condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) (a) Distribution of an intimate image is a class A misdemeanor except under Subsection (5)(b).

(b) Distribution of an intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

CHAPTER 379**H. B. 278**

Passed March 14, 2019
Approved March 27, 2019
Effective May 14, 2019

COURT REPORTER AMENDMENTS

Chief Sponsor: John Knotwell
Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill modifies provisions related to court reporters.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Certified Court Reporters Licensing Act to the State Certification of Court Reporters Act (the act);
- ▶ defines terms, including “state certified court reporter” in the act and in the Court Reporter Act;
- ▶ describes the qualifications for receiving a state certification as a state certified court reporter;
- ▶ describes unprofessional and unlawful conduct under the act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 58-74-101, as last amended by Laws of Utah 2004, Chapter 77
- 58-74-102, as last amended by Laws of Utah 2016, Chapter 238
- 58-74-301, as last amended by Laws of Utah 2004, Chapter 77
- 58-74-302, as last amended by Laws of Utah 2009, Chapter 183
- 58-74-303, as enacted by Laws of Utah 1997, Chapter 372
- 58-74-401, as last amended by Laws of Utah 2008, Chapter 3
- 58-74-501, as last amended by Laws of Utah 2004, Chapter 77
- 58-74-502, as last amended by Laws of Utah 2008, Chapter 3
- 78A-2-402, as last amended by Laws of Utah 2010, Chapter 34
- 78A-2-403, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78A-2-404, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS:

- 58-74-201, as last amended by Laws of Utah 2004, Chapter 77

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-74-101 is amended to read:

CHAPTER 74. STATE CERTIFICATION OF COURT REPORTERS ACT

58-74-101. Title.

This chapter is known as the ~~“Certified Court Reporters Licensing Act.”~~ “State Certification of Court Reporters Act.”

Section 2. Section 58-74-102 is amended to read:

58-74-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

~~[(1) “Board” means the Certified Court Reporters Licensing Board created in Section 58-74-201.]~~

~~[(2) “Certified court reporter” means any person who engages in the practice of court reporting who is:]~~

~~[(a) — a shorthand reporter certified by the National Court Reporters Association; or]~~

~~[(b) — a voice reporter certified by the National Verbatim Reporters Association.]~~

~~[(3) “Certified voice reporter” means any person licensed under this chapter who engages in the practice of voice reporting.]~~

~~[(4) “Official court reporter” means a certified shorthand reporter employed by the courts.]~~

~~[(5) “Official court transcriber” means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of court proceedings.]~~

~~[(6) (1) “Practice of court reporting” means the making of a verbatim record, by stenography or voice writing, of any trial, legislative public hearing, state agency public hearing, deposition, examination before trial, hearing or proceeding before any grand jury, referee, board, commission, master or arbitrator, or other sworn testimony given under oath.~~

~~[(7) “Practice of voice reporting” means the practice of making a verbatim record, using voice writing.]~~

~~[(8) “Voice writing” means the making of a verbatim record of the spoken word by means of repeating the words of the speaker into a device capable of either digital translation into English text or creation of a tape or digital recording.]~~

~~[(2) “State certified court reporter” means a person who engages in the practice of court reporting and has met the requirements for state certification as a state certified court reporter.~~

~~[(9) (4) “Unlawful conduct” means the same as that term is defined in Sections 58-1-501 and 58-74-501.~~

~~[(10) (5) “Unprofessional conduct” means the same as that term is defined in [Sections] Section~~

58-1-501 [~~and 58-74-502~~] and as may be further defined by rule.

Section 3. Section 58-74-301 is amended to read:

Part 3. Certification

58-74-301. State certification required.

(1) ~~[A license]~~ State certification as a state certified court reporter is required to engage in the practice of court reporting.

(2) The division shall ~~[issue]~~ grant state certification as a state certified court reporter to any person who ~~[qualifies under this chapter a license to practice as a certified court reporter.]~~ meets the requirements described in this chapter.

Section 4. Section 58-74-302 is amended to read:

58-74-302. Qualifications for state certification.

(1) Each applicant for ~~[licensure as a certified court reporter]~~ state certification as a state certified court reporter under this chapter shall:

- (a) be at least 18 years of age;
- (b) be a citizen of the United States and a resident of the state;
- (c) submit an application in a form prescribed by the division;
- (d) pay a fee determined by the department under Section 63J-1-504;
- (e) possess a high degree of skill and ability in the art of court reporting;
- (f) produce satisfactory evidence of good moral character; and
- (g) submit evidence that ~~[they have]~~ the applicant has completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

(2) Any person granted a certificate to practice as a state certified ~~[shorthand]~~ court reporter may use the abbreviation~~["C.S.R.," "C.C.R." or "C.V.R."] as long as the person's certificate is current and valid.~~

~~[(3) Any person granted a certificate to practice as a certified voice reporter may use the abbreviation "C.V.R." as long as the person's certificate is current and valid.]~~

Section 5. Section 58-74-303 is amended to read:

58-74-303. Term of state certification -- Expiration -- Renewal.

(1) (a) The division shall issue each ~~[license]~~ state certification under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) Each ~~[licensee]~~ applicant shall, at the time of applying for renewal, demonstrate compliance with continuing education requirements established by the division ~~[in collaboration with the board].~~

(3) Each ~~[license]~~ state certification automatically expires on the expiration date shown on the ~~[license]~~ state certification unless the ~~[licensee]~~ applicant renews it in accordance with Section 58-1-308.

Section 6. Section 58-74-401 is amended to read:

58-74-401. Grounds for denial of state certification -- Disciplinary proceedings.

Grounds for refusing to issue a ~~[license]~~ state certification to an applicant, for refusing to renew the ~~[license of a licensee]~~ state certification of an applicant, for revoking, suspending, restricting, or placing on probation the ~~[license of a licensee]~~ state certification of a state certified court reporter, for issuing a public or private reprimand to a ~~[licensee]~~ state certified court reporter, and for issuing a cease and desist order shall be in accordance with Sections 58-1-401 and 78A-2-404.

Section 7. Section 58-74-501 is amended to read:

58-74-501. Unlawful conduct.

(1) It is unlawful for any person ~~[not licensed]~~ who does not have state certification in accordance with this chapter to:

- (a) assume the title state certified court reporter;
or
- (b) assume the title or use the abbreviation ~~[C.S.R.]~~ C.C.R. or C.V.R. or any other similar words, letters, figures, or abbreviation to indicate that the person using that title or abbreviation is a state certified court reporter.

(2) Violation of this provision is a class A misdemeanor.

Section 8. Section 58-74-502 is amended to read:

58-74-502. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) conduct unbecoming ~~[a person licensed as a certified court reporter]~~ a state certified court reporter or which is detrimental to the interests of the public;

(2) willful or negligent betrayal or disclosure of confidential information about which ~~[the licensee]~~ a state certified court reporter becomes knowledgeable as a result of or incidental to ~~[his practice as a licensee]~~ the person's practice as a state certified court reporter;

(3) false or deceptive representation of a ~~[licensee's]~~ a state certified court reporter's skills, competence, capability, or resources as a state certified court reporter;

(4) offering, undertaking, or agreeing to undertake an assignment as a state certified court reporter for which ~~[the licensee] the state certified court reporter is not qualified, [for which the licensee]~~ cannot complete the assignment in a timely manner, or ~~[for which the licensee]~~ does not have the resources to complete the assignment as agreed in a professional manner;

(5) the use of any chemical, drug, or alcohol in any unlawful manner or in any manner which negatively affects the ability of ~~[the licensee]~~ a state certified court reporter to competently practice as a state certified court reporter;

(6) willfully and intentionally making any false or fraudulent record in the performance of ~~[his] a state certified court reporter's~~ duties as a state certified court reporter;

(7) any conduct contrary to the recognized standards and ethics of the profession of a state certified court reporter;

(8) gross incompetence in practice as a state certified court reporter;

(9) violation of any provision of this chapter, Section 78A-2-404, or rules promulgated to regulate the practice of state certified court reporters;

(10) conviction of a felony or any other crime which is considered by the ~~[board]~~ division to represent activity detrimental to the public interest as that interest is reflected in ~~[the licensee]~~ a state certified court reporter continuing to practice as a state certified court reporter; or

(11) attesting to or "signing off" on the transcript of any recorded proceeding unless that proceeding was recorded by that person while physically present at the proceeding or was personally transcribed by that person from an electronically recorded process.

Section 9. Section 78A-2-402 is amended to read:

78A-2-402. Definitions.

As used in this part:

(1) "Certified court reporter" ~~[has the same meaning as in]~~ means a state certified court reporter as described in Title 58, Chapter 74, ~~[Certified Court Reporters Licensing Act]~~ State Certification of Court Reporters Act.

~~[(2) "Folio" means 100 words. A number expressed as a numeral counts as one word; however, any portion of the last folio is not counted.]~~

~~[(3)]~~ (2) "Official court transcriber" means a person certified in accordance with rules of the Judicial Council as competent to transcribe into written form an audio or video recording of court proceedings.

Section 10. Section 78A-2-403 is amended to read:

78A-2-403. Appointment of court reporters -- Eligibility.

~~[(1) —]A person may not be appointed to the position of court reporter nor act in the capacity of a court reporter in any court of record of this state, or before any referee, master, board, or commission of this state [without a currently valid license from the Division of Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified Court Reporters Licensing Act.] unless the person is a state certified court reporter in accordance with the provisions of Title 58, Chapter 74, State Certification of Court Reporters Act.~~

~~[(2) Before any person may act as a court reporter, the person shall:]~~

~~[(a) take, subscribe, and file the constitutional oath; and]~~

~~[(b) give a bond with sufficient surety, conditioned upon the faithful performance of all duties, in the sum of \$2,500, or larger sum if ordered by the judge.]~~

~~[(3) The bond shall run to the state of Utah, but an action on it may be maintained by any person whose rights are affected by the failure of the reporter to perform the reporter's official duties.]~~

Section 11. Section 78A-2-404 is amended to read:

78A-2-404. Contract restrictions.

(1) Any contract for court reporting services, not related to a particular case or reporting incident, is prohibited between a court reporter or any other person with whom a court reporter has a principal and agency relationship and any attorney, party to an action, or party having a financial interest in an action. Negotiating or bidding reasonable fees, equal to all the parties, on a case-by-case basis may not be prohibited.

(2) A certified court reporter is an officer of the court, authorized to administer oaths, whose impartiality shall remain beyond question.

(3) This section does not apply to the courts or the administrative tribunals of this state.

(4) Violation of this section shall be considered unprofessional conduct as provided in ~~[Sections]~~ Section 58-74-102 and 58-74-502, and shall be grounds for revocation of ~~[license]~~ state certification only.

Section 12. Repealer.

This bill repeals:

Section 58-74-201, Board.

CHAPTER 380**H. B. 290**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

DRIVER LICENSE RECORD AMENDMENTS

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill amends provisions related to driver license records.

Highlighted Provisions:

This bill:

- ▶ clarifies provisions relating to the disclosure of personal identifying information; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-109, as last amended by Laws of Utah 2018, Chapter 417

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-109 is amended to read:**53-3-109. Records -- Access -- Fees -- Rulemaking.**

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may ~~only~~ disclose personal identifying information in accordance with 18 U.S.C. Chapter 123:

~~[(i) when the division determines it is in the interest of the public safety to disclose the information; and]~~

~~[(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.]~~

~~[(c) The division may disclose personal identifying information.]~~

~~[(i) to]~~

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating,

or underwriting for any person issued a license certificate under this chapter; ~~or]~~

(iii) to a depository institution as that term is defined in Section 7-1-103 ~~[for use in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123-];~~

(iv) to the State Tax Commission for the purposes of tax fraud detection and prevention and any other use required by law;

(v) to the University of Utah for data collection in relation to genetic and epidemiologic research; or

(vi) to a government entity, including any court or law enforcement agency, to fulfill the government entity's functions, or to a private person acting on behalf of a government entity to fulfill the government entity's functions, if the division determines disclosure of the information is in the interest of public safety.

(2) (a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection ~~[(1)(e)(ii)]~~ (1)(b)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4) The division may charge fees:

(a) in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee set in accordance with Section 63J-1-504 for each document authenticated; and

(c) established in accordance with the procedures and requirements of Section 63J-1-504 for disclosing personal identifying information under Subsection (1)(e)(b).

(5) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

(6) (a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection (6)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(e)(b); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

(8) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

CHAPTER 381**H. B. 294**

Passed March 12, 2019
Approved March 27, 2019
Effective January 1, 2020

**DRIVER LICENSE
RENEWAL AMENDMENTS**

Chief Sponsor: Adam Robertson
Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill changes the required frequency of driver license and identification card renewal from five years to eight years.

Highlighted Provisions:

This bill:

- ▶ changes the initial term and renewal period for a regular class D driver license from five years to eight years;
- ▶ changes the renewal period for a provisional driver license from five years to eight years;
- ▶ increases driver license and endorsement application and renewal fees;
- ▶ adjusts the allowable reportable violations a driver may have on the driver's record to be eligible to renew a license on the eight-year cycle; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

53-3-105, as last amended by Laws of Utah 2018, Chapters 301 and 417
53-3-205, as last amended by Laws of Utah 2018, Chapters 39, 128, and 417
53-3-214, as last amended by Laws of Utah 2012, Chapter 335
53-3-803, as last amended by Laws of Utah 2014, Chapter 252
53-3-804, as last amended by Laws of Utah 2018, Chapter 39
53-3-806.5, as last amended by Laws of Utah 2017, Chapter 282
53-3-807, as last amended by Laws of Utah 2015, Chapter 210

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

- (1) An original class D license application under Section 53-3-205 is ~~[\$32]~~ \$52.
- (2) An original provisional license application for a class D license under Section 53-3-205 is \$39.

(3) An original limited term license application under Section 53-3-205 is \$32.

~~[(3)]~~ (4) An original application for a motorcycle endorsement under Section 53-3-205 is ~~[\$11]~~ \$18.

~~[(4)]~~ (5) An original application for a taxicab endorsement under Section 53-3-205 is ~~[\$9]~~ \$14.

~~[(5)]~~ (6) A learner permit application under Section 53-3-210.5 is \$19.

~~[(6)]~~ (7) A renewal of a class D license under Section 53-3-214 is ~~[\$32]~~ \$52 unless Subsection ~~[(40)]~~ (12) applies.

~~[(7)]~~ (8) A renewal of a provisional license application for a class D license under Section 53-3-214 is ~~[\$32]~~ \$52.

(9) A renewal of a limited term license application under Section 53-3-214 is \$32.

~~[(8)]~~ (10) A renewal of a motorcycle endorsement under Section 53-3-214 is ~~[\$11]~~ \$18.

~~[(9)]~~ (11) A renewal of a taxicab endorsement under Section 53-3-214 is ~~[\$9]~~ \$14.

~~[(10)]~~ (12) A renewal of a class D license for a person 65 and older under Section 53-3-214 is ~~[\$17]~~ \$27.

~~[(11)]~~ (13) An extension of a class D license under Section 53-3-214 is ~~[\$26]~~ \$42 unless Subsection ~~[(45)]~~ (17) applies.

~~[(12)]~~ (14) An extension of a provisional license application for a class D license under Section 53-3-214 is ~~[\$26]~~ \$42.

~~[(13)]~~ (15) An extension of a motorcycle endorsement under Section 53-3-214 is ~~[\$11]~~ \$18.

~~[(14)]~~ (16) An extension of a taxicab endorsement under Section 53-3-214 is ~~[\$9]~~ \$14.

~~[(15)]~~ (17) An extension of a class D license for a person 65 and older under Section 53-3-214 is ~~[\$14]~~ \$22.

~~[(16)]~~ (18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is \$52.

~~[(17)]~~ (19) A commercial class A, B, or C license skills test is \$78.

~~[(18)]~~ (20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$9.

~~[(19)]~~ (21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$9.

~~[(20)]~~ (22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$9.

~~[(21)]~~ (23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

[(22)] (24) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

[(23)] (25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

[(24)] (26) (a) A license reinstatement application under Section 53-3-205 is \$40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$45 in addition to the fee under Subsection [(24)] (26)(a).

[(25)] (27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$255.

(b) This administrative fee is in addition to the fees under Subsection [(24)] (26).

[(26)] (28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

[(27)] (29) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

[(28)] (30) (a) Except as provided under Subsections [(28)] (30)(b) and (c), an identification card application under Section 53-3-808 is \$23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(c) A fee may not be charged for an identification card application if the individual applying:

- (i) (A) has not been issued a Utah driver license;
- (B) is indigent; and
- (C) is at least 18 years of age; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(C) the Department of Workforce Services.

[(29)] (31) (a) An extension of a regular identification card under Subsection 53-3-807(5) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(b) The fee described in Subsection [(29)] (31)(a) shall be waived if the applicant submits written

verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

[(30)] (32) (a) An extension of a regular identification card under Subsection 53-3-807(6) is \$23.

(b) The fee described in Subsection [(30)] (32)(a) shall be waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

[(31)] (33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

[(32)] (34) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

[(33)] (35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

[(34)] (36) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105~~(16)~~(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105~~(17)~~(19) within six months of the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105~~(17)~~(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections ~~(7)(f)~~ (7)(a)(ii), (f), (g), and (h), an original class D license expires on the birth date of the applicant in the ~~fourth~~ eighth year following the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the ~~fourth~~ eighth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and any endorsement to the regular license certificate held by a person described in Subsection (7)(e)(ii), which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person's orders have been terminated, the person has been discharged, or the person's assignment has been changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to a person:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of a person described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid Social Security number;

(II) written proof that the applicant is ineligible to receive a Social Security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for a person who:

(Aa) does not qualify for a Social Security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the person is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that a person is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Each applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) Each applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on its computerized records an applicant's:

(i) (A) Social Security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application shall be treated as an original application; and

(ii) license and endorsement fees shall be assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105~~(23)~~(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105~~(23)~~(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be

accompanied by the additional fee or fees specified in Section 53-3-105.

(13) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) The indication of intent under Subsection (8)(a)(vi) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all persons who under Subsection (8)(a)(vi) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(18) A person who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

~~[(19) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.]~~

~~[(b) On or after December 1, 2014, a person born on or after December 1, 1964:]~~

~~[(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and]~~

~~[(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.]~~

~~[(c) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (19), the division shall cancel the Utah identification card on December 1, 2014.]~~

~~[(20) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.]~~

~~[(b) On or after December 1, 2017, a person born prior to December 1, 1964:]~~

~~[(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and]~~

~~[(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.]~~

~~[(e) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (20), the division shall cancel the Utah identification card on December 1, 2017.]~~

(19) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

~~[(21) (a) A person who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the person:~~

~~(i) is a resident of the state of Utah;~~

~~(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or~~

~~(B) is an immediate family member or dependent of a person described in Subsection [(21) (20)(a)(ii)(A) and is residing outside of Utah;~~

~~(iii) has a digitized driver license photo on file with the division;~~

~~(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and~~

~~(v) provides the necessary information and documentary evidence required under Subsection (8).~~

~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:~~

~~(i) establishing the procedures for a person to obtain a motorcycle endorsement under this Subsection [(21) (20); and~~

~~(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection [(21) (20).~~

Section 3. Section 53-3-214 is amended to read:

53-3-214. Renewal -- Fees required -- Extension without examination.

(1) (a) The holder of a valid license may renew the holder's license and any endorsement to the license by applying:

(i) at any time within six months before the license expires; or

(ii) more than six months prior to the expiration date if the applicant furnishes proof that the applicant will be absent from the state during the six-month period prior to the expiration of the license.

(b) The application for a renewal of, extension of, or any endorsement to a license shall be accompanied by a fee under Section 53-3-105.

(2) (a) Except as provided under Subsections (2)(b) and (3), upon application for renewal of a regular license certificate, provisional license, and any endorsement to a regular license certificate, the division shall reexamine each applicant as if for an original license and endorsement to the license, if applicable.

(b) Except as provided under Subsection (2)(c), upon application for renewal of a limited-term license certificate, limited-term provisional license certificate, and any endorsement to a limited-term license certificate, the division shall:

(i) reexamine each applicant as if for an original limited-term license certificate and endorsement to the limited-term license certificate, if applicable; and

(ii) verify through valid documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(c) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(3) (a) (i) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a regular license certificate[, or any endorsement to the regular license certificate], ~~a provisional license, and any endorsement to a provisional license for five~~ for eight years without examination for licensees whose driving records for the ~~five~~ eight years immediately preceding the determination of eligibility for extension show:

~~[(i)] (A) no suspensions;~~

~~[(ii)] (B) no revocations;~~

~~[(iii)] (C) no conviction for reckless driving under Section 41-6a-528; and~~

~~[(iv)] (D) no more than ~~four~~ six reportable violations in the preceding ~~five~~ eight years.~~

(ii) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a provisional license and any endorsement to a provisional license for eight years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

(A) no suspensions;

(B) no revocations;

(C) no conviction for reckless driving under Section 41-6a-528; and

(D) no more than four reportable violations in the preceding five years.

(iii) Except as provided under Subsections (3)(b) and (c), the division may renew or extend a limited term license and any endorsement to a limited term license for five years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

(A) no suspensions;

(B) no revocations;

(C) no conviction for reckless driving under Section 41-6a-528; and

(D) no more than four reportable violations in the preceding five years.

(b) Except as provided in Subsection (3)(g), after the expiration of a regular license certificate, a new regular license certificate and any endorsement to a regular license certificate may not be issued until the person has again passed the tests under Section 53-3-206 and paid the required fee.

(c) After the expiration of a limited-term license certificate, a new limited-term license certificate and any endorsement to a limited-term license certificate may not be issued until the person has:

(i) again passed the tests under Section 53-3-206 and paid the required fee; and

(ii) presented documentary evidence that the status by which the individual originally qualified for the limited-term license certificate has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(d) A person 65 years of age or older shall take and pass the eye examination specified in Section 53-3-206.

(e) An extension may not be granted to any person:

(i) who is identified by the division as having a medical impairment that may represent a hazard to public safety;

(ii) holding a CDL or limited-term CDL issued under Part 4, Uniform Commercial Driver License Act;

(iii) who is holding a limited-term license certificate; or

(iv) who is holding a driving privilege card issued in accordance with Section 53-3-207.

(f) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105;

(ii) only if the applicant qualifies under this section; and

(iii) for only one extension.

(g) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

Section 4. Section 53-3-803 is amended to read:

53-3-803. Application for identification card -- Age requirements -- Application on behalf of others.

(1) A person at least 16 years of age or older may apply to the division for an identification card.

(2) A person younger than 16 years of age may apply to the division for an identification card with the consent of the applicant's parent or guardian.

(3) (a) If a person is unable to apply for the card due to his youth or incapacitation, the application may be made on behalf of that person by his parent or guardian.

(b) A parent or guardian applying for an identification card on behalf of a child or incapacitated person shall provide:

(i) identification, as required by the commissioner; and

(ii) the consent of the incapacitated person, as required by the commissioner.

(4) ~~Beginning on or after July 1, 2012, a~~ A person who holds an unexpired Utah license certificate issued under Part 2, Driver Licensing Act, may not be issued a Utah identification card or an extension of a regular identification card unless:

(a) the Utah license certificate is canceled; and

(b) if the Utah license certificate is in the person's possession, the Utah license certificate is surrendered to the division.

Section 5. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, the applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) Social Security number; or

(ii) written proof that the applicant is ineligible to receive a Social Security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that a person is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the

information with the state Department of Veterans and Military Affairs.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) A person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

~~[(5) (a) Until December 1, 2014, a person born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.]~~

~~[(b) On or after December 1, 2014, a person born on or after December 1, 1964:]~~

~~[(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and]~~

~~[(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.]~~

~~[(e) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.]~~

~~[(6) (a) Until December 1, 2017, a person born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.]~~

~~[(b) On or after December 1, 2017, a person born prior to December 1, 1964:]~~

~~[(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and]~~

~~[(ii) if the person has both an unexpired Utah license certificate and an unexpired Utah identification card in the person's possession, shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.]~~

~~[(e) If a person has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.]~~

(5) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

Section 6. Section 53-3-806.5 is amended to read:

53-3-806.5. Identification card required if offender does not have driver license.

(1) (a) If a person is required to register as a sex offender in accordance with Title 77, Chapter 41,

Sex and Kidnap Offender Registry or as a child abuse offender in accordance with Title 77, Chapter 43, Child Abuse Offender Registry, and the person does not hold a current driver license in compliance with Section 53-3-205, the person shall obtain an identification card.

(b) The person shall maintain a current identification card during any time the person is required to register as a sex or child abuse offender and the person does not hold a valid driver license.

(2) Failure to maintain a current identification card as required under Subsection (1) [~~on and after April 30, 2007~~] is a class A misdemeanor for each month of violation of Subsection (1).

Section 7. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1) (a) A regular identification card [~~issued on or after July 1, 2006,~~] expires on the birth date of the applicant in the fifth year following the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year following the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year following the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within 10 days notify the division in a manner specified by the division of the person's new address.

(3) If a person has applied for and received an identification card and subsequently changes the person's name under Title 42, Chapter 1, Change of Name, the person:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the person's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:

(i) the person's identification card expires annually on the next birth date of the cardholder[; ~~on and after July 1, 2006~~]; and

(ii) the person shall surrender the person's identification card to the division on or before the cardholder's next birth date [~~beginning on July 1, 2006; and~~].

~~[(iii) the person may apply for an identification card with an expiration date identified in Subsection (8) by:]~~

~~[(A) furnishing proper documentation to the division as provided in Section 53-3-804; and]~~

~~[(B) paying the fee for an identification card required under Section 53-3-105.]~~

(b) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is subsequently convicted of any offense listed in Subsection 77-41-102(17), the person shall surrender the card to the division on the person's next birth date following the conviction and may apply for a new card [~~with an expiration date identified in Subsection (8)~~] by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b) because the person is in the custody of the Department of Corrections or Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.

(5) A person older than 21 years of age with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(6) (a) The division may extend a valid regular identification card for five years[; ~~(a) (i)~~] at any time within six months before the identification card expires[; and].

~~[(ii) if the identification card was issued after January 1, 2010.]~~

(b) The application for an extension of a regular identification card shall be accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

(7) (a) (i) Except as prohibited under Subsection (7)(b), a regular identification card may only be extended once under Subsections (5) and (6).

(ii) After an extension an application for an identification card must be applied for in person at the division's offices.

(b) An identification card issued to a person required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.

~~[(8) An identification card issued prior to July 1, 2006 to a person 65 years of age or older expires on December 1, 2017.]~~

~~[(9)]~~ (8) Notwithstanding the provisions of this section, an identification card expires on the birth date of the applicant in the first year following the year that the identification card was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

~~[(10)]~~ (9) A person who knowingly fails to surrender an identification card under Subsection (4) is guilty of a class A misdemeanor.

Section 8. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 382**H. B. 298**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill modifies provisions relating to certain sexual offenses and the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “sexual offense against a minor” as the term relates to a criminal investigation of an electronic communications record;
- ▶ deletes provisions requiring a sex offender to annually apply for a driver license or identification card;
- ▶ requires a sex offender to apply in person for an updated driver license or identification card within 30 days after the day on which the offender changes addresses;
- ▶ requires the Driver License Division to disclose to the Department of Corrections certain records relating to sex offenders upon request;
- ▶ modifies the offenses for which a petition for removal from the registry may be filed;
- ▶ modifies certain procedural requirements relating to a sex or kidnap offender’s removal from the registry;
- ▶ provides that a sex or kidnap offender may change the offender’s name if certain requirements are met;
- ▶ modifies the penalty for the offense of dealing in material harmful to minors;
- ▶ modifies the penalty for the offense of sexual exploitation of a minor; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53-3-105, as last amended by Laws of Utah 2018, Chapters 301 and 417
 53-3-205, as last amended by Laws of Utah 2018, Chapters 39, 128, and 417
 53-3-216, as last amended by Laws of Utah 2015, Chapter 210
 53-3-413, as last amended by Laws of Utah 2012, Chapter 145
 53-3-804, as last amended by Laws of Utah 2018, Chapter 39
 53-3-807, as last amended by Laws of Utah 2015, Chapter 210
 76-5b-201, as last amended by Laws of Utah 2018, Chapter 285

76-10-1206, as last amended by Laws of Utah 2009, Chapter 345
 77-22-2.5, as last amended by Laws of Utah 2017, Chapter 447
 77-41-104, as enacted by Laws of Utah 2012, Chapter 145
 77-41-105, as last amended by Laws of Utah 2017, Chapter 290
 77-41-112, as last amended by Laws of Utah 2016, Chapter 185

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-105 is amended to read:**53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.**

The following fees apply under this chapter:

- (1) An original class D license application under Section 53-3-205 is \$32.
- (2) An original provisional license application for a class D license under Section 53-3-205 is \$39.
- (3) An original application for a motorcycle endorsement under Section 53-3-205 is \$11.
- (4) An original application for a taxicab endorsement under Section 53-3-205 is \$9.
- (5) A learner permit application under Section 53-3-210.5 is \$19.
- (6) A renewal of a class D license under Section 53-3-214 is \$32 unless Subsection (10) applies.
- (7) A renewal of a provisional license application for a class D license under Section 53-3-214 is \$32.
- (8) A renewal of a motorcycle endorsement under Section 53-3-214 is \$11.
- (9) A renewal of a taxicab endorsement under Section 53-3-214 is \$9.
- (10) A renewal of a class D license for ~~[a person]~~ an individual 65 and older under Section 53-3-214 is \$17.
- (11) An extension of a class D license under Section 53-3-214 is \$26 unless Subsection (15) applies.
- (12) An extension of a provisional license application for a class D license under Section 53-3-214 is \$26.
- (13) An extension of a motorcycle endorsement under Section 53-3-214 is \$11.
- (14) An extension of a taxicab endorsement under Section 53-3-214 is \$9.
- (15) An extension of a class D license for ~~[a person]~~ an individual 65 and older under Section 53-3-214 is \$14.
- (16) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is \$52.

(17) A commercial class A, B, or C license skills test is \$78.

(18) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is \$9.

(19) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is \$9.

(20) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is \$9.

(21) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is \$26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is \$52.

(22) A retake of a CDL endorsement test provided for in Section 53-3-205 is \$9.

(23) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is \$23.

(24) (a) A license reinstatement application under Section 53-3-205 is \$40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is \$45 in addition to the fee under Subsection (24)(a).

(25) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is \$255.

(b) This administrative fee is in addition to the fees under Subsection (24).

(26) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is \$8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(27) A rescheduling fee under Section 53-3-205 or 53-3-407 is \$25.

(28) (a) Except as provided under Subsections (28)(b) and (c), an identification card application under Section 53-3-808 is \$23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(c) A fee may not be charged for an identification card application if the individual applying:

- (i) (A) has not been issued a Utah driver license;
- (B) is indigent; and
- (C) is at least 18 years of age; or

(ii) submits written verification that the individual is homeless, as defined in Section

26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(C) the Department of Workforce Services.

(29) (a) An extension of a regular identification card under Subsection 53-3-807~~(4)~~(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is \$17.

(b) The fee described in Subsection (29)(a) ~~shall be~~ is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

(30) (a) An extension of a regular identification card under Subsection 53-3-807~~(4)~~(5) is \$23.

(b) The fee described in Subsection (30)(a) ~~shall be~~ is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; or

(iii) the Department of Workforce Services.

(31) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(32) An original mobility vehicle permit application under Section 41-6a-1118 is \$30.

(33) A renewal of a mobility vehicle permit under Section 41-6a-1118 is \$30.

(34) A duplicate mobility vehicle permit under Section 41-6a-1118 is \$12.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states --

Reinstatement -- Fee required -- License agreement.

(1) An application for ~~any~~ an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months ~~of~~ after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months ~~of~~ after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(16);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(17) within six months ~~of~~ after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months ~~of~~ after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two

additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(17).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the ~~person~~ out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) Except as provided under Subsections (7)(f)~~(i)~~ and (g), ~~and (h)~~, an original license expires on the birth date of the applicant in the fifth year ~~following~~ after the year the license certificate was issued.

(b) Except as provided under Subsections (7)(f)~~(i)~~ and (g), ~~and (h)~~, a renewal or an extension to a license expires on the birth date of the licensee in the fifth year ~~following~~ after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and ~~any~~ an endorsement to the regular license certificate held by ~~a person~~ an individual described in Subsection (7)(e)(ii), ~~which~~ that expires during the time period the ~~person~~ individual is stationed outside of the state, is valid until 90 days after the ~~person's orders have been~~ individual's orders are terminated, the person has been individual is discharged, or the person's assignment has been individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to ~~a person~~ an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of ~~a person~~ an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of

Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of ~~[a person]~~ an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

~~[(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.]~~

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, ~~[each]~~ an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid ~~[Social Security]~~ social security number;

(II) written proof that the applicant is ineligible to receive a ~~[Social Security]~~ social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for ~~[a person]~~ an individual who:

(Aa) does not qualify for a ~~[Social Security]~~ social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the ~~[person]~~ applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that ~~[a person]~~ the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had ~~[any]~~ a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had ~~[any]~~ a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) ~~[Each]~~ An applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) ~~[Each]~~ An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on ~~[its]~~ the division's computerized records an applicant's:

(i) (A) ~~[Social Security]~~ social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of ~~[every]~~ an applicant's name, ~~[birthdate]~~ birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application ~~[shall be]~~ is treated as an original application; and

(ii) license and endorsement fees ~~[shall be]~~ are assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(23) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(23) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from ~~[a person]~~ an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license ~~[shall be]~~ is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) ~~[A person]~~ An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) ~~[A person]~~ An applicant who applies for an original license or renewal of a license agrees that the ~~[person's]~~ individual's license is subject to ~~[any]~~ a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) ~~[The indication of intent]~~ A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) ~~[shall be authenticated by the licensee]~~ in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all ~~[persons]~~ applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all ~~[persons]~~ applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

[417] (18) The division and [its] the division's employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

- (a) loss;
- (b) detriment; or
- (c) injury.

[418] (19) [A person] An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

[419] (20) (a) Until December 1, 2014, [a person] an individual born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, [a person] an individual born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the [person] individual has both an unexpired Utah license certificate and an unexpired Utah identification card in the [person's possession, shall be] individual's possession, the individual is required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If [a person] an individual has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection [419] (20), the division shall cancel the Utah identification card on December 1, 2014.

[420] (21) (a) Until December 1, 2017, [a person born prior to] an individual born before December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, [a person born prior to] an individual born before December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the [person] individual has both an unexpired Utah license certificate and an unexpired Utah identification card in the [person's possession, shall be required to] individual's possession, the individual shall surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If [a person] an individual has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection [420] (21), the division shall cancel the Utah identification card on December 1, 2017.

[421] (22) (a) [A person] An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement

to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the [person] applicant:

- (i) is a resident of the state of Utah;
- (ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of [a person] an individual described in Subsection [421] (22)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for [a person] an individual to obtain a motorcycle endorsement under this Subsection [421] (22); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection [421] (22).

Section 3. Section 53-3-216 is amended to read:

53-3-216. Change of address -- Duty of licensee to notify division within 10 days -- Change of name -- Proof necessary -- Method of giving notice by division.

(1) (a) [If a person] Except as provided in Subsection (1)(b), if an individual, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to [him, the person] the individual, the individual shall, within 10 days [of moving] after the day on which the individual moves, notify the division in a manner specified by the division of [his] the individual's new address and the number of any license certificate held by [him] the individual.

(b) If an individual who is required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 30 days after the day on which the individual moves, apply for an updated license in-person at a division office.

(2) If [a person] an applicant requests to change the surname on the applicant's license, the division shall issue a substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:

(a) an original or certified copy of the applicant's marriage certificate;

(b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;

(c) an original or certified copy of a birth certificate issued by a government agency;

(d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or

(e) a certified copy of a divorce decree that does not specify the name change requested together with:

(i) an original or certified copy of the applicant's birth certificate;

(ii) the applicant's marriage license;

(iii) a driver license record showing use of a maiden name; or

(iv) other documentation the division finds acceptable.

~~[(3) (a) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

~~[(i) the person's original license or renewal to an original license expires on the next birth date of the licensee beginning on July 1, 2006;]~~

~~[(ii) the person shall surrender the person's license to the division on or before the licensee's next birth date beginning on July 1, 2006; and]~~

~~[(iii) the person may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:]~~

~~[(A) furnishing proper documentation to the division as provided in Section 53-3-205; and]~~

~~[(B) paying the fee for a license required under Section 53-3-105.]~~

~~[(b) Except as provided in Subsection (3)(c), if a person has applied for and received a license certificate and is subsequently convicted of any offense listed in Subsection 77-41-102(17), the person shall surrender the license certificate to the division on the person's next birth date following the conviction and may apply for a license certificate with an expiration date identified in Subsection 53-3-205(7)(h) by:]~~

~~[(i) furnishing proper documentation to the division as provided in Section 53-3-205; and]~~

~~[(ii) paying the fee for a license required under Section 53-3-105.]~~

~~[(c) A person who is unable to comply with the provisions of Subsection (3)(a) or (3)(b) because the person is in the custody of the Department of Corrections or the Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of~~

~~Subsection (3)(a) or (b) within 10 days of being released from confinement.]~~

~~[(4)] (3) (a) If the division is authorized or required to give [any] a notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:~~

~~(i) personal delivery to the [person] individual to be notified; or~~

~~(ii) deposit in the United States mail with postage prepaid, addressed to the [person at his] individual at the individual's address as shown by the records of the division.~~

~~(b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.~~

~~(c) Proof of the giving of notice in either manner may be made by the certificate of [any] an officer or employee of the division or affidavit of [any person older than] an individual 18 years of age or older, naming the [person] individual to whom the notice was given and specifying the time, place, and manner of giving the notice.~~

~~[(5)] (4) The division may use state mailing or United States Postal Service information to:~~

~~(a) verify an address on an application or on records of the division; and~~

~~(b) correct mailing addresses in the division's records.~~

~~[(6)-(a)] (5) A violation of the provisions of Subsection (1) is an infraction.~~

~~[(b) A person who knowingly fails to surrender a license certificate under Subsection (3) is guilty of a class A misdemeanor.]~~

Section 4. Section 53-3-413 is amended to read:

53-3-413. Issuance of CDL by division -- Driving record -- Expiration date -- Renewal -- Hazardous materials provision.

(1) Before the division may grant a CDL, the division shall obtain the driving record information regarding the applicant through the CDLIS, the NDR, and from each state where the applicant has been licensed.

(2) The division shall notify the CDLIS and provide all information required to ensure identification of the CDL holder within 10 days after:

(a) issuing a CDL following application for an original, renewal, transfer, or upgrade of the CDL; or

(b) any change is made to the identifying information of a CDL holder.

(3) (a) The expiration date for a CDL is the birth date of the holder in the fifth year following the year of issuance of the CDL.

(b) A limited-term CDL expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided in Subsection (3)(a), whichever is sooner; or

(ii) on the birth date of the applicant in the first year following the year that the limited-term CDL was issued if there is no definite end to the individual's period of authorized stay.

~~[(e) An original CDL or a renewal to an original CDL expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.]~~

~~[(d) (c) A CDL held by [a person] an individual ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the [person] individual is stationed outside of the state, is valid until 90 days after the [person] individual has been discharged or has left the service, unless:~~

~~(i) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or~~

~~(ii) the licensee updates the information or photograph on the license certificate.~~

(4) (a) The applicant for a renewal of a CDL shall complete the application form required by Section 53-3-410 and provide updated information and required certification.

(b) In addition to the requirements under Subsection (4)(a), the applicant for a renewal of a limited-term CDL shall present documentary evidence that the status by which the individual originally qualified for the limited-term CDL has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.

(5) The division shall distinguish a limited-term CDL by clearly indicating on the document:

- (a) that it is temporary; and
- (b) its expiration date.

(6) (a) The division may not issue a hazardous materials endorsement on a CDL unless the applicant meets the security threat assessment standards of the federal Transportation Security Administration.

(b) The division shall revoke the hazardous materials endorsement on a CDL upon receiving notice from the federal Transportation Security Administration that the ~~person~~ individual holding a hazardous materials endorsement does not meet Transportation Security Administration security threat assessment standards.

(c) To obtain an original hazardous materials endorsement or retain a hazardous materials endorsement upon CDL renewal or transfer, the applicant must take and pass the knowledge test for hazardous materials endorsement in addition to any other testing required by the division.

(7) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a limited-term CDL in the same way as a CDL issued under this chapter.

Section 5. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, ~~the~~ an applicant shall:

- (a) be a Utah resident;
- (b) have a Utah residence address; and
- (c) appear in person at any license examining station.

(2) ~~The~~ An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) ~~Social Security~~ social security number; or

(ii) written proof that the applicant is ineligible to receive a ~~Social Security~~ social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that ~~a person~~ the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3) (a) The requirements of Section 53-3-234 apply to this section for each ~~person~~ individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) ~~A person~~ An individual who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) Until December 1, 2014, ~~a person~~ an individual born on or after December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2014, ~~a person~~ an individual born on or after December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the ~~person~~ individual has both an unexpired Utah license certificate and an unexpired Utah identification card in the ~~person's~~ individual's possession, the individual shall be required to surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If ~~a person~~ an individual has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (5), the division shall cancel the Utah identification card on December 1, 2014.

(6) (a) Until December 1, 2017, ~~a person~~ an individual born prior to December 1, 1964, may hold both an unexpired Utah license certificate and an unexpired Utah identification card.

(b) On or after December 1, 2017, ~~a person~~ an individual born prior to December 1, 1964:

(i) may not hold both an unexpired Utah license certificate and an unexpired identification card; and

(ii) if the ~~person~~ individual has both an unexpired Utah license certificate and an unexpired Utah identification card in the ~~person's~~

individual's possession, the individual shall ~~be required to~~ surrender either the unexpired Utah license certificate or the unexpired Utah identification card.

(c) If ~~a person~~ an individual has not surrendered either the Utah license certificate or the Utah identification card as required under this Subsection (6), the division shall cancel the Utah identification card on December 1, 2017.

(7) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

Section 6. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1) (a) A regular identification card issued on or after July 1, 2006, expires on the birth date of the applicant in the fifth year ~~following~~ after the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year ~~following~~ after the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year ~~following~~ after the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2) (a) ~~If a person~~ Except as provided in Subsection (2)(b), if an individual has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the ~~person~~ individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the ~~person's~~ individual's new address.

(b) If an individual who is required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the individual shall, within 30 days after the day on which the individual moves, apply for an updated identification card in-person at a division office.

(3) If ~~a person~~ an individual has applied for and received an identification card and subsequently changes the ~~person's~~ individual's name under Title 42, Chapter 1, Change of Name, the ~~person~~ individual:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the [person's] individual's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

~~[(4) (a) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is currently required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry:]~~

~~[(i) the person's identification card expires annually on the next birth date of the cardholder, on and after July 1, 2006;]~~

~~[(ii) the person shall surrender the person's identification card to the division on or before the cardholder's next birth date beginning on July 1, 2006; and]~~

~~[(iii) the person may apply for an identification card with an expiration date identified in Subsection (8) by:]~~

~~[(A) furnishing proper documentation to the division as provided in Section 53-3-804; and]~~

~~[(B) paying the fee for an identification card required under Section 53-3-105.]~~

~~[(b) Except as provided in Subsection (4)(c), if a person has applied for and received an identification card and is subsequently convicted of any offense listed in Subsection 77-41-102(17), the person shall surrender the card to the division on the person's next birth date following the conviction and may apply for a new card with an expiration date identified in Subsection (8) by:]~~

~~[(i) furnishing proper documentation to the division as provided in Section 53-3-804; and]~~

~~[(ii) paying the fee required under Section 53-3-105.]~~

~~[(c) A person who is unable to comply with the provisions of Subsection (4)(a) or (4)(b) because the person is in the custody of the Department of Corrections or Division of Juvenile Justice Services, confined in a correctional facility not operated by or under contract with the Department of Corrections, or committed to a state mental facility, shall comply with the provisions of Subsection (4)(a) or (b) within 10 days of being released from confinement.]~~

~~[(5) (4) A person [older than] 21 years of age or older with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:~~

~~(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;~~

~~(b) completes the application;~~

~~(c) certifies that the extension is for a person 21 years of age or older with a disability; and~~

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

~~[(6) (5) (a) The division may extend a valid regular identification card issued after January 1, 2010, for five years[(a) (i)] at any time within six months before the day on which the identification card expires[; and].~~

~~[(ii) if the identification card was issued after January 1, 2010.]~~

(b) The application for an extension of a regular identification card [shall be] is accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

~~[(7) (6) (a) [(i) Except as prohibited under Subsection (7)(b), a] A regular identification card may only be extended once under Subsections [(5) and (6)] (4) and (5).~~

~~[(ii) (b) After an extension an application for an identification card must be applied for in person at the division's offices.~~

~~[(b) An identification card issued to a person required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, may not be extended.]~~

~~[(8) (7) An identification card issued [prior to] before July 1, 2006, to [a person] an individual 65 years of age or older expires on December 1, 2017.~~

~~[(9) Notwithstanding the provisions of this section, an identification card expires on the birth date of the applicant in the first year following the year that the identification card was issued if the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.]~~

~~[(10) A person who knowingly fails to surrender an identification card under Subsection (4) is guilty of a class A misdemeanor.]~~

Section 7. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person:

(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or

(ii) intentionally distributes or views child pornography; or

(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).

(2) (a) ~~[Sexual]~~ Except as provided in Subsection (2)(b), sexual exploitation of a minor is a second degree felony.

(b) A violation of Subsection (1) for knowingly producing child pornography is a first degree felony if the person produces original child pornography depicting a first degree felony that involves:

(i) the person or another person engaging in conduct with the minor that is a violation of:

(A) Section 76-5-402.1, rape of a child;

(B) Section 76-5-402.3, object rape of a child;

(C) Section 76-5-403.1, sodomy on a child; or

(D) Section 76-5-404.1, aggravated sexual abuse of a child; or

(ii) the minor being physically abused, as defined in Section 78A-6-105.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) It is an affirmative defense to a charge of violating this section that no ~~[person under 18 years of age]~~ minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under ~~[any]~~ federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on ~~[any]~~ tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 8. Section 76-10-1206 is amended to read:

76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that ~~[a person]~~ an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:

(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or ~~[a person the actor]~~ an individual whom the person believes to be a minor, any material harmful to minors;

(b) produces, performs, or directs any performance, before a minor or ~~[a person the actor]~~ an individual whom the person believes to be a minor, that is harmful to minors; or

(c) participates in any performance, before a minor or ~~[a person the actor]~~ an individual whom the person believes to be a minor, that is harmful to minors.

(2) (a) ~~[Each]~~ Except as provided in Subsection (2)(b), each separate offense under this section committed by a person 18 years of age or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than \$1,000, plus \$10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

(b) Each separate offense under this section committed by a person 18 years of age or older against a minor 16 years of age or older, but younger than 18 years of age, is a class A misdemeanor if the person is less than seven years older than the minor at the time of the offense.

~~[(b)]~~ (c) Each separate offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor.

~~[(e)]~~ (d) Each separate offense under this section committed by a person younger than 16 years of age is a class B misdemeanor.

~~[(d)]~~ (e) Subsection (2)(a) supersedes Section 77-18-1.

(3) (a) ~~[If]~~ Except for a defendant described in Subsection (2)(b), if a defendant 18 years of age or older has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:

(i) a minimum mandatory fine of not less than \$5,000, plus \$10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years of age has been previously convicted or adjudicated to be under the jurisdiction of the juvenile court under this section, each separate subsequent offense is a third degree felony.

(c) Subsection (3)(a) supersedes Section 77-18-1.

(d) (i) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(A) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(I) transmitting or routing data from one person to another person; or

(II) providing a connection between one person and another person;

(B) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(C) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(ii) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(A) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(B) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(C) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(4) A service provider, as defined in Section 76-10-1230, is not negligent under this section if [it] the service provider complies with Section 76-10-1231.

(5) A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).

Section 9. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) [any] a wire or oral communication;

(B) [any] a communication made through a tone-only paging device;

(C) [any] a communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means [any] a service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means [any] a wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and [any] a computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" [has the same definition as in] means the same as that term is defined in Section 76-10-1230.

(e) "Prosecutor" [has the same definition as in] means the same as that term is defined in Section 77-22-2.

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g) "Sexual offense against a minor" means:

(i) sexual exploitation of a minor [as defined in Section 76-5b-201] or attempted sexual exploitation of a minor in violation of Section 76-5b-201;

(ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

(iii) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206;

(iv) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401; [or]

(v) human trafficking of a child in violation of Section 76-5-308.5[-]; or

(vi) aggravated sexual extortion of a child in violation of Section 76-5b-204.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier [was] is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including [any] a temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce [any records] a record under Subsections (2)(c)(i) through (v) that [are] is reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4) (a) An electronic communications system or service or remote computing service provider that

provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that [it] the provider does not have the information.

(7) There is no cause of action against [any] a provider or wire or electronic communication service, or [its] the provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8) (a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) [Every] A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 10. Section 77-41-104 is amended to read:

77-41-104. Registration of offenders -- Department and agency requirements.

(1) [An] The department or an agent of the department shall register an offender in the custody of the department [shall be registered by agents of the department] as required under this chapter upon:

(a) placement on probation;

(b) commitment to a secure correctional facility operated by or under contract to the department;

(c) release from confinement to parole status, termination or expiration of sentence, or escape;

(d) entrance to and release from any community-based residential program operated by or under contract to the department; or

(e) termination of probation or parole.

(2) ~~[An offender who]~~ The sheriff of the county in which an offender is confined shall register an offender with the department, as required under this chapter, if the offender is not in the custody of the department and [who] is confined in a correctional facility not operated by or under contract to the department [shall be registered with the department by the sheriff of the county in which the offender is confined,] upon:

(a) commitment to the correctional facility; and

(b) release from confinement.

(3) ~~[An]~~ The division shall register an offender in the custody of the division [shall be registered with the department by the division prior to] with the department, as required under this chapter, before the offender's release from custody of the division.

(4) ~~[An]~~ A state mental hospital shall register an offender committed to [a] the state mental hospital [shall be registered with the department by the hospital] with the department, as required under this chapter, upon the offender's admission and upon the offender's discharge.

(5) (a) (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole within the department.

(ii) In order to conduct offender registration under this chapter, the agency shall ensure the agency staff responsible for registration:

(A) has received initial training by the department and has been certified by the department as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and

(B) certify annually with the department.

(b) (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days after the day on which the department receives the information electronically notify the law enforcement agencies that have jurisdiction over the area where:

(A) the residence that the offender is leaving is located; and

(B) the residence to which the offender is moving is located.

(ii) The department shall provide notification under this Subsection (5)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.

(c) The department shall make available to offenders required to register under this chapter the name of the agency, whether ~~[it]~~ the agency is a

local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.

(6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with ~~[(a)]~~ the continuing registration requirements of this chapter during the period of registration required in Subsection 77-41-105(3), including:

~~[(i)]~~ (a) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;

~~[(ii)]~~ (b) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and

~~[(iii)]~~ (c) notification to the out-of-state agency where the offender is living, regardless of whether ~~[or not]~~ the offender is a resident of that state ~~]; and~~.

~~[(b) the driver license certificate or identification card surrender requirement under Subsection 53-3-216(3) or 53-3-807(4) and application provisions under Section 53-3-205 or 53-3-804.]~~

(7) The department may make administrative rules necessary to implement this chapter, including:

(a) the method for dissemination of the information; and

(b) instructions to the public regarding the use of the information.

(8) ~~[Any]~~ The department shall redact information regarding the identity or location of a victim [shall be redacted by the department] from information provided under Subsections 77-41-103(4) and 77-41-105~~(8)~~(7).

(9) This chapter does not create or impose any duty on any person to request or obtain information regarding any offender from the department.

Section 11. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1) (a) An offender ~~[convicted by any other]~~ who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection 77-41-102(9) or (17).

(b) The offender shall register with the department within 10 days ~~[of entering]~~ after the day on which the offender enters the state, regardless of the offender's length of stay.

(2) (a) An offender required to register under Subsection 77-41-102(9) or (17) who is under supervision by the department shall register in person with Division of Adult Probation and Parole.

(b) An offender required to register under Subsection 77-41-102(9) or (17) who is no longer

under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3) (a) Except as provided in Subsections (3)(b), (c), and (4), and Section 77-41-106, an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register ~~[every]~~ each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and ~~[also]~~ within three business days ~~[of every]~~ after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection ~~[(8)]~~ (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), and Section 77-41-106, an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-41-102(9)(a) or (17)(a), a substantially similar offense, ~~[or any other]~~ another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall:

(i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted or ordered to register if:

(A) that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the ~~[10 years from completion of the sentence]~~ registration period ~~[that is]~~ required under Subsection (3)(a), or is more frequent than every six months; or

(B) that jurisdiction's court order requires registration for greater than the registration period required under Subsection (3)(a) or more frequently than every six months; or

(ii) register in accordance with the requirements of Subsection (3)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (3)(a), or is less frequent than every six months.

(c) (i) An offender convicted as an adult of ~~[any of the offenses]~~ an offense listed in Section 77-41-106 shall, for the offender's lifetime, register ~~[every]~~ each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days ~~[of every]~~ after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection ~~[(8)]~~ (7).

(ii) ~~[This]~~ Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the

offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii) If the sentencing court determines that the offense does not involve force or coercion, lifetime registration under ~~[this—Subsection—(3)(e)]~~ Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years of age. For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years of age [is required to] shall register [in accordance with this chapter for 10 years after termination of sentence or custody of the division] for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5) (a) ~~[In]~~ Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of [this Subsection (5). However, if] Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the [Sex Offender and Kidnap Offender Registration] registration website.

~~[(6) An offender who is required to register under Subsection (3) shall surrender the offender's license, certificate, or identification card as required under Subsection 53-3-216(3) or 53-3-807(4) and may apply for a license certificate or identification card as provided under Section 53-3-205 or 53-3-804.]~~

~~[(7)]~~ (6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years subsequent to the registration period otherwise required under this chapter.

~~[(8)]~~ (7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of ~~[any]~~ a vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and ~~[any]~~ a change of enrollment or employment status of the offender at ~~[any]~~ an educational institution;

(o) the name, the telephone number, and the address of ~~[any]~~ a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of ~~[any]~~ a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

~~[(9) Notwithstanding Section 42-1-1, an offender:]~~

~~[(a) may not change the offender's name:]~~

~~[(i) while under the jurisdiction of the department; and]~~

~~[(ii) until the registration requirements of this statute have expired; and]~~

~~[(b) may not change the offender's name at any time, if registration is for life under Subsection (3)(e).]~~

(8) (a) An offender may change the offender's name in accordance with Title 42, Chapter 1,

Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

~~[(10) (9) Notwithstanding Subsections (8) (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:~~

~~(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or~~

~~(b) online identifiers for the offender's financial accounts, including ~~[any]~~ a bank, retirement, or investment ~~[accounts]~~ account.~~

Section 12. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court ~~[where the offender was convicted of the offense requiring registration]~~ for an order removing the offender from the Sex ~~[Offender]~~ and Kidnap Offender Registry if:

(a) (i) the offender ~~[was]~~ is convicted of an offense ~~[under]~~ described in Subsection (2);

~~[(b) (ii) at least five years have passed ~~[since the completion of]~~ after the day on which the offender's sentence for the offense terminates;~~

~~[(c) (iii) the offense is the only ~~[conviction]~~ offense for which the offender is required to register; and]~~

~~[(d) the offender has not been convicted, subsequently to the offense for which the offender was placed on the registry, of a violation listed in:]~~

~~[(i) Subsection 77-41-102(9), which defines a kidnap offender; or]~~

~~[(ii) Subsection 77-41-102(17), which defines a sex offender.]~~

(iv) the offender is not convicted of another offense, excluding a traffic offense, after the day on which the offender is convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(vi) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vii) the offender complies with all registration requirements required under this chapter at all times; or

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender is placed on probation;

(B) the day on which the offender is released from incarceration to parole;

(C) the day on which the offender's sentence is terminated without parole;

(D) the day on which the offender enters a community-based residential program; or

(E) for a minor, as defined in Section 78A-6-105, the day on which the division's custody of the offender is terminated;

(iii) the offender is not convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender complies with all registration requirements required under this chapter at all times.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, [~~Enticing~~] enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, [~~Kidnapping, and the conviction of violating Section 76-5-301~~] kidnapping;

(c) Section 76-5-304, [~~Unlawful~~] unlawful detention, [~~and~~] if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, [~~Unlawful~~] unlawful sexual activity with a minor [~~and~~] if, at the time of the offense, [~~was~~] the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) (f) Section 76-5-401.2, [~~Unlawful~~] unlawful sexual conduct with a 16 or 17 year old, and at the

time of the offense, [~~was~~] the offender is not more than 15 years older than the victim; or

(4) (g) Section 76-9-702.7, [~~Voyeurism~~] voyeurism, if the offense is a class A misdemeanor.

(3) An offender who meets the requirements under Subsection (1) shall also complete all of the following requirements:]

(a) the offender has successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the conviction;]

(b) (i) the offender has not been convicted of any other crime, excluding traffic offenses, as evidenced by a certificate of eligibility issued by the bureau; and]

(ii) as used in this section, "traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;]

(c) the offender has paid all restitution ordered by the court;]

(d) the offender has complied with all the registration requirements at all times as required in this chapter, as evidenced by a document obtained by the offender from the Utah Department of Corrections, which confirms compliance; and]

(e) the office that prosecuted the offender, and the victim, or if the victim is still a minor, the victim's parent, are notified and provided with an opportunity to respond in accordance with Subsection (6)(a).]

(4) (3) (a) (i) An offender seeking removal from the Sex [~~Offender or~~] and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides [~~any~~] false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to [~~anyone providing~~] an offender who provides false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility [~~under this section~~].

(ii) If the offender meets [~~all of the criteria under Subsections (1), (2), and (3)~~] the requirements described in Subsection (1)(a) or (b), the bureau shall issue a certificate of eligibility to the offender, which [~~shall be~~] is valid for a period of 90 days [~~from the date the certificate is issued~~] after the day on which the bureau issues the certificate.

(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.

(iv) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a

document that states whether the offender meets the requirements described in Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of eligibility is appropriate.

(v) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

~~(4)~~ (4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection ~~(5)~~ (4) shall be deposited ~~in~~ into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

~~(6)~~ (5) (a) The offender shall file the petition, including original information, ~~and~~ the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

~~(4)~~ (b) Upon receipt of a petition for removal from the Sex ~~Offender~~ and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition ~~(A)~~ by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years of age, to the parent or guardian of the victim ~~; and~~.

~~(B) to the Sex and Kidnap Offender Registry office in the Department of Corrections.]~~

~~(4)~~ (c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

~~(4)~~ (d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after ~~receiving~~ the day on which the office receives the petition:

- (i) presentencing report;
- (ii) ~~any~~ an evaluation done as part of sentencing; and
- (iii) any other information the office of the prosecutor feels the court should consider.

~~(4)~~ (e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years of age, may respond to the petition by filing a recommendation or objection with the court within 45 days after the ~~mailing of the petition~~ day on which the petition is mailed to the victim.

~~(7)~~ (6) (a) The court shall:

- (i) review the petition and all documents submitted with the petition; and
- (ii) hold a hearing if requested by the prosecutor or the victim.

~~(b) The court shall consider whether the offender has paid all restitution ordered by the court or the Board of Pardons.]~~

~~(4)~~ (b) ~~[If the court]~~ The court may grant the petition and order removal of the offender from the registry if the court determines that ~~it~~ the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public ~~[to do so, it may grant the petition and order removal of the offender from the registry].~~

~~(4)~~ (c) If the court grants the petition, ~~it~~ the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

~~(4)~~ (d) If the court denies the petition, the offender may not submit another petition for three years.

~~(8)~~ (7) The ~~office of the prosecutor~~ court shall notify the victim and the Sex and Kidnap Offender Registry office in the ~~Department of Corrections~~ department of the court's decision within three days after the day on which the court issues the court's decision in the same manner ~~[as notification was provided]~~ described in Subsection ~~(6)(a)~~ (5).

Section 13. Fees.

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2019 and ending June 30, 2020.

DEPARTMENT OF PUBLIC SAFETY

BUREAU OF CRIMINAL IDENTIFICATION

Non-Government/Other Services

Sex Offender Kidnap Registry

Application for removal from registry 230.00

The Legislature intends that for every initial Application for removal from Registry fee collected, \$140 shall be remitted to the Department of Corrections.

Section 14. Coordinating H.B. 298 with S.B. 8 -- Substantive amendments.

If this H.B. 298 and S.B. 8 State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, both pass and become law, it is the intent of the Legislature that the Office of Legislative Fiscal Analyst, in enrolling S.B. 8, change the fee entitled "Application for removal from registry" to \$230.

CHAPTER 383**H. B. 313**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

HIT AND RUN AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill modifies the penalties for a hit and run accident involving property damage.

Highlighted Provisions:

This bill:

- ▶ modifies the penalty for a hit and run accident involving property damage to a class B misdemeanor for an operator that:
 - has knowledge that the operator was involved in an accident and fails to comply with the statutory requirements; or
 - has reason to believe that the operator was involved in an accident and fails to comply with the statutory requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-401, as last amended by Laws of Utah 2018, Chapter 272

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-401 is amended to read:

41-6a-401. Accident involving property damage -- Duties of operator, occupant, and owner -- Exchange of information -- Notification of law enforcement -- Penalties.

(1) As used in this section:

(a) "Knowledge" or "with knowledge" means, with respect to an individual's own conduct or to circumstances surrounding an individual's conduct, that the individual is aware of the nature of the conduct or the existing circumstances.

(b) "Reason to believe" means information from which a reasonable person would believe that the person may have been involved in an accident.

(2) (a) The operator of a vehicle with knowledge that the operator was involved in, or who has reason to believe that the operator may have been involved in, an accident resulting only in damage to another vehicle or other property:

(i) may move the vehicle as soon as possible off the roadway or freeway main lines, shoulders, medians, or adjacent areas to the nearest safe location on an exit ramp shoulder, a frontage road, the nearest

suitable cross street, or other suitable location that does not obstruct traffic; and

(ii) shall remain at the scene of the accident or the location described in Subsection (2)(a)(i) until the operator has fulfilled the requirements of this section.

(b) Moving a vehicle as required under Subsection (2)(a)(i) does not affect the determination of fault for an accident.

(c) If the operator has knowledge that the operator was involved in, or reason to believe that the operator may have been involved in, an accident resulting in damage to another vehicle or other property only after leaving the scene of the accident, the operator shall immediately comply as nearly as possible with the requirements of this section.

(3) Except as provided under Subsection (6), if the vehicle or other property is operated, occupied, or attended by any person or if the owner of the vehicle or property is present, the operator of the vehicle involved in the accident shall:

(a) give to the persons involved:

(i) the operator's name, address, and the registration number of the vehicle being operated; and

(ii) the name of the insurance provider covering the vehicle being operated including the phone number of the agent or provider; and

(b) upon request and if available, exhibit the operator's license to:

(i) any investigating peace officer present;

(ii) the operator, occupant of, or person attending the vehicle or other property damaged in the accident; and

(iii) the owner of property damaged in the accident, if present.

(4) The operator of a vehicle involved in an accident shall immediately and by the quickest means of communication available give notice or cause to give notice of the accident to the nearest office of a law enforcement agency if the accident resulted in property damage to an apparent extent of \$1,500 or more.

(5) Except as provided under Subsection (6), if the vehicle or other property damaged in the accident is unattended, the operator of the vehicle involved in the accident shall:

(a) locate and notify the operator or owner of the vehicle or the owner of other property damaged in the accident of the operator's name, address, and the registration number of the vehicle causing the damage; or

(b) attach securely in a conspicuous place on the vehicle or other property a written notice giving the operator's name, address, and the registration number of the vehicle causing the damage.

(6) The operator of a vehicle that provides the information required under this section to an investigating peace officer at the scene of the

accident is exempt from providing the information to other persons required under this section.

(7) [(a)] An operator of a vehicle that has knowledge or has reason to believe that the operator may have been involved in an accident and fails to comply with the provisions of this section is guilty of a class [C] B misdemeanor.

~~[(b) An operator of a vehicle that has knowledge that the operator was involved in an accident and fails to comply with the provisions of this section is guilty of a class B misdemeanor.]~~

CHAPTER 384**H. B. 315**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**LAND USE AND
 DEVELOPMENT AMENDMENTS**

Chief Sponsor: Logan Wilde
 Senate Sponsor: Kirk A. Cullimore

LONG TITLE**General Description:**

This bill amends provisions of the Municipal Land Use, Development, and Management Act and the County Land Use, Development, and Management Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses local authority to adopt local land use requirements and regulations;
- ▶ amends the process to vacate a public street;
- ▶ clarifies local authority regarding a planning commission;
- ▶ amends the authority of a local legislative body regarding zoning;
- ▶ provides that a local legislative body may, by ordinance, consider a planning commission's failure to make a certain timely recommendation as a negative recommendation;
- ▶ requires a legislative body to classify each allowed use in a zoning district;
- ▶ prohibits a municipality from withholding the issuance of a certificate of occupancy in certain circumstances;
- ▶ imposes a time limit for final action on certain applications;
- ▶ prohibits a county recorder from recording a subdivision plat unless the relevant municipality or county has approved and signed the plat;
- ▶ requires a municipality and county to establish two acceptable forms of completion assurance and adds elements for which the municipality or county may not require completion assurance;
- ▶ amends provisions regarding exemptions from the plat requirement;
- ▶ amends a provision regarding municipal or county liability for the dedication of a street;
- ▶ allows for a separate process to vacate a public street through a petition;
- ▶ repeals provisions regarding a historic preservation appeal authority;
- ▶ allows a legislative body to act as an appeal authority to review a land use decision in certain circumstances;
- ▶ provides for a court to review a land use application denial and remand the matter in certain circumstances;
- ▶ allows a court to award attorney fees if the court makes a certain determination of bad faith challenge to a land use application decision;
- ▶ requires a boundary line agreement operating as a quitclaim deed to meet certain standards;

- ▶ amends provisions regarding boundary line agreements, including elements, status, and exemptions; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 10-9a-102, as last amended by Laws of Utah 2018, Chapter 460
- 10-9a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
- 10-9a-104, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 10-9a-208, as last amended by Laws of Utah 2010, Chapter 90
- 10-9a-302, as last amended by Laws of Utah 2017, Chapter 84
- 10-9a-501, as last amended by Laws of Utah 2017, Chapter 84
- 10-9a-502, as last amended by Laws of Utah 2017, Chapter 84
- 10-9a-503, as last amended by Laws of Utah 2017, Chapters 17, 79, and 84
- 10-9a-507, as last amended by Laws of Utah 2018, Chapter 339
- 10-9a-509, as last amended by Laws of Utah 2018, Chapter 339
- 10-9a-509.5, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 10-9a-601, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 10-9a-602, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 10-9a-603, as last amended by Laws of Utah 2017, Chapters 410 and 428
- 10-9a-604.5, as last amended by Laws of Utah 2018, Chapter 339
- 10-9a-605, as last amended by Laws of Utah 2010, Chapter 381
- 10-9a-607, as last amended by Laws of Utah 2010, Chapter 381
- 10-9a-608, as last amended by Laws of Utah 2014, Chapter 136
- 10-9a-609, as last amended by Laws of Utah 2014, Chapter 136
- 10-9a-609.5, as last amended by Laws of Utah 2010, Chapter 381
- 10-9a-701, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
- 10-9a-707, as last amended by Laws of Utah 2017, Chapter 84
- 10-9a-801, as last amended by Laws of Utah 2018, Chapter 339
- 10-9a-802, as last amended by Laws of Utah 2018, Chapter 339
- 17-27a-102, as last amended by Laws of Utah 2018, Chapter 460
- 17-27a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
- 17-27a-104, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 17-27a-208, as last amended by Laws of Utah 2010, Chapter 90

17-27a-302, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-501, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-502, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-503, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-506, as last amended by Laws of Utah 2018, Chapter 339
 17-27a-508, as last amended by Laws of Utah 2018, Chapter 339
 17-27a-509.5, as last amended by Laws of Utah 2008, Chapter 112
 17-27a-601, as renumbered and amended by Laws of Utah 2005, Chapter 254
 17-27a-602, as last amended by Laws of Utah 2015, Chapter 465
 17-27a-603, as last amended by Laws of Utah 2017, Chapters 410 and 428
 17-27a-604.5, as last amended by Laws of Utah 2018, Chapter 339
 17-27a-605, as last amended by Laws of Utah 2016, Chapter 147
 17-27a-607, as last amended by Laws of Utah 2010, Chapter 381
 17-27a-608, as last amended by Laws of Utah 2014, Chapter 136
 17-27a-609, as last amended by Laws of Utah 2014, Chapter 136
 17-27a-609.5, as last amended by Laws of Utah 2010, Chapter 381
 17-27a-707, as last amended by Laws of Utah 2017, Chapter 84
 17-27a-801, as last amended by Laws of Utah 2018, Chapter 339
 17-27a-802, as last amended by Laws of Utah 2018, Chapter 339
 57-1-13, as last amended by Laws of Utah 2011, Chapter 88
 57-1-45, as last amended by Laws of Utah 2011, Chapter 88
 63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

Utah Code Sections Affected by Coordination Clause:

10-9a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
 10-9a-509, as last amended by Laws of Utah 2018, Chapter 339
 17-27a-103, as last amended by Laws of Utah 2018, Chapters 339 and 415
 17-27a-509, as last amended by Laws of Utah 2013, Chapter 200
 63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-102 is amended to read:

10-9a-102. Purposes -- General land use authority.

- (1) The purposes of this chapter are to:
- (a) provide for the health, safety, and welfare~~;~~ ~~and~~;
 - (b) promote the prosperity~~;~~;
 - (c) improve the morals, peace ~~[and]~~, good order, comfort, convenience, and aesthetics of each municipality and ~~[its]~~ each municipality's present and future inhabitants and businesses~~;~~ ~~and~~;
 - (d) protect the tax base~~;~~ ~~and~~;
 - (e) secure economy in governmental expenditures~~;~~ ~~and~~;
 - (f) foster the state's agricultural and other industries~~;~~ ~~and~~;
 - (g) protect both urban and nonurban development~~;~~ ~~and~~;
 - (h) protect and ensure access to sunlight for solar energy devices~~;~~ ~~and~~;
 - (i) provide fundamental fairness in land use regulation~~;~~ ~~and~~ ~~and~~;
 - (j) facilitate orderly growth and allow growth in a variety of housing types; and
 - (k) protect property values.
- (2) To accomplish the purposes of this chapter, ~~[municipalities]~~ a municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that ~~[they consider]~~ the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:
- (a) uses~~;~~;
 - (b) density~~;~~;
 - (c) open spaces~~;~~;
 - (d) structures~~;~~;
 - (e) buildings~~;~~;
 - (f) energy efficiency~~;~~;
 - (g) light and air~~;~~;
 - (h) air quality~~;~~;
 - (i) transportation and public or alternative transportation~~;~~;
 - (j) infrastructure~~;~~;
 - (k) street and building orientation ~~[and]~~;
 - (l) width requirements~~;~~;
 - (m) public facilities~~;~~;
 - (n) fundamental fairness in land use regulation~~;~~;
 - (o) considerations of surrounding land uses ~~[and the]~~ to balance ~~[of]~~ the foregoing purposes with a landowner's private property interests~~;~~ ~~height and location of vegetation, trees, and landscaping,~~

unless expressly prohibited by law] and associated statutory and constitutional protections.

(3) (a) Any ordinance, resolution, or rule enacted by a municipality pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A municipality may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the municipality demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 2. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (10)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (10)(a)(i); or

(ii) a therapeutic school.

(11) “Fire authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) “Flood plain” means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) “General plan” means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) “Geologic hazard” means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(15) “Historic preservation authority” means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(16) “Hookup fee” means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(17) “Identical plans” means building plans submitted to a municipality that:

(a) are clearly marked as “identical plans”;

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(18) “Impact fee” means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(19) “Improvement completion assurance” means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(20) “Improvement warranty” means an applicant’s unconditional warranty that the applicant’s installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality’s written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(21) “Improvement warranty period” means a period:

(a) no later than one year after a municipality’s acceptance of required landscaping; or

(b) no later than one year after a municipality’s acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the

municipality has not otherwise required the applicant to mitigate the suspect soil.

(22) “Infrastructure improvement” means permanent infrastructure that is essential for the public health and safety or that: (a) is required for human occupation; and

(b) an applicant must install:

~~[(a)]~~ (i) ~~[pursuant to]~~ in accordance with published installation and inspection specifications for public improvements; and

~~[(b)]~~ (ii) whether the improvement is public or private, as a condition of:

~~[(i)]~~ (A) recording a subdivision plat; ~~[(or)]~~

(B) obtaining a building permit; or

~~[(ii)]~~ (C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(23) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(24) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.

(25) “Land use application”:

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(26) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(27) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(28) “Land use permit” means a permit issued by a land use authority.

(29) “Land use regulation”:

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant’s cost of development compared to the existing specification; or

(B) impact a land use applicant’s use of land.

(30) “Legislative body” means the municipal council.

(31) “Local district” means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(32) “Local historic district or area” means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(33) “Lot” means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(33)]~~ (34) (a) “Lot line adjustment” means ~~[the]~~ a relocation of ~~[the property]~~ a lot line boundary ~~[line in a subdivision]~~ between ~~[two]~~ adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 10-9a-608, with the consent of the owners of record.

(b) “Lot line adjustment” does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

~~[(34)]~~ (35) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(36) “Municipal utility easement” means an easement that:

(a) a plat recorded in a county recorder’s office described as a municipal utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality’s affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the municipality or the municipality’s affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the municipality.

(37) “Nominal fee” means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(38) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(39) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(40) “Official map” means a map drawn by municipal authorities and recorded in a county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality’s general plan.

(41) “Parcel” means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

(42) (a) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land, including a remainder of subdivided land; or

(ii) the adjustment is to the boundaries of a single person’s parcels.

(b) “Parcel boundary adjustment” does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(43) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(44) “Plan for moderate income housing” means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city’s program to encourage an adequate supply of moderate income housing.

(45) “Plat” means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(46) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(47) “Public agency” means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[445] (48) “Public hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[446] (49) “Public meeting” means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(50) “Public street” means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public trail or walk, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[447] (51) “Receiving zone” means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[448] (52) “Record of survey map” means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[449] (53) “Residential facility for persons with a disability” means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[450] (54) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[451] (55) “Sanitary sewer authority” means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[452] (56) “Sending zone” means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[453] (57) “Specified public agency” means:

(a) the state;

(b) a school district; or

(c) a charter school.

[454] (58) “Specified public utility” means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[455] (59) “State” includes any department, division, or agency of the state.

[456] “Street” means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.]

(60) “Subdivided land” means the land, tract, or lot described in a recorded subdivision plat.

[457] (61) (a) “Subdivision” means any land that is divided, resubdivided, or proposed to be divided into two or more lots[, parcels, sites, units, plots,] or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) “Subdivision” includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [457] (61)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) “Subdivision” does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement recorded with the county recorder’s office between owners of adjoining unsubdivided properties adjusting [their] the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting [their]

the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; ~~or~~

(vi) a parcel boundary adjustment~~[-];~~

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; or

(ix) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

[~~58~~] (62) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~59~~] (63) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~60~~] (64) "Transferable development right" means a right to develop and use land that

originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~61~~] (65) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~62~~] (66) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~63~~] (67) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 3. Section 10-9a-104 is amended to read:

10-9a-104. Municipal standards.

(1) [~~Except as provided in Subsection (2), a municipality may enact a land use regulation imposing stricter requirements or higher standards than are required by this chapter.~~] This chapter does not prohibit a municipality from adopting the municipality's own land use standards.

(2) [A] Notwithstanding Subsection (1), a municipality may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, other state law, or federal law.

Section 4. Section 10-9a-208 is amended to read:

10-9a-208. Hearing and notice for petition to vacate a public street.

(1) For any [~~proposal~~] petition to vacate some or all of a public street~~[-, right-of-way,] or municipality utility easement[,-]~~ the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) [~~shall be~~] is:

(a) mailed to the record owner of each parcel that is accessed by the public street~~[-, right-of-way,] or municipal utility easement;~~

(b) mailed to each affected entity;

(c) posted on or near the public street~~[-, right-of-way,] or municipal utility easement~~ in a manner that is calculated to alert the public; and

(d) (i) published [~~in a newspaper of general circulation in~~] on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701.

Section 5. Section 10-9a-302 is amended to read:

10-9a-302. Planning commission powers and duties.

(1) The planning commission shall make a recommendation to the legislative body for:

~~[(1)]~~ (a) a general plan and amendments to the general plan;

~~[(2)]~~ (b) land use regulations;

~~[(3)]~~ (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

~~[(4)]~~ (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

~~[(5)]~~ (e) application processes that:

~~[(a)]~~ (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

~~[(b)]~~ (ii) shall protect the right of each:

~~[(4)]~~ (A) applicant and third party to require formal consideration of any application by a land use authority;

~~[(4ii)]~~ (B) applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and

~~[(4iii)]~~ (C) participant to be heard in each public hearing on a contested application.

(2) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

Section 6. Section 10-9a-501 is amended to read:

10-9a-501. Enactment of land use regulation.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A legislative body shall ensure that a land use regulation ~~[shall be]~~ is consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

Section 7. Section 10-9a-502 is amended to read:

10-9a-502. Preparation and adoption of land use regulation.

(1) ~~[The]~~ A planning commission shall:

(a) provide notice as required by Subsection 10-9a-205(1)(a) and, if applicable, Subsection 10-9a-205(4);

(b) hold a public hearing on a proposed land use regulation;

(c) if applicable, consider each written objection filed in accordance with Subsection 10-9a-205(4) prior to the public hearing; and

(d) (i) ~~[prepare]~~ review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within all or any part of the area of the municipality; and

(ii) forward to the legislative body all objections filed in accordance with Subsection 10-9a-205(4).

(2) (a) ~~[The]~~ A legislative body shall consider each proposed land use regulation ~~[recommended to the legislative body by]~~ that the planning commission~~], and, after]~~ recommends to the legislative body.

(b) After providing notice as required by Subsection 10-9a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the land use regulation ~~[either]~~ described in Subsection (2)(a):

(i) as proposed by the planning commission; or

(ii) after making any revision the legislative body considers appropriate.

(c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 8. Section 10-9a-503 is amended to read:

10-9a-503. Land use ordinance or zoning map amendments -- Historic district or area.

(1) Only a legislative body may amend:

(a) the number, shape, boundaries, ~~[or]~~ area, or general uses of any zoning district;

(b) any regulation of or within the zoning district; or

(c) any other provision of a land use regulation.

(2) ~~[The] A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment [was proposed by the planning commission or was first submitted] to the planning commission for [its] the planning commission's recommendation.~~

(3) ~~[The] A legislative body shall comply with the procedure specified in Section 10-9a-502 in preparing and adopting an amendment to a land use regulation.~~

(4) (a) As used in this Subsection (4):

(i) "Citizen-led process" means a process established by a municipality to create a local historic district or area that requires:

(A) a petition signed by a minimum number of property owners within the boundaries of the proposed local historic district or area; or

(B) a vote of the property owners within the boundaries of the proposed local historic district or area.

(ii) "Condominium project" means the same as that term is defined in Section 57-8-3.

(iii) "Unit" means the same as that term is defined in Section 57-8-3.

(b) If a municipality provides a citizen-led process, the process shall require that:

(i) more than 33% of the property owners within the boundaries of the proposed local historic district or area agree in writing to the creation of the proposed local historic district or area;

(ii) before any property owner agrees to the creation of a proposed local historic district or area under Subsection (4)(b)(i), the municipality prepare and distribute, to each property owner within the boundaries of the proposed local historic district or area, a neutral information pamphlet that:

(A) describes the process to create a local historic district or area; and

(B) lists the pros and cons of a local historic district or area;

(iii) after the property owners satisfy the requirement described in Subsection (4)(b)(i), for each parcel or, if the parcel contains a condominium project, each unit, within the boundaries of the proposed local historic district or area, the municipality provide:

(A) a second copy of the neutral information pamphlet described in Subsection (4)(b)(ii); and

(B) one public support ballot that, subject to Subsection (4)(c), allows the owner or owners of record to vote in favor of or against the creation of the proposed local historic district or area;

(iv) in a vote described in Subsection (4)(b)(iii)(B), the returned public support ballots that reflect a

vote in favor of the creation of the proposed local historic district or area:

(A) equal at least two-thirds of the returned public support ballots; and

(B) represent more than 50% of the parcels and units within the proposed local historic district or area;

(v) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B), the legislative body may override the vote and create the proposed local historic district or area with an affirmative vote of two-thirds of the members of the legislative body; and

(vi) if a local historic district or area proposal fails in a vote described in Subsection (4)(b)(iii)(B) and the legislative body does not override the vote under Subsection (4)(b)(v), a resident may not initiate the creation of a local historic district or area that includes more than 50% of the same property as the failed local historic district or area proposal for four years after the day on which the public support ballots for the vote are due.

(c) In a vote described in Subsection (4)(b)(iii)(B):

(i) a property owner is eligible to vote regardless of whether the property owner is an individual, a private entity, or a public entity;

(ii) the municipality shall count no more than one public support ballot for:

(A) each parcel within the boundaries of the proposed local historic district or area; or

(B) if the parcel contains a condominium project, each unit within the boundaries of the proposed local historic district or area; and

(iii) if a parcel or unit has more than one owner of record, the municipality shall count a public support ballot for the parcel or unit only if the public support ballot reflects the vote of the property owners who own at least a 50% interest in the parcel or unit.

(d) The requirements described in Subsection (4)(b)(iv) apply to the creation of a local historic district or area that is:

(i) initiated in accordance with a municipal process described in Subsection (4)(b); and

(ii) not complete on or before January 1, 2016.

(e) A vote described in Subsection (4)(b)(iii)(B) is not subject to Title 20A, Election Code.

Section 9. Section 10-9a-507 is amended to read:

10-9a-507. Conditional uses.

(1) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 10. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the

municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A municipality may not impose on an applicant who has submitted a complete application ~~[for preliminary subdivision approval]~~ a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(g) ~~[A]~~ Except as provided in Subsection (1)(h), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(h) A municipality may not unreasonably withhold issuance of a certificate of occupancy

where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

Section 11. Section 10-9a-509.5 is amended to read:

10-9a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each municipality shall, in a timely manner, determine whether ~~an~~ a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence, subject to the time limit under Subsection 11-58-402.5(2) for an inland port use application, as defined in Section 11-58-401.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) ~~[The] except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application [within 45 days of the written request]; and~~

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for ~~its~~ the land use authority's determination.

(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 12. Section 10-9a-601 is amended to read:

10-9a-601. Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the ~~ordinance~~ municipality's ordinances and this part before:

(a) ~~it~~ the subdivision plat may be filed ~~or~~ and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

Section 13. Section 10-9a-602 is amended to read:

10-9a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) ~~The~~ A planning commission shall:

(a) ~~prepare and recommend a~~ review and provide a recommendation to the legislative body on any proposed ordinance ~~to the legislative body~~ that regulates the subdivision of land in the municipality;

(b) ~~prepare and recommend or consider and recommend a~~ review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the land in the municipality;

(c) provide notice consistent with Section 10-9a-205; and

(d) hold a public hearing on the proposed ordinance before making ~~its~~ the planning commission's final recommendation to the legislative body.

(2) (a) ~~The municipal~~ A legislative body may adopt, modify, revise, or reject ~~the~~ an ordinance ~~either as proposed by~~ described in Subsection (1) that the planning commission ~~or after making any revision the legislative body considers appropriate~~ recommends.

(b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 14. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary

water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection ~~[(2)(e)]~~ (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (4)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

~~[(e)]~~ (f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (4)(c).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A ~~[plat may not be submitted to a]~~ county recorder ~~[for recording]~~ may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

~~[(ii)]~~ (iii) the signature of each owner described in Subsection [(4)(a)(i)] (4)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility

facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under~~[(D)]~~ Title 54, Chapter 8a, Damage to Underground Utility Facilities~~[(H)]~~, a recorded easement or right-of-way~~[(H)]~~, the law applicable to prescriptive rights~~[(IV)]~~, or any other provision of law.

(5) (a) ~~[After]~~ Except as provided in Subsection (4)(c), after the plat has been acknowledged, certified, and approved, the ~~[owner of the land]~~ individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) ~~[An owner's]~~ A failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 15. Section 10-9a-604.5 is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a landscaping or infrastructure improvement that the land use authority requires.

(2) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required landscaping or infrastructure improvements; or

(ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall ~~[ensure that the]~~ provide completion assurance for:

(i) ~~[provides for]~~ completion of 100% of the required landscaping or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the landscaping or infrastructure improvements, ~~[provides for completion of]~~ 100% of the incomplete or unaccepted landscaping or infrastructure improvements.

(c) A municipality shall:

(i) establish a minimum of two acceptable forms of completion assurance;

~~[(4)]~~ (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

~~[(iii)]~~ (iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

~~[(iii)]~~ (iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of landscaping or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for:

(i) landscaping or an infrastructure improvement that the municipality has previously inspected and accepted~~[-];~~

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private.

(3) At any time before a municipality accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) When a municipality accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)~~[(4)]~~(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 16. Section 10-9a-605 is amended to read:

10-9a-605. Exemptions from plat requirement.

(1) Notwithstanding Sections 10-9a-603 and 10-9a-604, ~~[the land use authority]~~ a municipality may establish a process to approve an

administrative land use decision for a subdivision of 10 lots or less without a plat, by certifying in writing that:

(a) the municipality has provided notice as required by ordinance; and

(b) the proposed subdivision:

(i) is not traversed by the mapped lines of a proposed street as shown in the general plan ~~and does not require the dedication of any land for street or other~~ unless the municipality has approved the location and dedication of any public street, municipal utility easement, any other easement, or any other land for public purposes as the municipality's ordinance requires;

(ii) has been approved by the culinary water authority and the sanitary sewer authority;

(iii) is located in a zoned area; and

(iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 10-9a-603 if the lot or parcel:

(i) qualifies as land in agricultural use under Section 59-2-502;

(ii) meets the minimum size requirement of applicable land use ordinances; and

(iii) is not used and will not be used for any nonagricultural purpose.

(b) The boundaries of each lot or parcel exempted under Subsection (2)(a) shall be graphically illustrated on a record of survey map that, after receiving the same approvals as are required for a plat under Section 10-9a-604, shall be recorded with the county recorder.

(c) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the municipality may require the lot or parcel to comply with the requirements of Section 10-9a-603.

(3) (a) Documents recorded in the county recorder's office that divide property by a metes and bounds description do not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached ~~in~~

~~accordance~~ and that complies with Section 57-3-106.

Section 17. Section 10-9a-607 is amended to read:

10-9a-607. Dedication by plat of public streets and other public places.

(1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the municipality for the public for the uses named or intended in the plat.

(2) The dedication established by this section does not impose liability upon the municipality for public streets and other public places that are dedicated in this manner but are unimproved unless:

(a) adequate financial assurance has been provided in accordance with this chapter; and

(b) the municipality has accepted the dedication.

Section 18. Section 10-9a-608 is amended to read:

10-9a-608. Vacating, altering, or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.

(b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street~~[, right-of-way,]~~ or municipal utility easement is also subject to Section 10-9a-609.5.

(4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 19. Section 10-9a-609 is amended to read:

10-9a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street~~[, right-of-way,]~~ or municipal utility easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is:

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Section 20. Section 10-9a-609.5 is amended to read:

10-9a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

~~(4)~~ (2) A petition to vacate some or all of a public street~~[, right-of-way,]~~ or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street~~[, right-of-way,]~~ or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street~~[, right-of-way,]~~ or municipal utility easement; ~~and~~

(b) proof of written notice to operators of utilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

~~(b)~~ (c) the signature of each owner under Subsection ~~(1)~~~~(a)~~ (2)(a) who consents to the vacation.

~~(2)~~ (3) If a petition is submitted containing a request to vacate some or all of a public street~~[, right-of-way,]~~ or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

~~(3)~~ (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street~~[, right-of-way,]~~ or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

~~(4)~~ (5) If the legislative body adopts an ordinance vacating some or all of a public street~~[, right-of-way,]~~ or municipal utility easement, the legislative body shall ensure that one or both of the

following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection ~~(3)~~ (4); and

(ii) a legal description of the public street to be vacated.

~~(5)~~ (6) The action of the legislative body vacating some or all of a public street~~[, right-of-way,]~~ or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the municipality's fee in the vacated public street~~[, right-of-way,]~~ or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any lot owner; or

(ii) the ~~franchise~~ rights of any public utility.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

Section 21. Section 10-9a-701 is amended to read:

10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:

(a) requests for variances from the terms of the land use ordinances;

(b) appeals from decisions applying the land use ordinances; and

(c) appeals from a fee charged in accordance with Section 10-9a-510.

(2) As a condition precedent to judicial review, each adversely affected person shall timely and

specifically challenge a land use authority's decision, in accordance with local ordinance.

(3) An appeal authority:

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances, except as provided in Title 11, Chapter 58, Part 4, Appeals to Appeals Panel, for an appeal of an inland port use appeal decision, as defined in Section 11-58-401; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority it designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that it can raise in district court;

(d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of its members of any meeting or hearing of the board, body, or panel;

(b) provide each of its members with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of its members is present; and

(d) act only upon the vote of a majority of its convened members.

~~[(6) (a) Each municipality that designates a historic preservation district or area shall, by ordinance, establish or designate a historic preservation appeal authority.]~~

~~[(b) A historic preservation appeal authority shall:]~~

~~[(i) be comprised of the members of the governing body;]~~

~~[(ii) exercise only administrative authority and act in a quasi-judicial manner; and]~~

~~[(iii) hear and decide appeals from administrative decisions of the historic preservation authority.]~~

~~[(e) An applicant appealing an administrative decision of the historic preservation authority may appeal to either:]~~

~~[(i) the historic preservation appeal authority; or]~~

~~[(ii) the land use appeal authority established under Subsection (1).]~~

Section 22. Section 10-9a-707 is amended to read:

10-9a-707. Scope of review of factual matters on appeal -- Appeal authority requirements.

(1) A municipality may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.

(2) If the municipality fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.

(3) If the scope of review of factual matters is on the record, the appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

(4) The appeal authority shall:

(a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

(5) (a) An appeal authority's land use decision is a quasi-judicial act, ~~even if the appeal authority is the~~.

(b) A legislative body may act as an appeal authority unless both the legislative body and the appealing party agree to allow a third party to act as the appeal authority.

(6) Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.

Section 23. Section 10-9a-801 is amended to read:

10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a land use authority's decision, the court shall remand the matter to the land use authority with instructions to issue a decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application for any adversely affected third party, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or authority appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

Section 24. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1) (a) A municipality or any adversely affected owner of real estate within the municipality in which violations of this chapter or ordinances enacted under the authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2) (a) A municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the municipality has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

Section 25. Section 17-27a-102 is amended to read:

17-27a-102. Purposes -- General land use authority.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare~~;~~~~and~~;

(ii) promote the prosperity~~;~~;

(iii) improve the morals, peace ~~and~~, good order, comfort, convenience, and aesthetics of each county and ~~its~~ each county's present and future inhabitants and businesses~~;~~~~to~~;

(iv) protect the tax base~~;~~~~to~~;

(v) secure economy in governmental expenditures~~;~~~~to~~;

(vi) foster the state's agricultural and other industries~~;~~~~to~~;

(vii) protect both urban and nonurban development~~;~~~~to~~;

(viii) protect and ensure access to sunlight for solar energy devices~~;~~~~to~~;

(ix) provide fundamental fairness in land use regulation~~;~~~~and to~~;

(x) facilitate orderly growth and allow growth in a variety of housing types; and

(xi) protect property values.

(b) To accomplish the purposes of this chapter, ~~counties~~ a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that ~~they consider~~ the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses~~;~~;

(ii) density~~;~~;

(iii) open spaces~~;~~;

(iv) structures~~;~~;

(v) buildings~~;~~;

(vi) energy-efficiency~~;~~;

(vii) light and air~~;~~;

(viii) air quality~~;~~;

(ix) transportation and public or alternative transportation~~;~~;

(x) infrastructure~~;~~;

(xi) street and building orientation and width requirements~~;~~;

(xii) public facilities~~;~~;

(xiii) fundamental fairness in land use regulation~~;~~ and

(xiv) considerations of surrounding land uses ~~and the~~ to balance ~~of~~ the foregoing purposes with a landowner's private property interests~~;~~ height and location of vegetation, trees, and landscaping, ~~unless expressly prohibited by law~~ and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

Section 26. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(5) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain

conditions are required that mitigate or eliminate the detrimental impacts.

(7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(8) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

~~[(8)]~~ (9) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

~~[(9)]~~ (10) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

~~[(10)]~~ (11) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

~~[(11)]~~ (12) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through

grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection ~~[(11)(a)(i)]~~ (12)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection ~~[(11)(a)(i)]~~ (12)(a)(i); and

(B) used in support of the purposes of a building described in Subsection ~~[(11)(a)(i)]~~ (12)(a)(i); or

(ii) a therapeutic school.

~~[(42)]~~ (13) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(43)]~~ (14) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

~~[(44)]~~ (15) "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~[(45)]~~ (16) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

~~[(46)]~~ (17) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

~~[(47)]~~ (18) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

~~[(48)]~~ (19) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

~~[(49)]~~ (20) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(20)]~~ (21) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

~~[(21)]~~ (22) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

~~[(22)]~~ (23) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

~~[(23)]~~ (24) “Infrastructure improvement” means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

~~[(a)]~~ (i) ~~[pursuant to]~~ in accordance with published installation and inspection specifications for public improvements; and

~~[(b)]~~ (ii) as a condition of:

(i) (A) recording a subdivision plat; ~~[or]~~

(B) obtaining a building permit; or

~~[(ii)]~~ (C) ~~[development of]~~ developing a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(24)]~~ (25) “Internal lot restriction” means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(25)]~~ (26) “Interstate pipeline company” means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(26)]~~ (27) “Intrastate pipeline company” means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(27)]~~ (28) “Land use applicant” means a property owner, or the property owner’s designee, who submits a land use application regarding the property owner’s land.

~~[(28)]~~ (29) “Land use application”:

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(29)]~~ (30) “Land use authority” means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(30)]~~ (31) “Land use decision” means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(31)]~~ (32) “Land use permit” means a permit issued by a land use authority.

~~[(32)]~~ (33) “Land use regulation”:

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant’s cost of development compared to the existing specification; or

(B) impact a land use applicant’s use of land.

~~[(33)]~~ (34) “Legislative body” means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(34)]~~ (35) “Local district” means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) “Lot” means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(35)]~~ (37) (a) “Lot line adjustment” means ~~[the]~~ a relocation of ~~[the property]~~ a lot line boundary ~~[line in a subdivision]~~ between ~~[two]~~ adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 17-27a-608, with the consent of the owners of record.

(b) “Lot line adjustment” does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

[~~(36)~~] (38) “Moderate income housing” means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(37)~~] (39) “Mountainous planning district” means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

[~~(38)~~] (40) “Nominal fee” means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(39)~~] (41) “Noncomplying structure” means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(40)~~] (42) “Nonconforming use” means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(41)~~] (43) “Official map” means a map drawn by county authorities and recorded in the county recorder’s office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county’s general plan.

(44) “Parcel” means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

[~~(42)~~] (45) (a) “Parcel boundary adjustment” means a recorded agreement between owners of adjoining [~~properties~~] parcels adjusting [~~their~~] the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if [~~(a)~~] no additional parcel is created[;] and:

[~~(b)~~] (i) [~~each~~] none of the property identified in the agreement is [~~unsubdivided land, including a remainder of~~] subdivided land[;]; or

(ii) the adjustment is to the boundaries of a single person’s parcels.

(b) “Parcel boundary adjustment” does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

[~~(43)~~] (46) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(44)~~] (47) “Plan for moderate income housing” means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county’s program to encourage an adequate supply of moderate income housing.

[~~(45)~~] (48) “Planning advisory area” means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(46)~~] (49) “Plat” means a map or other graphical representation of lands [~~being laid out and prepared~~] that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603[; 17-23-17;] or 57-8-13.

[~~(47)~~] (50) “Potential geologic hazard area” means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area’s potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[448] (51) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
- (d) a charter school.

[449] (52) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[450] (53) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(54) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public trail or walk, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[451] (55) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[452] (56) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[453] (57) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
- (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensure and Inspection Act.

[454] (58) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

[455] (59) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[456] (60) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[457] (61) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[458] (62) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

[459] (63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[460] (64) "State" includes any department, division, or agency of the state.

[461] "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.]

(65) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

[462] (66) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots[, parcels, sites, units, plots,] or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

- (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and
- (ii) except as provided in Subsection [462] (66)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

- (i) a bona fide division or partition of agricultural land for agricultural purposes;
- (ii) a recorded agreement recorded with the county recorder's office between owners of adjoining properties adjusting [their] the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:
 - (A) no new lot is created; and
 - (B) the adjustment does not violate applicable land use ordinances;
- (iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous ~~unsubdivided~~ parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been

subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) ~~[a recorded]~~ an agreement between owners of adjoining subdivided properties adjusting ~~[their]~~ the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; ~~[or]~~

(vii) a parcel boundary adjustment~~[-];~~

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; or

(x) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(62)]~~ (66) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

~~[(63)]~~ (67) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(64)]~~ (68) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

~~[(65)]~~ (69) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(66)]~~ (70) "Unincorporated" means the area outside of the incorporated area of a municipality.

~~[(67)]~~ (71) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(68)]~~ (72) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 27. Section 17-27a-104 is amended to read:

17-27a-104. County standards.

(1) ~~[Except as provided in Subsection (2), a county may enact a land use regulation imposing stricter requirements or higher standards than are required by this chapter.]~~ This chapter does not prohibit a county from adopting the county's own land use standards.

(2) ~~[A]~~ Notwithstanding Subsection (1), a county may not impose a requirement, regulation, condition, or standard that conflicts with a provision of this chapter, other state law, or federal law.

Section 28. Section 17-27a-208 is amended to read:

17-27a-208. Hearing and notice for petition to vacate a public street.

(1) For any ~~[proposal]~~ petition to vacate some or all of a public street~~[-, right-of-way,]~~ or county utility easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) ~~shall be~~ is:

(a) mailed to the record owner of each parcel that is accessed by the public street ~~[, right-of-way,]~~ or county utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street ~~[, right-of-way,]~~ or county utility easement in a manner that is calculated to alert the public; and

(d) (i) published ~~[in a newspaper of general circulation in]~~ on the website of the county in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section 63F-1-701.

Section 29. Section 17-27a-302 is amended to read:

17-27a-302. Planning commission powers and duties.

(1) Each countywide planning advisory area or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, make a recommendation to the county legislative body for:

~~[(1)]~~ (a) a general plan and amendments to the general plan;

~~[(2)]~~ (b) land use regulations;

~~[(3)]~~ (c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

~~[(4)]~~ (d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

~~[(5)]~~ (e) application processes that:

~~[(a)]~~ (i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

~~[(b)]~~ (ii) shall protect the right of each:

~~[(i)]~~ (A) applicant and third party to require formal consideration of any application by a land use authority;

~~[(ii)]~~ (B) applicant, adversely affected party, or county officer or employee to appeal a land use authority's decision to a separate appeal authority; and

~~[(iii)]~~ (C) participant to be heard in each public hearing on a contested application.

~~[(2)]~~ Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

Section 30. Section 17-27a-501 is amended to read:

17-27a-501. Enactment of land use regulation.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A land use regulation shall be consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 17-27a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

Section 31. Section 17-27a-502 is amended to read:

17-27a-502. Preparation and adoption of land use regulation.

(1) ~~[The]~~ A planning commission shall:

(a) provide notice as required by Subsection 17-27a-205(1)(a) and, if applicable, Subsection 17-27a-205(4);

(b) hold a public hearing on a proposed land use regulation;

(c) if applicable, consider each written objection filed in accordance with Subsection 17-27a-205(4) prior to the public hearing; and

(d) (i) ~~[prepare]~~ review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within:

(A) all or any part of the unincorporated area of the county; or

(B) for a mountainous planning district, all or any part of the area in the mountainous planning district; and

(ii) forward to the legislative body all objections filed in accordance with Subsection 17-27a-205(4).

(2) (a) The legislative body shall consider each proposed land use regulation [recommended to the legislative body by] that the planning commission[, and, after] recommends to the legislative body.

(b) After providing notice as required by Subsection 17-27a-205(1)(b) and holding a public meeting, the legislative body may adopt or reject the proposed land use regulation [either] described in Subsection (2)(a):

(i) as proposed by the planning commission; or

(ii) after making any revision the legislative body considers appropriate.

(c) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 32. Section 17-27a-503 is amended to read:

17-27a-503. Zoning district or land use regulation amendments.

(1) Only a legislative body may amend:

(a) the number, shape, boundaries, [ø] area, or general uses of any zoning district;

(b) any regulation of or within the zoning district; or

(c) any other provision of a land use regulation.

(2) [The] A legislative body may not make any amendment authorized by this section unless the legislative body first submits the amendment [was proposed by the planning commission or is first submitted] to the planning commission for [its] the planning commission's recommendation.

(3) [The] A legislative body shall comply with the procedure specified in Section 17-27a-502 in preparing and adopting an amendment to a land use regulation.

Section 33. Section 17-27a-506 is amended to read:

17-27a-506. Conditional uses.

(1) (a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated

detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 34. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated

to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application [~~for preliminary subdivision approval~~] a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) [A] Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of

the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

Section 35. Section 17-27a-509.5 is amended to read:

17-27a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

(1) (a) Each county shall, in a timely manner, determine whether ~~an~~ a land use application is complete for the purposes of subsequent, substantive land use authority review.

(b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

(i) complete for the purposes of allowing subsequent, substantive land use authority review; or

(ii) deficient with respect to a specific, objective, ordinance-based application requirement.

(c) Within 30 days of receipt of an applicant's request under this section, the county shall either:

(i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or

(ii) accept the application as complete for the purposes of further substantive processing by the land use authority.

(d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

(e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

(ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).

(f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).

(ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.

(2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.

(b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

(c) Within 45 days from the date of service of the written request described in Subsection (2)(b):

(i) [The] except as provided in Subsection (2)(c)(ii), the land use authority shall take final action, approving or denying the application [within 45 days of the written request.]; and

(ii) if a landowner petitions for a land use regulation, a legislative body shall take final action by approving or denying the petition.

(d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.

(e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority should have taken final action under Subsection (2)(c).

(3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.

(b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's

installation of required subdivision improvements or performance of warranty work.

(ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.

(iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.

(c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for ~~its~~ the land use authority's determination.

(4) Subject to Section 17-27a-508, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.

(5) There shall be no money damages remedy arising from a claim under this section.

Section 36. Section 17-27a-601 is amended to read:

17-27a-601. Enactment of subdivision ordinance.

(1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the ~~ordinance~~ county's ordinances and this part before:

(a) ~~it~~ the subdivision plat may be filed [or] and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

Section 37. Section 17-27a-602 is amended to read:

17-27a-602. Planning commission preparation and recommendation of subdivision ordinance -- Adoption or rejection by legislative body.

(1) ~~The~~ A planning commission shall:

(a) ~~[prepare and recommend a] review and provide a recommendation to the legislative body on any proposed ordinance [to the legislative body] that regulates the subdivision of land in the municipality;~~

(b) ~~[prepare and recommend or consider and recommend a] review and make a recommendation to the legislative body on any proposed ordinance that amends the regulation of the subdivision of the~~

unincorporated land in the county or, in the case of a mountainous planning district, the mountainous planning district;

(c) provide notice consistent with Section 17-27a-205; and

(d) hold a public hearing on the proposed ordinance before making [its] the planning commission's final recommendation to the legislative body.

(2) (a) ~~[The county]~~ A legislative body may adopt, modify, revise, or reject [the] an ordinance ~~[either as proposed by]~~ described in Subsection (1) that the planning commission ~~[or after making any revision the county legislative body considers appropriate]~~ recommends.

(b) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation if the legislative body has provided for that consideration by ordinance.

Section 38. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)~~(e)~~(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (4)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

~~[(e)] (f)~~ The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (4)(c).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) A ~~plat may not be submitted to a~~ county recorder ~~for recording~~ may not record a plat unless, subject to Subsection 17-27a-604(2):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

~~(iii)~~ (iii) the signature of each owner described in Subsection [4(a)(i)] (4)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under~~[-(I)]~~ Title 54, Chapter 8a, Damage to Underground Utility Facilities~~[-(II)]~~, a recorded easement or right-of-way~~[-(III)]~~, the law applicable to prescriptive rights~~[-or-(IV)]~~, or any other provision of law.

(5) (a) ~~[After]~~ Except as provided in Subsection (4)(c), after the plat has been acknowledged, certified, and approved, the [owner of the land] individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) ~~[An owner's]~~ A failure to record a plat within the time period designated by ordinance renders the plat voidable.

Section 39. Section 17-27a-604.5 is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) A land use authority shall establish objective inspection standards for acceptance of a required landscaping or infrastructure improvement.

(2) (a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required landscaping or infrastructure improvements; or

(ii) post an improvement completion assurance for any required landscaping or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall ~~ensure that the~~ provide completion assurance for:

(i) ~~provides for~~ completion of 100% of the required landscaping or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the landscaping or infrastructure improvements, ~~provides for completion of~~ 100% of the incomplete or unaccepted landscaping or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

~~(4)~~ (ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

~~(iii)~~ (iii) establish a system for the partial release of an improvement completion assurance as portions of required landscaping or infrastructure improvements are completed and accepted in accordance with local ordinance; and

~~(iii)~~ (iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation of landscaping or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) landscaping or an infrastructure improvement that the county has previously inspected and accepted[-];

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation; or

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private.

(3) At any time before a county accepts a landscaping or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(4) When a county accepts an improvement completion assurance for landscaping or infrastructure improvements for a development in accordance with Subsection (2)(c)(4)(ii), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(5) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 40. Section 17-27a-605 is amended to read:

17-27a-605. Exemptions from plat requirement.

(1) Notwithstanding Sections 17-27a-603 and 17-27a-604, ~~the land use authority~~ a county may establish a process to approve an administrative land use decision for the subdivision of unincorporated land or mountainous planning district land into 10 lots or less without a plat, by certifying in writing that:

(a) the county has provided notice as required by ordinance; and

(b) the proposed subdivision:

(i) is not traversed by the mapped lines of a proposed street as shown in the general plan ~~and does not require the dedication of any land for street or other~~ unless the county has approved the

location and dedication of any public street, county utility easement, any other easement, or any other land for public purposes as the county's ordinance requires;

(ii) has been approved by the culinary water authority and the sanitary sewer authority;

(iii) is located in a zoned area; and

(iv) conforms to all applicable land use ordinances or has properly received a variance from the requirements of an otherwise conflicting and applicable land use ordinance.

(2) (a) Subject to Subsection (1), a lot or parcel resulting from a division of agricultural land is exempt from the plat requirements of Section 17-27a-603 if:

(i) the lot or parcel:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used and will not be used for any nonagricultural purpose; and

(ii) the new owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel by legal description; and

(B) stating that the lot or parcel is created for agricultural purposes as defined in Section 59-2-502 and will remain so until a future zoning change permits other uses.

(b) If a lot or parcel exempted under Subsection (2)(a) is used for a nonagricultural purpose, the county shall require the lot or parcel to comply with the requirements of Section 17-27a-603 and all applicable land use ordinance requirements.

(3) (a) Except as provided in Subsection (4), a document recorded in the county recorder's office that divides property by a metes and bounds description does not create an approved subdivision allowed by this part unless the land use authority's certificate of written approval required by Subsection (1) is attached to the document.

(b) The absence of the certificate or written approval required by Subsection (1) does not:

(i) prohibit the county recorder from recording a document; or

(ii) affect the validity of a recorded document.

(c) A document which does not meet the requirements of Subsection (1) may be corrected by the recording of an affidavit to which the required certificate or written approval is attached ~~in accordance~~ and that complies with Section 57-3-106.

(4) (a) As used in this Subsection (4):

(i) "Divided land" means land that:

(A) is described as the land to be divided in a notice under Subsection (4)(b)(ii); and

(B) has been divided by a minor subdivision.

(ii) "Land to be divided" means land that is proposed to be divided by a minor subdivision.

(iii) "Minor subdivision" means a division of at least 100 contiguous acres of agricultural land in a county of the third, fourth, fifth, or sixth class to create one new lot that, after the division, is separate from the remainder of the original 100 or more contiguous acres of agricultural land.

(iv) "Minor subdivision lot" means a lot created by a minor subdivision.

(b) Notwithstanding Sections 17-27a-603 and 17-27a-604, an owner of at least 100 contiguous acres of agricultural land may make a minor subdivision by submitting for recording in the office of the recorder of the county in which the land to be divided is located:

(i) a recordable deed containing the legal description of the minor subdivision lot; and

(ii) a notice:

(A) indicating that the owner of the land to be divided is making a minor subdivision;

(B) referring specifically to this section as the authority for making the minor subdivision; and

(C) containing the legal description of:

(I) the land to be divided; and

(II) the minor subdivision lot.

(c) A minor subdivision lot:

(i) may not be less than one acre in size;

(ii) may not be within 1,000 feet of another minor subdivision lot; and

(iii) is not subject to the subdivision ordinance of the county in which the minor subdivision lot is located.

(d) Land to be divided by a minor subdivision may not include divided land.

(e) A county:

(i) may not deny a building permit to an owner of a minor subdivision lot based on:

(A) the lot's status as a minor subdivision lot; or

(B) the absence of standards described in Subsection (4)(e)(ii); and

(ii) may, in connection with the issuance of a building permit, subject a minor subdivision lot to reasonable health, safety, and access standards that the county has established and made public.

(5) (a) Notwithstanding Sections 17-27a-603 and 17-27a-604, and subject to Subsection (1), the legislative body of a county may enact an ordinance allowing the subdivision of a parcel, without complying with the plat requirements of Section 17-27a-603, if:

(i) the parcel contains an existing legal single family dwelling unit;

(ii) the subdivision results in two parcels, one of which is agricultural land;

(iii) the parcel of agricultural land:

(A) qualifies as land in agricultural use under Section 59-2-502; and

(B) is not used, and will not be used, for a nonagricultural purpose;

(iv) both the parcel with an existing legal single family dwelling unit and the parcel of agricultural land meet the minimum area, width, frontage, and setback requirements of the applicable zoning designation in the applicable land use ordinance; and

(v) the owner of record completes, signs, and records with the county recorder a notice:

(A) describing the parcel of agricultural land by legal description; and

(B) stating that the parcel of agricultural land is created as land in agricultural use, as defined in Section 59-2-502, and will remain as land in agricultural use until a future zoning change permits another use.

(b) If a parcel of agricultural land divided from another parcel under Subsection (5)(a) is later used for a nonagricultural purpose, the exemption provided in Subsection (5)(a) no longer applies, and the county shall require the owner of the parcel to:

(i) retroactively comply with the subdivision plat requirements of Section 17-27a-603; and

(ii) comply with all applicable land use ordinance requirements.

Section 41. Section 17-27a-607 is amended to read:

17-27a-607. Dedication by plat of public streets and other public places.

(1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all public streets and other public places, and vests the fee of those parcels of land in the county for the public for the uses named or intended in the plat.

(2) The dedication established by this section does not impose liability upon the county for public streets and other public places that are dedicated in this manner but are unimproved unless:

(a) adequate financial assurance has been provided in accordance with this chapter; and

(b) the county has accepted the dedication.

Section 42. Section 17-27a-608 is amended to read:

17-27a-608. Vacating or amending a subdivision plat.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to have some or all of the plat vacated or amended.

(b) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the

petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the vacation or amendment of the plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(2) Unless a local ordinance provides otherwise, the public hearing requirement of Subsection (1)(c) does not apply and a land use authority may consider at a public meeting an owner's petition to vacate or amend a subdivision plat if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join the petition, regardless of whether the lots or parcels are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjacent property owners in accordance with any applicable local ordinance.

(3) Each request to vacate or amend a plat that contains a request to vacate or amend a public street[, right-of-way,] or county utility easement is also subject to Section 17-27a-609.5.

(4) Each petition to vacate or amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjacent parcels that are described by either a metes and bounds description or by a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the descriptions of both the original parcels and the parcels created by the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 43. Section 17-27a-609 is amended to read:

17-27a-609. Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

(1) The land use authority may approve the vacation or amendment of a plat by signing an

amended plat showing the vacation or amendment if the land use authority finds that:

(a) there is good cause for the vacation or amendment; and

(b) no public street[, ~~right-of-way,~~] or county utility easement has been vacated or amended.

(2) (a) The land use authority shall ensure that the amended plat showing the vacation or amendment is recorded in the office of the county recorder in which the land is located.

(b) If the amended plat is approved and recorded in accordance with this section, the recorded plat shall vacate, supersede, and replace any contrary provision in a previously recorded plat of the same land.

(3) (a) A legislative body may vacate a subdivision or a portion of a subdivision by recording in the county recorder's office an ordinance describing the subdivision or the portion being vacated.

(b) The recorded vacating ordinance shall replace a previously recorded plat described in the vacating ordinance.

(4) An amended plat may not be submitted to the county recorder for recording unless it is:

(a) signed by the land use authority; and

(b) signed, acknowledged, and dedicated by each owner of record of the portion of the plat that is amended.

(5) A management committee may sign and dedicate an amended plat as provided in Title 57, Chapter 8, Condominium Ownership Act.

(6) A plat may be corrected as provided in Section 57-3-106.

Section 44. Section 17-27a-609.5 is amended to read:

17-27a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

[4] (2) A petition to vacate some or all of a public street[, ~~right-of-way,~~] or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street[, ~~right-of-way,~~] or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street[, ~~right-of-way,~~] or county utility easement; [and]

(b) proof of written notice to operators of utilities located within the bounds of the public street or county utility easement sought to be vacated; and

[4] (c) the signature of each owner under Subsection [4] (2)(a) who consents to the vacation.

[2] (3) If a petition is submitted containing a request to vacate some or all of a public street[, ~~right-of-way,~~] or county utility easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

[3] (4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street[, ~~right-of-way,~~] or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

[4] (5) If the legislative body adopts an ordinance vacating some or all of a public street[, ~~right-of-way,~~] or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection [3] (4); and

(ii) a legal description of the public street to be vacated.

[5] (6) The action of the legislative body vacating some or all of a public street[, ~~right-of-way,~~] or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any lot owner; or

(ii) the [~~franchise~~] rights of any public utility.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

Section 45. Section 17-27a-707 is amended to read:

17-27a-707. Scope of review of factual matters on appeal -- Appeal authority requirements.

(1) A county may, by ordinance, designate the scope of review of factual matters for appeals of land use authority decisions.

(2) If the county fails to designate a scope of review of factual matters, the appeal authority shall review the matter de novo, without deference to the land use authority's determination of factual matters.

(3) If the scope of review of factual matters is on the record, the appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

(4) The appeal authority shall:

(a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and

(b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.

(5) (a) An appeal authority's land use decision is a quasi-judicial act[, even if the appeal authority is the].

(b) A legislative body may act as an appeal authority unless both the legislative body and the appealing party agree to allow a third party to act as the appeal authority.

(6) Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to an appeal authority.

Section 46. Section 17-27a-801 is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Any person adversely affected by a final decision made in the exercise of or in violation of the provisions of this chapter may file a petition for review of the decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final decision of a land use authority or an appeal authority is valid; and

(ii) uphold the decision unless the decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A decision is arbitrary and capricious if the decision is not supported by substantial evidence in the record.

(ii) A decision is illegal if the decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse the decision of a land use authority.

(ii) If the court reverses a denial of a land use application, the court shall remand the matter to the land use authority with instructions to issue an approval consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a

land use application for any adversely affected third party, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that it was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, the aggrieved party may petition the appeal authority to stay its decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed pending district court review if the appeal authority finds it to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's decision.

(10) If the court determines that a party initiated or pursued a challenge to the decision on a land use application in bad faith, the court may award attorney fees.

Section 47. Section 17-27a-802 is amended to read:

17-27a-802. Enforcement.

(1) (a) A county or any adversely affected owner of real estate within the county in which violations of this chapter or ordinances enacted under the

authority of this chapter occur or are about to occur may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2) (a) A county may enforce the county's ordinance by withholding a building permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the county has accepted an improvement completion assurance for landscaping or infrastructure improvements for the development.

Section 48. Section 57-1-13 is amended to read:

57-1-13. Form of quitclaim deed -- Effect.

(1) A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this _____ (month \ day \ year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) [~~For a~~] A boundary line agreement operating as a quitclaim deed [~~as~~] shall meet the requirements described in Section 57-1-45[~~, the boundary line agreement shall include, in addition to a legal description of the agreed upon boundary line:~~].

[~~(a) the signature of each grantor;~~]

~~(b) a sufficient acknowledgment for each grantor's signature; and]~~

~~[(c) the address of each grantee for assessment purposes.]~~

Section 49. Section 57-1-45 is amended to read:

57-1-45. Boundary line agreements.

(1) If properly executed and acknowledged as required under this chapter, and when recorded in the office of the recorder of the county in which the property is located, an agreement between adjoining property owners [designating] of land that designates the boundary line between [their properties, when recorded in the office of the recorder of the county in which the property is located, shall act] the adjoining properties acts as a quitclaim deed [and] to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

(2) [A] Adjoining property owners executing a boundary line agreement described in Subsection (1) shall [include]:

(a) ensure that the agreement includes:

~~[(a)]~~ (i) a legal description of the agreed upon boundary line;

~~[(b)]~~ (ii) the name and signature of each grantor that is party to the agreement;

~~[(c)]~~ (iii) a sufficient acknowledgment for each grantor's signature; [and]

~~[(d)]~~ (iv) the address of each grantee for assessment purposes[-];

(v) the parcel or lot each grantor owns before the boundary line is changed;

(vi) a statement citing the file number of a record of a survey map, as defined in Sections 10-9a-103 and 17-27a-103, that the parties prepare and file, in accordance with Section 17-23-17, in conjunction with the boundary line agreement; and

(vii) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13; and

(b) prepare an amended plat in accordance with Title 10, Chapter 9a, Part 6, Subdivisions, or Title 17, Chapter 27a, Part 6, Subdivisions.

(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the date on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and

(b) relocates the parties' common boundary line for an exchange of consideration.

(4) Notwithstanding Title 10, Chapter 9a, Part 6, Subdivisions, Title 17, Chapter 27a, Part 6, Subdivisions, or the local entity's ordinances or policies, a boundary line agreement is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;

(b) the local entity's planning commission review or recommendation; or

(c) an engineering review or approval of the local entity.

Section 50. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2020.

(2) (a) Subsection [17-27a-103(15)(b)] 17-27a-103(16)(b), regarding a mountainous planning district, is repealed June 1, 2020.

(b) Subsection [17-27a-103(37)] 17-27a-103(39), regarding a mountainous planning district, is repealed June 1, 2020.

(3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2020.

(4) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2020.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2020.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, 2020.

(5) Subsection 17-27a-302(1), the language that states "or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2020.

(6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and "as applicable" is repealed June 1, 2020.

(7) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2020.

(b) Subsection 17-27a-401(6), regarding a mountainous planning district, is repealed June 1, 2020.

(8) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2020.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2020.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2020.

(d) Subsection 17-27a-403(2)(c)(i), the language that states “or mountainous planning district” is repealed June 1, 2020.

(9) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2020.

(10) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2020.

(11) Subsection 17-27a-602(1)(b), the language that states “or, in the case of a mountainous planning district, the mountainous planning district” is repealed June 1, 2020.

(12) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2020.

(13) Subsection 17-27a-605(1), the language that states “or mountainous planning district land” is repealed June 1, 2020.

(14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2020.

(15) On June 1, 2020, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office’s understanding of the Legislature’s intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(16) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states “or under a provision described in Subsection 17-52a-104(2),” is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states “or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018,” is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states “or, for a county under a pending process described in Section 17-52a-104, the attorney’s report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018,” is repealed.

(17) On January 1, 2028, Subsection 17-52a-102(3) is repealed.

Section 51. Coordinating H.B. 315 with H.B. 119 -- Substantive and technical amendments.

If this H.B. 315 and H.B. 119, Initiatives, Referenda, and Other Political Activities, both pass

and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Sections 10-9a-103 and 17-27a-103 to:

(a) add a new subsection as follows:

“(2) “Affected owner” means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.”; and

(b) renumber the remaining subsections accordingly and make necessary changes to internal cross references;

(2) amending Sections 10-9a-509 and 17-27a-509 to add a new subsection as follows:

“(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project’s affected owner may rescind the project’s land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.”; and

(3) amending Subsection 63I-2-217(2) as follows:

“(2) (a) Subsection [17-27a-103(15)(b)] 17-27a-103(17)(b), regarding a mountainous planning district, is repealed June 1, 2020.

(b) Subsection [17-27a-103(37)] 17-27a-103(40), regarding a mountainous planning district, is repealed June 1, 2020.”.

CHAPTER 385**H. B. 318**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**INMATE RESTRICTIONS
 STANDARDS AMENDMENTS**

Chief Sponsor: Stephanie Pitcher
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill creates standards for the treatment of pregnant inmates.

Highlighted Provisions:

This bill:

- ▶ provides that the least restrictive restraints are to be used on a pregnant inmate;
- ▶ requires that a correctional staff member individually review an inmate's situation before allowing restraints to be used on an inmate during labor, delivery, and postpartum recovery;
- ▶ prohibits the use of shackles or other restraints during labor and delivery;
- ▶ requires the correctional staff member to document in a written record all decisions made regarding the use of restraints on a pregnant inmate;
- ▶ makes the record public with individually identifying information redacted;
- ▶ extends the requirements to county jails; and
- ▶ requires that specific information regarding inmate births be reported to the Commission on Criminal and Juvenile Justice for inclusion in the annual report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-22-8, as last amended by Laws of Utah 2011, Chapter 64

64-13-45, as enacted by Laws of Utah 2018, Chapter 437

ENACTS:

64-13-46, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-8 is amended to read:**17-22-8. Care of prisoners -- Funding of services -- Private contractor.**

(1) Except as provided in Subsection ~~[(3)]~~ (4), the sheriff shall:

- (a) receive all persons committed to jail by competent authority;
- (b) provide them with necessary food, clothing, and bedding in the manner prescribed by the county legislative body; and

(c) provide medical care when:

- (i) the person's symptoms evidence a serious disease or injury;
- (ii) the person's disease or injury is curable or may be substantially alleviated; and
- (iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial.

(2) The sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant and gives birth, including the reporting requirements in Subsection 64-13-45(2)(c).

~~[(2)]~~ (3) The expense incurred in providing these services to prisoners shall be paid from the county treasury, except as provided in Section 17-22-10.

~~[(3)]~~ (4) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of him by the contract between the county and the private contractor.

Section 2. Section 64-13-45 is amended to read:**64-13-45. Department reporting requirements.**

(1) As used in this section:

- (a) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the department.
- (ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a correctional facility, other than a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) So that the state may oversee the inmate health care system, the department shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before August 1 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year[s], including:

~~[(b)]~~ (i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a); and

~~[(e)]~~ (ii) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

~~[(d)]~~ (b) the department policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates; and

(ii) relating to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; ~~and~~

(c) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:

(i) the types of restraints used; and

(ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public; and

~~(e)~~ (d) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

Section 3. Section 64-13-46 is enacted to read:

64-13-46. Pregnant inmates.

(1) If the staff of a correctional facility knows or has reason to believe that an inmate is pregnant, the staff, when restraining the inmate, shall use the least restrictive restraints necessary to ensure the safety and security of the inmate and others. This requirement shall continue during postpartum recovery and any transport to or from a correctional facility.

(2) The staff of a correctional facility may not use restraints on an inmate during labor and childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:

(a) an immediate and serious risk of harm to herself, medical staff, correctional staff, or the public; or

(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(3) Notwithstanding Subsection (1) or (2), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during labor

and childbirth or postpartum recovery while in a medical facility.

(4) Correctional staff present during labor or childbirth shall:

(a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and

(b) be female, if practicable.

(5) If restraints are authorized under Subsection (1) or (2), a written record of the decision and use of the restraints shall be made that includes:

(a) the correctional staff member's determination on the use of restraints;

(b) the circumstances that necessitated the use of restraints;

(c) the type of restraints that were used; and

(d) the length of time the restraints were used.

(6) The record created in Subsection (5):

(a) shall be retained by the correctional facility for five years;

(b) shall be available for public inspection with individually identifying information redacted; and

(c) may not be considered a medical record under state or federal law.

(7) As used in this section:

(a) "Postpartum recovery" means, as determined by her physician, the period immediately following delivery, including the entire period a woman is in the hospital or medical facility after birth.

(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.

(c) "Shackles" means metal or iron restraints and includes hard metal handcuffs, leg irons, belly chains, or a security or tether chain.

CHAPTER 386**H. B. 325**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**DOMESTIC VIOLENCE —
WEAPONS AMENDMENTS**

Chief Sponsor: Brian S. King
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill requires a law enforcement agency to report certain information relating to domestic violence.

Highlighted Provisions:

This bill:

- ▶ requires a law enforcement agency to report certain information relating to domestic violence to the Law Enforcement and Criminal Justice Interim Committee; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-526, as last amended by Laws of Utah 2018, Chapter 417

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-526 is amended to read:**76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.**

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal

background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms

number, the transaction number, and the transaction date for a period of 12 months.

(9) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(b) A law enforcement agency that receives information from the bureau under Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)(b)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(c) The bureau shall:

(i) compile the information from the reports described in Subsection (9)(b);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section. This fee remains in effect until changed by the bureau through the process in accordance with Section 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost

of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification. This section may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

CHAPTER 387**H. B. 328**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

GENERAL DAMAGES AMENDMENTS

Chief Sponsor: Steve Waldrip
 Senate Sponsor: Scott D. Sandall

LONG TITLE**General Description:**

This bill repeals the limit on the amount of damages recoverable in certain personal injury actions.

Highlighted Provisions:

This bill:

- ▶ repeals the limit on the amount of damages recoverable in a personal injury action when the injured individual dies from a cause unrelated to the action before judgment or settlement; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-3-107, as last amended by Laws of Utah 2015, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-107 is amended to read:

78B-3-107. Survival of action for injury or death to individual, upon death of wrongdoer or injured individual -- Exception and restriction to out-of-pocket expenses.

(1) (a) A cause of action arising out of personal injury to ~~[a person]~~ an individual, or death caused by the wrongful act or negligence of a wrongdoer, does not abate upon the death of the wrongdoer or the injured ~~[person]~~ individual. The injured ~~[person]~~ individual, or the personal representatives or heirs of the ~~[person]~~ individual who died, has a cause of action against the wrongdoer or the personal representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).

(b) If, prior to judgment or settlement, the injured ~~[person]~~ individual dies as a result of a cause other than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal representatives or heirs of the ~~[person]~~ individual have a cause of action against the wrongdoer or personal representatives of the wrongdoer for special and general damages which resulted from the injury caused by the wrongdoer and which occurred prior to death of the injured ~~[party]~~ individual from the unrelated cause.

(c) If the death of the injured ~~[party]~~ individual from an unrelated cause occurs more than six months after the incident giving rise to the claim for damages, the claim shall be limited to special damages unless, prior to the injured ~~[party's]~~ individual's death:

(i) written notice of intent to hold the wrongdoer responsible has been mailed to or served upon the wrongdoer or the wrongdoer's insurance carrier or the uninsured motorist carrier of the injured ~~[party]~~ individual, and proof of mailing or service can be produced upon request; or

(ii) a claim for damages against the wrongdoer or against the uninsured motorist carrier of the injured ~~[party]~~ individual is the subject of ongoing negotiations between the parties or persons representing the parties or their insurers.

(d) A subsequent claim against an underinsured motorist carrier for which the injured ~~[party]~~ individual was a covered person is not subject to the notice requirement described in Subsection (1)(c).

~~[(e) In no event shall an award of general damages available under the circumstances described in Subsection (1)(b) or (1)(c) against any wrongdoer or any insurer exceed \$100,000 regardless of available liability, uninsured or underinsured motor vehicle coverage.]~~

(2) Under Subsection (1) neither the injured ~~[person]~~ individual nor the personal representatives or heirs of the ~~[person]~~ individual who dies may recover judgment except upon competent satisfactory evidence other than the testimony of the injured ~~[person]~~ individual.

(3) This section may not be construed to be retroactive.

CHAPTER 388**H. B. 330**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**JUVENILE JUSTICE
 COMPETENCY REVISIONS**

Chief Sponsor: Jon Hawkins
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill amends provisions related to evaluations of competency of juveniles.

Highlighted Provisions:

This bill:

- ▶ amends definitions and defines terms related to competency evaluations of minors;
- ▶ amends procedures and requirements for an evaluation of a minor for competency;
- ▶ provides instructions to forensic evaluators, courts, and others involved with the prosecution, evaluation, and adjudication of matters related to minors;
- ▶ amends provisions related to an evaluation to determine likelihood of attaining competency; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-201, as last amended by Laws of Utah 2017, Chapter 330
 62A-4a-711, as enacted by Laws of Utah 2017, Chapter 401
 78A-6-105, as last amended by Laws of Utah 2018, Chapters 45, 91, 192, 235, 285, and 415
 78A-6-302, as last amended by Laws of Utah 2018, Chapter 91
 78A-6-312, as last amended by Laws of Utah 2018, Chapter 91
 78A-6-1301, as enacted by Laws of Utah 2012, Chapter 316
 78A-6-1302, as last amended by Laws of Utah 2017, Chapter 330
 78A-6-1303, as enacted by Laws of Utah 2012, Chapter 316

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-201 is amended to read:**62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.**

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to

parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court

Act. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home

services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of "reasonable efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections 78A-6-105[(35)(d)](39) and 78A-6-117(2) and Section 78A-6-301.5.

Section 2. Section 62A-4a-711 is amended to read:

62A-4a-711. Penalty.

An individual or entity that knowingly engages in an unregulated custody transfer, as defined in [Subsection] Section 78A-6-105[(56)], is guilty of a class B misdemeanor.

Section 3. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

- (b) "Abuse" does not include:
- (i) reasonable discipline or management of a child, including withholding privileges;
 - (ii) conduct described in Section 76-2-401; or
 - (iii) the use of reasonable and necessary physical restraint or force on a child:
 - (A) in self-defense;
 - (B) in defense of others;
 - (C) to protect the child; or
 - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved. A finding of not competent to proceed pursuant to Section 78A-6-1302 is not an adjudication.
- (4) "Adult" means an individual 18 years of age or over, except that an individual 18 years or over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall be referred to as a minor.
- (5) "Board" means the Board of Juvenile Court Judges.
- (6) "Child" means an individual under 18 years of age.
- (7) "Child placement agency" means:
- (a) a private agency licensed to receive a child for placement or adoption under this code; or
 - (b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.
- (8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (9) "Commit" means, unless specified otherwise:
- (a) with respect to a child, to transfer legal custody; and
 - (b) with respect to a minor who is at least 18 years of age, to transfer custody.
- (10) "Court" means the juvenile court.
- (11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.
- (13) "Department" means the Department of Human Services created in Section 62A-1-102.

- ~~[(13)]~~ (14) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- ~~[(14)]~~ (15) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.
- ~~[(15)]~~ (16) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:
- (a) pending court disposition or transfer to another jurisdiction; or
 - (b) while under the continuing jurisdiction of the court.
- ~~[(16)]~~ (17) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.
- (18) "Developmental immaturity" means incomplete development in one or more domains which manifests as a functional limitation in the minor's present ability to consult with counsel with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings.
- ~~[(17)]~~ (19) "Division" means the Division of Child and Family Services.
- ~~[(18)]~~ (20) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.
- ~~[(19)]~~ (21) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (22) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- ~~[(20)]~~ (23) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.
- ~~[(21)]~~ (24) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is or appears to be within the court's jurisdiction and that a case must be reviewed.
- ~~[(22)]~~ (25) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.
- ~~[(23)]~~ (26) "Guardianship of the person" includes the authority to consent to:
- (a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

[(24)] (27) “Habitual truant” means the same as that term is defined in Section 53G-6-201.

[(25)] (28) “Harm” means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child’s growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

[(26)] (29) (a) “Incest” means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator’s ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection [(26)] (29)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

[(27)] (30) “Intake probation” means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

[(28)] “Intellectual disability” means:]

[(a) —significantly subaverage intellectual functioning, an IQ of approximately 70 or below on an individually administered IQ test, for infants, a clinical judgment of significantly subaverage intellectual functioning;]

[(b) —concurrent deficits or impairments in present adaptive functioning, regarding the individual’s effectiveness in meeting the standards expected for the individual’s age by the individual’s cultural group, in at least two of the following areas: communication, self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety; and]

[(c) —the onset is before the individual reaches the age of 18 years.]

(31) “Intellectual disability” means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive

behavior that constitutes a substantial limitation to the individual’s ability to function in society.

[(29)] (32) “Legal custody” means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

[(30)] (33) “Material loss” means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss;

(c) lost wages; or

(d) medical expenses.

[(31) —“Mental disorder” means a serious emotional and mental disturbance that severely limits a minor’s development and welfare over a significant period of time.]

(34) “Mental illness” means:

(a) a psychiatric disorder that substantially impairs an individual’s mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[(32)] (35) “Minor” means:

(a) a child; or

(b) an individual who is:

(i) at least 18 years of age and younger than 21 years of age; and

(ii) under the jurisdiction of the juvenile court.

[(33)] (36) “Mobile crisis outreach team” means a crisis intervention service for minors or families of minors experiencing behavioral health or psychiatric emergencies.

[(34)] (37) “Molestation” means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

[(35)] (38) “Natural parent” means a minor’s biological or adoptive parent, and includes the minor’s noncustodial parent.

~~[(36)]~~ (39) (a) “Neglect” means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child’s health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) “Neglect” does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child’s parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

~~[(37)]~~ (40) “Neglected child” means a child who has been subjected to neglect.

~~[(38)]~~ (41) “Nonjudicial adjustment” means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor’s parent, legal guardian, or custodian.

~~[(39)]~~ (42) “Not competent to proceed” means that a minor, due to a mental ~~[disorder]~~ illness, intellectual disability~~[-, or related condition as defined]~~ or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against them or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against them with a reasonable degree of rational understanding.

~~[(40)]~~ (43) “Physical abuse” means abuse that results in physical injury or damage to a child.

~~[(41)]~~ (44) “Probation” means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor’s home under prescribed conditions.

~~[(42)]~~ (45) “Protective supervision” means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor’s home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

~~[(43)]~~ “~~Related condition~~” means a condition ~~closely related to intellectual disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah Administrative Code.]~~

(46) (a) “Related condition” means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual’s ability to function in society.

(b) “Related condition” does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

~~[(44)]~~ (47) (a) “Residual parental rights and duties” means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child’s religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, “residual parental rights and duties” also include the right to consent to:

- (i) marriage;
- (ii) enlistment; and
- (iii) major medical, surgical, or psychiatric treatment.

[445] (48) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation pursuant to Subsection 78A-6-117(2)(d).

[446] (49) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

[447] (50) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

[448] (51) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection ~~[(26)]~~ (29), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years of age or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[449] (52) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[450] (53) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

[451] (54) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

[452] (55) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

[453] (56) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

[454] (57) "Supported" means the same as that term is defined in Section 62A-4a-101.

[455] (58) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[456] (59) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[457] (60) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

[459] (61) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

[459] (62) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

[460] (63) “Without merit” means the same as that term is defined in Section 62A-4a-101.

Section 4. Section 78A-6-302 is amended to read:

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child’s home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child’s physical health or safety may not be protected without removing the child from the custody of the child’s parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child’s emotional health may be protected without removing the child from the custody of the child’s parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent’s or guardian’s household, or other person known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child’s support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsections 78A-6-105[(35)(e)(i) through (iii)](39) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

(i) (i) a parent’s or guardian’s actions, omissions, or habitual action create an environment that poses a serious risk to the child’s health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent’s or guardian’s action in leaving a child unattended would reasonably pose a threat to the child’s health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child’s natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section 78A-6-316;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child’s welfare is otherwise endangered.

(2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child’s parent.

(b) For purposes of Subsection (1)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact

constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) (a) For purposes of Subsection (1), if the division files a petition under Section 78A-6-304, the court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 78A-6-306.

(4) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; or

(c) disability of the parent or guardian, as defined in Section 57-21-2.

(5) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(6) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 5. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105~~(35)(e)(i) through (iii)~~(39), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

(iv) sibling visitation; or

(v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the

parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.

(10) (a) The court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the

expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude

that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's

mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(1) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (1), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

Section 6. Section 78A-6-1301 is amended to read:

78A-6-1301. Competency to proceed.

~~[(1) Whenever a petition is filed alleging that a minor has committed an act that would be a crime if committed by an adult, a motion for an inquiry into the minor's competency may be filed. The motion shall be filed in the juvenile court where the petition is pending.]~~

(1) In a case alleging that a minor has violated any federal, state, or local law, a written motion may be filed alleging reasonable grounds to believe the minor is not competent to proceed.

(2) The written motion shall contain:

(a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed[;] due to:

(i) a mental illness;

(ii) intellectual disability or a related condition;
or

(iii) developmental immaturity;

(b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and

(c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.

(3) The motion may be based upon knowledge or information and belief and may be filed by:

(a) the minor alleged not competent to proceed;

(b) any person acting on the minor's behalf;

(c) the prosecuting attorney;

(d) the guardian ad litem; or

(e) any person having custody or supervision over the minor.

(4) (a) The court in which a petition is pending may raise the issue of a minor's competency at any time.

(b) If raised by the court, counsel for each party shall be permitted to address the issue of competency[-], and the court shall state the basis for the finding that there are reasonable grounds to believe the minor is not competent to proceed.

Section 7. Section 78A-6-1302 is amended to read:

78A-6-1302. Procedure -- Standard.

(1) When a written motion is filed pursuant to Section 78A-6-1301 raising the issue of a minor's competency to proceed, or when the court raises the issue of a minor's competency to proceed, the juvenile court in which proceedings are pending shall stay all delinquency proceedings.

(2) (a) If a motion for inquiry is opposed by either party, the court shall, prior to granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and prior to a full competency hearing, the court may order the Department of Human Services to evaluate the minor and to report to the court concerning the minor's mental condition.

(4) (a) The minor shall be evaluated by a [mental health examiner] forensic evaluator with experience in juvenile forensic evaluations and juvenile brain development, who is not involved in the current treatment of the minor.

(b) If it becomes apparent that the minor may be not competent due to an intellectual disability or related condition, the [examiner] forensic evaluator shall be experienced in intellectual disability or related condition evaluations of minors.

(5) The petitioner or other party, as directed by the court, shall provide all information and materials [to the examiners relevant to a determination of the minor's competency including] relevant to a determination of the minor's competency to the department within seven days of the court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

[~~(d)~~] (e) known prior mental health evaluations and treatments; and

[~~(e)~~] (f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the [examiners.] forensic evaluator, including:

[~~(7) In conducting the evaluation and in the report determining if a minor is competent to proceed as defined in Subsection 78A-6-105(38), the examiner shall consider the impact of a mental disorder, intellectual disability, or related condition on a minor's present capacity to:~~]

[~~(a) comprehend and appreciate the charges or allegations;~~]

[~~(b) disclose to counsel pertinent facts, events, or states of mind;~~]

[~~(c) comprehend and appreciate the range and nature of possible penalties, if applicable, that may be imposed in the proceedings against the minor;~~]

[~~(d) engage in reasoned choice of legal strategies and options;~~]

[~~(e) understand the adversarial nature of the proceedings;~~]

[~~(f) manifest appropriate courtroom behavior; and~~]

[~~(g) testify relevantly, if applicable.~~]

[~~(8) In addition to the requirements of Subsection (7), the examiner's written report shall:~~]

[~~(a) identify the specific matters referred for evaluation;~~]

[~~(b) describe the procedures, techniques, and tests used in the evaluation and the purpose or purposes for each;~~]

[~~(c) state the examiner's clinical observations, findings, and opinions on each issue referred for evaluation by the court, and indicate specifically those issues, if any, on which the examiner could not give an opinion;~~]

[~~(d) state the likelihood that the minor will attain competency and the amount of time estimated to achieve it; and~~]

[~~(e) identify the sources of information used by the examiner and present the basis for the examiner's clinical findings and opinions.~~]

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing

the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the court of the forensic evaluator's opinion whether the minor has a present ability to consult with counsel with a reasonable degree of rational understanding and whether the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

~~[(9)]~~ (8) (a) The ~~[examiner]~~ forensic evaluator shall provide an initial report to the court, the prosecuting and defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the court's order. ~~[If the examiner]~~

(b) If the forensic evaluator informs the court that additional time is needed, the court may grant, taking into consideration the custody status of the minor, up to an additional ~~[30]~~ 15 days to provide the report to the court and counsel. ~~[The examiner]~~

(c) The forensic evaluator must provide the report within ~~[60]~~ 45 days from the receipt of the court's order unless, for good cause shown, the court authorizes an additional period of time to complete the evaluation and provide the report. ~~[The report shall inform the court of the examiner's opinion concerning the competency and the likelihood of the minor to attain competency within a year. In the alternative, the examiner may inform the court in writing that additional time is needed to complete the report.]~~

(d) The report shall inform the court of the forensic evaluator's opinion concerning the minor's competency.

(9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

(a) the nature of the minor's:

(i) mental illness;

(ii) intellectual disability or related condition; or

(iii) developmental immaturity;

(b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;

(c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;

(d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;

(e) the sources of information used by the forensic evaluator; and

(f) the basis for clinical findings and opinions.

(10) Any statement made by the minor in the course of any competency evaluation, whether the evaluation is with or without the consent of the minor, any testimony by the ~~[examiner]~~ forensic evaluator based upon any statement, and any other fruits of the statement:

(a) may not be admitted in evidence against the minor in any delinquency or criminal proceeding except on an issue respecting the mental condition on which the minor has introduced evidence~~[-The evidence];~~ and

(b) may be admitted~~[-, however,]~~ where relevant to a determination of the minor's competency.

(11) Before evaluating the minor, ~~[examiners]~~ a forensic evaluator shall specifically advise the minor ~~[and], and,~~ if reasonably available, the parents or guardian, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the court enlarges the time for good cause.

(13) A minor shall be presumed competent unless the court, by a preponderance of the evidence, finds the minor not competent to proceed. The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall proceed with the delinquency proceedings.

(c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall proceed consistent with Section 78A-6-1303.

(d) (i) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor informs the court that commitment proceedings ~~pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings~~ will be initiated pursuant to Title 62A:

(A) Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability; or

(B) Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the court's order, unless the court enlarges the time for good cause shown. ~~The minor may be ordered~~

(iii) The court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the court finds the minor not competent to proceed, ~~its~~ the court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 8. Section 78A-6-1303 is amended to read:

78A-6-1303. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the court shall notify the ~~[Department of Human Services]~~ department of the finding, and allow the department 30 days to develop ~~[a six-month]~~ an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency ~~[within the six-month time period];~~

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency ~~[in a six-month period]~~ and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the court, prosecutor, defense attorney, and guardian ad litem at least three days prior to the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

~~[(a)]~~ (b) A finding of not competent to proceed does not grant authority for a court to place a minor in the custody of a division of the department ~~[or any of its divisions],~~ or create eligibility for services from the Division of Services for People With Disabilities.

~~[(b)]~~ (c) If the court orders the minor to be held in detention ~~[or placed outside of the home of the parent or guardian]~~ during the attainment period, the court shall make the following findings on the record:

(i) the placement is the least restrictive appropriate setting;

(ii) the placement is in the best interest of the minor;

(iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and

(iv) the placement is necessary for the safety of the minor or others.

~~[(5) If the minor is held in detention pending placement in a less restrictive setting, the department shall locate and transfer the minor to the alternative placement within 14 days.]~~

~~[(6) The court shall review the case at least once every three months to determine whether the placement is still the least restrictive appropriate placement.]~~

(d) A court shall terminate an order of detention related to the pending delinquency proceeding for a minor who is not competent to proceed in that matter if:

(i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;

(ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and

(iii) the minor has not attained competency.

~~[(7)]~~ (5) (a) At any time that the minor becomes competent to proceed during the attainment period, ~~[the executive director of the Department of Human Services, or its designee,]~~ the department shall notify the court, prosecutor, defense attorney, and guardian ad litem.

(b) The court shall hold a hearing with 15 business days of notice from the ~~[executive director]~~ department described in Subsection (5)(a).

~~[(8)] (6) (a) If at any time during the attainment period the court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the court shall terminate the competency proceeding, dismiss the delinquency charges without prejudice, and release the minor from any custody order related to the pending delinquency proceeding, unless the prosecutor or any other individual informs the court that commitment proceedings [pursuant to Title 62A, Chapter 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental Health Act, will be initiated. These commitment proceedings shall be initiated] will be initiated pursuant to Title 62A:~~

~~(i) Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability; or~~

~~(ii) Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.~~

~~(b) The prosecutor shall initiate the proceedings described in Subsection (6)(a) within seven days after the court's order, unless the court enlarges the time for good cause shown. [The minor may be ordered to remain in custody until the commitment proceedings have been concluded.]~~

~~[(9)] (7) During the attainment period, the court may order a hearing or rehearing at anytime on its own motion or upon recommendation of any interested party or the [executive director of the Department of Human Services] department.~~

~~[(10)] (8) (a) [At the conclusion of the attainment period] Within three months of the court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.~~

~~(b) The report described in Subsection (8)(a) shall address the minor's:~~

~~[(a)] (i) compliance with the attainment plan;~~

~~[(b)] (ii) progress towards competency based on the issues identified in the original competency evaluation; and~~

~~[(c)] (iii) current mental [disorder] illness, intellectual disability[,], or related condition, or developmental immaturity, and need for treatment, if any[;], and [(d)] whether [the minor has attained competency, or the] there is substantial likelihood of the minor attaining competency [and the amount of time necessary to attain it] within six months.~~

~~[(11) The court on its own motion, or upon motion by either party or by the executive director, may order an updated juvenile competency evaluation to examine the minor and advise the court on the minor's current competency status and progress toward competency restoration.]~~

~~[(12)] (9) (a) Within 30 days of receipt of the report, the court shall hold a hearing to determine the minor's current status.~~

~~(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.~~

~~(c) The court shall determine by a preponderance of the evidence whether the minor is competent to proceed.~~

~~[(13)] (10) If the minor has not attained competency after the initial [six] three month attainment period but is showing reasonable progress towards attainment of competency, the court may extend the attainment period up to an additional [six] three months.~~

~~(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the court on the minor's current competency status.~~

~~[(14)] (12) If the minor does not attain competency within [one-year] six months after the court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the delinquency charges without prejudice[-], unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.~~

~~(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.~~

CHAPTER 389**H. B. 335**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

CRIMINAL CODE TASK FORCE CHANGES

Chief Sponsor: Paul Ray
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill clarifies the purpose and duration of the Criminal Code Evaluation Task Force.

Highlighted Provisions:

This bill:

- ▶ clarifies the purpose and scope of the Criminal Code Evaluation Task Force; and
- ▶ includes a sunset provision to establish the duration of the task force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

36-29-105, as enacted by Laws of Utah 2018, Chapter 343
 63I-2-236, as last amended by Laws of Utah 2018, Chapters 281 and 458

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-105 is amended to read:**36-29-105. Criminal Code Evaluation Task Force.**

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director Utah Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the Utah Department of Corrections or the executive director's designee;

(h) the commissioner of the Utah Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and related statutes and make recommendations regarding:

(a) the proper classification of crimes by degrees of felony and misdemeanor[-]; and

(b) other modifications related to the criminal code and related statutes.

(8) On or before November 30~~[, 2018,]~~ of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed December 31, 2020.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

~~[Title 36, Chapter 16b, Nonbinding Statewide Public Opinion Questions, is repealed on January 1, 2019.]~~

Section 36-29-105 is repealed on December 31, 2020.

CHAPTER 390**H. B. 348**

Passed March 12, 2019

Approved March 27, 2019

Effective May 14, 2019

UTAH EMERGENCY MEDICAL SERVICES SYSTEM ACT AMENDMENTS

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions relating to certain emergency medical service provider licenses.

Highlighted Provisions:

This bill:

- ▶ removes a restriction on 911 ambulance or paramedic services providers from applying for a license to provide a higher level of service; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-8a-404, as last amended by Laws of Utah 2008, Chapter 382

26-8a-405, as last amended by Laws of Utah 2003, Chapter 213

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-404 is amended to read:**26-8a-404. Ground ambulance and paramedic licenses -- Application and department review.**

(1) Except as provided in Section 26-8a-413, an applicant for a ground ambulance or paramedic license shall apply to the department for a license only by:

- (a) submitting a completed application;
- (b) providing information in the format required by the department; and
- (c) paying the required fees, including the cost of the hearing officer.

(2) The department shall make rules establishing minimum qualifications and requirements for:

- (a) personnel;
- (b) capital reserves;
- (c) equipment;
- (d) a business plan;
- (e) operational procedures;
- (f) medical direction agreements;

(g) management and control; and

(h) other matters that may be relevant to an applicant's ability to provide ground ambulance or paramedic service.

(3) An application for a license to provide ground ambulance service or paramedic service shall be for all ground ambulance services or paramedic services arising within the geographic service area, except that an applicant may apply for a license for less than all ground ambulance services or all paramedic services arising within an exclusive geographic area if it can demonstrate how the remainder of that area will be served.

(4) (a) A ground ambulance service licensee may apply to the department for a license to provide a higher level of service as defined by department rule if the application includes:

~~[(i) the application for the license is limited to non-911 ambulance or paramedic services; and]~~

~~[(ii) the application includes:]~~

~~[(A)] (i) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;~~

~~[(B)] (ii) an assessment of field performance by the applicant's off-line director; and~~

~~[(C)] (iii) an updated plan of operation demonstrating the ability of the applicant to provide the higher level of service.~~

(b) If the department determines that the applicant has demonstrated the ability to provide the higher level of service in accordance with Subsection (4)(a), the department shall issue a revised license reflecting the higher level of service and the requirements of Section 26-8a-408 do not apply.

(c) A revised license issued under Subsection (4)(b):

(i) may only affect the level of service that the licensee may provide;

(ii) may not affect any other terms, conditions, or limitations of the original license; and

(iii) may not impact the rights of other licensees.

(5) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum qualifications and requirements for licensure.

(6) The department may deny an application if it finds that it contains any materially false or misleading information, is incomplete, or if the application demonstrates that the applicant fails to meet the minimum qualifications and requirements for licensure under Subsection (2).

(7) If the department denies an application, it shall notify the applicant in writing setting forth the grounds for the denial. A denial may be appealed under Title 63G, Chapter 4, Administrative Procedures Act.

Section 2. Section 26-8a-405 is amended to read:

26-8a-405. Ground ambulance and paramedic licenses -- Agency notice of approval.

(1) Beginning January 1, 2004, if the department determines that the application meets the minimum requirements for licensure under Section 26-8a-404, the department shall issue a notice of the approved application to the applicant.

(2) A current license holder responding to a request for proposal under Section 26-8a-405.2 is considered an approved applicant for purposes of Section 26-8a-405.2 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

(a) the information ~~[required by Subsection 26-8a-404(4)(a)(ii)]~~ described in Subsections 26-8a-404(4)(a)(i) through (iii); and

(b) (i) if the license holder is a private entity, a financial statement, a pro forma budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or

~~[(e)]~~ (ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.

CHAPTER 391**H. B. 350**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

MOBILE CARRIER AMENDMENTS

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill defines a mobile carrier and enacts provisions related to the operation of a mobile carrier.

Highlighted Provisions:

This bill:

- ▶ defines “mobile carrier”;
- ▶ allows an individual to operate a mobile carrier on a sidewalk or crosswalk;
- ▶ requires an individual to operate a mobile carrier in a safe manner, and to yield to pedestrians; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-102, as last amended by Laws of Utah 2018, Chapters 166 and 205

41-6a-1119, as enacted by Laws of Utah 2018, Chapter 205

ENACTS:

41-6a-1120, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-102 is amended to read:**41-6a-102. Definitions.**

As used in this chapter:

(1) “Alley” means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) “All-terrain type I vehicle” means the same as that term is defined in Section 41-22-2.

(3) “Authorized emergency vehicle” includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) “Autocycle” means the same as that term is defined in Section 53-3-102.

(5) (a) “Bicycle” means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) “Bicycle” includes an electric assisted bicycle.

(c) “Bicycle” does not include scooters and similar devices.

(6) (a) “Bus” means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) “Bus” does not include a taxicab.

(7) (a) “Circular intersection” means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) “Circular intersection” includes:

- (i) roundabouts;
- (ii) rotaries; and
- (iii) traffic circles.

(8) “Class 1 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) “Class 2 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) “Class 3 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) “Commissioner” means the commissioner of the Department of Public Safety.

(12) “Controlled-access highway” means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) “Crosswalk” means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(24) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(25) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(26) "Highway authority" means the same as that term is defined in Section 72-1-102.

(27) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(28) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(29) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(30) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(31) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(32) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including the driver.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(33) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(34) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(35) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (35)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(36) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" includes a motor assisted scooter.

(d) "Moped" does not include an electric assisted bicycle.

(37) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) a gas or electric motor not exceeding 40 cubic centimeters;

(iv) either:

(A) a deck design for a person to stand while operating the device; or

(B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(v) a design for the ability to be propelled by human power alone.

(b) "Motor assisted scooter" does not include an electric assisted bicycle.

(38) (a) "Motor vehicle" means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assistive mobility device, an electric assisted bicycle, [e] a personal delivery device, as defined in Section 41-6a-1119,

or a mobile carrier, as defined in Section 41-6a-1120.

(39) “Motorcycle” means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an auticycle.

(40) (a) “Motor-driven cycle” means every motorcycle, motor scooter, moped, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) “Motor-driven cycle” does not include:

(i) an electric personal assistive mobility device; or

(ii) an electric assisted bicycle.

(41) “Off-highway implement of husbandry” means the same as that term is defined under Section 41-22-2.

(42) “Off-highway vehicle” means the same as that term is defined under Section 41-22-2.

(43) “Operator” means a person who is in actual physical control of a vehicle.

(44) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.

(b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(45) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(46) “Pedestrian” means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(47) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.

(48) “Person” means every natural person, firm, copartnership, association, or corporation.

(49) “Pole trailer” means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining

themselves as beams between the supporting connections.

(50) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(51) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.

(52) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(53) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(54) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(55) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(56) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(57) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(58) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

(59) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(60) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(61) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(62) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(63) "Stop" when required means complete cessation from movement.

(64) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(65) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(66) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(67) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(68) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(69) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(70) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(71) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(72) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(73) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(74) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(75) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except [deveies] a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1119 is amended to read:

41-6a-1119. Personal delivery device.

(1) As used in this section:

(a) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.

(b) "Hazardous material" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(c) (i) "Personal delivery device" means an electrically powered device to which all of the following apply:

~~(i)~~ (A) the device is intended primarily to transport property on a sidewalk or crosswalk;

~~(ii)~~ (B) the device weighs less than 150 pounds excluding any property being carried in the device, except that a local highway authority may allow a device within the local highway authority's jurisdiction to exceed this weight limit through a local permit or local ordinance;

~~(iii)~~ (C) the device has a maximum speed of 10 miles per hour; and

~~(iv)~~ (D) the device is equipped with technology that enables the operation of the device~~s~~ with or without active control or monitoring by a person.

~~[(A) with active control or monitoring by a person;]~~

~~[(B) without active control or monitoring by a person; or]~~

~~[(C) both with or without active control or monitoring by a person.]~~

(ii) A mobile carrier as defined in Section 41-6a-1120 is not a personal delivery device.

(d) (i) "Personal delivery device operator" means an employee or agent of an eligible entity who exercises active physical control over, or monitoring of, the navigation and operation of a personal delivery device.

(ii) "Personal delivery device operator" does not include:

(A) with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service; or

(B) a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(2) An eligible entity may operate a personal delivery device on a sidewalk or crosswalk so long as all of the following requirements are met:

(a) the personal delivery device is operated in accordance with the local ordinances, if any, established by the local highway authority governing where the personal delivery device is operated;

(b) a personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device;

(c) the eligible entity maintains an insurance policy that includes general liability coverage of not less than \$100,000 for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity; and

(d) the personal delivery device is equipped with all of the following:

(i) a marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;

(ii) a braking system that enables the personal delivery device to come to a controlled stop; and

(iii) if the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible on all sides of the personal delivery device in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(3) A personal delivery device operator may not allow a personal delivery device to do any of the following:

(a) fail to comply with traffic or pedestrian control devices and signals;

(b) unreasonably interfere with pedestrians or traffic;

(c) transport hazardous material; or

(d) operate on a street or highway, except when crossing the street or highway within a crosswalk.

(4) A personal delivery device has the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk.

(5) A person may not operate a personal delivery device unless the person complies with this section.

(6) An eligible entity is responsible for both of the following:

(a) a violation of this section that is committed by a personal delivery device operator operated for the benefit of the eligible entity; and

(b) any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by Subsection (3).

(7) A violation of this section is an infraction.

Section 3. Section 41-6a-1120 is enacted to read:

41-6a-1120. Mobile carrier device.

(1) "Mobile carrier" means an electrically powered device that:

(a) is operated on a sidewalk or crosswalk;

(b) is intended primarily for the transport of property while remaining within 25 feet of the human operator;

(c) weighs less than 150 pounds, excluding cargo;

(d) has a maximum speed of 12.5 miles per hour;

(e) is equipped with a technology to transport personal property with the active monitoring of a personal property owner; and

(f) is primarily designed to remain within 25 feet of the personal property owner.

(2) A mobile carrier is not a vehicle or personal delivery device as defined in Section 41-6a-1119.

(3) A mobile carrier may be operated on a sidewalk or crosswalk if all of the following requirements are met:

(a) the mobile carrier is operated in accordance with the local ordinances, if any, established by the local highway authority;

(b) the mobile carrier remains at all times within 25 feet of the human operator while the mobile carrier is in motion;

(c) the mobile carrier is equipped with a braking system that enables the mobile carrier to come to a controlled stop; and

(d) if the mobile carrier is being operated between sunset and sunrise, a light on both the front and rear of the mobile carrier that is visible on all sides of the mobile carrier in clear weather from a distance of at least 500 feet to the front and rear of the mobile carrier when directly in front of low beams of headlights on a motor vehicle.

(4) A personal property owner monitoring the mobile carrier may not allow a mobile carrier to:

(a) fail to comply with a traffic or pedestrian control device or signal;

(b) unreasonably interfere with a pedestrian or traffic;

(c) transport hazardous material; or

(d) operate on a street or highway, except when crossing the street or highway within a crosswalk.

(5) A mobile carrier has the rights and obligations applicable to a pedestrian under the same circumstances, except that a mobile carrier shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk.

(6) A personal property owner may not operate a mobile carrier unless the person complies with this section.

(7) A violation of this section is an infraction.

CHAPTER 392**H. B. 364**

Passed March 14, 2019
 Approved March 27, 2019
 Effective October 1, 2019

**SPECIAL GROUP LICENSE
 PLATE AMENDMENTS**

Chief Sponsor: Ken Ivory
 Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill creates a recognition special group license plate to recognize a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth.

Highlighted Provisions:

This bill:

- ▶ creates a recognition special group license plate to recognize a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

41-1a-418, as last amended by Laws of Utah 2018, Chapters 39, 99, and 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

- (a) disability special group license plates issued in accordance with Section 41-1a-420;
- (b) honor special group license plates, as in a war hero, which plates are issued for a:
 - (i) survivor of the Japanese attack on Pearl Harbor;
 - (ii) former prisoner of war;
 - (iii) recipient of a Purple Heart;
 - (iv) disabled veteran;
 - (v) recipient of a gold star award issued by the United States Secretary of Defense; or
 - (vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

- (i) a special interest vehicle;
- (ii) a vintage vehicle;
- (iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

- (i) a current member of the Legislature;
- (ii) a current member of the United States Congress;
- (iii) a current member of the National Guard;
- (iv) a licensed amateur radio operator;
- (v) a currently employed, volunteer, or retired firefighter until June 30, 2009;
- (vi) an emergency medical technician;
- (vii) a current member of a search and rescue team;
- (viii) a current honorary consulate designated by the United States Department of State; [øø]
- (ix) an individual supporting commemoration and recognition of women's suffrage; or

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

- (i) an institution's scholastic scholarship fund;
- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans and Military Affairs;
- (iv) the Division of Parks and Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;
- (viii) spay and neuter programs through No More Homeless Pets in Utah;
- (ix) the Boys and Girls Clubs of America;

- (x) Utah public education;
 - (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
 - (xii) the Department of Public Safety;
 - (xiii) programs that support Zion National Park;
 - (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
 - (xv) programs that promote bicycle operation and safety awareness;
 - (xvi) programs that conduct or support cancer research;
 - (xvii) programs that create or support autism awareness;
 - (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
 - (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
 - (xx) programs that support and promote adoptions;
 - (xxi) programs that create or support civil rights education and awareness;
 - (xxii) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
 - (xxiii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
 - (xxiv) programs that support children with heart disease;
 - (xxv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;
 - (xxvi) programs that provide assistance to children with cancer;
 - (xxvii) programs that promote leadership and career development through agricultural education; or
 - (xxviii) the Utah State Historical Society.
- (2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:
- (i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type

license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 393**H. B. 366**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

HEALTH CARE AMENDMENTS

Chief Sponsor: James A. Dunnigan
 Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends provisions relating to the Medical Assistance Act, the Utah Children's Health Insurance Act, and the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- ▶ creates and amends definitions;
- ▶ amends provisions relating to the director of the state Medicaid program;
- ▶ renames the Division of Health Care Financing to the Division of Medicaid and Health Financing;
- ▶ requires the Department of Health to coordinate with the Office of the Inspector General for Medicaid Services;
- ▶ changes provisions related to enrollment and renewal processes for the Medicaid program and the Children's Health Insurance Program;
- ▶ deletes provisions related to the Primary Care Network demonstration waiver;
- ▶ amends provisions related to the spouse of an individual residing in a nursing facility and receiving Medicaid services;
- ▶ amends provisions relating to the Medicaid Expansion Fund;
- ▶ modifies contracting provisions for the Department of Health;
- ▶ eliminates certain reporting requirements;
- ▶ amends benefits benchmark requirements for the Utah Children's Health Insurance Program;
- ▶ expands the scope of services that certain state entities can request from the Public Employees' Health Program;
- ▶ amends provisions relating to the licensing and scope of practice of certain mental health professionals;
- ▶ removes certain repealers;
- ▶ repeals provisions from the Medical Assistance Act related to:
 - the release of financial information;
 - a strategic plan for health system reform; and
 - certain waiver provisions; and
- ▶ makes clarifying and other technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-18-2, as last amended by Laws of Utah 2000, Chapter 1

26-18-2.1, as enacted by Laws of Utah 1988, Chapter 21
 26-18-2.2, as last amended by Laws of Utah 2011, Chapter 267
 26-18-2.3, as last amended by Laws of Utah 2012, Chapter 242
 26-18-2.5, as last amended by Laws of Utah 2012, Chapter 279
 26-18-3.5, as last amended by Laws of Utah 2006, Chapter 148
 26-18-3.6, as last amended by Laws of Utah 2015, Chapter 258
 26-18-5, as last amended by Laws of Utah 2011, Chapter 297
 26-18-11, as last amended by Laws of Utah 2011, Chapter 297
 26-18-18, as last amended by Laws of Utah 2018, Chapter 468
 26-18-21, as last amended by Laws of Utah 2018, Chapter 467
 26-18-404, as enacted by Laws of Utah 2007, Chapter 190
 26-18-408, as last amended by Laws of Utah 2017, Chapter 22
 26-18-410, as last amended by Laws of Utah 2018, Chapter 193
 26-18-411, as last amended by Laws of Utah 2018, Chapter 384
 26-18-413, as last amended by Laws of Utah 2018, Chapter 78
 26-18-415, as enacted by Laws of Utah 2018, Chapter 468
 26-18-416, as enacted by Laws of Utah 2018, Chapter 384
 26-18-417, as enacted by Laws of Utah 2018, Chapter 180
 26-18-418, as enacted by Laws of Utah 2018, Chapter 408
 26-18-501, as last amended by Laws of Utah 2018, Chapter 330
 26-18-503, as last amended by Laws of Utah 2017, Chapter 443
 26-36b-202, as last amended by Laws of Utah 2018, Chapters 384 and 468
 26-36b-208, as last amended by Laws of Utah 2018, Chapters 384 and 468
 26-36c-202, as enacted by Laws of Utah 2018, Chapter 468
 26-40-102, as last amended by Laws of Utah 2000, Chapters 1 and 351
 26-40-103, as last amended by Laws of Utah 2017, Chapter 74
 26-40-105, as last amended by Laws of Utah 2011, Chapter 344
 26-40-106, as last amended by Laws of Utah 2015, Chapter 107
 26-40-110, as last amended by Laws of Utah 2015, Chapter 107
 26-40-115, as last amended by Laws of Utah 2018, Chapter 319
 26-40-116, as enacted by Laws of Utah 2013, Chapter 103
 49-20-401, as last amended by Laws of Utah 2018, Chapter 281
 58-60-205, as last amended by Laws of Utah 2015, Chapters 77 and 323

58-60-207, as enacted by Laws of Utah 1994, Chapter 32
 58-60-305, as last amended by Laws of Utah 2015, Chapter 77
 58-60-307, as last amended by Laws of Utah 2001, Chapter 40
 58-60-308, as last amended by Laws of Utah 2010, Chapter 214
 58-60-407, as last amended by Laws of Utah 2012, Chapter 179
 58-60-502, as last amended by Laws of Utah 2013, Chapter 16
 58-60-508, as last amended by Laws of Utah 2016, Chapter 238
 62A-4a-902, as last amended by Laws of Utah 2006, Chapter 116
 63A-13-102, as last amended by Laws of Utah 2015, Chapter 135
 63I-2-226, as last amended by Laws of Utah 2018, Chapters 38 and 281
 63J-1-315, as last amended by Laws of Utah 2016, Chapter 183

REPEALS:

26-18-3.2, as enacted by Laws of Utah 2010, Chapter 347
 26-18-10, as last amended by Laws of Utah 2017, Chapter 74
 26-18-14, as last amended by Laws of Utah 2015, Chapter 283
 26-18-406, as last amended by Laws of Utah 2013, Chapter 167
 26-18-407, as last amended by Laws of Utah 2017, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-2 is amended to read:**26-18-2. Definitions.**

As used in this chapter:

(1) "Applicant" means any person who requests assistance under the medical programs of the state.

~~[(2) "Client" means a person who the department has determined to be eligible for assistance under the Medicaid program or the Utah Medical Assistance Program established under Section 26-18-10.]~~

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Division" means the Division of Medicaid and Health ~~[Care]~~ Financing within the department, established under Section 26-18-2.1.

(4) "Enrollee" or "member" means an individual whom the department has determined to be eligible for assistance under the Medicaid program.

~~[(4)]~~ (5) "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act.

~~[(5)]~~ (6) "Medical ~~[or hospital]~~ assistance" means services furnished or payments made to or on behalf

of ~~[recipients of medical or hospital assistance under state medical programs]~~ a member.

~~[(6)]~~ (7) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended primarily for operation on highways and used by an applicant or recipient to meet basic transportation needs and has a fair market value below 40% of the applicable amount of the federal luxury passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

(b) "Passenger vehicle" does not include:

(i) a commercial vehicle, as defined in Section 41-1a-102;

(ii) an off-highway vehicle, as defined in Section 41-1a-102; or

(iii) a motor home, as defined in Section 13-14-102.

(8) "PPACA" means the same as that term is defined in Section 31A-1-301.

~~[(7)]~~ (9) "Recipient" means a person who has received medical ~~[or hospital]~~ assistance under the Medicaid program ~~[or the Utah Medical Assistance Program established under Section 26-18-10]~~.

Section 2. Section 26-18-2.1 is amended to read:**26-18-2.1. Division -- Creation.**

There is created, within the department, the Division of Medicaid and Health ~~[Care]~~ Financing which shall be responsible for implementing, organizing, and maintaining the Medicaid program and the ~~[Utah Medical Assistance Program established in Section 26-18-10]~~ Children's Health Insurance Program established in Section 26-40-103, in accordance with the provisions of this chapter and applicable federal law.

Section 3. Section 26-18-2.2 is amended to read:**26-18-2.2. State Medicaid director -- Appointment -- Responsibilities.**

The ~~[director of the division]~~ state Medicaid director shall be appointed by the governor, after consultation with the executive director, with the advice and consent of the Senate. The ~~[director of the division]~~ state Medicaid director may employ other employees as necessary to implement the provisions of this chapter, and shall:

(1) administer the responsibilities of the division as set forth in this chapter;

(2) ~~[prepare and]~~ administer the division's budget; and

(3) establish and maintain a state plan for the Medicaid program in compliance with federal law and regulations.

Section 4. Section 26-18-2.3 is amended to read:**26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.**

(1) In accordance with the requirements of Title XIX of the Social Security Act and applicable federal

regulations, the division is responsible for the effective and impartial administration of this chapter in an efficient, economical manner. The division shall:

(a) establish, on a statewide basis, a program to safeguard against unnecessary or inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate hospital admissions or lengths of stay;

(b) deny any provider claim for services that fail to meet criteria established by the division concerning medical necessity or appropriateness; and

(c) place its emphasis on high quality care to recipients in the most economical and cost-effective manner possible, with regard to both publicly and privately provided services.

(2) The division shall implement and utilize cost-containment methods, where possible, which may include:

(a) prepayment and postpayment review systems to determine if utilization is reasonable and necessary;

(b) preadmission certification of nonemergency admissions;

(c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

(d) second surgical opinions;

(e) procedures for encouraging the use of outpatient services;

(f) consistent with Sections 26-18-2.4 and 58-17b-606, a Medicaid drug program;

(g) coordination of benefits; and

(h) review and exclusion of providers who are not cost effective or who have abused the Medicaid program, in accordance with the procedures and provisions of federal law and regulation.

(3) The state medicaid director [of the division] shall periodically assess the cost effectiveness and health implications of the existing Medicaid program, and consider alternative approaches to the provision of covered health and medical services through the Medicaid program, in order to reduce unnecessary or unreasonable utilization.

(4) (a) The department shall ensure Medicaid program integrity by conducting internal audits of the Medicaid program for efficiencies, best practices, [fraud, waste, abuse,] and cost recovery.

(b) The department shall coordinate with the Office of the Inspector General for Medicaid Services created in Section 63A-13-201 to implement Subsection (2) and to address Medicaid fraud, waste, or abuse as described in Section 63A-13-202.

(5) The department shall, by December 31 of each year, report to the Social Services Appropriations Subcommittee regarding:

(a) measures taken under this section to increase:

(i) efficiencies within the program; and

(ii) cost avoidance and cost recovery efforts in the program; and

(b) results of program integrity efforts under Subsection (4).

Section 5. Section 26-18-2.5 is amended to read:

26-18-2.5. Simplified enrollment and renewal process for Medicaid and other state medical programs -- Financial institutions.

(1) The department may~~[(a)]~~ apply for grants and accept donations to~~[(i)]~~ make technology system improvements necessary to implement a simplified enrollment and renewal process for the Medicaid program, Utah Premium Partnership, and Primary Care Network Demonstration Project programs~~[(and)]~~.

~~[(ii) conduct an actuarial analysis of the implementation of a basic health care plan in the state in 2014 to provide coverage options to individuals from 133% to 200% of the federal poverty level; and]~~

~~[(b) if funding is available:]~~

~~[(i) implement the simplified enrollment and renewal process in accordance with this section; and]~~

~~[(ii) conduct the actuarial analysis described in Subsection (1)(a)(ii).]~~

~~[(2) The simplified enrollment and renewal process established in this section shall, in accordance with Section 59-1-403, provide an eligibility worker a process in which the eligibility worker:]~~

~~[(a) verifies the applicant's or enrollee's identity;]~~

~~[(b) gets consent to obtain the applicant's adjusted gross income from the State Tax Commission from:]~~

~~[(i) the applicant or enrollee, if the applicant or enrollee filed a single tax return; or]~~

~~[(ii) both parties to a joint return, if the applicant filed a joint tax return; and]~~

~~[(c) obtains from the State Tax Commission, the adjusted gross income of the applicant or enrollee.]~~

~~[(3)] (2) (a) The department may enter into an agreement with a financial institution doing business in the state to develop and operate a data match system to identify an applicant's or enrollee's assets that:~~

~~(i) uses automated data exchanges to the maximum extent feasible; and~~

~~(ii) requires a financial institution each month to provide the name, record address, Social Security number, other taxpayer identification number, or other identifying information for each applicant or enrollee who maintains an account at the financial institution.~~

(b) The department may pay a reasonable fee to a financial institution for compliance with this Subsection ~~[(3)]~~ (2), as provided in Section 7-1-1006.

(c) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under this Subsection ~~[(3)]~~ (2).

(d) The department may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, verifying eligibility as provided in this section and Section 26-40-105.

Section 6. Section 26-18-3.5 is amended to read:

26-18-3.5. Copayments by recipients -- Employer sponsored plans.

(1) The department shall selectively provide for enrollment fees, premiums, deductions, cost sharing or other similar charges to be paid by recipients, their spouses, and parents, within the limitations of federal law and regulation.

~~[(2)(a) The department shall seek approval under the department's Section 1115 Medicaid waiver to cap enrollment fees for the Primary Care Network Demonstration Project in accordance with Subsection (2)(b).]~~

~~[(b) Pursuant to a waiver obtained under Subsection (2)(a), the department shall cap enrollment fees for the primary care network at \$15 per year for those persons who, after July 1, 2003, are eligible to begin receiving General Assistance under Section 35A-3-401.]~~

~~[(c) Beginning July 1, 2004, and pursuant to a waiver obtained under Subsection (2)(a), the department shall cap enrollment fees for the primary care network at \$25 per year for those persons who have an income level that is below 50% of the federal poverty level.]~~

~~[(3)]~~ (2) Beginning May 1, 2006, within appropriations by the Legislature and as a means to increase health care coverage among the uninsured, the department shall take steps to promote increased participation in employer sponsored health insurance, including:

(a) maximizing the health insurance premium subsidy provided under the state's ~~[Primary Care Network Demonstration Project]~~ 1115 demonstration waiver by:

(i) ensuring that state funds are matched by federal funds to the greatest extent allowable; and

(ii) as the department determines appropriate, seeking federal approval to do one or more of the following:

(A) eliminate or otherwise modify the annual enrollment fee;

(B) eliminate or otherwise modify the schedule used to determine the level of subsidy provided to an enrollee each year;

(C) reduce the maximum number of participants allowable under the subsidy program; or

(D) otherwise modify the program in a manner that promotes enrollment in employer sponsored health insurance; and

(b) exploring the use of other options, including the development of a waiver under the Medicaid Health Insurance Flexibility Demonstration Initiative or other federal authority.

Section 7. Section 26-18-3.6 is amended to read:

26-18-3.6. Income and resources from institutionalized spouses.

(1) As used in this section:

(a) "Community spouse" means the spouse of an institutionalized spouse.

(b) (i) "Community spouse monthly income allowance" means an amount by which the minimum monthly maintenance needs allowance for the spouse exceeds the amount of monthly income otherwise available to the community spouse, determined without regard to the allowance, except as provided in Subsection (1)(b)(ii).

(ii) If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse may not be less than the amount of the monthly income so ordered.

(c) "Community spouse resource allowance" is ~~[an amount by which the greatest of the following exceeds the amount of the resources otherwise available to the community spouse:]~~ the amount of combined resources that are protected for a community spouse living in the community, which the division shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services.

~~[(i) \$15,804;]~~

~~[(ii) the lesser of the spousal share computed under Subsection (4) or \$76,740;]~~

~~[(iii) the amount established in a hearing held under Subsection (11); or]~~

~~[(iv) the amount transferred by court order under Subsection (12)(e).]~~

(d) "Excess shelter allowance" for a community spouse means the amount by which the sum of the spouse's expense for rent or mortgage payment, taxes, and insurance, and in the case of condominium or cooperative, required maintenance charge, for the community spouse's principal residence and the spouse's actual expenses for electricity, natural gas, and water

utilities or, at the discretion of the department, the federal standard utility allowance under SNAP as defined in Section 35A-1-102, exceeds 30% of the amount described in Subsection (9).

(e) "Family member" means a minor dependent child, dependent parents, or dependent sibling of the institutionalized spouse or community spouse who are residing with the community spouse.

(f) (i) "Institutionalized spouse" means a person who is residing in a nursing facility and is married to a spouse who is not in a nursing facility.

(ii) An "institutionalized spouse" does not include a person who is not likely to reside in a nursing facility for at least 30 consecutive days.

(g) "Nursing care facility" means the same as that term is defined in Section 26-21-2.

(2) The division shall comply with this section when determining eligibility for medical assistance for an institutionalized spouse.

(3) For services furnished during a calendar year beginning on or after January 1, 1999, the ~~dollar amounts specified in Subsections (1)(e)(i), (1)(e)(ii), and (10)(b)~~ community spouse resource allowance shall be increased by the division by ~~the~~ an amount as determined annually by ~~the federal Centers for Medicare and Medicaid Services~~ CMS.

(4) The division shall compute, as of the beginning of the first continuous period of institutionalization of the institutionalized spouse:

(a) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

(b) a spousal share, which is 1/2 of the resources described in Subsection (4)(a).

(5) At the request of an institutionalized spouse or a community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the division shall promptly assess and document the total value described in Subsection (4)(a) and shall provide a copy of that assessment and documentation to each spouse and shall retain a copy of the assessment. When the division provides a copy of the assessment, it shall include a notice stating that the spouse may request a hearing under Subsection (11).

(6) When determining eligibility for medical assistance under this chapter:

(a) Except as provided in Subsection (6)(b), all ~~the~~ resources held by either the institutionalized spouse, community spouse, or both, are considered to be available to the institutionalized spouse.

(b) Resources are considered to be available to the institutionalized spouse only to the extent that the amount of those resources exceeds the ~~amounts specified in Subsections (1)(e)(i) through (iv)~~ community spouse resource allowance at the time of application for medical assistance under this chapter.

(7) (a) The division may not find an institutionalized spouse to be ineligible for medical assistance by reason of resources determined under Subsection (5) to be available for the cost of care when:

~~[(a)]~~ (i) the institutionalized spouse has assigned to the state any rights to support from the community spouse;

~~[(b)-(i)]~~ (ii) except as provided in Subsection (7)(b)~~[(ii)]~~, the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment; or

~~[(ii)]~~ ~~Subsection (7)(b)(i) does not prevent the division from seeking a court order seeking an assignment of support; or~~

~~[(e)]~~ (iii) the division determines that denial of medical assistance would cause an undue burden.

(b) Subsection (7)(a)(ii) does not prevent the division from seeking a court order for an assignment of support.

(8) During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is eligible for medical assistance, the resources of the community spouse may not be considered to be available to the institutionalized spouse.

(9) When an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly for the cost of care in the nursing care facility, the division shall deduct from the spouse's monthly income the following amounts in the following order:

(a) a personal needs allowance, the amount of which is determined by the division;

(b) a community spouse monthly income allowance, but only to the extent that the income of the institutionalized spouse is made available to, or for the benefit of, the community spouse;

(c) a family allowance for each family member, equal to at least 1/3 of the amount that the amount described in Subsection (10)(a)~~[(i)]~~ exceeds the amount of ~~monthly income of that family member~~ the family member's monthly income; and

(d) amounts for incurred expenses for the medical or remedial care for the institutionalized spouse.

(10) ~~[(a) Except as provided in Subsection (10)(b), the]~~ The division shall establish a minimum monthly maintenance needs allowance for each community spouse ~~[which is not less than the sum of]~~ that includes:

(a) an amount established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services; and

[(i) 150% of the current poverty guideline for a two-person family unit that applies to this state as established by the United States Department of Health and Human Services; and]

~~[(ii)]~~ (b) an excess shelter allowance.

~~[(b) The amount provided in Subsection (10)(a) may not exceed \$1,976, unless a court order establishes a higher amount.]~~

(11) (a) An institutionalized spouse or a community spouse may request a hearing with respect to the determinations described in Subsections (11)(e)(i) through (v) if an application for medical assistance has been made on behalf of the institutionalized spouse.

(b) A hearing under this subsection regarding the community spouse resource allowance shall be held by the division within 90 days from the date of the request for the hearing.

(c) If either spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance provided under Subsection (10), an amount adequate to provide additional income as is necessary.

(d) If either spouse establishes that the community spouse resource allowance, in relation to the amount of income generated by the allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance, an amount adequate to provide a minimum monthly maintenance needs allowance.

(e) A hearing may be held under this subsection if either the institutionalized spouse or community spouse is dissatisfied with a determination of:

(i) the community spouse monthly income allowance;

(ii) the amount of monthly income otherwise available to the community spouse;

(iii) the computation of the spousal share of resources under Subsection (4);

(iv) the attribution of resources under Subsection (6); or

(v) the determination of the community spouse resource allocation.

(12) (a) An institutionalized spouse may transfer an amount equal to the community spouse resource allowance, but only to the extent the resources of the institutionalized spouse are transferred to or for the sole benefit of the community spouse.

(b) The transfer under Subsection (12)(a) shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account the time necessary to obtain a court order under Subsection (12)(c).

(c) Chapter 19, Medical Benefits Recovery Act, does not apply if a court has entered an order

against an institutionalized spouse for the support of the community spouse.

Section 8. Section 26-18-5 is amended to read:

26-18-5. Contracts for provision of medical services -- Federal provisions modifying department rules -- Compliance with Social Security Act.

(1) The department may contract with other public or private agencies to purchase or provide medical services in connection with the programs of the division. Where these programs are used by other state agencies, contracts shall provide that other state agencies transfer the state matching funds to the department in amounts sufficient to satisfy needs of the specified program.

~~[(2) All contracts for the provision or purchase of medical services shall be established on the basis of the state's fiscal year and shall remain uniform during the fiscal year insofar as possible.]~~

(2) Contract terms shall include provisions for maintenance, administration, and service costs.

(3) If a federal legislative or executive provision requires modifications or revisions in an eligibility factor established under this chapter as a condition for participation in medical assistance, the department may modify or change its rules as necessary to qualify for participation~~[; providing, the].~~

(4) The provisions of this section do not apply to department rules governing abortion.

~~[(4)]~~ (5) The department shall comply with all pertinent requirements of the Social Security Act and all orders, rules, and regulations adopted thereunder when required as a condition of participation in benefits under the Social Security Act.

Section 9. Section 26-18-11 is amended to read:

26-18-11. Rural hospitals.

(1) For purposes of this section "rural hospital" means a hospital located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.

(2) For purposes of the Medicaid program ~~[and the Utah Medical Assistance Program]~~, the Division of Medicaid and Health ~~[Care]~~ Financing may not discriminate among rural hospitals on the basis of size.

Section 10. Section 26-18-18 is amended to read:

26-18-18. Optional Medicaid expansion.

~~[(1) For purposes of this section:]~~

~~[(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.]~~

~~[(b) "PPACA" means the same as that term is defined in Section 31A-1-301.]~~

[~~(2)~~] (1) The department and the governor may not expand the state's Medicaid program under PPACA unless:

(a) the department expands Medicaid in accordance with Section 26-18-415; or

(b) (i) the governor or the governor's designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in [Sections 63N-11-106 and] Section 26-18-3; and

(ii) the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204.

[~~(3)~~] (2) (a) The department shall request approval from CMS for waivers from federal statutory and regulatory law necessary to implement the health coverage improvement program under Section 26-18-411.

(b) The health coverage improvement program under Section 26-18-411 is not subject to the requirements in Subsection [~~(2)~~] (1).

Section 11. Section 26-18-21 is amended to read:

26-18-21. Medicaid intergovernmental transfer report -- Approval requirements.

(1) As used in this section:

(a) (i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under Chapter 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b) (i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, local district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2) (a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year, the department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

(ii) a summary of changes to [~~the Centers for Medicare and Medicaid Services~~] CMS regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection 63J-5-102(1)(d) and the analysis required in Subsections (2)(a) and (b).

(4) (a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b) (i) If the nursing care facility expects to receive less than \$1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between \$1,000,000 and \$10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment

Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than \$10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under Chapter 21, Health Care Facility Licensing and Inspection Act.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with [the Centers for Medicare and Medicaid Services] CMS.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government

entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9) (a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 12. Section 26-18-404 is amended to read:

26-18-404. Home and community-based long-term care -- Room and board assistance.

If the department receives approval from [the Centers for Medicare and Medicaid Services within the U.S. Department of Health and Human Services] CMS to replace the Medicaid program's current FlexCare program with a new program to provide long-term care services in home and community-based settings rather than institutions, the department shall assist in the payment of room and board costs for any person in the new program without sufficient income to fully pay those costs.

Section 13. Section 26-18-408 is amended to read:

26-18-408. Incentives to appropriately use emergency department services.

(1) (a) This section applies to the Medicaid program and to the Utah Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

(b) For purposes of this section:

(i) "Accountable care organization" means a Medicaid or Children's Health Insurance Program administrator that contracts with the Medicaid program or the Children's Health Insurance Program to deliver health care through an accountable care plan.

(ii) "Accountable care plan" means a risk based delivery service model authorized by Section 26-18-405 and administered by an accountable care organization.

(iii) "Nonemergent care":

(A) means use of the emergency department to receive health care that is nonemergent as defined by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the Emergency Medical Treatment and Active Labor Act; and

(B) does not mean the medical services provided to a recipient required by the Emergency Medical Treatment and Active Labor Act, including services to conduct a medical screening examination to determine if the recipient has an emergent or nonemergent condition.

(iv) "Professional compensation" means payment made for services rendered to a Medicaid recipient by an individual licensed to provide health care services.

(v) "Super-utilizer" means a Medicaid recipient who has been identified by the recipient's accountable care organization as a person who uses the emergency department excessively, as defined by the accountable care organization.

(2) (a) An accountable care organization may, in accordance with Subsections (2)(b) and (c):

(i) audit emergency department services provided to a recipient enrolled in the accountable care plan to determine if nonemergent care was provided to the recipient; and

(ii) establish differential payment for emergent and nonemergent care provided in an emergency department.

(b) (i) The differential payments under Subsection (2)(a)(ii) do not apply to professional compensation for services rendered in an emergency department.

(ii) Except in cases of suspected fraud, waste, and abuse, an accountable care organization's audit of payment under Subsection (2)(a)(i) is limited to the 18-month period of time after the date on which the medical services were provided to the recipient. If fraud, waste, or abuse is alleged, the accountable care organization's audit of payment under Subsection (2)(a)(i) is limited to three years after

the date on which the medical services were provided to the recipient.

(c) The audits and differential payments under Subsections (2)(a) and (b) apply to services provided to a recipient on or after July 1, 2015.

(3) An accountable care organization shall:

(a) use the savings under Subsection (2) to maintain and improve access to primary care and urgent care services for all of the recipients enrolled in the accountable care plan;

(b) provide viable alternatives for increasing primary care provider reimbursement rates to incentivize after hours primary care access for recipients; and

(c) report to the department on how the accountable care organization complied with this Subsection (3).

(4) The department shall:

(a) through administrative rule adopted by the department, develop quality measurements that evaluate an accountable care organization's delivery of:

(i) appropriate emergency department services to recipients enrolled in the accountable care plan;

(ii) expanded primary care and urgent care for recipients enrolled in the accountable care plan, with consideration of the accountable care organization's:

(A) delivery of primary care, urgent care, and after hours care through means other than the emergency department;

(B) recipient access to primary care providers and community health centers including evening and weekend access; and

(C) other innovations for expanding access to primary care; and

(iii) quality of care for the accountable care plan members;

(b) compare the quality measures developed under Subsection (4)(a) for each accountable care organization and share the data and quality measures developed under Subsection (4)(a) with the Health Data Committee created in Chapter 33a, Utah Health Data Authority Act;

(c) apply for a Medicaid waiver and a Children's Health Insurance Program waiver with ~~the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services~~ CMS, to:

(i) allow the program to charge recipients who are enrolled in an accountable care plan a higher copayment for emergency department services; and

(ii) develop, by administrative rule, an algorithm to determine assignment of new, unassigned recipients to specific accountable care plans based on the plan's performance in relation to the quality measures developed pursuant to Subsection (4)(a); and

(d) before July 1, 2015, convene representatives from the accountable care organizations, pre-paid mental health plans, an organization representing hospitals, an organization representing physicians, and a county mental health and substance abuse authority to discuss alternatives to emergency department care, including:

(i) creating increased access to primary care services;

(ii) alternative care settings for super-utilizers and individuals with behavioral health or substance abuse issues;

(iii) primary care medical and health homes that can be created and supported through enhanced federal match rates, a state plan amendment for integrated care models, or other Medicaid waivers;

(iv) case management programs that can:

(A) schedule prompt visits with primary care providers within 72 to 96 hours of an emergency department visit;

(B) help super-utilizers with behavioral health or substance abuse issues to obtain care in appropriate care settings; and

(C) assist with transportation to primary care visits if transportation is a barrier to appropriate care for the recipient; and

(v) sharing of medical records between health care providers and emergency departments for Medicaid recipients.

(5) The Health Data Committee may publish data in accordance with Chapter 33a, Utah Health Data Authority Act, which compares the quality measures for the accountable care plans.

Section 14. Section 26-18-410 is amended to read:

26-18-410. Medicaid waiver for children with disabilities and complex medical needs.

(1) As used in this section:

(a) "Additional eligibility criteria" means the additional eligibility criteria set by the department under Subsection (4)(e).

(b) "Complex medical condition" means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

(c) "Program" means the program for children with complex medical conditions created in Subsection (3).

(d) "Qualified child" means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria.

(2) The department shall apply for a Medicaid home and community-based waiver with ~~the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services~~ CMS to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children;

(b) accepts applications for the program during periods of open enrollment; and

(c) if approved by ~~the Centers for Medicare and Medicaid Services~~ CMS:

(i) requires periodic reevaluations of an enrolled child's eligibility based on the additional eligibility criteria; and

(ii) at the time of reevaluation, allows the department to disenroll a child who does not meet the additional eligibility criteria.

(4) The department shall:

(a) seek to prioritize, in the waiver described in Subsection (2), entrance into the program based on the:

(i) complexity of a qualified child's medical condition; and

(ii) financial needs of a qualified child and the qualified child's family;

(b) convene a public process to determine:

(i) the benefits and services to offer a qualified child under the program; and

(ii) additional eligibility criteria for a qualified child;

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program;

(d) if funding for the program is reduced, develop an evaluation process to reduce the number of children served based on the criteria in Subsection (4)(a); and

(e) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional eligibility criteria based on the factors described in Subsections (4)(a)(i) and (ii).

~~[(5) The department shall annually report to the Legislature's Health and Human Services Interim Committee before November 30 while the waiver is in effect regarding:]~~

~~[(a) the number of qualified children served under the program;]~~

~~[(b) the cost of the program; and]~~

~~[(c) the effectiveness of the program.]~~

Section 15. Section 26-18-411 is amended to read:

26-18-411. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.

(1) For purposes of this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

~~[(b) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.]~~

~~[(c)] (b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section 26-18-416.~~

~~[(d)] (c) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).~~

~~[(e)] (d) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through (10).~~

~~[(f)] (e) "Homeless":~~

~~(i) means an individual who is chronically homeless, as determined by the department; and~~

~~(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.~~

~~[(g)] (f) "Income eligibility ceiling" means the percent of federal poverty level:~~

~~(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and~~

~~(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.~~

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the

federal poverty level designated by the department, based on appropriations for the program, for an individual with a dependent child.

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(5) (a) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (6).

(b) An adult who qualifies under Subsection (6) shall receive Medicaid coverage:

(i) through the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented;

(ii) except as provided in Subsection (5)(b)(iii), for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

(iii) that integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iv) that permits temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(c) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (5)(b)(iii) shall collaborate on enrollment, engagement of patients, and coordination of services.

(6) (a) An individual is eligible for the health coverage improvement program under Subsection (5) if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under Subsection (1)~~[(g)](f)~~; and

(ii) the individual meets the eligibility criteria established by the department under Subsection (6)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (6)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance abuse treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance abuse treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (6)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(~~g~~)(f) or (6)(b) shall not apply to an individual during the 12-month certification period.

(7) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (6) each fiscal year based on enrollment in the health coverage improvement program, projected enrollment, costs to the state, and the state budget.

(8) Before September 30 of each year, the department shall report to the Health and Human Services Interim Committee and to the Executive Appropriations Committee:

(a) the number of individuals who enrolled in Medicaid under Subsection (6);

(b) the state cost of providing Medicaid to individuals enrolled under Subsection (6); and

(c) recommendations for adjusting the income eligibility ceiling under Subsection (7), and other eligibility criteria under Subsection (6), for the upcoming fiscal year.

(9) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(10) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (6).

(11) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection (11)(c).

(12) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

Section 16. Section 26-18-413 is amended to read:

26-18-413. Medicaid waiver for delivery of adult dental services.

(1) (a) Before June 30, 2016, the department shall ask [~~the United States Secretary of Health and Human Services~~] CMS to grant waivers from federal statutory and regulatory law necessary for the Medicaid program to provide dental services in the manner described in Subsection (2).

(b) Before June 30, 2018, the department shall submit to [~~the Centers for Medicare and Medicaid Services~~] CMS a request for waivers, or an amendment of existing waivers, from federal law necessary for the state to provide dental services, in accordance with Subsections (2)(b) through (g), to an individual described in Subsection (2)(b).

(2) (a) To the extent funded, the department shall provide services to only blind or disabled individuals, as defined in 42 U.S.C. Sec. 1382c(a)(1), who are 18 years old or older and eligible for the program.

(b) Notwithstanding Subsection (2)(a), if a waiver is approved under Subsection (1)(b), the department shall provide dental services to an individual who:

(i) qualifies for the health coverage improvement program described in Section 26-18-411; and

(ii) is receiving treatment in a substance abuse treatment program, as defined in Section 62A-2-101, licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

(c) To the extent possible, services to individuals described in Subsection (2)(a) within Salt Lake County shall be provided through the University of Utah School of Dentistry.

(d) The department shall provide the services to individuals described in Subsection (2)(b):

(i) by contracting with an entity that:

(A) has demonstrated experience working with individuals who are being treated for both a substance use disorder and a major oral health disease;

(B) operates a program, targeted at the individuals described in Subsection (2)(b), that has demonstrated, through a peer-reviewed evaluation, the effectiveness of providing dental treatment to those individuals described in Subsection (2)(b);

(C) is willing to pay for an amount equal to the program's non-federal share of the cost of providing dental services to the population described in Subsection (2)(b); and

(D) is willing to pay all state costs associated with applying for the waiver described in Subsection (1)(b) and administering the program described in Subsection (2)(b); and

(ii) through a fee-for-service payment model.

(e) The entity that receives the contract under Subsection (2)(d)(i) shall cover all state costs of the program described in Subsection (2)(b).

(f) Each fiscal year, the University of Utah School of Dentistry shall transfer money to the program in an amount equal to the program's non-federal share of the cost of providing services under this section through the school during the fiscal year.

(g) During each general session of the Legislature, the department shall report to the Social Services Appropriations Subcommittee whether the University of Utah School of Dentistry will have sufficient funds to make the transfer required by Subsection (2)(f) for the current fiscal year.

(h) Where possible, the department shall ensure that services that are not provided by the University of Utah School of Dentistry are provided:

(i) through fee for service reimbursement until July 1, 2018; and

(ii) after July 1, 2018, through the method of reimbursement used by the division for Medicaid dental benefits.

(i) Subject to appropriations by the Legislature, and as determined by the department, the scope, amount, duration, and frequency of services may be limited.

(3) The reporting requirements of Section 26-18-3 apply to the waivers requested under Subsection (1).

(4) (a) If the waivers requested under Subsection (1)(a) are granted, the Medicaid program shall begin providing dental services in the manner described in Subsection (2) no later than July 1, 2017.

(b) If the waivers requested under Subsection (1)(b) are granted, the Medicaid program shall begin providing dental services to the population described in Subsection (2)(b) within 90 days from the day on which the waivers are granted.

(5) If the federal share of the cost of providing dental services under this section will be less than 65% during any portion of the next fiscal year, the

Medicaid program shall cease providing dental services under this section no later than the end of the current fiscal year.

Section 17. Section 26-18-415 is amended to read:

26-18-415. Medicaid waiver expansion.

(1) As used in this section:

~~[(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.]~~

~~[(b) "Expansion population" means individuals:]~~

~~[(i) whose household income is less than 95% of the federal poverty level; and]~~

~~[(ii) who are not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network program, on May 8, 2018.]~~

~~[(e)] (a) "Federal poverty level" means the same as that term is defined in Section 26-18-411.~~

~~[(d)] (b) "Medicaid waiver expansion" means a Medicaid expansion in accordance with this section.~~

(2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection ~~[(4)]~~ (2)(a) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section 26-36b-208;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(5) (a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

(a) the number of individuals who enrolled in the Medicaid waiver program;

(b) costs to the state for the Medicaid waiver program;

(c) estimated costs for the current and following state fiscal year; and

(d) recommendations to control costs of the Medicaid waiver expansion.

Section 18. Section 26-18-416 is amended to read:

26-18-416. Primary Care Network enhancement waiver program.

(1) As used in this section:

~~[(a) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.]~~

~~[(b)] (a) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.~~

~~[(c)] (b) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).~~

~~[(d)] (c) "Health coverage improvement program" means the same as that term is defined in Section 26-18-411.~~

~~[(e)] (d) "Income eligibility ceiling" means the percentage of federal poverty level:~~

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

~~[(f)] (e) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.~~

~~[(g) "PPACA" means the same as that term is defined in Section 31A-1-301.]~~

~~[(h)] (f) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.~~

(2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.

(3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26-18-415, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

(b) diagnostic testing and procedures;

(c) medical specialty care;

(d) inpatient hospital services;

(e) outpatient hospital services;

(f) outpatient behavioral health care, including outpatient substance abuse care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(e)(d); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6) (a) Based on available funding and approval from CMS and subject to Subsection (6)(d), the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section 26-18-411, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26-18-411(3);

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid Expansion Fund created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

~~[(d) The money deposited into the Medicaid Expansion Fund under Subsections 26-36b-208(g) and (h) may only be used to pay the cost of enrolling individuals who qualify for the enhancement waiver program under Subsections (6)(a)(iii) and (iv).]~~

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections 26-18-411(11) and (12), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

Section 19. Section 26-18-417 is amended to read:

26-18-417. Limited family planning services for low-income individuals.

(1) As used in this section:

(a) (i) "Family planning services" means family planning services that are provided under the state Medicaid program, including:

(A) sexual health education and family planning counseling; and

(B) other medical diagnosis, treatment, or preventative care routinely provided as part of a family planning service visit.

(ii) "Family planning services" do not include an abortion, as that term is defined in Section 76-7-301.

(b) "Low-income individual" means an individual who:

(i) has an income level that is equal to or below 95% of the federal poverty level; and

(ii) does not qualify for full coverage under the Medicaid program.

(2) Before July 1, 2018, the division shall apply for a Medicaid waiver or a state plan amendment with ~~[the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services]~~ CMS to:

(a) offer a program that provides family planning services to low-income individuals; and

(b) receive a federal match rate of 90% of state expenditures for family planning services provided under the waiver or state plan amendment.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver or state plan amendment is in effect regarding:

(a) the number of qualified individuals served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any savings to the state Medicaid program from reductions in enrollment;

(ii) any reduction in the number of abortions;

(iii) any reduction in the number of unintended pregnancies;

(iv) any reduction in the number of individuals requiring services from the Women, Infants, and Children Program established in 42 U.S.C. Sec. 1786; and

(v) any other costs and benefits as a result of the program.

Section 20. Section 26-18-418 is amended to read:

26-18-418. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section 63C-18-102.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c) (i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law

enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 63C-18-102.

(2) In consultation with the Department of Human Services and the Mental Health Crisis Line Commission created in Section 63C-18-202, the department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with [~~the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services~~] CMS, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

Section 21. Section 26-18-501 is amended to read:

26-18-501. Definitions.

As used in this part:

(1) "Certified program" means a nursing care facility program with Medicaid certification.

(2) "Director" means the [~~director of the Division of Health Care Financing~~] state Medicaid director appointed under Section 26-18-2.2.

(3) "Medicaid certification" means the right of a nursing care facility, as a provider of a nursing care facility program, to receive Medicaid reimbursement for a specified number of beds within the facility.

(4) (a) "Nursing care facility" means the following facilities licensed by the department under Chapter 21, Health Care Facility Licensing and Inspection Act:

(i) skilled nursing facilities;

(ii) intermediate care facilities; and

(iii) an intermediate care facility for people with an intellectual disability.

(b) "Nursing care facility" does not mean a critical access hospital that meets the criteria of 42 U.S.C. 1395i-4(c)(2) (1998).

(5) "Nursing care facility program" means the personnel, licenses, services, contracts and all other requirements that shall be met for a nursing care facility to be eligible for Medicaid certification under this part and division rule.

(6) "Physical facility" means the buildings or other physical structures where a nursing care facility program is operated.

(7) "Rural county" means a county with a population of less than 50,000, as determined by:

(a) the most recent official census or census estimate of the United States Bureau of the Census; or

(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection (7)(a).

(8) "Service area" means the boundaries of the distinct geographic area served by a certified program as determined by the division in accordance with this part and division rule.

(9) "Urban county" means a county that is not a rural county.

Section 22. Section 26-18-503 is amended to read:

26-18-503. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26-18-505, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26-18-504[(4)](3).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased

to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) As provided in Subsection 26-18-502(2)(b), the director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients; and

(v) (A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9).

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) Notwithstanding Subsection 26-18-504[44](3), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by [the Center for Medicare and Medicaid Services] CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional

Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9) (a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

Section 23. Section 26-36b-202 is amended to read:

26-36b-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section 26-36b-201 is the department.

(2) The department is vested with the administration and enforcement of this chapter, and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this chapter;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this chapter; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this chapter separately from the assessment in Chapter [36a] 36d, Hospital Provider Assessment Act; and

(b) deposit assessments collected under this chapter into the Medicaid Expansion Fund created by Section 26-36b-208.

Section 24. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

~~[(g) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);]~~

~~[(h) (g) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;~~

[(i) (h) interest earned on money in the fund; and

[(j) (i) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) the Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 25. Section 26-36c-202 is amended to read:

26-36c-202. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The department shall act as the collecting agent for the assessment imposed under Section 26-36c-201.

(2) The department shall administer and enforce the provisions of this chapter, and may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this chapter;

(b) audit records of a facility that:

(i) is subject to the assessment imposed under this chapter; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessments in Chapter ~~36a~~ 36d, Hospital Provider Assessment Act, and Chapter 36b, Inpatient Hospital Assessment Act; and

(b) deposit assessments collected under this chapter into the Medicaid Expansion Fund.

(4) (a) Hospitals shall pay the quarterly assessments imposed by this chapter to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(b) The department may make rules creating requirements to allow the time for paying the assessment to be extended.

Section 26. Section 26-40-102 is amended to read:

26-40-102. Definitions.

As used in this chapter:

(1) "Child" means a person who is under 19 years of age.

(2) "Eligible child" means a child who qualifies for enrollment in the program as provided in Section 26-40-105.

(3) [~~Enrollee~~] "Member" means [~~any~~] a child enrolled in the program.

(4) "Plan" means the department's plan submitted to the United States Department of Health and Human Services pursuant to 42 U.S.C. Sec. 1397ff.

(5) "Program" means the Utah Children's Health Insurance Program created by this chapter.

Section 27. Section 26-40-103 is amended to read:

26-40-103. Creation and administration of the Utah Children's Health Insurance Program.

(1) There is created the Utah Children's Health Insurance Program to be administered by the department in accordance with the provisions of:

(a) this chapter; and

(b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

(2) The department shall:

(a) prepare and submit the state's children's health insurance plan before May 1, 1998, and any amendments to the federal Department of Health and Human Services in accordance with 42 U.S.C. Sec. 1397ff; and

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act regarding:

(i) eligibility requirements consistent with Section 26-18-3;

(ii) program benefits;

(iii) the level of coverage for each program benefit;

(iv) cost-sharing requirements for [~~enrollees~~] members, which may not:

(A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

(B) impose deductible, copayment, or coinsurance requirements on [~~an enrollee~~] a member for well-child, well-baby, and immunizations;

(v) the administration of the program; and

(vi) a requirement that:

(A) [~~enrollees~~] members in the program shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the [~~enrollee~~] member opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the [~~enrollee~~] member shall receive notice of the enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the [~~enrollee~~] member and when the [~~enrollee~~] member logs onto the program's website, the [~~enrollee~~] member shall receive notice of the right to opt out of the electronic exchange of clinical health records.

Section 28. Section 26-40-105 is amended to read:

26-40-105. Eligibility.

(1) A child is eligible to enroll in the program if the child:

(a) is a bona fide Utah resident;

(b) is a citizen or legal resident of the United States;

(c) is under 19 years of age;

(d) does not have access to or coverage under other health insurance, including any coverage available through a parent or legal guardian's employer;

(e) is ineligible for Medicaid benefits;

(f) resides in a household whose gross family income, as defined by rule, is at or below 200% of the federal poverty level; and

(g) is not an inmate of a public institution or a patient in an institution for mental diseases.

(2) A child who qualifies for enrollment in the program under Subsection (1) may not be denied enrollment due to a diagnosis or pre-existing condition.

(3) (a) The department shall determine eligibility and send notification of the eligibility decision within 30 days after receiving the application for coverage.

(b) If the department cannot reach a decision because the applicant fails to take a required action, or because there is an administrative or other emergency beyond the department's control, the department shall:

(i) document the reason for the delay in the applicant's case record; and

(ii) inform the applicant of the status of the application and time frame for completion.

(4) The department may not close enrollment in the program for a child who is eligible to enroll in the program under the provisions of Subsection (1).

(5) ~~(a)~~ The program shall:

~~(4)~~ (a) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process in accordance with ~~this~~ Subsection (5)(b); and

~~(ii)~~ (b) if funding is available, implement ~~the~~ a simplified enrollment and renewal process ~~in accordance with this Subsection (5)~~.

~~(b)~~ The simplified enrollment and renewal process:

~~(i)~~ shall, in accordance with Section 59-1-403, provide an eligibility worker a process in which the eligibility worker:

~~(A)~~ verifies the applicant's identity;

~~(B)~~ gets consent to obtain the applicant's adjusted gross income from the State Tax Commission from;

~~(4)~~ the applicant, if the applicant filed a single tax return; or]

~~(II) both parties to a joint return, if the applicant filed a joint tax return; and]~~

~~(C) obtains from the Utah State Tax Commission, the adjusted gross income of the applicant; and]~~

~~(ii) may not change the eligibility requirements for the program.]~~

Section 29. Section 26-40-106 is amended to read:

26-40-106. Program benefits.

(1) Except as provided in Subsection ~~[(4)]~~ (3), medical and dental program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, ~~[to be actuarially equivalent]~~ as follows:

(a) medical program benefits, including behavioral health care benefits, shall be benchmarked on July 1, 2019, and on July 1 every third year thereafter, to:

(i) be substantially equal to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state[-]; and

(ii) comply with the Mental Health Parity and Addiction Equity Act, Pub. L. No. 110-343; and

~~[(2) Except as provided in Subsection (4);]~~

~~[(a) medical program benefits may not exceed the benefit level described in Subsection (1); and]~~

~~[(b) medical program benefits shall be adjusted every July 1 to meet the benefit level described in Subsection (1).]~~

~~[(3) The dental benefit plan shall be benchmarked,]~~

(b) dental program benefits shall be benchmarked on July 1, 2019, and on July 1 every third year thereafter in accordance with the Children's Health Insurance Program Reauthorization Act of 2009, to be [equivalent] substantially equal to a dental benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives that is offered in the state, except that the utilization review mechanism for orthodontia shall be based on medical necessity. [Dental program benefits shall be adjusted on July 1, 2012, and on July 1 every three years thereafter to meet the benefit level required by this Subsection (3).]

(2) On or before January 31 of each year, the department shall publish the benchmark for dental program benefits established under Subsection (1)(b).

~~[(4)]~~ (3) The program benefits for enrollees who are at or below 100% of the federal poverty level are exempt from the benchmark requirements of Subsections (1) and (2).

Section 30. Section 26-40-110 is amended to read:

26-40-110. Managed care -- Contracting for services.

(1) Program benefits provided to [enrollees] a member under the program, as described in Section 26-40-106, shall be delivered by a managed care organization if the department determines that adequate services are available where the [enrollee] member lives or resides.

(2) The department may contract with a managed care organization to provide program benefits. The department shall ~~use the following criteria to~~ evaluate a potential contract with a managed care organization based on:

- (a) the managed care organization's:
 - (i) ability to manage medical expenses, including mental health costs;
 - (ii) proven ability to handle accident and health insurance;
 - (iii) efficiency of claim paying procedures;
 - (iv) proven ability for managed care and quality assurance;
 - (v) provider contracting and discounts;
 - (vi) pharmacy benefit management;
 - (vii) estimated total charges for administering the pool;
 - (viii) ability to administer the pool in a cost-efficient manner;
 - (ix) ability to provide adequate providers and services in the state; and
 - (x) ability to meet quality measures for emergency room use and access to primary care established by the department under Subsection 26-18-408(4); and

(b) other [eriteria] factors established by the department.

(3) The department may enter into separate managed care organization contracts to provide dental benefits required by Section 26-40-106.

(4) The department's contract with a ~~health or dental plan~~ managed care organization for the program's benefits shall include risk sharing provisions in which the plan shall accept at least 75% of the risk for any difference between the department's premium payments per ~~[client]~~ member and actual medical expenditures.

(5) (a) The department may contract with the Group Insurance Division within the Utah State Retirement Office to provide services under Subsection (1) if no ~~[other health or dental plan]~~ managed care organization is willing to contract with the department or the department determines no ~~[other plan]~~ managed care organization meets the criteria established under Subsection (2).

(b) In accordance with Section 49-20-201, a contract awarded under Subsection (5)(a) is not subject to the risk sharing required by Subsection (4).

Section 31. Section 26-40-115 is amended to read:

26-40-115. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5-205.5, 63C-9-403, 72-6-107.5, and 79-2-404, "qualified health insurance coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value at least actuarially equivalent to the combined actuarial value of the benchmark plan determined by the program under Subsection 26-40-106(1)(a), and a contribution level at which the employer pays at least 50% of the premium for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 32. Section 26-40-116 is amended to read:

26-40-116. Program to encourage appropriate emergency room use -- Application for waivers.

The program is subject to the provisions of Section 26-18-408 and shall apply for waivers in accordance with Subsection 26-18-408~~(5)~~(4)(c).

Section 33. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for ~~[multiemployer]~~ multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for ~~[single-employer]~~ single-employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by ~~[third-party]~~ third-party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;

(t) (i) require state employees and their dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; and

(u) ~~[provide services for drugs or medical devices]~~ at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code~~[,]~~, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The Department of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 67-19-12(5)(a).

Section 34. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker,

certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(e) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a ~~clinical social worker~~ supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision [of a clinical social worker], as defined by rule, of a supervisor described in Subsection (1)(e)(ii);

(g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

(h) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), (c), and (d).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(e) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision [of a clinical social worker], as defined by rule, of a supervisor described in Subsection (1)(e)(ii).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

- (I) social welfare policy;
- (II) human growth and development; and
- (III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(e) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(h), (2)(e), and (4)(e) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 35. Section 58-60-207 is amended to read:

58-60-207. Scope of practice -- Limitations.

(1) (a) A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of [a clinical social worker] an individual described in Subsection 58-60-205(1)(e)(ii) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another

person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other ~~[licensed clinical or certified social workers]~~ mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section 36. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(e) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a [marriage and family] mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection (1)(d); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a [marriage and family] mental health therapist supervisor qualified under Section 58-60-307, ~~as defined by rule;~~ and

(g) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 37. Section 58-60-307 is amended to read:

58-60-307. Supervisors of marriage and family therapists -- Qualifications.

(1) Each person acting as a supervisor of a marriage and family therapist ~~[supervisor]~~ shall:

(a) have at least two years of clinical experience ~~[as a marriage and family therapist]~~, since the date of first licensure, as a ~~[marriage and family therapist; and]~~:

(i) clinical mental health counselor;

(ii) psychiatrist;

(iii) psychologist;

(iv) registered psychiatric mental health nurse practitioner;

(v) marriage and family therapist; or

(vi) clinical social worker;

(b) either:

(i) be approved as a supervisor by a national marriage and family therapist professional organization; or

(ii) meet the criteria established by rule~~[-]~~; and

(c) provide supervision for no more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) Persons who act as a supervisor without meeting the requirements of this section are subject to discipline for unprofessional conduct.

Section 38. Section 58-60-308 is amended to read:

58-60-308. Scope of practice -- Limitations.

(1) A licensed marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy without supervision, in private and independent practice, or

as an employee of another person, limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(d), a licensed associate marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:

(i) within the scope of employment as a licensed associate marriage and family therapist with a public agency or a private clinic as defined by division rule; and

(ii) under the supervision of a licensed ~~[marriage and family]~~ mental health therapist who is qualified as a supervisor under Section 58-60-307.

(b) A licensed associate marriage and family therapist may not engage in the independent practice of marriage and family therapy.

Section 39. Section 58-60-407 is amended to read:

58-60-407. Scope of practice -- Limitations.

(1) (a) A licensed clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) A licensed clinical mental health counselor may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.

(2) (a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(d), a licensed associate clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling if the practice is:

(i) within the scope of employment as a licensed clinical mental health counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(b) A licensed associate clinical mental health counselor may not engage in the independent practice of clinical mental health counseling.

Section 40. Section 58-60-502 is amended to read:

58-60-502. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

(1) "Board" means the Substance Use Disorder Counselor Licensing Board created in Section 58-60-503.

(2) (a) "Counseling" means a collaborative process that facilitates the client's progress toward

mutually determined treatment goals and objectives.

(b) "Counseling" includes:

(i) methods that are sensitive to an individual client's characteristics, to the influence of significant others, and to the client's cultural and social context; and

(ii) an understanding, appreciation, and ability to appropriately use the contributions of various addiction counseling models as the counseling models apply to modalities of care for individuals, groups, families, couples, and significant others.

(3) "Direct supervision" means:

(a) a minimum of one hour of supervision by a supervisor of the substance use disorder counselor for every 40 hours of client care provided by the substance use disorder counselor, which supervision may include group supervision;

(b) the supervision is conducted in a face-to-face manner, unless otherwise approved on a case-by-case basis by the division in collaboration with the board; and

(c) a supervisor is available for consultation with the counselor at all times.

(4) "General supervision" shall be defined by division rule.

(5) "Group supervision" means more than one counselor licensed under this part meets with the supervisor at the same time.

(6) "Individual supervision" means only one counselor licensed under this part meets with the supervisor at a given time.

(7) "Practice as a certified advanced substance use disorder counselor" and "practice as a certified advanced substance use disorder counselor intern" means providing services described in Subsection (9) under the direct supervision of a mental health therapist or licensed advanced substance use disorder counselor.

(8) "Practice as a certified substance use disorder counselor" and "practice as a certified substance use disorder counselor intern" means providing the services described in Subsections (10)(a) and (b) under the direct supervision of a mental health therapist or licensed advanced substance use disorder counselor.

(9) "Practice as a licensed advanced substance use disorder counselor" means:

(a) providing the services described in Subsections (10)(a) and (b);

(b) screening and assessing of individuals, including identifying substance use disorder symptoms and behaviors and co-occurring mental health issues; ~~and~~

(c) treatment planning for substance use disorders, including initial planning, ongoing intervention, continuity of care, discharge

planning, planning for relapse prevention, and long term recovery support~~[.]~~; and

(d) supervising a certified substance use disorder counselor, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, certified advanced substance use disorder counselor intern, or licensed substance use disorder counselor in accordance with Subsection 58-60-508(2).

(10) (a) "Practice as a substance use disorder counselor" means providing services as an employee of a substance use disorder agency under the general supervision of a licensed mental health therapist to individuals or groups of persons, whether in person or remotely, for conditions of substance use disorders consistent with the education and training of a substance use disorder counselor required under this part, and the standards and ethics of the profession as approved by the division in collaboration with the board.

(b) "Practice as a substance use disorder counselor" includes:

(i) administering the screening process by which a client is determined to need substance use disorder services, which may include screening, brief intervention, and treatment referral;

(ii) conducting the administrative intake procedures for admission to a program;

(iii) conducting orientation of a client, including:

(A) describing the general nature and goals of the program;

(B) explaining rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

(C) explaining hours during which services are available in a nonresidential program;

(D) treatment costs to be borne by the client, if any; and

(E) describing the client's rights as a program participant;

(iv) conducting assessment procedures by which a substance use disorder counselor gathers information related to an individual's strengths, weaknesses, needs, and substance use disorder symptoms for the development of the treatment plan;

(v) participating in the process of treatment planning, including recommending specific interventions to support existing treatment goals and objectives developed by the substance use disorder counselor, the mental health therapist, and the client to:

(A) identify and rank problems needing resolution;

(B) establish agreed upon immediate and long term goals; and

(C) decide on a treatment process and the resources to be utilized;

(vi) monitoring compliance with treatment plan progress;

(vii) providing substance use disorder counseling services to alcohol and drug use disorder clients and significant people in the client's life as part of a comprehensive treatment plan, including:

(A) leading specific task-oriented groups, didactic groups, and group discussions;

(B) cofacilitating group therapy with a licensed mental health therapist; and

(C) engaging in one-on-one interventions and interactions coordinated by a mental health therapist;

(viii) performing case management activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;

(ix) providing substance use disorder crisis intervention services;

(x) providing client education to individuals and groups concerning alcohol and other substance use disorders, including identification and description of available treatment services and resources;

(xi) identifying the needs of the client that cannot be met by the substance use disorder counselor or substance use disorder agency and referring the client to appropriate services and community resources;

(xii) developing and providing effective reporting and recordkeeping procedures and services, which include charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data; and

(xiii) consulting with other professionals in regard to client treatment and services to assure comprehensive quality care for the client.

(c) "Practice as a substance use disorder counselor" does not include:

(i) the diagnosing of mental illness, including substance use disorders, as defined in Section 58-60-102;

(ii) engaging in the practice of mental health therapy as defined in Section 58-60-102; or

(iii) the performance of a substance use disorder diagnosis, other mental illness diagnosis, or psychological testing.

(11) "Program" means a substance use disorder agency that provides substance use disorder services, including recovery support services.

(12) "Recovery support services" means services provided to an individual who is identified as having need of substance use disorder preventive or treatment services, either before, during, or after an episode of care that meets the level of care standards established by division rule.

(13) "Substance use disorder agency" means a public or private agency, health care facility, or health care practice that:

(a) provides substance use disorder services, recovery support services, primary health care services, or substance use disorder preventive services; and

(b) employs qualified mental health therapists in sufficient number to:

(i) evaluate the condition of clients being treated by each counselor licensed under this part and employed by the substance use disorder agency; and

(ii) ensure that appropriate substance use disorder services are being given.

(14) "Substance use disorder education program" means a formal program of substance use disorder education offered by an accredited institution of higher education that meets standards established by division rule.

Section 41. Section 58-60-508 is amended to read:

58-60-508. Substance use disorder counselor supervisor's qualifications -- Functions.

(1) A mental health therapist supervisor of a substance use disorder counselor shall:

(a) be qualified by education or experience to treat substance use disorders;

(b) be currently working in the substance use disorder treatment field;

(c) review substance use disorder counselor assessment procedures and recommendations;

(d) provide substance use disorder diagnosis and other mental health diagnoses in accordance with Subsection 58-60-102(7);

(e) supervise the development of a treatment plan;

(f) approve the treatment plan; and

(g) provide direct supervision for not more than ~~five~~ six persons, unless granted an exception in writing from the board and the division.

(2) A licensed advanced substance use disorder counselor may act as the supervisor of a certified substance use disorder counselor, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, or certified advanced substance use disorder counselor intern ~~or licensed substance use disorder counselor shall~~ if the licensed advanced substance use disorder counselor:

~~(a) be a licensed advanced substance use disorder counselor;~~

~~(b)~~ (a) ~~have~~ has at least two years of experience as a licensed advanced substance use disorder counselor;

~~(c)~~ (b) ~~be~~ is currently working in the substance use disorder field; and

~~[(d)]~~ (c) ~~[provide]~~ provides direct supervision for no more than ~~[three persons]~~ six individuals, unless granted an exception in writing from the board and the division.

Section 42. Section 62A-4a-902 is amended to read:

62A-4a-902. Definitions.

(1) (a) "Adoption assistance" means direct financial subsidies and support to adoptive parents of a child with special needs or whose need or condition has created a barrier that would prevent a successful adoption.

(b) "Adoption assistance" may include state medical assistance, reimbursement of nonrecurring adoption expenses, or monthly subsidies.

(2) "Child who has a special need" means a child who cannot or should not be returned to the home of his biological parents and who meets at least one of the following conditions:

(a) the child is five years of age or older;

(b) the child is under the age of 18 with a physical, emotional, or mental disability; or

(c) the child is a member of a sibling group placed together for adoption.

(3) "Monthly subsidy" means financial support to assist with the costs of adopting and caring for a child who has a special need.

(4) "Nonrecurring adoption expenses" means reasonably necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of a child who has a special need.

(5) "State medical assistance" means the Medicaid program and medical assistance as those terms are defined in ~~[Subsections 26-18-2(4) and (5)]~~ Section 26-18-2.

(6) "Supplemental adoption assistance" means financial support for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible.

Section 43. Section 63A-13-102 is amended to read:

63A-13-102. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs; or

(b) reckless or negligent upcoding.

(2) "Claimant" means a person that:

(a) provides a service; and

(b) submits a claim for Medicaid reimbursement for the service.

(3) "Department" means the Department of Health, created in Section 26-1-4.

(4) "Division" means the Division of Medicaid and Health ~~[Care]~~ Financing, created in Section 26-18-2.1.

(5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.

(6) "Fraud" means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or

(b) a violation of a provision of Sections 26-20-3 through 26-20-7.

(7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.

(8) "Health care professional" means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(j) Title 58, Chapter 49, Dietitian Certification Act;

(k) Title 58, Chapter 60, Mental Health Professional Practice Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Physician Assistant Act; and

(p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

(9) “Inspector general” means the inspector general of the office, appointed under Section 63A-13-201.

(10) “Office” means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.

(11) “Provider” means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

(12) “Upcoding” means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(13) “Waste” means overutilization of resources or inappropriate payment.

Section 44. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Title 26.

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

~~[(2) Subsection 26-7-9(5) is repealed January 1, 2019.]~~

~~[(3) (2) Section 26-8a-107 is repealed July 1, 2019.]~~

[(4) (3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.]

[(5) (4) Subsection 26-18-2.3(5) is repealed January 1, 2020.]

[(6) (5) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.]

~~[(7) Subsection 26-18-408(6) is repealed January 2, 2019.]~~

~~[(8) Subsection 26-18-410(5) is repealed January 1, 2026.]~~

[(9) (6) Subsection ~~[26-18-411(5)]~~ 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.]

[(10) (7) Subsection 26-18-604(2) is repealed January 1, 2020.]

[(11) (8) Subsection 26-21-28(2)(b) is repealed January 1, 2021.]

[(12) (9) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.]

[(13) (10) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.]

[(14) (11) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.]

[(15) (12) Subsection 26-50-202(7)(b) is repealed January 1, 2020.]

[(16) (13) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.]

[(17) (14) Subsection 26-55-107(8) is repealed January 1, 2021.]

[(18) (15) Subsection 26-56-103(9)(d) is repealed January 1, 2020.]

[(19) (16) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.]

~~[(20) (17) Subsection 26-61-202(4)(b) is repealed January 1, 2022.]~~

~~[(21) (18) Subsection 26-61-202(5) is repealed January 1, 2022.]~~

Section 45. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) “Department” means the Department of Health created in Section 26-1-4.

(b) “Division” means the Division of Medicaid and Health ~~[Care]~~ Financing created ~~[within the department under]~~ in Section 26-18-2.1.

(c) “General Fund revenue surplus” means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) “Medicaid growth savings” means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) “Medicaid growth target” means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) “Medicaid program” is as defined in Section 26-18-2.

(g) “Medicaid program expenditures” means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) “Medicaid program expenditures for the previous year” means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 46. Repealer.

This bill repeals:

Section 26-18-3.2, Release of financial information.

Section 26-18-10, Utah Medical Assistance Program -- Policies and standards.

Section 26-18-14, Strategic plan for health system reform -- Medicaid program.

Section 26-18-406, Medicaid waiver for community service pilot program.

Section 26-18-407, Medicaid waiver for autism spectrum disorder.

CHAPTER 394**H. B. 396**

Passed March 13, 2019

Approved March 27, 2019

Effective May 14, 2019

LEWDNESS STATUTE MODIFICATION

Chief Sponsor: Walt Brooks
Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies a provision relating to the offense of lewdness involving a child.

Highlighted Provisions:

This bill:

- ▶ modifies language relating to the actions that constitute the offense of lewdness involving a child.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-9-702.5, as last amended by Laws of Utah 2013, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-702.5 is amended to read:**76-9-702.5. Lewdness involving a child.**

(1) As used in this section, "in the presence of" includes within visual contact through an electronic device.

~~[(1)]~~ (2) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly:

(a) does any of the following ~~[(a)-(c)]~~ in the presence of ~~[(a)-(c)]~~ a child who is under 14 years of age:

~~[(a)]~~ (i) performs an act of sexual intercourse or sodomy;

~~[(b)]~~ (ii) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:

~~[(i)]~~ (A) in a public place; or

~~[(ii)]~~ (B) in a private place ~~[(A)]~~ under circumstances the person should know will likely cause affront or alarm ~~[(B)]~~ or with the intent to arouse or gratify the sexual desire of the actor or the child;

~~[(c)]~~ (iii) masturbates; or

(iv) performs any other act of lewdness; or

~~[(d)]~~ (b) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child ~~[(e)]~~.

~~[(e)] performs any other act of lewdness.~~

~~[(2)]~~ (3) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection ~~[(2)]~~ (3)(b).

(b) Lewdness involving a child is a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7; or

(ii) the person has previously been convicted of a violation of this section.

CHAPTER 395**H. B. 406**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**INVESTIGATION PROTOCOLS
 FOR PEACE OFFICER USE OF FORCE**

Chief Sponsor: Marc K. Roberts
 Senate Sponsor: Deidre M. Henderson

LONG TITLE**General Description:**

This bill modifies a provision relating to investigations of the use of force by a law enforcement officer.

Highlighted Provisions:

This bill:

- ▶ modifies and enacts definitions applicable to a provision relating to investigations of officer-involved critical incidents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-2-408, as enacted by Laws of Utah 2015, Chapter 178

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-2-408 is amended to read:

76-2-408. Peace officer use of force -- Investigations.

(1) As used in this section:

(a) “Dangerous weapon” [is] means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person.

(b) “Deadly force” means a force that creates or is likely to create, or that the person using the force intends to create, a substantial likelihood of death or serious bodily injury to a person.

(c) “In custody” means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:

(i) a detention to secure attendance as a witness in a criminal case;

(ii) an arrest for or charging with a crime and committing for trial;

(iii) committing for contempt, upon civil process, or by other authority of law; or

(iv) sentencing to imprisonment on conviction of a crime.

~~[(b)]~~ (d) “Investigating agency” [is] means a law enforcement agency, the county or district attorney’s office, or an interagency task force

composed of officers from multiple law enforcement agencies.

~~[(e)]~~ (e) “Officer” ~~[is a]~~ means the same as the term “law enforcement officer” as that term is defined in Section 53-13-103.

~~[(d)]~~ (f) “Officer-involved critical incident” [is] means any of the following:

(i) an officer’s use of deadly force;

~~[(i)]~~ (ii) ~~[the]~~ an officer’s use of a dangerous weapon ~~[by an officer]~~ against a person that causes injury to any person;

~~[(ii)]~~ (iii) [a fatal] death or serious bodily injury to any person [except], other than the officer, resulting from [the] an officer’s:

(A) use of a motor vehicle ~~[by an officer];~~ while the officer is on duty; or

(B) use of a government vehicle while the officer is off duty;

~~[(iii)]~~ (iv) the death of a person who is in ~~[law enforcement]~~ custody, but ~~[not including deaths that are]~~ excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person’s death; or

~~[(iv)]~~ (v) ~~[a fatal]~~ the death of or serious bodily injury to a person not in custody, other than an officer, resulting from ~~[the efforts of an officer attempting]~~ an officer’s attempt to prevent a person’s escape from custody, to make an arrest, or otherwise to gain physical control of a person.

(g) “Serious bodily injury” means the same as that term is defined in Section 76-1-601.

(2) When an officer-involved critical incident occurs:

(a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and

(b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:

(i) jointly designate an investigating agency for the officer-involved critical incident; and

(ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

(5) Each law enforcement agency that is part of or administered by the state or any of its political

subdivisions shall, by December 31, 2015, adopt and post on its publicly accessible website:

(a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in its jurisdiction and one of its officers is alleged to have caused or contributed to the officer-involved incident; and

(b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in its jurisdiction are conducted professionally, thoroughly, and impartially.

CHAPTER 396**H. B. 423**

Passed March 13, 2019
Approved March 27, 2019
Effective May 14, 2019

**DISASTER RECOVERY
FUND AMENDMENTS**

Chief Sponsor: Joel Ferry
Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill increases certain amounts that may be expended from the Disaster Recovery Restricted Account.

Highlighted Provisions:

This bill:

- ▶ increases the amounts the Division of Emergency Management may expend or commit to expending from the Disaster Recovery Restricted Account during an emergency or declared disaster;
- ▶ adds the Executive Offices and Criminal Justice Appropriations Subcommittee and the Legislative Management Committee to the list of entities to receive notice of expenditures of commitments to expend funds; and
- ▶ allows an expenditure of up to \$3,200,000 during fiscal year 2019 for operational costs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-2a-603, as last amended by Laws of Utah 2016, Chapters 83 and 134

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-603 is amended to read:**53-2a-603. State Disaster Recovery Restricted Account.**

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed [~~\$250,000~~] \$500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds [~~\$250,000~~] \$500,000, but does not exceed [~~\$1,000,000~~] \$3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds [~~\$1,000,000~~] \$3,000,000, but does not exceed [~~\$3,000,000~~] \$5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed \$150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be

expended to fund costs to the state directly related to a declared disaster that are not costs related to:

- (i) emergency disaster services;
- (ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607; ~~and~~

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of \$10,000,000[-]; and

(e) the division may expend up to \$3,200,000 during fiscal year 2019 to fund operational costs incurred by the division during fiscal year 2019.

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

CHAPTER 397**H. B. 428**

Passed March 12, 2019
 Approved March 27, 2019
 Effective October 1, 2019

BAIL BOND AMENDMENTS

Chief Sponsor: Karianne Lisonbee
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill amends provisions related to the posting of bail.

Highlighted Provisions:

This bill:

- ▶ requires a judge or magistrate to set bail at a single amount;
- ▶ authorizes a judge or magistrate to specify the method of bail in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

77-20-1, as last amended by Laws of Utah 2017, Chapters 289, 311, and 332
 77-20-4, as last amended by Laws of Utah 2017, Chapter 304

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-20-1 is amended to read:**77-20-1. Right to bail -- Denial of bail -- Hearing.**

- (1) As used in this chapter:
- (a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- (b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.
- (c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- (2) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:
- (a) capital felony, when the court finds there is substantial evidence to support the charge;
- (b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;
- (c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the person would

constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of release while previously on bail.

(3) Any person who may be admitted to bail may be released by [~~written undertaking or an equal amount of cash bail~~] posting bail in the form and manner provided in Section 77-20-4, or on the person's own recognizance, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

- (a) ensure the appearance of the accused;
- (b) ensure the integrity of the court process;
- (c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (d) ensure the safety of the public.
- (4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

(d) A person arrested for a violation of a jail release agreement or jail release order issued in accordance with Section 77-20-3.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection 77-20-3.5(9) or (11).

(5) The magistrate or court may rely upon information contained in:

- (a) the indictment or information;
- (b) any sworn probable cause statement;
- (c) information provided by any pretrial services agency; or
- (d) any other reliable record or source.

(6) (a) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection (5) and may

base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(7) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

(8) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (2).

(9) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

Section 2. Section 77-20-4 is amended to read:

77-20-4. Bail to be posted in cash, by credit or debit card, or by written undertaking -- Specific bail methods.

~~[(1) Bail may be posted:]~~

(1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a single amount per case or charge.

(b) Subject to Subsection (2), a defendant may choose to post the amount described in Subsection (1)(a) by any of the following methods:

~~[(a)]~~ (i) in cash;

~~[(b)]~~ (ii) by written undertaking with ~~[or without]~~ sureties ~~[at the discretion of the magistrate; or];~~

(iii) by written undertaking without sureties, at the discretion of the judge or magistrate; or

~~[(c)]~~ (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

(2) A judge or magistrate may limit a defendant to a specific method of posting bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

(a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily forfeit bail in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a criminal judgment account receivable, as defined in Section 77-32a-101, and the defendant's bail is limited to the amount owed;
or

(e) if a court has entered a judgment of bail forfeiture under Section 77-20b-104 in any case involving the defendant.

~~[(2)]~~ (3) Bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address, telephone number, and email address of the surety.

~~[(3)]~~ (4) Bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

~~[(4)]~~ (5) Bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection ~~[(3)]~~ (4), which may be less than the full amount of the bail set by the court.

~~[(5)]~~ (6) Before refunding bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward accounts receivable, as defined in Section 77-32a-101, that are owed by the defendant in the priority set forth in Section 77-38a-404.

Section 3. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 398**H. B. 430**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

PROHIBITION OF GENITAL MUTILATION

Chief Sponsor: Ken Ivory
 Senate Sponsor: Luz Escamilla
 Cosponsors: Patrice M. Arent
 Angela Romero

LONG TITLE**General Description:**

This bill prohibits female genital mutilation and provides a penalty.

Highlighted Provisions:

This bill:

- ▶ defines female genital mutilation;
- ▶ makes performing or facilitating female genital mutilation a second degree felony;
- ▶ provides that a medical professional who performs female genital mutilation shall lose the ability to practice permanently;
- ▶ declares that female genital mutilation is a form of child abuse for reporting requirements;
- ▶ allows a person subject to female genital mutilation to bring a civil action; and
- ▶ requires the Department of Health to create an education program to alert the community to the health risks and emotional trauma of female genital mutilation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-5-701, Utah Code Annotated 1953
 76-5-702, Utah Code Annotated 1953
 76-5-703, Utah Code Annotated 1953
 76-5-704, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5-701 is enacted to read:**76-5-701. Female genital mutilation definition.**

(1) As used in this part, female genital mutilation means any procedure that involves partial or total removal of the external female genitalia, or any harmful procedure to the female genitalia, including:

- (a) clitoridectomy;
- (b) the partial or total removal of the clitoris or the prepuce;
- (c) excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;

(d) infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris;

(e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or

(f) any other actions intended to alter the structure or function of the female genitalia for non-medical reasons.

(2) Female genital mutilation is considered a form of child abuse for mandatory reporting under Section 62A-4a-403.

Section 2. Section 76-5-702 is enacted to read:**76-5-702. Prohibition on female genital mutilation -- Exceptions.**

(1) It is a second degree felony for any person to:

(a) perform a procedure described in Section 76-5-701 on a female under 18 years of age;

(b) give permission for or permit a procedure described in Section 76-5-701 to be performed on a female under 18 years of age; or

(c) remove or cause, permit, or facilitate the removal of a female under 18 years of age from this state for the purpose of facilitating the performance of a procedure described in Section 76-5-701 on the female.

(2) It is not a defense to female genital mutilation that the conduct described in Section 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the individual on whom it is performed or the individual's parent or guardian consented to the procedure.

(3) A surgical procedure is not a violation of Section 76-5-701 if the procedure is performed by a physician licensed as a medical professional in the place it is performed and is:

- (a) medically advisable;
- (b) necessary to preserve or protect the physical health of the person on whom it is performed; or
- (c) requested for sex reassignment surgery by the person on whom it is performed.

(4) A medical professional licensed in accordance with Title 58, Chapter 31b, Nurse Practice Act, Chapter 67, Utah Medical Practice Act, Chapter 68, Utah Osteopathic Medical Practice Act, or Chapter 70a, Physician Assistant Act, who is convicted of a violation of this section shall have their license permanently revoked by the appropriate licensing board.

Section 3. Section 76-5-703 is enacted to read:**76-5-703. Community Education Program.**

(1) The director of the Department of Health shall develop a community education program regarding female genital mutilation.

(2) The program shall include:

(a) education, prevention, and outreach materials regarding the health risks and emotional trauma inflicted by the practice of female genital mutilation;

(b) ways to develop and disseminate information regarding recognizing the risk factors associated with female genital mutilation; and

(c) training materials for law enforcement, teachers, and others who are mandated reporters under Section 62A-4a-403, encompassing:

(i) risk factors associated with female genital mutilation;

(ii) signs that an individual may be a victim of female genital mutilation;

(iii) best practices for responses to victims of female genital mutilation; and

(iv) the criminal penalties associated with the facilitation or commission of female genital mutilation.

Section 4. Section 76-5-704 is enacted to read:

76-5-704. Civil cause of action.

(1) A victim of female genital mutilation may bring a civil action in any court of competent jurisdiction for female genital mutilation any time within 10 years of:

(a) the procedure being performed; or

(b) the victim's 18th birthday.

(2) The court may award actual, compensatory, and punitive damages, and any other appropriate relief.

(3) A prevailing plaintiff shall be awarded attorney fees and costs.

(4) Treble damages may be awarded if the plaintiff proves the defendant's acts were willful and malicious.

(5) If a health care provider is charged and prosecuted for a violation of Section 76-5-702, Section 78B-3-416 may not apply to an action against the health care provider under this section.

CHAPTER 399**H. B. 433**

Passed March 13, 2019
 Approved March 27, 2019
 Effective March 27, 2019
 (Exception clause in Section 20)

INLAND PORT AMENDMENTS

Chief Sponsor: Francis D. Gibson
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill modifies provisions relating to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- ▶ specifies the applicability of the Assessment Area Act to the Utah Inland Port Authority and extends the applicability of the Commercial Property Assessed Clean Energy Act to the Utah Inland Port Authority;
- ▶ modifies definitions applicable to the Utah Inland Port Authority;
- ▶ authorizes the Utah Inland Port Authority to adopt a project area plan for an area outside the authority jurisdictional land under certain conditions and modifies related provisions;
- ▶ authorizes the Utah Inland Port Authority to own and operate a trade hub;
- ▶ modifies a provision relating to the use of authority funds;
- ▶ modifies the date by which an executive director of the Utah Inland Port Authority is to be hired;
- ▶ modifies provisions relating to the adoption of a project area plan;
- ▶ bars an action to a project area or project area plan if not brought within a specified time;
- ▶ modifies project area budget provisions;
- ▶ modifies property tax differential provisions, including authorizing the authority to be paid property tax differential for an additional period under certain circumstances;
- ▶ modifies the amount of property tax differential the authority may use for operating expenses;
- ▶ authorizes the Utah Inland Port Authority to be paid certain sales and use tax revenue;
- ▶ authorizes the Public Service Commission to provide for a renewable energy tariff for certain customers within authority jurisdictional land;
- ▶ extends to the Utah Inland Port Authority the applicability of provisions relating to tax credit incentives for economic development; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 11-42-102, as last amended by Laws of Utah 2017, Chapter 470
 11-42a-102, as last amended by Laws of Utah 2018, Chapter 431

- 11-58-102, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-201, as enacted by Laws of Utah 2018, Chapter 179
 11-58-202, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-203, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-205, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-206, as enacted by Laws of Utah 2018, Chapter 179
 11-58-305, as enacted by Laws of Utah 2018, Chapter 179
 11-58-501, as enacted by Laws of Utah 2018, Chapter 179
 11-58-502, as enacted by Laws of Utah 2018, Chapter 179
 11-58-503, as enacted by Laws of Utah 2018, Chapter 179
 11-58-505, as enacted by Laws of Utah 2018, Chapter 179
 11-58-601, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-602, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
 11-58-702, as enacted by Laws of Utah 2018, Chapter 179
 54-17-806, as enacted by Laws of Utah 2016, Chapter 393
 59-12-205, as last amended by Laws of Utah 2018, Chapters 258, 312, and 330
 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-102 is amended to read:**11-42-102. Definitions.**

(1) "Adequate protests" means timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

- (a) protests relating to:
 - (i) property that has been deleted from a proposed assessment area; or
 - (ii) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and
- (b) protests that have been withdrawn under Subsection 11-42-203(3).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

- (3) “Assessment bonds” means bonds that are:
- (a) issued under Section 11-42-605; and
 - (b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.
- (4) “Assessment fund” means a special fund that a local entity establishes under Section 11-42-412.
- (5) “Assessment lien” means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.
- (6) “Assessment method” means the method:
- (a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and
 - (b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.
- (7) “Assessment ordinance” means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.
- (8) “Assessment resolution” means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.
- (9) “Benefitted property” means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.
- (10) “Bond anticipation notes” means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.
- (11) “Bonds” means assessment bonds and refunding assessment bonds.
- (12) “Commercial area” means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.
- (13) (a) “Commercial or industrial real property” means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:
- (i) commercial;
 - (ii) mining;
 - (iii) industrial;
 - (iv) manufacturing;
 - (v) governmental;
 - (vi) trade;
 - (vii) professional;
 - (viii) a private or public club;
 - (ix) a lodge;
 - (x) a business; or
 - (xi) a similar purpose.
- (b) “Commercial or industrial real property” includes real property that:
- (i) is used as or held for dwelling purposes; and
 - (ii) contains more than four rental units.
- (14) “Connection fee” means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.
- (15) “Contract price” means:
- (a) the cost of acquiring an improvement, if the improvement is acquired; or
 - (b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.
- (16) “Designation ordinance” means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.
- (17) “Designation resolution” means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.
- (18) “Economic promotion activities” means activities that promote economic growth in a commercial area of a local entity, including:
- (a) sponsoring festivals and markets;
 - (b) promoting business investment or activities;
 - (c) helping to coordinate public and private actions; and
 - (d) developing and issuing publications designed to improve the economic well-being of the commercial area.
- (19) “Environmental remediation activity” means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.
- (20) “Equivalent residential unit” means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.
- (21) “Governing body” means:
- (a) for a county, city, or town, the legislative body of the county, city, or town;
 - (b) for a local district, the board of trustees of the local district;
 - (c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; ~~and~~

(d) for the military installation development authority created in Section 63H-1-201, the ~~authority~~ board, as defined in Section 63H-1-102~~[-]~~; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(22) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(23) "Improved property" means property upon which a residential, commercial, or other building has been built.

(24) "Improvement":

(a) (i) means a publicly owned infrastructure, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with ~~Title 11-~~ Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(25) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(26) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means:

(a) a county, city, town, special service district, or local district~~[-]~~;

(b) an interlocal entity as defined in Section 11-13-103~~[-]~~;

(c) a military installation development authority, created in Section 63H-1-201~~[-]~~;

(d) the Utah Inland Port Authority, created in Section 11-58-201; or

(e) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) “Net improvement revenues” means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) “Operation and maintenance costs”:

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) “Overhead costs” means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) “Prior assessment ordinance” means the ordinance levying the assessments from which the prior bonds are payable.

(38) “Prior assessment resolution” means the resolution levying the assessments from which the prior bonds are payable.

(39) “Prior bonds” means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) “Project engineer” means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) “Property” includes real property and any interest in real property, including water rights and leasehold rights.

(42) “Property price” means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) “Provide” or “providing,” with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) “Public agency” means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) “Reduced payment obligation” means the full obligation of an owner of property within an

assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) “Refunding assessment bonds” means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) “Reserve fund” means a fund established by a local entity under Section 11-42-702.

(48) “Service” means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49) “Special service district” means the same as that term is defined in Section 17D-1-102.

(50) “Unassessed benefitted government property” means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(51) “Unimproved property” means property upon which no residential, commercial, or other building has been built.

(52) “Voluntary assessment area” means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) (a) “Assessment” means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) “Assessment” does not constitute a property tax but shares the same priority lien as a property tax.

(2) “Assessment fund” means a special fund that a local entity establishes under Section 11-42a-206.

(3) “Benefitted property” means private property within an energy assessment area that directly benefits from improvements.

(4) “Bond” means an assessment bond and a refunding assessment bond.

(5) (a) “Commercial or industrial real property” means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

- (iii) agricultural;
 - (iv) industrial;
 - (v) manufacturing;
 - (vi) trade;
 - (vii) professional;
 - (viii) a private or public club;
 - (ix) a lodge;
 - (x) a business; or
 - (xi) a similar purpose.
- (b) "Commercial or industrial real property" includes:
- (i) private real property that is used as or held for dwelling purposes and contains:
 - (A) more than four rental units; or
 - (B) one or more owner-occupied or rental condominium units affiliated with a hotel; and
 - (ii) real property ~~[that]~~ owned by:
 - (A) the military installation development authority, created in Section 63H-1-201~~[-owns.];~~ or
 - (B) the Utah Inland Port Authority, created in Section 11-58-201.
- (6) "Contract price" means:
- (a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or
 - (b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.
- (7) "C-PACE" means commercial property assessed clean energy.
- (8) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.
- (9) "Electric vehicle charging infrastructure" means equipment that is:
- (a) permanently affixed to commercial or industrial real property; and
 - (b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle, as those terms are defined in Section 59-7-605.
- (10) "Energy assessment area" means an area:
- (a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;
 - (b) containing only the commercial or industrial real property of owners who have voluntarily

consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(11) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(12) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(13) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(14) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (15)(b)(i) through (xv).

(16) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district; ~~and~~

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102[-]; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(17) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(18) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(19) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(20) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(21) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(22) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a local district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201; ~~or~~

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

[~~(v)~~] (vi) any political subdivision of the state.

(b) “Local entity” includes the C-PACE district solely in connection with:

- (i) the designation of an energy assessment area;
- (ii) the levying of an assessment; and
- (iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(23) “Local entity obligations” means energy assessment bonds and refunding assessment bonds that a local entity issues.

(24) “OED” means the Office of Energy Development created in Section 63M-4-401.

(25) “Overhead costs” means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

- (a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;
- (b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;
- (c) publishing and mailing costs;
- (d) costs of levying an assessment;
- (e) recording costs; and
- (f) all other incidental costs.

(26) “Parameters resolution” means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

(27) “Prior bonds” means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

(28) “Prior energy assessment ordinance” means the ordinance levying the assessments from which the prior bonds are payable.

(29) “Prior energy assessment resolution” means the resolution levying the assessments from which the prior bonds are payable.

(30) “Property” includes real property and any interest in real property, including water rights and leasehold rights.

(31) “Public electrical utility” means a large-scale electric utility as that term is defined in Section 54-2-1.

(32) “Reduced payment obligation” means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

(33) “Refunding assessment bond” means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

(34) (a) “Renewable energy system” means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

- (i) produces energy from renewable resources, including:
 - (A) a photovoltaic system;
 - (B) a solar thermal system;
 - (C) a wind system;
 - (D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;
 - (E) a microhydro system;
 - (F) a biofuel system; or
 - (G) any other renewable source system that the governing body of the local entity approves;
- (ii) stores energy, including:
 - (A) a battery storage system; or
 - (B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or
- (iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (34)(a)(i) or (ii).

(b) “Renewable energy system” does not include a system described in Subsection (34)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

- (i) (A) existed before the creation of the energy assessment area; and
- (B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or
- (ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

(35) “Special service district” means the same as that term is defined in Section 17D-1-102.

(36) “State interlocal entity” means:

- (a) an interlocal entity created under [~~Title 11,~~] Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state’s population; or
- (b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(37) “Third-party lender” means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity

that provides loans directly to property owners for improvements authorized under this chapter.

Section 3. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated in the electronic shapefile that:

(a) is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) may be accessed via the Utah Legislature's website.

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(1)(c), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal ~~distribution~~ facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

~~(11)~~ (11) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority business.

~~(12)~~ (12) "Project area" means:

(a) the authority jurisdictional land~~;~~; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

~~(13)~~ (13) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to ~~a~~ the project area.

~~(14)~~ (14) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[14] (15) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[15] (16) "Property tax differential":

(a) means the difference between:

(a) (i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(a) (ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property[-]; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

[16] (17) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

[17] (18) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

[18] (19) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

[19] (20) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

[20] (21) "Taxing entity" means a public entity that levies a tax on property within a project area.

[21] (22) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 4. Section 11-58-201 is amended to read:

11-58-201. Creation of Utah Inland Port Authority -- Status and purposes.

(1) Under the authority of Article XI, Section 8 of the Utah Constitution, there is created the Utah Inland Port Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The purpose of the authority is to fulfill the statewide public purpose of working in concert with applicable state and local government entities, property owners and other private parties, and other stakeholders to encourage and facilitate development of the authority jurisdictional land and land in other authority project areas to maximize the long-term economic and other benefit for the state, consistent with the strategies, policies, and objectives described in this chapter, including:

(i) the development of inland port uses on the authority jurisdictional land and on land in other authority project areas;

(ii) the development of infrastructure to support inland port uses and associated uses on the authority jurisdictional land and on land in other authority project areas; and

(iii) other development on the authority jurisdictional land and on land in other authority project areas.

(b) The duties and responsibilities of the authority under this chapter are beyond the scope and capacity of a municipality, which has many other responsibilities and functions that appropriately command the attention and resources of the municipality, and are not municipal functions of purely local concern but are matters of regional and statewide concern, importance, interest, and impact, due to multiple factors, including:

(i) the strategic location of the authority jurisdictional land in proximity to significant existing and potential transportation infrastructure, including infrastructure provided and maintained by the state, conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement that trade;

(ii) the enormous potential for regional and statewide economic and other benefit that can come

from the appropriate development of the authority jurisdictional land, including the establishment of a thriving inland port;

(iii) the regional and statewide impact that the development of the authority jurisdictional land will have; and

(iv) the considerable investment the state is making in connection with the development of the new correctional facility and associated infrastructure located on the authority jurisdictional land.

(c) The authority is the mechanism the state chooses to focus resources and efforts on behalf of the state to ensure that the regional and statewide interests, concerns, and purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any municipality can provide.

Section 5. Section 11-58-202 is amended to read:

11-58-202. Port authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

- (i) emissions monitoring and reporting; and
- (ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;
- (b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;
- (c) manage any inland port located on land owned or leased by the authority; and
- (d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land and land in other authority project areas, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

- (i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;
- (ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or
- (iii) enter into a lease agreement on real or personal property, either as lessee or lessor;
- (f) sue and be sued;
- (g) enter into contracts generally;
- (h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under [Title 11,] Chapter 17, Utah Industrial Facilities and Development Act, ~~and~~ bonds under [Title 11,] Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) enter into an agreement with a taxing entity to share property tax differential for services that the taxing entity provides within the authority jurisdictional land;

(r) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land; ~~and~~

(s) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;

(t) own and operate publicly owned infrastructure and improvements in a project area outside the authority jurisdictional land; and

~~(u)~~ (u) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.

(3) Beginning January 1, 2020, the authority shall:

(a) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to any later changes to the boundary enacted by the Legislature; and

(b) maintain an accurate digital file of the boundary that is easily accessible by the public.

(4) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section 6. Section 11-58-203 is amended to read:

11-58-203. Policies and objectives of the port authority -- Additional duties of the port authority.

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate ~~a hub for trade combining rail, trucking, air cargo, and other transportation services~~ an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce; ~~and~~

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment~~[-];~~ and

(p) encourage all class 5 through 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land; and

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state.

Section 7. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Sharing property tax differential -- Disclosure by nonauthority governing body member.

(1) Except as provided in Part 4, Appeals to Appeals Panel, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources

may not be prohibited on the authority jurisdictional land.

(7) (a) (i) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(ii) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) (i) The board shall negotiate and enter into an agreement with a municipality providing municipal services, as described in Subsection (7)(a), with respect to the appropriate amount of property tax differential the authority should share with the municipality to cover the cost of providing those municipal services.

(ii) Under an agreement described in Subsection (7)(b)(i), the board and municipality shall establish a method of determining the amount of property tax differential the authority shares over time with a municipality to cover the cost of providing municipal services, taking into account:

(A) the cost of those services as documented in the audited financial statements under Subsection (7)(c); and

(B) the variable level of need for those services within the authority jurisdictional land depending on the level, amount, and location of development and other relevant factors.

(c) A municipality providing municipal services, as described in Subsection (7)(a), shall, as requested by the board, provide the board audited financial statements documenting the cost of the municipal services the municipality provides within the authority jurisdictional land.

(8) (a) The board shall negotiate and enter into an agreement with a municipality or other taxing entity in which the authority jurisdictional land is located to share some of the increase in property tax differential that occurs over time as development occurs and the amount of property tax revenue increases.

(b) In an agreement described in Subsection (8)(a), the board and municipality or other taxing entity shall establish a method of determining the amount of property tax differential the authority shares over time to allow the municipality or other taxing entity to share in the benefit from increasing property tax revenue.

~~[(8)]~~ (9) The board may consult with other taxing entities, in addition to a municipality under Subsection (7), for the purpose of receiving input from those taxing entities on the appropriate allocation of property tax differential, considering the needs of the authority and the needs of the other taxing entities.

~~[(9)]~~ (10) (a) The board shall review and reassess the amount of property tax differential the authority retains and the amount the authority shares with other taxing entities so that the authority retains property tax differential it reasonably needs to meet its responsibilities and purposes and adjusts the amount the authority shares with other taxing entities accordingly.

(b) The board shall meet with taxing entities to review and reassess, as provided in Subsection ~~[(9)]~~ (10)(a):

- (i) before December 31, 2020; and
- (ii) at least every other year after 2020.

(11) (a) As used in this Subsection (11):

(i) “Direct financial benefit” means the same as that term is defined in Section 11-58-304.

(ii) “Nonauthority governing body member” means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) “Nonauthority government owner” mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) “Nonauthority local government entity”:

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) “State agency” means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (11)(b) shall describe, as applicable:

(i) the nonauthority governing body member’s ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (11)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (11), if that date is later than the period described in Subsection (11)(d)(i).

(e) A written disclosure submitted under this Subsection (11) is a public record.

Section 8. Section 11-58-206 is amended to read:

11-58-206. Port authority funds.

The authority may use authority funds for any purpose authorized under this chapter, including:

(1) promoting, facilitating, and advancing inland port uses; ~~and~~

(2) owning and operating an intermodal facility; and

~~[(2)]~~ (3) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

Section 9. Section 11-58-305 is amended to read:

11-58-305. Executive director.

(1) On or before ~~[November 1, 2018]~~ July 1, 2019, the board shall hire a full-time executive director to manage and oversee the day-to-day operations of the authority and to perform other functions, as directed by the board.

(2) The executive director shall have the education, experience, and training necessary to perform the executive director’s duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

(3) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(4) The board shall establish the duties, compensation, and benefits of an executive director.

Section 10. Section 11-58-501 is amended to read:

11-58-501. Preparation of project area plan -- Required contents of project area plan.

(1) (a) The authority jurisdictional land constitutes a single project area.

(b) The authority is not required to adopt a project area plan for a project area consisting of the authority jurisdictional land.

~~[(4)]~~ (2) (a) The board may adopt a project area plan for land that is outside the authority jurisdictional land, as provided in this part~~[-]~~, if the board receives written consent to include the land in the project area described in the project area plan from:

(i) as applicable:

(A) the legislative body of the county in whose unincorporated area the land is located; or

(B) the legislative body of the municipality in which the land is located; and

(ii) the owner of the land.

(b) Land included or to be included within a project area need not be contiguous or in close proximity to the authority jurisdictional land.

~~[(4b)]~~ (c) In order to adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-58-502(2);

(iii) hold at least one public meeting, as required under Subsection 11-58-502(1); and

(iv) after holding at least one public meeting and subject to Subsection ~~[(1)(e)]~~ (2)(d), adopt the draft project area plan as the project area plan.

~~[(e)]~~ (d) Before adopting a draft project area plan as the project area plan, the board may make modifications to the draft project area plan that the board considers necessary or appropriate.

~~[(2)]~~ (3) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area;

(b) the authority's purposes and intent with respect to the project area; and

(c) the board's findings and determination that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit to the proposed development project;

(iii) it is economically sound and feasible to adopt and carry out the project area plan; and

(iv) carrying out the project area plan will promote the goals and objectives stated in Subsection 11-58-203(1).

Section 11. Section 11-58-502 is amended to read:

11-58-502. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:

(a) to each taxing entity;

(b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and

(c) on the Utah Public Notice Website created in Section 63F-1-701.

(3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501~~[(1)(e)]~~(2)(d), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 12. Section 11-58-503 is amended to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

~~[(a)]~~ (i) the board resolution adopting the project area plan or a summary of the resolution; and

~~[(b)]~~ (ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date ~~[of publication of the notice]~~ designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section 63F-1-506; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection

11-58-202(1)(a) for the authority jurisdictional land.

Section 13. Section 11-58-505 is amended to read:

11-58-505. Project area budget.

(1) Before the authority may ~~[receive or]~~ use the property tax differential from a project area, the board shall prepare and adopt a project area budget.

(2) A project area budget shall include:

(a) the base taxable value of property in the project area;

(b) the projected property tax differential expected to be generated within the project area;

(c) the amount of the property tax differential expected to be shared with other taxing entities;

(d) the amount of the property tax differential expected to be used to implement the project area plan, including the estimated amount of the property tax differential to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax differential expected to be used to cover the cost of administering the project area plan; and

~~[(f) if the property tax differential is to be collected at different times or from different portions of the project area, or both:]~~

~~[(i) (A) the tax identification numbers of the parcels from which the property tax differential will be collected; or]~~

~~[(B) a legal description of the portion of the project area from which the property tax differential will be collected; and]~~

~~[(ii) an estimate of when other portions of the project area will become subject to collection of the property tax differential; and]~~

~~[(g) (f) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.~~

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

(4) ~~[If a project area plan defines the project area as all]~~ For a project area that consists of the authority jurisdictional land, the budget requirements of this part are met by the authority complying with the budget requirements of Part 8, Port Authority Budget, Reporting, and Audits.

Section 14. Section 11-58-601 is amended to read:

11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.

(1) (a) The authority ~~[may]~~:

(i) ~~subject to Subsections (1)(b), (c), and (d); receive up to]~~:

(A) shall be paid 100% of the property tax differential, as provided in Subsection (3), for a period ~~[ending up to]~~ of 25 years after a certificate of occupancy is issued with respect to improvements on a parcel, as determined by the board and as provided in this part; and

(B) may be paid up to 100% of the property tax differential, as provided in Subsection (3), for a period of 15 additional years beyond the period stated in Subsection (1)(a)(i)(A) if the board determines that the additional years of property tax differential will produce a significant benefit; and

(ii) ~~may use the property tax differential before, during, and after the period described in Subsection (1)(a)(i).~~

(b) With respect to a parcel located within a project area, the ~~[25-year]~~ period described in Subsection (1)(a)(i) begins on the day on which the authority receives the first property tax differential from that parcel.

(c) The authority may not receive property tax differential from:

(i) ~~an area included within a community reinvestment project area, as defined in Section 17C-1-102, under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before ~~[March]~~ October 1, 2018, from a taxing entity that has, before ~~[March]~~ October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan[-]; or~~

(ii) a parcel of land for which a certificate of occupancy was issued before December 1, 2018.

~~[(d) The authority shall pay to a community reinvestment agency 10% of the property tax differential generated from land located within that community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.]~~

(d) (i) As used in this Subsection (1)(d):

(A) "Agency land" means authority jurisdictional land that is within the boundary of an eligible community reinvestment agency and from which the authority is paid property tax differential.

(B) "Eligible community reinvestment agency" means the community reinvestment agency in which agency land is located.

(ii) The authority shall pay 10% of the property tax differential generated from agency land to the eligible community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.

(2) A county that collects property tax on property within a project area shall pay and distribute to the authority the property tax differential that the

authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

~~[(3) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax differential.]~~

~~[(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax differential.]~~

(3) Until the end of the period described in Subsection (1)(a)(i), the county shall pay to the authority all property tax differential collected from a parcel within a project area, beginning:

(a) for a parcel that is part of the authority jurisdictional land, November 2019; and

(b) for a parcel in any other project area, November of the year following the year that forms the basis of the base taxable value calculation.

Section 15. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) The authority may use the property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(b)(iii), and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) subject to Subsection (4), for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within ~~[the]~~ a project area ~~[from which the property tax differential or other funds were collected]~~, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax differential funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements outside ~~[the]~~ a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(f) to pay for municipal services that a municipality provides within the authority jurisdictional land;

(g) to pay for other services that a taxing entity provides within the authority jurisdictional land; ~~[and]~~

(h) to share growth in the amount of property tax differential over time with other taxing entities;

(i) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-601(1)(d); and

~~[(4)] (j) to pay the principal and interest on bonds issued by the authority.~~

(2) The authority may use revenue generated from the operation of publicly owned infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(e) regarding benefit to the project area is final.

(4) The authority may not use more than ~~[2%]~~ 5% of property tax differential revenue collected during the period described in Subsection 11-58-601(1)(a)(i) to pay for authority operating expenses, including:

(a) administrative and overhead expenses; and

(b) legal expenses, except legal fees and expenses with respect to potential or pending litigation involving the authority.

(5) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

(6) Until the authority adopts a business plan under Subsection 11-58-202(1)(a), the authority may not spend property tax differential revenue collected from authority jurisdictional land.

(7) (a) As used in this Subsection (7):

(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(b)(iii).

(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii).

(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii).

(iv) "Point of sale portion" means:

(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), excluding the retail sales portion; and

(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(b)(i) in the absence of Subsection 59-12-205(2)(b)(iii), excluding the retail sales portion.

(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(b)(i) from retail sales transactions that occur on authority jurisdictional land.

(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:

(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and

(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

Section 16. Section 11-58-702 is amended to read:

11-58-702. Sources from which bonds may be made payable -- Port authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of authority jurisdictional land;

(d) property tax differential funds;

(e) authority revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the ~~[development of military land]~~ authority; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of authority bonds, the authority may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 17. Section 54-17-806 is amended to read:

54-17-806. Qualified utility renewable energy tariff.

(1) The commission may authorize a qualified utility to implement a renewable energy tariff in accordance with this section if the commission

determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) ~~[If]~~ The commission may authorize a tariff ~~[is authorized]~~ under Subsection (1)~~[,]~~ to apply to:

(a) a qualified utility customer with an aggregated electrical load of at least five megawatts ~~[and who agrees to]; or~~

(b) a combination of qualified utility customers who are separately metered if:

(i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and

(ii) each of the qualified utility customers and the renewable energy source are located within authority jurisdictional land, as defined in Section 11-58-102.

(3) A customer who agrees to take service that is subject to the renewable energy tariff under this section shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply renewable generation to the renewable energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

~~[(3)]~~ (4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of renewable generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the renewable energy tariff.

Section 18. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in ~~[Subsection]~~ Subsections (2)(b)(ii) and (iii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; ~~and~~

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201~~[-];~~ and

(iii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the

unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is \$333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to 1.8% of the participating local government's tax revenue

distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-8-609.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-8a-606.

(c) The commission shall make the calculation and distribution described in this Subsection (5) after making the distributions described in Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 19. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) "Authority project area" means a project area of the inland port authority.

(2) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(3) "Community reinvestment agency" [has] means the same [meaning] as that term is defined in Section 17C-1-102.

(4) "Development zone" means an economic development zone created under Section 63N-2-104.

(5) "Gross wages" does not include healthcare or other paid or unpaid benefits.

(6) "High paying jobs" means:

(a) with respect to a business entity, the aggregate average annual gross wages[, not

including healthcare or other paid or unpaid benefits,];

(i) of newly created full-time employment positions in a business entity; and

(ii) that are at least 110% of the average wage of a community in which the employment positions will exist;

(b) with respect to a county, the aggregate average annual gross wages[, not including healthcare or other paid or unpaid benefits,];

(i) of newly created full-time employment positions in a new commercial project within the county; and

(ii) that are at least 110% of the average wage of the county in which the employment positions will exist; [or]

(c) with respect to a city or town, the aggregate average annual gross wages[, not including healthcare or other paid or unpaid benefits,];

(i) of newly created full-time employment positions in a new commercial project within the city or town; and

(ii) that are at least 110% of the average wages of the city or town in which the employment positions will exist[,]; or

(d) with respect to the inland port authority, the aggregate average annual gross wages:

(i) of newly created full-time employment positions in a new commercial project within the city or town that is closest to the location of the authority project area; and

(ii) that are at least 110% of the average wages of the city or town.

(7) "Inland port authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(8) "Local government entity" means a county, city, [or] town, or inland port authority that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within [the county's, city's, or town's boundaries; and];

(i) the boundary of the county, city, or town; or

(ii) a project area of the inland port authority; and

(b) qualifies the county, city, [or] town, or inland port authority to receive a tax credit under Section 59-7-614.2.

(9) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

(10) (a) "New incremental jobs" means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:

(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town or the inland port authority, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency, or inland port authority seeks to claim a tax credit under Section 59-7-614.2.

(b) “New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.

(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

~~[(8)]~~ (11) “New state revenues” means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections ~~[(8)]~~ (11)(a)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections ~~[(8)]~~ (11)(a)(i) through (iii); or

(b) with respect to a local government entity:

(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections ~~[(8)]~~ (11)(b)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections ~~[(8)]~~ (11)(b)(i) through (iii).

~~[(9)]~~ (12) “Significant capital investment” means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity’s existing work force in the state.

~~[(10)]~~ (13) “Tax credit” means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

~~[(11)]~~ (14) “Tax credit amount” means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

~~[(12)]~~ (15) “Tax credit certificate” means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity’s, local government entity’s, or community development and renewal agency’s taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government

entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 20. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 59-12-205 take effect January 1, 2020.

CHAPTER 400**H. B. 434**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

DISEASE TESTING AMENDMENTS

Chief Sponsor: Andrew Stoddard
 Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill amends provisions related to disease testing.

Highlighted Provisions:

This bill:

- ▶ amends the amount of time within which an individual must provide a blood sample when a court or magistrate has issued a warrant ordering the individual to provide the sample; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78B-8-402, as last amended by Laws of Utah 2017, Chapter 185

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-8-402 is amended to read:**78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.**

(1) An emergency services provider or first aid volunteer who is significantly exposed during the course of performing the emergency services provider's duties or during the course of performing emergency assistance or first aid, or a health care provider acting in the course and scope of the health care provider's duties as a health care provider may:

(a) request that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed voluntarily submit to testing; or

(b) petition the district court or a magistrate for an order requiring that the person to whom the emergency services provider, first aid volunteer, or health care provider was significantly exposed submit to testing to determine the presence of a disease, as defined in Section 78B-8-401, and that the results of that test be disclosed to the petitioner by the Department of Health.

(2) (a) A law enforcement agency may submit on behalf of the petitioner by electronic or other means an ex parte request for a warrant ordering a blood draw from the respondent.

(b) The court or magistrate shall issue a warrant ordering the respondent to provide a specimen of

the respondent's blood within [24] two hours, and that reasonable force may be used, if necessary, if the court or magistrate finds that:

(i) the petitioner was significantly exposed during the course of performing the petitioner's duties as an emergency services provider, first aid volunteer, or health care provider;

(ii) the respondent has refused consent to the blood draw or is unable to give consent;

(iii) there may not be an opportunity to obtain a sample at a later date; and

(iv) a delay in administering available FDA-approved post-exposure treatment or prophylaxis could result in a lack of effectiveness of the treatment or prophylaxis.

(c) The petitioner shall request a person authorized under Section 41-6a-523 perform the blood draw.

(d) A sample drawn in accordance with a warrant following an ex parte request shall be sent to the Department of Health for testing.

(3) If a petitioner does not seek or obtain a warrant pursuant to Subsection (2), the petitioner may file a petition with the district court seeking an order to submit to testing and to disclose the results in accordance with this section.

(4) (a) The petition described in Subsection (3) shall be accompanied by an affidavit in which the petitioner certifies that the petitioner has been significantly exposed to the individual who is the subject of the petition and describes that exposure.

(b) The petitioner shall submit to testing to determine the presence of a disease, when the petition is filed or within three days after the petition is filed.

(5) The petitioner shall cause the petition required under this section to be served on the person who the petitioner is requesting to be tested in a manner that will best preserve the confidentiality of that person.

(6) (a) The court shall set a time for a hearing on the matter within 10 days after the petition is filed and shall give the petitioner and the individual who is the subject of the petition notice of the hearing at least 72 hours prior to the hearing.

(b) The individual who is the subject of the petition shall also be notified that the individual may have an attorney present at the hearing and that the individual's attorney may examine and cross-examine witnesses.

(c) The hearing shall be conducted in camera.

(7) The district court may enter an order requiring that an individual submit to testing, including blood testing, for a disease if the court finds probable cause to believe:

(a) the petitioner was significantly exposed; and

(b) the exposure occurred during the course of the emergency services provider's duties, the provision of emergency assistance or first aid by a first aid

volunteer, or the health care provider acting in the course and scope of the provider's duties as a health care provider.

(8) The court may order that the blood specimen be obtained by the use of reasonable force if the individual who is the subject of the petition is a prisoner.

(9) The court may order that additional, follow-up testing be conducted and that the individual submit to that testing, as it determines to be necessary and appropriate.

(10) The court is not required to order an individual to submit to a test under this section if it finds that there is a substantial reason, relating to the life or health of the individual, not to enter the order.

(11) (a) Upon order of the district court that a person submit to testing for a disease, that person shall report to the designated local health department to have the person's blood drawn within 10 days from the issuance of the order, and thereafter as designated by the court, or be held in contempt of court.

(b) The court shall send the order to the Department of Health and to the local health department ordered to draw the blood.

(c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department may disclose the test results pursuant to a court order as provided in this section.

(d) Under this section, anonymous testing as provided under Section 26-6-3.5 may not satisfy the requirements of the court order.

(12) The local health department or the Department of Health shall inform the subject of the petition and the petitioner of the results of the test and advise both parties that the test results are confidential. That information shall be maintained as confidential by all parties to the action.

(13) The court, ~~its~~ the court's personnel, the process server, the Department of Health, local health department, and petitioner shall maintain confidentiality of the name and any other identifying information regarding the individual tested and the results of the test as they relate to that individual, except as specifically authorized by this chapter.

(14) (a) Except as provided in Subsection (14)(b), the petitioner shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.

(b) If the petitioner is an emergency services provider, the agency that employs the emergency services provider shall remit payment for the drawing of the blood specimen and the analysis of the specimen for the mandatory disease testing to the entity that draws the blood.

(15) The entity that draws the blood shall cause the blood and the payment for the analysis of the specimen to be delivered to the Department of Health for analysis.

(16) If the individual is incarcerated, the incarcerating authority shall either draw the blood specimen or shall pay the expenses of having the individual's blood drawn.

(17) The ex parte request or petition shall be sealed upon filing and made accessible only to the petitioner, the subject of the petition, and their attorneys, upon court order.

CHAPTER 401**H. B. 440**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE AMENDMENTS

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill makes changes to the membership and duties of certain committees and councils.

Highlighted Provisions:

This bill:

- ▶ changes the membership of the Commission on Criminal and Juvenile Justice; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-7-202, as last amended by Laws of Utah 2017, Chapter 163

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-202 is amended to read:**63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.**

(1) The commission on criminal and juvenile justice shall be composed of ~~[24]~~ 25 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator or the state court administrator's designee;

(c) the executive director of the Department of Corrections or the executive director's designee;

~~[(d) the director of the Division of Juvenile Justice Services;]~~

(d) the executive director of the Department of Human Services or the executive director's designee;

(e) the commissioner of the Department of Public Safety or the commissioner's designee;

(f) the attorney general or an attorney designated by the attorney general;

(g) the president of the chiefs of police association or a chief of police designated by the association's president;

(h) the president of the sheriffs' association or a sheriff designated by the association's president;

(i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

(j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;

(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;

(m) the chair of the Utah Council on Victims of Crime or the chair's designee or a member of the Utah Council on Victims of Crime designated by the chair;

~~[(n) the director of the Division of Substance Abuse and Mental Health; and]~~

(n) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

(o) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

(p) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

~~[(e)]~~ (q) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining ~~[three]~~ five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

~~[(b)]~~ (c) one representative of public education; ~~[and]~~

~~[(e)]~~ (d) one citizen representative[-]; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

CHAPTER 402**H. B. 444**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

**AT-RISK GOVERNMENT EMPLOYEE
INFORMATION PROTECTION
AMENDMENTS**

Chief Sponsor: Lee B. Perry

Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies provisions relating to personal information of certain government employees.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “public information” in the context of provisions relating to protecting personal information of law enforcement officers;
- ▶ modifies requirements relating to a form that a law enforcement officer may submit to protect personal information from being posted on the Internet;
- ▶ modifies provisions relating to the private classification of personal information of at-risk government employees; and
- ▶ enacts language relating to the length of time that a form requesting private classification of personal information remains in effect and the rescission of the form.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-18-102, as last amended by Laws of Utah 2018, Chapter 311

53-18-103, as last amended by Laws of Utah 2018, Chapter 311

63G-2-303, as last amended by Laws of Utah 2013, Chapter 426

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-18-102 is amended to read:**53-18-102. Definitions.**

As used in this chapter:

(1) “Access software provider” means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (a) filter, screen, allow, or disallow content;
- (b) pick, choose, analyze, or digest content; or
- (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(2) “Immediate family member” means a law enforcement officer’s spouse, child, parent, or grandparent who resides with the officer.

(3) “Interactive computer service” means the same as that term is defined in Subsection 47 U.S.C. 230(f).

(4) “Law enforcement officer” or “officer”:

(a) means the same as that term is defined in Section 53-13-103;

(b) includes “correctional officers” as defined in Section 53-13-104; and

(c) refers only to officers who are currently employed by, retired from, or were killed in the line of duty while in the employ of a state or local governmental law enforcement agency.

(5) “Personal information”:

(a) means a law enforcement officer’s or law enforcement officer’s immediate family member’s home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, personal photograph, directions to locate the law enforcement officer’s home, or photographs of the law enforcement officer’s or the officer’s immediate family member’s home or vehicle[-]; and

(b) includes a record or a part of a record that:

(i) a law enforcement officer requests to be classified as private under Subsection 63G-2-302(1)(h); and

(ii) is classified as private under Title 63G, Chapter 2, Government Records Access and Management Act.

(6) “Publicly post” or “publicly display” means to intentionally communicate or otherwise make available to the general public.

Section 2. Section 53-18-103 is amended to read:**53-18-103. Internet posting of personal information of law enforcement officers -- Prohibitions.**

(1) (a) A state or local governmental agency that has received the form described in Subsection (1)(b) from a law enforcement officer may not publicly post on the Internet the personal information of any law enforcement officer employed by the state or any political subdivision.

(b) Each state or local government agency employing law enforcement officers shall:

(i) provide a form for an officer to request the removal or concealment of the officer’s personal information from the state or local government agencies’ publicly accessible websites and databases;

(ii) inform the officer how to submit a form under this section;

(iii) upon request, assist an officer in completing the form; ~~and~~

(iv) include on ~~[any]~~ the form a disclaimer informing the officer that by submitting a completed form the officer may not receive official announcements affecting the officer's property, including notices about proposed annexations, incorporation, or zoning modifications~~[-]; and~~

(v) require a form submitted by a law enforcement officer to be signed by the highest ranking elected or appointed official in the officer's chain of command certifying that the individual requesting removal or concealment is a law enforcement officer.

(2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a law enforcement officer, completed and submitted under this section, shall:

(a) classify the law enforcement officer's voter registration record in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109 as a private record; and

(b) classify the law enforcement officer's marriage licenses and marriage license applications, if any, as private records.

(3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form described in Subsection (1)(b) from a law enforcement officer, completed and submitted under this section, shall:

(a) provide a method for the assessment roll and index and the tax roll and index that will block public access to the law enforcement officer's personal information; and

(b) provide to the law enforcement officer who submits the form a written disclaimer informing the officer that the officer may not receive official announcements affecting the officer's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A form submitted under this section remains in effect for the shorter of:

(a) four years from the date on which the form was signed by the officer, regardless of whether the officer's qualifying employment is terminated during the four years; or

(b) one year after official notice of the law enforcement officer's death is transmitted by the officer's immediate family or the officer's employing agency to all state and local government agencies that are reasonably expected to have records containing personal information of the deceased officer.

(5) Notwithstanding Subsection (4), the law enforcement officer, or the officer's immediate family if the officer is deceased, may rescind the form at any time.

(6) An individual may not, with intent to frighten or harass a law enforcement officer, publicly post on the Internet the personal information of any law enforcement officer knowing the person is a law enforcement officer.

(a) A violation of this Subsection (6) is a class B misdemeanor.

(b) A violation of this Subsection (6) that results in bodily injury to the officer, or a member of the officer's immediate family, is a class A misdemeanor.

(c) Each act against a separate individual in violation of this Subsection (6) is a separate offense. The defendant may also be charged separately with the commission of any other criminal conduct related to the commission of an offense under this Subsection (6).

(7) (a) A business or association may not publicly post or publicly display on the Internet the personal information of any law enforcement officer if that officer has, either directly or through an agent designated under Subsection (7)(c), provided to that business or association a written demand to not disclose the officer's personal information.

(b) A written demand made under this Subsection (7) by a law enforcement officer is effective for four years beginning on the day the demand is delivered, regardless of whether or not the law enforcement officer's employment as an officer has terminated during the four years.

(c) A law enforcement officer may designate in writing the officer's employer or a representative of any voluntary professional association of law enforcement officers to act on behalf of the officer and as the officer's agent to make a written demand pursuant to this chapter.

(d) (i) A business or association that receives a written demand from a law enforcement officer under Subsection (7)(a) shall remove the officer's personal information from public display on the Internet, including the removal of information provided to cellular telephone applications, within 24 hours of the delivery of the written demand, and shall ensure that the information is not posted again on the same Internet website or any other Internet website the recipient of the written demand maintains or exercises control over.

(ii) After receiving the law enforcement officer's written demand, the person, business, or association may not publicly post or publicly display on the Internet, the personal information of the law enforcement officer.

(iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in Section 54-2-1, or its affiliate or other voice service provider, including providers of interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from transferring the law enforcement officer's personal information to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, terms of service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the officer to the telephone corporation or its affiliate.

(iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice service provider, including providers of interconnected

voice over Internet protocol service, with respect to directories or directories listings to the extent the entity offers a nonpublished listing option.

(8) (a) A law enforcement officer whose personal information is made public as a result of a violation of Subsection (7) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction.

(b) If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the law enforcement officer court costs and reasonable attorney fees.

(c) If the defendant fails to comply with an order of the court issued under this Subsection (8), the court may impose a civil penalty of not more than \$1,000 for the defendant's failure to comply with the court's order.

(9) (a) A person, business, or association may not solicit, sell, or trade on the Internet the personal information of a law enforcement officer, if the dissemination of the personal information poses an imminent and serious threat to the law enforcement officer's safety or the safety of the law enforcement officer's immediate family and the person making the information available on the Internet knows or reasonably should know of the imminent and serious threat.

(b) A law enforcement officer whose personal information is knowingly publicly posted or publicly displayed on the Internet may bring an action in any court of competent jurisdiction. If a jury or court finds that a defendant has committed a violation of Subsection (9)(a), the jury or court shall award damages to the officer in the amount of triple the cost of actual damages or \$4,000, whichever is greater.

(10) An interactive computer service or access software is not liable under Subsections (7)(d)(i) and (9) for information or content provided by another information content provider.

(11) Unless a state or local government agency receives a completed form directly from the law enforcement officer in accordance with Subsection (1), a state or local government official who makes information available for public inspection in accordance with state law is not in violation of this chapter.

Section 3. Section 63G-2-303 is amended to read:

63G-2-303. Private information concerning certain government employees.

(1) As used in this section:

(a) "At-risk government employee" means a current or former:

(i) peace officer as specified in Section 53-13-102;

~~(ii) supreme court justice;~~

~~(iii)~~ (ii) state or federal judge of an appellate, district, justice, or juvenile court, or [a] court commissioner;

~~(iv) justice court judge;~~

~~(v)~~ (iii) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

~~(vi) federal judge;~~

~~(vii) federal magistrate judge;~~

~~(viii)~~ (iv) judge authorized by Armed Forces, Title 10, United States Code;

~~(ix) United States Attorney;~~

~~(x) Assistant United States Attorney;~~

(v) federal prosecutor;

~~(xi)~~ (vi) [a] prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

~~(xii)~~ (vii) [a] law enforcement official as defined in Section 53-5-711; ~~(x)~~

~~(xiii)~~ (viii) [a] prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice[-]; or

(ix) state or local government employee who, because of the unique nature of the employee's regular work assignments or because of one or more recent credible threats directed to or against the employee, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.

(b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.

(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.

(2) (a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:

(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's ~~or the employee's family member's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions~~ personal information; and

(ii) requests that the government agency classify those records or parts of records as private.

(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing ~~the private~~ personal information [specified in Subsection (2)(a)(i)].

(c) Each government agency shall develop a form that:

(i) requires the at-risk government employee to ~~provide evidence of qualifying employment; (ii) requires the at-risk government employee to~~

designate each specific record or part of a record containing the employee's [~~home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions~~] personal information that the applicant desires to be classified as private; [and]

~~[(iii)]~~ (ii) affirmatively requests that the government entity holding those records classify them as private[-];

~~(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and~~

~~(iv) contains a place for the signature required under Subsection (2)(d).~~

~~(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.~~

(3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully satisfy the requirements of this section by:

(a) providing a method for the assessment roll and index and the tax roll and index that will block public access to the home address, home telephone number, situs address, and Social Security number; and

(b) providing the at-risk government employee requesting the classification with a disclaimer informing the employee that the employee may not receive official announcements affecting the employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A government agency holding records of an at-risk government employee classified as private under this section may release the record or part of the record if:

(a) the employee or former employee gives written consent;

(b) a court orders release of the records; or

(c) the government agency receives a certified death certificate for the employee or former employee.

(5) (a) If the government agency holding the private record receives a subpoena for the records, the government agency shall attempt to notify the at-risk government employee or former employee by mailing a copy of the subpoena to the employee's last-known mailing address together with a request that the employee either:

(i) authorize release of the record; or

(ii) within 10 days of the date that the copy and request are mailed, deliver to the government agency holding the private record a copy of a motion

to quash filed with the court who issued the subpoena.

(b) The government agency shall comply with the subpoena if the government agency has:

(i) received permission from the at-risk government employee or former employee to comply with the subpoena;

(ii) not received a copy of a motion to quash within 10 days of the date that the copy of the subpoena was mailed; or

(iii) received a court order requiring release of the records.

~~(6) (a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:~~

~~(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and~~

~~(ii) one year after the government agency receives official notice of the death of the employee.~~

~~(b) A form submitted under this section may be rescinded at any time by:~~

~~(i) the at-risk government employee who submitted the form; or~~

~~(ii) if the at-risk government employee is deceased, a member of the employee's immediate family.~~

CHAPTER 403**H. B. 453**

Passed March 14, 2019
Approved March 27, 2019
Effective May 14, 2019

ALCOHOL AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Jerry W. Stevenson

LONG TITLE**General Description:**

This bill modifies and enacts provisions related to alcohol.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a tolerance for the alcohol content of beer;
- ▶ modifies which individuals associated with an applicant are subject to a criminal background check by the Alcoholic Beverage Control Commission;
- ▶ amends the deadline for a retail manager or an off-premise retail manager to complete the department's manager training program;
- ▶ clarifies how the department determines eligibility for the small manufacturer markup;
- ▶ prohibits a person from maintaining a minibar in a hotel guest room;
- ▶ authorizes interim alcoholic beverage management agreements and inventory transfer agreements, under certain circumstances;
- ▶ requires each employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to wear an identification badge;
- ▶ allows a retail licensee to unlock a liquor storage area for the purpose of performing inventory, restocking, repairing, or cleaning;
- ▶ provides that a retail licensee may sell, offer for sale, or furnish beer to a patron in more than one container;
- ▶ provides that a closing retail licensee may transfer its inventory of alcoholic product to another retail licensee owned by the same person;
- ▶ permits a minor who is at least 16 years of age and employed by the restaurant to be present in the restaurant's dispensing area;
- ▶ provides that a performing arts facility may hold an on-premise banquet license;
- ▶ allows an off-premise beer retailer to sell, offer for sale, or furnish beer through a drive through window;
- ▶ allows certain manufacturing package agencies to hold an off-premise beer retailer state license for the same premises, provided the licensee only sells beer that is the product of the manufacturing licensee that holds the package agency;
- ▶ permits a brewery manufacturing licensee to transport beer, heavy beer, or flavored malt beverage between licensed premises under certain circumstances;
- ▶ enacts the Liquor Transport License Act, which authorizes the commission to issue liquor

transport licenses under which a person may transport liquor from a state store or package agency to a retail licensee; and

- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313
- 32B-1-305, as last amended by Laws of Utah 2017, Chapter 455
- 32B-1-607, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-202, as last amended by Laws of Utah 2018, Second Special Session, Chapter 7
- 32B-2-204, as enacted by Laws of Utah 2010, Chapter 276
- 32B-2-304, as last amended by Laws of Utah 2018, Chapters 313, 329, and 415
- 32B-2-605, as last amended by Laws of Utah 2018, Chapter 249
- 32B-5-102, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-207, as last amended by Laws of Utah 2018, Chapter 249
- 32B-5-301, as last amended by Laws of Utah 2011, Chapter 334
- 32B-5-303, as last amended by Laws of Utah 2011, Chapter 307
- 32B-5-304, as last amended by Laws of Utah 2011, Chapters 307 and 334
- 32B-5-306, as enacted by Laws of Utah 2010, Chapter 276
- 32B-5-308, as last amended by Laws of Utah 2018, Chapter 249
- 32B-5-310, as enacted by Laws of Utah 2010, Chapter 276
- 32B-6-203, as last amended by Laws of Utah 2017, Chapter 471
- 32B-6-205, as last amended by Laws of Utah 2018, Chapter 249
- 32B-6-205.2, as last amended by Laws of Utah 2018, Chapters 249 and 281
- 32B-6-206, as enacted by Laws of Utah 2013, Chapter 349
- 32B-6-303, as last amended by Laws of Utah 2017, Chapter 471
- 32B-6-305, as last amended by Laws of Utah 2018, Chapter 249
- 32B-6-305.2, as last amended by Laws of Utah 2018, Chapters 249 and 281
- 32B-6-603, as last amended by Laws of Utah 2016, Chapter 82
- 32B-6-605, as last amended by Laws of Utah 2018, Chapter 249
- 32B-6-702, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 32B-6-703, as last amended by Laws of Utah 2017, Chapter 455
- 32B-6-803, as last amended by Laws of Utah 2016, Chapter 82
- 32B-6-805, as last amended by Laws of Utah 2012, Chapter 365

32B-6-902, as last amended by Laws of Utah 2018, Chapters 249 and 281
 32B-6-903, as last amended by Laws of Utah 2017, Chapter 471
 32B-6-905, as last amended by Laws of Utah 2018, Chapter 249
 32B-6-905.1, as last amended by Laws of Utah 2018, Chapters 249 and 281
 32B-7-202, as last amended by Laws of Utah 2018, Chapter 249
 32B-11-503, as last amended by Laws of Utah 2016, Chapter 266
 62A-15-401, as last amended by Laws of Utah 2018, Chapters 249 and 281
 63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

ENACTS:

32B-7-407, Utah Code Annotated 1953
 32B-7-408, Utah Code Annotated 1953
 32B-17-101, Utah Code Annotated 1953
 32B-17-201, Utah Code Annotated 1953
 32B-17-202, Utah Code Annotated 1953
 32B-17-203, Utah Code Annotated 1953
 32B-17-204, Utah Code Annotated 1953
 32B-17-205, Utah Code Annotated 1953
 32B-17-206, Utah Code Annotated 1953
 32B-17-301, Utah Code Annotated 1953
 32B-17-302, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

32B-1-701, (Renumbered from 32B-5-402, as last amended by Laws of Utah 2017, Chapter 455)
 32B-1-702, (Renumbered from 32B-5-403, as last amended by Laws of Utah 2017, Chapter 455)
 32B-1-703, (Renumbered from 32B-5-404, as last amended by Laws of Utah 2017, Chapter 455)
 32B-1-704, (Renumbered from 32B-5-405, as last amended by Laws of Utah 2018, Chapter 249)
 32B-1-705, (Renumbered from 32B-5-406, as last amended by Laws of Utah 2018, Chapter 249)

REPEALS:

32B-5-401, as enacted by Laws of Utah 2010, Chapter 276

Utah Code Sections Affected by Coordination Clause:

32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313
 63I-2-232, as last amended by Laws of Utah 2018, Chapters 249 and 313

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:**32B-1-102. Definitions.**

As used in this title:

(1) "Airport lounge" means a business location:
 (a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

- (a) beer; or
- (b) liquor.

(4) (a) "Alcoholic product" means a product that:

- (i) contains at least .5% of alcohol by volume; and
- (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

- (i) except as provided in Subsection (4)(d), an extract;
- (ii) vinegar;
- (iii) preserved nonintoxicating cider;
- (iv) essence;
- (v) tincture;
- (vi) food preparation; or
- (vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Banquet" means ~~an~~ a private event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

- (i) hotel;
- (ii) resort facility;
- (iii) sports center; ~~or~~
- (iv) convention center; or
- (v) performing arts facility;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) “Bar structure” means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

- (a) stored; or
- (b) dispensed.

(8) (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) “Bar establishment license” includes:

- (i) a dining club license;
- (ii) an equity license;
- (iii) a fraternal license; or
- (iv) a bar license.

(9) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(10) (a) Subject to Subsection (10)(d), “beer” means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Beer” may or may not contain hops or other vegetable products.

(c) “Beer” includes a product that:

(i) contains alcohol in the percentages described in Subsection (10)(a); and

(ii) is referred to as:

- (A) beer;
- (B) ale;
- (C) porter;
- (D) stout;
- (E) lager; or
- (F) a malt or malted beverage.

(d) “Beer” does not include a flavored malt beverage.

(11) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(12) “Beer retailer” means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(13) “Beer wholesaling license” means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(14) “Billboard” means a public display used to advertise, including:

- (a) a light device;
- (b) a painting;
- (c) a drawing;
- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.

(15) “Brewer” means a person engaged in manufacturing:

- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.

(16) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(17) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.

(18) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company’s tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(19) “Church” means a building:

- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.

(20) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(21) “Commissioner” means a member of the commission.

(22) “Community location” means:

- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.

(23) “Community location governing authority” means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(24) “Container” means a receptacle that contains an alcoholic product, including:

- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.

(25) “Convention center” means a facility that is:

- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a “convention center” by the commission by rule.

(26) (a) “Counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) “Counter” does not include a dispensing structure.

(27) “Crime involving moral turpitude” is as defined by the commission by rule.

[~~(27)~~] (28) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

[~~(28)~~] (29) “Department compliance officer” means an individual who is:

- (a) an auditor or inspector; and
- (b) employed by the department.

[~~(29)~~] (30) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.

[~~(30)~~] (31) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

[~~(31)~~] (32) “Director,” unless the context requires otherwise, means the director of the department.

[~~(32)~~] (33) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:

- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.

[~~(33)~~] (34) (a) Subject to Subsection [~~(33)~~] (34)(b), “dispense” means:

- (i) drawing an alcoholic product; and
- (ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of “dispense” in this Subsection [~~(33)~~] (34) applies only to:

- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.

[~~(34)~~] (35) “Dispensing structure” means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

[~~(35)~~] (36) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

[~~(36)~~] (37) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

[~~(37)~~] (38) “Educational facility” includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

[~~(38)~~] (39) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

[~~(39)~~] (40) “Event permit” means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

[~~(40)~~] (41) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

[~~(41)~~] (42) (a) “Flavored malt beverage” means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the

production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

[42] (43) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

[43] (44) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

[44] (45) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

[45] (46) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

[46] (47) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

[47] (48) “Health care practitioner” means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

[48] (49) (a) “Heavy beer” means a product that:

(i) contains more than 4% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

[49] “Hotel” is as defined by the commission by rule.]

(50) “Hotel” means a commercial lodging establishment that:

(a) offers at least 30 temporary sleeping accommodations for compensation;

(b) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(c) (i) has adequate kitchen or culinary facilities on the premises to provide complete meals; or

(ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract that can accommodate at least 75 individuals; or

(B) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

[50] (51) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[51] (52) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[52] (53) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[53] (54) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[454] (55) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

[455] (56) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections [455] (56)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

[456] (57) “Investigator” means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

[457] (58) “Invitee” means the same as that term is defined in Section 32B-8-102.

[458] (59) “License” means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; ~~or~~
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act~~[-];~~ or
- (e) a license issued in accordance with Chapter 17, Liquor Transport License Act.

[459] (60) “Licensee” means a person who holds a license.

[460] (61) “Limited-service restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

[461] (62) “Limousine” means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity’s tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

[462] (63) (a) (i) “Liquor” means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) “Liquor” includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) “Liquor” does not include beer.

[463] (64) “Liquor Control Fund” means the enterprise fund created by Section 32B-2-301.

(65) “Liquor transport license” means a license issued in accordance with Chapter 17, Liquor Transport License Act.

[464] (66) “Liquor warehousing license” means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

[465] (67) “Local authority” means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; or

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township.

[466] (68) “Lounge or bar area” is as defined by rule made by the commission.

[467] (69) “Manufacture” means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[468] (70) “Member” means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[469] (71) (a) “Military installation” means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

- (i) (A) under the control of the United States Department of Defense; or
- (B) of the National Guard;
- (ii) that is located within the state; and
- (iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

- (i) civil works;
- (ii) a rivers and harbors project; or
- (iii) a flood control project.

(72) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

[~~(70)~~] (73) "Minor" means an individual under the age of 21 years.

[~~(71)~~] (74) "Nondepartment enforcement agency" means an agency that:

- (a) (i) is a state agency other than the department; or
- (ii) is an agency of a county, city, town, or metro township; and
- (b) has a responsibility to enforce one or more provisions of this title.

[~~(72)~~] (75) "Nondepartment enforcement officer" means an individual who is:

- (a) a peace officer, examiner, or investigator; and
- (b) employed by a nondepartment enforcement agency.

[~~(73)~~] (76) (a) "Off-premise beer retailer" means a beer retailer who is:

- (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~(74)~~] (77) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~(75)~~] (78) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(76)~~] (79) "On-premise beer retailer" means a beer retailer who is:

- (a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
- (b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:
 - (i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and
 - (ii) on and after March 1, 2012, operating:
 - (A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(77)~~] (80) "Opaque" means impenetrable to sight.

[~~(78)~~] (81) "Package agency" means a retail liquor location operated:

- (a) under an agreement with the department; and
- (b) by a person:
 - (i) other than the state; and
 - (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(79)~~] (82) "Package agent" means a person who holds a package agency.

[~~(80)~~] (83) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

- (a) a customer;
- (b) a member;
- (c) a guest;
- (d) an attendee of a banquet or event;
- (e) an individual who receives room service;
- (f) a resident of a resort;
- (g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or
- (h) an invitee.

(84) (a) "Performing arts facility" means a multi-use performance space that:

- (i) is primarily used to present various types of performing arts, including dance, music, and theater;
- (ii) contains over 2,500 seats;
- (iii) is owned and operated by a governmental entity; and
- (iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

[~~(81)~~] (85) "Permittee" means a person issued a permit under:

- (a) Chapter 9, Event Permit Act; or
- (b) Chapter 10, Special Use Permit Act.

[~~(82)~~] (86) "Person subject to administrative action" means:

- (a) a licensee;
- (b) a permittee;
- (c) a manufacturer;
- (d) a supplier;
- (e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections ~~[(82)]~~ (86)(a) through (f); or

(ii) a package agent.

~~[(83)]~~ (87) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

~~[(84)]~~ (88) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

~~[(85)]~~ (89) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

~~[(86)]~~ (90) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

~~[(87)]~~ (91) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

~~[(88)]~~ (92) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

~~[(89)]~~ (93) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection ~~[(89)]~~ (93)(a) to a third party for the third party's event.

~~[(90)]~~ (94) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

~~[(91)]~~ (95) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

~~[(92)]~~ (96) "Residence" means a person's principal place of abode within Utah.

~~[(93)]~~ (97) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

~~[(94)]~~ (98) "Resort" means the same as that term is defined in Section 32B-8-102.

~~[(95)]~~ (99) "Resort facility" is as defined by the commission by rule.

~~[(96)]~~ (100) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

~~[(97)]~~ (101) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

~~[(98)]~~ (102) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

~~[(99)]~~ (103) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a resort license; or

(l) a hotel license.

~~[(100)]~~ (104) "Room service" means furnishing an alcoholic product to a person in a guest room of a:

(a) hotel; or

(b) resort facility.

~~[(101)]~~ (105) (a) "School" means a building used primarily for the general education of minors.

(b) "School" does not include an educational facility.

~~[(102)]~~ (106) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

~~[(103)]~~ (107) "Serve" means to place an alcoholic product before an individual.

~~[(104)]~~ (108) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection ~~[(104)]~~ (108)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

~~[(105)]~~ (109) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

~~[(106)]~~ (110) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.

(111) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

~~[(107)]~~ (112) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

~~[(108)]~~ (113) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

~~[(109)]~~ (114) "Sports center" is as defined by the commission by rule.

~~[(110)]~~ (115) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

~~[(414)]~~ (116) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

~~[(412)]~~ (117) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

~~[(413)]~~ (118) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

~~[(414)]~~ (119) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

~~[(415)]~~ (120) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

~~[(416)]~~ (121) "Supplier" means a person who sells an alcoholic product to the department.

~~[(417)]~~ (122) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

~~[(418)]~~ (123) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

~~[(419)]~~ (124) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

~~[(420)]~~ (125) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

~~[(421)]~~ (126) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

~~[(122)]~~ (127) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

~~[(123)]~~ (128) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-305 is amended to read:

32B-1-305. Requirement for a background check.

(1) The department shall require an individual listed in Subsection (2), in accordance with this part, to:

(a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used;

(b) submit to a background check in a form acceptable to the department; and

(c) consent to a background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The following shall comply with Subsection (1):

(a) an individual applying for employment with the department if:

(i) the department makes the decision to offer the individual employment with the department; and

(ii) once employed, the individual will receive benefits;

(b) an individual applying to the commission to operate a package agency;

(c) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;

(d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;

(vii) a member who owns at least 20% of a limited liability company; or

(viii) an individual employed to act in a supervisory or managerial capacity; or

(e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:

(i) is approved to operate a package agency; or

(ii) is licensed by the commission.

(3) (a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency or license.

(b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the licensee.

~~[(3)]~~ (4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:

(a) continued operation of a package agency; or

(b) renewal of a license.

~~[(4)]~~ (5) The department may require as a condition of continued employment that a department employee:

(a) submit to a background check in a form acceptable to the department; and

(b) consent to a fingerprint criminal background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

Section 3. Section 32B-1-607 is amended to read:

32B-1-607. Rulemaking authority.

(1) The commission may adopt rules necessary to implement this part.

(2) Notwithstanding Subsections 32B-1-102(10) and (49), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:

(a) up to 0.18% above or below when measured by volume; or

(b) up to 0.15% above or below when measured by weight.

Section 4. Section 32B-1-701, which is renumbered from Section 32B-5-402 is renumbered and amended to read:

Part 7. Alcohol Training and Education Act [32B-5-402]. 32B-1-701. Definitions.

As used in this part:

(1) "Off-premise retail manager" means an individual who ~~is~~ ~~(a)~~ manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act ~~;~~ ~~or~~.

~~[(b) supervises the sale of beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.]~~

(2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) "Off-premise retail staff" does not include an off-premise retail manager.

(3) "Retail manager" means an individual who:

(a) manages operations at a premises that is licensed under this chapter; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under this chapter.

(4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under this chapter.

(b) "Retail staff" does not include a retail manager.

Section 5. Section 32B-1-702, which is renumbered from Section 32B-5-403 is renumbered and amended to read:

[32B-5-403]. 32B-1-702. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals fail to complete an alcohol training and education seminar:

(a) a retail manager; or

(b) retail staff.

(2) A city, town, metro township, or county in which a retail licensee conducts business may suspend, revoke, or not renew the business license of the retail licensee if a retail manager or retail staff fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the

following individuals fails to complete an alcohol training and education seminar:

(a) an off-premise retail manager; or

(b) off-premise retail staff.

Section 6. Section 32B-1-703, which is renumbered from Section 32B-5-404 is renumbered and amended to read:

[32B-5-404]. 32B-1-703. Alcohol training and education for off-premise consumption.

(1) (a) A local authority that issues an off-premise beer retailer license to a business to sell beer at retail for off-premise consumption shall require the following to have a valid record that the individual completed an alcohol training and education seminar in the time periods required by Subsection (1)(b):

(i) an off-premise retail manager; or

(ii) off-premise retail staff.

(b) If an individual on the date the individual becomes staff to an off-premise beer retailer does not have a valid record that the individual has completed an alcohol training and education seminar for purposes of this part, the individual shall complete an alcohol training and education seminar within 30 days of the day on which the individual becomes staff of an off-premise beer retailer.

(c) Section 62A-15-401 governs the validity of a record that an individual has completed an alcohol training and education seminar required by this part.

(2) In accordance with Section [32B-5-403] 32B-1-702, a local authority may immediately suspend the license of an off-premise beer retailer that allows an individual to work as an off-premise retail manager without having a valid record that the individual completed an alcohol training and education seminar in accordance with Subsection (1).

Section 7. Section 32B-1-704, which is renumbered from Section 32B-5-405 is renumbered and amended to read:

[32B-5-405]. 32B-1-704. Department training programs.

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4) (a) Except as provided in Subsection (5), each retail manager shall complete the training described in Subsection (1)(a) no later than the [earlier] later of:

(i) 30 days after the day on which the retail manager is hired; or

(ii) [before] 30 days after the day on which the retail licensee obtains a retail license under this chapter.

(b) Except as provided in Subsection (5), each off-premise retail manager shall complete the training described in Subsection (2) no later than the [earlier] later of:

(i) 30 days after the day on which the off-premise retail manager is hired; or

(ii) [before] 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.

(c) (i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

(5) (a) For a person who holds a retail license on January 1, 2018, each retail manager shall complete the training program described in Subsection (1)(a) for the first time as a condition of renewing the licensee's retail license in 2018.

(b) For a person who holds an off-premise beer retailer state license on January 1, 2019, each off-premise retail manager shall complete the training program described in Subsection (1)(b) for the first time as a condition of renewing the licensee's off-premise beer retailer state license in 2019.

(6) If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, metro township, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 8. Section 32B-1-705, which is renumbered from Section 32B-5-406 is renumbered and amended to read:

[32B-5-406]. 32B-1-705. Tracking certain enforcement actions.

(1) For each violation of a provision of this title involving the sale of an alcoholic product to a minor that staff of a retail licensee commits, the commission shall:

(a) maintain a record of the violation until the record is expunged in accordance with Subsection (3);

(b) include in the record described in Subsection (1)(a):

(i) the name of the individual who committed the violation;

(ii) the name of the retail licensee; and

(iii) the date of the adjudication of the violation; and

(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days after the day on which the violation is adjudicated.

(2) (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the information that the Department of Public Safety receives in accordance with Subsection (1).

(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:

(i) assist the commission in assessing penalties under this title; and

(ii) inform a retail licensee of an individual who has a violation history in the system.

(3) The commission and the Department of Public Safety shall expunge each record in the system described in Subsection (2) that relates to an individual if the individual does not violate a provision of this title related to the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual's last violation related to the sale of an alcoholic product to a minor was adjudicated.

Section 9. Section 32B-2-202 is amended to read:

32B-2-202. Powers and duties of the commission.

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and

location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, under which at least four or more sublicenses may be included;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, under which at least three or more sublicenses may be included;

(xiv) subject to Subsection (4), a single event permit;

(xv) subject to Subsection (4), a temporary beer event permit;

(xvi) a special use permit;

(xvii) a manufacturing license;

(xviii) a liquor warehousing license;

(xix) a beer wholesaling license; ~~and~~

(xx) a liquor transport license;

(xxi) an off-premise beer retailer state license;

(xxii) a master off-premise beer retailer state license; and

~~(xxiii)~~ (xxiii) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

(B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

(C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages;

(f) issue, deny, suspend, or revoke the following conditional licenses:

(i) a conditional retail license as defined in Section 32B-5-205; and

(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

(g) prescribe the duties of the department in assisting the commission in issuing a package

agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue or deny a license, permit, or certificate of approval.

(3) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) Notwithstanding Subsections (1)(e)(xiv) and (xv), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 10. Section 32B-2-204 is amended to read:

32B-2-204. Powers and duties of the department -- Immunity.

(1) The department shall control liquor merchandise inventory including:

(a) listing and delisting a product;

(b) the procedures for testing a new product;

(c) purchasing policy;

(d) turnover requirements for a regularly coded product to be continued; and

(e) the disposition of discontinued, distressed, or unsaleable merchandise.

(2) (a) The department shall report to the governor on the administration of this title:

(i) as the governor may require; and

(ii) annually by no later than November 30, for the fiscal year ending June 30 of the year in which the report is made.

(b) A report under this Subsection (2) shall contain:

(i) a statement of the nature and amount of the business transacted by the department during the year;

(ii) a statement of the department's assets and liabilities including a profit and loss account, and other accounts and matters necessary to show the results of operations of the department for the year;

(iii) general information on the application of this title in the state; and

(iv) any other information requested by the governor.

(c) The department shall submit a copy of a report described in this Subsection (2) to the Legislature.

(3) The department shall maintain insurance against loss on each motor vehicle operated by it on any public highway. A motor vehicle shall be covered for:

(a) liability imposed by law upon the department for damages from bodily injuries suffered by one or more persons by reason of the ownership, maintenance, or use of the motor vehicle; and

(b) liability or loss from damage to or destruction of property of any description, including liability of the department for the resultant loss of use of the property, which results from accident due to the ownership, maintenance, or use of the motor vehicle.

(4) (a) The department may sue, be sued, and defend in a proceeding, in a court of law or otherwise, in the name of the department.

(b) An action may not be taken:

- (i) against the commission; or
- (ii) in the name of a commissioner.

(5) The department is liable to respond in damages in a case if a private corporation under the same circumstances would be liable.

(6) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies in an action commenced against the department for damages sustained as a result of department ownership, maintenance, or use of a motor vehicle under Subsections (4) and (5).

(b) In an action described in Subsection (6)(a), the commission and each commissioner are immune from suit.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to measuring the alcohol content of beer.

Section 11. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.

(5) This section does not prohibit the department from selling discontinued items at a discount.

Section 12. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, liquor may be provided by the department to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) A package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the closing; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer its operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday.

(ii) Sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license;

(D) a dining club license; or

(E) a bar license;

(iii) the restaurant, dining club, or bar is located at the manufacturing facility;

(iv) the restaurant, dining club, or bar sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant, dining club, or bar; or

(B) operates the restaurant, dining club, or bar;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant, dining club, or bar.

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

- (i) ask the suspected minor for proof of age;
- (ii) ask the person who accompanies the suspected minor for proof of age; and
- (iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room;

(B) staff of the package agency not leaving the liquor outside a guest room for retrieval by a guest; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) On or after October 1, 2011, a package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

- (a) physical facilities;
- (b) conditions of operation;
- (c) hours of operation;

- (d) inventory levels;
- (e) payment schedules;
- (f) methods of payment;
- (g) premises security; and
- (h) any other matter considered appropriate by the commission.

(19) A package agency may not maintain a minibar.

Section 13. Section 32B-5-102 is amended to read:

32B-5-102. Definitions.

[Reserved]

As used in this chapter:

(1) "Interim alcoholic beverage management agreement" means an agreement:

(a) in connection with:

(i) the transfer of a retail license; and

(ii) (A) an asset sale of a retail licensee; or

(B) a transfer of the management of a retail licensee to a new entity; and

(b) under which the purchaser or the new management entity agrees to perform the operations of the retail licensee during the period that:

(i) begins when:

(A) the asset sale closes; or

(B) the new management agreement is executed; and

(ii) ends on the day after the day on which the commission approves the transfer of the retail license.

(2) "Inventory transfer agreement" means an agreement under which a retail licensee agrees to sell or otherwise transfer all or part of the retail licensee's inventory of alcoholic product.

Section 14. Section 32B-5-207 is amended to read:

32B-5-207. Multiple retail licenses on same premises.

(1) As used in this section, "sublicense premises" means the same as that term is defined in Sections 32B-8-102 and 32B-8b-102.

(2) (a) The commission may not issue and one or more licensees may not hold more than one type of retail license for the same premises.

(b) Notwithstanding Subsection (2)(a), the commission may issue and one or more licensees may hold more than one type of retail license for the same premises if:

(i) the applicant or licensee satisfies the requirements for each retail license;

(ii) the types of retail licenses issued or held are two or more of the following:

- (A) a restaurant license;
 - (B) an on-premise beer retailer license that is not a tavern; and
 - (C) an on-premise banquet license or a reception center license; and
- (iii) the retail licenses do not operate at the same time on the same day.
- (3) When one or more licensees hold more than one type of retail license for the same premises under Subsection (2)(b), the one or more licensees shall post in a conspicuous location at the entrance of the room a sign that:
- (a) measures 8-1/2 inches by 11 inches; and
 - (b) states whether the premises is currently operating as:
 - (i) a restaurant;
 - (ii) an on-premise beer retailer that is not a tavern; or
 - (iii) a banquet or a reception center.
- (4) (a) The commission may not issue and one or more licensees may not hold a bar license or a tavern license in the same room as a restaurant license.
- (b) For purposes of Subsection (4)(a), two licenses are not considered in the same room if:
- (i) each shared permanent wall between the premises licensed as a bar or a tavern and the premises licensed as a restaurant measures at least eight feet high;
 - (ii) the premises for each license has a separate entryway that does not require a patron to pass through the premises licensed as a bar or a tavern to access the premises licensed as a restaurant; and
 - (iii) if a patron must pass through the premises licensed as a restaurant to access the entryway to the premises licensed as a bar or a tavern, a patron on the premises licensed as a restaurant cannot see a dispensing structure on the premises licensed as a bar or a tavern.
- (5) (a) If, on May 9, 2017, one or more licensees hold more than one type of retail license in violation of Subsection (2) or (4), the one or more licensees may operate under the different types of retail licenses through June 30, 2018.
- (b) A licensee may not operate in violation of Subsection (2) or (4) on or after July 1, 2018.
- (c) Before July 1, 2018, each licensee described in Subsection (5)(a) shall notify the commission of each retail license that the licensee will surrender effective July 1, 2018, to comply with the provisions of Subsection (2) or (4).
- ~~[(d) The commission shall establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure by which a licensee surrenders a retail license under this Subsection (5).]~~

- (6) (a) The commission may issue more than one type of sublicense to a resort licensed under Chapter 8, Resort License Act, or a hotel licensed under Chapter 8b, Hotel License Act, for the same room if the sublicense premises are clearly delineated by one or more permanent physical structures, such as a wall or other architectural feature, that separate the sublicense premises.
- (b) A patron may not transport an alcoholic beverage between two sublicense premises located in the same room in accordance with Subsection (6)(a).
- (c) Notwithstanding any provision to the contrary, a minor may momentarily pass through a sublicense premises that is a bar to reach another location where a minor may lawfully be, if there is no practical alternative route to the location.

Section 15. Section 32B-5-301 is amended to read:

32B-5-301. General operational requirements.

- (1) (a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license.
- (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
- (i) a retail licensee;
 - (ii) individual staff of a retail licensee; or
 - (iii) both a retail licensee and staff of the retail licensee.
- (2) (a) If there is a conflict between this part and the relevant part under Chapter 6, Specific Retail License Act, for the specific type of retail license, the relevant part under Chapter 6 governs.
- (b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant part under Chapter 6, Specific Retail License Act.
- (c) Notwithstanding that this part or the relevant part under Chapter 6, Specific Retail License Act, refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.
- (3) (a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.
- (b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:
- (i) a header that reads: "WARNING";
 - (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;

(b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant part under Chapter 6, Specific Retail License Act, for the type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) (a) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules related to the requirement described in Subsection (8)(a).

Section 16. Section 32B-5-303 is amended to read:

32B-5-303. Purchase and storage of an alcoholic product by a retail licensee.

(1) (a) A retail licensee may not purchase liquor except from a state store or package agency.

(b) A retail licensee may transport liquor purchased from a state store or package agency from the place of purchase to the licensed premises.

(c) A retail licensee shall pay for liquor in accordance with rules established by the commission.

(2) (a) (i) A retail licensee may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the retail licensee purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) Violation of this Subsection (2)(a) is a class A misdemeanor.

(b) (i) If a retail licensee purchases beer under Subsection (2)(a) from a beer wholesaler licensee, the retail licensee shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the retail licensee is located, unless an alternate wholesaler is authorized by the department to sell to the retail licensee as provided in Section 32B-13-301.

(ii) Violation of Subsection (2)(b) is a class B misdemeanor.

(3) A retail licensee may not store, sell, offer for sale, or furnish an alcoholic product in a place other than as designated in the retail licensee's application, unless the retail licensee first applies for and receives approval from the department for a change of location within the licensed premises.

(4) A liquor storage area shall remain locked at all times ~~other than those hours and days when~~ except when:

(a) liquor sales are authorized by law[-]; or

(b) the licensee;

(i) inventories or restocks the alcoholic product in the liquor storage area; or

(ii) repairs or cleans the liquor storage area.

Section 17. Section 32B-5-304 is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1) A retail licensee may sell, offer for sale, or furnish a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title, except that:

(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following requirements:

(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;

(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

(iii) the retail licensee shall designate a location where flavorings are stored on the floor plan submitted to the department; and

(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert; and

(c) a patron may have no more than 2.5 ounces of spirituous liquor at a time.

(2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

(b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5) (a) Subject to Subsection (5)(b), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(i) in an open original container; and

(ii) in a container on draft.

(b) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a):

(i) in a size of container that exceeds two liters; or

(ii) to an individual patron in a size of container that exceeds one liter.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 18. Section 32B-5-306 is amended to read:

32B-5-306. Purchasing or selling alcoholic product.

(1) A retail licensee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(2) (a) A patron may only purchase an alcoholic product in the licensed premises of a retail licensee from and be served by an individual who is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(b) An individual may sell, offer for sale, or furnish an alcoholic product to a patron only if the individual is:

(i) staff of the retail licensee; and

(ii) designated and trained by the retail licensee to sell and serve an alcoholic product.

(c) Notwithstanding Subsection (2)(a) or (b), a patron who purchases bottled wine from staff of the retail licensee or carries bottled wine onto the retail licensee's premises pursuant to Section 32B-5-307 may thereafter serve wine from the bottle to the patron or others at the patron's table.

(3) The following may not purchase an alcoholic product for a patron:

(a) a retail licensee; or

(b) staff of a retail licensee.

(4) After a retail licensee closes the retail licensee's business at the licensed premises, the retail licensee may transfer the retail licensee's

inventory of alcoholic product from that premises to another premises licensed under this chapter that is owned by the same retail licensee.

Section 19. Section 32B-5-308 is amended to read:

32B-5-308. Requirements on staff or others on premises -- Employing a minor.

(1) Staff of a retail licensee, while on duty, may not:

- (a) consume an alcoholic product; or
- (b) be intoxicated.

(2) (a) A retail licensee may not employ a minor to sell, offer for sale, furnish, or dispense an alcoholic product.

(b) Notwithstanding Subsection (2)(a), unless otherwise prohibited in the provisions related to the specific type of retail license, a retail licensee may employ a minor who is at least 16 years of age to enter the sale at a cash register or other sales recording device.

(3) A full-service restaurant licensee, limited-service restaurant licensee, or beer-only restaurant licensee may employ a minor who is at least ~~18~~ 16 years of age to bus tables, including containers that contain an alcoholic product.

Section 20. Section 32B-5-310 is amended to read:

32B-5-310. Notifying department of change in ownership -- Inventory transfers -- Interim alcoholic beverage management agreements.

(1) The commission may suspend or revoke a retail license if the retail licensee does not immediately notify the department of a change in:

~~[(1)]~~ (a) ownership of [the premises of] the retail licensee;

(b) the entity that manages the retail licensee or a premises licensed under this chapter;

~~[(2)]~~ (c) for a corporate owner, the:

~~[(a)]~~ (i) corporate officers or directors of the retail licensee; or

~~[(b)]~~ (ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

~~[(3)]~~ (d) for a limited liability company:

~~[(a)]~~ (i) managers of the limited liability company; or

~~[(b)]~~ (ii) members owning at least 20% of the limited liability company.

(2) Notwithstanding any other provision of this title, in connection with an event described in Section 32B-8a-202 or an asset sale of a retail licensee, the parties to the transaction may enter into an inventory transfer agreement.

(3) A retail licensee may enter into an interim alcoholic beverage management agreement that provides:

(a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the current retail licensee; and

(b) for the duration of the agreement, the current retail licensee:

(i) shall comply with the requirements of this title that are applicable to the retail license; and

(ii) in accordance with this title, is subject to disciplinary action by the commission for any violation of this title.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing the requirements of:

(a) an inventory transfer agreement; and

(b) an interim alcoholic beverage management agreement.

Section 21. Section 32B-6-203 is amended to read:

32B-6-203. Commission's power to issue full-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a full-service restaurant license from the commission in accordance with this part.

(2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of full-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 4,467.

(b) The commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one full-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the full-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee.

(ii) A facility other than a hotel shall have a separate full-service restaurant license for each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a full-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a full-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

- (a) mix for an alcoholic product; or
- (b) a service charge.

Section 22. Section 32B-6-205 is amended to read:

32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a full-service restaurant licensee;
- (ii) individual staff of a full-service restaurant licensee; or
- (iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a prominent place in the restaurant a list of the types and brand names of liquor being furnished through the full-service restaurant licensee's calibrated metered dispensing system.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection ~~[(42)]~~ (11)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

- (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or
- (ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7) A full-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include:]~~

- ~~[(a) mix for an alcoholic product; or]~~
- ~~[(b) a service charge.]~~

~~[(8)]~~ (7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the full-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(9)]~~ (8)(a).

~~[(40)]~~ (9) A patron may consume an alcoholic product only:

- (a) at:
 - (i) the patron's table;
 - (ii) a counter; or
 - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

~~[(11)]~~ (10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished an alcoholic product; and
- (iii) consume an alcoholic product.

(c) Except as provided in Subsection ~~[(41)]~~ (10)(d), at a seating grandfathered bar structure a full-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a full-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's premises in which the minor is permitted to be.

~~[(42)]~~ (11) Except as provided in Subsection 32B-5-~~307~~(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection ~~[(42)]~~ (11)(a); or

(ii) in an area not described in Subsection ~~[(42)]~~ (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container; (B) the

unopened container is taken to an area described in Subsection ~~[(42)]~~ (11)(a) before it is opened; and (C) once opened, the container is stored in an area described in Subsection ~~[(42)]~~ (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(42)]~~ (11)(a).

~~[(13)]~~ (12) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~[(14)]~~ (13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

~~[(15)]~~ (14) Except as provided in Subsection 32B-6-205.2~~[(16)]~~(15) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 23. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an

alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(5) A full-service restaurant licensee shall maintain at least 70% of the full-service restaurant licensee's total restaurant business from the sale of food, which does not include:]~~

~~[(a) mix for an alcoholic product; or]~~

~~[(b) a service charge.]~~

~~[(6)] (5) (a) A full-service restaurant licensee may not furnish an alcoholic product except after:~~

~~(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:~~

~~(A) a table that is located in a dining area or a dispensing area;~~

~~(B) a counter that is located in a dining area or a dispensing area; or~~

~~(C) a dispensing structure that is located in a dispensing area; and~~

~~(ii) the full-service restaurant licensee confirms that the patron intends to:~~

~~(A) order food prepared, sold, and furnished at the licensed premises; and~~

~~(B) except as provided in Subsection ~~[(6)] (5)(b)~~, consume the food at the same location where the patron is seated and furnished the alcoholic product.~~

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food

prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection ~~[(6)] (5)(b)(i)~~ a single portion of wine is 5 ounces or less.

(c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(7)] (6)~~ A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

~~[(8)] (7) (a)~~ Subject to the other provisions of this Subsection ~~[(8)] (7)~~, a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(8)] (7)(a)~~.

~~[(9)] (8)~~ In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

~~[(10)] (9) (a)~~ Except as provided in Subsection ~~[(10)] (9)(b)~~, a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is ~~[employed by the full-service restaurant licensee]:~~

~~[(A) in accordance with Subsection 32B-5-308(2); or]~~

~~(A) at least 16 years of age and working as an employee of the full-service restaurant licensee; or~~

~~(B) [to perform] performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.~~

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

~~[(41)]~~ (10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(41)]~~ (10)(a).

~~[(42)]~~ (11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(43)]~~ (12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

~~[(44)]~~ (13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

~~[(45)]~~ (14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain

under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once each calendar year.

~~[(46)]~~ (15) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(46)]~~ (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 24. Section 32B-6-206 is amended to read:

32B-6-206. Master full-service restaurant license.

(1) (a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

(i) owns each of the full-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3) (a) A master full-service restaurant license expires on October 31 of each year.

(b) To renew a person's master full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4) (a) The nonrefundable application fee for a master full-service restaurant license is \$330.

(b) The initial license fee for a master full-service restaurant license is \$10,000 plus a separate initial license fee for each newly licensed full-service restaurant license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(b).

(c) The renewal fee for a master full-service restaurant license is \$1,000 plus a separate renewal fee for each full-service license under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of \$330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6) (a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) (a) If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master full-service restaurant license;

(ii) individual staff of the location under the master full-service restaurant license; or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master full-service restaurant licensee or individual staff of the master full-service restaurant licensee if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master full-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master full-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section 25. Section 32B-6-303 is amended to read:

32B-6-303. Commission's power to issue limited-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of wine, heavy beer, or beer on its premises as a limited-service restaurant, the person shall first obtain a limited-service restaurant license from the commission in accordance with this part.

(2) (a) The commission may issue a limited-service restaurant license to establish limited-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of wine, heavy beer, or beer on premises operated as a limited-service restaurant.

(b) A person may not sell, offer for sale, furnish, or allow the consumption of the following on the licensed premises of a limited-service restaurant licensee:

(i) spirituous liquor; or

(ii) a flavored malt beverage.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of limited-service restaurant licenses that at any time exceeds the number determined by dividing the population of the state by 6,817.

(b) The commission may issue a seasonal limited-service restaurant license in accordance with Section 32B-5-206.

(c) (i) If the location, design, and construction of a hotel may require more than one limited-service restaurant sales location within the hotel to serve the public convenience, the commission may

authorize the sale of wine, heavy beer, and beer at as many as three limited-service restaurant locations within the hotel under one limited-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the limited-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the limited-service restaurant licensee.

(ii) A facility other than a hotel shall have a separate limited-service restaurant license for each limited-service restaurant where wine, heavy beer, or beer is sold, offered for sale, or furnished.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a limited-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a limited-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a service charge.

Section 26. Section 32B-6-305 is amended to read:

32B-6-305. Specific operational requirements for a limited-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of:

(i) spirituous liquor; or

(ii) a flavored malt beverage.

(b) A product listed in Subsection (2)(a) may not be on the premises of a limited-service restaurant licensee except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection ~~[(12)]~~ (11)(a).

(4) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7) A limited-service restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.]~~

~~[(8)]~~ (7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product except after the limited-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(9)]~~ (8)(a).

~~[(10)]~~ (9) A patron may consume an alcoholic product only:

- (a) at:
 - (i) the patron’s table;
 - (ii) a counter; or
 - (iii) a seating grandfathered bar structure; and
- (b) where food is served.

~~[(11)]~~ (10) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished an alcoholic product; and
- (iii) consume an alcoholic product.

(c) Except as provided in Subsection ~~[(11)]~~ (10)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:

- (A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee’s premises in which the minor is permitted to be.

~~[(12)]~~ (11) Except as provided in Subsection 32B-5-~~307~~(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

- (a) the alcoholic product is dispensed from:
 - (i) a grandfathered bar structure;
 - (ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or
 - (iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

- (I) not readily visible to a patron; and
 - (II) not accessible by a patron; and
- (B) apart from an area used:
- (I) for dining;

- (II) for staging; or
 - (III) as a lobby or waiting area;
- (b) the limited-service restaurant licensee uses an alcoholic product that is:

- (i) stored in an area described in Subsection ~~[(12)]~~ (11)(a); or
- (ii) in an area not described in Subsection ~~[(12)]~~ (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection ~~[(12)]~~ (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection ~~[(12)]~~ (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

~~[(14)]~~ (13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

~~[(15)]~~ (14) Except as provided in Subsection 32B-6-~~305.2~~~~[(16)]~~(15) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.

Section 27. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a limited-service restaurant licensee;
- (ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(5) A limited-service restaurant licensee shall maintain at least 70% of the limited-service restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.]~~

~~[(6)]~~ (5) (a) A limited-service restaurant licensee may not furnish an alcoholic product except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection ~~[(6)]~~ (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection ~~[(6)]~~ (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(7)]~~ (6) A patron may consume an alcoholic product only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

~~[(8)]~~ (7) (a) Subject to the other provisions of this Subsection ~~[(8)]~~ (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(8)]~~ (7)(a).

~~[(9)]~~ (8) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

~~[(10)]~~ (9) (a) Except as provided in Subsection ~~[(10)]~~ (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is ~~[employed by the limited-service restaurant licensee]:~~

~~[(A) in accordance with Subsection 32B-5-308(2); or]~~

(A) at least 16 years of age and working as an employee of the limited-service restaurant licensee; or

(B) ~~[to perform]~~ performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

~~[(44)]~~ (10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

- (a) the alcoholic product is dispensed from:
 - (i) a dispensing structure that is located in a dispensing area;
 - (ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection ~~[(44)]~~ (10)(a).

~~[(42)]~~ (11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(43)]~~ (12) A limited-service restaurant licensee may not:

- (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or
- (b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

~~[(44)]~~ (13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

- (a) a set-up charge;
- (b) a service charge; or
- (c) a chilling fee.

~~[(45)]~~ (14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

- (i) a record required by Section 32B-5-302; and
- (ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

~~[(46)]~~ (15) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

- (i) may comply with the provisions of this section beginning on or after July 1, 2017; and
- (ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection ~~[(46)]~~ (15)(a)(ii):

- (i) shall comply with each provision of this section; and
- (ii) is not required to comply with the provisions of Section 32B-6-305.

Section 28. Section 32B-6-603 is amended to read:

32B-6-603. Commission's power to issue on-premise banquet license -- Contracts as host.

(1) (a) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product in connection with the person's banquet and room service activities at one of the following, the person shall first obtain an on-premise banquet license in accordance with this part:

- (i) a hotel;
- (ii) a resort facility;
- (iii) a sports center; ~~[or]~~
- (iv) a convention center~~[-]~~; or
- (v) a performing arts facility.

(b) This part does not prohibit an alcoholic product on the premises of a person listed in Subsection (1)(a) to the extent otherwise permitted by this title.

(c) This section does not prohibit a person who applies for an on-premise banquet license to also apply for a package agency if otherwise qualified.

(2) The commission may issue an on-premise banquet license to establish on-premise banquet licensees in the numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product at a banquet or as part of room service activities operated by an on-premise banquet licensee.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of on-premise banquet licenses that at any time exceed the number determined by dividing the population of the state by 28,765.

(4) Pursuant to a contract between the host of a banquet and an on-premise banquet licensee:

(a) the host of the banquet may request an on-premise banquet licensee to provide an alcoholic product served at the banquet; and

(b) an on-premise banquet licensee may provide an alcoholic product served at the banquet.

(5) At a banquet, an on-premise banquet licensee may furnish an alcoholic product:

(a) without charge to a patron at a banquet, except that the host of the banquet shall pay for an alcoholic product furnished at the banquet; or

(b) with a charge to a patron at the banquet.

(6) To be licensed as an on-premise banquet, a person shall maintain at least 50% of the person's total annual banquet gross receipts from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a charge in connection with the furnishing of an alcoholic product.

Section 29. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, [øæ] convention center, or performing arts facility that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Subsection 32B-5-307(3) and except as provided in Subsection 32B-5-307(4), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304; and

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

~~[(a)]~~ (i) begins at 1 a.m.; and

~~[(b)]~~ (ii) ends at 9:59 a.m.

~~[(9) An on-premise banquet licensee shall maintain at least 50% of its total annual banquet gross receipts from the sale of food, not including:]~~

~~[(a) mix for an alcoholic product; and]~~

~~[(b) a charge in connection with the furnishing of an alcoholic product.]~~

~~[(10)]~~ (9) (a) Subject to the other provisions of this Subsection ~~[(10)]~~ (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection ~~[(10)]~~ (9)(a).

~~[(11)]~~ (10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

~~[(12)]~~ (11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

~~[(13)]~~ (12) (a) Room service of an alcoholic product to a guest room of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room.

(b) An alcoholic product may not be left outside a guest room for retrieval by a guest.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 30. Section 32B-6-702 is amended to read:

32B-6-702. Definitions.

As used in this part, "recreational amenity" ~~is defined by the commission by rule made in~~

~~accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this section shall define "recreational amenity" to be one or more of the following or an activity substantially similar to one of the following; means:~~

(1) a billiard parlor;

(2) a pool parlor;

(3) a bowling facility;

(4) a golf course;

(5) miniature golf;

(6) a golf driving range;

(7) a tennis club;

(8) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;

(9) a concert venue that has a seating capacity equal to or greater than 6,500;

(10) one of the following if owned by a government agency:

(a) a convention center;

(b) a fair facility;

(c) an equestrian park;

(d) a theater; or

(e) a concert venue;

(11) an amusement park:

(a) with one or more permanent amusement rides; and

(b) located on at least 50 acres;

(12) a ski resort;

(13) a venue for live entertainment if the venue:

(a) is not regularly open for more than five hours on any day;

(b) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

(c) is operated so that no more than 15% of its total annual receipts are from the sale of beer; or

(14) concessions operated within the boundary of a park administered by the:

(a) Division of Parks and Recreation; or

(b) National Parks Service.

Section 31. Section 32B-6-703 is amended to read:

32B-6-703. Commission's power to issue on-premise beer retailer license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise beer retailer license from the commission in accordance with this part.

(2) (a) The commission may issue an on-premise beer retailer license to establish on-premise beer retailer licensed premises at places and in numbers as the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as an on-premise beer retailer.

(b) At the time that the commission issues an on-premise beer retailer license, the commission shall designate whether the on-premise beer retailer is a tavern.

(c) The commission may change its designation of whether an on-premise beer retailer is a tavern in accordance with rules made by the commission.

(d) (i) In determining whether an on-premise beer retailer is a tavern, the commission shall determine whether the on-premise beer retailer will engage primarily in the retail sale of beer for consumption on the establishment's premises.

(ii) In making a determination under this Subsection (2)(d), the commission shall consider:

(A) whether the on-premise beer retailer will operate as one of the following:

- (I) a beer bar;
- (II) a parlor;
- (III) a lounge;
- (IV) a cabaret; or
- (V) a nightclub;

(B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

(I) whether the on-premise beer retailer will sell food in the establishment; and

(II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;

(C) whether full meals including appetizers, main courses, and desserts will be served;

(D) the square footage and seating capacity of the premises;

(E) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

(F) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and

(H) the beer retailer management's ability to manage and operate an on-premise beer retailer license including:

- (I) management experience;

(II) past beer retailer management experience; and

(III) the type of management scheme that will be used by the beer retailer.

(e) On or after March 1, 2012:

(i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

(A) maintain at least 70% of the person's total gross revenues from business directly related to a recreational amenity on or directly adjoining the licensed premises of the beer retailer, except that a person may include gross revenue from business directly related to a recreational amenity that is owned or operated by a political subdivision if the person has a contract meeting the requirements of Subsection (2)(e)(iv) with the political subdivision; or

(B) have a recreational amenity on or directly adjoining the licensed premises of the beer retailer and maintain at least 70% of the person's total gross revenues from the sale of food.

(ii) The commission may not license a person as an on-premise beer retailer if the person does not:

(A) meet the requirements of Subsection (2)(e)(i); or

(B) operate as a tavern.

(iii) A person who, after August 1, 2011, applies for an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905~~(12)~~(11)(a)(ii).

(iv) A contract described in Subsection (2)(e)(i)(A) shall:

(A) allow the beer retailer to include the total gross revenue from operations of the recreational amenity in the beer retailer's total gross receipts for purposes of Subsection (2)(e)(i)(A); and

(B) give the department the authority to audit financial information of the political subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A) are met.

(3) Subject to Section 32B-1-201:

(a) The commission may not issue a total number of on-premise beer retailer licenses that are taverns that at any time exceeds the number determined by dividing the population of the state by 73,666.

(b) The commission may issue a seasonal on-premise beer retailer license for a tavern in accordance with Section 32B-5-206.

(4) (a) Unless otherwise provided in Subsection (4)(b):

(i) only one on-premise beer retailer license is required for each building or resort facility owned or leased by the same person; and

(ii) a separate license is not required for each retail beer dispensing location in the same building

or on the same resort premises owned or operated by the same person.

(b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the building or resort facility operates in the same manner.

(ii) If each retail beer dispensing location does not operate in the same manner:

(A) one on-premise beer retailer license designated as a tavern is required for the locations in the same building or on the same resort premises that operate as a tavern; and

(B) one on-premise beer retailer license is required for the locations in the same building or on the same resort premises that do not operate as a tavern.

Section 32. Section 32B-6-803 is amended to read:

32B-6-803. Commission's power to issue reception center license.

(1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on its premises as a reception center, the person shall first obtain a reception center license from the commission in accordance with this part.

(2) The commission may issue a reception center license to establish reception center licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a reception center.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of reception center licenses that at any time exceeds the number determined by dividing the population of the state by 251,693.

(4) The commission may not issue a reception center license for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) (a) To be licensed as a reception center, a person may not maintain in excess of 30% of its total annual receipts from the sale of an alcoholic product, which includes:

(i) mix for an alcoholic product; or

(ii) a charge in connection with the furnishing of an alcoholic product.

(b) A reception center licensee shall report the information necessary to show compliance with this Subsection (5) to the department on an annual basis.

Section 33. Section 32B-6-805 is amended to read:

32B-6-805. Specific operational requirements for a reception center license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a reception center licensee and staff of the reception center licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a reception center licensee;

(ii) individual staff of a reception center licensee; or

(iii) both a reception center licensee and staff of the reception center licensee.

(2) In addition to complying with Section 32B-5-303, a reception center licensee shall store an alcoholic product in a storage area described in Subsection [~~(45)~~] (14)(a).

(3) (a) For the purpose described in Subsection (3)(b), a reception center licensee shall provide the following with advance notice of a scheduled event in accordance with rules made by the commission:

(i) the department; and

(ii) the local law enforcement agency responsible for the enforcement of this title in the jurisdiction where the reception center is located.

(b) Any of the following may conduct a random inspection of an event:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) Except as otherwise provided in this title, a reception center licensee may sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the reception center's licensed premises.

(b) A host of an event, a patron, or a person other than the reception center licensee or staff of the reception center licensee, may not remove an alcoholic product from the reception center's licensed premises.

(c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an alcoholic product into or onto, or remove an alcoholic product from, the reception center.

(5) (a) A reception center licensee may not leave an unsold alcoholic product at an event following the conclusion of the event.

(b) At the conclusion of an event, a reception center licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the reception center licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (5)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at an event, a reception center licensee:

(i) shall store the alcoholic product in accordance with Subsection (2); and

(ii) may use the alcoholic product at more than one event.

(6) Notwithstanding Section 32B-5-308, a reception center licensee may not employ a minor in connection with an event at the reception center at which food is not made available.

(7) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a reception center licensee.

(8) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at the licensed premises on any day during the period that:

(a) begins at 1 a.m.; and

(b) ends at 9:59 a.m.

~~[(9) (a) A reception center licensee may not maintain in excess of 30% of its total annual receipts from the sale of an alcoholic product, which includes:]~~

~~[(i) mix for an alcoholic product; or]~~

~~[(ii) a charge in connection with the furnishing of an alcoholic product.]~~

~~[(b) A reception center licensee shall report the information necessary to show compliance with this Subsection (9) to the department on an annual basis.]~~

~~[(10) (9) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product at an event at which a minor is present unless the reception center licensee makes food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed during the event.~~

~~[(11) (10) (a) Subject to the other provisions of this Subsection [(11) (10), a patron may not have more than two alcoholic products of any kind at a time before the patron.~~

~~(b) An individual portion of wine is considered to be one alcoholic product under Subsection [(11) (10)(a).~~

~~[(12) (11) (a) A reception center licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.~~

~~(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.~~

~~[(13) (12) A staff person of a reception center licensee shall remain at an event at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.~~

~~[(14) (13) A reception center licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure.~~

~~[(15) (14) Except as provided in Subsection [(16) (15), a reception center licensee may dispense an alcoholic product only if:~~

~~(a) the alcoholic product is dispensed from an area that is:~~

~~(i) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:~~

~~(A) not readily visible to a patron; and~~

~~(B) not accessible by a patron; and~~

~~(ii) apart from an area used:~~

~~(A) for staging; or~~

~~(B) as a lobby or waiting area;~~

~~(b) the reception center licensee uses an alcoholic product that is:~~

~~(i) stored in an area described in Subsection [(15) (14)(a); or~~

~~(ii) in an area not described in Subsection [(15) (14)(a) on the licensed premises and:~~

~~(A) immediately before the alcoholic product is dispensed it is in an unopened container;~~

~~(B) the unopened container is taken to an area described in Subsection [(15) (14)(a) before it is opened; and~~

~~(C) once opened, the container is stored in an area described in Subsection [(15) (14)(a); and~~

~~(c) any instrument or equipment used to dispense an alcoholic product is located in an area described in Subsection [(15) (14)(a).~~

~~[(16) (15) A reception center licensee may dispense an alcoholic product from a mobile serving area that:~~

~~(a) is moved only by staff of the reception center licensee;~~

~~(b) is capable of being moved by only one individual; and~~

~~(c) is no larger than 6 feet long and 30 inches wide.~~

~~[(17) (16) (a) A reception center licensee may not have an event on the licensed premises except pursuant to a contract between a third party host of the event and the reception center licensee under which the reception center licensee provides an alcoholic product sold, offered for sale, or furnished at an event.~~

~~(b) At an event, a reception center licensee may furnish an alcoholic product:~~

~~(i) without charge to a patron, except that the third party host of the event shall pay for an alcoholic product furnished at the event; or~~

~~(ii) with a charge to a patron at the event.~~

~~(c) The commission may by rule define what constitutes a "third-party host" for purposes of this Subsection [(17) (16) so that a reception center~~

licensee and the third-party host are not owned by or operated by the same persons, except that the rule shall permit a reception center licensee to host an event for an immediate family member of the reception center licensee.

~~[(18)]~~ (17) A reception center licensee shall have culinary facilities that are:

- (a) adequate to prepare a full meal; and
- (b) (i) located on the licensed premises; or

(ii) under the same control as the reception center licensee.

~~[(19)]~~ (18) (a) Except as provided in Subsection ~~[(19)]~~ (18)(b), a reception center licensee may not operate an event:

- (i) that is open to the general public; and
- (ii) at which an alcoholic product is sold or offered for sale.

(b) A reception center licensee may operate an event described in Subsection ~~[(19)]~~ (18)(a) if the event is hosted:

- (i) at the reception center no more frequently than once a calendar year; and
- (ii) by a nonprofit organization that is organized and qualified under Section 501(c), Internal Revenue Code.

Section 34. Section 32B-6-902 is amended to read:

32B-6-902. Definitions.

(1) As used in this part:

(a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(ii) "Dining area" does not include a dispensing area.

(b) (i) "Dispensing area" means an area in the licensed premises of a beer-only restaurant licensee where a dispensing structure is located and that:

(A) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of beer;

(B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from the dining area and any waiting area to the nearest edge of the dispensing structure; or

(C) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures at least 42 inches high, and at least 60 inches from the

inside edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (1)(b)(i)(B) that is less than 10 feet from an area where beer is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of beer.

(c) "Grandfathered bar structure" means a bar structure in a licensed premises of a beer-only restaurant licensee that:

(i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August 1, 2011:

(A) is operational;

(B) has facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905~~[(12)]~~(11)(a)(ii); and

(C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a beer-only restaurant; or

(ii) is a bar structure grandfathered under Section 32B-6-409.

(d) "Grandfathered bar structure" does not include a grandfathered bar structure described in Subsection (1)(a) on or after the day on which a restaurant remodels the grandfathered bar structure, as defined by rule made by the commission.

(e) "Small beer-only restaurant licensee" means a beer-only restaurant licensee that has a grandfathered bar structure whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(i) when measured in accordance with Subsection (1)(b)(i)(B); and

(ii) based on the licensee's floor plan on file with the department on July 1, 2017.

(f) "Waiting area" includes a lobby.

(2) Subject to Subsection (1)(d), a grandfathered bar structure remains a grandfathered bar structure notwithstanding whether a restaurant undergoes a change of ownership.

Section 35. Section 32B-6-903 is amended to read:

32B-6-903. Commission's power to issue beer-only restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on its premises as a beer-only restaurant, the person shall first obtain a beer-only restaurant license from the commission in accordance with this part.

(2) (a) The commission may issue a beer-only restaurant license to establish beer-only restaurant licensed premises at places and in

numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as a beer-only restaurant.

(b) A person may not sell, offer for sale, furnish, or allow the consumption of liquor on the licensed premises of a beer-only restaurant licensee.

(3) (a) Only one beer-only restaurant license is required for each building or resort facility owned or leased by the same person.

(b) A separate license is not required for each beer-only restaurant license dispensing location in the same building or on the same resort premises owned or operated by the same person.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a beer-only restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a beer-only restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include a service charge.

Section 36. Section 32B-6-905 is amended to read:

32B-6-905. Specific operational requirements for a beer-only restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- (i) a beer-only restaurant licensee;
- (ii) individual staff of a beer-only restaurant licensee; or
- (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

- (i) as a flavoring on a dessert; and
- (ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection ~~[(42)]~~ (11)(a).

(4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall

make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of beer ordered or consumed.

(5) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

~~[(7) A beer-only restaurant licensee shall maintain at least 70% of its total restaurant business from the sale of food, which does not include a service charge.]~~

~~[(8)]~~ (7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except after the beer-only restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(9)]~~ (8) A patron may not have more than two beers at a time before the patron.

~~[(10)]~~ (9) A patron may consume a beer only:

- (a) at:
 - (i) the patron's table;
 - (ii) a grandfathered bar structure; or
 - (iii) a counter; and
- (b) where food is served.

~~[(11)]~~ (10) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.

(b) Notwithstanding Subsection ~~[(11)]~~ (10)(a), at a grandfathered bar structure, a patron who is 21 years of age or older may:

- (i) sit;
- (ii) be furnished a beer; and
- (iii) consume a beer.

(c) Except as provided in Subsection ~~[(11)]~~ (10)(d), at a grandfathered bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

- (i) sit; or
- (ii) consume food or beverages.

(d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a beer-only restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.

[(42)] (11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from an area that is:

(i) a grandfathered bar structure; or

(ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the beer-only restaurant licensee uses a beer that is:

(i) stored in an area described in Subsection [(42)] (11)(a); or

(ii) in an area not described in Subsection [(42)] (11)(a) on the licensed premises and:

(A) immediately before the beer is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection [(42)] (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection [(42)] (11)(a); and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection [(42)] (11)(a).

[(43)] (12) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years of age or older.

[(44)] (13) Except as provided in Subsection 32B-6-905.1[(46)](15) and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section 37. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements,

a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; or

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

[(6) A beer-only restaurant licensee shall maintain at least 70% of the beer-only restaurant licensee's total restaurant business from the sale of food, which does not include a service charge.]

[(7)] (6) (a) A beer-only restaurant licensee may not furnish beer except after:

(i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection ~~[(7)]~~ (6)(b), consume the food at the same location where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

~~[(8)]~~ (7) A patron may consume a beer only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

~~[(9)]~~ (8) A patron may not have more than two beers at a time before the patron.

~~[(10)]~~ (9) In accordance with the provisions of this section, an individual who is at least 21 years of age may consume food and beverages in a dispensing area.

~~[(11)]~~ (10) (a) Except as provided in Subsection ~~[(11)]~~ (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is ~~[employed by the beer-only restaurant licensee]~~:

~~[(A) in accordance with Subsection 32B-5-308(2); or]~~

(A) at least 16 years of age and working as an employee of the beer-only restaurant licensee; or

(B) ~~[to perform]~~ performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

~~[(12)]~~ (11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee; and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection ~~[(12)]~~ (11)(a).

~~[(13)]~~ (12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

~~[(14)]~~ (13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

~~[(15)]~~ (14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once each calendar year.

~~[(16)]~~ (15) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection [(46)] (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 38. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years of age or older who is on the licensed premises; and

(ii) the minor is at least 16 years of age.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

- (i) on the front of the staff's clothing;
- (ii) visible above the waist;
- (iii) bearing the staff's:
 - (A) first or last name;
 - (B) initials; or
 - (C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

- (i) full name;
- (ii) address; and
- (iii) (A) driver license number; or
- (B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

- (i) a peace officer;
- (ii) a representative of the local authority that issues the off-premise beer retailer license; or
- (iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to \$250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

Section 39. Section 32B-7-407 is enacted to read:

32B-7-407. Licensing at certain package agencies.

(1) Subject to Subsection (2), the commission may issue an off-premise beer retailer state license for a premises that is a package agency located at a brewery manufacturing facility.

(2) An off-premise beer retailer state licensee described in Subsection (1) may not sell beer:

(a) other than beer that is the product of the brewery manufacturing licensee that holds the package agency located on the premises; or

(b) at a time other than a time a package agency may sell liquor under Subsection 32B-2-605(13).

Section 40. Section 32B-7-408 is enacted to read:

32B-7-408. Master off-premise beer retailer state license.

(1) (a) The commission may issue a master off-premise beer retailer state license that authorizes a person to store, sell, or offer for sale beer for consumption off the person's premises at multiple locations as off-premise beer retailers if the person applying for the master off-premise beer retailer state license:

- (i) owns each of the off-premise beer retailers;
- (ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of an off-premise beer retailer under the master off-premise beer retailer state license separately meets the requirements of this part; and
- (iii) the master off-premise beer retailer state license includes at least five off-premise beer retailer locations.

(b) The person seeking a master off-premise beer retailer state license shall designate which off-premise beer retailer locations the person seeks to have under the master off-premise beer retailer state license.

(c) An off-premise beer retailer location under a master off-premise beer retailer state license is considered separately licensed for purposes of this title.

(2) (a) A master off-premise beer retailer state license expires on the last day of February each year.

(b) To renew a person's master off-premise beer retailer state license, a person shall comply with the renewal requirements of Section 32B-7-403 by no later than January 31 of the year in which the off-premise beer retailer state license expires.

(3) (a) The nonrefundable application fee for a master off-premise beer retailer state license is \$75.

(b) The initial license fee for a master off-premise beer retailer state license is:

(i) \$1,100 plus a separate initial license fee for each newly licensed off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-402(3); and

(ii) refundable if the commission does not issue the master off-premise beer retailer state license.

(c) The renewal fee for a master off-premise beer retailer state license is \$300 plus a separate renewal fee for each off-premise beer retailer state license under the master off-premise beer retailer state license determined in accordance with Subsection 32B-7-403(2)(b).

(4) A new location may be added to a master off-premise beer retailer state license after the master off-premise beer retailer state license is issued if, including payment of the initial license fee, the location separately meets the requirements of this part.

(5) (a) A master off-premise beer retailer state licensee shall notify the department of a change in the persons managing a location covered by a master off-premise beer retailer state license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master off-premise beer retailer state license at the time of the change; or

(ii) within 30 days of the change, if the off-premise beer retailer state licensee is transferring management personnel from one location to another location covered by the master off-premise beer retailer state license.

(b) A location covered by a master off-premise beer retailer state license shall keep its own records on its premises so that the department may audit the records.

(c) A master off-premise beer retailer state licensee may not transfer beer between different locations covered by the master off-premise beer retailer state license.

(6) (a) If there is a violation of this title at a location covered by a master off-premise beer retailer state license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master off-premise beer retailer state license;

(ii) individual staff of the location under the master off-premise beer retailer state license; or

(iii) a combination of persons or locations described in Subsections (6)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (6)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master off-premise beer retailer state licensee or individual staff of the master off-premise beer retailer state licensee if during a period beginning on March 1 and ending the last day of February:

(i) at least 25% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master off-premise beer retailer state license have been found by the commission to have violated this title.

(7) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a

person may apply for a master off-premise beer retailer state license under this section.

Section 41. Section 32B-11-503 is amended to read:

32B-11-503. Specific authority and operational requirements for brewery manufacturing license.

(1) A brewery manufacturing license allows a brewery manufacturing licensee to:

(a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;

(b) sell heavy beer and a flavored malt beverage to:

(i) the department;

(ii) a military installation; or

(iii) an out-of-state customer;

(c) sell beer to a beer wholesaler licensee;

(d) in the case of a small brewer, in accordance with Subsection (5), sell beer manufactured by the small brewer to:

(i) a retail licensee;

(ii) an off-premise beer retailer; or

(iii) an event permittee; ~~and~~

(e) warehouse on its premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes[.]; and

(f) if the brewery manufacturing licensee holds two or more brewery manufacturing licenses, transport beer, heavy beer, or flavored malt beverage from one of the brewery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) transferring the beer, heavy beer, or flavored malt beverage for storage at a licensed premises of the brewery manufacturing licensee that is at a package agency.

(2) A brewery manufacturing licensee may not sell the following to a person within the state except the department or a military installation:

(a) heavy beer; or

(b) a flavored malt beverage.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;

(c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.

(4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except under the circumstances described in this Subsection (4).

(a) A brewery manufacturing licensee may allow its on-duty staff to taste the alcoholic product that the brewery manufacturing licensee manufactures on its premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise.

(b) A brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:

- (i) beer;
- (ii) heavy beer; or
- (iii) a flavored malt beverage.

(c) A brewery manufacturing licensee may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority.

(d) A brewery manufacturing licensee may conduct tastings as provided in Section 32B-11-210.

(5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer to be sold to a person described in Subsection (1)(d) if the small brewer:

- (i) (A) (I) is located in this state; and
- (II) holds a brewery manufacturing license; or
- (B) (I) is located outside this state; and

(II) holds a certificate of approval to sell beer in this state; and

(ii) sells beer manufactured by the small brewer directly to a person described in Subsection (1)(d).

(b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless the beer:

- (i) is manufactured by the small brewer; and
- (ii) is first placed in the small brewer's warehouse facility in this state.

(c) (i) A small brewer warehouse shall make and maintain complete beer importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.

(ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and

(B) the State Tax Commission.

(iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.

(6) Subject to Subsection (7):

(a) A brewery manufacturing licensee may not sell beer in this state except under a written agreement with a beer wholesaler licensee in this state.

(b) An agreement described in Subsection (6)(a) shall:

(i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;

(ii) designate the one or more brands that may be distributed in the sales territory; and

(iii) set forth the exact geographical area of the sales territory.

(c) A brewery manufacturing licensee may have more than one agreement described in this Subsection (6) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.

(d) A brewery manufacturing licensee may not enter into an agreement with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.

(7) A small brewer is not subject to the requirements of Subsection (6).

Section 42. Section 32B-17-101 is enacted to read:

CHAPTER 17. LIQUOR TRANSPORT LICENSE ACT

Part 1. General Provisions

32B-17-101. Title.

This chapter is known as the "Liquor Transport License Act."

Section 43. Section 32B-17-201 is enacted to read:

Part 2. Liquor Transport License Process

32B-17-201. Commission's power to issue liquor transport license.

(1) (a) Before a person other than the retail licensee may pickup and deliver liquor to a retail licensee, the person shall obtain a liquor transport license issued by the commission in accordance with this chapter.

(b) A violation of Subsection (1)(a) is a class A misdemeanor.

(2) The commission may issue a liquor transport license for the pickup and delivery of liquor to a retail licensee.

(3) A liquor transport license entitles the holder to:

(a) pickup liquor from a package agency or state store on behalf of a retail licensee using the licensee's funds; and

(b) transport and deliver the liquor directly to a retail licensee.

(4) Nothing in this chapter prohibits a retail licensee from picking up liquor purchased by the retail licensee and transporting the liquor to the retail licensee's licensed premises in accordance with the other provisions of this title.

Section 44. Section 32B-17-202 is enacted to read:

32B-17-202. Application requirements for liquor transport license.

To obtain a liquor transport license, a person shall submit to the department:

(1) a written application in a form prescribed by the department;

(2) a nonrefundable \$300 application fee;

(3) an initial license fee of \$2,300 that is refundable if the commission does not issue a liquor transport license;

(4) a copy of the person's current business license;

(5) a bond as specified in Section 32B-17-206;

(6) evidence that the person carries liability insurance in an amount and form satisfactory to the department; and

(7) any other information the commission or department may require.

Section 45. Section 32B-17-203 is enacted to read:

32B-17-203. Renewal requirements for liquor transport license.

(1) A liquor transport license expires on May 31 of each year.

(2) To renew a liquor transport license, a person shall submit to the department by no later than April 30 of the year in which the license expires:

(a) a completed renewal application in a form prescribed by the department;

(b) a copy of the person's current business license;

(c) a bond as specified in Section 32B-17-206;

(d) evidence that the person carries liability insurance in an amount and form satisfactory to the department;

(e) a report that includes the following information for the period since the liquor transport licensee obtained or renewed a liquor transport license:

(i) the number of deliveries the liquor transport licensee made to each type of retail licensee;

(ii) each state store and each package agency from which the liquor transport licensee picked up liquor as a liquor transport licensee;

(iii) any breakage or shrinkage; and

(iv) any other information required by the department; and

(f) a \$1,200 renewal fee.

(3) Failure to meet the renewal requirements described in this section results in an automatic forfeiture of the liquor transport license effective on the date the existing liquor transport license expires.

Section 46. Section 32B-17-204 is enacted to read:

32B-17-204. Qualifications for liquor transport license.

(1) The commission may not issue a liquor transport license to a person who is disqualified under Section 32B-1-304.

(2) If a person to whom a liquor transport license is issued under this chapter no longer possesses the qualifications required by this title for obtaining the liquor transport license, the commission may suspend or revoke the person's liquor transport license.

Section 47. Section 32B-17-205 is enacted to read:

32B-17-205. Commission and department duties before issuing liquor transport license.

(1) (a) Before the commission may issue a liquor transport license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a liquor transport license should be issued.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing a liquor transport license, the commission shall:

(a) determine that the person filed a complete application that complies with Sections 32B-17-202 and 32B-17-204;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the person's ability to manage and operate a liquor transport operation, including:

(i) management experience;

(ii) past related experience; and

(iii) the means the person intends to use to deliver liquor to retail licensees; and

(d) consider any other factor that the commission considers necessary.

Section 48. Section 32B-17-206 is enacted to read:

32B-17-206. Bond for liquor transport license.

(1) (a) A liquor transport licensee shall post a cash bond or surety bond in the penal sum of \$10,000 payable to the department.

(b) A liquor transport licensee shall procure and maintain a bond in accordance with this section for as long as the liquor transport licensee operates as a liquor transport licensee.

(2) A bond posted under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon a liquor transport licensee's faithful compliance with this title and the rules of the commission.

(3) If a surety bond posted by a liquor transport licensee under this section is canceled due to the liquor transport licensee's negligence, the department may assess a \$300 reinstatement fee.

(4) No part of a bond posted under this section may be withdrawn during the period the liquor transport license is in effect.

(5) (a) A bond posted under this section may be forfeited if the liquor transport license is revoked.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a liquor transport licensee for money owed the department under this title without the commission first revoking the liquor transport license.

Section 49. Section 32B-17-301 is enacted to read:

Part 3. Operational Requirements for Liquor Transport License

32B-17-301. General operational requirements for liquor transport license.

(1) (a) A liquor transport licensee and staff of the liquor transport licensee shall comply with this title and the rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a liquor transport licensee;

(ii) individual staff of a liquor transport licensee; or

(iii) both a liquor transport licensee and staff of the liquor transport licensee.

(2) A liquor transport licensee may not employ a minor to handle an alcoholic product.

(3) A liquor transport licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the liquor transport license

to a person, regardless of whether done for monetary gain.

(4) (a) A liquor transport licensee may not deliver liquor to a person within the state except to a retail licensee.

(b) A violation of this Subsection (4) is a class A misdemeanor.

(5) The commission may prescribe by rule, consistent with this title, the general operational requirements of a liquor transport licensee.

Section 50. Section 32B-17-302 is enacted to read:

32B-17-302. Notifying the department of change of ownership.

The commission may suspend or revoke a liquor transport license if a liquor transport licensee does not immediately notify the department of a change in:

(1) ownership of the liquor transport service;

(2) for a corporate owner:

(a) the corporate officers or directors; or

(b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(3) for a limited liability company:

(a) the managers; or

(b) the members owing at least 20% of the limited liability company.

Section 51. Section 62A-15-401 is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section ~~[32B-5-402]~~ 32B-1-701;

(ii) retail staff as defined in Section ~~[32B-5-402]~~ 32B-1-701; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired; or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection ~~[32B-5-404(1)]~~ 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i) or (ii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee

that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section [~~32B-5-403~~] 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Control;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage Control;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 52. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(7) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

(3) Subsection 32B-1-604(4) is repealed June 1, 2018.

(4) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

(5) Section 32B-6-205 is repealed July 1, 2022.

(6) Subsection 32B-6-205.2[(15)](14) is repealed July 1, 2022.

(7) Section 32B-6-205.3 is repealed July 1, 2022.

(8) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

(9) Section 32B-6-305 is repealed July 1, 2022.

(10) Subsection 32B-6-305.2[(15)](14) is repealed July 1, 2022.

(11) Section 32B-6-305.3 is repealed July 1, 2022.

(12) Section 32B-6-404.1 is repealed July 1, 2022.

(13) Section 32B-6-409 is repealed July 1, 2022.

(14) Section 32B-6-605.1 is repealed July 1, 2019.

(15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

(16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

(17) Section 32B-6-905 is repealed July 1, 2022.

(18) Subsection 32B-6-905.1[(16)](15) is repealed July 1, 2022.

(19) Section 32B-6-905.2 is repealed July 1, 2022.

(20) Section 32B-7-303 is repealed [March] June 1, 2019.

(21) Section 32B-7-304 is repealed [March] June 1, 2019.

(22) Subsection 32B-8-402(1)(b) is repealed July 1, 2022.

Section 53. Repealer.

This bill repeals:

Section 32B-5-401, Title.

Section 54. Coordinating H.B. 453 with S.B. 132 -- Superseding technical and substantive amendments.

If this H.B. 453 and S.B. 132, Beer Amendments, both pass and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsections 63I-2-232(20) and (21) in this bill supersede the amendments to Subsections 63I-2-232(20) and (21) in S.B. 132; and

(2) the Office of Legislative Research and General Counsel not implement the coordination clause affecting Subsection 32B-1-102(49) in S.B. 132.

CHAPTER 404**H. B. 457**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

BACKGROUND CHECK AMENDMENTS

Chief Sponsor: Lee B. Perry
 Senate Sponsor: Lyle W. Hillyard

LONG TITLE**General Description:**

This bill requires that all background checks be processed through the Bureau of Criminal Identification.

Highlighted Provisions:

This bill:

- ▶ requires that all background checks be processed through the Bureau of Criminal Identification; and
- ▶ clarifies which entities qualify for requesting that the Criminal Investigations and Technical Services Division register fingerprints taken for a background check.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-10-108, as last amended by Laws of Utah 2018, Chapters 417 and 427

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(k) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(j) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state

agency, or other agency or individual described in Subsections (2)(d) through (i) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15)(a)(ii).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check ~~[to the bureau]~~ and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15)(a)(i).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant or employee;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (i) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (i) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (i).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2)(~~b~~) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2)(~~b~~) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the

purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h) or (2)(i), the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

CHAPTER 405

H. B. 461

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

PEDIATRIC NEURO-REHABILITATION FUND

Chief Sponsor: Eric K. Hutchings
 Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates the Pediatric Neuro-Rehabilitation Fund and specifies its uses.

Highlighted Provisions:

This bill:

- ▶ renames Title 26, Chapter 54 as “Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund”;
- ▶ creates the Pediatric Neuro-Rehabilitation Fund;
- ▶ renames the Spinal Cord and Brain Injury Rehabilitation Fund Advisory Committee as the “Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee”;
- ▶ amends the membership and duties of the advisory committee;
- ▶ allows advisory committee expenses to be paid for by the Spinal Cord and Brain Injury Rehabilitation Fund or the Pediatric Neuro-Rehabilitation Fund; and
- ▶ makes conforming and technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 26-54-101, as last amended by Laws of Utah 2017, Chapter 261
- 26-54-102, as last amended by Laws of Utah 2017, Chapter 261
- 26-54-103, as last amended by Laws of Utah 2017, Chapter 261
- 631-2-226, as last amended by Laws of Utah 2018, Chapters 38 and 281

ENACTS:

26-54-102.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-54-101 is amended to read:

CHAPTER 54. SPINAL CORD AND BRAIN INJURY REHABILITATION FUND AND PEDIATRIC NEURO-REHABILITATION FUND

26-54-101. Title.

This chapter is known as the “Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund.”

Section 2. Section 26-54-102 is amended to read:

26-54-102. Spinal Cord and Brain Injury Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a “qualified IRC 501(c)(3) charitable clinic” means a professional medical clinic that:

- (a) provides rehabilitation services to individuals in the state:
 - (i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and
 - (ii) who require post-acute care;
 - (b) employs licensed therapy clinicians;
 - (c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and
 - (d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

~~[(4)]~~ (2) There is created an expendable special revenue fund known as the “Spinal Cord and Brain Injury Rehabilitation Fund.”

~~[(2)]~~ (3) The fund shall consist of:

- (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;
- (b) a portion of the impound fee as designated in Section 41-6a-1406;
- (c) the fees collected by the Motor Vehicle Division under ~~[Subsection 41-22-8(3) and Subsection 41-1a-1201(9)]~~ Subsections 41-1a-1201(9) and 41-22-8(3); and

(d) amounts ~~[as]~~ appropriated by the Legislature.

~~[(3)]~~ (4) The fund shall be administered by the executive director of the ~~[Department of Health]~~ department, in consultation with the advisory committee created in Section 26-54-103.

~~[(4) A “qualified IRC 501(c)(3) charitable clinic” means a professional medical clinic that:]~~

~~[(a) — provides rehabilitation services to individuals in the state:]~~

~~[(i) who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating; and]~~

~~[(ii) who require post-acute care;]~~

~~[(b) employs licensed therapy clinicians; and]~~

~~[(c) — has no less than five years experience operating a post-acute care rehabilitation clinic in the state.]~~

(5) Fund money shall be used to:

- (a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide rehabilitation services to individuals who have a traumatic spinal cord or brain injury that tends to be nonprogressive or nondeteriorating, including:

~~(a)~~ (i) physical, occupational, and speech therapy; and

~~(b)~~ (ii) equipment ~~[necessary for daily living.]~~ for use in the qualified charitable clinic; and

~~(6) All actual and necessary]~~

(b) pay for operating expenses ~~[for]~~ of the advisory committee ~~[and staff shall be paid by the fund]~~ created by Section 26-54-103, including the advisory committee's staff.

Section 3. Section 26-54-102.5 is enacted to read:

26-54-102.5. Pediatric Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

(1) As used in this section, a "qualified IRC 501(c)(3) charitable clinic" means a professional medical clinic that:

(a) provides services for children in the state:

(i) with neurological conditions, including:

(A) cerebral palsy; and

(B) spina bifida; and

(ii) who require post-acute care;

(b) employs licensed therapy clinicians;

(c) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(d) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(2) There is created an expendable special revenue fund known as the "Pediatric Neuro-Rehabilitation Fund."

(3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) amounts appropriated to the fund by the Legislature.

(4) The fund shall be administered by the executive director of the department, in consultation with the advisory committee created in Section 26-54-103.

(5) Fund money shall be used to:

(a) assist one or more qualified IRC 501(c)(3) charitable clinics to provide physical or occupational therapy to children with neurological conditions; and

(b) pay for operating expenses of the advisory committee created by Section 26-54-103, including the advisory committee's staff.

Section 4. Section 26-54-103 is amended to read:

26-54-103. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of ~~[eight]~~ 11 members as follows:

(a) the executive director ~~[of the Department of Health]~~, or the executive director's designee;

(b) two survivors, or family members of a survivor, of a traumatic brain injury~~[,]~~ appointed by the governor;

(c) two survivors, or family members of a survivor, of a traumatic spinal cord injury~~[,]~~ appointed by the governor;

(d) one traumatic brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;

(e) two parents of a child with a nonprogressive neurological condition appointed by the governor;

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor; or

(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;

~~(e)~~ (g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

~~(f)~~ (h) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b) ~~[and]~~, (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c) ~~[and]~~, (e), and (g) shall

serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the fund to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections 26-54-102 and 26-54-102.5;

(b) identify, evaluate, and review the quality of care available to ~~[people]~~;

(i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102; or

(ii) children with nonprogressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102.5;

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section; and

(d) submit an annual report, not later than November 30 of each year, summarizing the activities of the advisory committee and making recommendations regarding the ongoing needs of ~~[people]~~ individuals with spinal cord or brain injuries and children with nonprogressive neurological conditions to:

(i) the governor;

(ii) the Health and Human Services Interim Committee; and

(iii) the ~~[Health and Human]~~ Social Services Appropriations Subcommittee.

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:

(a) the Spinal Cord and Brain Injury Rehabilitation Fund;

(b) the Pediatric Neuro-Rehabilitation Fund; or

(c) both funds.

Section 5. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Title 26.

(1) Subsection 26-7-8(3) is repealed January 1, 2027.

~~[(2) Subsection 26-7-9(5) is repealed January 1, 2019.]~~

~~[(3) (2) Section 26-8a-107 is repealed July 1, 2019.]~~

~~[(4) (3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.]~~

~~[(5) (4) Subsection 26-18-2.3(5) is repealed January 1, 2020.]~~

~~[(6) (5) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.]~~

~~[(7) Subsection 26-18-408(6) is repealed January 2, 2019.]~~

~~[(8) (6) Subsection 26-18-410(5) is repealed January 1, 2026.]~~

~~[(9) (7) Subsection 26-18-411(5) is repealed January 1, 2023.]~~

~~[(10) (8) Subsection 26-18-604(2) is repealed January 1, 2020.]~~

~~[(11) (9) Subsection 26-21-28(2)(b) is repealed January 1, 2021.]~~

~~[(12) (10) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.]~~

~~[(13) (11) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.]~~

~~[(14) (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2020.]~~

~~[(15) (13) Subsection 26-50-202(7)(b) is repealed January 1, 2020.]~~

~~[(16) (14) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed [January 1, 2020] July 1, 2024.]~~

~~[(17) (15) Subsection 26-55-107(8) is repealed January 1, 2021.]~~

~~[(18) (16) Subsection 26-56-103(9)(d) is repealed January 1, 2020.]~~

~~[(19) (17) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.]~~

~~[(20) (18) Subsection 26-61-202(4)(b) is repealed January 1, 2022.]~~

~~[(21) (19) Subsection 26-61-202(5) is repealed January 1, 2022.]~~

CHAPTER 406**H. B. 478**

Passed March 13, 2019
 Approved March 27, 2019
 Effective January 1, 2020

CRIMINAL INFORMATION AMENDMENTS

Chief Sponsor: Paul Ray
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill requires the Bureau of Criminal Identification to submit the record for all nonextraditable warrants for violent felonies to the National Crime Information Center.

Highlighted Provisions:

This bill:

- ▶ requires the Bureau of Criminal Identification to submit the record for all nonextraditable warrants for violent felonies to the National Crime Information Center;
- ▶ requires local law enforcement agencies to determine the extraditability status of warrants; and
- ▶ requires the court to report any changes to the status of a warrant to the Bureau of Criminal Identification.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

77-7-5, as last amended by Laws of Utah 2016, Chapter 162

ENACTS:

53-10-213, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-213 is enacted to read:**53-10-213. Reporting requirements.**

The bureau shall submit a record received pursuant to Section 53-10-208.1 for all nonextraditable warrants issued for violent felonies as defined in Section 76-3-203.5 and all nonextraditable warrants issued for knowingly failing to register for a sexual offense pursuant to Section 77-41-107 to the National Crime Information Center within 48 hours of receipt, excluding Saturdays, Sundays, and legal holidays.

Section 2. Section 77-7-5 is amended to read:

77-7-5. Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court clerk to dispense restitution for transportation.

(1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

- (a) probable cause to believe that the person to be arrested has committed a public offense; and
- (b) under the Utah Rules of Criminal Procedure, and this section that a warrant is necessary to:
 - (i) prevent risk of injury to a person or property;
 - (ii) secure the appearance of the accused; or
 - (iii) protect the public safety and welfare of the community or an individual.

(2) If the offense charged is:

- (a) a felony, the arrest upon a warrant may be made at any time of the day or night; or
- (b) a misdemeanor, the arrest upon a warrant can be made at night only if:
 - (i) the magistrate has endorsed authorization to do so on the warrant;
 - (ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or
 - (iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

(3) For the purpose of Subsection (1):

- (a) daytime hours are the hours of 6 a.m. to 10 p.m.; and
- (b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

(4) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

(c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.

(ii) The court clerk shall account for restitution paid under Subsection 76-3-201(5) for governmental transportation expenses and

dispense restitution money collected by the court to the law enforcement agency responsible for the transportation of a convicted defendant.

(5) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and legal holidays if a warrant issued pursuant to this section is an extradition warrant.

(6) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall report any changes to the status of a warrant issued pursuant to this section to the Bureau of Criminal Identification.

Section 3. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 407

S. B. 2

Passed March 12, 2019
Approved March 27, 2019
Effective July 1, 2019

**NEW AND CURRENT FISCAL YEAR
SUPPLEMENTAL APPROPRIATIONS ACT**

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019 and for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ authorizes capital outlay amounts for certain internal service funds;
- ▶ authorizes full time employment levels for certain internal service funds; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$195,855,300 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$11,118,700 from the General Fund;
- ▶ \$2,957,000 from the Education Fund;
- ▶ \$181,779,600 from various sources as detailed in this bill.

This bill appropriates \$400,000 in expendable funds and accounts for fiscal year 2019.

This bill appropriates \$5,400,000 in business-like activities for fiscal year 2019, all of which is from the General Fund.

This bill appropriates \$1,449,200 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ (\$3,400,000) from the General Fund;
- ▶ \$4,849,200 from various sources as detailed in this bill.

This bill appropriates \$519,400 in transfers to unrestricted funds for fiscal year 2019.

This bill appropriates \$756,183,100 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$221,484,400 from the General Fund;
- ▶ \$61,475,400 from the Education Fund;
- ▶ \$473,223,300 from various sources as detailed in this bill.

This bill appropriates \$2,115,100 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$13,032,200 in business-like activities for fiscal year 2020, including:

- ▶ \$766,200 from the General Fund;
- ▶ \$12,266,000 from various sources as detailed in this bill.

This bill appropriates (\$1,164,700) in restricted fund and account transfers for fiscal year 2020, including:

- ▶ (\$1,856,400) from the General Fund;
- ▶ \$691,700 from various sources as detailed in this bill.

This bill appropriates \$12,987,000 in transfers to unrestricted funds for fiscal year 2020.

This bill appropriates \$72,395,100 in capital project funds for fiscal year 2020, including:

- ▶ (\$40,000,000) from the General Fund;
- ▶ \$112,395,100 from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

**EXECUTIVE OFFICES AND
CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 1

To Attorney General	
From General Fund, One-Time	200,000
From Dedicated Credits Revenue,	
One-Time	250,000
From General Fund Restricted - Sovereign	
Lands Management, One-Time	220,000
Schedule of Programs:	
Administration	420,000
Criminal Prosecution	250,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$3,000,000 to the Attorney General's Office provided for in Item 13 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to purchase of computer hardware and software, specific program development/operation, pass-thru funds appropriated by the Legislature and other one-time operational and capital expenses.

Item 2

To Attorney General - Children’s Justice Centers

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up \$450,000 to the Attorney General’s Office provided for in Item 14 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to costs passed-thru to operate the local CJC’s or for one-time operational expenses. Funds set aside for pass-thru agreements may cross fiscal years; thus, non-lapsing authority is requested to meet such financial commitments.

Item 3

To Attorney General - Contract Attorneys

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$60,000 provided for contract expense in Item 15 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to professional services for attorneys under contract with the Office of the Attorney General and other litigation expenses. Funds set aside for contract attorneys may cross fiscal years; thus, non-lapsing authority is requested to meet financial commitments.

Item 4

To Attorney General - Prosecution Council

From Dedicated Credits Revenue,
 One-Time 235,000
 Schedule of Programs:
 Prosecution Council 235,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$150,000 provided for the Prosecution Council in Item 16 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to expense associated with providing training and technical assistance to prosecutors. Funds set aside for training commitments and other agreements may cross fiscal years; thus, non-lapsing authority is requested to meet financial commitments.

Item 5

To Attorney General - State

Settlement Agreements
 From General Fund, One-Time 107,000
 Schedule of Programs:
 State Settlement Agreements 107,000

BOARD OF PARDONS AND PAROLE

Item 6

To Board of Pardons and Parole

From General Fund, One-Time (5,600)
 Schedule of Programs:
 Board of Pardons and Parole (5,600)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for the Board of

Pardons and Parole in Item 17 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds shall be limited to capital improvements, computer equipment/electronic records development, and employee training.

UTAH DEPARTMENT OF CORRECTIONS

Item 7

To Utah Department of Corrections -

Programs and Operations
 From General Fund, One-Time 8,292,700
 From Federal Funds, One-Time 1,063,900
 From General Fund Restricted -
 Prison Telephone Surcharge
 Account, One-Time 300,000
 Schedule of Programs:
 Adult Probation and Parole
 Programs 9,562,800
 Prison Operations Administration ... (206,200)
 Programming Education 300,000

The Legislature intends that the Department of Corrections use the General Fund appropriation of \$8,600,000 one-time in this item for community correctional centers. The department may request assistance from the Division of Facilities Construction and Management and transfer funds to the Capital Projects Fund for any construction that will be overseen by the state. Under Section 63J-1-603 of the Utah Code, the Legislature intends that this appropriation not lapse at the close of fiscal year 2019.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$10,000,000 provided for the Utah Department of Corrections - Programs and Operations in item 18 of chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to stab & ballistic vests, radio supplies & equipment, authorized vehicle purchases, inmate support & food costs, inmate programming, firearms & ammunition, computer equipment/software & support, equipment & supplies, employee training & development, building & office remodeling, furniture, and special projects.

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds for FY2019 and FY2020.

The Legislature grants authority to the Department of Corrections, Facilities Bureau, to purchase two vehicles with Department funds for FY2019 and FY2020.

The Legislature grants authority to the Department of Corrections, DPO Inmate

Placement, to purchase two vehicles with Department funds for FY2019 and FY2020.

Item 8

To Utah Department of Corrections - Department Medical Services
From General Fund, One-Time 3,301,800
Schedule of Programs:
Medical Services 3,301,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$2,000,000 provided for the Utah Department of Corrections - Medical Services in item 19 of chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to pharmaceuticals, medical supplies & equipment, computer equipment/software, and employee training & development.

Item 9

To Utah Department of Corrections - Jail Contracting
From General Fund, One-Time (3,000,000)
Schedule of Programs:
Jail Contracting (3,000,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$5,000,000 provided for the Utah Department of Corrections - Jail Contracting in item 20 of chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to housing inmates, and treatment programming for inmates housed at the county jails.

**JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR**

Item 10

To Judicial Council/State Court Administrator - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$2,500,000 provided to the Judicial Council/State Court Administrator-Administration in Laws of Utah 2018 Chapter 8, Item 21 and in Chapter 362, Item 7 and in Chapter 463, Items 82 through 90 and shall not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to computer equipment and software, employee training and incentives, equipment and supplies, special projects and studies, temporary employees (law clerks), trial court program support, juvenile community service programs, senior judge assistance, grant match, translation services, and law library.

Item 11

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$450,000 provided to the Judicial Council/State Court Administrator-Contracts and Leases in Laws of Utah 2018

Chapter 8, Item 22 and in Chapter 463, Item 91 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to contractual obligations and support.

Item 12

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$800 provided to the Judicial Council/State Court Administrator-Grand Jury in Laws of Utah 2018 Chapter 8, Item 23 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to expenses related to the grand jury.

Item 13

To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund, One-Time (255,500)
Schedule of Programs:
Guardian ad Litem (255,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided to the Judicial Council/State Court Administrator-Guardian ad Litem in Laws of Utah 2018 Chapter 8, Item 24 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to computer equipment and software, employee training, development, salary parity, and incentives, equipment and supplies, special projects and studies, and temporary employees.

Item 14

To Judicial Council/State Court Administrator - Jury and Witness Fees

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to \$1,000,000 provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter in Laws of Utah 2018 Chapter 8, Item 25 shall not lapse at the close of Fiscal Year 2019. The use of any non-lapsing funds is limited to expenses for jury and witnesses.

GOVERNOR'S OFFICE

Item 15

To Governor's Office - CCJJ Salt Lake County Jail Bed Housing

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$700,000 provided for the Commission on Criminal and Juvenile Justice in Item 28 of Chapter 8 Laws of Utah 2018 not lapse at the close of fiscal year 2019. The use of any unused funds is limited to contracts between Salt Lake County and other counties to house inmates or for housing Salt Lake County inmates in Oxbow.

Item 16

To Governor's Office - Character Education

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$200,000 provided for the Governor's Office - Character Education in Item 29 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to grants awarded by the Commission on Civic and Character Education.

Item 17

To Governor's Office - Commission on Criminal and Juvenile Justice
 From General Fund Restricted - Criminal Forfeiture Restricted
 Account, One-Time (115,600)
 From General Fund Restricted - Law Enforcement Operations, One-Time ... 115,600
 Schedule of Programs:
 CCJJ Commission 50,000
 State Asset Forfeiture Grant Program (115,600)
 State Task Force Grants 115,600
 Utah Office for Victims of Crime (50,000)

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,600,000 provided for the Commission on Criminal and Juvenile Justice Commission in Item 30 of Chapter 8 Laws of Utah 2018 not lapse at the close of fiscal year 2019. The legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2019. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contracts, extradition costs, meeting and travel costs, and state pass through grant programs.

Item 18

To Governor's Office - Constitutional Defense Council

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$14,000 provided for the Governor's Office - Constitutional Defense Council in Item 27 of Chapter 417 Laws of Utah 2012 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to one-time expenditures authorized by the Constitutional Defense Council.

Item 19

To Governor's Office - Emergency Fund

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,100 for the Governor's Office - Emergency Fund in Item 96 of Chapter 463 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to emergency expenditures.

Item 20

To Governor's Office - Employability to Careers

From General Fund Restricted - Employability to Careers Program Restricted
 Account, One-Time (9,000,000)
 Schedule of Programs:
 Employability to Careers Program (9,000,000)

Item 21

To Governor's Office
 From General Fund, One-Time 1,000,000
 Schedule of Programs:
 Lt. Governor's Office 1,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$1,500,000 provided for the Governor's Office in Item 32 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governors Offices.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$3,250,000 for the Governor's Office in Item 97 of Chapter 463 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to the same purposes as the original appropriations.

Item 22

To Governor's Office - Governor's Office of Management and Budget
 From General Fund, One-Time 204,900
 Schedule of Programs:
 Administration 111,900
 Planning and Budget Analysis 93,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$1,300,000 provided for the Governor's Office - Governor's Office of Management and Budget in Item 33 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to one-time expenditures of the Governors Office of Management and Budget.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$850,000 for the Governor's Office - Governor's Office of Management and Budget in Item 22 of Chapter 397 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to the same purposes as the original appropriations.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,000 for the Governor's Office - Governor's Office of Management and Budget in Item 103 of Chapter 463 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any funds is limited to the same purposes as the original appropriations.

Item 23

To Governor's Office - Quality Growth Commission - LeRay McAllister Program
 From Dedicated Credits Revenue,
 One-Time 274,200
 Schedule of Programs:

LeRay McAllister Critical Land
Conservation Program 274,200

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 24

To Department of Human Services - Division of
Juvenile Justice Services - Programs and
Operations
From Dedicated Credits Revenue,
One-Time 463,700
Schedule of Programs:
Administration 463,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$5,000,000 provided for the Department of Human Services - Division of Juvenile Justice Services in Item 36 of Chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to expenditures for data processing and technology-based expenditures; facility repairs, maintenance, and improvements; capital development; other charges and pass-through expenditures; and short-term projects and studies that promote efficiency and service improvement.

Item 25

To Department of Human Services - Division of
Juvenile Justice Services - Community Providers

Under Section 63J-1-603 of the Utah Code, the Legislature intend that appropriations of up to \$2,000,000 provided for the Department of Human Services - Division of Juvenile Justice Services - Community Providers, in Item 14 of Chapter 362, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to expenditures for pass-through expenditures; and short-term projects that promote efficiency and service improvement.

OFFICE OF THE STATE AUDITOR

Item 26

To Office of the State Auditor - State Auditor
From General Fund, One-Time 120,700
Schedule of Programs:
State Auditor 120,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$229,700 provided for the Office of the State Auditor in Item 37 of Chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, and data analysis.

DEPARTMENT OF PUBLIC SAFETY

Item 27

To Department of Public Safety - Division of
Homeland Security - Emergency and Disaster
Management
From General Fund Restricted -
State Disaster Recovery Restr
Acct, One-Time (7,655,800)
Schedule of Programs:
Emergency and Disaster
Management (7,655,800)

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$12,500,000 provided for The Department of Public Safety - Emergency Management - Emergency and Disaster Management in Item 38 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. Funding for reimbursement for emergency costs and loans that qualify as determined in statute.

Item 28

To Department of Public Safety - Driver License
From Dedicated Credits Revenue,
One-Time 16,900
From Department of Public Safety
Restricted Account, One-Time 700,000
From Beginning Nonlapsing
Balances (1,500,000)
Schedule of Programs:
Driver Services (783,100)

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$1,000,000 provided for The Department of Public Safety - Driver License in Item 39 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and 63J-1-602.2. Funding shall be used for one-time enhancements to the uninsured motorist program and other one-time operating expenses.

Item 29

To Department of Public Safety -
Emergency Management

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$500,000 provided for The Department of Public Safety -Emergency Management in Item 40 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and emergencies or disasters.

Should the Division of Emergency Management (DEM) not receive authority to draw down its Fiscal Year 2019 Emergency Management Performance Grant by June 30, 2019, funds may be transferred from the Public Safety Program and Operations line item to DEM in FY 2019. Should the funds be transferred, then upon approval to

draw down the Fiscal Year 2019 Emergency Management Performance Grant funds, DEM shall transfer back to the Public Safety Programs and Operations line item, the amount originally transferred.

Item 30

To Department of Public Safety - Emergency Management - National Guard Response

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$150,000 provided for the Department of Public Safety - National Guard Response line item not lapse at the close of Fiscal Year 2019. Funds shall be limited to reimbursement for emergency costs.

Item 31

To Department of Public Safety - Highway Safety

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$100,000 provided for The Department of Public Safety - Highway Safety in Item 42 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 32

To Department of Public Safety - Peace Officers' Standards and Training

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$500,000 provided for The Department of Public Safety - Peace Officers' Standards and Training in Item 43 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019.

Item 33

To Department of Public Safety - Programs & Operations

From General Fund, One-Time 1,660,400
 From Federal Funds, One-Time 594,700
 Schedule of Programs:

Department Commissioner's Office 200,000
 Department Grants 594,700
 Highway Patrol - Field
 Operations (150,000)
 Highway Patrol - Special
 Enforcement 1,610,400

The Legislature intends that law enforcement funding for Operation Rio Grande be used to address related law enforcement issues throughout the state including other counties as applicable stemming from the Operation Rio Grande project in FY 2019 and FY 2020. The Legislature intends that Department of Public Safety report to the Executive Offices and Criminal Justice Appropriation

Subcommittee during the 2019 interim on the deployment of said funds.

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$10,000,000 provided for The Department of Public Safety - Programs and Operations in Item 44 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, emergencies, transfer to JBA line item to cover shortfalls, and other one-time operating expenses.

In accordance with Utah Code Ann. 24-3-103 the Department of Public Safety is requesting authority to transfer all firearms received from court adjudications (Criminal Evidence) to the department for its use. These firearms will be transferred to the State Crime Laboratory and department training section for official use only. In addition, all ammunition received by the department with these firearms will be used by the State Crime Laboratory and training section for official use only. All other evidentiary property of value that has been adjudicated and received by the department will be transferred to State Surplus for auction.

Any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

Item 34

To Department of Public Safety - Bureau of Criminal Identification

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to \$2,000,000 provided for The Department of Public Safety - Bureau of Criminal Identification in Item 117 of Chapter 463 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. Funding shall be used for training, equipment purchases, and other one-time operating expenses.

STATE TREASURER

Item 35

To State Treasurer

From Land Trusts Protection and Advocacy Account, One-Time 217,800
 Schedule of Programs:

Advocacy Office 217,800

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to \$400,000 provided for the Office of the State Treasurer in Item 45 of Chapter 8 Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

UTAH COMMUNICATIONS AUTHORITY

Item 36

To Utah Communications Authority -
 Administrative Services Division
 From General Fund Restricted -
 Computer Aided Dispatch
 Account, One-Time 500,000
 From General Fund Restricted - Utah
 Statewide Radio System Acct.,
 One-Time 18,000,000
 Schedule of Programs:
 911 Division 500,000
 Administrative Services Division ... 18,000,000

**INFRASTRUCTURE
 AND GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 37

To Department of Administrative Services -
 Executive Director
 From General Fund, One-Time 306,800
 Schedule of Programs:
 Executive Director 306,800

Item 38

To Department of Administrative Services -
 Finance Administration
 From General Fund, One-Time (852,500)
 From Closing Nonlapsing Balances 725,000
 Schedule of Programs:
 Finance Director's Office (42,700)
 Technical Services (84,800)

Pursuant to passage of Senate Bill 159 in the 2019 General Session, the Legislature intends that the Division of Finance repeal the Youth Development Organization Restricted Account and the Youth Character Organization Restricted Account and close the balances to the General Fund at the time of repeal.

Item 39

To Department of Administrative Services -
 Post Conviction Indigent Defense
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Post Conviction Indigent
 Defense Fund 100,000

CAPITAL BUDGET

Item 40

To Capital Budget - Capital Development -
 Higher Education

The Legislature allows Salt Lake Community College to use up to \$3,500,000 of institutional and/or donated funds beginning in FY 2019 for programming and design for the proposed Herriman Campus General Education Building. This does not imply a future commitment by the Legislature to approve or fund construction of the building.

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 41

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund, One-Time (4,156,200)
 From Transportation Investment
 Fund of 2005, One-Time 5,854,400
 From Federal Funds, One-Time 72,300
 From Dedicated Credits Revenue,
 One-Time 1,425,000
 From County of First Class Highway
 Projects Fund, One-Time (1,300)
 From Revenue Transfers, One-Time ... (61,000)
 From Beginning Nonlapsing
 Balances 42,944,100
 From Closing Nonlapsing
 Balances (13,839,400)
 Schedule of Programs:
 G.O. Bonds - State Govt (4,217,200)
 G.O. Bonds - Transportation 5,914,100
 Revenue Bonds Debt Service 30,541,000

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 42

To Department of Technology Services -
 Chief Information Officer
 From General Fund, One-Time (211,300)
 From Closing Nonlapsing Balances 149,400
 Schedule of Programs:
 Chief Information Officer (61,900)

TRANSPORTATION

Item 43

To Transportation - Aeronautics
 From Aeronautics Restricted Account,
 One-Time 124,700
 Schedule of Programs:
 Administration 124,700

Item 44

To Transportation - Construction Management
 From Federal Funds, One-Time (500,000)
 Schedule of Programs:
 Federal Construction - New (500,000)

Item 45

To Transportation - Engineering Services
 From Transportation Fund, One-Time .. 306,900
 Schedule of Programs:
 Materials Lab (225,000)
 Program Development 394,900
 Right-of-Way 137,000

Item 46

To Transportation - Region Management
 From Transportation Fund, One-Time .. 114,600
 Schedule of Programs:
 Region 3 114,600

Item 47

To Transportation - Support Services
 From Transportation Fund,
 One-Time (646,500)
 From Federal Funds, One-Time 500,000
 Schedule of Programs:
 Administrative Services (646,500)

Human Resources Management 500,000

Under terms of Utah Code Annotated Section 63J-1-603(3)(a), the Legislature intends that any unexpended funds from the one-time appropriation of \$850,000 from the Transportation Fund to Support Services in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to development of rules and standards.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 48

To Department of Alcoholic Beverage Control - Parents Empowered
From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account, One-Time 41,000
Schedule of Programs:
Parents Empowered 41,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 49

To Governor's Office of Economic Development - Business Development
From General Fund, One-Time (121,700)
Schedule of Programs:
Outreach and International Trade . . . (121,700)

Item 50

To Governor's Office of Economic Development - Pass-Through
From General Fund, One-Time 450,000
Schedule of Programs:
Pass-Through 450,000

Item 51

To Governor's Office of Economic Development - Rural Employment Expansion Program
From General Fund, One-Time (1,500,000)
From Closing Nonlapsing Balances 1,500,000

DEPARTMENT OF HERITAGE AND ARTS

Item 52

To Department of Heritage and Arts - Administration
From Dedicated Credits Revenue, One-Time (62,200)
From Gen. Fund Rest. - Humanitarian Service Rest. Acct, One-Time (2,000)
Schedule of Programs:
Executive Director's Office (2,000)
Information Technology (62,200)

Item 53

To Department of Heritage and Arts - Division of Arts and Museums
From Federal Funds, One-Time 91,000
From Dedicated Credits Revenue, One-Time 70,000
Schedule of Programs:

Grants to Non-profits 161,000

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$300,000 of the General Fund provided by Item 40, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2019. These funds will be used as intended as the "Milk Money" appropriated during the 2018 General Session.

Item 54

To Department of Heritage and Arts - Commission on Service and Volunteerism
From Dedicated Credits Revenue, One-Time 30,000
Schedule of Programs:
Commission on Service and Volunteerism 30,000

Item 55

To Department of Heritage and Arts - Pass-Through
From General Fund, One-Time 1,710,000
From Gen. Fund Rest. - Humanitarian Service Rest. Acct, One-Time 40,000
Schedule of Programs:
Pass-Through 1,750,000

Item 56

To Department of Heritage and Arts - State History
From Dedicated Credits Revenue, One-Time 25,000
Schedule of Programs:
Public History, Communication and Information 25,000

Item 57

To Department of Heritage and Arts - State Library
From Federal Funds, One-Time 520,000
Schedule of Programs:
Blind and Disabled 10,000
Library Development 280,000
Library Resources 230,000

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$240,000 of the General Fund provided by Item 47, Chapter 15, Laws of Utah 2018 for the Department of Heritage and Arts - Division of State Library not lapse at the close of Fiscal Year 2019. These funds will be used for building remodel and furnishings and library grants .

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 58

To Department of Health - Children's Health Insurance Program
From Federal Funds, One-Time 3,750,000
From General Fund Restricted - Medicaid Restricted Account, One-Time 1,300,000
Schedule of Programs:
Children's Health Insurance Program 5,050,000
The Legislature intends that the Department of Health may use up to a

combined maximum of \$1,300,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Childrens Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2019 when combined with federal matching funds.

Item 59

To Department of Health - Disease Control and Prevention
 From General Fund, One-Time 430,800
 From Federal Funds, One-Time 1,586,700
 From Dedicated Credits Revenue,
 One-Time 1,638,600
 Schedule of Programs:
 Clinical and Environmental Lab
 Certification Programs 42,200
 Epidemiology (1,334,100)
 General Administration (103,700)
 Health Promotion 3,807,000
 Utah Public Health Laboratory 918,600
 Office of the Medical Examiner 326,100

Item 60

To Department of Health - Executive
 Director's Operations
 From Federal Funds, One-Time (781,600)
 Schedule of Programs:
 Center for Health Data and
 Informatics (721,900)
 Executive Director (153,600)
 Program Operations 93,900
 The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2019 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2019.

Item 61

To Department of Health - Family Health and Preparedness
 From General Fund, One-Time 25,000
 From Federal Funds, One-Time (202,500)
 From Dedicated Credits Revenue,
 One-Time 6,800
 Schedule of Programs:
 Child Development (9,000)
 Children with Special Health
 Care Needs 18,100
 Emergency Medical Services and
 Preparedness (152,700)
 Health Facility Licensing and
 Certification 499,300
 Maternal and Child Health (323,900)
 Primary Care (202,500)

Item 62

To Department of Health - Medicaid and Health Financing
 From General Fund, One-Time (30,600)
 From Federal Funds, One-Time 1,407,300
 From Dedicated Credits Revenue,
 One-Time 882,300
 From Medicaid Expansion Fund,
 One-Time (200,000)
 From Nursing Care Facilities Provider
 Assessment Fund, One-Time 30,600
 From Revenue Transfers, One-Time .. 4,752,100
 Schedule of Programs:
 Authorization and Community
 Based Services (5,000)
 Contracts 5,400
 Coverage and Reimbursement Policy .. 164,200
 Department of Workforce
 Services' Seeded Services 4,255,600
 Director's Office (299,900)
 Eligibility Policy 12,600
 Financial Services (420,500)
 Managed Health Care 443,200
 Medicaid Operations 1,252,100
 Other Seeded Services 1,434,000

The Utah Department of Health Division of Medicaid and Health Financing shall share with accountable care organizations the review date information of enrolled members, if requested by the accountable care organization for use in accordance with Department of Health guidelines.

The Legislature intends that effective whenever full Medicaid expansion starts in Utah that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 5% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. the income level in place prior to July 1, 2017 for an individual with a dependent child.

Item 63

To Department of Health - Medicaid Services
 From General Fund, One-Time (5,847,200)
 From Federal Funds, One-Time (2,885,100)
 From Dedicated Credits Revenue,
 One-Time 31,186,500
 From Medicaid Expansion Fund,
 One-Time 436,000
 From General Fund Restricted -
 Medicaid Restricted Account,
 One-Time 1,300,000
 From Nursing Care Facilities Provider
 Assessment Fund, One-Time 363,100
 From Revenue Transfers,
 One-Time 23,031,700
 Schedule of Programs:
 Accountable Care Organizations 9,978,300
 Dental Services (236,000)
 Home and Community Based
 Waivers 19,000,000
 Home Health and Hospice 3,000
 Inpatient Hospital 17,375,000
 Medicaid Expansion 2017 10,436,000
 Medical Transportation 7,000

Mental Health and Substance	
Abuse	17,035,000
Nursing Home	2,291,700
Other Services	(32,936,500)
Pharmacy	6,331,000
Physician and Osteopath	6,000,000
Provider Reimbursement Information	
System for Medicaid	2,200,500
School Based Skills Development ...	(9,900,000)

The Legislature intends that the Department of Health may use up to a combined maximum of \$1,300,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2019 when combined with federal matching funds.

Under Section 63J-1-603 of the Utah Code Item 32 of Chapter 9, Laws of Utah 2018, the Legislature intends up to \$3,000,000 provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System.

The Legislature intends that the \$650,000 in additional funding for the Health Insurance Fee required under Affordable Care Act Provision 9010 paid by Select Health Community Care be made contingent upon a reconciliation of the tax payments made over time. If it is determined that an underpayment has been made to Select Health Community Care, then the Department of Health shall pay up to the full amount of the appropriation to cover the underpayment.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any actual General Fund savings greater than \$235,600 that are due to inclusion of psychotropic drugs on the preferred drug list and accrue to the Department of Health's Medicaid Services line item from the appropriation provided in Item 84, Chapter 476, Laws of Utah 2018 shall not lapse at the close of Fiscal Year 2019. The Department of Health shall coordinate with the Division of Finance to transfer these funds to the Medicaid Expansion Fund created in Section 26-36b-208 of the Utah Code.

Under Section 63J-1-603 of the Utah Code Item 190 of Chapter 463, Laws of Utah 2018, the Legislature intends up to \$350,000 provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to property improvements in intermediate care facilities

for individuals with intellectual disabilities serving Utah Medicaid clients.

Item 64

To Department of Health - Primary Care Workforce Financial Assistance From Federal Funds, One-Time	202,500
Schedule of Programs:	
Primary Care Workforce Financial Assistance	202,500

DEPARTMENT OF HUMAN SERVICES

Item 65

To Department of Human Services - Division of Aging and Adult Services From Federal Funds, One-Time	981,600
Schedule of Programs:	
Administration - DAAS	(28,700)
Local Government Grants - Formula Funds	1,010,300

Item 66

To Department of Human Services - Division of Child and Family Services From Federal Funds, One-Time	3,456,800
Schedule of Programs:	
Administration - DCFS	93,200
Adoption Assistance	1,212,900
Child Welfare Management Information System	589,100
Domestic Violence	31,000
In-Home Services	803,600
Minor Grants	287,400
Selected Programs	439,600

Item 67

To Department of Human Services - Executive Director Operations From General Fund, One-Time	(18,600)
From Federal Funds, One-Time	(2,200)
Schedule of Programs:	
Office of Licensing	(20,800)

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2019 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2019.

Item 68

To Department of Human Services - Office of Recovery Services From Dedicated Credits Revenue, One-Time	346,800
Schedule of Programs:	
Child Support Services	322,300
Financial Services	24,500

Item 69

To Department of Human Services - Division of Services for People with Disabilities From General Fund, One-Time	(1,250,000)
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From Expendable Receipts, One-Time 21,000
 Schedule of Programs:
 Community Supports Waiver (1,229,000)

Item 70

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-Time 885,200
 From Federal Funds, One-Time 11,232,800
 From Dedicated Credits Revenue,
 One-Time 1,075,600
 Schedule of Programs:
 Administration - DSAMH 579,600
 Community Mental Health
 Services 1,733,300
 Drug Courts 332,000
 Mental Health Centers 813,300
 State Hospital 875,800
 State Substance Abuse Services 8,859,600

The Legislature intends that the recipient of funding for “Operation Rio Grande: Sober Living” provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2019 items, the recipient shall provide the report by August 31, 2019.

The Legislature intends that the recipient of funding for “Operation Rio Grande: Substance Abuse and Mental Health Services” provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2019 items, the recipient shall provide the report by August 31, 2019.

DEPARTMENT OF WORKFORCE SERVICES

Item 71

To Department of Workforce Services - Administration
 From General Fund, One-Time 600,000
 From Gen. Fund Rest. - Homeless Housing Reform Rest. Act, One-Time 20,000
 From Housing Opportunities for Low Income Households, One-Time 5,000
 From Olene Walker Housing Loan Fund, One-Time 5,000
 From OWHT-Fed Home, One-Time 5,000
 From OWHTF-Low Income Housing, One-Time 5,000
 From OWHT-Low Income Housing-PI, One-Time 700
 From Qualified Emergency Food Agencies Fund, One-Time 2,500
 Schedule of Programs:
 Administrative Support 643,200

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures

presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2019 items, the department shall provide a final report to the Office of the Legislative Fiscal Analyst by August 31, 2019.

Item 72

To Department of Workforce Services - Housing and Community Development
 From General Fund, One-Time 521,700
 From Housing Opportunities for Low Income Households, One-Time 500,000
 From Navajo Revitalization Fund, One-Time 60,500
 From Olene Walker Housing Loan Fund, One-Time 500,000
 From OWHT-Fed Home, One-Time 500,000
 From OWHTF-Low Income Housing, One-Time 500,000
 From Qualified Emergency Food Agencies Fund, One-Time 37,000
 From Uintah Basin Revitalization Fund, One-Time 23,500

Schedule of Programs:
 Community Development 175,700
 Community Development Administration 540,000
 Community Services 27,000
 Homeless Committee 400,000
 Housing Development 1,500,000

The Legislature intends that \$400,000 in one-time General Fund funding for the Department of Workforce Services be passed through in the amounts of: 1) \$200,000 to the Lantern House; and 2) \$200,000 to the Switchpoint Community Resource Center.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by May 3, 2019 on the status of all recommendations from the Office of the Legislative Auditor General’s Performance Audit of Utah’s Homeless Services.

The Legislature authorizes the State Division of Finance to transfer the fiscal year 2019 beginning balances totaling \$121,711 for private activity bonds from the Governor’s Office of Economic Development - Business Development line item to the Department of Workforce Services - Housing and Community Development Division line item. The Legislature intends that the approved fee schedule for fiscal year 2019 for private activity bonds at the Governor’s Office of Economic Development be transferred to the Department of Workforce Services. These provisions are related to the transfer of private activity bonds from the Governor’s Office of Economic Development to the Department of Workforce Services as authorized in Chapter 182, Laws of Utah 2018.

Item 73

To Department of Workforce Services - Office of Child Care
 From General Fund, One-Time (202,600)

From Federal Funds, One-Time (2,002,700)
 From Revenue Transfers, One-Time .. (279,900)
 Schedule of Programs:
 Early Childhood Teacher Training ... (279,900)
 Intergenerational Poverty School
 Readiness Scholarship (1,080,300)
 Student Access to High Quality
 School Readiness Grant (1,125,000)

Under 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of appropriations provided in Item 48 of Chapter 9, Laws of Utah 2018, and Item 2 of Chapter 358, Laws of Utah 2018, for the Department of Workforce Services' Office of Child Care line item, shall not lapse from the Operations and Policy line item at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited in one-time projects and one-time costs associated with client services.

Item 74

To Department of Workforce Services -
 Operations and Policy
 From General Fund, One-Time 1,105,900
 From Federal Funds, One-Time 22,766,900
 From Gen. Fund Rest. - Homeless Housing
 Reform Rest. Acct, One-Time 38,000
 From Housing Opportunities for
 Low Income Households, One-Time 2,000
 From Navajo Revitalization Fund,
 One-Time 1,500
 From Olene Walker Housing
 Loan Fund, One-Time 4,000
 From OWHTF-Low Income Housing,
 One-Time 2,000
 From OWHT-Low Income
 Housing-PI, One-Time 1,000
 From Permanent Community Impact
 Loan Fund, One-Time 250,000
 From Revenue Transfers, One-Time 279,900
 Schedule of Programs:
 Facilities and Pass-Through (1,230,500)
 Information Technology 1,196,500
 Temporary Assistance for Needy
 Families 22,000,000
 Workforce Development 2,485,200

Under 63J-1-603 of the Utah Code, the Legislature intends that up to \$200,000 of appropriations provided in Item 48 of Chapter 9, Laws of Utah 2018, and Item 2 of Chapter 358, Laws of Utah 2018, for the Department of Workforce Services Office of Child Care line item, shall not lapse from the Operations and Policy line item at the close of Fiscal Year 2019. The use of any nonlapsing funds is limited to one-time projects and one-time costs associated with client services.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by May 3, 2019 on the status of all recommendations from the Office of the State Auditor's June 2018 Single Audit Management Letter.

The Legislature intends that the Department of Workforce Services report to the Office of the Legislative Fiscal Analyst by May 3, 2019 on the status of all recommendations from the Office of the Legislative Auditor General's Performance Audit of Utah's Temporary Assistance for Needy Families (TANF) Program.

Item 75

To Department of Workforce Services -
 State Office of Rehabilitation
 From General Fund, One-Time (1,900,000)
 From Dedicated Credits Revenue,
 One-Time 75,400
 From Gen. Fund Rest. - Homeless Housing
 Reform Rest. Acct, One-Time 500
 From Housing Opportunities for
 Low Income Households, One-Time 1,000
 From Olene Walker Housing
 Loan Fund, One-Time 1,000
 From OWHT-Fed Home, One-Time 1,000
 From OWHTF-Low Income
 Housing, One-Time 1,000
 From Permanent Community
 Impact Loan Fund, One-Time 1,300
 Schedule of Programs:
 Deaf and Hard of Hearing 46,400
 Executive Director 13,900
 Rehabilitation Services (1,879,100)

Item 76

To Department of Workforce Services -
 Unemployment Insurance
 From General Fund, One-Time 50,000
 From Gen. Fund Rest. - Homeless Housing
 Reform Rest. Acct, One-Time 1,000
 From Housing Opportunities for
 Low Income Households, One-Time 1,000
 From Olene Walker Housing
 Loan Fund, One-Time 1,000
 From OWHT-Fed Home, One-Time 1,000
 From OWHTF-Low Income
 Housing, One-Time 1,000
 From Permanent Community
 Impact Loan Fund, One-Time 3,000
 Schedule of Programs:
 Adjudication 58,000

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 77

To University of Utah - Education and General
 From General Fund, One-Time 450,000
 Schedule of Programs:
 Education and General 450,000

SNOW COLLEGE

Item 78

To Snow College - Education and General
 From Education Fund, One-Time 650,000
 Schedule of Programs:
 Operations and Maintenance 650,000

STATE BOARD OF REGENTS

Item 79

To State Board of Regents - Administration

From Education Fund, One-Time 72,000
 Schedule of Programs:
 Administration 72,000

**NATURAL RESOURCES, AGRICULTURE,
 AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
 AGRICULTURE AND FOOD**

Item 80

To Department of Agriculture and Food -
 Administration
 From General Fund, One-Time (743,500)
 From Federal Funds, One-Time (1,600)
 From Dedicated Credits Revenue,
 One-Time 358,500
 Schedule of Programs:
 Chemistry Laboratory (886,600)
 General Administration 500,000

Item 81

To Department of Agriculture and Food -
 Invasive Species Mitigation
 From General Fund Restricted - Invasive
 Species Mitigation Account,
 One-Time 750,000
 Schedule of Programs:
 Invasive Species Mitigation 750,000

Item 82

To Department of Agriculture and Food -
 Plant Industry
 From General Fund, One-Time (219,200)
 From Dedicated Credits Revenue,
 One-Time 141,500
 Schedule of Programs:
 Grazing Improvement Program (500,000)
 Plant Industry 422,300

The Legislature intends that the Plant
 Industry program be allowed to purchase up
 to seven new vehicles in FY 2019.

Item 83

To Department of Agriculture and Food -
 Predatory Animal Control
 From General Fund, One-Time 80,000
 Schedule of Programs:
 Predatory Animal Control 80,000

The Legislature intends that the Predatory
 Animal Control program be allowed to
 purchase up to three new vehicles in FY 2019.

Item 84

To Department of Agriculture and Food -
 Rangeland Improvement
 From Gen. Fund Rest. - Rangeland
 Improvement Account, One-Time 500,000
 Schedule of Programs:
 Rangeland Improvement 500,000

Item 85

To Department of Agriculture and Food -
 Regulatory Services
 From General Fund, One-Time 400,200
 From Federal Funds, One-Time 1,600
 From Dedicated Credits Revenue,
 One-Time 267,200
 Schedule of Programs:

Regulatory Services 669,000

The Legislature intends that the
 Regulatory Services program be allowed to
 purchase one new vehicle in FY 2019.

Item 86

To Department of Agriculture and Food -
 Utah State Fair Corporation
 From General Fund, One-Time 300,000
 Schedule of Programs:
 State Fair Corporation 300,000

GOVERNOR'S OFFICE

Item 87

To Governor's Office - Office of
 Energy Development
 From General Fund, One-Time 750,000
 From General Fund Rest. -
 Stripper Well-Petroleum
 Violation Escrow, One-Time 125,900
 Schedule of Programs:
 Office of Energy Development 875,900

DEPARTMENT OF NATURAL RESOURCES

Item 88

To Department of Natural Resources -
 DNR Pass Through
 From General Fund, One-Time 2,600,000
 Schedule of Programs:
 DNR Pass Through 2,600,000

The Legislature intends that of the \$3
 million supplemental appropriation for Utah
 County Wildfire Rehabilitation, the
 Department of Natural Resources allocate
 \$650,000 to Woodland Hills City and
 \$250,000 to Elk Ridge City.

Item 89

To Department of Natural Resources -
 Oil, Gas and Mining
 From General Fund, One-Time (985,700)
 From Gen. Fund Rest. - Oil & Gas
 Conservation Account, One-Time 985,700

Item 90

To Department of Natural Resources -
 Species Protection
 From General Fund, One-Time (300)
 From General Fund Restricted -
 Species Protection, One-Time 300

Item 91

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund, One-Time 5,000,000
 From Dedicated Credits Revenue,
 One-Time 481,400
 Schedule of Programs:
 Administration 32,700
 Energy and Minerals 203,600
 Geologic Hazards 123,500
 Geologic Information and Outreach 25,400
 Ground Water 96,200
 Technical Services 5,000,000

The Legislature intends that the
 Department of Natural Resources expend the
 \$5,000,000 one-time General Fund
 appropriation for the Bonneville Salt Flats

Restoration Project only after the department has received commitments of \$45,000,000 from non-state funds for the same project. Under 63J-1-603 of the Utah Code, the Legislature intends that these funds not lapse at the close of FY 2019.

Item 92

To Department of Natural Resources -
Water Resources

From General Fund, One-Time	400,000
From Federal Funds, One-Time	1,300,000
Schedule of Programs:	
Construction	1,300,000
Planning	400,000

The Legislature intends that the \$400,000 supplemental appropriation for Water Banking shall not lapse at the close of FY 2019.

Item 93

To Department of Natural Resources - Watershed
From General Fund Restricted - Sovereign

Lands Management, One-Time	(2,300)
Schedule of Programs:	
Watershed	(2,300)

The Legislature intends that the Watershed Restoration Program spend \$1 million in FY 2019 on Utah County wildfire rehabilitation projects.

Item 94

To Department of Natural Resources -
Wildlife Resources

From Federal Funds, One-Time	24,416,500
From General Fund Restricted - Wildlife Resources, One-Time	120,000
Schedule of Programs:	
Habitat Section	24,416,500
Wildlife Section	120,000

The Legislature intends that the Division of Wildlife Resources spends up to \$400,000 on livestock damage. The Legislature further intends that this funding shall not lapse at the close of FY 2019.

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 95

To Public Lands Policy Coordinating Office

From General Fund, One-Time	1,300,000
Schedule of Programs:	
Public Lands Policy Coordinating Office	1,300,000

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that appropriations provided for the Public Lands Policy Coordinating Office, in Item 41, Chapter 7, Laws of Utah 2018, shall not lapse at the close of FY 2019. Expenditures of these funds are limited to: costs associated with reacting to current and future litigation, pursuing a Utah-specific roadless rule, and county, state, and federal agency coordination \$1,300,000; RS2477 litigation \$500,000; and to offset future volatility of the

Constitutional Defense Restricted Account \$500,000.

The Legislature intends that the Public Lands Policy Coordinating Office use \$500,000 one-time General Fund appropriated in this item to identify the full scope of issues related to wild, stray, nuisance, abandoned and feral livestock, especially horses and burros, and to cooperatively identify and develop statewide and national policy solutions and management actions to address those issues. The Legislature further intends that PLPCO coordinate efforts with the Department of Natural Resources and the Department of Agriculture and Food consistent with their statutory mandates and authority.

**RETIREMENT AND
INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 96

To Career Service Review Office

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$30,000 of appropriations provided for the Career Service Review Office in Laws of Utah 2018, Chapter 16, Item 6 shall not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to grievance resolution.

**UTAH EDUCATION
AND TELEHEALTH NETWORK**

Item 97

To Utah Education and Telehealth Network

From Education Fund, One-Time	2,235,000
Schedule of Programs:	
Technical Services	2,235,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 98

To Capitol Preservation Board

From General Fund, One-Time	76,800
Schedule of Programs:	
Capitol Preservation Board	76,800

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 3, Chapter 18, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. Use of any nonlapsing funds is limited to one-time operations costs.

The Legislature intends that \$50,000 of the \$76,800 reallocated from the State School Board for State Capitol field trips be expended on field trips to view the Golden Spike commemoration exhibits in the State Capitol.

LEGISLATURE

Item 99

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund, One-Time 28,000
Schedule of Programs:
Administration and Research 28,000

Item 100

To Legislature - Legislative Services
From General Fund, One-Time 65,000
Schedule of Programs:
Human Resources 65,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 101

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-Time (103,700)
Schedule of Programs:
Outreach Services (103,700)

The Legislature intends that the Utah Department of Veterans and Military Affairs may apply for a federal grant through the National Cemetery Administration to complete Phases II and III of the existing Cemetery Master Plan for the Utah Veterans Cemetery and Memorial Park in Bluffdale.

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 13, Chapter 18, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019. Use of any nonlapsing funds is limited to veterans outreach, cemetery, and First Time Home Buyer Program one-time operations costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 102

To Department of Administrative Services - State Debt Collection Fund
From Closing Fund Balance 400,000
Schedule of Programs:
State Debt Collection Fund 400,000

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 103

To Department of Workforce Services - Navajo Revitalization Fund
From Uintah Basin Revitalization Fund, One-Time 1,121,100
Schedule of Programs:
Navajo Revitalization Fund 1,121,100

The Legislature authorizes the State Division of Finance to transfer \$1,121,058 (plus applicable interest earned on that amount from August 2, 2013 to the time the transfer is made) from the Uintah Basin Revitalization Fund (Fund 2135) to the Navajo Revitalization Fund (Fund 2115) to correct an accounting error which occurred in fiscal year 2014. Outlays and expenditures from the fund to which the money is transferred may be made without further legislative action.

Item 104

To Department of Workforce Services - Uintah Basin Revitalization Fund
From Revenue Transfers, One-Time (1,121,100)
Schedule of Programs:
Uintah Basin Revitalization Fund (1,121,100)

The Legislature authorizes the State Division of Finance to transfer \$1,121,058 (plus applicable interest earned on that amount from August 2, 2013 to the time the transfer is made) from the Uintah Basin Revitalization Fund (Fund 2135) to the Navajo Revitalization Fund (Fund 2115) to correct an accounting error which occurred in fiscal year 2014. Outlays and expenditures from the fund to which the money is transferred may be made without further legislative action.

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 105

To Utah Department of Corrections - Utah Correctional Industries
Under Section 63J-1-603 of the Utah Code, the Legislature intends that the

appropriation for the Utah Department of Corrections - Utah Correctional Industries in item 54 of chapter 8, Laws of Utah 2018 not lapse at the close of Fiscal Year 2019.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 106

To Department of Technology Services Internal Service Funds - Enterprise Technology Division

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2018 and ending June 30, 2019: (1) Enhanced Mobile Device Support - SBA; (2) Cloud/SaaS Implementation - \$81.31 per hour; (3) Shared Application Hosting Cloud System Administration - \$24.79 per instance per month; and (4) Cloud Hosting - cost + 19%.

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL**

Item 107

To Department of Alcoholic Beverage Control - State Store Land Acquisition Fund

Under section 63J-1-603 of the Utah Code, Legislature intends that up to \$5,000,000 of the General Fund provided for State Store Land acquisition not lapse at the close of Fiscal Year 2019. These funds will be used for the acquisition of land for state liquor stores.

SOCIAL SERVICES

FUND AND ACCOUNT TRANSFERS

Item 108

To Fund and Account Transfers - Qualified Patient Enterprise Fund

From General Fund, One-Time 4,500,000
Schedule of Programs:
Qualified Patient Enterprise Fund .. 4,500,000

The Legislature intends that the Department of Health repay to the General Fund by FY 2026 the start-up costs provided from the General Fund associated with the implementation of medical cannabis.

The Legislature intends that the Department of Health use \$500,000 of the appropriation provided for the implementation of medical marijuana to help local health departments with their costs to develop pickup points for the State central fill medical cannabis pharmacy. Further, the Legislature intends that the Department of Health target its fee levels for FY 2020 to

provide another \$500,000 to local health departments for implementation costs.

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 109

To Department of Agriculture and Food - Qualified Production Enterprise Fund
From General Fund, One-Time 900,000
Schedule of Programs:
Qualified Production Enterprise Fund . 900,000

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF
HUMAN RESOURCE MANAGEMENT**

Item 110

To Department of Human Resource Management - Human Resources Internal Service Fund
Budgeted FTE 3.0

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$70,000 of appropriations provided for the Department of Human Resource Management in the Laws of Utah 2018, Chapter 16, Item 8 and Item 11 shall not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to \$50,000 for statewide management training and \$20,000 for administrative law judge compliance.

**Subsection 1(d). Restricted Fund and
Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

Item 111

To General Fund Restricted - Employability to Careers Program Restricted Account
From General Fund, One-Time (9,000,000)
Schedule of Programs:
General Fund Restricted - Employability to Careers Program Restricted
Account (9,000,000)

**INFRASTRUCTURE
AND GENERAL GOVERNMENT**

Item 112

To Risk Management-Liability
From Risk Management - Workers
Compensation Fund, One-Time 3,000,000
Schedule of Programs:
Risk Management - Liability
Fund 3,000,000

SOCIAL SERVICES

Item 113

To Medicaid Expansion Fund

From Dedicated Credits Revenue,	
One-Time	236,000
From General Fund Restricted -	
Medicaid Restricted Account,	
One-Time	1,300,000
Schedule of Programs:	
Medicaid Expansion Fund	1,536,000

The Legislature intends that the Department of Health may use up to a combined maximum of \$1,300,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services, Medicaid Expansion Fund, and Children’s Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2019 in all other items of appropriation for Medicaid are insufficient to pay appropriate Medicaid claims for FY 2019 when combined with federal matching funds.

Item 114

To Nursing Care Facilities Provider	
Assessment Fund	
From Dedicated Credits Revenue,	
One-Time	313,200
Schedule of Programs:	
Nursing Care Facilities Provider	
Assessment Fund	313,200

Item 115

To General Fund Restricted - Medicaid	
Restricted Account	
From General Fund, One-Time	5,100,000
Schedule of Programs:	
Medicaid Restricted Account	5,100,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 116

To General Fund Restricted -	
Rangeland Improvement Account	
From General Fund, One-Time	500,000
Schedule of Programs:	
General Fund Restricted -	
Rangeland Improvement Account	500,000

Subsection 1(e). Transfers to Unrestricted

Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 117

To General Fund	
From State Debt Collection Fund,	
One-Time	400,000
From Nonlapsing Balances -	
Debt Service	61,000

Schedule of Programs:	
General Fund, One-time	461,000

RETIREMENT AND INDEPENDENT ENTITIES

Item 118

To General Fund - RIE	
From Dedicated Credits Revenue -	
From DHRM - ISF	58,400
Schedule of Programs:	
General Fund, One-time	58,400

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 119

To Transportation - Transportation Investment	
Fund of 2005	
Notwithstanding the intent language in H.B. 6, Item 38 2019 General Session, the Legislature intends that, as resources allow, the Department of Transportation may expend no more than \$5,600,000 from the Transportation Investment Fund of 2005 to reimburse an entity for construction of highway and rail facilities within the area of the Inland Port.	

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 120

To Attorney General	
From General Fund	(6,875,200)
From General Fund, One-Time	8,574,100
From Federal Funds	417,300
From Dedicated Credits Revenue	(2,271,300)
From Dedicated Credits Revenue,	
One-Time	250,000
Schedule of Programs:	
Administration	1,101,100
Child Protection	(1,602,100)
Civil	76,200
Criminal Prosecution	519,700

Item 121

To Attorney General - Children’s Justice Centers
 From General Fund 9,800
 Schedule of Programs:
 Children’s Justice Centers 9,800

Item 122

To Attorney General - Prosecution Council
 From General Fund 14,200
 From Dedicated Credits Revenue 235,000
 Schedule of Programs:
 Prosecution Council 249,200

BOARD OF PARDONS AND PAROLE

Item 123

To Board of Pardons and Parole
 From General Fund (1,100)
 Schedule of Programs:
 Board of Pardons and Parole (1,100)

UTAH DEPARTMENT OF CORRECTIONS

Item 124

To Utah Department of Corrections -
 Programs and Operations
 From General Fund 3,832,300
 From General Fund, One-Time 2,856,300
 From Federal Funds 1,063,900
 From Dedicated Credits Revenue 240,100
 From General Fund Restricted - Prison
 Telephone Surcharge Account 300,000
 Schedule of Programs:
 Adult Probation and Parole
 Programs 2,865,100
 Department Executive Director 3,000,000
 Prison Operations Administration ... (380,600)
 Prison Operations Draper Facility ... 2,508,100
 Programming Education 300,000

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents, for every two agents hired, the Legislature grants authority to purchase one vehicle with Department funds for FY2019 and FY2020.

The Legislature grants authority to the Department of Corrections, Facilities Bureau, to purchase two vehicles with Department funds for FY2019 and FY2020.

The Legislature grants authority to the Department of Corrections, DPO Inmate Placement, to purchase two vehicles with Department funds for FY2019 and FY2020.

The Legislature intends that the Department of Corrections use the General Fund appropriation of \$3,000,000 one-time in this item for community correctional centers. The department may request assistance from the Division of Facilities Construction and Management and transfer funds to the Capital Projects Fund for any construction that will be overseen by the state.

Item 125

To Utah Department of Corrections -
 Department Medical Services
 From General Fund 425,800
 From General Fund, One-Time 39,500
 From Dedicated Credits Revenue 10,000
 Schedule of Programs:
 Medical Services 475,300

Item 126

To Utah Department of Corrections -
 Jail Contracting
 From General Fund (32,650,000)
 From General Fund, One-Time 33,000,000
 Schedule of Programs:
 Jail Contracting 350,000

The Legislature intends that the Corrections and Sheriffs Association report on Jail Contracting treatment during the 2019 interim to the Executive Offices and Criminal Justice Appropriations Subcommittee

Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$73.15 for FY 2020.

**JUDICIAL COUNCIL/
 STATE COURT ADMINISTRATOR**

Item 127

To Judicial Council/State Court Administrator -
 Administration

The Legislature intends that salaries for District Court judges for the fiscal year beginning July 1, 2019 and ending June 30, 2020 shall be \$170,450. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest \$50.

GOVERNOR’S OFFICE

Item 128

To Governor’s Office - CCJJ Jail Reimbursement
 From General Fund (13,900,000)
 From General Fund, One-Time 14,900,000
 Schedule of Programs:
 Jail Reimbursement 1,000,000

Item 129

To Governor’s Office - CCJJ Salt Lake County Jail
 Bed Housing

The Legislature intends that any payments from the Commission on Criminal and Juvenile Justice for housing prisoners from Salt Lake County in other counties be limited to the rate of \$26 per day, per prisoner.

The Legislature intends that the General Fund appropriation for Salt Lake County Jail Bed Funding discontinues at the close of Fiscal Year 2021.

Item 130

To Governor’s Office - Commission on Criminal and
 Juvenile Justice
 From General Fund 315,400
 From General Fund, One-Time 500,000

From Federal Funds	10,620,300
Schedule of Programs:	
CCJJ Commission	1,811,400
Judicial Performance Evaluation	
Commission	60,000
Utah Office for Victims of Crime	9,564,300

Under section 63J-1-603 of Utah Code, The Legislature intends that appropriations up to \$500,000 provided for the Commission on Criminal and Juvenile Justice be used to issue a supervision grant to Washington County to cover supervision costs associated with any JRI-related diversion programs. All unused funds are limited to the same purpose of the original appropriation.

Item 131

To Governor’s Office	
From Dedicated Credits Revenue	(16,900)
From Beginning Nonlapsing	
Balances	(112,900)
From Closing Nonlapsing Balances	112,900
Schedule of Programs:	
Literacy Projects	5,300
Lt. Governor’s Office	(22,200)

Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governors salary for the fiscal year beginning July 1, 2019 and ending June 30, 2020 shall be \$160,746. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.

Item 132

To Governor’s Office – Governor’s Office of Management and Budget	
From General Fund	18,000
From General Fund, One-Time	193,000
Schedule of Programs:	
Administration	193,000
Planning and Budget Analysis	18,000

The Legislature intends that the Capitol Preservation Board and Division of Facilities Construction Management, in consultation with the Governor’s Office of Management and Budget and Legislative Fiscal Analyst, use up to \$250,000 of the \$110 million appropriated to the Capitol Preservation Board to develop a long-term plan that addresses space needs for the Department of Agriculture, Department of Heritage and Arts, and agencies residing on Capitol Hill. The plan must increase utilization of buildings statewide to accommodate the needs of the above agencies, reduce traffic and congestion on Capitol Hill, ameliorate the negative impacts of street parking in Capitol Hill neighborhoods, replace the State Office Building with a smaller, more energy efficient building that provides public access to state art and history collections, and constructs any additional space necessary off Capitol

Hill in such a manner that new construction maximizes access to mass transit, minimizes commute times, and reduces congestion and associated vehicle emissions. The Legislature further intends that the Division of Finance not release amounts appropriated by this item in excess of \$200,000 until the above plan has been presented to the Governor, Capitol Preservation Board, and Executive Appropriations Committee.

Item 133

To Governor’s Office – Quality Growth Commission – LeRay McAllister Program	
From General Fund, One-Time	3,000,000
Schedule of Programs:	
LeRay McAllister Critical Land	
Conservation Program	3,000,000

The Legislature intends that all funds appropriated to the LeRay McAllister Critical Lands Conservation Fund be used toward projects that provide the highest land conservation values as determined by the Quality Growth Commission and not be earmarked toward any specific project.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 134

To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations	
From General Fund	(949,900)
From Revenue Transfers	928,300
Schedule of Programs:	
Administration	(35,300)
Early Intervention Services	10,500
Rural Programs	2,400
Youth Parole Authority	200
Case Management	600

Item 135

To Department of Human Services – Division of Juvenile Justice Services – Community Providers	
From General Fund	46,200
Schedule of Programs:	
Provider Payments	46,200

OFFICE OF THE STATE AUDITOR

Item 136

To Office of the State Auditor – State Auditor	
From General Fund	225,000
From General Fund, One-Time	800,000
From Dedicated Credits Revenue	10,600
Schedule of Programs:	
State Auditor	1,035,600

DEPARTMENT OF PUBLIC SAFETY

Item 137

To Department of Public Safety – Driver License	
From Dedicated Credits Revenue	16,900
From Department of Public Safety	
Restricted Account, One-Time	2,700,000
Schedule of Programs:	
Driver Services	2,716,900

Item 138

To Department of Public Safety -
Emergency Management
From Federal Funds 2,908,700
Schedule of Programs:

Emergency Management 2,908,700

Should the Division of Emergency Management (DEM) not receive authority to draw down its Fiscal Year 2019 Emergency Management Performance Grant by June 30, 2019, funds may be transferred from the Public Safety Program and Operations line item to DEM in FY 2019. Should the funds be transferred, then upon approval to draw down the Fiscal Year 2019 Emergency Management Performance Grant funds, DEM shall transfer back to the Public Safety Programs and Operations line item, the amount originally transferred.

Item 139

To Department of Public Safety - Peace
Officers' Standards and Training
From Uninsured Motorist Identification
Restricted Account, One-Time 500,000
Schedule of Programs:

Basic Training 500,000

Item 140

To Department of Public Safety -
Programs & Operations
From General Fund 1,860,000
From General Fund, One-Time 10,410,300
From Federal Funds 282,000
Schedule of Programs:

CITS Communications 2,853,000

CITS State Crime Labs 500,000

Department Commissioner's

Office (1,000,000)

Fire Marshall - Fire Operations 282,000

Highway Patrol - Field

Operations 2,860,000

Highway Patrol - Special

Enforcement 6,841,300

Highway Patrol - Technology

Services 216,000

The Legislature intends that law enforcement funding for Operation Rio Grande be used to address related law enforcement issues throughout the state including other counties as applicable stemming from the Operation Rio Grande project in FY 2019 and FY 2020. The Legislature intends that Department of Public Safety report to the Executive Offices and Criminal Justice Appropriation Subcommittee during the 2019 interim on the deployment of said funds.

In accordance with Utah Code Ann. 24-3-103 the Department of Public Safety is requesting authority to transfer all firearms received from court adjudications (Criminal Evidence) to the department for its use. These firearms will be transferred to the State Crime Laboratory and department training section for official use only. In addition, all ammunition received by the department with these firearms will be used by the State Crime

Laboratory and training section for official use only. All other evidentiary property of value that has been adjudicated and received by the department will be transferred to State Surplus for auction.

Any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

The Department of Public Safety is authorized to increase its fleet by the same number of new officers authorized and funded by the legislature for Fiscal Year 2020.

STATE TREASURER

Item 141

To State Treasurer
From Dedicated Credits Revenue 1,600
From Land Trusts Protection and
Advocacy Account 356,600
Schedule of Programs:

Advocacy Office 356,600

Treasury and Investment 1,600

UTAH COMMUNICATIONS AUTHORITY

Item 142

To Utah Communications Authority -
Administrative Services Division
From General Fund Restricted - Utah
Statewide Radio System Acct. 13,000,000
Schedule of Programs:
Administrative Services Division ... 13,000,000

**INFRASTRUCTURE
AND GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 143

To Department of Administrative Services -
DFCM Administration
From General Fund, One-Time 100,000
From Dedicated Credits Revenue 3,100
Schedule of Programs:

DFCM Administration 101,500

Energy Program 1,600

The legislature intends that prior to the transfer of appropriations to higher education capital projects funded during the 2019 General Session, the Division of Facilities and Construction Management shall notify the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee that the higher education institution has: (1) Developed a plan that will utilize the building as designed to meet the Regents classroom utilization standard of 33.75 average hours of instruction per week for spring and fall semesters and the 66.7 percent seat occupancy standard; and (2) Sufficiently addressed capital and operational efficiencies in the design of the building.

The legislature intends, that prior to October 31st, 2019, all Utah System of Higher

Education institutions will develop and submit to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee, a plan for achieving the Utah System of Higher Education classroom utilization standards on the main campus of each institution by 2025. Said plan shall include the following: (1) The standard of 33.75 average hours of instruction per week for Spring and Fall semesters; (2) The standard of 66.7 percent seat occupancy in classrooms; and (3) Increasing the summer utilization of classrooms.

The Legislature intends that the Capitol Preservation Board and Division of Facilities Construction Management, in consultation with the Governor’s Office of Management and Budget and Legislative Fiscal Analyst, use up to \$250,000 of the \$110 million appropriated to the Capitol Preservation Board to develop a long-term plan that addresses space needs for the Department of Agriculture, Department of Heritage and Arts, and agencies residing on Capitol Hill. The plan must increase utilization of buildings statewide to accommodate the needs of the above agencies, reduce traffic and congestion on Capitol Hill, ameliorate the negative impacts of street parking in Capitol Hill neighborhoods, replace the State Office Building with a smaller, more energy efficient building that provides public access to state art and history collections, and constructs any additional space necessary off Capitol Hill in such a manner that new construction maximizes access to mass transit, minimizes commute times, and reduces congestion and associated vehicle emissions. The Legislature further intends that the Division of Finance not release amounts appropriated by this item in excess of \$200,000 until the above plan has been presented to the Governor, Capitol Preservation Board, and Executive Appropriations Committee.

Item 144

To Department of Administrative Services - Executive Director
From General Fund 27,000
From General Fund, One-Time 4,000,000
Schedule of Programs:
Executive Director 4,027,000

Item 145

To Department of Administrative Services - Finance Administration
From General Fund (252,000)
From Dedicated Credits Revenue 20,700
Schedule of Programs:
Finance Director’s Office (139,000)
Financial Information Systems 20,700
Technical Services (113,000)

Item 146

To Department of Administrative Services - Inspector General of Medicaid Services
From Revenue Transfers 9,000
Schedule of Programs:

Inspector General of Medicaid Services . . 9,000

The Legislature intends that the Office of Inspector General of Medicaid Services, whose goal is to eliminate fraud, waste, and abuse within the Medicaid program, report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures: (1) cost avoidance projected over one year and three years; (2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments; (3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity (e.g. Medicaid Fraud Control Unit, Department of Workforce Services, local law enforcement, etc.); (4) the number of fraud, waste, and abuse cases identified and evaluated; and (5) the number of recommendations for improvement made to the Department of Health.

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional \$60,000 of the states share of Medicaid collections during FY 2020 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 147

To Department of Administrative Services - Judicial Conduct Commission

The Legislature intends that the Judicial Conduct Commission, whose mission is to investigate and conduct confidential hearings regarding complaints against state, county, and municipal judges throughout the state and, as warranted, to recommend to the Utah Supreme Court the reprimand, censure, suspension, removal, or involuntary retirement of any state, county, or municipal judge, report by October 31, 2019 to the Infrastructure and General Government Appropriations Subcommittee on the following performance measures: (1) timely publication of an annual report with all public dispositions in the last year (target: 60 days from the end of the fiscal year); and (2) annualized average number of business days to conduct a preliminary investigation (target: 90 days).

Item 148

To Department of Administrative Services - State Archives
From Federal Funds 300
From Dedicated Credits Revenue 10,700
Schedule of Programs:
Patron Services 300
Preservation Services 10,700

Item 149

To Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts
From General Fund Restricted - Mineral Lease 32,756,400
Schedule of Programs:

Mineral Lease Payments 29,504,500
 Mineral Lease Payments in Lieu 3,251,900

CAPITAL BUDGET

Item 150

To Capital Budget - Capital Development -
 Higher Education
 From Capital Projects Fund,
 One-Time 156,400,000
 Schedule of Programs:
 Dixie State Human Performance
 Center 4,400,000
 DSU Science Building 50,000,000
 SUU Technology, Engineering, and
 Design Building 2,000,000
 UVU New Business Building 50,000,000
 WSU Norda Engineering and
 Applied Science Building 50,000,000

Item 151

To Capital Budget - Capital Development -
 Public Education
 From Capital Projects Fund,
 One-Time 2,995,100
 Schedule of Programs:
 USDB Springville 2,995,100

Item 152

To Capital Budget - Capital Improvements
 From General Fund (66,000,000)
 From General Fund, One-Time 66,000,000

Item 153

To Capital Budget - Pass-Through
 From Education Fund, One-Time 1,000,000
 Schedule of Programs:
 Grand County USU Extension 1,000,000

**STATE BOARD OF BONDING
 COMMISSIONERS - DEBT SERVICE**

Item 154

To State Board of Bonding Commissioners -
 Debt Service - Debt Service
 From General Fund (223,000)
 From General Fund, One-Time 11,260,600
 From Transportation Investment
 Fund of 2005 19,946,900
 From Federal Funds (14,234,400)
 From Federal Funds, One-Time 12,987,000
 From Dedicated Credits Revenue 8,775,000
 From County of First Class Highway
 Projects Fund (1,278,300)
 From Revenue Transfers 14,245,700
 From Revenue Transfers,
 One-Time (12,987,000)
 From Beginning Nonlapsing
 Balances 14,087,800
 From Closing Nonlapsing
 Balances (13,839,400)
 Schedule of Programs:
 G.O. Bonds - State Govt (1,726,400)
 G.O. Bonds - Transportation 31,655,600
 Revenue Bonds Debt Service 8,811,700

**DEPARTMENT OF TECHNOLOGY
 SERVICES**

Item 155

To Department of Technology Services -
 Integrated Technology Division
 From General Fund 250,000
 From General Fund, One-Time 150,000
 From Federal Funds 261,900
 From Dedicated Credits Revenue 72,400
 Schedule of Programs:
 Automated Geographic Reference
 Center 734,300

TRANSPORTATION

Item 156

To Transportation - Aeronautics
 From Dedicated Credits Revenue 6,300
 From Aeronautics Restricted Account 124,700
 Schedule of Programs:
 Administration 124,700
 Airplane Operations 6,300

Item 157

To Transportation - Construction Management
 From Transportation Fund (83,000)
 From Transportation Fund,
 One-Time 13,346,800
 From Federal Funds 75,163,000
 Schedule of Programs:
 Federal Construction - New 88,426,800

Item 158

To Transportation - Engineering Services
 From General Fund, One-Time 1,000,000
 From Transportation Fund 2,606,900
 From Federal Funds (2,300,000)
 Schedule of Programs:
 Materials Lab (225,000)
 Program Development 1,394,900
 Right-of-Way 137,000

Item 159

To Transportation - Mineral Lease
 From General Fund Restricted -
 Mineral Lease (32,756,400)
 Schedule of Programs:
 Mineral Lease Payments (29,504,500)
 Payment in Lieu (3,251,900)

Item 160

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund (6,200)
 From Transportation Fund,
 One-Time 1,742,600
 From Dedicated Credits Revenue 1,464,600
 Schedule of Programs:
 Maintenance Administration 1,825,600
 Region 1 329,400
 Region 2 460,600
 Region 3 345,500
 Region 4 239,900

Item 161

To Transportation - Region Management
 From Transportation Fund 203,800
 Schedule of Programs:
 Region 1 89,200
 Region 3 114,600

Item 162

To Transportation – Support Services
 From General Fund 70,000
 From Transportation Fund (646,500)
 From Federal Funds 500,000
 Schedule of Programs:
 Administrative Services (576,500)
 Human Resources Management 500,000

**BUSINESS, ECONOMIC
 DEVELOPMENT, AND LABOR**

**DEPARTMENT OF
 ALCOHOLIC BEVERAGE CONTROL**

Item 163

To Department of Alcoholic Beverage Control –
 DABC Operations
 From Liquor Control Fund 2,355,000
 Schedule of Programs:
 Stores and Agencies 2,355,000

DEPARTMENT OF COMMERCE

Item 164

To Department of Commerce – Building
 Inspector Training
 From Dedicated Credits Revenue 146,400
 Schedule of Programs:
 Building Inspector Training 146,400

Item 165

To Department of Commerce – Commerce
 General Regulation
 From General Fund Restricted –
 Commerce Service Account 452,400
 From Gen. Fund Rest. – Nurse
 Education & Enforcement Acct. 34,600
 Schedule of Programs:
 Administration 450,000
 Occupational and Professional
 Licensing 37,000

**GOVERNOR’S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 166

To Governor’s Office of Economic Development –
 Business Development
 From General Fund 150,000
 From General Fund, One-Time (250,000)
 Schedule of Programs:
 Corporate Recruitment and
 Business Services 150,000
 Outreach and International Trade ... (250,000)

Item 167

To Governor’s Office of Economic Development –
 Office of Tourism
 From General Fund Rest. –
 Motion Picture Incentive Acct. 191,100
 Schedule of Programs:
 Film Commission 191,100

Item 168

To Governor’s Office of Economic Development –
 Pass-Through
 From General Fund 850,000
 From General Fund, One-Time 13,050,000
 Schedule of Programs:

Pass-Through 13,900,000

Item 169

To Governor’s Office of Economic Development –
 Rural Employment Expansion Program
 From General Fund, One-Time (840,000)
 Schedule of Programs:
 Rural Employment Expansion
 Program (840,000)

FINANCIAL INSTITUTIONS

Item 170

To Financial Institutions – Financial
 Institutions Administration
 From General Fund Restricted –
 Financial Institutions, One-Time 80,500
 Schedule of Programs:
 Administration 80,500

DEPARTMENT OF HERITAGE AND ARTS

Item 171

To Department of Heritage and Arts –
 Administration
 From General Fund 3,000
 From Dedicated Credits Revenue (62,200)
 From Gen. Fund Rest. –
 Humanitarian Service Rest. Acct (2,000)
 Schedule of Programs:
 Administrative Services 3,000
 Executive Director’s Office (2,000)
 Information Technology (62,200)

Item 172

To Department of Heritage and Arts –
 Division of Arts and Museums
 From General Fund 4,400
 From General Fund, One-Time 2,000,000
 Schedule of Programs:
 Community Arts Outreach 4,400
 Grants to Non-profits 2,000,000

The Legislature intends that the \$2,000,000 appropriation to the Division of Arts and Museums be used for an arts sustainability grant program. The Legislature further intends that arts and culture organizations receiving one-time pass-through funding from the Legislature during the 2019 General Session for requests other than capital or one-time special projects, and desiring additional funds in the future, apply to the arts sustainability grant program in FY 2021 before requesting direct appropriations from the Legislature.

The Legislature intends that the Department of Heritage and Arts develop a two-tiered evaluation model to distribute grants to private non-profit art organizations with varied qualifying criteria for organizations with total operating budgets above \$350,000 and those below \$350,000. The Legislature further intends that the department report on the method they developed to the Business, Economic Development, and Labor Appropriations Subcommittee by August 30, 2019.

Item 173

To Department of Heritage and Arts – Commission
 on Service and Volunteerism

From Dedicated Credits Revenue 30,000
 Schedule of Programs:
 Commission on Service and
 Volunteerism 30,000

Item 174

To Department of Heritage and Arts -
 Indian Affairs
 From General Fund 6,600
 Schedule of Programs:
 Indian Affairs 6,600

Item 175

To Department of Heritage and Arts -
 Pass-Through
 From General Fund (484,700)
 From General Fund, One-Time 1,939,700
 From Gen. Fund Rest. -
 Humanitarian Service Rest. Acct 6,000
 Schedule of Programs:
 Pass-Through 1,461,000

Item 176

To Department of Heritage and Arts - State History
 From General Fund 95,000
 From Dedicated Credits Revenue 25,000
 Schedule of Programs:
 Library and Collections 95,000
 Public History, Communication and
 Information 25,000

Item 177

To Department of Heritage and Arts - State Library
 From General Fund (843,000)
 From Dedicated Credits Revenue (206,900)
 Schedule of Programs:
 Administration (843,000)
 Bookmobile 1,150,100
 Library Development (1,357,000)

INSURANCE DEPARTMENT

Item 178

To Insurance Department - Insurance
 Department Administration
 From General Fund Restricted -
 Captive Insurance (150,000)
 From General Fund Restricted -
 Insurance Department Acct. 150,000
 Schedule of Programs:
 Administration 150,000
 Captive Insurers (150,000)

LABOR COMMISSION

Item 179

To Labor Commission
 From Federal Funds 12,700
 From Dedicated Credits Revenue 80,000
 Schedule of Programs:
 Antidiscrimination and Labor 92,700

UTAH STATE TAX COMMISSION

Item 180

To Utah State Tax Commission - License
 Plates Production
 From Dedicated Credits Revenue 133,300
 Schedule of Programs:
 License Plates Production 133,300

Item 181

To Utah State Tax Commission -
 Liquor Profit Distribution
 From General Fund Restricted -
 Alcoholic Beverage Enforcement
 and Treatment Account (278,800)
 Schedule of Programs:
 Liquor Profit Distribution (278,800)

Item 182

To Utah State Tax Commission -
 Tax Administration
 From General Fund 123,000
 From Education Fund 99,000
 From Dedicated Credits Revenue 186,300
 From General Fund Rest. - Sales and
 Use Tax Admin Fees 58,800
 Schedule of Programs:
 Motor Vehicle Enforcement Division 10,000
 Motor Vehicles 16,300
 Tax Payer Services 280,800
 Tax Processing Division 160,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 183

To Department of Health - Children's
 Health Insurance Program
 From General Fund (369,100)
 Schedule of Programs:
 Children's Health Insurance
 Program (369,100)

Item 184

To Department of Health - Disease
 Control and Prevention
 From General Fund 765,800
 From Federal Funds 1,513,400
 From Dedicated Credits Revenue (265,000)
 From Expendable Receipts - Rebates 638,900
 Schedule of Programs:
 Clinical and Environmental Lab
 Certification Programs 45,000
 Epidemiology (1,884,100)
 General Administration (103,500)
 Health Promotion 3,689,400
 Utah Public Health Laboratory 578,400
 Office of the Medical Examiner 327,900

Any nonlapsing funds at the close of Fiscal Year 2019 within the Disease Control and Prevention line item to be used for a Voice over Internet Protocol (VoIP) phone system transition shall be transferred to the Executive Director's Office line item.

The Legislature intends that the Department of Health report on the following additional performance measures for the Disease Control and Prevention line item, whose mission is to "prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease.": Utah youth use of electronic cigarettes in grades 8, 10, and 12 (Target = 11.1% or less) by October 1, 2019 to the Social Services Appropriations Subcommittee.

Notwithstanding the fee amount authorized in S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, for the fee “Cremation Authorization Review and authorize”, the Legislature intends that this fee be set at \$150 for FY 2020.

Item 185

To Department of Health - Executive

Director’s Operations

From General Fund	265,700
From Federal Funds	176,100
From Revenue Transfers	80,000

Schedule of Programs:

Center for Health Data and Informatics	521,800
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The Legislature intends that the Department of Health prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide an initial report by December 1, 2019 and a final report by August 31, 2020.

Item 186

To Department of Health - Family Health and Preparedness

From General Fund	642,300
From General Fund, One-Time	700,000
From Federal Funds	(378,600)
From Dedicated Credits Revenue	221,300
From Gen. Fund Rest. - Children’s Hearing Aid Pilot Program Account	191,600
From Revenue Transfers	(80,000)

Schedule of Programs:

Child Development	(627,500)
Children with Special Health Care Needs	771,500
Director’s Office	338,300
Emergency Medical Services and Preparedness	(291,800)
Health Facility Licensing and Certification	394,000
Maternal and Child Health	(100,700)
Primary Care	812,800

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst by January 7, 2020 on the status of all recommendations from “A Performance Audit of the Division of Family Health and Preparedness” that the Department of Health had anticipated finished implementing in its agency response to the legislative audit.

Any nonlapsing funds at the close of Fiscal Year 2019 within the Family Health and Preparedness Line Item to be used for a Voice over Internet Protocol (VoIP) phone system transition shall be transferred to the Executive Director’s Office Line Item.

In recognition of the passage of 2018 resolution, SCR11: Concurrent Resolution on the Awareness and Treatment of Maternal Depression and Anxiety, the state of Utah recognizes the need to support innovative, evidence-based programs that are designed to prevent or mitigate the negative health outcomes for women experiencing maternal depression and anxiety and their children. It is the goal of this funding (Maternal Mental Health Support) to initiate programming in Utah and to secure additional federal and private grant funding to support ongoing operations after year three.

The Legislature intends that the recipient of funding for “Help 24 More Children With Hearing Aids” provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

Item 187

To Department of Health - Medicaid and Health Financing

From General Fund	(50,300)
From Federal Funds	5,244,300
From Expendable Receipts	882,300
From Nursing Care Facilities Provider Assessment Fund	30,600
From Revenue Transfers	3,742,000

Schedule of Programs:

Authorization and Community Based Services	(5,000)
Contracts	5,400
Coverage and Reimbursement Policy ..	164,200
Department of Workforce Services’ Seeded Services	2,876,400
Director’s Office	(639,300)
Eligibility Policy	12,600
Financial Services	(182,000)
Managed Health Care	443,200
Medicaid Operations	5,543,800
Other Seeded Services	1,629,600

The Legislature intends that any nonlapsing funds at the close of Fiscal Year 2019 within the Medicaid and Health Financing line item to be used for a Voice over Internet Protocol (VoIP) phone system transition shall be transferred to the Executive Director’s Office Line Item.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature intends that the recipient of funding for “Asthma Home-based Case Management for 70 Medicaid Children” provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

The Utah Department of Health Division of Medicaid and Health Financing shall share with accountable care organizations the review date information of enrolled members, if requested by the accountable care organization for use in accordance with Department of Health guidelines.

The Legislature intends that effective whenever full Medicaid expansion starts in Utah that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 5% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. the income level in place prior to July 1, 2017 for an individual with a dependent child.

Item 188

To Department of Health – Medicaid Services

From General Fund	7,223,600
From General Fund, One-Time	294,000
From Federal Funds	10,576,900
From Federal Funds, One-Time	5,787,600
From Dedicated Credits Revenue ..	(19,961,800)
From Expendable Receipts	28,807,000
From Expendable Receipts -	
Rebates	16,084,000
From Medicaid Expansion Fund	298,000
From General Fund Restricted -	
Medicaid Restricted Account,	
One-Time	2,503,900
From Nursing Care Facilities Provider	
Assessment Fund	664,900
From Nursing Care Facilities Provider	
Assessment Fund, One-Time	291,000
From Revenue Transfers	23,571,500
Schedule of Programs:	
Accountable Care Organizations ...	21,722,800
Dental Services	12,430,000
Home and Community Based	
Waivers	20,000,000
Home Health and Hospice	3,000
Inpatient Hospital	17,295,000

Intermediate Care Facilities for	
the Intellectually Disabled	291,000
Medicaid Expansion 2017	9,298,000
Medical Transportation	7,000
Mental Health and Substance	
Abuse	17,035,000
Nursing Home	1,177,200
Other Services	(23,153,900)
Pharmacy	3,935,000
Physician and Osteopath	6,000,000
Provider Reimbursement Information	
System for Medicaid	500
School Based Skills Development ...	(9,900,000)

The Legislature intends that the Department of Health report to the Office of the Legislative Fiscal Analyst on the status of replacing the Medicaid Management Information System replacement by September 30, 2019. The report should include, where applicable, the responses to any requests for proposals. The report should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2020 regardless of the amount appropriated as allowed by the fund’s authorizing statute.

The Legislature intends that the Department of Health may fund unfunded portions of the building blocks, (1) Medicaid Managed Care Additional 1.0% Reimbursement Rate Increase, and (2) Medicaid ACO Funding, with funds from the Medicaid Restricted Account to the extent that funds are available after obligations are met for S.B. 96, Medicaid Expansion Adjustments, 2019 General Session.

The Legislature intends that, a maximum of 3% of the funds appropriated to increase Medicaid reimbursement for dental services shall be provided to the Medicaid dental

managed care plans to be used for contracted plan administration. The remaining funds shall be used to increase the Medicaid reimbursement to providers for Medicaid covered dental services.

The Legislature intends that increases for Medicaid Accountable Care Organization Funding should be passed on to the respective clinical providers and not be used for administrative functions.

The Legislature intends that increases for Medicaid Managed Care Additional 1.0% Reimbursement Rate Increase should be passed on to the respective clinical providers and not be used for administrative functions.

Item 189

To Department of Health - Primary Care Workforce Financial Assistance
 From Federal Funds 202,500
 Schedule of Programs:
 Primary Care Workforce Financial Assistance 202,500

DEPARTMENT OF HUMAN SERVICES

Item 190

To Department of Human Services - Division of Aging and Adult Services
 From General Fund 812,300
 From Federal Funds 930,500
 Schedule of Programs:
 Administration - DAAS (80,100)
 Aging Alternatives 322,500
 Aging Waiver Services 159,800
 Local Government Grants - Formula Funds 1,340,600

Item 191

To Department of Human Services - Division of Child and Family Services
 From General Fund 194,600
 From General Fund, One-Time 465,000
 From Federal Funds 2,167,600
 From Revenue Transfers 593,800
 Schedule of Programs:
 Administration - DCFS 199,400
 Adoption Assistance 1,332,900
 Child Welfare Management Information System 591,500
 Domestic Violence 797,800
 Out-of-Home Care 128,800
 Selected Programs 439,600
 Service Delivery (69,000)

The Legislature intends that the Department of Human Services provide to the Office of the Legislative Fiscal Analyst no later than October 15, 2019 the following information for youth that are court-involved or at risk of court involvement, to assess the impact of juvenile justice reform efforts on the Division of Child and Family Services: 1) the number of youth placed in each type of out-of-home setting, 2) the average length of out-of-home stay by setting, 3) the reasons for out-of-home placement, 4) the daily cost of each type of out-of-home setting, 5) the number of youth receiving services in the

community, 6) the average length of community service provision, 7) a list of support services delivered in the community, including frequency of use and costs of each service, and 8) remaining barriers to implementing the reforms.

Item 192

To Department of Human Services - Executive Director Operations
 From General Fund 2,496,700
 From Federal Funds (2,200)
 From Dedicated Credits Revenue 107,600
 From Revenue Transfers (2,515,300)
 Schedule of Programs:
 Executive Director's Office 1,200
 Office of Licensing 85,600

The Legislature intends that the Department of Human Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide an initial report by December 1, 2019 and a final report by August 31, 2020.

Item 193

To Department of Human Services - Office of Public Guardian
 From General Fund 79,300
 From Revenue Transfers 50,700
 Schedule of Programs:
 Office of Public Guardian 130,000

Item 194

To Department of Human Services - Office of Recovery Services
 From Federal Funds 972,300
 From Dedicated Credits Revenue 392,400
 Schedule of Programs:
 Administration - ORS 11,200
 Child Support Services 355,800
 Children in Care Collections 30,600
 Electronic Technology 930,500
 Financial Services 36,600

The Legislature intends that the Office of Recovery Services and the Department of Workforce Services report on the training pilot program for non-custodial parents, including 1) percent who find employment, 2) number of days between hire date and first child support payment, 3) average starting wage and number of hours per week, and 4) return on investment of dollars invested and amount of child support payments collected, including where dollars were remitted to, over a one year period. The Legislature further intends that these agencies 5) identify any opportunities to draw down additional federal dollars or allocate existing TANF dollars for employment programs for non-custodial parents, 6) provide any evidence of cost-effectiveness from programs in other states, 7) discuss whether new

programs should be developed in Utah, and report this information to the Office of the Legislative Fiscal Analyst by January 24, 2020.

Item 195

To Department of Human Services - Division of Services for People with Disabilities

From General Fund	9,664,500
From General Fund, One-Time	(300,000)
From Dedicated Credits Revenue	5,000
From Expendable Receipts	75,000
From Revenue Transfers	6,233,400
From Revenue Transfers, One-Time ..	(654,500)
Schedule of Programs:	
Community Supports Waiver	15,018,400
Utah State Developmental Center	5,000

The Legislature intends that for all funding provided beginning in FY 2016 for Direct Care Staff Salary Increases, the Division of Services for People with Disabilities (DSPD) shall: 1) Direct funds to increase the salaries of direct care workers; 2) Increase only those rates which include a direct care service component, including respite; 3) Monitor providers to ensure that all funds appropriated are applied to direct care worker wages and that none of the funding goes to administrative functions or provider profits; 4) In conjunction with DSPD community providers, report to the Office of the Legislative Fiscal Analyst no later than September 1, 2019 regarding the implementation and status of increasing salaries for direct care workers.

Item 196

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund	1,039,000
From General Fund, One-Time	2,050,000
From Federal Funds	4,957,600
From Dedicated Credits Revenue	878,500
From Revenue Transfers	(116,200)
Schedule of Programs:	
Administration - DSAMH	531,800
Community Mental Health Services ...	746,400
Drug Courts	82,100
Local Substance Abuse Services	1,750,000
Mental Health Centers	813,300
State Hospital	800,600
State Substance Abuse Services	4,084,700

The Legislature intends that the recipient of funding for "Operation Rio Grande: Sober Living" provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

The Legislature intends that the recipient of funding for "Operation Rio Grande: Substance Abuse and Mental Health Services" provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were

generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

The Legislature intends that the recipient of funding for "Children Reunifying in Residential Treatment Programs" provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

The Legislature intends that the recipient of funding for "Medication Assisted Treatment" provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 197

To Department of Workforce Services - Administration

From General Fund	600,000
From Gen. Fund Rest. - Homeless	
Housing Reform Rest. Acct	20,000
From Housing Opportunities for	
Low Income Households	5,000
From Olene Walker Housing Loan Fund ...	5,000
From OWHT-Fed Home	5,000
From OWHTF-Low Income Housing	5,000
From OWHT-Low Income Housing-PI	700
From Qualified Emergency Food	
Agencies Fund	2,500
From General Fund Restricted -	
Special Admin. Expense Account,	
One-Time	64,100
From Unemployment Compensation	
Fund, One-Time	77,000
Schedule of Programs:	
Administrative Support	784,300

The Legislature intends that the Department of Workforce Services prepare proposed performance measures for all new funding of \$10,000 or more and provide this information to the Office of the Legislative Fiscal Analyst by April 1, 2019. The department shall include the measures presented to the Subcommittee during the requests for funding, or provide a detailed explanation for changing the measures. For FY 2020 items, the department shall provide an initial report by December 1, 2019 and a final report by August 31, 2020.

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 198

To Department of Workforce Services -
 Housing and Community Development
 From General Fund, One-Time 1,000,000
 From Federal Funds 3,888,100
 From General Fund Restricted -
 Homeless Shelter Cities
 Mitigation Restricted Account 5,500,000
 From Gen. Fund Rest. - Pamela
 Atkinson Homeless Account 900,000
 From Housing Opportunities for
 Low Income Households 500,000
 From Navajo Revitalization Fund 60,500
 From Olene Walker Housing
 Loan Fund 500,000
 From OWHT-Fed Home 500,000
 From OWHTF-Low Income Housing 500,000
 From Qualified Emergency Food
 Agencies Fund 37,000
 From Uintah Basin Revitalization
 Fund 23,500
 Schedule of Programs:
 Community Development 637,700
 Community Development
 Administration 970,200
 Community Services 27,000
 Homeless Committee 9,152,200
 Housing Development 1,500,000
 Weatherization Assistance 1,122,000

The Legislature recommends that Workforce Services publish online all HUD outcome measures for Utah from the federal fiscal year ending on September 30th before December 1st of that same year.

The Legislature intends that the prioritized list of Homeless Shelter Cities Mitigation Program grant requests, including the recommended grant amount for each grant-eligible entity, be approved as submitted to the Social Services Appropriations Subcommittee by the State Homeless Coordinating Committee in accordance with Chapter 312 Laws of Utah 2018.

Item 199

To Department of Workforce Services -
 Office of Child Care
 From General Fund (202,600)
 Schedule of Programs:
 Intergenerational Poverty School
 Readiness Scholarship (77,600)
 Student Access to High Quality
 School Readiness Grant (125,000)

Item 200

To Department of Workforce Services -
 Operations and Policy
 From General Fund 1,252,600
 From General Fund, One-Time 454,300
 From Federal Funds (1,152,700)
 From Gen. Fund Rest. - Homeless
 Housing Reform Rest. Acct 38,000
 From Housing Opportunities for
 Low Income Households 2,000
 From Navajo Revitalization Fund 1,500
 From Olene Walker Housing Loan Fund ... 2,000
 From OWHT-Fed Home 2,000

From OWHTF-Low Income Housing 2,000
 From OWHT-Low Income Housing-PI 1,000
 From Permanent Community Impact
 Loan Fund 250,000
 From General Fund Restricted -
 School Readiness Account,
 One-Time 3,000,000
 From General Fund Restricted -
 Special Admin. Expense Account,
 One-Time 2,371,500
 From Unemployment Compensation
 Fund, One-Time 2,451,000
 Schedule of Programs:
 Facilities and Pass-Through (1,701,500)
 Information Technology 3,968,300
 Other Assistance 2,371,500
 Workforce Development 4,036,900

The Legislature intends that the Office of Recovery Services and the Department of Workforce Services report on the training pilot program for non-custodial parents, including 1) percent who find employment, 2) number of days between hire date and first child support payment, 3) average starting wage and number of hours per week, and 4) return on investment of dollars invested and amount of child support payments collected, including where dollars were remitted to, over a one-year period. The Legislature further intends that these agencies 5) identify any opportunities to draw down additional federal dollars or allocate existing TANF dollars for employment programs for non-custodial parents, 6) provide any evidence of cost-effectiveness from programs in other states, 7) discuss whether new programs should be developed in Utah, and report this information to the Office of the Legislative Fiscal Analyst by January 24, 2020.

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 201

To Department of Workforce Services -
 State Office of Rehabilitation
 From General Fund (1,900,000)
 From General Fund, One-Time 500,000
 From Dedicated Credits Revenue 102,000
 From Gen. Fund Rest. - Homeless
 Housing Reform Rest. Acct 500
 From Housing Opportunities for
 Low Income Households 1,000
 From Olene Walker Housing Loan Fund ... 1,000
 From OWHT-Fed Home 1,000
 From OWHTF-Low Income Housing 1,000
 From Permanent Community
 Impact Loan Fund 1,300
 From General Fund Restricted - Special
 Admin. Expense Account, One-Time 1,700
 From Unemployment Compensation
 Fund, One-Time 1,300
 Schedule of Programs:
 Deaf and Hard of Hearing 62,400

Executive Director 14,800
 Rehabilitation Services (1,366,400)

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 202

To Department of Workforce Services -
 Unemployment Insurance
 From General Fund 50,000
 From Gen. Fund Rest. - Homeless
 Housing Reform Rest. Acct 1,000
 From Housing Opportunities for
 Low Income Households 1,000
 From Olene Walker Housing Loan Fund ... 1,000
 From OWHT-Fed Home 1,000
 From OWHTF-Low Income Housing 1,000
 From Permanent Community Impact
 Loan Fund 3,000
 From General Fund Restricted -
 Special Admin. Expense Account,
 One-Time 812,700
 From Unemployment Compensation
 Fund, One-Time 670,700
 Schedule of Programs:
 Adjudication 870,700
 Unemployment Insurance
 Administration 670,700

The Legislature intends that the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 203

To University of Utah - Education and General
 From General Fund, One-Time 820,000
 From Education Fund 1,369,900
 From Education Fund, One-Time 2,000,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 1,300,400
 Schedule of Programs:
 Education and General 5,490,300

The Legislature intends that \$1,500,000 of this funding be allocated one-time to the Kem C. Gardner Institute in FY 2020.

The Legislature intends that \$500,000 one-time Education Fund appropriation be used by the University of Utah, in collaboration with Utah State University, to support the Utah Coal Country Strike Team for personnel, curriculum development, scholarships, equipment, and a remote worksite in Price City, Utah.

The Legislature authorizes the University of Utah to replace eleven vehicles and purchase four new vehicles in its motor pool.

The Legislature intends that the University of Utah report on the following performance measures for the Education and General line item, whose mission is: "To serve the people of Utah and the world through the discovery, creation and application of knowledge; through the dissemination of knowledge by teaching, publication, artistic presentation and technology transfer; and through community engagement":

- (1) Underrepresented participation rates by gender and ethnicity (Goal = 25% by 2025);
- (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 15%);
- (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 75% by 2025);
- (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 90% by 2025);
- (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 7,250 by 2025);
- (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 1,000 by 2025);
- (7) Cost per award (Goal = 100% of 5-year rolling HEPI average);
- (8) Instruction-related classroom space utilization (Goal = Meet or exceed the 22.5 classroom utilization score by 2025) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 204

To University of Utah -
 Educationally Disadvantaged

The Legislature intends that the University of Utah report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "The Center for Disability & Access is dedicated to students with disabilities by providing the opportunity for success and equal access at the University of Utah. We are committed to providing reasonable accommodations as outlined by Federal and State law. We also strive to create an inclusive, safe and respectful environment. By promoting awareness, knowledge and equity, we aspire to impact positive change within individuals and the campus community":

- (1) Students with disabilities registered and receiving services (Target = 2%-5% of total university enrollment),
- (2) Provision of alternative format services, including Braille and Video Captioning (Target = provide accessible materials in a timely manner - prior to materials being needed/utilized in coursework), and
- (3) Provide Interpreting Services for Deaf and Hard of Hearing students (Target = Maintain a highly qualified and 100% certified interpreting staff. Achieve 100% delivery of properly requested interpreting needs) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 205

To University of Utah - School of Medicine
From General Fund 1,500,000
Schedule of Programs:
School of Medicine 1,500,000

The Legislature intends that the University of Utah report on the following performance measures for the School of Medicine line item, whose mission is: "The University of Utah School of Medicine serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research. Each is vital to our mission and each makes the others stronger": (1) Number of medical school applications (Target = Exceed number of applications as an average of the prior three years), (2) Number of student enrolled in medical school (Target = Maintain full cohort based on enrollment levels), (3) Number of applicants to matriculates (Target = Maintain healthy ratio to insure a class of strong academic quality), (4) Number of miners served (Target = Maintain or exceed historical number served), and (5) Number of miners enrolled (Target = Maintain or exceed historical number enrolled) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 206

To University of Utah - Cancer Research and Treatment

The Legislature intends that the University of Utah report on the following performance measures for the Cancer Research and Treatment line item, whose mission is: "To understand cancer from its beginnings, to use that knowledge in the creation and improvement of cancer treatments, to relieve the suffering of cancer patients, and to provide education about cancer risk, prevention, and care": (1) Extramural cancer research funding help by HCI investigators (Target = Increase the funding by between 3-6% from 2016 level \$55.9M), (2) Cancer clinical trials available to HCI patients. (Target = Enrollment at or above 12 percent of new HCI cancer patients, and (3) Expand cancer research programs (Target = Launch a new research initiative in Health Outcomes and Population Equity (HOPE), and continue the HCI PathMaker program) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 207

To University of Utah - University Hospital

The Legislature intends that the University of Utah report on the following performance measures for the University Hospital line item, whose mission is: "The University of Utah Health Sciences Center serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is

achieved through excellence in patient care, education, and research; each is vital to our mission and each makes the others stronger": (1) Number of annual residents in training (Target = 578), (2) Number of annual resident training hours (Target = 2,080,800), and (3) Percentage of total resident training costs appropriated by the legislature (Target = 20.7%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 208

To University of Utah - School of Dentistry
From Education Fund 1,500,000
Schedule of Programs:
School of Dentistry 1,500,000

The Legislature intends that the University of Utah report on the following performance measures for the School of Dentistry line item, whose mission is: "To improve the oral and overall health of the community through education, research, and service": (1) Number of RDEP Beneficiaries Practicing in Utah (Target = 40% of RDEP beneficiaries), (2) Number of RDEP Beneficiaries Admitted to Advanced Practice Residency (Target = 20% of RDEP beneficiaries), and (3) Number of total RDEP Beneficiaries admitted to Program (Target = 10 beneficiaries) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 209

To University of Utah - Public Service

The Legislature intends that the University of Utah report on the following performance measures for the Seismograph Stations Program, whose mission is: "Reducing the risk from earthquakes in Utah through research, education, and public service": (1) Timeliness of response to earthquakes in the Utah region. (Target = For 100% of earthquakes with magnitude 3.5 or greater that occur in the Utah region UUSS will transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes), (2) Publications and presentations related to earthquakes. (Target = Each year UUSS researchers will publish at least five papers in peer-reviewed journals. Make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders), and (3) External funds raised to support UUSS mission (Target = Each year UUSS will generate external funds that equal or exceed the amount provided by the State of Utah by October 15, 2020 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the Natural History Museum of Utah Program, whose mission is: "The Natural History Museum of Utah illuminates the natural world and the place of humans within it": (1) Total on-site

attendance (Target = Meet or exceed 282,000 for FY 2020, (2) Total off-site attendance (Target = Meet or exceed 200,000 for FY 2020, and (3) Number of school interactions (Target = Meet or exceed 1,250 for FY 2020 by October 15, 2020 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the University of Utah report on the following performance measures for the State Arboretum Program, whose mission is: "To connect people with plants and the beauty of living landscapes": (1) Number of memberships (Target = Increase number of memberships by 3% annually from June 30, 2016 to June 30, 2020), (2) Number of admissions (Target: = Increase number of admission by 3% annually from June 30, 2016 to June 30, 2020), and (3) Number of school children participating in on-site field classes (Target = Maintain present level of participation until Education Center is build that will permit expansion beyond what current facilities permit) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 210

To University of Utah - Statewide TV Administration

The Legislature intends that the University of Utah report on the following performance measures for the Statewide TV Administration Program, whose mission is: "KUED entertains, informs, and enriches our viewers with exceptional content and is a valued community resource. Our mission is to be a community resource that is trusted, valued, and essential": (1) Determine number of television households that tune in to KUED (Target = Measurement during Nielsen "sweeps" greater than or equal to the prior three year percentages), (2) Number of visitors to KUEDs informational page and KUEDs video page (Target = Measure Google Analytics to meet or exceed prior three year percentages), and (3) Number of people participating in KUED Community Outreach Events (Target = Equal or greater to the number of viewers in the past three years) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 211

To University of Utah - Poison Control Center

The Legislature intends that the University of Utah report on the following performance measures for the Poison Control Center line item, whose mission is: "To prevent and minimize adverse health effects from a poison exposure through education, service, and research": (1) Poison Center Utilization (Target = exceed Nationwide Average), (2) Health care costs averted per dollar invested (Target = \$10.00 savings for every dollar invested in the center), and (3) Service level - speed to answer (Target =

answer 85% of cases within 20 seconds) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 212

To University of Utah - Center on Aging

The Legislature intends that the University of Utah report on the following performance measures for the Center on Aging line item, whose mission is: "To provide educational and research programs in gerontology at the University of Utah": (1) Increased penetration of UCOA influence by measuring how many stakeholders including UCOA members, community guests, engaged in meetings, events, consults directly as a result of UCOA efforts and facilitation (Target = Annual increase of 25% of qualified UCOA engagements with aging stakeholders), (2) Access to the ADRC - Cover to Cover Program (Target = To provide services to 100% of the people of Utah over age 65), and (3) Increased penetration of iPods placed through facilities and service organizations throughout the state of Utah (Target = Annual increase of 15% of aggregated placements of iPods through the Music & Memory program) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 213

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health

The Legislature intends that the University of Utah report on the following performance measures for the Rocky Mountain Center for Occupational and Environmental Health line item, whose mission is: "To maintain with our customers an impeccable reputation for professionalism, objectivity, promptness, and evenhandedness. To promote, create and maintain a safe and healthful campus environment": (1) Number of Students in the degree programs (Target = Greater than or equal to 45 students), (2) Number of students trained (Target = Greater than or equal to 600), and (3) Number of businesses represented in continuing education courses (Target = Greater than or equal to 1,000) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

UTAH STATE UNIVERSITY

Item 214

To Utah State University - Education and General
 From General Fund 300
 From Education Fund 312,700
 From Education Fund Restricted -
 Performance Funding Rest. Acct. 899,500
 Schedule of Programs:
 Education and General 1,223,600
 USU - School of Veterinary Medicine .. (3,800)
 Operations and Maintenance (7,300)

The Legislature intends that Utah State University report on the following performance measures for the Education and

General line item, whose mission is: “to be one of the nations premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture and by serving the public through learning, discovery and engagement”:
 (1) Underrepresented participation rates by gender and ethnicity (Goal = 14.7% by 2025);
 (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 15%);
 (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 63% by 2025);
 (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 74% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 4,352 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 1,025 by 2025); (7) Cost per award (Goal = 95% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Improve classroom utilization score by 2% annually) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 215

To Utah State University - USU - Eastern Education and General
 From Education Fund 43,500
 From Education Fund, One-Time 286,300
 Schedule of Programs:
 USU - Eastern Education and General 329,800

The Legislature intends that Utah State University report on the following performance measures for the USU Eastern Education and General line item, whose mission is: “with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region”: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 950), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 216

To Utah State University - Educationally Disadvantaged
 From General Fund (300)
 Schedule of Programs:
 Educationally Disadvantaged (300)

The Legislature intends that Utah State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1) Students served (Target = 20), (2) Average aid per student (Target = \$4,000), and (3) Transfer and retention rate (Target = 80%) by October 15, 2012 to the Higher Education Appropriations Subcommittee.

Item 217

To Utah State University - USU - Eastern Educationally Disadvantaged

The Legislature intends that Utah State University report on the following performance measures for the Eastern Educationally Disadvantaged line item, whose mission is: “to provide services to educationally disadvantaged students”: (1) Students served (Target = 275), (2) Average aid per student (Target = \$500), and (3) Transfer and retention rate (Target = 50%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 218

To Utah State University - USU - Eastern Career and Technical Education
 From Education Fund 2,032,800
 Schedule of Programs:
 USU - Eastern Career and Technical Education 2,032,800

The Legislature intends that Utah State University report on the following performance measures for the Eastern Career and Technical Education line item, whose mission is: “to provide open-entry, open-exit competency-based career and technical education programs, and emphasize short-term job training and retraining for southeastern Utah”: (1) CTE licenses and certifications (Target = 100), (2) CTE Graduate placements (Target = 45), and (3) CTE Completions (Target = 50) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 219

To Utah State University - Uintah Basin Regional Campus

The Legislature intends that Utah State University report on the following performance measures for the Uintah Basin Regional Campus line item, whose mission is: “to provide education opportunities to citizens in the Uintah Basin”: (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target

49% with a 0.5% increase per annum) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 220

To Utah State University - Regional Campuses
From Education Fund (583,500)
Schedule of Programs:

Administration 103,900
Uintah Basin Regional Campus (75,600)
Brigham City Regional Campus (861,500)
Tooele Regional Campus 249,700

Item 221

To Utah State University - Brigham City Regional Campus

The Legislature intends that Utah State University report on the following performance measures for the Brigham City Regional Campus line item, whose mission is: "To provide education opportunities to citizens in Brigham City and surrounding communities": (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 650), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. for Associates) (Target = 49% with a 0.5% increase per annum) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 222

To Utah State University - Tooele Regional Campus

The Legislature intends that Utah State University report on the following performance measures for the Tooele Regional Campus line item, whose mission is: "To provide education opportunities to citizens in Tooele and along the Wasatch Front": (1) Degrees & certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 1,200), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. for Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 223

To Utah State University - Water Research Laboratory
From Education Fund (17,900)
Schedule of Programs:
Water Research Laboratory (17,900)

The Legislature intends that Utah State University report on the following

performance measures for the Water Research Laboratory line item, whose mission is: "to work with academic departments at USU to generate, transmit, apply, and preserve knowledge in ways that are consistent with the land-grant mission of the University": (1) Peer-reviewed journal articles published (Target = 10), (2) Number of students supported (Target = 150), and (3) Research projects and training activities (Target = 200) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 224

To Utah State University - Agriculture Experiment Station
From Education Fund 625,600
Schedule of Programs:

Agriculture Experiment Station 625,600

The Legislature intends that Utah State University report on the following performance measures for the Agriculture Experiment Station line item, whose mission is: "to facilitate research that promotes agriculture and human nutrition, and enhance the quality of rural life: (1) Number of students mentored (Target = 300), (2) Journal articles published (Target = 300), and (3) Lab accessions (Target = 100,000) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 225

To Utah State University - Cooperative Extension
From General Fund 1,270,200
From Education Fund 69,700
Schedule of Programs:

Cooperative Extension 1,339,900

The Legislature intends that Utah State University report on the following performance measures for the Cooperative Extension line item, whose mission is: "To deliver research-based education and information throughout the State in cooperation with federal, state, and county partnerships": (1) Direct contacts (Adult and Youth) (Target = 722,000 - 3 year rolling average), (2) Faculty-delivered activities and events (Target = 2,000 - 3 year rolling average), and (3) Faculty publications (Target = 300 - 3 year rolling average) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 226

To Utah State University - Prehistoric Museum
From Education Fund 1,000
Schedule of Programs:
Prehistoric Museum 1,000

The Legislature intends that Utah State University report on the following performance measures for the Prehistoric Museum line item, whose mission is: "The Prehistoric Museum creates understanding and appreciation of natural and cultural processes that formed the geologic, fossil and prehistoric human records found in eastern Utah. We do this through educational and

interpretive programs based upon our academic research, preservation programs, authentic exhibits, and the creative efforts of our staff and community”: (1) Museum admissions (Target = 18,000), (2) Number of offsite outreach contacts (Target = 1,000), and (3) Number of scientific specimens added (Target = 800) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 227

To Utah State University - Blanding Campus
From Education Fund (14,400)
Schedule of Programs:

Blanding Campus (14,400)

The Legislature intends that Utah State University report on the following performance measures for the Blanding Campus line item, whose mission is: “with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region”: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students; this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

WEBER STATE UNIVERSITY

Item 228

To Weber State University - Education and General
From Education Fund 1,766,200
From Education Fund, One-Time (589,200)
From Education Fund Restricted -
Performance Funding Rest. Acct. 482,800
Schedule of Programs:
Education and General 1,659,800

The Legislature authorizes Weber State University to purchase two new vehicles for its motor pool.

The Legislature intends that Weber State University report on the following performance measures for the Education and General line item, whose mission is: “To ensure quality academic experiences for students to be successful and graduate with an associate, bachelor, or master degree from programs that are responsive to community needs”: (1) Underrepresented participation rates by gender and ethnicity (Goal = 23% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 10%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 50% by 2025);

(4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 70% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 3,867 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 325 by 2025); (7) Cost per award (Goal = 95% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Meet or exceed the 22.5 classroom utilization score by 2025) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 229

To Weber State University -
Educationally Disadvantaged

The Legislature intends that Weber State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “To enhance the college experiences of students from traditionally underrepresented backgrounds”: (1) Awarding degrees to underrepresented students (Target = Increase to average of 6% of all degrees awarded), (2) Bachelors degrees within six years (Target = Average 5 year graduation rate of 25%), and (3) First year to second year enrollment (Target = 50%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

SOUTHERN UTAH UNIVERSITY

Item 230

To Southern Utah University - Education and General
From Education Fund 3,100,000
From Education Fund Restricted -
Performance Funding Rest. Acct. 235,700
Schedule of Programs:
Education and General 3,335,700

The Legislature intends that Southern Utah University provide annual progress reports to the Higher Education Appropriations Committee beginning October 31st, 2020 and each year thereafter on the implementation of the 3-Year Bachelors Degree Pilot Program funded in this legislation. This report shall include the following information: (1) Total annual budget and expenditures of the program; (2) Progress of each cohort of students towards accelerated degree completion; (3) Evaluation of the pilot program and any modifications proposed for or implemented in the pilot program.

The Legislature authorizes Southern Utah University to replace six vehicles and purchase three new vehicles for its motor pool.

The Legislature intends that Southern Utah University report on the following performance measures for the Education and General line item, whose mission is:

“Southern Utah University leads students to successful educational outcomes”: (1) Underrepresented participation rates by gender and ethnicity (Goal = 17% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 10%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 55% by 2025); (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 72% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 1,500 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 275 by 2025); (7) Cost per award (Goal = 95% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Improve the classroom utilization score to 32 by 2025 by increasing Classroom Utilization Rate to 40 hours per week and Classroom Station Occupancy Rate to 80%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 231

To Southern Utah University -
Educationally Disadvantaged

The Legislature intends that Southern Utah University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: “Southern Utah University leads educationally disadvantaged students to successful educational outcomes”: (1) Graduation rate for educationally disadvantaged students (Target = Increase ED students equivalent to SUU overall rate), (2) Retention rate for educationally disadvantaged students (Target = Increase ED students equivalent to SUU overall rate), and (3) Minimum 33% of ED scholarships offered to minority students (Target = 33% Min.) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 232

To Southern Utah University -
Shakespeare Festival

The Legislature intends that Southern Utah University report on the following performance measures for the Shakespeare Festival line item, whose mission is: “The Utah Shakespeare Festival through its Education department cultivates creative communities and human development through Shakespeare and instructional play for individuals, schools and communities with emphasis on at-risk and low income populations”: (1) Professional outreach program in the schools instructional hours (Target = 25% increase in 5 years), (2) Education seminars & orientation attendees (Target = 25% increase in 5 years),

and (3) USF annual fundraising (Target = 50% increase in 5 years) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 233

To Southern Utah University - Rural Development

The Legislature intends that Southern Utah University report on the following performance measures for the Rural Development line item, whose mission is: “Southern Utah University through the Office of Regional Services assists our rural Utah communities with economic and business development”: (1) Rural businesses assisted (Target = 25% increase in 5 years), (2) Business training events (Target = 10% increase in 5 years), and (3) Individuals trained (Target = 10% increase in 5 years) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

UTAH VALLEY UNIVERSITY

Item 234

To Utah Valley University - Education and General
From Education Fund 3,163,800
From Education Fund, One-Time (1,466,900)
From Education Fund Restricted -
Performance Funding Rest. Acct. 314,300
Schedule of Programs:
Education and General 2,011,200

The Legislature authorizes Utah Valley University to replace three vehicles and purchase five new vehicles for its motor pool.

The Legislature intends that Utah Valley University report on the following performance measures for the Education and General line item, whose mission is: “A teaching institution which provides opportunity, promotes student success, and meets regional educational needs. UVU builds on a foundation of substantive scholarly and creative work to foster engaged learning”: (1) Underrepresented participation rates by gender and ethnicity (Goal = 21.5% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 10%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 45% by 2025); (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 65% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 4,500 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 950 by 2025); (7) Cost per award (Goal = 100% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Meet or exceed the 22.5 classroom utilization score each year) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 235

To Utah Valley University -
Educationally Disadvantaged

The Legislature intends that Utah Valley University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "Accessible and equitable educational opportunities for all students and support students achievement of academic success at the University": (1) Portion of degree-seeking undergraduate students receiving need-based financial aid (Target = 45%), (2) Number of students served in mental health counseling (Target = 4,000), and (3) Number of tutoring hours provided to students (Target = 22,000) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

SNOW COLLEGE

Item 236

To Snow College - Education and General	
From Education Fund	508,800
From Education Fund Restricted -	
Performance Funding Rest. Acct.	113,100
Schedule of Programs:	
Education and General	571,900
Operations and Maintenance	50,000

The Legislature authorizes Snow College to purchase three new vehicles for its motor pool.

The Legislature intends that Snow College report on the following performance measures for the Education and General line item, whose mission is: "Snow College centralizes its mission around a tradition of excellence, a culture of innovation, and an atmosphere of engagement to advance students in the achievement of their educational goals": (1) Underrepresented participation rates by gender and ethnicity (Goal = 20% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 7%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 45% by 2025); (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 65% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 370 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 60 by 2025); (7) Cost per award (Goal = 95% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Meet or exceed the 22.5 classroom utilization score by 2025) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 237

To Snow College - Educationally Disadvantaged

The Legislature intends that Snow College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "Snow College supports the academic preparation of students least likely to attend college": (1) Number educationally disadvantaged awards to students (Target = 75), (2) Average amount of aid awarded (Target = \$500), and (3) Percentage of remedial students completing a college-level course in the same subject within two academic years of entry (Target = 75%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 238

To Snow College - Career and Technical Education

The Legislature intends that Snow College report on the following performance measures for the Career and Technical Education line item, whose mission is: "Provide relevant technical education and training that supports local and statewide industry and business development": (1) Headcount enrollment of post-secondary students in CTE programs (Target 1,200), (2) Number of degree, certificate, and/or licensure programs offered in industry-relevant areas of study (Target = 4 new programs/certificates/degrees), and (3) Number of degrees, certificates, awards, and/or licensures (Target = 100) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

DIXIE STATE UNIVERSITY

Item 239

To Dixie State University - Education and General	
From Education Fund	1,941,100
From Education Fund, One-Time	(821,300)
From Education Fund Restricted -	
Performance Funding Rest. Acct.	94,900
Schedule of Programs:	
Education and General	1,214,700

The Legislature authorizes Dixie State University to purchase four new vehicles for its motor pool.

The Legislature intends that Dixie State University report on the following performance measures for the Education and General line item, whose mission is: "Dixie State University is a public comprehensive university dedicated to rigorous learning and the enrichment of the professional and personal lives of its students and community by providing opportunities that engage the unique Southern Utah environment and resources": (1) Underrepresented participation rates by gender and ethnicity (Goal = 23% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 10%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 45% by 2025); (4) Increase annual first-year to

second-year student retention rate as reported by IPEDS (Goal = 58% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 1,000 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 100 by 2025); (7) Cost per award (Goal = 300% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Increase classroom utilization score by 1.25 per year through 2025) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 240

To Dixie State University -
Educationally Disadvantaged

The Legislature intends that Dixie State University report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "To support the academic success of culturally diverse students": (1) Number of students served (Target = 20), (2) Number of minority students served (Target = 15), and (3) Expenditures per student (Target = \$1,000) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 241

To Dixie State University -
Zion Park Amphitheater

The Legislature intends that Dixie State University report on the following performance measures for the Zion Park Amphitheater line item, whose mission is: "to provide a world-class outdoor venue combining learning and the arts in Southern Utah": (1) Number of performances (Target = 8), (2) Ticket sales revenue (Target = \$35,000), and (3) Performances featuring Utah artists (Target = 6) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

SALT LAKE COMMUNITY COLLEGE

Item 242

To Salt Lake Community College - Education and General
From Education Fund 517,500
From Education Fund Restricted -
Performance Funding Rest. Acct. 409,300
Schedule of Programs:
Education and General 926,800

The Legislature authorizes Salt Lake Community College to replace one vehicle for its motor pool.

The Legislature intends that Salt Lake Community College report on the following performance measures for the Education and General line item, whose mission is: "Salt Lake Community College is your community college. We engage and support students in educational pathways leading to successful transfer and meaningful employment":

(1) Underrepresented participation rates by gender and ethnicity (Goal = 33% by 2025); (2) Average published tuition and fees of institutions as a share of the states median household income (Goal = 7%); (3) Percentage of students receiving an award within eight years as reported by IPEDS Outcome Survey (Goal = 23% by 2025); (4) Increase annual first-year to second-year student retention rate as reported by IPEDS (Goal = 60% by 2025); (5) Annual number of degrees and certificates awarded in DWS 4- and 5-star occupation-related programs (Goal = 2,125 by 2025); (6) Annual number of degrees and certificates in elementary and secondary education and mental health professions (Goal = 192 by 2025); (7) Cost per award (Goal = 95% of 5-year rolling HEPI average); (8) Instruction-related classroom space utilization (Goal = Meet or exceed the 22.5 classroom utilization score by 2025) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 243

To Salt Lake Community College - Educationally Disadvantaged

The Legislature intends that Salt Lake Community College report on the following performance measures for the Educationally Disadvantaged line item, whose mission is: "Benefitting disadvantaged students, including minority students, and to be used for scholarships, tutoring, counseling, and related support services for educationally disadvantaged students": (1) Number of Needs-based scholarships awarded (Target = 200), (2) Percentage of needs-based recipients returning (Target = 50%), and (3) Graduation rate of needs based scholarship recipients (Target = 50%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 244

To Salt Lake Community College - School of Applied Technology

The Legislature intends that Salt Lake Community College report on the following performance measures for the School of Applied Technology line item, whose mission is: "Developing innovative, short-term, competency-based education to create a skilled workforce for Salt Lake County and the State of Utah": (1) Membership hours (Target = 350,000), (2) Certificates awarded (Target = 200), and (3) Pass rate for certificate or licensure exams (Target 85%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

STATE BOARD OF REGENTS

Item 245

To State Board of Regents - Administration

The legislature intends that prior to the transfer of appropriations to higher education capital projects funded during the 2019 General Session, the Division of

Facilities and Construction Management shall notify the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee that the higher education institution has: (1) Developed a plan that will utilize the building as designed to meet the Regents classroom utilization standard of 33.75 average hours of instruction per week for spring and fall semesters and the 66.7 percent seat occupancy standard; and (2) Sufficiently addressed capital and operational efficiencies in the design of the building.

The legislature intends, that prior to October 31st, 2019, all Utah System of Higher Education institutions will develop and submit to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee, a plan for achieving the Utah System of Higher Education classroom utilization standards on the main campus of each institution by 2025. Said plan shall include the following: (1) The standard of 33.75 average hours of instruction per week for Spring and Fall semesters; (2) The standard of 66.7 percent seat occupancy in classrooms; and (3) Increasing the summer utilization of classrooms.

The legislature intends that prior to October 31st, 2019, the Higher Education Appropriations Subcommittee and the Utah System of Higher Education will develop a process for allocating future compensation monies on the institutional wage and salary base, based on the prior year performance model results.

The Legislature intends that the State Board of Regents report on the following performance metrics for the Administration line item , whose mission includes: "Support the Board of Regents in all responsibilities" (1) Percent of Utah High School Graduates who enroll in a USHE institution within five years of graduation, (2) For every dollar invested by the state in state tax funds, the corresponding increase in new tax revenue generated, and (3) the total cost per degree and certificates at the system level by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 246

To State Board of Regents - Student Assistance

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Assistance line item, whose mission is: "To process, award, and appropriate student scholarships and financial assistance; including Regents Scholarship, New Century Scholarship, Student Financial Aid, Minority Scholarship, Veterans Tuition Gap Program, Success Stipend, and WICHE": (1) Regents Scholarship (Target = Allocate all

appropriations to qualified students, less overhead), (2) New Century (Target = Allocate all appropriations to qualified students, less overhead); (3) WICHE (Target = Allocate all appropriations to qualified students, less overhead) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 247

To State Board of Regents - Student Support

The Legislature intends that the State Board of Regents report on the following performance measures for the Student Support line item, whose mission is: "Programmatic support for students with special needs, concurrent enrollment, transfer students, and Campus Compact initiatives": (1) Hearing Impaired (Target = Allocate all appropriations to institutions), and (2) Concurrent Enrollment (Target = Increase total student credit hours by 1%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 248

To State Board of Regents - Technology

The legislature intends that prior to October 31st, 2019, the Utah System of Higher Education will develop a plan for migrating core operating systems to cloud computing with provisions for cyber security throughout the system and provide this plan to the Higher Education Appropriations Subcommittee.

The Legislature intends that the State Board of Regents report on the following performance measures for the Technology line item, whose mission is: "Support System-wide information technology and library needs": (1) HETI Group purchases (Target = \$3.7M savings), (2) UALC Database searches (Target = 33.1M searches), and (3) Target = three-year rolling average of 3,549,000 downloads by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 249

To State Board of Regents - Economic Development From Education Fund 5,000,000
Schedule of Programs:

Engineering Initiative 5,000,000

The Legislature intends that the State Board of Regents report on the following performance measures for the Economic Development line item, whose mission is: "Support Engineering Initiative, Engineering Loan Repayment program, and promote economic development initiatives within the state": (1) Engineering Initiative degrees (Target = 6% annual increase), and (2) Engineering Scholarship (Target = Contingent on funding, allocate appropriations to student scholarships, less overhead) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 250

To State Board of Regents - Education Excellence
 From Education Fund 27,000,000
 From Education Fund Restricted -
 Performance Funding Rest. Acct. . . . (3,850,000)
 Schedule of Programs:
 Performance Funding 23,150,000

The Legislature intends that all funds allocated in Fiscal Year 2020 in the performance funding line item be distributed to institutions using the Board of Regents performance funding allocation formula as defined in 53B-7-706 and that the funds may be used by the institutions to support institutional priorities. Any funds not earned by institutions may be utilized by the State Board of Regents on a one-time basis in Fiscal Year 2020 for cyber security needs within the system as determined by the Regents. These ongoing funds will be available for performance funding allocation in the Fiscal Year 2021 budget cycle.

The Legislature intends that the State Board of Regents report on the following performance measures for the Education Excellence line item, whose mission is: "Support the Governors Education Excellence Commission goal of having 66 percent of Utah adult citizens (25-34) having earned a postsecondary degree or certificate by the year 2020": (1) Cumulative awards (Target = 336,950 for 2019-20, (2) Completions (Target = Increase 5 year rolling average by 1%), and (3) 150% Graduation rate (Target = Increase 5 year rolling average by 1%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 251

To State Board of Regents - Math
 Competency Initiative

The Legislature intends that the State Board of Regents report on the following performance measures for the Math Competency line item, whose mission is: "Increase the number of high school students taking QL mathematics": (1) Increase the number of concurrent enrollment math courses available to high school students (Target Increase 5%); (2) Develop web-based tools to oversee CE program (Target = All tools in place by July 1, 2017), and (3) Increase the number of QL students taking math credit through concurrent enrollment (Target = Increase 5%) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 252

To State Board of Regents - Medical
 Education Council

The Legislature intends that the State Board of Regents report on the following performance measures for the Medical Education Council line item, whose mission is: "to conduct health care workforce research, to advise on Utah's health care

training needs, and to influence graduate medical education financing policies.: (1) Graduate medical education growth (Target = 2.2% growth), (2) Retention for residency and fellowship programs (Target = 52%, 35%), and (3) Utah health provider to 100,000 population ratio (Target = 258) by October 15, 2020 to the Higher Education Appropriations Subcommittee.

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 253

To Utah System of Technical Colleges -
 Bridgerland Technical College
 From Education Fund 1,203,500
 From Education Fund, One-Time 156,700
 Schedule of Programs:
 Bridgerland Tech Equipment 522,900
 Bridgerland Technical College 837,300

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Bridgerland Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 254

To Utah System of Technical Colleges -
 Davis Technical College
 From Education Fund 2,055,600
 From Education Fund, One-Time 179,800
 Schedule of Programs:
 Davis Tech Equipment 615,500
 Davis Technical College 1,619,900

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Davis Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 255

To Utah System of Technical Colleges -
 Dixie Technical College
 From Education Fund 903,700
 From Education Fund, One-Time 88,700

Schedule of Programs:
 Dixie Tech Equipment 296,900
 Dixie Technical College 695,500

The Legislature authorizes Dixie Technical College to replace one vehicle and purchase one new vehicle for its motor pool.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Dixie Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 256

To Utah System of Technical Colleges -
 Mountainland Technical College
 From Education Fund 1,888,000
 From Education Fund, One-Time 155,600

Schedule of Programs:
 Mountainland Tech Equipment 535,000
 Mountainland Technical College 1,508,600

The Legislature authorizes Mountainland Technical College to purchase one new vehicle for its motor pool and one new vehicle for its Commercial Drivers License Program.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Mountainland Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 257

To Utah System of Technical Colleges -
 Ogden-Weber Technical College
 From Education Fund 1,368,000
 From Education Fund, One-Time 158,500

Schedule of Programs:

Ogden-Weber Tech Equipment 534,800
 Ogden-Weber Technical College 991,700

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Ogden-Weber Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 258

To Utah System of Technical Colleges -
 Southwest Technical College
 From Education Fund 595,800
 From Education Fund, One-Time 84,900

Schedule of Programs:
 Southwest Tech Equipment 287,100
 Southwest Technical College 393,600

The Legislature authorizes Southwest Technical College to replace one vehicle for its motor pool.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Southwest Technical College line item, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students": (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 259

To Utah System of Technical Colleges -
 Tooele Technical College
 From Education Fund 557,200
 From Education Fund, One-Time 235,100

Schedule of Programs:
 Tooele Tech Equipment 258,000
 Tooele Technical College 534,300

The Legislature authorizes Tooele Technical College to receive a donation of one new bus for its Class B passenger endorsement training program and to purchase one new vehicle for its Commercial Drivers License Program.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Tooele Technical College line item, the mission of which is, “To meet the needs of Utah’s employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students”: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 260

To Utah System of Technical Colleges -
 Uintah Basin Technical College
 From Education Fund 1,159,800
 From Education Fund, One-Time 192,500
 Schedule of Programs:
 Uintah Basin Tech Equipment 349,800
 Uintah Basin Technical College 1,002,500

The Legislature authorizes Uintah Basin Technical College to replace four vehicles in its motor pool.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Uintah Basin Technical College line item, the mission of which is, “To meet the needs of Utah’s employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students”: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

Item 261

To Utah System of Technical Colleges -
 USTC Administration
 From Education Fund (3,387,700)
 Schedule of Programs:
 Administration (1,647,400)
 Custom Fit 659,400
 Equipment (2,399,700)

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Utah System of Technical Colleges Administration line item, the mission of which is, “To meet the needs of Utah’s employers for technically-skilled workers and to promote local and statewide economic development by

providing market-driven technical education to secondary and adult students”: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (3) Graduation rates for all programs; and (4) Certificate-seeking student placement rates, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

The Legislature intends that the Utah System of Technical Colleges report on the following performance measures for the Custom Fit line item, the mission of which is, “To support economic and workforce development through training partnerships between Utah companies and the Utah System of Technical Colleges”: (1) Companies served by Custom Fit training; (2) Trainees served by Custom Fit training; and (3) Hours of instruction provided by Custom Fit, by October 15, 2020 to the Higher Education Appropriations Subcommittee.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 262

To Department of Agriculture and Food -
 Administration
 From General Fund (742,500)
 From Federal Funds (1,600)
 From Federal Funds, One-Time 1,800
 From Dedicated Credits Revenue 109,500
 From Dedicated Credits Revenue,
 One-Time 800,000
 Schedule of Programs:
 Chemistry Laboratory (790,600)
 General Administration 957,800

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Administration line item, whose mission is “Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply:” (1) Sample turnaround time (Target = 12 days), (2) Cost per sample (Target = \$175), and (3) Cost per test (Target = \$35) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 263

To Department of Agriculture and Food -
 Animal Health
 From Federal Funds, One-Time 6,000
 Schedule of Programs:
 Meat Inspection 6,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Animal Health line item, Livestock Inspection Program, whose mission is “to

deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry.” (1) Return of branded estrays to rightful owner within 10 days (Target = 80%); (2) proceeds from sale of estrays returned to rightful owner within one year (Target = 90%); (3) percentage of these CVIs forwarded to receiving states within seven working days after receipt (Target = 100%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 264
To Department of Agriculture and Food - Building Operations

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Building Operations line item, whose mission is “to promote the healthy growth of the Utah agriculture, conserve our natural resources and protect our food supply.” (1) With an aging primary facility the goal is to work with DFCM to maintain the DFCM rates at the current rate of \$7.98 per square foot (Target = 100%), (2) With the Chemistry Lab moving to the Unified Lab #2, the Department will optimize square foot usage by moving individuals currently located in halls and corridors to established work areas (Target 100%), and (3) According to a Tier 1 Seismic evaluation conducted in August of 2015, the William Spry Building does not meet the Life Safety Performance Level for the hazard level. When a structure does not meet this level, the structure may experience failure and/or collapse, risking the lives of those working in the facility. The department will work with DFCM and the Programming Services contractor to complete specifications and justification for a new facility (Target = 100% participation) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 265
To Department of Agriculture and Food - Invasive Species Mitigation

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Invasive Species Mitigation line item, whose mission is “to help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act.” (1) Treated Acres (Target = 30,000), (2) Number of Private, Government, and Other Groups Cooperated (Target = 120), and (3) Number of Utah Watersheds Impacted by Projects (Target =

25) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 266
To Department of Agriculture and Food - Marketing and Development

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Marketing line item, whose mission is “Promoting the healthy growth of Utah agriculture .” (1) Increased web traffic to utahsown.org by the primary shopper (female 25-55) which visits three or more pages (Target = 25% increase from previous year), (2) Marketing dollars spent to create an impression on consumers (Target = \$5 per impression), and (3) Visits to the market news reporting page on ag.utah.gov (Target = 6,000 visits a year) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 267
To Department of Agriculture and Food - Plant Industry

From General Fund	(156,700)
From Federal Funds, One-Time	8,400
From Dedicated Credits Revenue	490,500
Schedule of Programs:	
Grazing Improvement Program	(500,000)
Plant Industry	842,200

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Plant Industry line item, whose mission is “ensuring consumers of disease free and pest free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals.” (1) Pesticide Compound Enforcement Action Rate (Target = 40%), (2) Fertilizer Compliance Violation Rate (Target = 15%), and (3) Seed Compliance Violation Rate (Target = 10%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 268
To Department of Agriculture and Food - Predatory Animal Control

From General Fund	200,000
Schedule of Programs:	
Predatory Animal Control	200,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Predatory Animal Control line item, whose mission is “protecting Utah’s agriculture including protecting livestock, with the majority of the programs efforts directed at protecting adult sheep, lambs and calves from predation.” (1) Decrease the amount of predation on bears (increase count, decrease hours) Target is 68 hours per

bear. (2) Decrease the amount of predation from lions (increase count, decrease hours) Target is 91 hours per lion. (3) Decrease the amount of predation from coyotes (increase count, decrease hours) Target is 24 hours per coyote. Results will be presented by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 269

To Department of Agriculture and Food - Rangeland Improvement
 From Gen. Fund Rest. - Rangeland Improvement Account 500,000
 Schedule of Programs:
 Rangeland Improvement 500,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Rangeland Improvement line item, whose mission is “to improve the productivity, health and sustainability of our rangelands and watersheds.” (1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 150,000), (2) Number of Projects with Water Systems Installed Per Year (Target =70/year), and (3) Number of GIP Projects that Time, Timing, and Intensity Grazing Management to Improve Grazing Operations (Target = To be determined in next few months as previous year’s data is assessed) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 270

To Department of Agriculture and Food - Regulatory Services
 From General Fund 399,200
 From Federal Funds 1,600
 From Federal Funds, One-Time 3,300
 From Dedicated Credits Revenue, One-Time 133,000
 Schedule of Programs:
 Regulatory Services 537,100

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Regulatory Services line item, whose mission is “Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities:” (1) Reduce the number of “two in a row” violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target =25% of current), (2) Reduce the number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 85% compliance), and (3) Reduce the number of observed Temperature Control violations observed by our food program inspectors at retail (Target = 25% improvement) by

October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 271

To Department of Agriculture and Food - Resource Conservation
 From General Fund, One-Time 3,000,000
 From Federal Funds, One-Time 2,500
 Schedule of Programs:
 Resource Conservation 3,002,500

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Resource Conservation line item, whose mission is “for UDAF to assist Utah’s agricultural producers in caring for and enhancing our states vast natural resources:” (1) Agriculture Resource Development Loans to keep the delinquency rates as low as possible, so that funds can be repaid and loaned out again to meet the intent of the program (Target = 2%), (2) Utah Conservation Commission Capital Funds Project will be evaluated by the conservation units divided by costs per project (Target = >Conservation units for Air, soil and water resources), and (3) Increase the average amount and number of ARDL Loans per year by 7% (Target = \$71,917; 31 Loans) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 272

To Department of Agriculture and Food - Utah State Fair Corporation
 From General Fund, One-Time 550,000
 Schedule of Programs:
 State Fair Corporation 550,000

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the State Fair line item, whose mission is “maximize revenue opportunities by establishing strategic partnerships to develop the Fairpark:” (1) Develop new projects on the fair grounds and adjacent properties, create new revenue stream for the Fair Corporation (Target = \$150,000 in new incremental revenue). (2) Annual Fair attendance (Target = 5% increase). (3) Increase Fairpark NET ordinary income (Target = 5% increase over FY 2019) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 273

To Department of Environmental Quality - Air Quality
 From General Fund, One-Time 5,490,000
 From Federal Funds, One-Time 5,463,200
 Schedule of Programs:
 Air Quality 10,953,200

The Legislature intends that the Division of Air Quality report on the following performance measures for the division, whose mission is “to protect public health and the environment from the harmful effects of air pollution:” (1) Percent of facilities inspected that are in compliance with permit requirements (Target = 100%), (2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target = 95%), (3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target = 100%). (4) Per Capita Rate of State-Wide Air Emissions (Target = 0.63) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 274

To Department of Environmental Quality -
 Drinking Water
 From General Fund, One-Time 200,000
 Schedule of Programs:
 Drinking Water 200,000

The Legislature intends that the Division of Drinking Water report on the following performance measures for the division, whose mission is “to cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water:” (1) Percent of population served by Approved public water systems (Target = 99%), (2) Percent of water systems with an Approved rating (Target = 95%), and (3) Number of water borne disease outbreaks (Target = 0) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 275

To Department of Environmental Quality -
 Environmental Response and Remediation
 From Dedicated Credits Revenue,
 One-Time 122,300
 Schedule of Programs:
 Environmental Response and
 Remediation 122,300

The Legislature intends that the Division of Environmental Response and Remediation report on the following performance measures for the division, whose mission is “to protect public health and Utah’s environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies:” (1) Percent of UST facilities in Significant Operational Compliance at time of inspection, and in compliance within 60 days of inspection (Target = 60%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target = 85), (3) Issued

brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target = 20) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 276

To Department of Environmental Quality -
 Executive Director’s Office
 From Federal Funds, One-Time 15,400
 Schedule of Programs:
 Executive Director’s Office 15,400

The Legislature intends that the Department of Environmental Quality, Executive Directors Office report on the following performance measures for the division, whose mission is “safeguarding and improving Utah’s air, land and water through balanced regulation”: (1) Percent of systems within the Department involved in a continuous improvement project in the last year (Target = 100%), (2) Percent of customers surveyed that reported good or exceptional customer service (Target = 90%), and (3) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target = 0 and 100%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 277

To Department of Environmental Quality - Waste Management and Radiation Control
 From Dedicated Credits Revenue,
 One-Time 56,600
 Schedule of Programs:
 Waste Management and
 Radiation Control 56,600

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Waste Management and Radiation Control, whose mission is “to protect human health and the environment by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard”: (1) Percent of x-ray machines in compliance (Target = 90%), (2) Percent of permits issued/modified within set timeframes (Target = 85%), (3) Percent of monitoring inspections completed within set time frame (Target = 100%), (4) Compliance Assistance for Small Businesses (Target = 50 businesses) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 278

To Department of Environmental Quality -
 Water Quality
 From General Fund 200,000
 From General Fund, One-Time (24,300)
 From Federal Funds, One-Time 251,700

From Dedicated Credits Revenue,
 One-Time 49,600
 Schedule of Programs:
 Water Quality 477,000

The Legislature intends that some of the \$500,000 authorized for use on Utah Lake study projects in the Division of Water Quality’s base budget shall be used to evaluate algal treatment concepts for Utah Lake. These funds should be administered through a multi-agency competitive review process.

The Legislature intends that the Department of Environmental Quality report on the following performance measures for the Division of Water Quality, whose mission is “to protect, maintain and enhance the quality of Utah’s surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact”: (1) Percent of permits renewed “On-time”, (Target = 100%), (2) Percent of permit holders in compliance, (Target = 100%), (3) Municipal wastewater effluent quality (mg/L oxygen consumption potential), (Target = 331 mg/L oxygen consumption potential {state average} by 2025) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

GOVERNOR’S OFFICE

Item 279

To Governor’s Office - Office of Energy Development
 From General Fund 10,200
 From Dedicated Credits Revenue,
 One-Time 33,000
 Schedule of Programs:
 Office of Energy Development 43,200

The Legislature intends that the Office of Energy Development, whose mission is “to advance Utah’s energy and minerals economy through energy policy; energy infrastructure and business development; energy efficiency and renewable energy programs; and energy research, education and workforce development,” report on the following performance measures: (1) Private Investment Leveraged (Target = 27.5), (2) Constituents Directly Educated (Target = 32,799), (3) State Energy Program (Target = 586) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF NATURAL RESOURCES

Item 280

To Department of Natural Resources - Administration
 From General Fund 50,000

Schedule of Programs:
 Lake Commissions 50,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR Administration line item, whose mission is “to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah.” (1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), (2) To continue to grow non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), (3) To perform proper and competent financial support according to State guidelines and policies for DNR Administration by reducing the number of adverse audit findings in our quarterly State Finance audit reviews (Target = zero with a trend showing an annual year-over year reduction in findings) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Department of Natural Resources provide recommendations on how to improve policy related to the coordination and process of wildfire decision making and management to the Natural Resources, Agriculture, and Environment Interim Committee by August 31, 2019.

Item 281

To Department of Natural Resources - Building Operations

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Building Operations line item, whose mission is “to properly pay for all building costs of the DNR headquarters located in Salt Lake City.” (1) Despite two aging facilities, we have a goal to request DFCM keep our O&M rates at the current cost of \$4.25 (Target = 100%), (2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), (3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 282

To Department of Natural Resources - Contributed Research

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Contributed Research line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife.” (1) Percentage of mule deer units at or exceeding 90% of their population objective

(Target = 50%), (2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and (3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 283

To Department of Natural Resources -
Cooperative Agreements
From Federal Funds, One-Time 3,227,000
Schedule of Programs:
Cooperative Agreements 3,227,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Cooperative Studies line item, whose mission is "To serve the people of Utah as trustee and guardian of states wildlife:" (1) Aquatic Invasive Species containment - number of public contacts and boat decontaminations (Targets = 175,000 contacts and 2,000 decontaminations), (2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and (3) Number of habitat acres restored annually (Target = 100,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 284

To Department of Natural Resources -
DNR Pass Through
From General Fund, One-Time 1,500,000
Schedule of Programs:
DNR Pass Through 1,500,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Pass Through line item, whose mission is "to carry out pass through requests as directed by the legislature:" (1) To pass funding from legislative appropriations to other entities such as zoos, counties and other public and non-public entities. The goal is to complete these transactions in accordance with legislative direction (Target = 100%), (2) To provide structure and framework to ensure funds are properly spent and keep the costs of auditing and administering these funds at 8% or less of the funding appropriated for pass through (Target = 8%), (3) To complete the project(s) within the established timeframe(s) and budget (Target = 100%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 285

To Department of Natural Resources -
Forestry, Fire and State Lands
From General Fund, One-Time 4,000,000
From General Fund Restricted -
Sovereign Lands Management 500,000

From General Fund Restricted - Sovereign
Lands Management, One-Time 1,900,000
Schedule of Programs:
Project Management 6,400,000

The Legislature intends that the funding for the Catastrophic Wildfire Reduction Strategy and Business Initiative be only expended as a one-to-one match from funding and resources provided by the United States Forest Service.

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Forestry, Fire, and State Lands line item, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors:" (1) Fuel Reduction Treatment Acres (Target = 4,721), (2) Fire Fighters Trained to Meet Standards (Target = 2,343), and (3) Communities With Tree City USA Status (Target = 92) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Division of Forestry, Fire, and State Lands provide an update of the utilization of the \$2 million appropriation for Strategic and Targeted Fire Treatment and Mitigation to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by June 30, 2020.

Item 286

To Department of Natural Resources -
Oil, Gas and Mining
From General Fund, One-Time (1,000,000)
From Gen. Fund Rest. - Oil & Gas
Conservation Account, One-Time ... 1,000,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Oil, Gas, and Mining line item, whose mission is "The Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities:" (1) Timing of Issuing Coal Permits (Target = 100%), (2) Customer Satisfaction from Survey (Target = 4.2), and (3) Well Drilling Inspections without Violations (Target = 100%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 287

To Department of Natural Resources -
Parks and Recreation
From General Fund Restricted -
State Park Fees 2,250,000
From General Fund Restricted -
State Park Fees, One-Time 4,500,000
Schedule of Programs:
Park Operation Management 4,750,000
Support Services 2,000,000

The Legislature intends that the Division of Parks and Recreation report on the following

performance measures for the Operations line item, whose mission is “To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations:” (1) Total Revenue Collections (Target = \$37,000,000), (2) Gate Revenue (Target = \$25,500,000), and (3) Expenditures (Target = \$32,500,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 288

To Department of Natural Resources -
 Parks and Recreation Capital Budget
 From General Fund Restricted - State
 Park Fees, One-Time 12,000,000
 Schedule of Programs:
 Renovation and Development 12,000,000

The Legislature intends that the Division of Parks and Recreation report on the following performance measures for the Capital line item, whose mission is “To enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations:” (1) Donations Revenue (Target = \$115,000), (2) Capital renovation projects completed (Target = 17), and (3) Boating projects completed (Target = 9) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 289

To Department of Natural Resources -
 Species Protection
 From General Fund (300)
 From General Fund Restricted -
 Species Protection 300

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Species Protection line item, whose mission is “To eliminate the need in Utah for federal regulatory intervention and oversight associated with the Endangered Species Act:” (1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year), (2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and (3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 290

To Department of Natural Resources -
 Utah Geological Survey
 From General Fund 100,000
 From Dedicated Credits Revenue,
 One-Time 314,700
 Schedule of Programs:
 Energy and Minerals 241,800

Geologic Hazards 49,000
 Geologic Information and Outreach 105,200
 Ground Water 18,700

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Utah Geological Survey line item, whose mission is “to provide timely, scientific information about Utah’s geologic environment, resources, and hazards:” (1) Total number of individual item views in the UGS GeoData Archive (Target = 300,000), (2) Total number of website user requests/queries to UGS interactive map layers (Target = 7,000,000), (3) Total external revenue collected for the division (Target = \$2,000,000), and (4) The number of workshops held at the Utah Core Research Center (Target = 15) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 291

To Department of Natural Resources -
 Water Resources
 From General Fund 90,000
 From Water Resources Conservation
 and Development Fund,
 One-Time 2,154,000
 Schedule of Programs:
 Planning 2,244,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources line item, whose mission is to “plan, conserve, develop and protect Utah’s water resources:” (1) Water conservation and development projects funded (Target = 15), (2) Reduction of per capita M&I water use (Target = 25%), and (3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 292

To Department of Natural Resources -
 Water Rights

The Legislature intends that the Division of Water Rights report on the following performance measures for the Division of Water Rights line item, whose mission is “to promote order and certainty in the beneficial use of public water:” (1) Timely Application processing (Target = 80 days for uncontested applications), (2) Use of technology to provide information (Target = 1500 unique web users per month), and (3) Parties that have been noticed in comprehensive adjudication (Target = 20,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 293

To Department of Natural Resources - Watershed
 From General Fund (1,700,000)

From General Fund, One-Time 4,700,000
 From General Fund Restricted -
 Sovereign Lands Management (2,300)
 Schedule of Programs:
 Watershed 2,997,700

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Watershed line item, whose mission is the “rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs:” (1) Number of acres treated (Target = 100,000 acres per year), (2) Ratio of DNR funds to partner contributions (Target = 9), and (3) Miles of stream and riparian areas restored (Target = 175 miles) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 294

To Department of Natural Resources -
 Wildlife Resources
 From Federal Funds, One-Time 1,387,600
 From General Fund Restricted -
 Boating 405,000
 From General Fund Restricted -
 Wildlife Resources 120,000
 Schedule of Programs:
 Law Enforcement 405,000
 Wildlife Section 1,507,600

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Operations line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Number of people participating in hunting and fishing in Utah (Target = 700,000 anglers and 320,000 hunters), (2) Percentage of law enforcement contacts without a violation (Target = 95%), and (3) Number of participants at DWR shooting ranges (Target = 85,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 295

To Department of Natural Resources -
 Wildlife Resources Capital Budget
 From Federal Funds, One-Time 850,000
 Schedule of Programs:
 Fisheries 850,000

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildlife Resources Capital Facilities line item, whose mission is “To serve the people of Utah as trustee and guardian of states wildlife:” (1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motor Boat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 296

To Public Lands Policy Coordinating Office
 From General Fund, One-Time 87,100
 From General Fund Restricted -
 Constitutional Defense, One-Time 112,900
 Schedule of Programs:
 Public Lands Policy Coordinating
 Office 200,000

The Legislature intends that the Public Lands Policy Coordinating Office receive the \$112,900 appropriated in FY 2020 from the Constitutional Defense Restricted Account before other appropriations from the account are proportionally distributed.

The Legislature intends that the Public Lands Policy Coordinating Office report on the following performance measures for the PLPCO line item, whose mission is “to preserve and defend rights to access, use and benefit from public lands within the State”: (1) County Customer Service Percentage of Utah Counties which reported PLPCOs work as “very good” (Target = 70%), (2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as good” (Target = 70%), (3) Percentage of Administrative comments and legal filings prepared and submitted in a timely manner (Target = 70%) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

The Legislature intends that the Public Lands Policy Coordinating Office present proposed draft language for a Utah-specific roadless rules to the Natural Resources, Agriculture, and Environment Interim Committee by August 31, 2019.

**SCHOOL AND INSTITUTIONAL
 TRUST LANDS ADMINISTRATION**

Item 297

To School and Institutional Trust
 Lands Administration
 From Trust and Agency Funds 346,300
 Schedule of Programs:
 Director 300,000
 Surface 46,300

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Operations line item, whose mission is “to generate revenue in the following areas by leasing and administering trust parcels:” (1) Oil and Gas gross revenue (Target = \$40,000,000), (2) Mining gross revenue (Target = \$6,670,000), and (3) Surface gross revenue (Target = \$13,340,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 298

To School and Institutional Trust
 Lands Administration - Land
 Stewardship and Restoration
 From Trust and Agency Funds (346,300)
 Schedule of Programs:
 Land Stewardship and
 Restoration (346,300)

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Stewardship line item, whose purpose is “to mitigate damages to trust parcels or preserve the value of the asset by preventing degradation:” (1) Mitigation, facilitation of de-listing or preventing the listing of sensitive species such as Sage Grouse, Penstemon and the Utah Prairie Dog (Target = \$200,000), (2) Fire rehabilitation on trust parcels (Target = up to \$600,000), (3) Rehabilitation of trust parcels near Beaver Mountain, i.e, planting seedlings and other activities related to forest management (Target = \$40,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 299

To School and Institutional Trust Lands
 Administration - School and Institutional Trust
 Lands Administration Capital
 From Trust and Agency Funds,
 One-Time 4,000,000
 Schedule of Programs:
 Capital 4,000,000

The Legislature intends that the School and Institutional Trust Lands Administration report on the following performance measures for the Development Capital line item, whose mission is “Administering trust lands prudently and profitably for Utah’s schoolchildren and other trust beneficiaries”: (1) Expend capital for infrastructure for the Desert Color project in the South Block in Washington County (Target = \$1,500,000), (2) Produce higher revenues than the historical Planning and Development group average (Target => \$14,590,000), (3) Begin infrastructure expenditures at Lionsback in Grand County (Target = \$4,000,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

**RETIREMENT AND
 INDEPENDENT ENTITIES**

**UTAH EDUCATION AND
 TELEHEALTH NETWORK**

Item 300

To Utah Education and Telehealth Network
 From Education Fund (12,300)
 From Education Fund, One-Time 5,047,300
 Schedule of Programs:
 Administration (375,000)

Technical Services 3,810,000
 Utah Futures 1,600,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 301

To Capitol Preservation Board
 From General Fund, One-Time 111,100,000
 Schedule of Programs:
 Capitol Preservation Board 111,100,000

The Legislature intends that the Capitol Preservation Board and Division of Facilities Construction Management, in consultation with the Governor’s Office of Management and Budget and Legislative Fiscal Analyst, use up to \$250,000 of the funds appropriated in this item to develop a long-term plan that addresses space needs for the Department of Agriculture, Department of Heritage and Arts, and agencies residing on Capitol Hill. The plan must increase utilization of buildings statewide to accommodate the needs of the above agencies, reduce traffic and congestion on Capitol Hill, ameliorate the negative impacts of street parking in Capitol Hill neighborhoods, replace the State Office Building with a smaller, more energy efficient building that provides public access to state art and history collections, and constructs any additional space necessary off Capitol Hill in such a manner that new construction maximizes access to mass transit, minimizes commute times, and reduces congestion and associated vehicle emissions. The Legislature further intends that the Division of Finance not release amounts appropriated by this item in excess of \$200,000 until the above plan has been presented to the Governor, Capitol Preservation Board, and Executive Appropriations Committee.

LEGISLATURE

Item 302

To Legislature - Senate
 From General Fund 129,400
 Schedule of Programs:
 Administration 129,400

Item 303

To Legislature - House of Representatives
 From General Fund 136,200
 Schedule of Programs:
 Administration 136,200

Item 304

To Legislature - Legislative Printing
 From General Fund 10,200
 Schedule of Programs:
 Administration 10,200

Item 305

To Legislature - Office of Legislative
 Research and General Counsel
 From General Fund 275,700
 From General Fund, One-Time 1,315,500
 Schedule of Programs:
 Administration 1,591,200

Item 306

To Legislature - Office of the Legislative
 Fiscal Analyst
 From General Fund 104,500
 Schedule of Programs:
 Administration and Research 104,500

Legislature intends that, when preparing the Fiscal Year 2021 base budget and compensation bills, the Legislative Fiscal Analyst shall include in the compensation bill a 75% General Fund-Education Fund / 25% Dedicated Credits mix for each Education and General line item and other instructional line items containing General Fund, Education Fund, and Dedicated Credits, with the exception that the Salt Lake Community College School of Applied Technology line item shall include 100% General Fund-Education Fund. The Legislature also intends that the Legislative Fiscal Analyst shall include in the compensation bill for the Utah System of Technical Colleges 100% General Fund-Education Fund.

The Legislature intends that the Legislative Fiscal Analyst report to the Executive Appropriations Committee before December 2019 on progress made during the 2019 Interim toward addressing General Fund revenue growth sustainability. In so doing, the Legislative Fiscal Analyst shall recommend to the Legislature FY 2020 one-time appropriations that might be included as ongoing in FY 2021 base budgets.

Item 307

To Legislature - Office of the Legislative
 Auditor General
 From General Fund 282,100
 Schedule of Programs:
 Administration 282,100

Item 308

To Legislature - Legislative Services
 From General Fund 129,900
 Schedule of Programs:
 Human Resources 89,400
 Administration 40,500

UTAH NATIONAL GUARD

Item 309

To Utah National Guard
 From General Fund, One-Time 200,000
 Schedule of Programs:
 Tuition Assistance 200,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 310

To Department of Veterans and Military Affairs -
 Veterans and Military Affairs
 From General Fund, One-Time 700,000
 Schedule of Programs:
 Administration 200,000
 Outreach Services 500,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 311

To Governor's Office - Crime Victim
 Reparations Fund
 From Dedicated Credits Revenue 42,000
 Schedule of Programs:
 Crime Victim Reparations Fund 42,000

Item 312

To Governor's Office - State Elections
 Grant Fund
 From Federal Funds, One-Time 2,055,500
 Schedule of Programs:
 State Elections Grant Fund 2,055,500

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 313

To Department of Agriculture and Food -
 Salinity Offset Fund

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Colorado River Basin Salinity Control Program, whose mission is to "reduce salinity in the Colorado River and its tributaries and encourage improved irrigation practices:" (1) Cost Per Ton of Salt Controlled (Target = \$60 / ton for canal improvement and \$80 / ton for on farm irrigation improvements), (2) Put available funding to reduce salinity (Target = 85% of available funds put into on-the-ground projects), and (3) Process all grant documents including payments within 3 days (Target = 98% of documents processed by program manager in 3 days on average) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 314

To Department of Environmental Quality -
 Hazardous Substance Mitigation Fund
 From Dedicated Credits Revenue,
 One-Time 17,600
 Schedule of Programs:

Hazardous Substance Mitigation Fund .. 17,600

Item 315

To Department of Environmental Quality -
Waste Tire Recycling Fund

The Legislature intends that the Department of Environmental Quality report on the following performance measure for the Waste Tire Recycling fund, whose funding shall be used “for partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund”: (1) Number of Waste Tires Cleaned-Up (Target = 40,000) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF NATURAL RESOURCES

Item 316

To Department of Natural Resources -
Wildland Fire Suppression Fund

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Wildland Fire Suppression Fund line item managed by the Division of Forestry, Fire, and State Lands, whose mission is “to manage, sustain, and strengthen Utah’s forests, range lands, sovereign lands and watersheds for its citizens and visitors:” (1) Non-federal wildland fire acres burned (Target = 18,253), (2) Human-caused wildfire rate (Target = 56%), and (3) Number of counties and municipalities participating with the Utah Cooperative Wildfire system (Target = all 29 counties, and an annual year-over increase in the number of participating municipalities) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 317

To Attorney General - ISF - Attorney General

From General Fund 766,200
From Dedicated Credits Revenue 10,409,500
Schedule of Programs:
ISF - Attorney General 11,175,700
Budgeted FTE 63.0

UTAH DEPARTMENT OF CORRECTIONS

Item 318

To Utah Department of Corrections -
Utah Correctional Industries
From Dedicated Credits Revenue 656,500
Schedule of Programs:
Utah Correctional Industries 656,500

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 319

To Department of Administrative Services Internal
Service Funds - Division of
Facilities Construction and
Management - Facilities Management
Budgeted FTE 2.0
Authorized Capital Outlay 10,700

Item 320

To Department of Administrative Services Internal
Service Funds - Division of Finance
From Dedicated Credits Revenue (801,400)
Schedule of Programs:
ISF - Consolidated Budget and
Accounting (801,400)
Budgeted FTE (18.0)

Item 321

To Department of Administrative Services Internal
Service Funds - Division of Fleet Operations
From Dedicated Credits Revenue 801,400
Schedule of Programs:
Transactions Group 801,400
Budgeted FTE 16.0

Item 322

To Department of Administrative Services Internal
Service Funds - Risk Management
Authorized Capital Outlay (230,000)

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 323

To Department of Agriculture and Food -
Agriculture Loan Programs

The Legislature intends that the Department of Agriculture and Food report on the following performance measures for the Agriculture Loan Programs line item, whose mission is “To serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility:” (1) Default rate - To keep our default rate lower than

average bank default rates of 3% in our annual fiscal year. (Target = 2% or less), (2) Loan Process Time - Reduce the loan process time from start to finish with increased communication with the borrower. (Target = 20%), and (3) Investigate and initiate acceptance and use of electronic documents - Electronic documentation has been proven to be: quicker, less expensive, of higher quality, and easier to maintain and store (Target = 100% use) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 324

To Department of Environmental Quality - Water Development Security Fund - Drinking Water From Federal Funds, One-Time 1,200,000
Schedule of Programs:
Drinking Water 1,200,000

DEPARTMENT OF NATURAL RESOURCES

Item 325

To Department of Natural Resources - Internal Service Fund

The Legislature intends that the Department of Natural Resources report on the following performance measures for the DNR ISF line item, whose mission is "to provide a convenient and efficient low cost source of uniforms and supplies for DNR employees and programs:" (1) The number of complaints received by the director overseeing warehouse operations (Target = zero with a trend showing an annual year-over year reduction in complaints), (2) The number of uniform items sold (Target = 10,000), (3) To adjust rates such that retained earnings are within plus or minus 5% of annual revenues (Target = plus or minus 5% of revenues) by October 31, 2020 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Item 326

To Department of Natural Resources - Water Resources Revolving Construction Fund

The Legislature intends that the Department of Natural Resources report on the following performance measures for the Water Resources Revolving Construction Fund line item, whose mission is to "plan, conserve, develop and protect Utah's water resources:" (1) Dam Safety minimum standards upgrade projects funded per fiscal year (Target = 2), (2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and (3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2100) by October 31, 2020 to the Natural Resources, Agriculture, and

Environmental Quality Appropriations Subcommittee.

RETIREMENT AND INDEPENDENT ENTITIES

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 327

To Department of Human Resource Management - Human Resources Internal Service Fund
Budgeted FTE 3.0

Subsection 2(d). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 328

To General Fund Restricted - Fire Academy Support Account
From General Fund (4,200,000)
From General Fund, One-Time 4,200,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 329

To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund (27,000,000)
From General Fund, One-Time 25,000,000
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance (2,000,000)

Item 330

To General Fund Restricted - Workforce Development Restricted Account
From General Fund (2,448,000)
Schedule of Programs:
Workforce Development Restricted Account (2,448,000)

SOCIAL SERVICES

Item 331

To Medicaid Expansion Fund
From General Fund, One-Time (4,900,000)
From Expendable Receipts 298,000
Schedule of Programs:
Medicaid Expansion Fund (4,602,000)

Item 332

To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue 393,700
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 393,700

Item 333

To General Fund Restricted - Children's Hearing Aid Program Account

From General Fund 191,600
 Schedule of Programs:
 General Fund Restricted - Children's
 Hearing Aid Account 191,600

Item 334

To General Fund Restricted - Homeless Account
 From General Fund 900,000
 Schedule of Programs:
 General Fund Restricted - Pamela
 Atkinson Homeless Account 900,000

Item 335

To General Fund Restricted - Medicaid
 Restricted Account
 From General Fund, One-Time 4,900,000
 Schedule of Programs:
 Medicaid Restricted Account 4,900,000

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

Item 336

To General Fund Restricted -
 Rangeland Improvement Account
 From General Fund 500,000
 Schedule of Programs:
 General Fund Restricted -
 Rangeland Improvement Account 500,000

EXECUTIVE APPROPRIATIONS

Item 337

To West Traverse Sentinel Landscape Fund
 From General Fund, One-Time 1,000,000
 Schedule of Programs:
 West Traverse Sentinel Landscape
 Fund 1,000,000

Subsection 2(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

Item 338

To General Fund
 From Nonlapsing Balances -
 Debt Service 12,987,000
 Schedule of Programs:
 General Fund, One-time 12,987,000

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**INFRASTRUCTURE AND
GENERAL GOVERNMENT**

CAPITAL BUDGET

Item 339

To Capital Budget - Capital Development Fund

From General Fund (40,000,000)
 From Education Fund, One-Time . . . 112,395,100
 Schedule of Programs:
 Capital Development Fund 72,395,100

Item 340

To Capital Budget - DFCM Prison Project Fund
 From General Fund (110,000,000)
 From General Fund, One-Time 110,000,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2019.

CHAPTER 408**S. B. 4**

Passed March 12, 2019
Approved March 27, 2019
Effective July 1, 2019

**PUBLIC EDUCATION
BUDGET ADJUSTMENTS**

Chief Sponsor: Lyle W. Hillyard
House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill supplements or reduces appropriations previously provided for the support and operation of public education for the fiscal year beginning July 1, 2018, and ending June 30, 2019, and for the fiscal year beginning July 1, 2019, and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- ▶ sets the value of the weighted pupil unit (WPU) at \$3,532 for fiscal year 2020;
- ▶ adjusts the number of weighted pupil units to reflect anticipated student enrollment in fall 2019;
- ▶ provides appropriations for other purposes as described;
- ▶ amends and enacts provisions related to certain appropriations for public education, including appropriations for:
 - charter schools;
 - the Enhancement for At-Risk Students Program; and
 - rural school district transportation;
- ▶ makes technical and conforming changes; and
- ▶ provides intent language.

Monies Appropriated in this Bill:

This bill appropriates \$7,462,500 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$7,062,500 from the Education Fund; and
- ▶ \$400,000 from various sources as detailed in this bill.

This bill appropriates \$363,373,200 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$613,000 from the General Fund;
- ▶ \$5,000,000 from the Uniform School Fund;
- ▶ \$142,618,100 from the Education Fund; and
- ▶ \$215,142,100 from various sources as detailed in this bill.

This bill appropriates \$31,680,600 in restricted fund and account transfers for fiscal year 2020, all of which is from the Education Fund.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53F-2-301.5, as enacted by Laws of Utah 2018, Chapter 456
- 53F-2-306, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-403, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-410, as last amended by Laws of Utah 2018, Chapters 117, 165, 396 and renumbered and amended by Laws of Utah 2018, Chapter 2
- 53F-2-414, as enacted by Laws of Utah 2018, Chapter 464

ENACTS:

- 53F-2-415, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 53F-2-520, (Renumbered from 53F-5-211, as enacted by Laws of Utah 2018, Chapter 441)

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-301.5 is amended to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to \$75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, ~~[2018, is \$408,073,800]~~ 2019, is \$490,684,600 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, ~~[2018, is .001498]~~ 2019, is .001588.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, ~~[2018, is \$18,650,000]~~ 2019, is \$18,800,000 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, ~~[2018, is .000069]~~ 2019, is .000061.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the

current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 2. Section 53F-2-306 is amended to read:

53F-2-306. Weighted pupil units for small school district administrative costs -- Appropriation for charter school administrative costs.

(1) Administrative costs weighted pupil units are computed for a small school district and distributed to the small school district in accordance with the following schedule:

Administrative Costs Schedule

School District Enrollment as of October 1	Weighted Pupil Units
1 - 500 students	95
501 - 1,000 students	80
1,001 - 2,000 students	70
2,001 - 5,000 students	60

(2) (a) Except as provided in Subsection (2)(b), money appropriated to the State Board of Education for charter school administrative costs shall be distributed to charter schools in the amount of \$100 for each charter school student in enrollment.

(b) (i) If money appropriated for charter school administrative costs is insufficient to provide the amount per student prescribed in Subsection (2)(a), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(ii) If the State Board of Education makes adjustments to Minimum School Program allocations under Section 53F-2-205, the allocation provided in Subsection (2)(b)(i) shall be determined after adjustments are made under Section 53F-2-205.

(iii) For fiscal year 2020, the state board shall distribute \$40,000 to each charter school that enrolls fewer than 400 students.

(c) Charter school governing boards are encouraged to identify and use cost-effective methods of performing administrative functions, including contracting for administrative services with the State Charter School Board as provided in Section 53G-5-202.

(3) Charter schools are not eligible for funds for administrative costs under Subsection (1).

Section 3. Section 53F-2-403 is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades seven through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the State Board of Education for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of

their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the State Board of Education, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The State Board of Education shall distribute transportation money to school districts based on:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) a minimum allocation for each school district eligible for transportation funding.

(b) The State Board of Education shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(c) The State Board of Education shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and State Board of Education employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

~~[(7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002 per dollar of taxable value of the school district's board local levy imposed under Section 53F-8-302 to pay for transporting students and for the replacement of school buses, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.]~~

~~[(ii) The State Board of Education's employees shall distribute the state contribution according to rules enacted by the State Board of Education.]~~

~~[(b) (i) The amount of state guarantee money that a school district would otherwise be entitled to receive under Subsection (7)(a) may not be reduced for the sole reason that the school district's levy is~~

reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation.]

[(ii) Subsection (7)(b)(i) applies for a period of two years following the change in the certified tax rate.]

Section 4. Section 53F-2-410 is amended to read:

53F-2-410. Enhancement for At-Risk Students Program.

(1) (a) Subject to Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate \$1,500,000 from the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students at risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall:

(a) use the following criteria:

(i) low performance on statewide assessments described in Section 53E-4-301;

(ii) poverty;

(iii) mobility;

(iv) limited English proficiency;

(v) chronic absenteeism; and

(vi) homelessness;

(b) ensure that the distribution formula distributes money on a per student and per criterion basis; and

(c) ensure that the distribution formula provides funding for each criterion that a student meets such that a student who meets:

(i) one criterion is counted once; and

(ii) more than one criterion is counted for each criterion the student meets up to three criteria.

(3) Subject to future budget constraints, the amount appropriated for the Enhancement for At-Risk Students Program shall increase annually ~~[with growth in the at-risk student population and]~~ based on:

(a) a student growth adjustment that is the higher of:

(i) the percentage of enrollment growth of students in kindergarten through grade 12; or

(ii) the percentage of enrollment growth of students in the combined three highest at-risk student criteria categories described in Subsection (2)(a); and

(b) changes to the value of the weighted pupil unit as defined in Section ~~[53F-9-305]~~ 53F-4-301.

(4) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure including addressing truancy.

(5) The State Board of Education shall:

(a) develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program~~[-];~~ and

(b) annually determine the three highest at-risk student criteria categories described in Subsection (2)(a).

(6) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

(7) During the fiscal year that begins July 1, 2022, the Public Education Appropriations Subcommittee shall evaluate:

(a) the impact of funding provided in this section to determine whether the funding has improved educational outcomes for students who are at-risk for academic failure; and

(b) whether the funding should continue as established, be amended, or be consolidated in the value of the weighted pupil unit.

Section 5. Section 53F-2-414 is amended to read:

53F-2-414. Review of related to basic school programs.

(1) No later than November 30, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations on each program in the related to basic school programs described in Subsection (3);

(b) adopt a review schedule going forward for each program described in Subsection (3), placing a program on a schedule to review annually or every four years; and

(c) review annually or every four years each program according to the schedule adopted under Subsection (1)(b).

(2) For a related to basic school program that is not listed in Subsection (3) and is adopted by the Legislature after January 1, 2018, the Public Education Appropriations Subcommittee shall:

(a) review and make recommendations for the program in the program's initial year of implementation;

(b) adopt a review schedule going forward for the program, placing the program on a schedule to review annually or every four years; and

(c) review annually or every four years the program according to the schedule adopted under Subsection (2)(b).

(3) The programs subject to review under Subsection (1) are the following:

(a) the state-supported transportation program described in Section 53F-2-403;

~~(b) the state contribution guarantee program for transportation described in Section 53F-2-403;~~

(e) (b) the weighted pupil unit flexibility allocations described in Section 53F-2-205;

~~(d)~~ (c) the Enhancement for At-Risk Students Program described in Section 53F-2-410;

(e) (d) the youth in custody program described in Section 53E-3-503;

~~(f)~~ (e) the adult education program described in Title 53E, Chapter 10, Part 2, Adult Education;

~~(g)~~ (f) the Enhancement for Accelerated Students Program described in Section 53F-2-408;

~~(h)~~ (g) the Centennial Scholarship Program described in Section 53F-2-501;

~~(i)~~ (h) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3, Concurrent Enrollment;

(j) (i) the Title I Schools Paraeducators Program described in Section 53F-2-411;

~~(k)~~ (j) the School LAND Trust Program described in Section 53F-2-404;

(l) (k) the charter school local replacement funding program described in Section 53F-2-702;

~~(m)~~ (l) the charter school administration allocations described in Section 53F-2-306;

~~(n)~~ (m) the K-3 Reading Improvement Program described in Section 53F-2-503;

~~(o)~~ (n) the educator salary adjustments described in Section 53F-2-405;

~~(p)~~ (o) the Teacher Salary Supplement Program described in Section 53F-2-504;

~~(q)~~ (p) the school library books and electronic resources appropriation described in Section 53F-2-407;

~~(r)~~ (q) the matching appropriation for school nurses described in Section 53F-2-519;

~~(s)~~ (r) the Critical Languages Program described in Section 53F-2-516;

~~(t)~~ (s) the Dual Language Immersion Program described in Section 53F-2-502;

~~(u)~~ (t) the Utah Science Technology and Research (USTAR) Initiative Centers Program described in Section 53F-2-505;

~~(v)~~ (u) the Beverley Taylor Sorenson Elementary Arts Learning Program described in Section 53F-2-506;

~~(w)~~ (v) the early intervention program described in Section 53F-2-507; and

~~(x)~~ (w) the Digital Teaching and Learning Grant Program described in Section 53F-2-510.

Section 6. Section 53F-2-415 is enacted to read:

53F-2-415. Rural school district transportation grants.

(1) Subject to legislative appropriations and Subsection (2), the state board shall award a grant for a school district to provide:

(a) transportation to students who are not eligible for state-supported transportation under Section 53F-2-403;

(b) transportation for students to and from student activities and field trips; or

(c) replacement school buses.

(2) The state board may only award a grant described in Subsection (1) to a school district that:

(a) qualifies for transportation money under Section 53F-2-403;

(b) is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501;

(c) provides matching money, from the school district's board local levy described in Section 53F-8-302, in an amount equal to the grant the school district receives from the state board under this section; and

(d) dedicates the total grant and matching money to a transportation purpose described in Subsection (1).

(3) The state board shall determine the amount of a grant to award a school district based on the prior-year miles traveled for purposes described in Subsections (1)(a) and (b).

(4) The state board shall make rules to establish, for a grant described in this section, procedures for:

(a) a school district to apply for a grant; and

(b) awarding a grant.

Section 7. Section 53F-2-520, which is renumbered from Section 53F-5-211 is renumbered and amended to read:

[53F-5-211]. 53F-2-520. Rural school transportation reimbursement.

(1) As used in this section:

(a) "Eligible [school] LEA" means a [district] school district or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501; and

(ii) in which at least 65% of the students enrolled in the school district or charter school qualify for free or reduced price lunch[; and (iii) that].

- (b) "Eligible school" means a school:
 - (i) in an eligible LEA; and
 - (ii) that the eligible LEA has provided transportation to and from ~~the school~~ for a regular school day for students for at least five years.
- ~~[(b) "Local board"] (c) "LEA governing board" means:~~
 - (i) ~~[for a school district,]~~ the local school board of a school district that is an eligible LEA; or
 - (ii) ~~[for a charter school,]~~ the charter school governing board of a charter school that is an eligible LEA.
- (2) ~~[A local]~~ An LEA governing board may annually submit a request to the State Board of Education to receive reimbursement for an expense that:
 - (a) the ~~[local]~~ LEA governing board incurs transporting a student to or from an eligible school for the regular school day; and
 - (b) the ~~[local]~~ LEA governing board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the State Board of Education shall reimburse ~~[a local school]~~ an LEA governing board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the State Board of Education may reduce ~~[a local school]~~ an LEA governing board's reimbursement in accordance with the rules described in Subsection (4).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:

- (a) requirements for information ~~[a local school]~~ an LEA governing board shall include in a reimbursement request described in Subsection (2);
- (b) a deadline by which ~~[a local school]~~ an LEA governing board shall submit a request described in Subsection (2); and
- (c) a formula for reducing ~~[a local school]~~ an LEA governing board's allocation under Subsection (3).
- (5) Nothing in this section affects a school district's allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

Section 8. Fiscal year 2019 appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 8(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the

Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 1 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-time 4,167,500

Schedule of Programs:

Flexible Allocation -
WPU Distribution (76,800)

Educator Salary Adjustments 4,300,000

Early Graduation from Competency-
Based Education (55,700)

STATE BOARD OF EDUCATION

Item 2 To State Board of Education - Initiative Programs

From Education Fund, One-time 2,895,000

Schedule of Programs:

Contracts and Grants 2,895,000

Item 3 To State Board of Education - State Administrative Office

From Nonlapsing Balances - MSP -
Related to Basic Program, One-time 400,000

Schedule of Programs:

Information Technology 400,000

The Legislature intends that the State Board of Education use up to \$400,000 in nonlapsing balances in the Minimum School Program - Related to Basic School Program to implement an online reporting platform for student transportation data.

Section 9. Fiscal year 2020 appropriations -- Value of the weighted pupil unit.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

(2) The value of each weighted pupil unit (WPU) for fiscal year 2020 is increased from the value of the WPU for fiscal year 2020 established in S.B. 1, Public Education Base Budget Amendments, and set at \$3,532.

Subsection 9(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

PUBLIC EDUCATION**STATE BOARD OF EDUCATION -
MINIMUM SCHOOL PROGRAM**Item 4 To State Board of Education - Minimum
School Program - Basic School Program

<u>From Education Fund</u>	<u>102,511,800</u>
<u>From Uniform School Fund</u>	<u>5,000,000</u>
<u>From Local Revenue</u>	<u>46,643,500</u>

Schedule of Programs:

<u>Kindergarten (894 WPU's)</u>	<u>6,772,100</u>
<u>Grades 1 - 12 (6,429 WPU's)</u>	<u>104,019,900</u>
<u>Foreign Exchange</u>	<u>44,900</u>
<u>Necessarily Existent Small Schools (142 WPU's)</u>	<u>1,815,000</u>
<u>Professional Staff (374 WPU's)</u>	<u>8,930,600</u>
<u>Administrative Costs (-15 WPU's)</u>	<u>153,200</u>
<u>Special Education - Add-on (1,875 WPU's)</u>	<u>17,476,100</u>
<u>Special Education - Preschool (127 WPU's)</u>	<u>1,962,700</u>
<u>Special Education - Self-Contained (-183 WPU's)</u>	<u>1,267,500</u>
<u>Special Education - Extended School Year (5 WPU's)</u>	<u>78,900</u>
<u>Special Education - Impact Aid (21 WPU's)</u>	<u>350,300</u>
<u>Special Education - Intensive Services (8 WPU's)</u>	<u>134,900</u>
<u>Special Education - Extended Year for Special Educators</u>	<u>124,500</u>
<u>Career and Technical Education - Add-on (-60 WPU's)</u>	<u>3,736,600</u>
<u>Class Size Reduction (457 WPU's)</u>	<u>7,288,100</u>

(1) (a) The Legislature intends that the State Board of Education study the Necessarily Existent Small Schools distribution formula, including:

(i) the recalculation of the regression formulas used to distribute program weighted pupil units;

(ii) ways to address the unique needs of geographically isolated schools;

(iii) school size limits identified in statute; and

(iv) school qualification requirements.

(b) The Legislature further intends that the State Board of Education report to the Public Education Appropriations Subcommittee, regarding the study described in Subsection (1)(a), with:

(i) a progress update on or before October 31, 2019; and

(ii) a final report on or before October 31, 2020.

(2) The Legislature intends that the State Board of Education, in conjunction with the local education agencies (LEAs), report on or before January 31, 2020, to the Public Education Appropriations Subcommittee on per pupil expenditures on operations as defined by the State Board of Education for each LEA and each school within the LEA in fiscal year 2019.

Item 5 To State Board of Education - Minimum
School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>34,837,400</u>
<u>From Education Fund, One-time</u>	<u>(55,700)</u>
<u>From Education Fund Restricted - Charter School Levy Account</u>	<u>3,091,400</u>
<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>8,663,100</u>

Schedule of Programs:

<u>Pupil Transportation To and From School</u>	<u>7,125,700</u>
<u>Guarantee Transportation Program</u>	<u>(500,000)</u>
<u>Enhancement for At-Risk Students</u>	<u>6,761,500</u>
<u>Youth in Custody</u>	<u>510,400</u>
<u>Adult Education</u>	<u>683,300</u>
<u>Enhancement for Accelerated Students</u>	<u>264,200</u>
<u>Centennial Scholarship Program</u>	<u>19,300</u>
<u>Concurrent Enrollment</u>	<u>566,500</u>
<u>School LAND Trust Program</u>	<u>8,663,100</u>
<u>Charter School Local Replacement</u>	<u>16,516,300</u>
<u>Charter School Administration</u>	<u>131,600</u>
<u>Early Literacy Program</u>	<u>(450,000)</u>
<u>Educator Salary Adjustments</u>	<u>4,300,000</u>
<u>Beverly Taylor Sorenson Elementary Arts Learning Program</u>	<u>1,000,000</u>
<u>Early Graduation from Competency-Based Education</u>	<u>(55,700)</u>
<u>Rural School Transportation Grants</u>	<u>1,000,000</u>

(1) The Legislature intends that the State Board of Education use up to \$445,800 in nonlapsing balances in the Minimum School Program - Related to Basic School Programs, Charter School Administration and Charter School Local Replacement programs to provide, for fiscal year 2020, \$40,000 to each charter school that enrolls fewer than 400 students.

(2) The Legislature intends that, to address the two-year data lag, the State Board of Education

distribute \$4,000,000 appropriated in fiscal year 2020 to the Minimum School Program - Charter School Local Replacement program to charter schools using a formula that distributes funding on an equal per student basis.

(3) (a) The Legislature intends that the State Board of Education develop a methodology to calculate the Charter School Local Replacement formula, using one-year and two-year data estimates instead of reported data, to eliminate the two-year data lag.

(b) The Legislature further intends that the State Board of Education:

(i) consult with the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst in developing the methodology described in Subsection (3)(a); and

(ii) report on or before October 31, 2019, to the Public Education Appropriations Subcommittee the methodology developed under Subsection (3)(a) and recommendations regarding implementation.

Item 6 To State Board of Education - Minimum School Program - Related to Basic School Programs

<u>From Education Fund</u>	<u>15,000,000</u>
<u>From Teacher and Student Success Account</u>	<u>18,800,000</u>

Schedule of Programs:

<u>Teacher and Student Success Program</u>	<u>33,800,000</u>
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Item 7 To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

<u>From Education Fund, One-time</u>	<u>(20,900,000)</u>
<u>From Local Levy Growth Account</u>	<u>12,880,600</u>
<u>From Local Revenue</u>	<u>124,827,100</u>

Schedule of Programs:

<u>Voted Local Levy Program</u>	<u>25,777,200</u>
<u>Board Local Levy Program</u>	<u>91,030,500</u>

STATE BOARD OF EDUCATION

Item 8 To State Board of Education - Child Nutrition

<u>From Education Fund</u>	<u>500</u>
<u>From Federal Funds</u>	<u>17,200</u>
<u>From Dedicated Credit - Liquor Tax</u>	<u>(17,700)</u>

Item 9 To State Board of Education - Educator Licensing

<u>From Education Fund</u>	<u>1,000</u>
<u>From Dedicated Credits Revenue</u>	<u>(1,000)</u>

Item 10 To State Board of Education - Fine Arts Outreach

<u>From Education Fund</u>	<u>400,000</u>
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Schedule of Programs:

<u>Professional Outreach Programs in the Schools</u>	<u>200,000</u>
<u>Provisional Program</u>	<u>200,000</u>

Item 11 To State Board of Education - Initiative Programs

<u>From General Fund</u>	<u>363,000</u>
<u>From Education Fund</u>	<u>1,659,000</u>
<u>From Education Fund, One-time</u>	<u>4,875,000</u>

Schedule of Programs:

<u>Carson Smith Scholarships</u>	<u>363,000</u>
<u>Contracts and Grants</u>	<u>4,575,000</u>
<u>CTE Online Assessments</u>	<u>(341,000)</u>
<u>Competency-Based Education Grants</u>	<u>2,300,000</u>

Item 12 To State Board of Education - MSP Categorical Program Administration

<u>From Education Fund</u>	<u>2,966,900</u>
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Schedule of Programs:

<u>Enhancement for At-Risk Students</u>	<u>180,700</u>
<u>Youth-in-Custody</u>	<u>741,400</u>
<u>Early Literacy Program</u>	<u>450,000</u>
<u>CTE Online Assessments</u>	<u>625,500</u>
<u>CTE Student Organizations</u>	<u>969,300</u>

Item 13 To State Board of Education - Science Outreach

<u>From Education Fund</u>	<u>200,000</u>
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Schedule of Programs:

<u>Informal Science Education Enhancement</u>	<u>200,000</u>
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Item 14 To State Board of Education - State Administrative Office

<u>From Education Fund</u>	<u>118,400</u>
<u>From Education Fund, One-time</u>	<u>300,000</u>
<u>From Federal Funds</u>	<u>(75,900)</u>

<u>From General Fund Restricted - Mineral Lease</u>	<u>(7,400)</u>
<u>From General Fund Restricted - Substance Abuse Prevention</u>	<u>3,800</u>

<u>From Uniform School Fund Restricted - Trust Distribution Account</u>	<u>61,200</u>
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Schedule of Programs:

<u>School Trust</u>	<u>60,000</u>
<u>Statewide Online Education Program</u>	<u>40,100</u>
<u>Student Advocacy Services</u>	<u>300,000</u>

The Legislature intends that the State Board of Education:

(1) study the governance, funding, and role of the State Board of Education in providing oversight and coordinating the delivery of state education programs in the regional service centers; and

(2) report on or before October 31, 2019, to the Public Education Appropriations Subcommittee on the study described in Subsection (1).

Item 15 To State Board of Education - General System Support

From General Fund, One-time 250,000

Schedule of Programs:

Career and Technical Education 250,000

Item 16 To State Board of Education - State Charter School Board

From Education Fund, One-time 200,000

Schedule of Programs:

State Charter School Board 200,000

Item 17 To State Board of Education - Teaching and Learning

From Education Fund 3,800

From Revenue Transfers (3,800)

Item 18 To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund, One-time 500,000

Schedule of Programs:

Educational Services (19,507,700)

Support Services (19,885,700)

Administration 3,839,000

Transportation 4,257,300

Utah State Instructional Materials

Access Center 1,876,200

School for the Deaf 17,281,900

School for the Blind 12,639,000

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 19 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account 260,000

Schedule of Programs:

School and Institutional Trust Fund Office 260,000

Subsection 9(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between

the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

PUBLIC EDUCATION

Item 20 To Local Levy Growth Account

From Education Fund 12,880,600

Schedule of Programs:

Local Levy Growth Account 12,880,600

Item 21 To Teacher and Student Success Account

From Education Fund 18,800,000

Schedule of Programs:

Teacher and Student Success Account 18,800,000

Section 10. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2019.

(2) If approved by two-thirds of all the members elected to each house, Section 8, Fiscal year 2019 appropriations, takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 409

S. B. 8

Passed March 12, 2019
 Approved March 27, 2019
 Effective May 14, 2019

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Don L. Ipson
 House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- ▶ authorizes certain state agency fees;
- ▶ authorizes internal service fund rates;
- ▶ adjusts funding for the impact of Internal Service Fund rate changes; and
- ▶ provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates \$5,709,200 in operating and capital budgets for fiscal year 2020, including:

- ▶ (\$1,024,600) from the General Fund;
- ▶ \$1,902,200 from the Education Fund;
- ▶ \$4,831,600 from various sources as detailed in this bill.

This bill appropriates \$65,200 in expendable funds and accounts for fiscal year 2020.

This bill appropriates \$1,750,600 in business-like activities for fiscal year 2020, including:

- ▶ \$1,209,800 from the General Fund;
- ▶ \$540,800 from various sources as detailed in this bill.

This bill appropriates \$21,200 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$22,200 from the General Fund;
- ▶ (\$1,000) from various sources as detailed in this bill.

This bill appropriates \$36,500 in fiduciary funds for fiscal year 2020.

Other Special Clauses:

This bill takes effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2020 Appropriations. The following sums of money are appropriated for Internal Service Fund rate adjustments for the fiscal year beginning July 1, 2019 and ending

June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 1(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General

From General Fund	(10,103,300)
From Federal Funds	300
From Dedicated Credits Revenue	1,400
From General Fund Restricted -	
Constitutional Defense	(676,400)
From Revenue Transfers	100
Schedule of Programs:	
Administration	68,000
Child Protection	4,000
Civil	(10,852,100)
Criminal Prosecution	2,200

Item 2

To Attorney General - Children's Justice Centers

From General Fund	100
Schedule of Programs:	
Children's Justice Centers	100

Item 3

To Attorney General - Prosecution Council

From General Fund Restricted -	
Public Safety Support	100
Schedule of Programs:	
Prosecution Council	100

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole

From General Fund	170,900
From Dedicated Credits Revenue	100
Schedule of Programs:	
Board of Pardons and Parole	171,000

UTAH DEPARTMENT OF CORRECTIONS

Item 5

To Utah Department of Corrections -

Programs and Operations	
From General Fund	732,100
From Dedicated Credits Revenue	(2,200)
Schedule of Programs:	
Adult Probation and Parole	
Administration	8,600
Adult Probation and Parole	
Programs	(46,700)
Department Administrative Services ..	82,500
Department Executive Director	707,200
Department Training	(200)
Prison Operations Administration	(200)
Prison Operations Central	
Utah/Gunnison	(6,300)
Prison Operations Draper Facility	(13,700)

Prison Operations Inmate Placement ..	(3,100)
Programming Administration	100
Programming Skill Enhancement	1,100
Programming Treatment	600

Item 6

To Utah Department of Corrections - Department Medical Services	
From General Fund	8,300
From Dedicated Credits Revenue	200
Schedule of Programs:	
Medical Services	8,500

**JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR**

Item 7

To Judicial Council/State Court Administrator - Administration	
From General Fund	43,900
From Dedicated Credits Revenue	2,500
From General Fund Restricted -	
Children's Legal Defense	600
From General Fund Restricted -	
Court Trust Interest	2,800
From General Fund Restricted -	
Dispute Resolution Account	(100)
From General Fund Restricted -	
DNA Specimen Account	(100)
From General Fund Rest. - Justice	
Court Tech., Security & Training	900
From General Fund Restricted -	
Nonjudicial Adjustment Account	(200)
From General Fund Restricted -	
Substance Abuse Prevention	(100)
Schedule of Programs:	
Administrative Office	62,800
Data Processing	(200)
District Courts	(3,700)
Juvenile Courts	(8,700)

Item 8

To Judicial Council/State Court Administrator - Contracts and Leases	
From General Fund	86,400
From Dedicated Credits Revenue	1,300
From General Fund Restricted -	
State Court Complex Account	22,300
Schedule of Programs:	
Contracts and Leases	110,000

Item 9

To Judicial Council/State Court Administrator - Guardian ad Litem	
From General Fund	(500)
Schedule of Programs:	
Guardian ad Litem	(500)

GOVERNOR'S OFFICE

Item 10

To Governor's Office - Character Education	
From General Fund	100
Schedule of Programs:	
Character Education	100

Item 11

To Governor's Office - Commission on Criminal and Juvenile Justice	
From General Fund	50,400
From Federal Funds	7,600
From Crime Victim Reparations Fund	500
Schedule of Programs:	
CCJJ Commission	24,300
Judicial Performance Evaluation	
Commission	400
Sentencing Commission	300
Substance Use and Mental Health	
Advisory Council	100
Utah Office for Victims of Crime	33,400

Item 12

To Governor's Office	
From General Fund	70,500
From Dedicated Credits Revenue	5,700
Schedule of Programs:	
Administration	41,300
Governor's Residence	100
Lt. Governor's Office	34,800

Item 13

To Governor's Office - Governor's Office of Management and Budget	
From General Fund	35,300
Schedule of Programs:	
Administration	29,400
Operational Excellence	1,300
Planning and Budget Analysis	4,600

Item 14

To Governor's Office - Indigent Defense Commission	
From General Fund Restricted - Indigent Defense Resources	22,200
Schedule of Programs:	
Indigent Defense Commission	22,200

**DEPARTMENT OF HUMAN SERVICES -
DIVISION OF JUVENILE JUSTICE
SERVICES**

Item 15

To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations	
From General Fund	64,300
From Federal Funds	2,900
From Dedicated Credits Revenue	500
From Revenue Transfers	500
Schedule of Programs:	
Administration	10,500
Community Programs	1,900
Correctional Facilities	17,700
Early Intervention Services	17,500
Rural Programs	18,800
Youth Parole Authority	300
Case Management	1,500

OFFICE OF THE STATE AUDITOR

Item 16

To Office of the State Auditor - State Auditor	
From General Fund	3,700
From Dedicated Credits Revenue	3,300

Schedule of Programs:
 State Auditor 7,000

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety - Driver License
 From General Fund 203,700
 From Department of Public Safety
 Restricted Account 41,700
 From Public Safety Motorcycle Education
 Fund 500
 Schedule of Programs:
 Driver License Administration 4,900
 Driver Records 12,000
 Driver Services 228,500
 Motorcycle Safety 500

Item 18

To Department of Public Safety -
 Emergency Management
 From General Fund 8,200
 From Dedicated Credits Revenue 2,800
 Schedule of Programs:
 Emergency Management 11,000

Item 19

To Department of Public Safety - Highway
 Safety
 From Federal Funds 1,500
 Schedule of Programs:
 Highway Safety 1,500

Item 20

To Department of Public Safety - Peace
 Officers' Standards and Training
 From General Fund 39,200
 From Dedicated Credits Revenue (600)
 From General Fund Restricted -
 Public Safety Support (26,000)
 Schedule of Programs:
 Basic Training (14,700)
 POST Administration 38,800
 Regional/Inservice Training (11,500)

Item 21

To Department of Public Safety -
 Programs & Operations
 From General Fund 721,400
 From Federal Funds 1,100
 From Dedicated Credits Revenue 29,700
 From Department of Public Safety
 Restricted Account 31,000
 From General Fund Restricted -
 DNA Specimen Account (1,000)
 From General Fund Restricted -
 Fire Academy Support (1,600)
 From Gen. Fund Rest. - Motor
 Vehicle Safety Impact Acct. (5,600)
 From Revenue Transfers 500
 From Gen. Fund Rest. - Utah Highway
 Patrol Aero Bureau (100)
 Schedule of Programs:
 Aero Bureau (500)
 CITS Administration (4,300)
 CITS Communications 9,300
 CITS State Bureau of Investigation 93,200
 CITS State Crime Labs (5,600)
 Department Commissioner's Office ... 644,800
 Department Fleet Management 100

Department Grants 1,600
 Department Intelligence Center 97,400
 Fire Marshall - Fire Fighter Training ... (600)
 Fire Marshall - Fire Operations (1,300)
 Highway Patrol - Administration 64,800
 Highway Patrol - Commercial
 Vehicle (7,300)
 Highway Patrol - Field
 Operations (103,000)
 Highway Patrol - Protective Services .. (8,700)
 Highway Patrol - Safety Inspections ... (1,000)
 Highway Patrol - Special Enforcement ... 900
 Highway Patrol - Special Services (5,600)
 Highway Patrol - Technology
 Services (13,000)
 Information Management -
 Operations 14,200

Item 22

To Department of Public Safety -
 Bureau of Criminal Identification
 From General Fund 100
 From Dedicated Credits Revenue 16,500
 From General Fund Restricted -
 Concealed Weapons Account 9,300
 From Revenue Transfers 100
 Schedule of Programs:
 Non-Government/Other Services 26,000

STATE TREASURER

Item 23

To State Treasurer
 From General Fund 30,900
 From Dedicated Credits Revenue 52,700
 From Land Trusts Protection and
 Advocacy Account 41,300
 From Unclaimed Property Trust (2,200)
 Schedule of Programs:
 Advocacy Office 41,300
 Money Management Council 8,800
 Treasury and Investment 74,800
 Unclaimed Property (2,200)

**INFRASTRUCTURE
 AND GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 24

To Department of Administrative Services -
 Administrative Rules
 From General Fund (2,100)
 Schedule of Programs:
 DAR Administration (2,100)

Item 25

To Department of Administrative Services -
 Building Board Program
 From General Fund 10,700
 From Capital Projects Fund 200
 Schedule of Programs:
 Building Board Program 10,900

Item 26

To Department of Administrative Services -
 DFCM Administration
 From General Fund 1,000
 From Education Fund (200)

From Dedicated Credits Revenue (2,500)
 Schedule of Programs:
 DFCM Administration (1,900)
 Energy Program 200

Item 27

To Department of Administrative Services -
 Executive Director
 From General Fund 60,100
 Schedule of Programs:
 Executive Director 60,100

Item 28

To Department of Administrative Services -
 Finance - Mandated - Ethics Commissions
 From General Fund 300
 Schedule of Programs:
 Executive Branch Ethics Commission 300

Item 29

To Department of Administrative Services -
 Finance Administration
 From General Fund 28,100
 From Dedicated Credits Revenue 11,900
 From Gen. Fund Rest. - Internal
 Service Fund Overhead 36,700
 Schedule of Programs:
 Finance Director's Office 67,300
 Financial Information Systems 64,700
 Financial Reporting (3,700)
 Payables/Disbursing 1,700
 Payroll (37,800)
 Technical Services (15,500)

Item 30

To Department of Administrative Services -
 Inspector General of Medicaid Services
 From General Fund 8,500
 From Revenue Transfers (900)
 Schedule of Programs:
 Inspector General of Medicaid Services .. 7,600

Item 31

To Department of Administrative Services -
 Judicial Conduct Commission
 From General Fund 700
 Schedule of Programs:
 Judicial Conduct Commission 700

Item 32

To Department of Administrative Services -
 Purchasing
 From General Fund 38,300
 Schedule of Programs:
 Purchasing and General Services 38,300

Item 33

To Department of Administrative Services -
 State Archives
 From General Fund 92,000
 Schedule of Programs:
 Archives Administration 91,700
 Open Records 100
 Records Services 200

CAPITAL BUDGET

Item 34

To Capital Budget - Capital Improvements
 From General Fund 200
 From Education Fund 300

Schedule of Programs:
 Capital Improvements 500

DEPARTMENT OF TECHNOLOGY SERVICES

Item 35

To Department of Technology Services -
 Chief Information Officer
 From General Fund (4,900)
 Schedule of Programs:
 Chief Information Officer (4,900)

Item 36

To Department of Technology Services -
 Integrated Technology Division
 From General Fund (5,100)
 From Federal Funds (3,000)
 From Dedicated Credits Revenue (14,300)
 From Gen. Fund Rest. - Statewide
 Unified E-911 Emerg. Acct. (4,200)
 Schedule of Programs:
 Automated Geographic Reference
 Center (26,600)

TRANSPORTATION

Item 37

To Transportation - Aeronautics
 From Aeronautics Restricted Account (9,200)
 Schedule of Programs:
 Administration (9,300)
 Civil Air Patrol 100

Item 38

To Transportation - Engineering Services
 From Transportation Fund 700
 From Federal Funds (3,800)
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Construction Management 100
 Engineering Services 300
 Materials Lab 300
 Preconstruction Admin 300
 Program Development (4,200)
 Right-of-Way 200

Item 39

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund (80,700)
 From Federal Funds 200
 Schedule of Programs:
 Field Crews 500
 Maintenance Planning 200
 Region 1 200
 Region 2 200
 Region 3 200
 Region 4 600
 Shops (83,500)
 Traffic Operations Center 1,000
 Traffic Safety/Tramway 100

Item 40

To Transportation - Region Management
 From Transportation Fund 7,500
 From Federal Funds 400
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Price 4,500
 Region 1 800

Region 2	700
Region 3	900
Region 4	1,100

Item 41

To Transportation - Support Services	
From Transportation Fund	1,272,900
From Federal Funds	(1,600)
Schedule of Programs:	
Administrative Services	400
Comptroller	600
Data Processing	178,200
Human Resources Management	600
Ports of Entry	(4,700)
Procurement	100
Risk Management	1,096,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 42

To Department of Alcoholic Beverage Control - DABC Operations	
From Liquor Control Fund	416,100
Schedule of Programs:	
Administration	13,800
Executive Director	333,700
Operations	58,700
Stores and Agencies	6,700
Warehouse and Distribution	3,200

DEPARTMENT OF COMMERCE

Item 43

To Department of Commerce - Commerce General Regulation	
From General Fund	100
From Federal Funds	200
From Dedicated Credits Revenue	1,600
From General Fund Restricted - Commerce Service Account	22,300
From General Fund Restricted - Factory Built Housing Fees	100
From General Fund Restricted - Pawnbroker Operations	200
From General Fund Restricted - Public Utility Restricted Acct.	641,500
From Pass-through	100
Schedule of Programs:	
Administration	4,600
Consumer Protection	2,400
Corporations and Commercial Code	2,700
Occupational and Professional Licensing	10,500
Office of Consumer Services	274,900
Public Utilities	366,900
Real Estate	2,100
Securities	2,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 44

To Governor's Office of Economic Development - Administration	
From General Fund	83,400

Schedule of Programs:	
Administration	83,400

Item 45

To Governor's Office of Economic Development - Business Development	
From General Fund	3,700
From Federal Funds	200
From Dedicated Credits Revenue	100
From General Fund Restricted - Industrial Assistance Account	100
Schedule of Programs:	
Corporate Recruitment and Business Services	2,700
Outreach and International Trade	1,400

Item 46

To Governor's Office of Economic Development - Office of Tourism	
From General Fund	2,300
From General Fund Rest. - Motion Picture Incentive Acct.	600
Schedule of Programs:	
Administration	1,500
Film Commission	1,000
Operations and Fulfillment	400

Item 47

To Governor's Office of Economic Development - Pete Suazo Utah Athletics Commission	
From General Fund	100
Schedule of Programs:	
Pete Suazo Utah Athletics Commission ...	100

Item 48

To Governor's Office of Economic Development - STEM Action Center	
From General Fund	900
From Dedicated Credits Revenue	900
Schedule of Programs:	
STEM Action Center	1,800

FINANCIAL INSTITUTIONS

Item 49

To Financial Institutions - Financial Institutions Administration	
From General Fund Restricted - Financial Institutions	33,700
Schedule of Programs:	
Administration	33,700

DEPARTMENT OF HERITAGE AND ARTS

Item 50

To Department of Heritage and Arts - Administration	
From General Fund	81,500
From Dedicated Credits Revenue	2,900
Schedule of Programs:	
Administrative Services	38,300
Executive Director's Office	14,700
Information Technology	31,400

Item 51

To Department of Heritage and Arts - Division of Arts and Museums	
From General Fund	1,800
Schedule of Programs:	
Administration	2,300
Community Arts Outreach	(500)

Item 52
 To Department of Heritage and Arts - Commission on Service and Volunteerism
 From Federal Funds 500
 Schedule of Programs:
 Commission on Service and Volunteerism 500

Item 53
 To Department of Heritage and Arts - State History
 From General Fund 2,100
 From Federal Funds 300
 Schedule of Programs:
 Administration 1,500
 Historic Preservation and Antiquities 500
 Library and Collections 300
 Public History, Communication and Information 100

Item 54
 To Department of Heritage and Arts - State Library
 From General Fund (1,200)
 From Federal Funds (900)
 From Dedicated Credits Revenue (2,600)
 Schedule of Programs:
 Administration 1,800
 Blind and Disabled (3,700)
 Library Development (3,000)
 Library Resources 200

INSURANCE DEPARTMENT

Item 55
 To Insurance Department - Insurance Department Administration
 From Federal Funds 1,200
 From General Fund Restricted - Captive Insurance 1,000
 From General Fund Restricted - Insurance Department Acct. 386,800
 From General Fund Rest. - Insurance Fraud Investigation Acct. (3,200)
 From General Fund Restricted - Technology Development (1,200)
 Schedule of Programs:
 Administration 388,200
 Captive Insurers 1,000
 Electronic Commerce Fee (1,200)
 Insurance Fraud Program (3,400)

LABOR COMMISSION

Item 56
 To Labor Commission
 From General Fund 117,200
 From Federal Funds 3,200
 From Employers' Reinsurance Fund 600
 From General Fund Restricted - Industrial Accident Account 16,600
 From Trust and Agency Funds 200
 From General Fund Restricted - Workplace Safety Account 300
 Schedule of Programs:
 Adjudication 2,100
 Administration 113,600
 Antidiscrimination and Labor 4,800
 Boiler, Elevator and Coal Mine Safety Division (500)

Industrial Accidents 15,000
 Utah Occupational Safety and Health 3,100

PUBLIC SERVICE COMMISSION

Item 57
 To Public Service Commission
 From General Fund Restricted - Public Utility Restricted Acct. (500)
 Schedule of Programs:
 Administration (500)

UTAH STATE TAX COMMISSION

Item 58
 To Utah State Tax Commission - Tax Administration
 From General Fund 1,398,900
 From Education Fund 322,700
 From Dedicated Credits Revenue 400
 From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account (8,000)
 From General Fund Rest. - Sales and Use Tax Admin Fees 141,400
 Schedule of Programs:
 Administration Division 45,000
 Auditing Division 1,179,800
 Motor Vehicle Enforcement Division 11,100
 Motor Vehicles 40,400
 Property Tax Division 481,800
 Tax Payer Services 211,300
 Technology Management (114,000)

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Item 59
 To Utah Science Technology and Research Governing Authority - Support Programs
 From General Fund 800
 Schedule of Programs:
 Incubation Programs 400
 Regional Outreach 200
 SBIR/STTR Assistance Center 200

Item 60
 To Utah Science Technology and Research Governing Authority - USTAR Administration
 From General Fund 2,000
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Administration 800
 Project Management & Compliance 1,600

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 61
 To Department of Health - Children's Health Insurance Program
 From General Fund 1,500
 From General Fund, One-Time (900)
 From Federal Funds 5,400
 From Federal Funds, One-Time 900
 From Dedicated Credits Revenue 300
 Schedule of Programs:
 Children's Health Insurance Program 7,200

Item 62

To Department of Health - Disease Control and Prevention

From General Fund	20,900
From Federal Funds	43,800
From Dedicated Credits Revenue	17,200
From Department of Public Safety	
Restricted Account	100
From Gen. Fund Rest. - State Lab	
Drug Testing Account	700
From Revenue Transfers	2,100
Schedule of Programs:	
Clinical and Environmental Lab	
Certification Programs	800
Epidemiology	35,100
General Administration	8,700
Health Promotion	21,000
Utah Public Health Laboratory	13,100
Office of the Medical Examiner	6,100

Item 63

To Department of Health - Executive Director's Operations

From General Fund	144,300
From Federal Funds	(27,600)
From Dedicated Credits Revenue	11,400
From Revenue Transfers	4,300
Schedule of Programs:	
Adoption Records Access	400
Center for Health Data and Informatics	29,300
Executive Director	264,500
Office of Internal Audit	400
Program Operations	(162,200)

Item 64

To Department of Health - Family Health and Preparedness

From General Fund	12,500
From Federal Funds	41,700
From Dedicated Credits Revenue	3,200
From Revenue Transfers	7,600
Schedule of Programs:	
Child Development	19,400
Children with Special Health Care Needs	10,800
Director's Office	1,300
Emergency Medical Services and Preparedness	(3,000)
Health Facility Licensing and Certification	700
Maternal and Child Health	20,500
Primary Care	3,900
Public Health and Health Care Preparedness	11,400

Item 65

To Department of Health - Medicaid and Health Financing

From General Fund	23,900
From Federal Funds	179,900
From Dedicated Credits Revenue	30,100
From Nursing Care Facilities Provider Assessment Fund	4,800
From Revenue Transfers	13,600
Schedule of Programs:	
Authorization and Community Based Services	6,800
Contracts	8,400

Coverage and Reimbursement Policy	3,500
Director's Office	3,200
Eligibility Policy	5,900
Financial Services	163,700
Managed Health Care	19,100
Medicaid Operations	41,700

Item 66

To Department of Health - Medicaid Services

From General Fund	4,200
From Federal Funds	12,400
From Dedicated Credits Revenue	1,000
From Revenue Transfers	600
Schedule of Programs:	
Home and Community Based Waivers	2,400
Mental Health and Substance Abuse	2,200
Other Services	1,400
Pharmacy	400
Provider Reimbursement Information System for Medicaid	11,800

DEPARTMENT OF HUMAN SERVICES

Item 67

To Department of Human Services - Division of Aging and Adult Services

From General Fund	7,100
From Federal Funds	1,200
Schedule of Programs:	
Administration - DAAS	2,000
Adult Protective Services	5,600
Aging Alternatives	300
Aging Waiver Services	400

Item 68

To Department of Human Services - Division of Child and Family Services

From General Fund	63,700
From Federal Funds	40,500
From Gen. Fund Rest. - Victims of Domestic Violence Services Acct	(400)
Schedule of Programs:	
Administration - DCFS	3,800
Child Welfare Management Information System	90,300
Domestic Violence	(3,700)
Facility-Based Services	(300)
Minor Grants	800
Service Delivery	12,900

Item 69

To Department of Human Services - Executive Director Operations

From General Fund	388,100
From Federal Funds	27,100
From Revenue Transfers	13,600
Schedule of Programs:	
Executive Director's Office	(17,700)
Fiscal Operations	5,200
Information Technology	9,000
Legal Affairs	427,400
Office of Licensing	2,300
Office of Quality and Design	2,000
Utah Developmental Disabilities Council	600

Item 70

To Department of Human Services - Office of Public Guardian

From General Fund	500
From Revenue Transfers	300

Schedule of Programs:
Office of Public Guardian 800

Item 71

To Department of Human Services -
Office of Recovery Services
From General Fund 7,700
From Federal Funds 16,000
From Dedicated Credits Revenue 6,800
From Revenue Transfers 1,100
Schedule of Programs:
Administration - ORS 100
Attorney General Contract 400
Child Support Services 22,100
Electronic Technology 6,600
Financial Services 1,500
Medical Collections 900

Item 72

To Department of Human Services - Division
of Services for People with Disabilities
From General Fund 32,800
From Federal Funds 1,100
From Dedicated Credits Revenue 1,300
From Revenue Transfers 33,900
Schedule of Programs:
Administration - DSPD 32,900
Service Delivery 7,600
Utah State Developmental Center 28,600

Item 73

To Department of Human Services - Division
of Substance Abuse and Mental Health
From General Fund 35,200
From Federal Funds 1,600
From Dedicated Credits Revenue 1,600
From Revenue Transfers 10,400
Schedule of Programs:
Administration - DSAMH 4,400
Community Mental Health Services ... (3,500)
State Hospital 46,000
State Substance Abuse Services 1,900

**DEPARTMENT OF
WORKFORCE SERVICES**

Item 74

To Department of Workforce Services -
Administration
From General Fund 3,100
From Federal Funds 7,200
From Dedicated Credits Revenue 100
From Permanent Community
Impact Loan Fund 200
From Revenue Transfers 2,100
Schedule of Programs:
Administrative Support 12,500
Communications 100
Executive Director's Office 100

Item 75

To Department of Workforce Services -
General Assistance
From General Fund 700
Schedule of Programs:
General Assistance 700

Item 76

To Department of Workforce Services -
Housing and Community Development

From General Fund 74,000
From Federal Funds 14,800
From Dedicated Credits Revenue 1,900
From Gen. Fund Rest. - Pamela
Atkinson Homeless Account 400
From Gen. Fund Rest. - Homeless
Housing Reform Rest. Acct 4,200
From Permanent Community
Impact Loan Fund 1,800
Schedule of Programs:
Community Development 39,300
Community Development
Administration 4,300
Community Services 300
HEAT (8,200)
Homeless Committee 16,900
Housing Development 45,800
Weatherization Assistance (1,300)

Item 77

To Department of Workforce Services -
Operations and Policy
From General Fund 81,800
From Federal Funds 71,600
From Dedicated Credits Revenue 2,900
From Medicaid Expansion Fund 9,200
From General Fund Restricted -
School Readiness Account 500
From Revenue Transfers 66,600
Schedule of Programs:
Eligibility Services 248,800
Facilities and Pass-Through 500
Information Technology (28,800)
Workforce Development 11,700
Workforce Research and Analysis 400

Item 78

To Department of Workforce Services -
State Office of Rehabilitation
From General Fund 13,600
From Federal Funds 8,800
From Dedicated Credits Revenue 700
From Revenue Transfers 100
Schedule of Programs:
Blind and Visually Impaired 1,000
Deaf and Hard of Hearing 5,000
Disability Determination 14,100
Executive Director (400)
Rehabilitation Services 3,500

Item 79

To Department of Workforce Services -
Unemployment Insurance
From General Fund 40,300
From Federal Funds 69,400
From Dedicated Credits Revenue 1,700
From Revenue Transfers 600
Schedule of Programs:
Adjudication 36,600
Unemployment Insurance
Administration 75,400

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 80

To University of Utah - Education and General
From General Fund 94,400
From Education Fund 499,600

From Dedicated Credits Revenue 574,700
 Schedule of Programs:
 Education and General 1,168,700

UTAH STATE UNIVERSITY

Item 81

To Utah State University - Education and General
 From General Fund 296,600
 From Education Fund 171,900
 From Dedicated Credits Revenue 229,900
 Schedule of Programs:
 Education and General 698,400

Item 82

To Utah State University - USU -
 Eastern Education and General
 From Education Fund 12,400
 From Dedicated Credits Revenue 3,100
 Schedule of Programs:
 USU - Eastern Education
 and General 15,500

WEBER STATE UNIVERSITY

Item 83

To Weber State University - Education
 and General
 From General Fund 197,000
 From Education Fund 53,300
 From Dedicated Credits Revenue 79,900
 Schedule of Programs:
 Education and General 330,200

SOUTHERN UTAH UNIVERSITY

Item 84

To Southern Utah University - Education
 and General
 From General Fund 137,000
 From Education Fund 104,900
 From Dedicated Credits Revenue 58,200
 Schedule of Programs:
 Education and General 300,100

UTAH VALLEY UNIVERSITY

Item 85

To Utah Valley University - Education and General
 From General Fund 217,100
 From Education Fund 106,100
 From Dedicated Credits Revenue 156,100
 Schedule of Programs:
 Education and General 479,300

SNOW COLLEGE

Item 86

To Snow College - Education and General
 From General Fund 15,400
 From Education Fund 53,200
 From Dedicated Credits Revenue 14,200
 Schedule of Programs:
 Education and General 82,800

DIXIE STATE UNIVERSITY

Item 87

To Dixie State University - Education and General
 From General Fund 36,400

From Education Fund 88,600
 From Dedicated Credits Revenue 44,600
 Schedule of Programs:
 Education and General 169,600

SALT LAKE COMMUNITY COLLEGE

Item 88

To Salt Lake Community College - Education
 and General
 From General Fund 68,200
 From Education Fund 155,400
 From Dedicated Credits Revenue 65,300
 Schedule of Programs:
 Education and General 288,900

STATE BOARD OF REGENTS

Item 89

To State Board of Regents - Administration
 From General Fund 53,400
 From Education Fund 14,000
 Schedule of Programs:
 Administration 67,400

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 90

To Utah System of Technical Colleges -
 Bridgerland Technical College
 From General Fund 4,800
 From Education Fund 10,900
 From Dedicated Credits Revenue 1,600
 Schedule of Programs:
 Bridgerland Technical College 17,300

Item 91

To Utah System of Technical Colleges -
 Davis Technical College
 From General Fund 5,100
 From Education Fund 14,700
 From Dedicated Credits Revenue 2,200
 Schedule of Programs:
 Davis Technical College 22,000

Item 92

To Utah System of Technical Colleges -
 Dixie Technical College
 From General Fund 100
 From Education Fund 9,200
 From Dedicated Credits Revenue 400
 Schedule of Programs:
 Dixie Technical College 9,700

Item 93

To Utah System of Technical Colleges -
 Mountainland Technical College
 From Education Fund 11,800
 From Dedicated Credits Revenue 1,100
 Schedule of Programs:
 Mountainland Technical College 12,900

Item 94

To Utah System of Technical Colleges -
 Ogden-Weber Technical College
 From General Fund 7,500
 From Education Fund 14,800
 From Dedicated Credits Revenue 2,500
 Schedule of Programs:
 Ogden-Weber Technical College 24,800

Item 95

To Utah System of Technical Colleges -
 Southwest Technical College

From General Fund	200
From Education Fund	5,100
From Dedicated Credits Revenue	600
Schedule of Programs:	
Southwest Technical College	5,900

Item 96

To Utah System of Technical Colleges - Tooele Technical College	
From General Fund	600
From Education Fund	2,200
From Dedicated Credits Revenue	100
Schedule of Programs:	
Tooele Technical College	2,900

Item 97

To Utah System of Technical Colleges - Uintah Basin Technical College	
From General Fund	1,800
From Education Fund	9,200
From Dedicated Credits Revenue	600
Schedule of Programs:	
Uintah Basin Technical College	11,600

Item 98

To Utah System of Technical Colleges - USTC Administration	
From General Fund	27,600
From Education Fund	121,000
Schedule of Programs:	
Administration	148,600

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 99

To Department of Agriculture and Food - Administration	
From General Fund	358,000
From Federal Funds	22,400
From Dedicated Credits Revenue	29,300
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account	4,000
From Revenue Transfers	7,600
Schedule of Programs:	
Chemistry Laboratory	1,300
General Administration	420,000

Item 100

To Department of Agriculture and Food - Animal Health	
From General Fund	(1,100)
From Federal Funds	(1,700)
From Dedicated Credits Revenue	100
From General Fund Restricted - Livestock Brand	(1,700)
Schedule of Programs:	
Animal Health	1,300
Brand Inspection	(2,400)
Meat Inspection	(3,300)

Item 101

To Department of Agriculture and Food - Invasive Species Mitigation	
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From General Fund Restricted - Invasive Species Mitigation Account	200
Schedule of Programs:	
Invasive Species Mitigation	200

Item 102

To Department of Agriculture and Food - Marketing and Development	
From General Fund	600
Schedule of Programs:	
Marketing and Development	600

Item 103

To Department of Agriculture and Food - Plant Industry	
From General Fund	(200)
From Federal Funds	2,500
From Dedicated Credits Revenue	2,700
From Revenue Transfers	(100)
From Pass-through	300
Schedule of Programs:	
Environmental Quality	(100)
Grain Inspection	500
Grazing Improvement Program	(800)
Insect Infestation	(300)
Plant Industry	5,900

Item 104

To Department of Agriculture and Food - Predatory Animal Control	
From General Fund	(1,200)
From Revenue Transfers	(1,000)
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention	(1,000)
Schedule of Programs:	
Predatory Animal Control	(3,200)

Item 105

To Department of Agriculture and Food - Rangeland Improvement	
From Gen. Fund Rest. - Rangeland Improvement Account	200
Schedule of Programs:	
Rangeland Improvement	200

Item 106

To Department of Agriculture and Food - Regulatory Services	
From General Fund	6,800
From Federal Funds	3,400
From Dedicated Credits Revenue	7,200
From Pass-through	200
Schedule of Programs:	
Regulatory Services	17,600

Item 107

To Department of Agriculture and Food - Resource Conservation	
From General Fund	300
From Federal Funds	100
From Agriculture Resource Development Fund	200
From Utah Rural Rehabilitation Loan State Fund	100
Schedule of Programs:	
Resource Conservation	400
Resource Conservation Administration	300

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 108

To Department of Environmental Quality - Air Quality
 From General Fund 120,200
 From Federal Funds 2,300
 From Dedicated Credits Revenue 1,800
 Schedule of Programs:
 Air Quality 124,300

Item 109

To Department of Environmental Quality - Drinking Water
 From General Fund 11,900
 From Federal Funds 6,400
 From Dedicated Credits Revenue 400
 From Water Dev. Security Fund - Drinking Water Loan Prog. 1,600
 From Water Dev. Security Fund - Drinking Water Orig. Fee 300
 Schedule of Programs:
 Drinking Water 20,600

Item 110

To Department of Environmental Quality - Environmental Response and Remediation
 From General Fund 82,200
 From Federal Funds 4,100
 From Dedicated Credits Revenue 600
 From Petroleum Storage Tank Cleanup Fund 500
 From Petroleum Storage Tank Trust Fund 1,500
 From General Fund Restricted - Voluntary Cleanup 600
 Schedule of Programs:
 Environmental Response and Remediation 89,500

Item 111

To Department of Environmental Quality - Executive Director's Office
 From General Fund 111,900
 From General Fund Restricted - Environmental Quality 300
 Schedule of Programs:
 Executive Director's Office 112,200

Item 112

To Department of Environmental Quality - Waste Management and Radiation Control
 From General Fund 88,000
 From Federal Funds 1,100
 From Dedicated Credits Revenue 1,800
 From General Fund Restricted - Environmental Quality 4,700
 From Gen. Fund Rest. - Used Oil Collection Administration 700
 From Waste Tire Recycling Fund 100
 Schedule of Programs:
 Waste Management and Radiation Control 96,400

Item 113

To Department of Environmental Quality - Water Quality
 From General Fund 76,900
 From Federal Funds 4,100

From Dedicated Credits Revenue 1,600
 From Gen. Fund Rest. - Underground Wastewater System 100
 From Water Dev. Security Fund - Utah Wastewater Loan Prog. 1,300
 From Water Dev. Security Fund - Water Quality Orig. Fee 100
 Schedule of Programs:
 Water Quality 84,100

GOVERNOR'S OFFICE

Item 114

To Governor's Office - Office of Energy Development
 From General Fund 22,500
 From Federal Funds 700
 From Dedicated Credits Revenue 200
 From Ut. S. Energy Program Rev. Loan Fund (ARRA) 200
 Schedule of Programs:
 Office of Energy Development 23,600

DEPARTMENT OF NATURAL RESOURCES

Item 115

To Department of Natural Resources - Administration
 From General Fund 1,587,500
 Schedule of Programs:
 Administrative Services (7,700)
 Executive Director 1,594,500
 Law Enforcement 300
 Public Information Office 400

Item 116

To Department of Natural Resources - Forestry, Fire and State Lands
 From General Fund 2,600
 From Federal Funds 12,400
 From Dedicated Credits Revenue 7,100
 From General Fund Restricted - Sovereign Lands Management 11,300
 Schedule of Programs:
 Division Administration 2,400
 Fire Management 1,100
 Fire Suppression Emergencies 2,500
 Forest Management 500
 Lands Management 1,200
 Lone Peak Center 3,500
 Program Delivery 22,200

Item 117

To Department of Natural Resources - Oil, Gas and Mining
 From General Fund 3,100
 From Federal Funds (2,900)
 From Dedicated Credits Revenue (100)
 From Gen. Fund Rest. - Oil & Gas Conservation Account (2,000)
 Schedule of Programs:
 Administration (22,400)
 Coal Program 6,800
 Oil and Gas Program 13,700

Item 118

To Department of Natural Resources - Parks and Recreation
 From General Fund 3,000
 From Federal Funds 1,000

From Dedicated Credits Revenue	1,200
From General Fund Restricted - Boating	4,800
From General Fund Restricted - Off-highway Vehicle	6,300
From General Fund Restricted - State Park Fees	19,200
Schedule of Programs:	
Executive Management	500
Park Operation Management	27,200
Planning and Design	200
Recreation Services	1,500
Support Services	6,100

Item 119

To Department of Natural Resources - Species Protection	
From General Fund Restricted - Species Protection	1,300
Schedule of Programs:	
Species Protection	1,300

Item 120

To Department of Natural Resources - Utah Geological Survey	
From General Fund	1,400
From Dedicated Credits Revenue	(400)
From General Fund Restricted - Mineral Lease	300
Schedule of Programs:	
Administration	5,400
Geologic Information and Outreach	(4,100)

Item 121

To Department of Natural Resources - Water Resources	
From General Fund	1,300
From Federal Funds	700
From Water Resources Conservation and Development Fund	1,800
Schedule of Programs:	
Administration	300
Construction	2,300
Interstate Streams	100
Planning	1,100

Item 122

To Department of Natural Resources - Water Rights	
From General Fund	19,300
From Federal Funds	100
From Dedicated Credits Revenue	10,800
Schedule of Programs:	
Adjudication	7,400
Administration	800
Applications and Records	15,100
Canal Safety	200
Dam Safety	800
Field Services	1,000
Technical Services	4,900

Item 123

To Department of Natural Resources - Watershed	
From General Fund	100
Schedule of Programs:	
Watershed	100

Item 124

To Department of Natural Resources - Wildlife Resources	
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From General Fund	7,200
From Federal Funds	19,500
From Dedicated Credits Revenue	400
From General Fund Restricted - Boating	600
From General Fund Restricted - Mule Deer Protection Account	200
From General Fund Restricted - Predator Control Account	400
From Revenue Transfers	400
From General Fund Restricted - Wildlife Resources	43,500
Schedule of Programs:	
Administrative Services	17,800
Aquatic Section	15,700
Conservation Outreach	5,300
Director's Office	9,300
Habitat Section	6,200
Law Enforcement	8,400
Wildlife Section	9,500

**PUBLIC LANDS POLICY
COORDINATING OFFICE**

Item 125

To Public Lands Policy Coordinating Office	
From General Fund	190,000
From General Fund Restricted - Constitutional Defense	79,900
Schedule of Programs:	
Public Lands Policy Coordinating Office	269,900

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Item 126

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund	20,900
Schedule of Programs:	
Accounting	400
Administration	5,700
Auditing	100
Board	100
Development - Operating	400
Director	200
External Relations	100
Grazing and Forestry	(600)
Information Technology Group	6,100
Legal/Contracts	200
Mining	100
Oil and Gas	200
Surface	7,900

Item 127

To School and Institutional Trust Lands Administration - Land Stewardship and Restoration	
From Land Grant Management Fund	(500)
Schedule of Programs:	
Land Stewardship and Restoration	(500)

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 128

To State Board of Education - Child Nutrition	
From Federal Funds	(300)
From Dedicated Credit - Liquor Tax	(100)

Schedule of Programs:
 Child Nutrition (400)

Item 129

To State Board of Education - State
 Administrative Office
 From General Fund 8,600
 From Education Fund 98,800
 From General Fund Restricted -
 Mineral Lease 6,000
 From Gen. Fund Rest. -
 Land Exchange Distribution Account 200
 From Revenue Transfers 5,700
 Schedule of Programs:
 Board and Administration 113,600
 Indirect Cost Pool 5,700

Item 130

To State Board of Education - State
 Charter School Board
 From Education Fund 18,600
 Schedule of Programs:
 State Charter School Board 18,600

Item 131

To State Board of Education - Utah Schools
 for the Deaf and the Blind
 From Education Fund (400)
 From Dedicated Credits Revenue (800)
 From Revenue Transfers (2,400)
 Schedule of Programs:
 Support Services (3,600)

**SCHOOL AND INSTITUTIONAL
 TRUST FUND OFFICE**

Item 132

To School and Institutional Trust Fund Office
 From School and Institutional Trust
 Fund Management Acct. 900
 Schedule of Programs:
 School and Institutional Trust
 Fund Office 900

**RETIREMENT AND
 INDEPENDENT ENTITIES**

CAREER SERVICE REVIEW OFFICE

Item 133

To Career Service Review Office
 From General Fund 400
 Schedule of Programs:
 Career Service Review Office 400

**DEPARTMENT OF
 HUMAN RESOURCE MANAGEMENT**

Item 134

To Department of Human Resource Management -
 Human Resource Management
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Statewide Management Liability
 Training 200

**UTAH EDUCATION
 AND TELEHEALTH NETWORK**

Item 135

To Utah Education and Telehealth Network
 From Education Fund 4,100
 From Federal Funds 5,500
 Schedule of Programs:
 Administration 9,600

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 136

To Legislature - Senate
 From General Fund 2,600
 Schedule of Programs:
 Administration 2,600

Item 137

To Legislature - House of Representatives
 From General Fund 4,600
 Schedule of Programs:
 Administration 4,600

Item 138

To Legislature - Legislative Printing
 From General Fund 300
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Administration 400

Item 139

To Legislature - Office of Legislative Research
 and General Counsel
 From General Fund 9,900
 Schedule of Programs:
 Administration 9,900

Item 140

To Legislature - Office of the Legislative
 Fiscal Analyst
 From General Fund 1,300
 Schedule of Programs:
 Administration and Research 1,300

Item 141

To Legislature - Office of the Legislative
 Auditor General
 From General Fund 3,000
 Schedule of Programs:
 Administration 3,000

UTAH NATIONAL GUARD

Item 142

To Utah National Guard
 From General Fund 34,600
 From Dedicated Credits Revenue 100
 Schedule of Programs:
 Administration (600)
 Operations and Maintenance 35,300

**DEPARTMENT OF VETERANS
 AND MILITARY AFFAIRS**

Item 143

To Department of Veterans and Military Affairs -
 Veterans and Military Affairs
 From General Fund 12,500
 From Federal Funds 500

From Dedicated Credits Revenue	300
Schedule of Programs:	
Administration	4,200
Cemetery	2,600
Military Affairs	100
Outreach Services	3,700
State Approving Agency	2,700

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

DEPARTMENT OF PUBLIC SAFETY

Item 144
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue (8,000)
Schedule of Programs:
 Alcoholic Beverage Control Act Enforcement Fund (8,000)

**INFRASTRUCTURE
AND GENERAL GOVERNMENT**

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Item 145
To Department of Administrative Services - State Debt Collection Fund
From Dedicated Credits Revenue 65,200
From Other Financing Sources 200
Schedule of Programs:
 State Debt Collection Fund 65,400

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

DEPARTMENT OF COMMERCE

Item 146
To Department of Commerce - Consumer Protection Education and Training Fund
From Licenses/Fees 300
Schedule of Programs:
 Consumer Protection Education and Training Fund 300

PUBLIC SERVICE COMMISSION

Item 147
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue 500
Schedule of Programs:

Universal Public Telecommunications Service Support	500
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**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 148
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers 100
Schedule of Programs:
 Salinity Offset Fund 100

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 149
To Capitol Preservation Board - State Capitol Fund
From Dedicated Credits Revenue 4,100
Schedule of Programs:
 State Capitol Fund 4,100

**DEPARTMENT OF VETERANS AND
MILITARY AFFAIRS**

Item 150
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 2,800
Schedule of Programs:
 Veterans Nursing Home Fund 2,800

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Item 151
To Attorney General - ISF - Attorney General
From General Fund 1,209,800
Schedule of Programs:
 ISF - Attorney General 1,209,800

UTAH DEPARTMENT OF CORRECTIONS

Item 152
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue (16,300)
Schedule of Programs:
 Utah Correctional Industries (16,300)

**INFRASTRUCTURE
AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES INTERNAL SERVICE FUNDS**

Item 153

To Department of Administrative Services Internal Service Funds - Risk Management
 From Dedicated Credits Revenue 100
 From Premiums 476,900
 From Interest Income 12,600
 Schedule of Programs:
 Risk Management - Liability 489,600

**DEPARTMENT OF TECHNOLOGY
SERVICES INTERNAL SERVICE FUNDS**

Item 154

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
 From Dedicated Credits Revenue 66,800
 From Single Sign-On Expendable Special Revenue Fund 400
 Schedule of Programs:
 ISF - Enterprise Technology Division ... 67,200

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

Item 155

To Department of Agriculture and Food - Agriculture Loan Programs
 From Agriculture Resource Development Fund 200
 From Utah Rural Rehabilitation Loan State Fund 100
 Schedule of Programs:
 Agriculture Loan Program 300

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

Item 156

To General Fund Restricted - Indigent Defense Resources Account
 From General Fund 22,200
 From Revenue Transfers (1,000)
 Schedule of Programs:
 General Fund Restricted - Indigent Defense Resources Account 21,200

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues,

expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

STATE TREASURER

Item 157

To State Treasurer - Navajo Trust Fund
 From Trust and Agency Funds 1,400
 Schedule of Programs:
 Navajo Trust Fund 1,400

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

LABOR COMMISSION

Item 158

To Labor Commission - Uninsured Employers Fund
 From Dedicated Credits Revenue 17,900
 From Premium Tax Collections 17,200
 Schedule of Programs:
 Uninsured Employers Fund 35,100

Section 2. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2019 and ending June 30, 2020.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

ATTORNEY GENERAL

Administration
 Government Records Access and Management Act Document certification 2.00
 CD Duplication (per CD) 5.00
 Plus actual staff costs
 DVD Duplication (per DVD) 10.00
 Plus actual staff costs
 Photocopies
 Non-color (per page) 0.25
 Color (per page) 0.40
 11 x 17 (per page) 1.00
 Odd size Actual cost
 Document faxing (per page) 1.00
 Long distance faxing for over 10 pages ... 1.00
 Record preparation Actual cost
 Record preparation 2.00
 Plus actual postage costs
 Other media Actual cost
 Other services Actual cost

CHILDREN'S JUSTICE CENTERS

CJC Conference Registrations 75.00
 This represents the fee charged for the Children's Justice Center's annual conference.

ISF - ATTORNEY GENERAL

Hourly Attorney Rate in CSRO Disputes ... 97.00
 Civil Attorney V - Office Rate 120.00

Civil Attorney III - IV - Office Rate	96.00
Civil Attorney I - II - Office Rate	76.00
Civil Paralegal - Office Rate	55.00
Civil Attorney V - Co-Located Rate	116.00
Civil Attorney III - IV - Co-Located Rate	93.00
Civil Attorney I - II - Co-Located Rate	74.00
Civil Paralegal - Co-Located Rate	54.00
Civil Attorney V - Litigation Rate	126.00
Civil Attorney III-IV - Litigation Rate	102.00
Civil Attorney I-II - Litigation Rate	83.00
Civil Paralegal - Litigation Rate	55.00
Child Protection Attorney V - Office Rate	118.00
Child Protection Attorney III-IV - Office Rate	103.00
Child Protection Attorney I-II - Office Rate	83.00
Child Protection Paralegal - Office Rate	57.00
Child Protection Attorney V - Co-located Rate	115.00
Child Protection Attorney III-IV - Co-Located Rate	101.00
Child Protection Attorney I-II - Co-Located Rate	81.00
Child Protection Paralegal - Co-Located Rate	56.00

PROSECUTION COUNCIL

UPC Conference Registrations	75.00
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The fee covers expenses incurred by the Utah Prosecution Council for trainings provided at least once annually.

BOARD OF PARDONS AND PAROLE

Records Copies (per page)	0.25
Audiotape of Hearing	10.00
Government Records Access and Management Act Response	Actual cost
Copies over 100 pages	
Digital Media	10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director	
Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)	
Odd size photocopies (per page)	Actual cost
Fee entitled "Odd size photocopies" applies to the entire Department of Corrections.	
Document Certification	2.00
Fee entitled "Document Certification" applies to the entire Department of Corrections.	
Local document faxing (per page)	0.50
Fee entitled "Local Document Faxing" applies to the entire Department of Corrections.	
Long distance document faxing (per page)	2.00

Fee entitled "Long Distance Document Faxing" applies to the entire Department of Corrections.	
Staff time to search, compile, and otherwise prepare record	Actual cost
Fee entitled "Staff time to search, compile, and otherwise prepare record" applies to the entire Department of Corrections.	
Mail and ship preparation, plus actual postage costs	Actual cost
Fee entitled "Mail and ship preparation, plus actual postage costs" applies to the entire Department of Corrections.	
CD Duplication (per CD)	5.00
Fee entitled "CD Duplication" applies to the entire Department of Corrections.	
DVD Duplication (per DVD)	10.00
Fee entitled "DVD Duplication" applies to the entire Department of Corrections.	
Other media	Actual cost
Fee entitled "Other Media" applies to the entire Department of Corrections.	
Other services	Actual cost
Fee entitled "Other Services" applies to the entire Department of Corrections.	
8.5 x 11 photocopy (per page)	0.25
Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.	
Parole/Probation Supervision	
OSDC Supervision Collection	30.00
Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.	
Resident Support	6.00
Fee entitled "Resident Support" applies for the entire Department of Corrections.	
Department Wide	
Restitution for Prisoner Damages	Actual cost
Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.	
False Information Fines	Range: \$1 - \$84,200
Fee entitled "False Information Fines" applies for the entire Department of Corrections.	
Sale of Services	Actual cost
Fee entitled "Sale of Services" applies for the entire Department of Corrections.	
Inmate Leases & Concessions	11.00
Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.	
Patient Social Security Benefits	
Collections Amount Based on Actual Collected	
Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.	
Sale of Goods and Materials	Actual cost
Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.	
Buildings Rental	Contractual
Fee entitled "Building Rental" applies for the entire Department of Corrections.	

Victim Rep Inmate Withheld Range: \$1 - \$50,000
 Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.
 Sundry Revenue Collection Miscellaneous collections
 Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.
 Offender Tuition
 Offender Tuition Payments Actual cost
 Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
 Medical
 Prisoner Various Prostheses Co-pay ... 1/2 cost
 Inmate Support Collections Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCI
 Sale of Goods and Materials .. Cost plus profit
 Sale of Services Cost plus profit

**JUDICIAL COUNCIL/
 STATE COURT ADMINISTRATOR**

ADMINISTRATION

Administrative Office
 Email
 Up to 10 pages 5.00
 Up to 10 pages 5.00
 Audio tape 10.00
 Video tape 15.00
 CD 10.00
 Reporter Text (per half day) 25.00
 Personnel time after 15 min (per 15 minutes) Cost of Employee Time
 Electronic copy of Court Proceeding (per half day) 10.00
 Court Records Online
 Subscription
 Over 200 records (per search) 0.10
 200 records (per month) 30.00
 Online Services Setup 25.00
 Fax
 Up to 10 pages 5.00
 After 10 pages (per page) 0.50
 Mailings Actual cost
 Preprinted Forms Cost based on number and size
 State Court Administrator
 Copies (per page) 0.25
 Microfiche (per card) 1.00

GOVERNOR'S OFFICE

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions
 Extraditions Services-Restitution Court Ordered
 Utah Office for Victims of Crime

Utah Statewide Victim Advocate
 Training 50.00
 Utah Crime Victims Conference 150.00
 Sundry Collections Variable
 Utah Victim Assistance Academy 500.00
 Administration
 Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office
 Staff time to search, compile, and otherwise prepare record Actual Cost
 Mailing Actual Cost
 Paper (per side of sheet) 0.25
 Audio recording 5.00
 Video Recording 15.00
 Document faxing (per page) 0.50
 Long distance faxing over 10 pages 1.00
 Lt. Governor's Office
 Lobbyist
 Lobbyist Badge Replacement 10.00
 Election Information
 Copy of Election Results 35.00
 Copy of Complete Voter Information Database 1,050.00
 Notary
 Notary Commission 95.00
 Notary Test Retake Within 30 Days 40.00
 Certifications
 Apostille 20.00
 Apostille for Adoption 10.00
 Certificate of Authentication 20.00
 Certificate of Authentication for Adoption 10.00
 Special Certificate 10.00
 Photocopies (per page) 0.25
 International Postage 10.00
 Expedited Processing
 Within two hours if presented before 3:00 p.m. 75.00
 End of next business day 35.00
 Local Government and Limited Purpose Entity Registry
 Local Government and Limited Purpose Entity New Registration 50.00
 Local Government and Limited Purpose Entity Registration Renewal 25.00

GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET

Operational Excellence
 Conference Registration (per unit / day) Varies by Type

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration
 Government Records Access and Management Act
 Paper (per side of sheet) 0.25
 Audio tape (per tape) 5.00
 Video tape (per tape) 15.00
 Mailing Actual cost
 Compiling and reporting in another format (per hour) 25.00
 Programmer/analyst assistance required (per hour) 50.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour)	20.00
Professional Services	Actual Cost
This fee is to reimburse the State Auditor for the actual costs of audit services provided.	
Record Access Fee	Actual Cost

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration	
Commercial Driver School	
License	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Instructor	30.00
Annual Instructor Renewal	20.00
Duplicate Instructor	6.00
Branch Office Original	30.00
Branch Office Annual Renewal	30.00
Branch Office Reinstatement	75.00
Instructor/Operation Reinstatement	75.00
School Reinstatement	75.00
Commercial Driver License	
Intra-state Medical Waiver	25.00
Certified Record	
first 15 pages	10.75
Includes Motor Vehicle Record	
16 to 30 pages	15.75
Includes Motor Vehicle Record	
31 to 45 pages	20.75
Includes Motor Vehicle Record	
46 or more pages	25.75
Includes Motor Vehicle Record	
Copy of Full Driver History	7.00
Copies of any other record	5.00
Includes tape recording, letter, medical copy, arrests	
Verification	
Driver Address Record Verification	3.00
Validate Service	0.75
Pedestrian Vehicle Permit	13.00
Citation Monitoring Verification	0.06
Ignition Interlock System	
License	
Provider	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Provider Branch Office Inspection	30.00
Provider Branch Office Annual Inspection	30.00
Installer	
Original	30.00
Annual Renewal	30.00
Duplicate	6.00
Provider	
Reinstatement	75.00
Installer	75.00
Driver Records	
Online services	3.00

Utah Interactive Convenience Fee	
Driver Services	
Commercial Driver License third party testing License	
Original Tester	100.00
Annual Tester Renewal	100.00
Duplicate Tester	10.00
Original Examiner	30.00
Annual Examiner Renewal	20.00
Duplicate Examiner	6.00
Examiner Reinstatement	75.00
Tester Reinstatement	75.00

EMERGENCY MANAGEMENT

PIO Conference Registration Fees	225.00
PIO Conference Late Registration Fee	250.00
PIO Half Conference Registration Fee	100.00
PIO Conference Guest Fee	200.00
Utah Expo Registration Fee	5.00
Utah Certified Emergency	
Manager (per Application)	100.00
Mobile Command Vehicle (per Hour)	65.00
Mobile Command Operator (per Hour)	40.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training	
Satellite Academy Technology Fee	25.00
Dorm Room	10.00
K-9 Training (out of state agencies)	2,175.00
Duplicate POST Certification	5.00
Duplicate Certificate, Wallet Card	5.00
Duplicate Radar or Intox Card	2.00
Law Enforcement Officials and	
Judges Firearms Course	1,000.00
Cadet Application	
Online Application Processing Fee	35.00
Rental	
Pursuit Interventions Technique	
Training Vehicles	100.00
Firing Range	300.00
Shoot House	150.00
Camp William Firing Range	200.00
Peace Officers' Standards and Training (POST)	
Reactivation/Waiver	75.00
Supervisor Class	50.00
West Point Class	150.00

PROGRAMS & OPERATIONS

CITS State Crime Labs	
Additional DNA Casework per sample -	
full analysis	894.00
DNA Casework per sample -	
Quantitation only	459.00
Drugs - controlled substances per	
item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training Course Materials	
Reimbursement (per Person)	250.00
Training Course Materials Reimbursement	
Department Commissioner's Office	
Fees Applicable to All Divisions In Department of Public Safety	
Courier Delivery	Actual cost
Fax (per page)	1.00

Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00
1, 2, or 4 photos per sheet (8x11) based on request	
Miscellaneous Computer Processing (per hour)	Cost of Employee Time
Bulk/E-Data Transaction (per Record)	0.10
Copies	
Mailing	Actual cost
Color (per page)	1.00
Over 50 pages (per page)	0.50
1-10 pages	5.00
11-50 pages	25.00
Department Sponsored Conferences	
Registration (per registrant)	275.00
Late Registration (per registrant)	300.00
Vendor Fee (per Vendor)	700.00
Fire Marshall - Fire Operations	
Annual license for display operator, special effects operator, or flame effects operator (per License)	40.00
Annual license for importer and wholesaler of pyrotechnic devices (per License)	250.00
Inspection For Fire Clearance	
Re-Inspection Fee (per Re-Inspection)	250.00
Liquid Petroleum Gas License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00
Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00
3rd inspection or more	
Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00
License Transfer	50.00
Application for exemption	150.00
Examination	30.00
Re-examination	30.00
Five year examination	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00
Fire Alarm Inspection and Testing	

Certificate of Registration	40.00
Examination	30.00
Re-examination	30.00
Three year extension	30.00
Highway Patrol - Administration	
Online Traffic Reports Utah	
Interactive Convenience Fee	2.50
UHP Conference Registration Fee	250.00
Photogramatry	100.00
Cessna (per hour)	155.00
Plus meals and lodging	
Helicopter (per hour)	1,350.00
Plus meals and lodging	
Court order requesting blood samples be sent to outside agency	40.00
Highway Patrol - Federal/State Projects	
Transportation and Security Details (per hour)	100.00
Plus mileage	
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Safety Inspection Manual	5.50
Stickers (book of 25)	4.50
Sticker reports (book of 25)	3.00
Inspection certificates for passenger/light truck (book of 50)	3.00
Inspection certificates for ATV (book of 25)	3.00
Inspection Station	
Permit application fee	100.00
Station physical address change	100.00
Replacement of lost permit	2.25
Inspector	
Certificate application fee	7.00
Valid for 5 years	
Certificate renewal fee	4.50
Replacement of lost certificate	1.00

BUREAU OF CRIMINAL IDENTIFICATION

Law Enforcement/Criminal Justice Services	
TAC Conference Registration	100.00
Non-Government/Other Services	
Replication Fee for Rap Back Enrollment (per Request)	10.00
Vacatur Expungement Order	
Processing Fee	65.00
Record Challenge Fee (per Request)	15.00
Paper Arrest (OTN) Fingerprint	
Card Packets (per card packet)	15.00
Right of Access (per Request)	15.00
AFIS Retain (per Request)	5.00
Applicant Fingerprint Card (WIN) (per Request)	15.00
Firearm Transaction (Brady Check)	7.50
Name/DOB Applicant Background Check	15.00
Concealed Firearm Permit Instructor	
Registration	35.00
Board of Pardons Expungement	
Processing	65.00
Fingerprint Services	15.00
Print Other State Agency Cards	5.00
State Agency ID set up	50.00
Child ID Kits	1.00
Extra Copies Rap Sheet	15.00
Extra Fingerprint Cards	5.00

Automated Fingerprint Identification	
System Database Retention	5.00
Concealed weapons permit renewal	
Utah Interactive Convenience Fee	0.75
Photos	15.00
Application for Removal From White	
Collar Crime Registry	120.00
Private Investigator	
Original agency license application	
and license	215.00
Renewal of an agency license	115.00
Original registrant or apprentice	
license application and license	115.00
Renewal of a registrant or apprentice	
license	65.00
Late Fee Renewal - Agency	65.00
Late Fee Renewal - Registrant/	
Apprentice	45.00
Reinstatement of any license	65.00
Duplicate identification card	25.00
Bail Enforcement	
Original bail enforcement agent	
license application and license	250.00
Renewal of a bail enforcement agent or	
bail bond recovery agency license	150.00
Original bail recovery agent license	
application and license	150.00
Renewal of each bail recovery	
agent license	100.00
Original bail recovery apprentice	
license application and license	150.00
Renewal of each bail recovery	
apprentice license	100.00
Late Fee Renewal - Enforcement	
Agent/Recovery Agency	50.00
Late Fee Renewal - Recovery Agent	30.00
Late Fee Renewal - Recovery	
Apprentice	30.00
Reinstatement of a bail enforcement	
agent or bail bond recovery	
agency license	50.00
Duplicate identification card	10.00
Reinstatement of an identification	
card	10.00
Sex Offender Kidnap Registry	
Application for removal from registry	230.00
Eligibility Certificate for removal	
from registry	25.00
Expungements	
Special certificates of eligibility	65.00
Application	65.00
Certificate of Eligibility	65.00

**INFRASTRUCTURE
AND GENERAL GOVERNMENT**

**DEPARTMENT OF ADMINISTRATIVE
SERVICES**

DFCM ADMINISTRATION

Program Management	
Non-state Funded Project Fees	
Projects <\$100 (per Project)	3.5%
Projects >= \$100K and <\$500K	
(per Project)	\$3500 + 1.5% over \$100,000

Projects >= \$500K and <\$2.5M	
(per Project)	\$9500 + 0.75% over \$500,000
Projects >= \$2.5M and	
<\$10M (per Project)	\$24,500 + 0.5% over \$2,500,000
Projects >= \$10M and <\$50M	
(per Project)	\$62,000 + .15% over \$10,000,000
Projects >= \$50M	
(per Project)	\$122,000 + 0.1% over \$50,000,000

EXECUTIVE DIRECTOR

Government Records Access and Management Act	
Photocopies, black & white (per Copy)	0.10
Photocopies, color (per Copy)	0.25
Photocopy labor cost (per Utah	
Statute 63G-2-203(2))	
(per page)	Actual Cost
Certified copy of a document	
(per certification)	4.00
Long distance fax within US	
(per fax number)	2.00
Electronic Documents on any physical	
media (per USB (GB))	Actual Cost
Mail within US (per address)	2.00
Mail outside US (per address)	5.00
Research or services	Actual cost

**FINANCE - MANDATED -
PARENTAL DEFENSE**

Parental Defense	
Continuing Legal Education (CLE)	
fee (per CLE Hour)	25.00
Parental Defense Fund - Parental	
Defense Conference Fee (per Person)	150.00

FINANCE ADMINISTRATION

Finance Director's Office	
Transparency	
Utah Public Finance Website large data	
download	1.00
Revenue kept by Utah Interactive up to	
\$10,000. \$1 per download	
Financial Information Systems	
FINET Interface Implementation	
(per Hour)	63.84
FINET Interface Document	
Clean Up (per Hour)	44.78
Custom Report and Dashboard Development	
and Maintenance	Actual Costs
Credit Card Payments	Variable
Contract rebates	
Automated Payables (per Invoice Page)	0.25
UDOT Actual cost	
Financial Reporting	
Loan Servicing	125.00
ISF Accounting Services	Actual cost
Cash Mgt Improvement Act Interest	
Calculation	Actual cost
Single Audit Billing to State	
Auditor's Office	Actual Cost
Payables/Disbursing	
Disbursements	

Tax Garnishment (3rd Party)	10.00
Single Garnishment	
Collection Service	15.00
IRS Collection Service	25.00
Payroll	
Payroll Continuing Garnishment	25.00
Fee for a continuing garnishment.	
Technical Services	
Financial Transparency Database Subscription	
Fee (per Actual Costs)	Actual Costs

STATE ARCHIVES

Archives Administration	
Data Base Download (plus Work	
Setup Fee) (per Record)	0.10
Patron Services	
Copy - Paper to PDF (copier	
use by patron)	0.05
Digital Collection Setup Host fee	300.00
Local Commercial License	10.00
National Commercial License	50.00
Copy - Paper to PDF (copier use by staff) ...	0.25
General	
Certified Copy of a Document	4.00
Photo Reproductions	
Digital Imaging 300 dpi or higher	10.00
Mailing and Fax Charges	
Within USA	
Mailing in USA - 1 to 10 Pages	3.00
Mailing in USA - Microfilm	
1 to 2 Reels	4.00
Mailing in USA - Each additional	
Microfilm Reel	1.00
Mailing in USA - CD/DVD/USB	4.00
Mailing in USA - Add Postage for	
each 10 pages	1.00
International	
Mailing International - 1 to 10 pages ...	5.00
Mailing International -	
Each additional 10 pages	1.00
Mailing International - Microfilm	
1 to 2 Reels	6.00
Mailing International - Each	
additional Microfilm Reel	2.00
Mailing International -	
CD/DVD/ USB	6.00
Copy Charges	
Audio	
Copy Charges - Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges - 11 x 14 and	
11 x 17 by staff, limit 50	0.50
Copy Charges - 11 x 14 and	
11 x 17 by patron	0.25
8.5x11	
Copy - 8.5 x 11 by staff, limit 50	0.25
Copy - 8.5 x 11 by patron	0.10
Microfilm/Microfiche	
Digital	
Copy - Digital by staff, limit 25	1.00
Copy - Digital by patron	0.15
Paper	

Copy Microfilm - Paper by staff,	
limit 25	1.00
Copy Microfilm - Paper by patron	0.25
Video	
Copy Video - Video Recording	
(excludes cost of medium)	20.00
Price excludes cost of medium	
Other	
Archivist Handling fee (per hr.)	
(per hour)	At Cost
Special Request	At Cost
Supplies	
Supplies - USB Flash Drive	
(per gigabyte)	5.00
Supplies - CD (per disk)	0.30
Supplies - DVD (per disk)	0.40
Electronic File on-line (per File)	2.50
Preservation Services	
Work Setup Fee (WSF)	17.00
Microfiche production fee per	
image plus (WSF) (per image)	0.045
General	
16mm master film	13.00
Digital Copies of Electronic Rolls	
of Microfilm plus medium cost	10.00
35mm master film	35.00
16mm diazo duplicate copy	12.00
35mm diazo duplicate copy	14.00
16mm silver duplicate copy	30.00
35mm silver duplicate copy	24.00
Frames filmed (Standard)	0.05
Frames filmed (Custom)	0.08
Books filmed (per Page)	0.15
Electronic image to microfilm	
(per Reel)	45.00
Microfilm to CD/DVD/USB (per reel)	40.00
Microfilm Lab Processing Setup Fee	5.00
Microfilm to digital PDF conversion	5.00

STATE DEBT COLLECTION FUND

Office of State Debt Collection	
Attorney / Legal fee	
(per Hour)	\$100 per hour
Corrections Tuition	
Fee	10% of tuition account balance
Collection Penalty	6.0%
Collection Interest	Prime + 2%
Post Judgment Interest	Variable
Labor Commission Wage Claims	Variable
10% of partial payments; 1/3 of claim or	
\$500, whichever is greater for full payments	
Administrative Collection	15.5%
15.5% of amount collected (18.34% effective	
rate)	
Non sufficient Check Collection	20.00
Non sufficient Check Service Charge	20.00
Garnishment Request	Actual cost
Legal Document Service	Actual cost
Greater of \$20 or Actual	
Credit card processing fee charged	
to collection vendors	1.75%
Court Filing, Deposition/	
Transcript /Skip Tracing	Actual cost

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

**DIVISION OF FACILITIES CONSTRUCTION
AND MANAGEMENT - FACILITIES
MANAGEMENT**

New Provo Courts/Terrace	1,320,997.88	DPS Drivers License	185,577.00
DEQ Building	62,788.63	DPS Farmington Public Safety	68,425.00
Unified Lab #2	865,836.54	Fairpark Driver's License Division	61,571.00
Cedar City DNR	62,790.16	Dixie Drivers License	62,928.00
Ivins VA Nursing Home	83,064.39	Driver License West Valley	98,880.00
Spanish Fork Veterinary Lab	35,716.03	Division of Services for the Blind and Visually Impaired	
Payson VA Nursing Home	99,105.70	Training Housing	49,736.00
Vernal Drivers License	34,615.00	Farmington 2nd District Courts	537,465.00
Ogden VA Nursing Home	52,945.37	Glendinning Fine Arts Center	45,000.00
Garage-Journey Boiler Operator	58.00	Governor's Residence	152,156.00
Garage-Journey Carpenter	52.00	Heber M. Wells	936,679.00
Garage-Journey Plumber	54.00	Highland Regional Center	331,766.40
Utah State Developmental Center	2,298,357.00	Human Services	
Lone Peak Forestry & Fire	38,020.65	DHS Clearfield East	127,306.00
Alcoholic Beverage Control Stores	1,775,709.50	DHS Ogden - Academy Square	299,834.00
Price Public Safety	90,897.00	DHS - Vernal	74,117.00
Ogden Juvenile Court	444,038.00	Layton Court	80,896.00
Garage-Administrative Staff	49.00	Logan 1st District Court	379,267.00
Garage-Apprentice Maintenance	45.00	Medical Drive - Family Health	260,640.00
Garage-Electronic Resource	48.00	Moab Regional Center	112,533.00
Garage-Facilities Manager / Coord II	65.00	Murray Highway Patrol	141,738.00
Garage-Groundskeeper II	41.00	Natural Resources	745,072.00
Garage-Grounds Manager	43.00	Natural Resources Price	124,323.00
Garage-Grounds Supervisor	40.00	Natural Resources Richfield (Forestry)	71,519.52
Garage-Journey Electrician	56.00	Navajo Trust Fund Administration	132,640.00
Garage-Journey HVAC	55.00	Office of Rehabilitation Services	204,156.00
Garage-Journey Maintenance	50.00	Ogden Court	467,740.00
Garage-Maintenance Supervisor	51.00	Ogden Juvenile Probation	211,134.00
Garage-Mechanic	42.00	Ogden Regional Center	749,366.80
Garage-Office Technician	40.00	Orem Circuit Court	120,792.00
Garage-Temp Groundskeeper	26.00	Orem Public Safety	105,640.00
Wasatch Courts	9,577.00	Orem Region Three Department of Transportation	141,192.00
Chase Home	17,428.00	Provo Court	299,400.00
Vernal DNR Regional	80,394.00	Provo Juvenile Courts	173,940.00
Clearfield Warehouse C6 - Archives	149,410.32	Provo Regional Center	664,011.00
Clearfield Warehouse C7 - DNR/DPS	102,837.00	Public Safety Depot Ogden	34,822.00
Cedar City A P & P	28,444.00	Richfield Court	106,535.68
N UT Fire Dispatch Center	30,438.66	Richfield Dept. of Technology Services Center	39,000.00
Veteran's Memorial Cemetery	24,464.00	Richfield Regional Center	75,499.00
Alcoholic Beverage Control Administration	805,415.00	Rio Grande Depot	493,565.00
Juab County Court	76,798.00	Salt Lake Court	1,868,160.00
Agriculture	356,706.00	Salt Lake Government Building #1	972,934.00
Adult Probation and Parole Freemont Office Building	192,375.00	Salt Lake Regional Center - 1950 West	250,492.00
Archive Building	110,619.00	St. George Courts	515,353.00
Brigham City Court	169,400.00	St. George DPS	49,572.00
Brigham City Regional Center	573,808.00	St. George Tax Commission	64,224.00
Calvin Rampton Complex	1,602,863.00	State Library	183,714.00
Cannon Health	860,515.00	State Library State Mail	156,261.00
Capitol Hill Complex	3,809,700.00	State Library Visually Impaired	124,027.00
Cedar City Courts	103,520.00	Taylorville Center for the Deaf	138,681.00
Cedar City Regional Center	72,008.00	Taylorville Office Building	185,250.00
Department of Administrative Services Surplus Property	59,747.00	Tooele Courts	311,351.00
Department of Public Safety DPS Crime Lab	42,000.00	Unified Lab	883,894.00
		Utah Arts Collection	43,900.00
		Utah State Office of Education	410,669.00
		Utah State Tax Commission	970,200.00
		Vernal 8th District Court	248,649.00
		Vernal Division of Services for People with Disabilities	31,330.00
		Vernal Juvenile Courts	20,256.00
		West Jordan Courts	557,835.00
		West Valley 3rd District Court	148,350.00
		Workforce Services	

DWS/DHS - 1385 South State	308,430.70
DWS Administration	685,930.00
DWS Brigham City	46,304.00
DWS Call Center	200,317.00
DWS Cedar City	78,461.00
DWS Clearfield/Davis County	180,633.00
DWS Logan	110,088.00
DWS Metro Employment Center	252,776.00
DWS Midvale	135,640.00
DWS Ogden	153,748.00
DWS Provo	144,970.00
DWS Richfield	58,072.00
DWS South County Employment Center	176,196.00
DWS St. George	66,452.00
DWS Vernal	73,702.00
Ogden Division of Motor Vehicles and Drivers License	71,964.00
Ogden Radio Shop	16,434.00

DIVISION OF FINANCE

ISF - Consolidated Budget and Accounting Basic Accounting and Transactions (per hour)	40.00
Financial Management (per hour)	73.00
ISF - Purchasing Card Contract rebates	Variable

DIVISION OF FLEET OPERATIONS

ISF - Fuel Network Charge (per gallon) greater than or equal to 60,000 gal./yr	0.075
Charge at low volume sites (per gallon) less than 60,000 gal./yr.	0.105
Percentage of transaction value at all sites	3.0%
Accounts receivable late fee Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
CNG Maintenance and Depreciation (per gallon)	1.15
ISF - Motor Pool Telematics GPS tracking	Actual cost
Commercial Equipment Rental	Cost plus \$12 Fee
Administrative Fee for Do-Not Replace Vehicles (per Month)	51.29
Service Fee (per 12)	\$12 Service Fee
General MP Info Research Fee (per 12)	\$12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2)	\$2 Fee
Vehicle Complaint Processing Fee (per 20)	\$20 Fee
Operator negligence and vehicle abuse fees (per 0)	Varies (abuse or driver neglect cases only)
Lease Rate (per month, per vehicle)	See formula
Contract price less salvage value divided by current life cycle.	
Mileage	See formula

Maintenance and repair costs for a particular class of vehicle, divided by total miles for that class	
Fuel Pass-through	Actual cost
Equipment rate for Public Safety vehicles	Actual cost
Additional Management Daily Pool Rates - Actual Cost From Vendor Contract - Actual Cost	Actual Cost
Administrative Fee for Overhead	42.00
Management Information System (per month)	3.00
Vehicle Feature and Miscellaneous Equipment Upgrade	Actual cost
Vehicle Class Differential Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault Vehicle Detail Cleaning Service	40.00
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee Past 30-days	5% of balance
Past 60-days	10% of balance
Past 90-days	15% of balance
Accident deductible rate charged (per accident)	Actual cost
Operator negligence and vehicle abuse	Variable
Statutory Maintenance Non-Compliance 10 days late (per vehicle per month)	100.00
20 days late (per vehicle per month)	200.00
30+ days late (per vehicle per month)	300.00
Seasonal Use Vehicle Lease	155.02
ISF - Travel Office Travel	
Travel Agency Service Regular	26.00
Online	16.00
State Agent	21.00
Group 16-25 people	23.50
26-45 people	21.00
46+ people	18.50
School District Agent	16.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing State Mail Courier	
Courier - Zone 1	2.26
Courier - Zone 2	3.88
Courier - Zone 3	8.04
Courier - Zone 4	9.70
Courier - Zone 5	14.35
Courier - Zone 6	17.79
Courier - Zone 7	21.73
Courier - Zone 8	26.42
Courier - Zone 9	28.49
Courier - Zone 10	33.22
Courier - Zone 11	36.02
Courier - Zone 12	39.87
Production Incoming OCR Sort	0.103
Business Reply/Postage Due	0.54
Special Handling/Labor (per hour)	85.00

Auto Fold	0.024
Label Generate	0.155
Label Apply	0.15
Auto Tab	0.35
Meter/Seal	0.028
Optical Character Reader	0.028
Additional Insert	0.01
Accountable Mail	1.45
Intelligent Inserting	0.033
ISF - Cooperative Contracting	
Cooperative Contracts Administrative	Up to 1.0%
ISF - Federal Surplus Property	
Surplus	
Federal Shipping and handling	
charges	See formula
Not to exceed 20% of federal acquisition cost	
plus freight/shipping charges	
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance
ISF - Print Services	
Contract Management (per impression)	0.005
Self Service Copy Rates	0.004
Cost computed by: (Depreciation +	
Maintenance + Supplies)/Impressions + copy	
multiplied impressions results	
ISF - State Surplus Property	
Surplus	
Surcharge for use of a Financial	
Transaction Card	Up to 3%
Surcharge applies only to the amount	
charged to a financial transaction card	
Online Sales Non-	
Vehicle	50% of net proceeds
Miscellaneous Property Pick-up Process	
State Agencies	
Total Sales Proceeds	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones)	
Less than 1 year old	75% of actual cost
\$30 minimum	
1 year and older ..	50% of cost - \$30 minimum
Unique Property	
Processing	Negotiated % of sales price
Electronic/Hazardous Waste	
Recycling	Actual cost
Vehicles and Heavy Equipment	6.5% of
Net Sale Price plus \$100 per Vehicle	
Default Auction Bids	10% of sales price
Labor (per hour)	26.00
Half hour minimum	
Copy Rates (per copy)	0.10
Semi Truck and Trailer Service	
(per mile)	1.08
Two-ton Flat Bed Service (per mile)	0.61
Forklift Service (per hour)	23.00
4-6000 lbs	
On-site sale away from Utah State Agency	
Surplus Property yard . . .	7% of net sale price
Storage	
Building (per cubic foot per month)	0.43
Fenced lot (per square foot per month)	0.23
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance

RISK MANAGEMENT

ISF - Risk Management Administration	
Learning Management System	
Learning Management System -	
Enterprise Rate (per Hour)	55.00
Learning Management System -	
Garage Rate (per Hour)	55.00
Liability Premiums	
Administrative Services	380,593.00
Agriculture	87,160.00
Alcoholic Beverage Control	85,435.00
Attorney General's Office	217,810.00
Auditor	14,257.00
Board of Pardons	18,894.00
Capitol Preservation Board	11,004.00
Career Service Review Office	708.00
Commerce	90,769.00
Commission on Criminal and	
Juvenile Justice	26,974.00
Heritage and Arts	40,721.00
Corrections	901,277.00
Courts	327,454.00
Utah Office for Victims of Crime	88,835.00
Education	290,644.00
Deaf and Blind School	15,391.00
Environmental Quality	137,963.00
Fair Park	17,603.00
Financial Institutions	15,872.00
Governor	27,753.00
Governor's Office of Management	
and Budget	3,900.00
Governor's Office of Economic	
Development	5,554.00
Health	338,339.00
Heber Valley Railroad	4,274.00
House of Representatives	10,622.00
Human Resource Management	29,765.00
Human Services	698,476.00
Labor Commission	33,365.00
Insurance	118,819.00
Legislative Fiscal Analyst	8,035.00
Legislative Auditor	9,213.00
Legislative Printing	1,829.00
Legislative Research & General	
Counsel	24,215.00
Medical Education Council	
National Guard	81,348.00
Natural Resources	428,239.00
Navajo Trust Fund	8,548.00
Public Lands	14,047.00
Public Safety	842,995.00
Public Service Commission	8,216.00
School and Institutional	
Trust Fund	2,018.00
School and Institutional	
Trust Lands	26,039.00
Senate	6,351.00
Tax Commission	163,495.00
Technology Services	213,748.00
Treasurer	7,891.00
Utah Communications Network	8,497.00
Utah Science and Technology	
and Research	9,671.00
Veteran's Affairs	11,433.00
Workforce Services	473,568.00
Transportation	3,619,000.00

Board of Regents	90,049.00
Dixie State University	224,792.00
Salt Lake Community College	338,674.00
Snow College	89,366.00
Southern Utah University	196,041.00
Bridgerland Technical College	30,460.00
Davis Technical College	35,465.00
Ogden Weber Technical College	39,165.00
Uintah Basin Technical College	18,511.00
Tooele Technical College	8,829.00
Dixie Technical College	16,597.00
Mountainland Technical College	26,511.00
Southwest Technical College	12,538.00
University of Utah	1,799,906.00
Utah State University	896,445.00
Utah Valley University	575,555.00
Weber State University	374,138.00
School Districts	11,216,466.00
Specialized Lines of Coverage	See Formula

Specialized lines of insurance outside of typical coverage lines. Pass through costs direct from insurance provider.

Property Insurance Rates	
Net Estimated Premium	18,256,256.00
Parametric Earthquake	
Premiums	330,000.00
Gross Premium for Buildings	
Existing Insured Buildings	
Existing Insured Buildings	See formula

Building value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code

Newly Insured Buildings
Newly Insured Buildings

Building value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code

Building Demographic Discounts	
Fire Suppression Sprinklers ..	15% discount
Smoke alarm/Fire detectors ..	5% discount
Flexible water/Gas connectors ..	1% discount
Surcharges	

Lack of compliance with Risk Mgt. recommendations

Building built prior to 1950

Agency Discount1 (REAF)

Agency Discount2

Agency specific discount negotiated w/ Risk Mgt

Gross Premium for Contents	
Existing Insured Buildings	
Existing Insured Buildings	See formula

Content value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy

Type, Building Quality, & Fire Protection Code

Newly Insured Buildings
Newly Insured Buildings

Content value as determined by Risk Mgt. & owner as of Statement of Values year end review multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code

Gross Premium Discounts/Penalties
Non-Compliance Penalty -

Meeting Minutes

Up to 5% penalty for non-compliance with Risk loss control activities, namely submitting Risk control meeting minutes on a quarterly basis.

Non-Compliance Penalty - Self Inspection Survey

Up to 10% penalty for non-compliance with Risk loss control activities, namely submitting the annual Self Inspection Survey.

Course of Construction Premiums
Rate per \$100 of value

Charged once per project (unless scope changes)

Automobile/Physical Damage Premiums

Administrative Services	95,350.00
Agriculture	31,306.00
Alcoholic Beverage Control	1,879.00
Attorney Generals Office	9,934.00
Auditors Office	413.00
Board of Pardons	1,240.00
Commerce	5,057.00
Corrections	88,674.00
Courts	28,180.00
Education	4,874.00
Environmental Quality	4,229.00
Governor's Office	1,639.00
Governor's Office - Economic	
Development	2,233.00
Health	13,647.00
Heritage and Arts	9,274.00
Human Services	99,861.00
Insurance	1,905.00
Labor Commission	7,388.00
National Guard	7,511.00
Natural Resources	188,885.00
Navajo Trust Fund	613.00
Public Safety	232,916.00
School and Institutional	
Trust Lands	3,263.00
School for the Deaf and Blind	12,425.00
Tax Commission	10,807.00
Technology Services	4,059.00
Transportation	178,194.00
Utah Science and Technology	
Research	205.00
Veteran's Affairs	2,628.00
Workforce Services	23,507.00
Utah Communication Authority	4,585.00
Heber Valley Railroad	815.00
Utah State Fair Park	635.00
Bridgerland Technical College	7,811.00
Davis Technical College	4,730.00

Dixie State University	34,912.00	Desktop Support (per Device/Month)	69.21
Dixie Technical College	4,043.00	Mobile Support (per SBA)	SBA
Mountainland Technical College	2,700.00	On-Call Support (per Hour)	Actual Cost
Ogden/Weber Technical College	1,698.00	Google Enterprise (Includes	
Salt Lake Community College	39,131.00	Email) (per Account/Month)	10.61
Snow College	9,155.00	Software Resale	Direct cost + 6%
Southern Utah University	18,289.00	Virtual Applications	SBA
Southwest Technical College	3,798.00	Hosting Services	
Tooele Technical College	1,416.00	Oracle Database Hosting Core	
Utah Basin Technical College	5,686.00	Model (per Core/Month)	1,226.06
University of Utah	1,526.00	Oracle Database Hosting Shared	
USU Eastern	16,712.00	Model (per GB/Month)	21.37
Utah State University	111,688.00	SQL Database Hosting Core	
Utah System of Technical Colleges	433.00	Model (per Core/Month)	542.23
Utah Valley University	38,676.00	SQL Database Hosting Shared	
Weber State University	25,372.00	Model (per GB/Month)	10.74
School Districts	992,748.00	Database Consulting (per Hour)	85.13
Charter Schools	15,777.00	System Administration (per OS/Month	
Standard deductible (per incident)	1,500.00	(or Cloud instance))	314.56
		Cloud/SAAS Implementation	
		(per Hour)	85.13
Up to this amount with discounts available		Processing (CPU) (per CPU/Month)	32.94
for compliance with specifically identified		Memory (per GB/Month)	4.93
Risk Management loss control activities.		Storage (per GB/Month)	0.069
(Currently only charging \$750.00)		Back-up & Archive Storage	
Charter Schools		(per GB/Month)	0.1167
Liability (\$2 million coverage)		File-Share (per GB/month)	0.069
Charter School Pre-opening Liability		Object Storage (per GB/Month)	0.0198
Coverage (per School)	1,000.00	Shared Application Hosting on	
Charter School Liability (\$1,000		Prem (per Instance/Month)	51.92
minimum) (per student)	12.77	Shared App Hosting Cloud	
Property (\$1,000 deductible per occurrence)		Sys Admin (per Instance/Month)	24.79
Cost per \$100 in value,		Cloud Hosting	Direct Cost + 19%
\$100 minimum	0.10	Other Hosting Services	SBA
ISF - Workers' Compensation		Data Center Rack Space -	
Workers Compensation Rates		Full Rack (per Rack/Month)	500.00
UDOT	1.25% per \$100 wages	Data Center Rack Space -	
State Agencies	0.58% (except UDOT)	Rack U (per Rack U/Month)	16.67
Aviation (per PILOT-YEAR)	\$2,200	Mainframe Services	
		Mainframe Disk (per MB/Month)	0.0059
		Mainframe Tape (per MB/Month)	0.0008
		Mainframe Consulting (per Hour)	85.13
		Mainframe Computing	SBA
		Network Services	
		Network Services (per Device/Month)	50.89
		Network IoT (per Connection/Month)	9.82
		Network Services - 10	
		GB (per Connection/Month)	203.56
		Network Services (other State	
		agencies) (per Device/Month)	55.60
		Other Network Services	Direct cost + 10%
		Miscellaneous Data	
		Circuits	Direct cost + 10%
		Security (per Device/Month)	24.25
		Other Security Services	SBA
		Security Assessment and	
		Remediation (per Tier)	Table
		Server Count: 0-4 \$12,500 5-34 \$25,000	
		35-84 \$50,000 >84 \$100,000	
		Print Services	
		High Speed Laser Print (per Image)	0.0459
		Other Print Services	Direct cost + 10%
		Miscellaneous	
		DTS Consulting Charge (per Hour)	85.13

**DEPARTMENT OF
TECHNOLOGY SERVICES**

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division

Application Services

Application Services Tier 1 (per Hour) . . .	67.80
Application Services Tier 2 (per Hour) . . .	85.13
Application Services Tier 3 (per Hour) . . .	95.28
Application Services Tier 4	
(per Hour)	107.23
Master Engineer/Consultant/Other	SBA

Communication Services

Telephone Technician Labor	
(per Hour)	78.06
Universal Telecom Rate	
(per Line/Month)	32.86
Long Distance (per Minute)	0.06
1-800 Usage (per Minute)	0.041
Jabber (per User/Month)	4.99
Other Voice Services	Direct cost + 10%
International Long Distance	Direct cost + 10%
IP Contact Center (per Core	
License/Month)	18.90
Call Management Systems	SBA

Desktop Services

**DEPARTMENT OF
TECHNOLOGY SERVICES**

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center
AGRC
GPS Subscriptions
(per Subscription/Year) 600.00
AGRC Plots (AGRC) (per Linear Foot) 6.00
GIT Professional Labor (per Hour) Table
Application Maintenance Tiered Rate: Tier
1 67.80 Tier 2 85.13 Tier 3 95.28 Tier 4 107.23

TRANSPORTATION

AERONAUTICS

Airplane Operations
Aircraft Rental
Cessna (per hour) 195.00
King Air C90B (per hour) 935.00
King Air B200 (per hour) 1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE
Event Coordination, Inspection and
Monitoring (Regular Hours)
(per Hour) 60.00
Event Coordination, Inspection and
Monitoring (NonRegular Hours)
(per Hour) 80.00
Special Event Application Review
(Single Region) (per Event) 250.00
Special Event Application Review
(Multi-Region) (per Event) 500.00
Expedited Review Fee (per Event) 600.00
Outdoor Advertising
New Permit 950.00
Permit Renewal & Admin Services Fee .. 90.00
Permit Renewal Late Fee (per Sign) 300.00
Sign Alteration Permit (per Sign) 950.00
Transfer of Ownership Permit 250.00
Retroactive Permit Fee Penalty
(per Sign) 250.00
Impound and Storage Fees 25.00

**OPERATIONS/
MAINTENANCE MANAGEMENT**

Region 4
Lake Powell Ferry Rates
Foot passengers 10.00
Motorcycles 15.00
Vehicles under 20' 25.00
Vehicles over 20' (per additional foot) 1.50
Traffic Safety/Tramway
Tramway Registration
Two-car or Multicar Aerial Passenger Tramway
Aerial Tramway - 101 Horse Power
or over 2,030.00
Aerial Tramway - 100 Horse Power
or under 1,010.00
Tramway Surcharge for winter and
summer use 15%

This is a surcharge to the registration fee for passenger ropeways that are operated year round. 15% will be added to the registration fee for those ropeways.

Chair Lift
Fixed Grip
2 passenger 630.00
3 passenger 750.00
4 passenger 875.00
Conveyor, Rope Tow 260.00
Funicular - single or double
reversible 2,030.00
Rope Tow, J-bar, T-bar, or
platter pull 260.00
Detachable Grip Chair or Gondola
3 passenger 1,510.00
4 passenger 1,625.00
6 passenger 1,750.00
8 passenger 1,880.00
Gondola - cabin capacity
from 5 to 8 1,010.00
Gondola - cabin capacity greater
than 8 2,030.00

SUPPORT SERVICES

Administrative Services
Express Lane - Administrative Fee 2.50
Tow Truck Driver Certification 200.00
Access Management Application
Type 1 75.00
Type 2 475.00
Type 3 1,000.00
Type 4 2,300.00
Access Violation Fine (per day) 100.00
Encroachment Permits
Landscaping 30.00
Manhole Access 30.00
Inspection (per hour) 60.00
Overtime Inspection (per hour) 80.00
Utility Permits
Low Impact 30.00
Medium Impact 135.00
High Impact 300.00
Excess Impact 500.00
Express Lanes
Variable priced toll Between \$0.25 - \$4.00

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

**DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL**

DABC OPERATIONS

Administration
Customized Reports Produced by
Request (per hour) 50.00
Stock Location Report 25.00
Photocopies 0.15
Returned Check Fee 20.00
Application to Relocate Alcoholic Beverages
Due to Change or Residence 20.00
Research (per hour) 30.00
Video/DVD 25.00
Price Lists
Master Category 8.00

\$96 Yearly	
Alpha by Product	8.00
\$96 Yearly	
Numeric by Code	8.00
\$96 Yearly	
Military	8.00
\$96 Yearly	
Executive Director	
Compliance Licensee Lists	10.00
Licensee Rules	20.00
Utah Code	30.00
Label Approval Fee	30.00
Training Fee	25.00

H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.

Warehouse and Distribution	
Restacking Shifted/Collapsed	
Loads (per load)	100.00
Re-configuring Pallets (per pallet)	50.00
Missed Appointment Without	
Notice (per appointment)	500.00
Missed Appointment with Less than	
24 Hour Notice (per appointment)	200.00
Non-Compliant Labeling (per case)	25.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Commerce Department	
All Divisions	
Booklets	Variable
Administrative Expungement	
Application	200.00
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy)	0.30
Verification of Licensure/	
Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	15.00
BCI Fingerprint File Search	25.00
With \$5 Rapback add on	
Fingerprint Processing for	
non-department	10.00
Government Records and Management	
Act Requested Information	
Booklet	10.00
Duplication Charge CD	12.00
Government Records and Management Act	
record	
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00

Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary	
Certification (Bi-annual)	3.00
Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing	
Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Consumer Protection	
Miscellaneous	
Transcript / Diploma Request	30.00
Residential vocational and life skills	
registration	500.00
Charitable Solicitation Act	
Charity	75.00
Transportation Network Company	
Transportation network Company	
Registration	5,000.00
Transportation Network Company	
License Renewal	5,000.00
Immigration Consultants	
Initial Registration Fee	200.00
License Renewal Fee	200.00
Pawnshop Registry	
Pawnbroker Late Fee	50.00
Charitable Solicitation Act	
Professional Fund Raiser	250.00
Telephone Solicitation	
Telemarketing Registration	500.00
Health Spa	
Health Spa	100.00
Credit Services Organization	
Credit Services Organization	250.00
Debt Management Services	
Organizations	250.00
Business Opportunity Disclosure Register	
Exempt	100.00
Approved	200.00
Child Protection Register	
Child Protection Registry (per email)	0.005
Rate up to 20,000 and 40,000 units per	
calendar month, discounted thereafter.	
Child Protection Registry	
Step Volume 20,000-40,000 units	
in a month (\$.00485)	Variable
Previous fee is \$.005. 3% discount off	
previous step for each additional 20,000 units	
in calendar month. 3% discount for	
transactions 40-60K & each 20K step	
thereafter in a calendar month.	
3% discount off previous step for	
each additional 20,000 units in	
calendar month	Variable
Pawnshop Registry	

Out of State Pawnshop Database	
Request	900.00
Pawnshop/2nd hand store	
Registration	300.00
Law Enforcement Registration	3.00
Proprietary Schools	
Initial Application	500.00
Renewal Application	1% of gross revenue
Registration Review	1% of gross revenue
Miscellaneous Fees	
Late Renewal (per month)	25.00
Miscellaneous	
Microcassette Copying (per tape)	Variable
Proprietary Schools Registration	
Application	1% of gross revenue
\$500 min; \$2,500 max	
Proprietary Schools	
Accredited Institution Certificate of	
Exemption Registration/	
Renewal	1% of gross revenue
Up to \$2,500 or \$1,500 min	
Non-Profit Exemption	
Certificate Registration/Renewal ...	1,500.00
Corporations and Commercial Code	
Partnerships	
Limited Liability Partnerships	27.00
Since renewal fees are charged the \$5 single	
sign on portal fee currently this will make	
Registrations and renewals effectively the	
same price.	
Single-Sign-On	
Single Sign-On-Portal Fee	5.00
Surcharge on Business renewals for Single	
Sign-On Portal.	
Articles of Incorporation	
Domestic Profit	70.00
Partnerships	
General Partnerships	27.00
5 year renewal	
Other	
Statement Authority	15.00
One time registration or as changes are	
needed	
Partnerships	
Limited Liability Partnership Articles	
of Incorporation	70.00
Previously under Limited Partnership, now	
LLP's Articles of Incorporation	
Other	
Pharmacy Benefit Manager	100.00
Articles of Incorporation	
Domestic Nonprofit	30.00
Foreign Profit	70.00
Foreign Nonprofit	30.00
Reinstatement	
Profit	70.00
Requalification/Reinstatement	
Nonprofit	30.00
Changes of Corporate Status	
Amend/Restate/Merge-Profit	37.00
Amend/Restate/Merge-Nonprofit	17.00
Amendment-Foreign	37.00
Pre-authorization of document	25.00
Statement of Correction	12.00
Conversion	37.00
Annual Report	

Profit	15.00
Nonprofit	10.00
Limited Partnership	15.00
Limited Liability Company	15.00
On-line	15.00
Change Form	15.00
Certification	
Corporate Standing	12.00
Corporate Standing-Long Form	20.00
Commercial Registered Agent	
Registration	52.00
Changes	52.00
Terminations	52.00
Corporation Search	
In House	10.00
Limited Partnership	
Certificate/Qualification	70.00
Reinstate	70.00
Amend/Restate/Merge	37.00
Statement of Correction	12.00
Conversion	37.00
DBA	
Registration	27.00
Renewals	22.00
Business/Real Estate Investment	
Trust	27.00
Trademark/Electronic Trademark	
Initial Application and 1st Class Code ...	50.00
Each Additional Class Code	25.00
Renewals	50.00
Assignments	25.00
Unincorporated Cooperative Association	
Articles of Incorporation/Qualification ...	22.00
Annual Report	7.00
Limited Liability Company	
Articles of Organization/Qualification ...	70.00
Reinstate	70.00
Amend/Merge	37.00
Statement of Correction	12.00
Conversion	37.00
Other	
Late Renewal	10.00
Out of State Motorist Summons	12.00
Collection Agency Bond	32.00
Unregistered Foreign Business	12.00
Foreign Name Registration	22.00
Statement of Certification	12.00
Name Reservation	22.00
Telecopier Transmittal	5.00
Telecopier Transmittal (per page)	1.00
Commercial Code Lien Filing	
UCC I Filings (per page)	12.00
UCC Addendum (per page)	12.00
UCC III Assignment/Amendment	12.00
UCC III Continuation	12.00
UCC III Termination	Variable
CFS-1	12.00
CFS Addendum	12.00
CFS-3	12.00
CFS-2	12.00
CFS Registrant	25.00
Master List	25.00
Lien Search	
Search	12.00
Transactions Through Utah Interactive	
Registered Principal Search	3.00
Business Entity Search Principals	1.00
Certificate of Good Standing	12.00

Subscription	75.00	Apprentice Plumber CE attendance tracking/ per hour	0.24
UCC Searches	12.00	Substance Use Disorder Counselor (Licensed) Licensed Advanced New Application	85.00
List Compilation Customized	Variable	Licensed Advanced Renewal	78.00
One Stop Business Registration	Variable	Substance Use Disorder Counselor (Certified) Certified Advanced Counselor	70.00
Occupational and Professional Licensing		Certified Advanced Counselor Intern	70.00
Cosmetologist/Barber		Pharmacy	
Esthetician / Nail Technician		Dispensing Medical Practitioner	
Apprentice Cosmetology		New Application Filing	110.00
disciplines Registration / Renewal	20.00	Dispensing Medical Practitioner	
Deception Detection		License Renewal	63.00
Deception Detection Examiner		Dispensing Medical Practitioner	
Administrator Application	50.00	Clinic Pharmacy New Application	200.00
Deception Detection Examiner		Dispensing Medical Practitioner	
Administrator Renewal	32.00	Clinic Pharmacy License Renewal	103.00
Commercial Interior Design		Pharmacy Technician Trainee New /	
Commercial Interior Design Certification		Renewal	50.00
New Application	70.00		
Commercial Interior Design		Technician Trainee reduced to same \$47 as technician	
Certification Renewal	47.00	Music Therapy	
Hair Design		Certified Music Therapist New	
Hair Designer New Application Filing	60.00	Application	70.00
Hair Designer License Renewal	52.00	Certified Music Therapist	
Instructor Certificate	60.00	Application Renewal	47.00
School New Application Filing		Physical Therapy	
and Renewal	110.00	Dry Needle Registration	50.00
Plumber		Psychologist	
General Plumbing Contractor New		Behavioral Analyst New	
Application Filing	175.00	Application Filing	120.00
General Plumbing Contractor		Behavioral Analyst License Renewal	93.00
Renewal	113.00	Assistant Behavioral Analyst	
Residential Plumbing Contractor		New Application Filing	120.00
New Application Filing	175.00	Assistant Behavioral Analyst	
Electrician		License Renewal	93.00
General Electrical Contractor New		Behavioral Specialist License Renewal	78.00
Application Filing	175.00	Assistant Behavioral Specialist	
Residential Electrical Contractor		License Renewal	78.00
New Application Filing	175.00	Physician and Surgeon	
Residential Electrical Contractor		Physician and Surgeon Compact	
Renewal	113.00	Existing Licensee Fee	40.00
General Electrical Contractor Renewal	113.00	Interstate Compact New License	
Plumber		Application Filing	200.00
Residential Plumbing Contractor		Interstate Compact License Renewal	183.00
Renewal	113.00	Acupuncturist	
Physician and Surgeon		License Renewal	63.00
Restricted Associate Physician New		Alarm Company	
Application Filing	210.00	Company Application Filing	330.00
Restricted Associate Physician		Company License Renewal	203.00
Renewal	113.00	Agent Application Filing	60.00
Cosmetologist/Barber		Agent License Renewal	42.00
Barber Renewal	52.00	Agent Temporary Permit	20.00
Physical Therapy		Architect	
Physical Therapy Compact New /		New Application Filing	110.00
Renewal	47.00	License Renewals	63.00
Physical Therapy Assistant		Education and Enforcement Surcharge	10.00
Compact Ne / Renewal	47.00	Armored Car	
Acupuncturist		Registration	330.00
New Application Filing	110.00	Renewal	203.00
Electrician		Security Officer Registration	60.00
Apprentice Electrician tracking		Security Officer Renewal	42.00
per credit hour	0.24	Education Approval	300.00
Massage		Education Renewal	103.00
Apprentice Renewal	20.00	Athletic Agents	
Plumber			
Plumber CE Course approval	40.00		
Plumber CE Course Attendee			
Tracking / per hour	1.00		

New Application Filing	510.00
License Renewal	510.00
Athletic Trainer	
New Application Filing	70.00
License Renewal	47.00
Building Inspector	
New Application Filing	85.00
License Renewal	63.00
Certified Court Reporter	
New Application Filing	45.00
License Renewal	42.00
Certified Dietician	
New Application Filing	60.00
License Renewals	37.00
Certified Nurse Midwife	
New Application Filing	100.00
License Renewal	63.00
Intern-New Application Filing	35.00
Certified Public Accountant	
Individual CPA Application Filing	85.00
Individual License/Certificate Renewal ..	63.00
CPA Firm Application for Registration ...	90.00
CPA Firm Registration Renewal	52.00
Chiropractic Physician	
New Application Filing	200.00
License Renewal	103.00
Contractor	
New Application Filing	175.00
License Renewals	113.00
New / Change Qualifier	50.00
Corporation Conversion	35.00
Continuing Education Course	
Approval	40.00
Continuing Education (per credit	
hour tracking)	1.00
Controlled Substance	
New Application Filing	100.00
License Renewal	78.00
Controlled Substance Handler	
Facility New Application Filing	90.00
Facility License Renewal	68.00
Individual New Application Filing	90.00
Individual License Renewal	68.00
Controlled Substance Precursor	
Distributor New Application Filing	210.00
License Renewal	113.00
Cosmetologist/Barber	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Barber New Application	60.00
School License Renewal	52.00
Barber Instructor Certificate	60.00
Deception Detection	
Examiner New Application Filing	50.00
Examiner License Renewal	32.00
Intern New Application Filing	35.00
Intern License Renewal	32.00
Dentist	
New Application Filing	110.00
License Renewals	63.00
Anesthesia Upgrade New Application	60.00
Dental Hygienist	
New Application Filing	60.00
License Renewal	37.00

Anesthesia Upgrade New Application	35.00
Direct Entry Midwife	
New Application Filing	100.00
License Renewal	63.00
Electrician	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course	
Approval	40.00
Continuing Education (per credit	
hour tracking)	1.00
Electrologist	
New Application Filing	50.00
License Renewals	32.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Elevator Mechanic	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course	
Approval	40.00
Continuing Education (per credit	
hour tracking)	1.00
Engineer, Professional	
New Application Filing	110.00
Engineer License Renewal	63.00
Structural Engineer New	
Application Filing	110.00
Structural Engineer License Renewal	63.00
Engineer	
Education and Enforcement Surcharge ..	10.00
Environmental Health Scientist	
New Application Filing	60.00
License Renewal	37.00
New Application Filing	60.00
In training	
Esthetician	
New Application Filing	60.00
License Renewals	52.00
Instructor Certificate	60.00
Master Esthetician New Application	
Filing	85.00
Master Esthetician License Renewal	68.00
School New Application Filing	110.00
School License Renewal	110.00
Factory Built Housing	
Dealer New Application Filing	30.00
Dealer License Renewal	30.00
On-site Plant Inspection	
(per hour)	\$50 per hour plus expenses
Factory Built Housing Education	
and Enforcement	25.00
Funeral Services	
Director New Application Filing	160.00
Director License Renewal	88.00
Intern New Application Filing	85.00
Establishment New Application	
Filing	250.00
Establishment License Renewal	250.00
Genetic Counselor	
New Application Filing	150.00
License Renewal	138.00
Geologist	
New Application Filing	150.00
License Renewal	123.00
Education and Enforcement Fund	15.00

Handyman Affirmation	Medication Aide Certified License
Handyman Exemption Registration/ Renewal 35.00	Renewal 42.00
Health Facility Administrator	Occupational Therapist
New Application Filing 120.00	Occupational Therapist New
License Renewals 83.00	Application Filing 70.00
Hearing Instrument Specialist	Occupational Therapist License
New Application Filing 150.00	Renewal 47.00
License Renewal 103.00	Occupational Therapist Assistant
Intern New Application Filing 35.00	New Application Filing 70.00
Hunting Guide	Occupational Therapist Assistants
New Application Filing 75.00	License Renewal 47.00
License Renewal 50.00	Online Contract Pharmacy
Landscape Architect	New Application 200.00
New Application Filing 110.00	Renewal 103.00
License Renewal 63.00	Online Internet Facilitator
Examination Record 30.00	New Application 7,000.00
Education and Enforcement Fund 10.00	Renewal 7,000.00
Land Surveyor	Optometrist
New Application Filing 110.00	New Application Filing 140.00
License Renewals 63.00	License Renewal 93.00
Education and Enforcement Surcharge . . 10.00	Osteopathic Physician Online Prescriber
Marriage and Family Therapist	New Application 200.00
Therapist New Application Filing 120.00	License Renewal 183.00
Therapist License Renewal 93.00	Outfitter
Associate New Application Filing 85.00	New License Filing 150.00
Externship New Application Filing 85.00	Renewal License 50.00
Massage	Osteopathic Physician and Surgeon
Therapist New Application Filing 60.00	New Application Filing 200.00
Therapist License Renewal 52.00	License Renewals 183.00
Apprentice New Application Filing 35.00	Pharmacy
Medical Language Interpreter	Pharmacist New Application Filing 110.00
New Application Filing 50.00	Pharmacist License Renewal 63.00
Interpreter Renewal 25.00	Pharmacy Intern New Application
Nail Technician	Filing 100.00
New Application Filing 60.00	Pharmacy Technician New
License Renewal 52.00	Application Filing 60.00
Instructor Certificate 60.00	Pharmacy Technician License
School New Application Filing 110.00	Renewal 47.00
School License Renewal 110.00	Class A New Application Filing 200.00
Naturopathic Physician	Class A License Renewal 103.00
New Application Filing 200.00	Class B New Application 200.00
License Renewals 103.00	Class B License Renewal 103.00
Nursing	Class C New Application 200.00
Licensed Practical Nurse New	Class C License Renewal 103.00
Application Filing 60.00	Class D New Application 200.00
Licensed Practical Nurse License	Class D License Renewal 103.00
Renewal 58.00	Class E New Application 200.00
Registered Nurse New Application	Class E License Renewal 103.00
Filing 60.00	Physical Therapy
Registered Nurse License Renewal 58.00	New Application Filing 70.00
Advanced Practice RN New Application	License Renewal 47.00
Filing 100.00	Physical Therapy Assistant
Advanced Practice RN License	New Application Filing 60.00
Renewal 68.00	License Renewal 47.00
Advanced Practice RN-Intern	Physician/Surgeon
New Application Filing 35.00	New Application Filing 200.00
Certified Nurse Anesthetist	License Renewal 183.00
New Application Filing 100.00	Physician Assistant
Certified Nurse Anesthetist	New Application Filing 180.00
License Renewal 68.00	License Renewals 123.00
Educational Program Approval-	Physician Online Prescriber
Initial Visit 500.00	New Application 200.00
Educational Program Approval-	License Renewal 183.00
Follow-up 250.00	Plumber
Medication Aide Certified New	New Application Filing 110.00
Application Filing 50.00	License Renewals 63.00
	Podiatric Physician

New Application Filing	200.00
License Renewal	103.00
Pre-Need Funeral Arrangement	
Sales Agent New Application Filing	85.00
Sales Agent License Renewal	73.00
Private Probation Provider	
New Application Filing	85.00
License Renewal	63.00
Clinical Mental Health Counselor	
New Application Filing	120.00
License Renewals	93.00
Professional Counselor Associate	
New Application Filing	85.00
Associate Clinical Mental Health	
Extern New Application	85.00
Psychologist	
New Application Filing	200.00
License Renewal	128.00
Certified Psychology Resident	
New App Filing	85.00
Radiology	
Radiology Technologist New	
Application Filing	70.00
Radiology Technologist License	
Renewal	47.00
Radiology Practical Technologist	
New Application Filing	70.00
Radiology Practical Technologist	
License Renewal	47.00
Recreation Therapy	
Master Therapeutic Recreational	
Specialist New Application Filing	70.00
Master Therapeutic Recreational	
Specialist License Renewal	47.00
Therapeutic Recreational Specialist	
New Application Filing	70.00
Therapeutic Recreational Specialist	
License Renewal	47.00
Therapeutic Recreational Technical	
New License Application	70.00
Therapeutic Recreational Technician	
License Renewal	47.00
Residence Lien Recovery Fund	
Registration Processing	
Fee-Voluntary Registrants	25.00
Post-claim Laborer Assessment	20.00
Beneficiary Claim	120.00
Laborer Beneficiary Claim	15.00
Reinstatement of Lapsed Registration ..	50.00
Late	20.00
Certificate of Compliance	30.00
Respiratory Care Practitioner	
New Application Filing	60.00
License Renewal	52.00
Security Services	
Contract Security Company	
Application Filing	330.00
Contract Security Company Renewal ...	203.00
Replace/Change Qualifier	50.00
Education Program Approval	300.00
Education Program Approval	
Renewal	103.00
Armed Security Officer New	
Application Filing	60.00
Armed Security Officer New License	
Renewal	42.00

Unarmed Security Officer New	
Application Filing	60.00
Unarmed Security Officer New	
License Renewal	42.00
Social Worker	
Clinical Social Worker New	
Application Filing	120.00
Clinical Social Worker License	
Renewal	93.00
Certified Social Worker New	
Application Filing	120.00
Certified Social Worker License	
Renewal	93.00
Certified Social Worker Intern New	85.00
Certified Social Worker Externship	85.00
Social Service Worker New	
Application Filing	85.00
Social Service Worker License	
Renewal	78.00
Speech Language Pathologist/Audiologist	
Speech Language Pathologist New	
Application Filing	70.00
Speech Language Pathologist	
License Renewal	47.00
Audiologist New Application Filing	70.00
Audiologist License Renewal	47.00
Speech Language Pathologist / Audiologist	
Speech Language Pathologist and	
Audiologist New Application Filing ...	70.00
Speech Language Pathologist and	
Audiologist License Renewal	47.00
Substance Use Disorder Counselor (Licensed)	
New Application Filing	85.00
License Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Substance Counselor	70.00
Certified Counselor Intern	70.00
Certified Substance Extern	70.00
Veterinarian	
New Application Filing	150.00
License Renewal	73.00
Intern New Application Filing	35.00
Vocational Rehab Counselor	
New Application Filing	70.00
License Renewal	47.00
Other	
Inactive/Reactivation/Emeritus	
License	50.00
Temporary License	50.00
Late Renewal	20.00
License/Registration Reinstatement	50.00
Duplicate License	10.00
Disciplinary File Search (per order	
document)	12.00
Change Qualifier	50.00
UBC Seminar	Variable
surcharge of 1% of Building Permits in	
accordance w/ UCA-15a-1-209-5-a	
UBC Building Permit surcharge	Variable
State Construction Registry	
Online	
Notice of Commencement	7.50
Appended Notice of Commencement	
online	7.50
Preliminary Notice	1.00

Notice of Completion	7.50	Renewal	48.00
Required Notifications	Variable	Education	
Requested Notifications	10.00	Real Estate Education Broker	18.00
Receipt Retrieval		Continuing Education Registration	10.00
Within 2 years	1.00	Real Estate Education Agent	12.00
Beyond 2 years	5.00	Appraisers	
Public Search	1.00	Licensed and Certified	
Annual account set up		Renewal	350.00
Auto bill to credit card	60.00	National Register	80.00
Invoice	100.00	Certifications	
Notice of Construction Loan	8.00	Real Estate Prelicense School	
Notice of Intent to Complete	8.00	Certification	100.00
Notice of Retention	1.25	Real Estate Prelicense Instructor	
Notice of Remaining to Complete	1.25	Certification	75.00
Offline		Appraisers	
Notice of Commencement	15.00	Temporary Permit	100.00
Appended Notice of Commencement -		Appraiser Trainee Registration	100.00
On-line	15.00	Real Estate Education	
Preliminary Notice	6.00	Real Estate Continuing Education	
Notice of Completion	15.00	Course Certification	75.00
Required Notifications	6.00	Real Estate Continuing Education	
Requested Notifications	25.00	Instructor Certification	50.00
Receipt Retrieval		Appraisers	
Within 2 years	6.00	Appraiser expert witness	200.00
Beyond 2 years	12.50	Appraiser Trainee Renewal	100.00
Public Search	Variable	Certifications	
Annual account set up		Real Estate Branch Schools	100.00
Auto bill to credit card	75.00	Appraiser Prelicense Course	
Invoice	125.00	Certification	70.00
Notice of Construction Loan	15.00	Appraisers	
Notice of Intent to Complete	16.00	Appraiser Pre-License School	
Notice of Retention	8.00	Application	100.00
Notice of Remaining to Complete	6.00	Appraiser Pre-License Instructor	
Notice of Loan Default	Variable	Application	75.00
Building Permit	Variable	Certifications	
Filed by city		Appraiser CE Instructor Application/	
Withdrawal of Preliminary		Renewal	75.00
Notice	Variable	Appraisers	
Construction Ownership		Appraiser CE Course Application/	
Ownership Status Report	20.00	Renewal	75.00
Ownership Listing/Change	20.00	Appraiser Temporary Permit	
Physician Educator		Extension	100.00
Physician Educator I new application	200.00	One time only	
Physician Educator I renewal	183.00	Appraisal Management Company	
Physician Educator II new		Appraisal Management Company	350.00
application	200.00	Appraisal Management Company	
Physician Educator I renewal	183.00	Renewal	350.00
Radiologist Assistant		Appraisal Management Company Late	50.00
New Application Filing	70.00	Broker	
License Renewal	47.00	New Application	100.00
Real Estate		2 year	
Broker/Sales Agent		Renewal	48.00
Property Management Sales		Broker/Sales Agent	
Agent Designation	50.00	Activation	15.00
Appraisers		New Company	200.00
Appraisal Education Special Event		Company Broker Change	50.00
Provider Fee	250.00	Company Name Change	100.00
Appraisal Education Special		Verification (per copy)	20.00
Event (per day)	150.00	General Division	
AMC National Registry Fee	25.00	Duplicate License	10.00
Licensed and Certified		Certifications/Computer Histories	20.00
Application	250.00	Late Renewal	50.00
Mortgage Broker		Reinstatement	100.00
Mortgage Loan Originator		Branch Office	200.00
New Application	100.00	No Action Letter	120.00
Mortgage Loan Originator Renewal	30.00	Trust Account Seminar	5.00
Sales Agent		Continuing Education Instructor/	
New Application (2 year)	100.00	Course Late	25.00

Mortgage Broker	
Mortgage Lending Manager	
Application	100.00
Renewal	30.00
Mortgage Lender Entities	
Application	200.00
Renewal	200.00
Mortgage DBA	200.00
Activation	15.00
Subdivided Land	
Exemption	
HUD	100.00
Water Corporation	50.00
Temporary Permit	100.00
Application	500.00
Charge over 30	3.00
Inspection Deposit	300.00
Consolidation	200.00
Charge	3.00
Renewal Report	203.00
Timeshare and Camp Resort	
Salesperson	100.00
New and renewal	
Registration	500.00
Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00
Temporary Permit	100.00
Renewal Reports	203.00
Supplementary Filing	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Securities	
Other	
Title III Crowd Funding Timely	
Notice Filing	100.00
Title III Crowd Funding Notice	
Filing Late Fee	500.00
Securities Registration	
Qualification Registration	300.00
Covered Securities Notice Filings	
Regulation A timely Securities Filing	100.00
Late Fee Regulation A Filing	500.00
Securities Registration	
Coordinated Registration	300.00
Transactional Exemptions	
Transactional Exemptions	60.00
No-action and Interpretative	
Opinions	120.00
Licensing	
Agent	60.00
Broker/Dealer	200.00
Investment Advisor	
New and renewal	100.00
Investment Advisor Representative	
New and renewal	50.00
Certified Dealer	
New and Renewal	500.00
Certified Adviser	
New and Renewal	500.00
Covered Securities Notice Filings	
Investment Companies	600.00
All Other Covered Securities	100.00

Late Fee Rule 506 Notice Filing	500.00
Less than 15 days after sale	
Federal Covered Adviser	
New and Renewal	100.00
Securities Exemptions	
Securities Exemptions	60.00
Other	
Late Renewal	20.00
Fairness Hearing	1,500.00
Statute Booklet	Variable
Small Corp. Offering Registration	
(SCOR)	Variable
Rules and form booklet	Variable
Excluding SCOR	
Postage and Handling	Variable

**GOVERNOR'S OFFICE
OF ECONOMIC DEVELOPMENT**

ADMINISTRATION

Government Records Access and Management Act (GRAMA) fees apply for the entire Department	
Odd size photocopies (per Page)	Actual Cost
GRAMA fees apply to the entire Department	
8.5 x 11 photocopy (per page)	0.25
GRAMA fees apply to the entire Department	
Document Certification	2.00
GRAMA fees apply to the entire Department	
Local Document Faxing (per page)	0.50
GRAMA fees apply to the entire Department	
Long Distance Document Faxing (per page)	2.00
GRAMA fees apply to the entire Department	
Staff time to search, compile and prepare records (per Hour)	Actual Cost
GRAMA fees apply to the entire Department	
Mail and ship preparation, plus actual postage (per Hour)	Actual Cost
GRAMA fees apply to the entire Department	
Media Storage Duplication (per Hour)	10.00
GRAMA fees apply to the entire Department	
SPONSORSHIP - LEVEL 1	
(per SPONSORSHIP)	\$0 to \$500
From \$1 to \$500 fee applies for the entire Department	
SPONSORSHIP - LEVEL 2	
(per SPONSORSHIP)	\$501 to \$1,000
From \$501 to \$1,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 3	
(per SPONSORSHIP)	\$1,001 to \$5,000
From \$1,001 to \$5,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 4	
(per SPONSORSHIP)	\$5,001 to \$10,000
From \$5,001 to \$10,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 5	
(per SPONSORSHIP)	Over \$10,000

Over \$10,000 fee applies for the entire Department
 GOED Participation Fees
 (per Participant) . . . Up to \$500 per participant

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services
 PTAC Participation Fee
 (per Participant) Up to \$60
 Market Tax Credit Fee 100,000.00

Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.

OFFICE OF TOURISM

Operations and Fulfillment
 Tourism/Film Participation Fees
 (per Event) Actual cost up to \$70,000
 Gift Store Fee (per Net Revenue) 3% of Net Revenue
 Calendars
 Calendar sales: Individual (purchases of less than 30) 10.00
 Calendar sales: Bulk (non state agencies) 8.00
 Calendar sales: Bulk (state agencies) 6.00
 Calendar sales: Office of Tourism, Film, and Global Branding employees . . . 5.00
 These fees may apply to one or more programs within the Office of Tourism Line Item.
 Calendar Envelopes 0.50
 Posters
 Posters: Framed wall posters 55.00
 Posters: Non framed wall posters 2.99
 Shirts
 T-shirt sales (cost per shirt) 10.00
 Commissions
 Tourism promotional items re-seller commission 12%
 UDOT Signage Commissions 54,000.00

PETE SUAZO UTAH ATHLETICS COMMISSION

Boxing Events
 Boxing Event: <500 Seats 500.00
 Boxing Event: 500 - 1,000 Seats 500.00
 Boxing Event: 1,000 - 3,000 Seats 750.00
 Boxing Event: 3,000 - 5,000 seats 1,500.00
 Boxing Event: 5,000 - 10,000 Seats . . . 1,500.00
 Boxing Event: >10,000 Seats 1,500.00
 Unarmed Combat Event
 Unarmed Combat Event: <500 Seats . . . 500.00
 Unarmed Combat Event: 500 - 1,000 Seats 500.00
 Unarmed Combat Event: 1,000 - 3,000 Seats 750.00
 Unarmed Combat Event: 3,000 - 5,000 seats 1,500.00
 Unarmed Combat Event: 5,000 - 10,000 Seats 1,500.00
 Unarmed Combat Event: >10,000 Seats 1,500.00
 Licenses and Badges

Promoter (per License) 250.00
 Official, Manager, Matchmaker
 (per License) 50.00
 Judge, Referee, Matchmaker, Contestant Manager Licenses
 Contestant, Second (Corner)
 (per License) 40.00
 Amateur, Professional, Second (Corner), Timekeeper Licenses
 ID Badges (per Badge) 10.00
 Drug Tests, Fight Fax, Contestant ID Badge
 Additional Inspector 100.00
 Event Registration 100.00

Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar
 Broadcast Revenue 3,000.00

3% of the first \$500,000 and 1% of the next \$1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than \$25,000, nor less than \$100.

STEM ACTION CENTER

STEM BUS - CHARITABLE (per DAY) . . . 500.00
 STEM BUS - PRIVATE (per DAY) 1,000.00

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration
 Photocopies 0.25

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Administrative Services
 Conference Level 4 - Vendor/Display Table - registration not included (per Table) . . . 300.00
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.
 Conference Level 5 - Vendor/Display Table - registration not included (per Table) . . . 500.00
 Fee entitled "Conference" applies for the entire Department of Heritage and Arts.
 Department Merchandise
 General Merchandise - Level 1
 (per Item) 5.00
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
 General Merchandise - Level 2
 (per Item) 10.00
 Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 3
(per Item) 15.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 4
(per Item) 20.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 5
(per Item) 50.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

General Merchandise - Level 6
(per Item) 100.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

Department Conference

Conference Level 1 - Early Registration
(per Person) 20.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Regular
Registration (per Person) 25.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Late
Registration (per Person) 30.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 - Vendor/Display
Table - registration not included
(per Table) 50.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Early
Registration (per Person) 45.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Regular
Registration (per Person) 50.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Late
Registration (per Person) 55.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 - Vendor/Display
Table - registration not included
(per Table) 100.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Student/Group/
Change Leader Registration
(per Person) 70.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Early
Registration (per Person) 80.00

Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Regular
Registration (per Person) 95.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Late
Registration (per Person) 100.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 - Vendor/Display
Table Fee - registration not
included (per Table) 150.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Sponsorship

Conference Sponsorship Level 1 350.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 2 500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 3 650.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 4 1,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 5 2,500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 6 5,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 7 10,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

General Training and Workshop

General Training/Workshop Participation -
Level 1 (per Person) 5.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation -
Level 2 (per Person) 10.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation -
Level 3 (per Person) 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation -
Level 4 (per Person) 25.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation - Level 5 (per Person)	30.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Participation - Level 6 (per Person)	40.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Participation - Level 7 (per Person)	50.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Participation - Level 8 (per Person)	60.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Participation - Level 9 (per Person)	125.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Participation - Level 10 (per Person)	300.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
General Training/Workshop Materials Fee (per Person)	15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.	
Government Records Access and Management Act Photocopies (per page)	0.25
GRAMA fees apply for the entire Department of Heritage and Arts	
Information Technology Preservation Pro (per unit 1-20, depending on usage)	50.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach	
Change Leader Institute Level 5	500.00
MWAC Registration Level 1	75.00
MWAC Registration Level 2	85.00
MWAC Registration Level 3	95.00
MWAC Registration Level 4	100.00
MWAC Registration Level 5	110.00
MWAC Registration Level 6	125.00
Art Consultation Fee Level 1 (per Hour) ...	80.00
2 Hour Minimum - consultation, site visits, and curation	
Art Consultation Fee Level 2 (per Hour) ...	60.00
2 Hour Minimum - condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)	
Art Consultation Fee Level 3 (per Hour) ...	45.00

3 Hour Minimum - packing, shipping, and installation	
Change Leader Conference	55.00
This is the fee that will be charged for the annual change leader conference.	
Community Outreach	
Traveling Exhibit Fees	125.00
Traveling Exhibit Fees Title I Schools ..	100.00
Mountain West Arts Conference Registration MWAC Governor's Leadership in the Arts Luncheon	60.00
MWAC Governor's Leadership in the Arts Luncheon Late Registrant	65.00
Community/State Partnership Change Leader Registration	
Change Leader Institute Level 1	100.00
Change Leader Institute Level 2	200.00
Change Leader Institute Level 3	300.00
Change Leader Institute Level 4	400.00

DIVISION OF ARTS AND MUSEUMS - OFFICE OF MUSEUM SERVICES

Office of Museum Services	
Museum Environmental Monitoring Kit Rental/Shipping (per Period)	40.00
Museum Environmental Monitoring Kit Deposit	150.00

HISTORICAL SOCIETY

State Historical Society	
Utah Historical Society Annual Membership	
Student/Senior	25.00
Individual	30.00
Business/Sustaining	40.00
Patron	60.00
Sponsor	100.00
Lifetime	500.00
Utah Historical Quarterly (per issue)	7.00
Publication Royalties	1.00

STATE HISTORY

Historic Preservation and Antiquities	
Anthropological Remains Recovery (per Recovery or Analysis and reporting) ..	2,500.00
Fee is for recovery or analysis and reporting services.	
Literature Search - Self Service w/ Scans (per 1/2 Hour)	25.00
Literature Search - Staff Performed w/ Scans (per 1/2 Hour)	50.00
GIS Search - Staff Performed (per 1/4 Hour)	15.00
Literature Search/GIS Search - no show fee (per incident)	60.00
GIS Data Cut and Transfer (per Section) ...	15.00
Library and Collections	
Surplus Photo 5x7	2.50
Surplus Photo 8x10	4.00
B/W Historic Photo	
4x5 B/W Historic Photo	7.00
5x7 B/W Historic Photo	10.00
8x10 B/W Historic Photo	15.00
Self Serve Photo	0.50
Digital Image 300 dpi>	10.00
Historic Collection Use	10.00

Research Center	
Self Copy 8.5x11	0.10
Self Copy 11x17	0.25
Staff Copy 8.5x11	0.25
Staff Copy 11x17	0.50
Digital Self Scan/Save (per Page)	0.05
Digital Staff Scan/Save (per Page)	0.25
Microfilm Self Copy (per page)	0.25
Microfilm Self Scan/Save (per Page)	0.15
Microfilm Staff Scan/Save or Copy	
(per page)	1.00
Audio Recording (per item)	10.00
Video Recording (per item)	20.00
Diazo print	
16 mm diazo print (per roll)	12.00
35 mm diazo print (per roll)	14.00
Microfilm Digitization	40.00
Digital Format Conversion	5.00
Surplus Photo 4x5	1.00
Mailing Charges	1.00

STATE LIBRARY

Blind and Disabled	
Full Library Services to States	
With Machines	150.00
Basic Braille Services to States	85.00
Full Library Services to States	
Without Machines	145.00
Braille and Audio Service to LDS Church ...	2.50
Library of Congress Contract	
(MSCW) (per Annual)	999,600.00
Library Development	
Bookmobile Services (per Annual)	684,300.00
Average fee of bookmobile services over the	
seven service areas.	
Library Resources	
Cataloging Services	7,000.00
Catalog Express Utilization	0.58
Catalog Express Overage	1.17

INSURANCE DEPARTMENT

BAIL BOND PROGRAM

Restricted Revenue	
Bail Bond Agency	
Resident initial or renewal license if renewed	
prior to renewal deadline	250.00
Annual license period	
Reinstatement of lapsed license	300.00
Annual license period	

HEALTH INSURANCE ACTUARY

Restricted Revenue	
Health Insurance Actuarial Review Assessment	
Assessment for Actuary	200,000.00

**INDIVIDUAL & SMALL EMPLOYER RISK
ADJUSTMENT ENTERPRISE FUND**

Individual & Small Employer Risk	
Adjustment Enterprise	
Risk Adjustment (per 0.96)	0.96

**INSURANCE
DEPARTMENT ADMINISTRATION**

Administration	
Global license fees for Admitted Insurers	
Certificate of Authority	
Initial License Application	1,000.00
Independent Review - Initial	
Application	250.00
Initial individual license (per 35.00)	2,800.00
Renewal individual license (per 35.00)	35.00
Reinstatement individual license	
(per 60.00)	60.00
Initial agency license (per 40.00)	800.00
Renewal agency license (per 40.00)	40.00
Reinstatement agency license	
(per 65.00)	65.00
Continuing Care Provider - Initial	
registration application	6,900.00
Continuing Care Provider - Disclosure	
Statement	600.00
Continuing Care Provider - Annual	
Registration Renewal	6,900.00
Continuing Care Provider - Annual	
Renewal Disclosure Statement	600.00
Continuing Care Provider -	
Reinstatement Fee	6,950.00
Non-electronic payment processing	
fee (per 25.00)	25.00
Insurance removal of public	
access to administrative actions	
(per 185.00)	185.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual	
Insurer	1,000.00
Insurer Examinations	72.00
Agency cost	
Global Service Fees for Admitted Insurers	
Zero premium volume	Insurance Rule
R590-102-5(4)(d)(i)	
More than \$0 to less than \$1M	
premium volume	700.00
\$1M to less than \$3M premium	
volume	1,100.00
\$3M to less than \$6 M premium	
volume	1,550.00
\$6M to less than \$11M premium	
volume	2,100.00
\$11M to less than \$15M premium	
volume	2,750.00
\$15M to less than \$20M premium	
volume	3,500.00
\$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines Insurers,	
Accredited/Trusteed Reinsurer	
Surplus Lines Insurers, Accredited/Trusteed	
Reinsurers, Employee Welfare Fund	
Initial	1,000.00
Annual	500.00
Late Annual	550.00
Reinstatement	1,000.00

Global license fees for Other Organizations	1 CD and up to 30 minutes of staff time
Other Organizations	Additional fee billed by invoice 50.00
Initial License Application 250.00	For each additional 30 minutes or fraction thereof
Renewal 200.00	Additional CD (per CD) 1.00
Late Renewal 250.00	Restricted Special Revenue Fees
Reinstatement 250.00	Title Insurance Recovery, Education, and Research Fund
Annual Service 200.00	Initial Title Agency License 1,000.00
Life Settlement Provider	Renewal Title Agency License
Initial license application 1,000.00	Band A-\$0-\$1 million premium
Renewal 300.00	volume 125.00
Late Renewal 350.00	Band B->\$1-\$10 million premium
Reinstatement 1,000.00	volume 250.00
Annual service 600.00	Band C->\$10-\$20 million premium
Global Individual License	volume 375.00
Res/non-res full line producer license or renewal per two-year license period	Band D->\$20 million premium
Initial, or renewal if renewed prior to renewal deadline 70.00	volume 500.00
Reinstatement of Lapsed License 120.00	Individual Title Licensee Initial or Renewal License 15.00
Res/non-res limited line producer license or renewal per two-year licensing period	Professional Employers Organization
Initial or renewal if renewed prior to renewal deadline 45.00	Standard - Initial/Renewal 2,000.00
Reinstatement of lapsed license 95.00	Standard - Late Renewal or Reinstatement 2,050.00
Res/non-res full line producer license or renewal per two-year license period	Certified by an Assurance Organization - Initial 2,000.00
Dual Title License Form Filing 25.00	Certified by an Assurance Organization - Renewal 1,000.00
Addition of producer classification or line of authority to individual producer license 25.00	Certified Late Renewal or Reinstatement 1,050.00
Global Full Line and Limited Line Agency License	Small Operator
Res/non-res initial or renewal license if renewed prior to renewal deadline . . . 75.00	Small Operator - Initial 2,000.00
Reinstatement of lapsed license 125.00	Small Operator - Renewal 1,000.00
Addition of agency class or line of authority to agency license 25.00	Small Operator - Late Renewal or Reinstatement 1,050.00
Resident Title initial or renewal license if renewed prior to renewal deadline 100.00	Captive Insurers
Resident Title Reinstatement of Lapsed License 150.00	Captive Insurer
Health Insurance Purchasing Alliance	Initial license application 200.00
Res/non-res initial or renewal license if renewed prior to renewal deadline 500.00	Captive Cell Initial Application (per 200) 200.00
Per annual license period	Captive Cell Initial License (per 1000) 1,000.00
Late Renewal 550.00	Captive Cell License Renewal (per 1000) 1,000.00
Reinstatement of lapsed license 550.00	Captive Cell Late Renewal (per 50) 50.00
Continuing Education	Captive Dormancy Certificate Annual Renewal fee (per 2500.00) 2,500.00
CE provider initial or renewal license prior to renewal deadline 250.00	Captive Cell Dormancy Certificate Annual Renewal fee (per 500.00) 500.00
CE provider reinstatement of lapsed license 300.00	Initial license application review Captive - Actual cost
CE provider post approval or \$5 per hour, whichever is more 25.00	Initial license issuance 5,000.00
Other	Renewal 5,000.00
Photocopy (per page) 0.50	Late Renewal 5,050.00
Copy Complete Annual Statement 40.00	Reinstatement 5,050.00
Accepting Service of legal process 10.00	Captive Insurer Examination Reimbursements Variable
Returned check charge 20.00	Criminal Background Checks
Workers' Comp schedule 5.00	Fingerprinting
Address Correction 35.00	Bureau of Criminal Investigation 15.00
Production of Lists	Federal Bureau of Investigation 13.25
Printed (per page) 1.00	Electronic Commerce Fee
Information already in list format	Electronic Commerce Restricted
Electronic	E-commerce and internet technology services
Base fee 50.00	Insurer: admitted, surplus lines 75.00
	Captive Insurer 250.00

Other organization and life settlement provider	50.00
CE Provider	20.00
Agency and Health Insurance Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database Base	45.00
1 DVD and up to 30 minutes access and staff help	
Additional requests	45.00
Each additional 30 minutes or fraction thereof	
Additional DVD (per DVD)	2.00
Electronic Commerce Restricted Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to \$1M premium volume	200.00
>\$1M to less than \$2.5M premium volume	450.00
\$2.5M to less than \$5M premium volume	800.00
\$5M to less than \$10M premium volume	1,600.00
\$10M to less than \$50M premium volume	6,100.00
\$50M or more in premium volume	15,000.00
Fraud Division Investigative Recovery	Variable
Fraud division assessment late fee	50.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00

TITLE INSURANCE PROGRAM

Restricted Revenue	
Title Insurance Regulation Assessment	100,000.00

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	3.00%

Uninsured Employers Fund (per premium)	0.25%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but <4,000,000 BTU	60.00
> 4,000,001 BTU but <20,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	
<250,000 BTU	45.00
> 250,000 BTU but <4,000,000 BTU	90.00
> 4,000,001 BTU but <20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	
Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement (per vessel)	5.00
26 through 100 on single statement (per statement)	100.00
101 through 500 on single statement (per statement)	200.00
over 500 on single statement (per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00
Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00
Electrician	

Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling	0.25
Research, redacting, unstapling, restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page)	0.50
Certified Copies (per certification)	2.00
Plus search fees if applicable	
Electronic documents CD or DVD	2.00
Fax, plus telephone costs	0.50

UTAH STATE TAX COMMISSION**LICENSE PLATES PRODUCTION**

License Plates Production	
Decal Replacement	1.00
Reflectorized Plate	Up to \$7
Plate Mailing Charge (per Plate Set)	4.00

TAX ADMINISTRATION

Administration Division	
Administration	
Liquor Profit Distribution	6.00
All Divisions	
Certified Document	5.00
Faxed Document Processing (per page)	1.00
Record Research	6.50
Photocopies, over 10 copies (per page) ...	0.10
Research, special requests (per hour) ...	20.00
Motor Vehicle Enforcement Division	
Temporary Permit Restricted Fund	
Temporary Permit	Not to exceed 12.00
Sold to dealers in bulk, not to exceed approved fee amount	
Temporary Sports Event Registration	
Certificate	Not to exceed 12.00
MV Business Regulation	
Dismantler's Retitling Inspection	50.00
Salvage Vehicle Inspection	50.00
Electronic Payment	
Temporary Permit Books (per book)	Not to exceed 4.00
Dealer Permit Penalties (per penalty)	Not to exceed 1.00
Salvage Buyer's License (per license)	Not to exceed 3.00
Licenses	

Motor Vehicle Manufacturer	
License	102.00
Motor Vehicle Remanufacturer	
License	102.00
New Motor Vehicle Dealer	127.00
Transporter	51.00
Body Shop	112.00
Used Motor Vehicle Dealer	127.00
Dismantler	102.00
Salesperson	31.00
Salesperson's License Transfer Fee ...	31.00
Salesperson's License Reissue	5.00
Crusher	102.00
Used Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
New Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
Representative	26.00
Distributor or Factory Branch and Distributor Branch's	61.00
Additional place of business	
Temporary	26.00
Permanent	Variable
Variable rate - same rate as the original license fee (based on license type)	
License Plates	
Purchase	
Manufacturer	10.00
Dealer	12.00
Dismantler	10.00
Transporter	10.00
Renewal	
Manufacturer	8.50
Dealer	10.50
Dismantler	8.50
Transporter	8.50
In-transit Permit	2.50
Motor Vehicles	
Administration	
All Divisions	
Custom Programming (per hour)	85.00
Aeronautics	
Aircraft Registration	3.00
Administration	
Sample License Plates	5.00
All Divisions	
Data Processing Set-Up	55.00
Parks and Recreation	
Parks & Recreation Decal Replacement ...	4.00
Motor Vehicle	
Motor Vehicle Information	3.00
Motor Vehicle Information Via Internet ...	1.00
Motor Vehicle Transaction (per standard unit)	1.56
Motor Carrier	
Cab Card	3.00
Duplicate Registration	3.00
Temporary Permit	
Individual permit	6.00
Electronic Payment	
Authorized Motor Vehicle Registrations	Not to exceed 4.00
License Plates	
Reflectorized Plate	Up to \$7
Special Group Plate Programs	
Inventory ordered before July 1, 2003	
Extra Plate Costs	5.50

Plus \$5 standard plate fee
 New Programs or inventory reorders after July 1, 2003
 Start-up or significant program changes (per program) 3,900.00
 Extra Plate Costs (per decal set ordered) 3.50
 Plus \$5 standard plate fee
 Extra Handling Cost (per decal set ordered) 2.40
 Special Group Logo Decals Variable
 Special Group Slogan Decals Variable

Motor and Special Fuel
 International Fuel Tax Administration
 Decal (per set) 4.00
 Reinstatement 100.00

Tax Payer Services
 Administration
 Lien Subordination Not to exceed 300.00
 Tax Clearance 50.00

Tax Processing Division
 Administration
 All Divisions
 Convenience Fee Not to exceed 3%
 Convenience fee for tax payments and other authorized transactions

UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

SUPPORT PROGRAMS

Incubation Programs
 Start-up Company Lab Access -
 Monthly (per month) 350.00
 Membership features access to Lab. Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Start-up Company Co-working Space -
 Monthly (per month) 100.00
 Membership features access to one Co-working Space. Includes common areas.

Start-up Company Private Office -
 Monthly (per month) 150.00
 Membership features access to one Private Office (approx. 150 sq. ft.). Includes common areas.

Start-up Company Private Suite -
 Monthly (per month) 350.00
 Membership features access to one Private Suite only (approx. 350 sq. ft.). Includes common areas.

Start-up Company Lab Access & Co-working Space - Monthly (per month) 450.00
 Membership features access to Lab and one Co-working Space. Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Start-up Company Lab Access & Private Office - Monthly (per month) 500.00
 Membership features access to Lab and one Private Office (approx. 150 sq. ft.). Includes common areas, all specialized equipment and

tools, plus use of supplies & materials (at cost).

Start-up Company Lab Access & Private Suite - Monthly (per month) 700.00
 Membership features access to Lab and one Private Suite (approx. 350 sq. ft.). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access (up to 10 members) - Monthly (per month) 3,150.00
 Membership features access to Lab (up to 10 members). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Co-working Space (up to 10 members) - Monthly (per month) 500.00
 Membership features access to five Co-working Spaces (up to 10 members). Includes common areas.

Enterprise Private Office (up to 10 members) - Monthly (per month) 450.00
 Membership features access to two Private Offices (up to 10 members) (approx. 150 sq. ft./each). Includes common areas.

Enterprise Private Suite (up to 10 members) - Monthly (per month) 700.00
 Membership features access to two Private Suites (up to 10 members) (approx. 350 sq. ft./each). Includes common areas.

Enterprise Lab Access & Co-working Space (up to 10 members) - Monthly (per month) 3,650.00
 Membership features access to Lab and five Co-working Spaces (up to 10 members). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access & Private Office (up to 10 members) - Monthly (per month) 3,600.00
 Membership features access to Lab and three Private Offices (up to 10 members) (approx. 150 sq. ft./each). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Enterprise Lab Access & Private Suite (up to 10 members) - Monthly (per month) 3,850.00
 Membership features access to Prototype Lab and two Private Suites (up to 10 members) (approx. 350 sq. ft./each). Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Start-up Company Lab Access - 1 Year (PREPAID) (per year) 4,000.00
 Membership features access to Lab. Includes common areas, all specialized equipment and tools, plus use of supplies & materials (at cost).

Start-up Company Co-working Space - 1 Year (PREPAID) (per year) 1,100.00
 Membership features access to one Co-working Space. Includes common areas.

Consumables - Object 3D Printer (per gram)	0.03
"Object 3D Printer - Support Cleaning Fluid OBJ-04016 (per gram)"	
Consumables - 1200es 3D Printer (per month)	12.42
1200es 3D Printer - SCA-1200 P400-SC Soluble Concentrate	
Consumables - 1200es 3D Printer (per cubic inch/print)	2.32
1200es 3D Printer - P430 ABS Modeling Cartridges (All Colors) per cubic inch	
Consumables - 1200es 3D Printer (per cubic inch/print)	5.95
1200es 3D Printer - P400-SR Soluble Support Cartridge per cubic inch	
Consumables - 1200es 3D Printer (per month)	5.20
1200es 3D Printer - Plastic Modeling Bases (10" x 10")	
Consumables - 1200es 3D Printer (per hour)	0.29
1200es 3D Printer - Tip Replacement Kit (@ 500 hrs.) cost per hour of use	
Consumables - OMAX Waterjet	8.50
OMAX Waterjet - Foam Nozzle Muff	
Consumables - OMAX Waterjet	39.00
OMAX Waterjet - Neoprene Nozzle Muff	
Consumables - OMAX Waterjet	26.00
OMAX Waterjet - Material Support Slat	
Consumables - OMAX Waterjet (per pound)	0.24
OMAX Waterjet - Abrasive (Garnet per lb.)	
Consumables - OMAX Waterjet (per pound)	94.71
OMAX Waterjet - 3/8 x 3" x 20' Hot Rolled Steel (per lb.)	
Consumables - OMAX Waterjet	20.00
OMAX Waterjet - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.	
Consumables - OMAX Waterjet	79.29
OMAX Waterjet - 4' x 10' Hot Rolled Steel 14 Gauge Sheet	
Consumables - OMAX Waterjet	78.40
OMAX Waterjet - 4' x 10' Cold Rolled Steel 18 Gauge Sheet	
Consumables - OMAX Waterjet	186.30
OMAX Waterjet - 4' x 8' 304 Stainless Steel Sheet 16 gage	
Consumables - CNC Lathe	17.56
CNC Lathe - CNMG 432-PM Cutting Inserts	
Consumables - CNC Lathe	21.68
CNC Lathe - DNMG 431 4D Cutting Inserts	
Consumables - CNC Lathe	13.54
CNC Lathe - K E G130I03U05GUN KCU10 Cutting Inserts	
Consumables - CNC Lathe	26.20
CNC Lathe - Sandvik, N123G2-0300-0004-TM H13A Cutting Inserts	

Consumables - CNC Lathe	104.80
CNC Lathe - K EVBSN32M0350, Evolution Cutoff-Blade	
Consumables - CNC Lathe	21.68
CNC Lathe - K NT3RK KCU10, Top Notch Threading Insert	
Consumables - CNC Lathe	15.12
CNC Lathe - CCMT 2(1.5)1-MM, Screw On Medium Finishing Insert	
Consumables - CNC Lathe	17.30
CNC Lathe - CCMT 3(2.5)1-MM, Screw On Medium Finishing Insert	
Consumables - CNC Lathe	2.66
CNC Lathe - Drill Bits All Sizes (avg. ea.)	
Consumables - CNC Lathe	8.85
CNC Lathe - 3/8 x 20' Hot Rolled round bar stock	
Consumables - CNC Lathe	10.00
CNC Lathe - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.	
Consumables - CNC Lathe	10.07
CNC Lathe - 1/2 x 20' Hot Rolled round bar stock	
Consumables - CNC Lathe	17.90
CNC Lathe - 3/4 x 20' Hot Rolled round bar stock	
Consumables - CNC Lathe	49.73
CNC Lathe - 1 1/4 x 20' Hot Rolled round bar stock	
Consumables - CNC Lathe	7.75
CNC Lathe - 1/2" 6061-T6 Aluminum round bar stock 12'	
Consumables - CNC Lathe	20.00
CNC Lathe - Cut Cost for 4' lengths = Minimum cut Cost @ \$20.00 ea.	
Consumables - CNC Lathe	15.54
CNC Lathe - 3/4" 6061-T6 Aluminum round bar stock	
Consumables - CNC Lathe	28.49
CNC Lathe - 1" 6061-T6 Aluminum round bar stock	
Consumables - CNC Lathe	44.03
CNC Lathe - 1 1/4" 6061-T6 Aluminum round bar stock	
Consumables - CNC Lathe	64.75
CNC Lathe - 1 1/2" 6061-T6 Aluminum round bar stock	
Consumables - CNC Lathe	88.06
CNC Lathe - 1 3/4" 6061-T6 Aluminum round bar stock	
Consumables - CNC Lathe	113.96
CNC Lathe - 2" 6061-T6 Aluminum round bar stock, 12'	
Consumables - CNC Lathe	178.71
CNC Lathe - 2 1/2" x 4', 6061-T6 Aluminum round bar stock, 12'	
Consumables - CNC Lathe	259.00
CNC Lathe - 3" 6061-T6 Aluminum round bar stock, 12'	
Consumables - CNC Mill	12.05
CNC Mill - KEO Center Drills, #1-#5 (avg. ea.)	

Consumables - CNC Mill	8.55	CNC Mill - 1/2" x 12" x 12' 6061-T6 Aluminum	
CNC Mill - Chicago Latrobe, Cobalt Jobber Drills (avg. ea.)		Consumables - CNC Mill	108.78
Consumables - CNC Mill	33.02	CNC Mill - 3" x 1" x 12' 6061-T6 Aluminum	
CNC Mill - Kennametal, HNGJ535ANENLD KC725M Inserts		Consumables - CNC Mill	270.51
Consumables - CNC Mill	31.00	CNC Mill - 3" x 3" x 12' 6061-T6 Aluminum	
CNC Mill - Sandvik, Milling Insert, R390-17 04 08E-ML 1040		Consumables - CNC Mill	12.95
Consumables - CNC Mill	26.65	CNC Mill - 1/8" x 3" x 12' 6061-T6 Aluminum	
CNC Mill - Sandvik, Milling Insert, R390-11 T3 04M-PM 1030		Consumables - CNC Mill	311.19
Consumables - CNC Mill	134.00	CNC Mill - 304 Stainless Steel 3" x 1" x 12'	
CNC Mill - Widia Hanita, ABDF Endmill 3/4 X 1 5/8 2FL		Consumables - Laser Cutter	164.00
Consumables - CNC Mill	51.04	Laser Cutter - 1/8" x 12" x 24" Double Sided Wood Laminate Package (\$144 + \$20 ea. for shipping)	
CNC Mill - Widia Hanita, Solid Carbide ABDF, 1/2 X 1.25 X 30 Endmill		Consumables - Laser Cutter	88.95
Consumables - CNC Mill	35.96	Laser Cutter - CerMark Tile and Glass Marking Spray (LMM6000 @ 45.00 per bottle) (\$.074 per sq./in)	
CNC Mill - Widia Hanita, Solid Carbide ABDF, 3/8 X 0.75 X 2.50 Endmill		Consumables - Laser Cutter	78.75
Consumables - CNC Mill	24.96	Laser Cutter - TherMark Black Laser Marking Ink (LMM14 @ 75.00 per bottle) (\$.0875 per sq./in)	
CNC Mill - Widia Hanita, Solid Carbide ABDF, 1/4 X 0.5 X 2.50 Endmill		Consumables - Laser Cutter	8.95
Consumables - CNC Mill	16.44	"Laser Cutter - Anodized Aluminum 12"" x 24"" .025""	
CNC Mill - Widia Hanita, .1250 Diameter, 2 Flute, Single End Carbide, Uncoated End Mill, .1250		Consumables - Laser Cutter	0.90
Consumables - CNC Mill	7.88	"Laser Cutter - Anodized Aluminum Card Size per"	
CNC Mill - Widia Hanita, .0620 Diameter, 2 Flute, Single, .1250, Shank Diameter, End Mill		Consumables - Laser Cutter	0.32
Consumables - CNC Mill	303.75	"Laser Cutter - Anodized Aluminum, 7/8"" x 2.5"" Perpetual Labels per"	
CNC Mill - OSG, GP SC Endmill 4FL 3/4x3/4x1 1/2x4		Consumables - Laser Cutter	7.50
Consumables - CNC Mill	113.80	"Laser Cutter - Black Steel 12"" x 24""	
CNC Mill - OSG, GP SC Endmill 4FL 1/2x1/2x1x3		Consumables - Laser Cutter	7.85
Consumables - CNC Mill	64.04	"Laser Cutter - Colored Steel 12"" x 24""	
CNC Mill - OSG, GP SC Endmill 4FL 3/8x3/8x1x2 1/2		Consumables - Laser Cutter	7.80
Consumables - CNC Mill	33.04	"Laser Cutter - 304 Stainless Steel 12"" x 24"" x .029""	
CNC Mill - OSG, GP SC End Mill 4FL 1/4x1/4x3/4x2 1/2		Consumables - Laser Cutter	6.82
Consumables - CNC Mill	17.18	"Laser Cutter - 430L Stainless Steel 12"" x 24"" x .015""	
CNC Mill - OSG, 1/8X1/8X1/2X1-1/2 4FL TIALN, CARBIDE ENDMILL		Consumables - Laser Cutter	15.45
Consumables - CNC Mill	9.45	"Laser Cutter - Black Brass 12"" x 24"" x .020""	
CNC Mill - Widia Hanita, 1/16 Diameter, 4 Flute, Single, .1250, Shank Diameter, End Mill		Consumables - Laser Cutter	24.00
Consumables - CNC Mill	131.99	Laser Cutter - Rectangular Flat Glass 1/16" x 24" x 24"	
CNC Mill - 1/2" x 4" x 20' 1018 Cold Rolled Steel		Consumables - Laser Cutter	13.99
Consumables - CNC Mill	20.00	Laser Cutter - Marble Plaques 9" x 11-1/2" x 1/2"	
CNC Mill - Cut Cost for 3' lengths = Minimum cut Cost @ \$20.00 ea.		Consumables - Laser Cutter	8.00
Consumables - CNC Mill	121.72	"Laser Cutter - Clear Acrylic Plexiglass 12"" x 24"" x 1/16"" "	
CNC Mill - 1/2" x 3" x 20' Hot Rolled Steel		Consumables - Laser Cutter	14.25
Consumables - CNC Mill	220.15	"Laser Cutter - Clear Acrylic Plexiglass 12"" x 24"" x 1/4"" "	
		Consumables - Laser Cutter	23.75
		"Laser Cutter - Clear Acrylic Plexiglass 12"" x 24"" x 1/2"" "	
		Consumables - Laser Cutter	57.00
		"Laser Cutter - Clear Acrylic Plexiglass 12"" x 24"" x 1"" "	

Consumables - Wood Shop	90.00
Wood Shop - Blades 8-1/4"	
Consumables - Wood Shop	9.85
Wood Shop - Router Bits (avg. ea.)	
Consumables - Wood Shop	86.00
Wood Shop - Table Saw Blades 10"	
Consumables - Wood Shop	102.45
Wood Shop - Miter Saw Blades 10"	
Consumables - Wood Shop	18.56
Wood Shop - Sanding Belts	
Consumables - Wood Shop	6.63
Wood Shop - Sanding Disc	
Consumables - Wood Shop	10.65
Wood Shop - Buffing Wheels	
Consumables - Wood Shop	82.60
Wood Shop - Vertical Band Saw Blades 8tpi and 12tpi (82.60 ea.)	
Consumables - Wood Shop	24.92
Wood Shop - Plywood 1/4" x 4' x 8'	
Consumables - Wood Shop	31.95
Wood Shop - Plywood 1/2" x 4' x 8'	
Consumables - Wood Shop	39.98
Wood Shop - Plywood 3/4" x 4' x 8'	
Consumables - Wood Shop	14.93
Wood Shop - Plywood, Oak 1/2" x 2" x 4"	
Consumables - Wood Shop	16.47
Wood Shop - Plywood, Birch 3/4" x 2" x 4"	
Consumables - Wood Shop	3.16
Wood Shop - Pine, 2" x 4" x 8'	
Consumables - Wood Shop	10.34
Wood Shop - Pine, 1" x 8" x 8'	
Consumables - Wood Shop	5.92
Wood Shop - Pine, 2" x 6" x 8'	
Consumables - Wood Shop	15.27
Wood Shop - Pine, 2" x 10" x 12'	
Consumables - Wood Shop	11.72
Wood Shop - Red Oak Board, 1" x 8" x 2'	
Consumables - Wood Shop	20.73
Wood Shop - Redwood 2" x 4" x 12'	
Consumables - Wood Shop	9.53
Wood Shop - Pine, 1" x 1"	
Consumables - Wood Shop	9.53
Wood Shop - Pine, 1" x 2"	
Consumables - Wood Shop	11.98
Wood Shop - Oak, 1" x 1"	
Consumables - Wood Shop	11.98
Wood Shop - Oak, 1" x 2"	
Consumables - Wood Shop	5.92
Wood Shop - Pine 2" x 6" x 8'	
Consumables - Wood Shop	15.30
Wood Shop - Douglas Fir 4" x 4" x 8'	
Consumables - Metal Shop	34.08
Metal Shop - 2024-T3 Aluminum 1/2' x 9" x 16"	
Consumables - Metal Shop	849.66
Metal Shop - Aluminum Plate 6061 2" x 24" x 24"	
Consumables - Metal Shop	497.50

Metal Shop - Aluminum Plate 6061 3" x 24" x 24"	
Consumables - Metal Shop	82.00
Metal Shop - Aluminum 2024-T3 Sheet .032" (20 gage)	
Consumables - Metal Shop	194.00
Metal Shop - Aluminum 2024-T3 Sheet .040" (18 gage)	
Consumables - Metal Shop	306.00
Metal Shop - Aluminum 2024-T3 Sheet 4' x 12' .063" (14 gage)	
Consumables - Metal Shop	418.00
Metal Shop - Aluminum 2024-T3 Sheet .090" (11 gage)	
Consumables - Metal Shop	530.00
Metal Shop - Aluminum 2024-T3 Sheet 4' x 12' x .125" (8 gage)	
Consumables - Metal Shop	642.00
Metal Shop - Aluminum 2024-T3 Sheet .25" (3 gage)	
Consumables - Metal Shop	152.00
Metal Shop - Aluminum 6061-T4 Sheet 4' x 12' x .063" (14 gage)	
Consumables - Metal Shop	312.00
Metal Shop - Aluminum 6061-T4 Sheet 4' x 12' x .125" (8 gage)	
Consumables - Metal Shop	341.00
Metal Shop - Aluminum 7075-T6 Sheet .063" (14 gage)	
Consumables - Metal Shop	682.00
Metal Shop - Aluminum 7075-T6 Sheet 4' x 12' x .125" (8 gage)	
Consumables - Metal Shop (per foot)	67.00
Metal Shop - Aluminum 2024-T3 Plate 1/2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	13.00
Metal Shop - Aluminum 2024-T3 Plate 1" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	31.00
Metal Shop - Aluminum 6061-T6 Plate 1/2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	59.00
Metal Shop - Aluminum 6061-T6 Plate 1" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	115.00
Metal Shop - Aluminum 6061-T6 Plate 2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	46.00
Metal Shop - Aluminum 7075-T6 Plate 1/2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	83.00
Metal Shop - Aluminum 7075-T6 Plate 1" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	165.00
Metal Shop - Aluminum 7075-T6 Plate 2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	19.00
Metal Shop - Aluminum 6061-T4 Round Tube 1/2" x .06" wall x (per foot)	
Consumables - Metal Shop (per foot)	3.00
Metal Shop - Aluminum 6061-T4 Round Tube 1" x .125" wall x (per foot)	

Consumables - Metal Shop (per foot)	1.25
Metal Shop - Aluminum 6061-T4 Angle 1" x 1" x .125" thick x (per foot)	
Consumables - Metal Shop (per foot)	3.50
Metal Shop - Aluminum 6061-T4 Angle 1/2" x 1/2" .0625" thick x (per foot)	
Consumables - Metal Shop	16.60
Metal Shop - A36 HR Steel, Square Tube, 1" x 1" x .065: wall x 20'	
Consumables - Metal Shop	8.00
Metal Shop - A36 HR Steel, Square Tube, 1/2" x 1/2" .065" wall x 20'	
Consumables - Metal Shop	51.00
Metal Shop - A36 HR Steel, Plate 1/2" x 48" x 96"	
Consumables - Metal Shop	103.00
Metal Shop - A36 HR Steel, Plate 1" x 96" x 240"	
Consumables - Metal Shop	306.00
Metal Shop - A36 HR Steel, Plate 2" x 96" x 240"	
Consumables - Metal Shop	12.20
Metal Shop - A36 HR Steel, 90 Angle, 1" x 1" x .125 x 20'	
Consumables - Metal Shop	10.00
Metal Shop - A36 HR Steel, 90 Angle, 1/2" x 1/2" x .0625 x 20'	
Consumables - Metal Shop (per foot)	23.63
Metal Shop - 4130 Steel Square Tube, 1" x 1" x .065 wall x (per foot)	
Consumables - Metal Shop (per foot)	17.75
Metal Shop - 4130 Steel Square Tube, 1/2" x 1/2" x .035 wall x (per foot)	
Consumables - Metal Shop (per foot)	12.70
Metal Shop - 4130 Steel Round Tube, 1/2" x .058 wall x (per foot)	
Consumables - Metal Shop (per foot)	17.80
Metal Shop - 4130 Steel Round Tube, 1" x .120 wall x (per foot)	
Consumables - Metal Shop (per foot)	8.90
Metal Shop - 4130 Steel Round Bar, 1" x (per foot)	
Consumables - Metal Shop (per foot)	27.75
Metal Shop - 4130 Steel Round Bar, 2" x (per foot)	
Consumables - Metal Shop (per foot)	62.08
Metal Shop - 4130 Steel Plate, 1/2" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	95.00
Metal Shop - 4130 Steel Plate, 1" x 12" x (per foot)	
Consumables - Metal Shop (per foot)	156.00
Metal Shop - 4130 Steel Plate, 2" x 12" x (per foot)	
Incubation Program Pro Membership	300.00
Incubation Program Co-Working Membership	150.00
Incubation Program Walk-In Membership	45.00
Regional Outreach	
Lab access - Hourly Rate (per hour)	45.00

Hourly Rate to access Lab - 8 hours between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday (includes all specialized equipment and tools). Includes common areas.	
Lab access - Daily Rate (per day)	100.00
Daily Rate to access Lab - 8 hours between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday (includes all specialized equipment and tools). Includes common areas.	
Co-working Space (one-seat) - Monthly (per month)	100.00
Monthly access to one co-working space only. Includes common areas.	
Co-working Space (one seat) - Hourly Rate (per hour)	15.00
Hourly access to one co-working space only. Includes common areas.	
Co-working Space (one seat) - Daily Rate (per day)	25.00
Daily access to one co-working space only. Includes common areas.	
Conference/Training Room Access - Monthly (per month)	200.00
Monthly access to Conference & Training Rooms (up to 5 days per month).	
Conference/Training Room Access - Hourly (per hour)	25.00
Hourly access to Conference & Training Rooms	
Conference/Training Room Access - Daily (per day)	100.00
Daily access to Conference & Training Rooms	
Consumables - Fetus 250MC 3D Printer (per cubic inch/print)	2.31
Fetus 250MC 3D Printer - P430 ABS Modeling Cartridges (All Colors) per cubic inch	
Consumables - Fetus 250MC 3D Printer (per cubic inch/print)	4.46
Fortus 250MC 3D Printer - SR-30 Soluble Support Cartridge per cubic inch	
Consumables - Fetus 250MC 3D Printer (per fee/print)	1.50
Fortus 250MC 3D printer-Base fee per print (solution, tip replacement, bases)	
Regional Outreach Seminar: Outside speakers - all day event	225.00
Regional Outreach Seminar: Outside speakers - all day event (early bird)	150.00
Regional Outreach 4-8 hour seminar/workshop	75.00
Regional Outreach 4-8 hour seminar / workshop	50.00
Regional Outreach 4 - 8 hour seminar/workshop	25.00
Regional Outreach 2-4 hour seminar/workshop	25.00
Regional Outreach 1-4 hour seminar/workshop	10.00
SBIR/STTR Assistance Center	
SBIR/STTR Assistance Center (SSAC) Search Fee	75.00

SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop	75.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: non-client	50.00
SBIR/STTR Assistance Center (SSAC) 4-8 hour seminar/workshop: client	25.00
SBIR/STTR Assistance Center (SSAC) 2-4 hour seminar/workshop	25.00
SBIR/STTR Assistance Center (SSAC) 1-4 hour seminar/workshop	10.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event	225.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (early bird)	150.00
SBIR/STTR Assistance Center Seminar: Outside speakers: all day event (search client)	100.00

USTAR ADMINISTRATION

Project Management & Compliance CommunityGrants App User - State of Utah Executive Branch Agencies (per User)	72.00
CommunityGrants App User - State of Utah Executive Branch Agencies (per User)	
CommunityGrants App User - Tier 1 (per User)	480.00
CommunityGrants App User - Tier 1 (per User)	
CommunityGrants App User - Tier 2 (per User)	420.00
CommunityGrants App User - Tier 2 (per User)	
CommunityGrants App User - Tier 3 (per User)	360.00
CommunityGrants App User - Tier 3 (per User)	
CommunityGrants App User - Tier 4 (per User)	300.00
CommunityGrants App User - Tier 4 (per User)	
CommunityGrants App User - Tier 5 (per User)	240.00
CommunityGrants App User - Tier 5 (per User)	
CommunityGrants Customer Portal - 100 Members (per 100 Members)	3,000.00
CommunityGrants Customer Portal - 100 Members (per 100)	
CommunityGrants Customer Community - Min. 100 Members (per 100 Members)	900.00
CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)	
CommunityGrants Customer Community - Min. 500 Members (per 100 Members)	2,000.00
CommunityGrants Customer Community - Minimum - 500 Member (per 100)	

CommunityGrants Customer Community-Wholesale- 100 Members (per 100 Members)	1,200.00
CommunityGrants Customer Community - Wholesale - 100 Members (per 100)	
CommunityGrants Customer Community-Wholesale- 500 Members (per 100 Members)	2,400.00
CommunityGrants Customer Community - Wholesale - 500 Members (per 100)	
CommunityGrants Customer Community - Retail - 100 Members (per 100 Members) . . .	1,800.00
CommunityGrants Customer Community - Retail - 100 Members (per 100)	
CommunityGrants Customer Community - Retail - 500 Members (per 100 Members)	3,720.00
CommunityGrants Customer Community - Retail - 500 Members (per 100)	

SOCIAL SERVICES

DEPARTMENT OF HEALTH

**CHILDREN'S HEALTH
INSURANCE PROGRAM**

Quarterly Premium Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00

DISEASE CONTROL AND PREVENTION

Clinical and Environmental Lab Certification Programs Parameter Category Fees charge for each testing act	
Atomic Absorption/Atomic Emission . . .	300.00
Radiological chemistry - Alpha spectrometry	200.00
Radiological chemistry - Beta	200.00
Calculation of Analytical Results	50.00
Organic Clean Up	100.00
Toxicity/Synthetic Extractions Characteristics Procedure	200.00
Radiological chemistry - Gamma	200.00
Gas Chromatography Simple	300.00
Complex	600.00
Semivolatile	500.00
Volatile	500.00
Radiological chemistry - Gas Proportional Counter	200.00
Gravimetric	100.00
High Pressure Liquid Chromatography	300.00
Inductively Coupled Plasma Metals Analysis	400.00
Inductively Coupled Plasma Mass Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods . .	100.00
Radiological chemistry - Liquid Scintillation	200.00

Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	100.00
Physical Properties	100.00
Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification	
Certification Clarification	

Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.

Annual certification fee (chemistry and/or microbiology)	
Utah laboratories	825.00
Out-of-state laboratories	5,000.00
Plus reimbursement of all travel expenses	
National Environmental Accreditation Program (NELAP) recognition	825.00
Certification change	100.00
Performance Based Method Review - per method fee	250.00
Primary Method Addition for Recognition Laboratories	1,000.00
Epidemiology	
Utah Statewide Immunization Information System Non-Financial Contributing Partners	
Match on Immunization Records in Database (per record)	12.00
File Format Conversion (per hour)	30.00
General Administration	
These fees apply for the entire Division of Disease Control and Prevention	
Laboratory General	
Emergency Waiver	
Under certain conditions of public health import (e.g., disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.	
Handling	
Total cost of shipping and testing of referral samples to be rebilled to customer (per Referral lab's invoice)	
Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample (per sample, each reanalysis)	
per sample, per each reanalysis	
Health Promotion	
Baby Your Baby Program	
Health Keepsake books	
Non-adapted version	
Non-adapted Regular Version (per copy)	5.00
Adapted version	
Adapted Customized Version (per copy)	6.50
Utah Public Health Laboratory	
Out of State Newborn Screening	116.00
Newborn Screening, Laboratory Testing and Follow-up Services	118.00
Laboratory Testing of Public Health Significance	Actual costs up to \$200
Chemistry	

Metals	
Standard Metals	
Environmental Protection Agency 200.8 - Magnesium	12.00
Environmental Protection Agency 200.8 - Iron	12.00
Environmental Protection Agency 200.8 - Potassium	12.00
Environmental Protection Agency 200.8 - Strontium	12.00
Environmental Protection Agency 200.8 Digestion	22.00
Environmental Protection Agency 200.8 Tin	12.00
Environmental Protection Agency 200.8 Cobalt	12.00
Environmental Protection Agency 200.8 Vanadium	12.00
Environmental Protection Agency Method 200.8 Zirconium ...	12.00
Mercury 245.1	12.00
may include a digestion fee	
Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C	32.00
may include a digestion fee	
Environmental Protection Agency 200.8 Aluminum	12.00
Environmental Protection Agency 200.8 Antimony	12.00
Environmental Protection Agency 200.8 Arsenic	12.00
Environmental Protection Agency 200.8 Barium	12.00
Environmental Protection Agency 200.8 Beryllium	12.00
Environmental Protection Agency 200.8 Cadmium	12.00
Environmental Protection Agency 200.8 Chromium	12.00
Environmental Protection Agency 200.8 Copper	12.00
Environmental Protection Agency 200.8 Lead	12.00
EPA 200.8 Manganese	12.00
Environmental Protection Agency 200.8 Molybdenum	12.00
Environmental Protection Agency 200.8 Nickel	12.00
Environmental Protection Agency 200.8 Selenium	12.00
Environmental Protection Agency 200.8 Silver	12.00
Environmental Protection Agency 200.8 Thallium	12.00
Environmental Protection Agency 200.8 Zinc	12.00
Environmental Protection Agency 200.8 Boron	12.00
Environmental Protection Agency 200.8 Calcium	12.00
Environmental Protection Agency Sodium 200.8	12.00
Hardness (Requires Calcium & Magnesium tests)	5.50
Organic Contaminants	

Environmental Protection		Total Microcystins & Nodularins	
Agency 524.2 Trihalomethanes	81.75	by Enzyme-Linked Immunosorbent	
Haloacetic Acids Method 6251B	163.00	Assay	89.59
Environmental Protection		Water Microbiology (Drinking Water and	
Agency 524.2	208.00	Surface Water)	
Trihalomethanes, Maximum Potential		Total Coliforms/ <i>Escherichia coli</i>	19.00
Inorganics		(Colilert/Colisure)	
Alkalinity (Total) Standard		Heterotrophic Plate Count by	
Method 2320B	8.00	9215 B Pour Plate	13.00
Bromate Environmental		Inorganic Surface Water (Lakes,	
Protection Agency 300.1	27.50	Rivers, Streams) Tests	
Chlorate Environmental		Ammonia Environmental Protection	
Protection Agency 300.1	27.50	Agency 350.1	17.50
Chlorite Environmental		Biochemical Oxygen Demand 5	
Protection Agency 300.1	27.50	day test Standard Method 5210B . .	26.00
Chloride Environmental		Chlorophyll A Standard Method	
Protection Agency 300.0	17.55	10200H - Chlorophyll-A	17.00
Environmental Protection		Phosphorus, Total 365.1	15.50
Agency 300.0 Fluoride	18.50	Silica 370.1	15.75
Environmental Protection		Solids, Total Volatile,	
Agency 300.1 Sulfate	16.25	Environmental Protection	
Chromium (Hexavalent) EPA 218.7	55.00	Agency 160.4	16.50
Cyanide, Total 335.4	50.00	Solids, Total Suspended Standard	
Environmental Protection		Method 2540D	12.75
Agency 353.2 Nitrate + Nitrite	10.25	Specific Conductance 120.1	7.75
Perchlorate 314.0	55.00	Environmental Protection	
pH (Test of acidity or		Agency 376.2 Sulfide	44.00
alkalinity) 150.1	10.00	Water Microbiology	
Environmental Protection		Legiolert	33.84
Agency 375.2 Sulfate	12.50	Infectious Disease	
Environmental Protection		Next Generation Sequencing	
Agency 180.1 Turbidity	8.50	Bacterial Sequencing	107.00
Odor, Environmental Protection		Bacterial Sequencing Analysis	40.00
Agency 140.1	27.50	Bacterial Sequencing Analysis	40.00
Organic Constituents,		Bacterial Sequencing and	
UV-Absorbing Standard		Identification	108.00
Method 5910B	33.00	Bacterial Sequencing, Identification,	
Carboxylic Acids (Oxalate, Formate,		Analysis	122.00
Acetate)	42.00	Microbial Source Tracking	
Nitrogen, Total Standard		(via shotgun metagenomics	
Method 4500-N (Lachat)	19.00	sequencing)	194.00
Organic Carbon, Total		Microbial Source Tracking	
Standard Method 5310B	17.00	(via culture based)	150.00
Environmental Protection		Immunology	
Agency 300.1 Bromide	27.50	Hepatitis	
Organics		Anti-Hepatitis B Antibody	19.50
Anatoxin by Enzyme-Linked		Anti-Hepatitis B Antigen	19.50
Immunosorbent Assay	89.59	C (Anti-Hepatitis C Virus)	
Chlorophyll-A by High Performance		Antibody	23.00
Liquid Chromatography	100.55	HIV (Human Immunodeficiency Virus)	
Cyanotoxin Quantitative Polymerase		1/2 and O, Antigen/Antibody	
Chain Reaction Method	30.00	Combo	27.00
Cylindrospermopsin by Enzyme-		Supplemental Testing (HIV-1/HIV-2	
Linked Immunosorbent Assay	89.59	differentiation)	42.00
Periphyton	24.00	Hantavirus	40.00
Water Bacteriology		Syphilis	
Legionella Standard Methods 9260J . .	62.00	Immunoglobulin G (IgG) Antibody	
Liter of water		(including reflex Rapid	
Solids, Total Dissolved Standard		Plasma Reagin titer)	10.00
Method 2540C	12.75	TP-PA (<i>Treponema Pallidum</i> -	
Environmental Protection		Particle Agglutination)	
Agency 325.2 Chloride	7.00	Confirmation	22.00
Standard Method 5210B		QuantiFERON	
Carbonatious Biochemical/Soluble		QuantiFERON Gold	77.00
Oxygen Demand	33.00	Virology	
Standard Method 2120B Color	12.00		

Herpesvirus (Herpes Simplex Virus-1, Herpes Simplex Virus-2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction	51.00
Rabies - Not epidemiological indicated or pre-authorized	180.00
Influenza PCR (Polymerase Chain Reaction)	150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing	23.00
Bacteriology	
Mycobacteriology	
Culture	81.00
Mycobacterium tuberculosis susceptibilities (send out)	175.00
Identification and Susceptibility by GeneXpert	126.00
Office of the Medical Examiner	
Autopsy	
Non-jurisdictional Case	2,500.00
Plus cost of body transportation	
External Examination, Non-jurisdictional Case	500.00
Plus transportation	
Use of Medical Examiner facilities and assistants Autopsies	500.00
External exams	300.00
Reports	
First Copy	No charge
Copy of Autopsy and Toxicology report.	
All other requestors and additional copies	35.00
Miscellaneous Office of Medical Examiner case file papers	
First copy	No charge
No charge to next of kin, treating physicians, and investigative or prosecutorial agencies.	
Office of Medical Examiner file copies - All other requestors and additional copies	35.00
Miscellaneous non-Office of Medical Examiner case file papers	
Non-Office of Medical Examiner case file - All requestors cost for copies	50.00
Administration costs to review, prepare and authorize any non-Office of Medical Examiner documents to be released to requestor.	
Cremation Authorization	
Review and authorize	200.00
\$10.00 per permit payable to Vital Records for processing.	
Court for Medical Examiner	
Preparation, consultation and appearance; Portal to portal expenses including travel costs and waiting time to improve/provide adequate compensation to State of Utah for services provided by State employees	
Criminal cases out of state (per hour)	500.00
Non-jurisdictional criminal and all civil cases (per hour)	500.00

Consultation on non-Medical Examiner cases (per hour)	500.00
Photographic, Slide, and Digital Services	
Glass Slides	20.00
Digital Image	
X-ray from Digital Source - Flat fee per X-ray image	10.00
Copied from Digital source, flat fee for up to 30 requested images (per image)	10.00
Copied from Digital source, per image cost for request over 30 images	1.00
Copied from color slide negatives	5.00
Use of Tissue Harvest Room for Acquisition	
Skin Graft	132.83
Bone	265.65
Heart Valve	69.30
Eye	34.65
Saphenous vein	69.30
Body Storage	
Daily charge for use of Medical Examiner Storage Facilities	30.00
Beginning 24 hours after notification that body is ready for release.	
Biologic samples requests	
Handling and storage of requested samples by outside sources	25.00

EXECUTIVE DIRECTOR'S OPERATIONS

Adoption Records Access	
Specialized Services	
Birth Parent Information Registration ...	25.00
Adoption Records Access Fee	25.00
Adoption Records Amendment Fee	10.00
Center for Health Data and Informatics	
Data Access Base Fees	
Behavioral Risk Factor Surveillance System Standard Annual Limited Data Set	
Behavioral Risk Factor Surveillance System Standard Annual Limited Data Set	300.00
This fee is to compensate for staff costs associated with preparation of research data sets and data dictionaries for Behavioral Risk Factor Surveillance System data. Note: The following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to have questions included on the Behavioral Risk Factor Surveillance System are excluded from this fee as their payment includes receipt of data. Fee will be \$300.00 for initial dataset. Each additional year dataset will be an additional \$150.00 (50% discount).	
Healthcare Facilities Data Series	
Fee Discounts - Healthcare Facilities Data Series	Note
Note: (1) The Following Discounts Apply: Healthcare Facility with <5,000 discharges (80% for Standard Limited Use Data Set); Healthcare Facility with 5,000-35,000	

discharges (50% for Standard Limited Use Data Set); Prior Years (50% for any data set); Student (75% for any standard data set); Public University or Not for Profit Entity (50% for any standard data set); Geographic Subset (discount proportional to percent of records required from limited use data set); On-time Renewal (15% for any data series). (2) Pricing for client-based partnership: The per-client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for distribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Standard Annual Limited Use Data Set	3,150.00
Standard Annual Research Data set	6,000.00
Quarterly Preliminary Feeds	4,500.00
Federal Annual Database	4,500.00
Enhanced Annual Summary Report ...	500.00
All Payer Claims Data Standard Limited Use Data Series Fee Discounts - All Payer Claims Data Standard Limited Use Data Series	Note

Notes: (1) The following discounts apply: Contributing Carrier (50% for standard limited use data sets); Student (75% for any standard data set); Single Use and Single User License (50% for any standard limited use data set); Geographic Subset (discount proportional to percent of records required from limited use data set); On-time Renewal (15% for any data series). (2) Pricing for client-based partnership: The per-client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Single Year	8,000.00
Two Years	12,000.00
Three Years	16,000.00
Additional Years	4,000.00
Sample File	2,000.00
Two-Year Public Use File	4,000.00

All Payer Claims Data Standard Research Data Series Fee Discounts - All Payer Claims Data Standard Research Data Series	Note
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Note: (1) The following discounts apply: Student (50% for any standard research data set); Single Use and Single User License (50% for any standard research data set); On-time Renewal (15% for any data series); (2) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.

Single Year	20,000.00
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Two Years	30,000.00
Three Years	40,000.00
Additional Years	10,000.00
Special Purpose Series	4,000.00
Other Data Series and Licenses Fee Discounts - Other Data Series and Licenses	Note

Note: The following discounts apply: Non-Contributing Carrier (50% for CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS (Healthcare Effectiveness Data and Information Set) & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); Public University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); On-time Renewal (15% for any data series) Institutional License

HEDIS (Healthcare Effectiveness Data and Information Set) Data Set	1,575.00
CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set ..	1,575.00
CAHPS (Consumer Assessment of Healthcare Providers and Systems) Survey Responses 2,000.00	
Other Fees and Services Custom data services (per hour)	88.00
Additional Fields to create a custom data set -(cost per field added)	225.00
Individual Information Extract (per person)	100.00
Application Fee (non-refundable)	50.00

Note: application fees are non-refundable but may be credited towards a data fee if the application is approved.

Expedited Shipping Fee	15.00
Convenience Fee (for Credit or Debit Card payment)	Not to exceed 3%
Birth Certificate Initial Copy	20.00
Stillbirth	18.00
Affidavit	25.00
Book Copy of Birth Certificate	25.00
Adoption	60.00
Death Certificate Initial Copy	30.00

The Legislature intends that for every initial copy of a Utah Death Certificate sold, \$12 shall be remitted to the Office of the Medical Examiner.

Burial Transit Permit	7.00
Disinterment Permit	25.00
Death Certificate Reprint Fee	3.00
Specialized Services Additional Copies	10.00
Paternity Search (one hour minimum) (per hour)	18.00

Delayed Registration	60.00
Marriage and Divorce Abstracts	18.00
Legitimation	60.00
Adoption Registry	25.00
Adoption Expedite Fee	25.00
Death Research (one hour minimum) (per hour)	20.00
Death Notification Subscription Fee (organization less than or equal to 100,000 lives)	500.00
Death Notification Subscription Fee (organizations greater than 100,000 lives)	1,000.00
Death Notification Fee, per matched death	1.00
Court Order Name Changes	25.00
Court Order Paternity	60.00
Utah Plant Extract Registry	200.00
Utah Plant Extract Registration Renewal	50.00
Online Access to Computerized Vital Records (per month)	12.00
Ad-hoc Statistical Requests (per hour)	45.00
Online Convenience Fee	4.00
Online Identity Verification	1.39
Expedite Fee	15.00
Expedited Shipping Fee	15.00
Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event)	50.00
Executive Director	
All the fees in this section apply for the entire Department of Health	
Clinic Fees Tied to Medicaid Reimbursement Levels variable	
The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.	
Conference Registrations	100.00
Non-sufficient Check Collection Fee	20.00
Non-sufficient Check Service Charge	20.00
Testimony	
Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour)	78.75
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.	
Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour)	250.00
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Per hour charge, plus travel costs.	
Government Records Access and Management Act (GRAMA)	
Mailing or shipping cost	Actual cost up to a \$100.00
Staff time for file search and/or information compilation	

Department of Technology Services (per hour)	70.00
For Department of Technology Services or programmer/analyst staff time. Department of Health (per hour)	35.00
For Department of Health staff time; first 15 minutes free, additional time. Copy	
11 x 8.5 Black and White (per page)	0.15
11x17 or color (per page)	0.40
Information on disk (per kilobyte)	0.02
Administrative Fee, 1-15 copies	25.00
Administrative Fee, each additional copy	1.00
Fax (per page)	0.50

FAMILY HEALTH AND PREPAREDNESS

Child Development	
Conditional Monitoring Inspections Center-based providers (per visit)	253.00
Charge per extra visit begins with the second additional visit required due to non-compliance.	
Home-based providers (per visit)	245.00
Charge per extra visit begins with the second additional visit required due to non-compliance.	
Annual License	
Annual Licensed Child Care Facility Base	31.00
Plus the appropriate fee as listed below to any new or renewal license	
Change in license or certificate during the license period more than twice a year	31.00
Child Care Center Facilities (per child)	1.75
Late Fee	Variable
Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, \$15.50 plus \$0.75 per child in the requested capacity. For homes, \$15.50.	
New Provider/Change in Ownership	
New Provider/Change in Ownership Applications for Child Care center facilities	200.00
A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection. This fee will be due at the time of application.	
Other	
Non-compliant facilities and additional inspections for non-compliant facilities	25.00
Children with Special Health Care Needs	
Children with Special Health Care Needs Service Balance Charge after Insurance Payment	
Household income less than or equal to 133% of Federal Poverty Level	1.00
Household income 134% to 150% of Federal Poverty Level	20%
Household income 151% to 185% of Federal Poverty Level	40%

Household income greater than 225% of Federal Poverty Level	100%
Evaluation of Speech	
92521 Fluency	150.00
92522 Sound Production	121.00
92523 Sound Production w/ Evaluation of Language Comprehension	260.00
Special Otorhinolaryngologic Services	
92524 Behavioral and Qualitative Analysis of Voice and Resonance	116.00
Physical Medicine and Rehabilitation Therapeutic Procedures	
97116 Gait training	33.00
97112 Neuromuscular reeducation	38.00
97542 Wheelchair Assessment fitting/ training	25.00
97755 Assistive Technology Assessment	43.00
Office Visit, New Patient	
99201 Problem focused, straightforward	65.00
99202 Expanded problem, straightforward	110.00
99203 Detailed, low complexity	160.00
99204 Comprehensive, Moderate complexity	245.00
99205 Comprehensive, high complexity	315.00
Office Visit, Established Patient	
99211 Minimal Service or non- Medical Doctor	30.00
99212 Problem focused, straightforward	65.00
99213 Expanded problem, low complexity	108.00
99214 Detailed, moderate complexity ...	160.00
99215 Comprehensive, high complexity	220.00
Office Consultation, New or Established Patient	
99241 Problem focused, straightforward	36.00
99242 Expanded problem focused, straightforward	57.00
99243 Detailed exam, low complexity ...	79.00
99244 Comprehensive, moderate complexity	99.00
99245 Comprehensive, high complexity	426.00
95974 Cranial Neurostimulation evaluation	160.00
99354 Prolonged, face to face	73.00
First hour	
99355 Prolonged, face to face	112.00
Additional 30 minutes	
99358 Prolonged, non face to face	93.00
First hour	
99359 Prolonged, non face to face	51.00
Additional 30 minutes	
T1013 Sign Language oral interview	13.00
Nutrition	
97802 Medical Assessment	22.00
97803 Reassessment	22.00
Psychology	
96101 Testing	136.00
96103 Testing with computer	30.00
96110 Developmental Testing	136.00

96111 Extended Developmental Testing	136.00
90791 Psychiatric Diagnostic Evaluation	140.00
90792 Psychiatric Diagnostic Evaluation With Medical Services	157.00
90804 Psychotherapy, face to face, 20-30 minutes	90.00
90806 Psychotherapy, face to face, 50 minutes	130.00
90846 Family Medical Psychotherapy, 30 minutes	112.00
90847 Family Medical Psychotherapy, conjoint 30 minutes	116.00
90885 Evaluation of hospital records	55.00
90889 Preparation of reports	74.00
Physical and Occupational Therapy	
97001 Physical Therapy Evaluation	90.00
97002 Physical Therapy Re-evaluation	52.00
97003 Occupational Therapy Evaluation	90.00
97004 Occupational Therapy Re-evaluation	52.00
97110 Therapeutic Physical Therapy ...	33.00
97530 Therapeutic Activity	44.00
97535 Self Care Management	37.00
97760 Orthotic Management	38.00
97762 Orthotic/prosthetic Use Management	38.00
G9012 Wheelchair Measurement/ Fitting	312.00
Ophthalmology	
92002 Exam and evaluation, intermediate, new patient	81.00
92012 Exam and evaluation, intermediate, established patient	85.00
92015 Determination of refractive state	51.00
Audiology	
92550 Tympanometry and Acoustic Reflex Threshold Testing	24.00
92551 Audiometry, Pure Tone Screen ...	13.00
92552 Audiometry, Pure Tone Threshold	20.00
92553 Audiometry, Air and Bone	40.00
92555 Speech Audiometry threshold testing	25.00
92556 Speech Audiometry threshold/speech recognition testing ...	40.00
92557 Basic Comprehension, Audiometry	36.00
92567 Tympanometry	12.00
92568 Acoustic reflex testing, threshold	17.00
92570 Tympanometry and Acoustic Reflex Threshold	33.00
Acoustic Reflex Decay Testing	
92579 Visual reinforcement audiometry	42.00
92579-52 Visual reinforcement audiometry, limited	21.00
92582 Conditioning Play Audiometry ...	72.00
92585 Auditory Evoked Potentials testing	144.00

92587 Evoked Otoacoustic emissions testing	24.00
92590 Hearing Aid Exam	60.00
92591 Hearing Aid Exam, Binaural	75.00
92592-52 Hearing aid check, monaural	31.00
92593-52 Hearing aid check, binaural ..	44.00
92620 Evaluation of Central Auditory Function	90.00
92621 Evaluation of Central Auditory Function	22.00
Each additional 15 minutes	
V5008 Hearing Check, Patient Under 3 Years Old	38.00
V5257 Hearing Aid, Digital Monaural	2,000.00
V5261 Hearing Aid, Digital Binaural	1,100.00
V5264 Ear Mold Insert	75.00
V5266 Hearing Aid battery	1.00
Baby Watch Early Intervention	
Monthly Participation Fee	
Household income less than or equal to 100% of Federal Poverty Level	
Household income 101% to 186% of Federal Poverty Level	10.00
Household income 187% to 200% of Federal Poverty Level	20.00
Household income 201% to 250% of Federal Poverty Level	30.00
Household income 251% to 300% of Federal Poverty Level	40.00
Household income 301% to 400% of Federal Poverty Level	50.00
Household income 401% to 500% of Federal Poverty Level	60.00
Household income 501% to 600% of Federal Poverty Level	80.00
Household income 601% to 700% of Federal Poverty Level	100.00
Household income 701% to 800% of Federal Poverty Level	120.00
Household income 801% to 900% of Federal Poverty Level	140.00
Household income 901% to 1000% of Federal Poverty Level	160.00
Household income 1001% to 1100% of Federal Poverty Level	180.00
Household income above 1100% of Federal Poverty Level	200.00
Director's Office	
These fees apply for the entire Division of Family Health and Preparedness	
Credit Card Fee	1.00
Convenience fee to cover cost of Utah Interactive processing fee of \$0.75 per transaction as well as credit card fees.	
Online Processing Fee	0.75
Credit Card online processing fee	
Background Screening Fee - Public Safety	32.00
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change	

for the Department of Health. Fees collected by Family Health and Preparedness are passed through to Public Safety.	
Fingerprints	12.00
Direct Access Clearance System	
Facility Initial or Change of Ownership (per 100)	100.00
Initial Clearance	18.00
Facility Renewal	200.00
Background Screening Card	
Replacement	5.00
This fee will be assessed to child care licensing providers requesting a replacement background check card.	
Background checks initial or annual renewal (not in Direct Access Clearance System)	18.00
This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.	
Emergency Medical Services and Preparedness Registration and Licensure	
License/License Renewal Fee	
License Verification	10.00
Critical Care Certification	20.00
Course Coordinator Extension Fee	40.00
Dispatch	
Inspection	
Dispatch	100.00
Quality Assurance and Designation Review	
Stroke Center Designation/Redesignation	150.00
Registration and Licensure	
License/License Renewal Fee	
Quality Assurance Review Fee	
All Levels Except Emergency	
Medical Dispatcher	30.00
Emergency Medical Dispatcher	25.00
Training Officer Extension Fee	40.00
Quality Assurance Designation Review	
Air Ambulance Quality Assurance Review	5,000.00
Registration and Licensure	
License Fee	
Blood Draw Permit	35.00
Initial and Reciprocity Quality Assurance Review Fee for All Levels Late Fee	75.00
License/License Renewal Fee	
Initial and Reciprocity Quality Assurance for All Levels Except Emergency	
Medical Dispatcher	45.00
Initial, Reciprocity Quality Assurance for Emergency Medical Dispatcher ..	25.00
Decal for purchase for All Levels	2.00
Patches for purchase for All Levels	5.00
Course Audit Fee	40.00
Instructor Certification Extension Fee	75.00
License Renewal Fee	
Lapsed Certification	30.00
Course Request Fee	
Course for All Levels	300.00
Late Course Request fee per Day	10.00

Ground Ambulance - Emergency
 Medical Technician
 Inspection
 Quality Assurance Review
 (per vehicle) 100.00
 Advanced (per vehicle) 130.00
 Interfacility Transfer Ambulance
 Inspection
 Emergency Medical Technician
 Quality Assurance Review
 (per vehicle) 100.00
 Advanced (per vehicle) 130.00
 Paramedic
 Inspection
 Rescue (per vehicle) 165.00
 Tactical Response (per vehicle) 165.00
 Ambulance (per vehicle) 170.00
 Interfacility Transfer Service
 (per vehicle) 170.00
 Fleet fee (per fleet) 3,200.00

 Agency with 20 or more vehicles
 Quick Response Unit
 Inspection
 Emergency Medical Technician
 Quality Assurance Review
 (per vehicle) 100.00
 Advanced (per vehicle) 100.00
 Air Ambulance
 Inspection
 Advanced Air Ambulance
 (per vehicle) 130.00
 Specialized (per vehicle) 165.00
 Out of State (per vehicle) 200.00
 Emergency Medical Dispatch Center
 (per center) 65.00
 Quality Assurance Designation Review
 Resource Hospital (per hospital) 150.00
 Trauma Center Verification/Quality
 Assurance Review 5,000.00
 Trauma Designation Consultation
 Quality Assurance Review 750.00
 Focused Quality Assurance Review ... 3,000.00
 Emergency Patient Receiving
 Facility Re-designation 150.00
 Emergency Patient Receiving
 Facility Initial Designation 500.00
 Quality Assurance Application Reviews
 Newspaper Publications
 Original Air Ambulance License 850.00
 Original Ground Ambulance/Paramedic
 License Non Contested 850.00
 Original Ambulance/Paramedic
 License Contested Variable
 Original Designation 135.00
 Renewal Ambulance/Paramedic/Air
 License 135.00
 Renewal Designation 135.00
 Upgrade in Ambulance Service Level ... 125.00
 Change in ownership/operator
 Non-contested 850.00
 Contested Up to actual cost
 Change in geographic service area
 Non-contested 850.00
 Contested Up to actual cost
 Quality Assurance Course Review
 Course Coordinator

Seminar Registration 50.00
 Seminar Registration Late 25.00
 Emergency Medical
 Training and Testing Program
 Designation 135.00
 Instructor Seminar
 Registration 150.00
 Registration Late 25.00
 None
 Conference Sponsor/Vendor 500.00
 New Course Coordinator
 Course Coordination Certification 75.00
 Course Coordination Registration
 Late 25.00
 New Instructor
 Course Certification 150.00
 Course Registration Late 25.00
 New Training Officer
 Initial Certification 75.00
 Course Registration Late 25.00
 Pediatric
 Advanced Life Support Course 170.00
 Education for Prehospital Professionals
 Course 170.00
 Training Officer
 Seminar Registration 50.00
 Seminar Registration Late 25.00
 Training and Seminars
 Additional Lunch 15.00

 Trainings and Seminars
 Course Quality Assurance Review
 Late 25.00

 Less than 30 days
 Emergency Vehicle Operations
 Instructor Course 40.00
 Medical Director's Course 50.00
 Management/Leadership Seminar 150.00
 Prehospital Trauma Life Support
 Course 175.00
 Pediatric Advanced Life Support
 Course Renewal 85.00
 Equipment Delivery
 Strike Team BLU-MED Mobile
 Field Response Tent Support 6,000.00
 Pediatric
 Rental of pediatric course
 equipment to for-profit agency 150.00
 Quality Assurance Course Review
 Pediatric
 Pediatric Education for
 Prehospital Professionals
 Course Renewal 85.00
 Data
 Pre-hospital
 Non-profits Users 800.00

 Academic, non-profit, and other
 government users
 For-profit Users 1,600.00
 Trauma Registry
 Non-profits Users 800.00

 Academic, non-profit, and other
 government users
 For-profit Users 1,600.00
 Health Facility Licensing and Certification
 Annual License

Health Facilities base	260.00
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.	
Direct Access Clearance System	
Contractor Access	100.00
Annual License	
Abortion Clinics	1,800.00
Two Year Licensing Base	
Plus the appropriate fee as listed below to any new or renewal license	
Health Care Facility	520.00
Every other year	
Health Care Providers	
Change Fee	
Health Care Providers	130.00
Charged to health care providers making changes to their existing license.	
Hospitals	
Hospital Licensed Bed	39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed	31.20
End Stage Renal Disease Centers	
Licensed Station	182.00
Freestanding Ambulatory Surgery Centers (per facility)	2,990.00
Birthing Centers (per licensed unit)	520.00
Hospice Agencies	1,495.00
Home Health Agencies	1,495.00
Personal Care Agencies	1,000.00
Mammography Screening Facilities	520.00
Assisted Living Facilities	
Type I (per licensed bed)	26.00
Type II (per licensed bed)	26.00
The fee for each satellite and branch office of current licensed facility	
	260.00
Late Fee	
Within 1 to 14 days after expiration of license	
	50% of scheduled fee
Within 15 to 30 days after expiration of license	
	75% of scheduled fee
New Provider/Change in Ownership	
Applications for health care facilities ...	747.50
Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.	
Assisted Living and Small Health Care Type-N (nursing focus) Limited	
Capacity Applications:	325.00
Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.	
Application Termination or Delay	
If a health care facility application is terminated or delayed during the application process, a fee based on services rendered will be retained as follows:	
On-site inspections	90% of total fee
Plan Review and Inspection	
Hospitals	
Number of Beds	
Up to 16	3,445.00

17 to 50	6,890.00
51 to 100	10,335.00
101 to 200	12,870.00
201 to 300	15,470.00
301 to 400	17,192.50
Over 400, base	17,192.50
Over 400, each additional bed	37.50
In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.	
Nursing Care Facilities and Small Health Care Facilities	
Number of Beds	
Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00
Freestanding Ambulatory Surgical Facilities (per operating room)	1,722.50
Other Freestanding Ambulatory Facilities (per service unit)	442.00
Includes Birthing Centers, Abortion Clinics, and similar facilities.	
End Stage Renal Disease Facilities (per service unit)	175.50
Assisted Living Type I and Type II	
Number of Beds	
Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50
Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost \$559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.	
Remodels of Licensed Facilities	
Hospitals, Freestanding Surgery	
Facilities (per square foot)	0.29
All others excluding Home Health Agencies (per square foot)	0.25
Each additional required on-site inspection	559.00
Other Plan - Review Fee Policies	Variable
If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be \$559.00 per inspection, plus mileage reimbursement at the approved state rate. A facility that uses plans and specifications previously reviewed and approved by the Department will be charged 60 percent of the scheduled plan review fee. Fifty-two cents per square foot will be charged for review of facility additions or remodels that house	

special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator. If a project is terminated or delayed during the plan review process, a fee based on services rendered will be retained as follows: Preliminary drawing review - 25% of the total fee. Working drawings and specifications review - 80% of the total fee. If the project is delayed beyond 12 months from the date of the State's last review the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

- Health Care Facility Licensing
 - Rules Actual cost
 - Plus mailing
- Certificate of Authority
 - Health Maintenance Organization
 - Review of Application 650.00

MEDICAID AND HEALTH FINANCING

- Contracts
- Provider Enrollment
 - Medicaid application fee for prospective or re-enrolling providers ... Not to exceed \$600
 - This fee is set by the federal government (CMS) and is effective on January 1 of each year.

MEDICAID SERVICES

- Other Services
- Health Clinics
 - Repair
 - Urine Analysis
 - 85651 Erythrocyte Sedimentation
 - Test 11.00
 - 85652 Sedimentation Rate 11.00
 - 86308 Mononucleosis test 15.00
 - 86318 Helicobacter Pylori test 23.00
 - 86318 Quick Helicobacter Pylori test 23.00
 - 86403 Monospot 18.00
 - 85680 Purified Protein
 - Derivative/ Tuberculosis Test 9.00
 - 99409 Alcohol, substance screening; 30+ minute intervention 60.00
 - 99409 Alcohol, substance screening; 30+ minute intervention
 - 57160 Fitting and insertion of pessary or other intravaginal support device 85.00
 - 57160 Fitting and insertion of pessary or other intravaginal support device
 - 57150 Irrigation of vagina and/or application of medicament for treatment of bacterial, parasitic, or fungoid disease 55.00
 - 57150 Irrigation of vagina and/or application of medicament for treatment of bacterial, parasitic, or fungoid disease
 - G0397 Alcohol, substance screening; 30+ minute intervention 58.00
 - G0397 Alcohol, substance screening; 30+ minute intervention
 - G0396 Alcohol, substance screening; 15-30 minute intervention 30.00

- G0396 Alcohol, substance screening; 15-30 minute intervention
- G0402 Welcome to Medicare Preventive
 - Physical Exam 169.00
- G0438 Annual Wellness Check
 - Medicare New Patient 175.00
- G0439 Annual Wellness Check
 - Medicare Established Patient 120.00
- Avulsion
 - 11740 Toenail 26.00
 - 11730 Nail Plate Single 150.00
 - 11731 Nail Second 42.00
 - 11732 Nail Each Additional Nail 30.00
 - 11750 Excision for Nail/Matrix
 - Permanent Removal 296.00
 - 11765 Wedge Excision of Skin of Nail Fold Ingrown 60.00
- Repair
 - 99408 Alcohol, substance screening; 15-30 minute intervention 34.00
 - 99408 Alcohol, substance screening; 15-30 minute intervention
 - 57415 Removal of impacted vaginal foreign body 180.00
 - 57415 Removal of impacted vaginal foreign body
 - Simple
 - 12001 Superficial Wound 2.5 cm or Less 192.00
 - 12002 Wound 2.6-7.5 cm 203.00
 - 12004 Wound 7.6-12.5 cm 133.00
 - 12005 Wound 12.6-20.0 cm 166.00
 - 12011 Face/Ear/Nose/Lip 2.5 cm or Less 234.00
 - 12032 Layer Closure Scalp/Extremities/Trunk 2.6-7.5 cm 151.00
 - 12035 Layer Closure Scalp/Extremities/Trunk 12.6-20 cm 227.00
 - 13120 Complex Scalp/Arms/Legs 146.00
 - 16020 Burn Dress without Anesthesia Office/Hospital Small .. 65.00
 - 16025 Burn Dress without Anesthesia Medical Face/Extremities 120.00
 - Destruction
 - 17000 Any Method Benign
 - First Lesion 100.00
 - 17003 Add-on Benign/Pre-malignant 47.00
 - 17004 Benign Lesion 15 or More 182.00
 - 17110 Flat Wart for Up to 15 165.00
 - 17111 Flat Warts for 15 and More .. 150.00
 - Malignant
 - 17260 Trunk/Arm/Leg 0.5 or Less 58.00
 - 17280 Lesion Face 0.5 cm Less 76.00
 - 17281 Lesion Face 0.6-1 109.00
 - 20520 Foreign Body Removal 120.00
 - Simple
 - 20550 Injection for Trigger Point Tendon/Ligament/Ganglion 90.00
 - 20552 Trigger Point Injection (TPI) 90.00
 - Arthrocentesis
 - 20600 Small Joint/Ganglion Fingers/Toes 50.00
 - 20610 Major Joint/Bursa Shoulder/Knee 104.00

20605 Intermediate Joint/Bursa Ankle/Elbow	90.00	83036 Hemoglobin A1C (long-term blood sugar test)	23.00
211 Community Service	52.00	83540 Iron	31.00
28190 Foreign Body Removal for Foot Subcutaneous	125.00	84443 Thyroid Stimulating Hormone Labs	10.00
30901 Cauterize (Limited) for Control Nasal Hemorrhage/ Anterior/Simple	60.00	84460 Alanine Amino Test	15.00
36415 Venipuncture	8.00	85013 Hematocrit	5.00
44641 Excision for Malignant Lesion	131.00	85025 Complete Blood Count Labs	5.00
46083 Incision for Thrombosed Hemorrhoid, External	104.00	85610 Prothrombin Time	10.00
46600 Anoscope	23.00	58100 Colposcopy w/ or w/o endocervical sampling	130.00
52000 Cystoscopy	125.00	76815 Ultrasound, pregnancy uterus, with image limited	100.00
53670 Catheterization, Urinary, Simple	30.00	58110 Endometrial sampling in conjunction with colposcopy	65.00
Colposcopy		31505 Laryngoscopy	70.00
57421 Biopsy of Vagina/Cervix	156.00	1000cc normal saline J7030	10.00
57455 Cervix With Biopsy	156.00	IV Monitoring 1st half hour 96360	60.00
57456 Cervix With Electrocautery conization	146.00	Arterial Studies	
57511 Cryocautery Cervix for Initial or Repeat	83.00	93923	182.00
58300 Insertion of Intrauterine Device	160.00	93924	221.00
58301 Removal of Intrauterine Device	163.00	93922	120.00
60001 Aspiration/Injection Thyroid Gland	81.00	A6403 Gauze, 16-48 square inch	2.00
Removal Foreign Body, External		96372 Injection administration	40.00
65025 Eye, Superficial	173.00	Wood filler/paste A6261	40.00
65220 Eye, Corneal	215.00	Viscous Lidocaine J8499	5.00
69200 Auditory Canal without General Anesthesia	150.00	Progesterone J2675	4.00
69210 Cerumen Removal/One or Both Ears	78.00	99188 App Topical Fluoride Varnish	20.00
80048 Basic Metabolic Profile	6.00	76805 Ultrasound, pregnancy uterus, after first trimester trans- abdominal approach	150.00
80053 Metabolic Panel Labs	6.00	99386 New patient well exam	185.00
Comprehensive		99387 New patient well exam	200.00
80061 Lipid Panel Labs	6.00	Incision and Drainage	
80061 Quick Lipid Panel	29.00	10060 Abscess Simple/Single	168.00
80076 Hepatic Function Panel	6.00	10061 Complicated or Multiple	125.00
80100 Drug Screen for Multiple Drug Classes	26.00	10080 Pilonidal Cyst	73.00
80101 Drug Screen for Single Drug Class	26.00	Simple	
80176 Xylocaine 0-55 cc	29.00	10120 Incision and Removal Foreign Object-Simple	73.00
Urine Analysis		10140 Incision and Drainage of Cyst, Hematoma or Seroma	130.00
81000 with Microscope	10.00	10160 Puncture Aspiration of Abscess, Hematoma	52.00
81002	10.00	Debridement	
81003 Automated and without Microscope	10.00	11000 Infected Skin up to 10%	57.00
81025 Human Chorionic Gonadotropin	22.00	11040 Skin Partial Thickness	44.00
Urine		11041 Skin Full Thickness	52.00
82043 Microalbumin	16.00	11042 Skin and Subcutaneous Tissue	110.00
82055 Alcohol Screen	21.00	11044 Skin, Tissue, Muscle, Bone	218.00
82270 Hemocult	7.00	11100 Biopsy for Skin Lesion Subcutaneous	165.00
Feces Screening		11101 Biopsy for Skin Subcutaneous Each Separate/Additional Lesion	32.00
82570 Creatinine	12.00	11200 Removal Skin Tags 1-15	125.00
82728 Ferritin	26.00	11201 Removal Skin tag any area, Each Add 10 Lesion	14.00
82948 Glucose for Blood, Regent Strip	7.00	11300 Shave Biopsy for Epidermal/ Dermal Lesion 1 Trunk-Neck	140.00
82962 Glucose for Monitoring Device	6.00	11305 Shave Excision and Electrocautery	67.00
		11310 Surgery by Electrocautery	42.00
		Excision	
		Benign Trunk/Arm/Leg	

11400 Lesion 0.5cm or Less	90.00	99361 Medical Conference by	
11401 Lesion 0.6-1cm	210.00	Physicians	52.00
11402 Lesion 1.1-2.0 cm	237.00	Check	
11403 2.1-3.0 cm	142.00	99381 New Patient Under 1	140.00
11404 3.1-4.0 cm	160.00	99382 New Patient Age 1-4	165.00
11420 Scalp/Neck/Genital		99383 New Patient Age 5-11	160.00
0.5 or less	90.00	99384 Age 12-17	190.00
11421 Lesion 0.6-1.0 cm	125.00	99385 Age 18-20	188.00
11422 Subcutaneous/Neck/		99391 Under 1	125.00
Genital/Feet 1.1-2.0 cm	140.00	99392 Age 1-4	130.00
11423 Cyst	150.00	99393 Age 5-11	130.00
11440 Benign Face/Ear/Eyelid 0.5cm/		99394 Age 12-17	166.00
less	100.00	99395 Age 18-20	150.00
11441 Benign Lesion		99396 Medical Evaluation for	
Face/Ear/Eye/Nose 0.6-1.0 cm	125.00	Adult 40-64	180.00
11602 Malignant Trunk/Arm/Leg		Repair	
1.1-2.0 cm	112.00	87804 Influenza A	23.00
11604 3.1-4.0 cm	166.00	Quick Test	
Malignant		87880 Strep	26.00
11622 Lesion Scalp/Neck/Hand/		Quick Test	
Feet/Genital 1.1-2.0 cm	166.00	87880 Quick Strep for	
11641 Face/Nose/Ear 0.6-1.0 cm	131.00	Test for Medicaid/Medicare	26.00
11642 Face/Nose Ears 1.1-2.0 cm	172.00	88147 Papanicolaou (PAP) Smear	
11720 Debridement for Nails 1-5	27.00	for Cervical or Vaginal	42.00
11721 Debridement for		88164 Cytopathology, Slides,	
Nails 6 or More	55.00	Cervical or Vagina	26.00
36416 Capillary Blood Collection	7.00	90471 Immunization Administration	
99386 Exam age 40-64	238.00	for One Vaccine	30.00
99387 New Patient Preventive		90472 Immunization Administration	
Medicine Services Age 65 and Older	170.00	for Additional Vaccine	21.00
83013 H-Pylori Breath Test	63.00	90620 Supplemental Security	
90670 Pneumovax 13	129.00	Income Exam Initial Consult	133.00
99406 Smoking, Tobacco Cessation		Immunization	
Counseling Visit 3-10 Minutes	14.00	Hepatitis	
99407 Smoking, Tobacco Cessation		90632 A for 19+ Years	90.00
Counseling Visit greater than		90634 A for Pediatric-	
10 Minutes	26.00	Adolescent	42.00
Consult With Another Physician		90636 A and B Adult	95.00
99241 History, Exam,		90645 Haemophilus Influenza B	47.00
Straightforward	36.00	90649 Gardasil Human	
99242 Expanded History		Papillomavirus Vaccine	281.00
and Exam Straightforward	57.00	90658 Influenza Virus Vaccine	25.00
99243 Detailed History, Exam	79.00	90669 Pneumococcal > 5 years	
Low Complexity		old Only	104.00
99244 Comprehensive History,		90701 Diphtheria Tetanus	
Exam	99.00	Pertussis	42.00
Moderate Complexity		90702 Diphtheria Tetanus	14.00
99245 Office Consult for New or		90703 Tetanus	26.00
Established Patient	426.00	90707 Measles Mumps Rubella	75.00
99354 Prolonged Services for one Hour	73.00	90715 Adacel - Tetanus Diphtheria	
Repair		Vaccine	75.00
Culture		90716 Varicella	166.00
87060 Strep	17.00	90732 Pneumovax Shot	129.00
Bacterial		90734 Meningitis	136.00
87070 Any Other Source	16.00	90744 Hepatitis B/Newborn-	
87077 Incision and Drainage	16.00	18 Years	73.00
87081 Single Organism	14.00	90746 Hepatitis B 19+ Years	88.00
87082 Presumptive, Pathogenic		Adult	
Organism Screen	16.00	90772 Injection	18.00
87086 Bacterial Urine	12.00	Therapeutic, Diagnosis	
87088 Bacterial Urine Identification		90805 Psychiatric Diagnosis	
and Quantification	12.00	Interview Follow-up Visit	68.00
87102 Fungal	16.00	92552 Audiometry	30.00
87106 Yeast	8.00	93000 Electrocardiogram	36.00
87110 Chlamydia	16.00	93015 Cardiovascular Stress Test	130.00
87220 Potassium Hydroxide for		Treadmill	
Wet Prep	10.00		

99397 Medical Evaluation for 65 Years and Over	210.00	95861 Electromyogram 2	139.00
99402 Preventive Medicine Counseling 30-44 Minutes	468.00	95900 Nerve Conduction Velocity Motor	42.00
99432 Newborn Normal Care - In Office	42.00	J7300 Intrauterine copper contraceptive	600.00
A4460 Ace Wrap (per roll)	7.00	95904 Nerve Conduction Velocity Sensory	35.00
A4550 Surgical Tray	42.00	J7302 Levonorgestrel-releasing intrauterine contraceptive	800.00
A4565 Sling	21.00	97035 Ultrasound	16.00
A4570 Splint	23.00	J7320 Hyalgon, Synvisc	281.00
Complete Blood Count	5.00	Knee Injection	
Complete Metabolic Panel	6.00	J7620 Albuterol Per ml, Inhalation Solution Durable Medical Equipment	3.00
Cornell Well Child Check Visits Form 21	73.00	97110 Therapy	24.00
Disability Exam		97124 Massage	13.00
Federal Aviation Administration Exam	52.00	J7625 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	4.00
G0008 Flu Shot Administration for Medicare	30.00	L3908 Wrist Splint	50.00
G0009 Injection Administration for Pneumonia without Physician for Medicare	4.00	97260 Manipulate for Spinal 1 Area	16.00
G0010 Hepatitis B Vaccine Administration	5.00	99050 After Hours	24.00
G0101 Papanicolaou (PAP) with Breast Exam Cervical/Vaginal Screen	42.00	Liver Function Test	6.00
Medicare		Lipid	17.00
G0107 Hemocult	10.00	99058 Emergency Visit	36.00
G0179 Physician Re-certification for Home Health	83.00	99070 Supplies for Above and Beyond Customary	19.00
G0180 Physician Certification for Home Health	83.00	PSATE0000 Prostate Specific Antigen Test	42.00
J0170 Injection for Epinephrine	10.00	Residual Functional Capacity Questionnaire	52.00
J0290 Injection for Ampicillin Sodium 500 mg	8.00	99080 Form 20	88.00
J0540 Bicillin 1.2 million units	38.00	Disability Exam	
J0696 Rocephin 250 mg	47.00	S0020 Marcaine up to 30 ml	18.00
J0702 Injection for Celestone 3 mg	12.00	99173 Visual Acuity Screening Test	10.00
J0704 Injection for Celestone 4 mg	12.00	New Patient	
J0780 Compazine up to 10 mg	16.00	99201 Brief	65.00
J0810 Solu Medrol 150 mg	21.00	99201N Brief Night	65.00
J1000 Estradiol	12.00	99202 Limited	110.00
J1055 Depo-Provera	88.00	99202N Limited Night	110.00
J1200 Benadryl up to 50 mg	10.00	99203 Intermediate	160.00
93926 Duplex Scan Limited Study	130.00	99203N Intermediate Night	160.00
93965 Doppler of Extremity	132.00	99204 Extended	245.00
J1390 Estrogen	31.00	99204N Extended Night	245.00
J1470 Gamma Globulin 2 cc	21.00	99205 Comprehensive	315.00
94010 Spirometry	70.00	99205N Comprehensive Night	315.00
94060 Spirometry with Bronchodilators	64.00	S9981 Medical Records Copying Fee, Administration	21.00
J1820 Insulin up to 100 units	10.00	Supplemental Security Insurance Exam	113.00
J1885 Toradol 15 mg	21.00	Thin Prep	140.00
94200 Peak Flow	21.00	Thyroid Stimulating Hormone	19.00
94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	42.00	Y4600 Injection for Pediatric Immunization Only	11.00
J2000 Xylocaine 0-55 cc	5.00	10040 Acne Surgery	48.00
J2550 Phenergan up to 50 mg	10.00	Y9051 Records Sent to Case Worker	16.00
94760 Pulse Oximetry - Oxygen Saturation	10.00	Artificial Insemination 58321	250.00
95115 Injections for Allergy Only 1	15.00	Malignant lesion removal 0.5 cm or less 11600	120.00
J3130 Testosterone	31.00	Typhoid 90691	75.00
J3301 Kenalog-10 Per 10 mg	31.00	IV Monitoring each additional hour 96361	20.00
95117 Injections for Allergy 2 or More	16.00	Established Patient	
95860 Electromyogram 1	81.00	99211 Brief	30.00
J3401 Vistaril 25 mg	12.00	99211N Brief Night	30.00
J3420 Injection B-12	10.00	99212 Limited	65.00
		99212N Limited Night	65.00
		99213 Intermediate	108.00

99213N Intermediate Night	108.00
99214 Extended	160.00
99214N Extended Night	160.00
99215 Comprehensive	220.00
99215N Comprehensive Night	220.00
76801 Ultrasound, pregnancy uterus, first trimester trans-abdominal approach	130.00
10006 Same Day Cancellation, Established Patient	35.00
10007 No Show Fee, Established Patient	35.00
10008 No Show Fee, Established Patient, Endodontist Appointment	75.00
10009 No Show Fee, Established Patient, Hospital Sedation	100.00
International Normalized Ratio home testing review G0250	8.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes)	40.00
A6402 Gauze, less than 16 square inch	1.00
Family Dental Plan	
D1352 Preventive Resin Restoration in a Moderate to High Caries Risk Patient	30.00
D2940 Protective Restoration	50.00
D2952 Post and Core in Addition to Crown	190.00
D6930 Recement a Three Unit Bridge	65.00
D7530 Surgical Incision	240.00
D7910 Suture of Recent Small Wounds up to 5 cm	192.00
D9420 Hospital or Ambulatory Surgical Center Call	75.00
D9440 After Hours Office Visit	66.00
D9910 Application of Desensitizing Medicament	20.00
D9930 Treatment of Complications	65.00
Preventive	
D1110 Prophylaxis-adult	61.00
D1120 Prophylaxis-child	42.00
D1203 Topical application of fluoride excluding prophylaxis	20.00
D1206 Topical Fluoride Varnish; Therapeutic Application High Risk	23.00
D1208 Topical Application of Fluoride	23.00
D1351 Sealant (per tooth)	34.00
D4341 Periodontal Scaling and Root Planning Four or More Contiguous Teeth or Bounded Teeth Spaces, per Quadrant	188.00
D4342 Periodontal Scaling and Root Planning 1-3 teeth, Per Quadrant	110.00
D4355 Full mouth debridement	121.00
D4910 Periodontal Maintenance	115.00
D4921 - Gingival Irrigation/Per Quadrant	5.00
Oral Evaluation	
D0120 Periodic	40.00
D0140 Limited	50.00
D0150 Comprehensive	52.00
D0170 Re-evaluation - Limited, Problem Focused (Established Patient)	42.00

D0180 Comprehensive Periodontal Evaluation	44.00
D0190 Screening of Patient	13.00
D0191 Assessment of Patient	13.00
D0210 Intraoral - complete series including Bitewings	88.00
D0220 Intraoral periapical First film	17.00
D0230 Intraoral periapical Additional film	13.00
D0240 Intraoral Occlusal Radiographic Image	14.00
D0270 Bitewing Cost of single film	17.00
D0272 Bitewing Cost of two film	28.00
D0273 Bitewings - Three Films	32.00
D0274 Bitewing Cost of four film	40.00
D0330 Panoramic Film	77.00
D9110 Palliative (Emergency) Treatment for Pain - Minor Procedure	72.00
Space Maintainer	
D1510 Fixed unilateral	204.00
D1515 Fixed bilateral	269.00
D1520 Removable unilateral	245.00
D1525 Removable bilateral	346.00
D1550 Recement	46.00
Amalgam	
D2140 One surface	78.00
D2150 Two surface	102.00
D2160 Three surface	121.00
D2161 4 or more surface	146.00
Resin	
D2330 One surface, anterior	97.00
D2331 Two surface, anterior	121.00
D2332 Three surface, anterior	144.00
D2335 4 or more surface-can be incisal angle, anterior	172.00
D2390 Resin-Based Composite Crown, Anterior	224.00
D2391 One surface, posterior	108.00
D2392 Resin-Based Composite - Two Surfaces, Posterior	144.00
D2393 Resin-Based Composite - Three Surfaces, Posterior	174.00
D2394 Resin-Based Composite - Four or More Surfaces, Posterior	210.00
Root Canal Therapy	
D3310 Anterior	586.00
D3320 Bicuspid	685.00
D3330 1st molar	841.00
D3110 Pulp Cap-Direct (Excluding Final Restoration)	48.00
D3120 Pulp Cap-Indirect (Excluding Final Restoration)	48.00
D3220 Therapeutic pulpotomy	98.00
D3221 Open and Medicate	109.00
D3230 Pulpal Therapy-Anterior Primary Tooth	120.00
D3240 Pulpal Therapy-Posterior Primary Tooth	150.00
Apicoectomy/periradicular surgery	
D3410 - bicuspid	478.00
D3421 - bicuspid (1st root)	502.00
D3425 - molar (1st root)	600.00
D3426 - (Each additional root)	192.00

D3430 Retrograde filling	145.00	D5510 Repair broken complete base ..	224.00
2700 Fee, Dental - Crown, Rush Procedure	60.00	D5520 Replace missing/broken teeth complete	125.00
D2740 Crown, Porcelain/Ceramic Substrate	850.00	D5610 Repair resin base-partial	156.00
D2750 Crown, Porcelain fused to High Noble Metal	850.00	D5620 Repair cast framework	180.00
D2751 Crown, Porcelain fused to Predominantly Base Metal	850.00	D5650 Add tooth to existing partial ...	144.00
D2752 Crown, Porcelain fused to Noble Metal	850.00	D5630 Repair or replace broken clasp ...	168.00
D2751 Crown-porcelain fused to majority base metal	650.00	D5640 Replace broken teeth (per tooth)	89.00
D2980 Crown Repair, By Report	120.00	D5750 Reline complete upper	270.00
D2920 Recement Crown	59.00	D5751 Reline complete lower	270.00
D2930 Refabricated stainless steel crown-primary	160.00	D5760 Reline upper partial	269.00
D2931 Refabricated stainless steel crown-permanent	181.00	D5761 Reline lower partial	269.00
D2950 Core build-up	152.00	D5850 Tissue Conditioning Maxillary ...	120.00
D2951 Pin retention (per tooth)	35.00	D5851 Tissue Conditioning Mandibular	120.00
D2954 Prefabricated post and core	193.00	D6241 Pontic, Porcelain fused to Predominantly Base Metal	650.00
D6240 Pontic, Porcelain fused to High Noble Metal	850.00	D5660 Add Clasp to Existing Partial Denture	153.00
D6245 Pontic, Porcelain/Ceramic	850.00	99406 Smoking, Tobacco Cessation Counseling Visit 3-10 Minutes	14.00
D6740 Crown, Porcelain/Ceramic	850.00	99407 Smoking, Tobacco Cessation Counseling greater than 10 Minutes ...	26.00
D6242 Pontic, Porcelain fused to Noble Metal	850.00	Mobile Dental Equipment Fees Mobile Dental Package Weekly, plus mileage (per Week)	750.00
D6750 Pontic, Porcelain fused to High Noble Metal	850.00	Mobile Dental Equipment Fees, Plus Mileage Additional dental operator (per Week)	187.00
D6751 Pontic, Porcelain fused to Predominantly Base Metal	850.00	Dental Operator in addition to Mobile Dental Equipment Fees	
D6752 Pontic, Porcelain fused to Noble Metal	850.00		
D6930 Recement Bridge	78.00		
Surgical Procedure		DEPARTMENT OF HUMAN SERVICES	
D4210 Gingivectomy or Gingivoplasty	360.00	DIVISION OF CHILD AND FAMILY SERVICES	
D7111 Coronal Remnants	74.00	Service Delivery	
D7140 Single tooth extraction	94.00	Live Scan Testing	10.00
D7210 Surgical removal erupted tooth	167.00		
D7270 Tooth re-implantation with stabilization	187.00	EXECUTIVE DIRECTOR OPERATIONS	
D7286 Biopsy of oral tissue	125.00	Executive Director's Office	
D7410 Excision of benign tumor	218.00	Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services	
D7510 Incision and drainage of abscess	126.00	Paper (per side of sheet)	0.25
D7960 Frenulectomy	178.00	Audio tape (per tape)	5.00
D9230 Nitrous sedation/inhalation	55.00	Video tape (per tape)	15.00
D9248 Non-intravenous Conscious Sedation	120.00	Compiling and Reporting In another format (per hour)	25.00
Denture		If programmer/analyst assistance is required (per hour)	50.00
D5110 Complete upper	884.00	Mailing	Actual cost
D5120 Complete lower	884.00	Office of Licensing	
D5130 Immediate upper	951.00	Licensing	
D5140 Immediate lower	951.00	Initial license	900.00
D5211 Upper partial-resin base	771.00	Any new Human Service license excluding recovery residences, outdoor youth program, and child placing.	
D5212 Lower partial-resin base	870.00	Online Background Check	
D5213 Upper partial-cast metal frame with resin base	961.00	Application Fee	5.00
D5214 Lower partial-cast metal frame with resin base	961.00	Recovery Residences Initial license fee	1,295.00
D5410 Adjust complete upper	66.00		
D5411 Adjust complete lower	66.00		
D5421 Adjust partial upper	66.00		
D5422 Adjust partial lower	66.00		

Renewal fee	500.00
Child Placing Adoption	750.00
Child Placing Foster	250.00
Initial license fee and renewal fee.	
Day Treatment	450.00
Outpatient Treatment	300.00
Residential Support	300.00
Adult Day Care	
0-50 consumers per program	300.00
More than 50 consumers	
per program	600.00
Per licensed capacity	9.00
Residential Treatment	
Basic	600.00
Per licensed capacity	9.00
Social Detoxification	600.00
Life Safety Pre-inspection	600.00
One time initial fee to verify life/fire safety	
Outdoor Youth Program	
Basic	1,408.00
Initial license fee and renewal fee.	
Intermediate Secure Treatment	
Basic	750.00
Per licensed capacity	9.00
Therapeutic School Program	
Basic	600.00
Per licensed capacity	9.00

OFFICE OF RECOVERY SERVICES

Child Support Services	
Automated Credit Card Convenience Fee ...	2.00
Fee for self-serve payments made online or through the automated phone system (IVR).	
Collections Processing	12.00
6 percent of payment disbursed up to a maximum of \$12 per month.	
Assisted Credit Card Convenience Fee	6.00
Fee for phone payments made with the assistance of an accounting worker.	
Federal Offset	25.00
Annual Collection Fee	35.00

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Physical Disabilities Waiver	
Graduated	630.00
Critical Support Services for People with Disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of Gross Family Income.	
Utah State Developmental Center	
USDC Theater Rental	
Full Day (per square foot)	0.10
Theater Technician (per hour)	20.00
Hourly (per square foot)	0.0175
Half Day (per square foot)	0.07

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

State Hospital	
Photo Shoots (per 2 hours)	20.00
Use of USH Facilities	
Groups up to 50 people (per day)	75.00

Groups over 50 people (per day)	150.00
State Substance Abuse Services	
Alcoholic Beverage Server	
On Premise and Off Premise Sales	3.50

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	
	0.10
Fax Pages Local, All Pages	2.00
Fax Pages Long Distance, All Pages	2.00
Research (per hour)	20.00

HOUSING AND COMMUNITY DEVELOPMENT

Community Development	
Private Activity Bond	
Confirmation per million volume cap (per million of allocated volume cap)	
	300.00
Original application:	
under \$3 million	1,500.00
Original application: \$3-\$5 million ...	2,000.00
Original application:	
over \$5 million	3,000.00
Private Activity Bond Re-application	
Re-application: under \$3 million	750.00
Re-application: \$3 - \$5 million	1,000.00
Re-application: over \$5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Each Additional 90 Day Extension ...	4,000.00
Homeless Committee	
State Community Services Office	
Homeless Summit	35.00

INTERMOUNTAIN WEATHERIZATION TRAINING FUND

Weatherization Laboratory (per day)	250.00
Heating Ventilation and Air	
Conditioning (HVAC) Laboratory	
Fee (per day)	250.00
Insulation Laboratory (per day)	250.00
Weatherization Classroom (per day)	50.00
Demonstration House (per day)	250.00
Consumer/Small Contractor (per hour) ...	10.00
Materials (per person)	300.00
Trainers Basic	50.00
Trainers Advanced	100.00

OPERATIONS AND POLICY

Workforce Development	
Career Ladder Course (per Course)	16.00

STATE OFFICE OF REHABILITATION

Blind and Visually Impaired	
Low Vision Store	Actual Cost

Deaf and Hard of Hearing Interpreter	
Standard Late Fee (per Assessment)	80.00
Annual Maintenance/Recognition (per Individual)	70.00
Interpreter Certification	
Knowledge Exam (per Exam)	60.00
Novice Exam (per Exam)	150.00
Professional Exam (per Exam)	150.00
Professional Re-test, per component (per Test)	30.00
Temporary Permit (per Permit)	150.00
Student Permit (per Permit)	15.00
Out-of-State Interpreter Certification	
Utah Novice Level Certificate	300.00
Utah Professional Level Re-test, per component	60.00
Utah Professional Level Certificate	300.00
Knowledge Exam	120.00

**STATE SMALL BUSINESS
CREDIT INITIATIVE PROGRAM FUND**

Loan Origination Fee for Loan Participation Program (per 1.00)	0.04
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.	
Loan Origination Fee for Loan Guarantee Program (per 1.00)	0.04
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.	

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration Debt Collection Information	
Disclosure Fee (per Report)	15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.	

**NATURAL RESOURCES, AGRICULTURE,
AND ENVIRONMENTAL QUALITY**

**DEPARTMENT OF
AGRICULTURE AND FOOD**

ADMINISTRATION

Chemistry Laboratory	
Chemistry Laboratory	
Alcohol Content Testing	25.00
Cannabis Component Testing	175.00
Surcharge for Expedited ELISA	
Cyanotoxin Testing	50.00
Anatoxin-a ELISA Test - First Sample	116.00
Anatoxin-a ELISA Test - Additional Samples	12.00
Microcystin ELISA Test - First Sample	113.00

Microcystin ELISA Test - Additional Samples	10.00
Cylindropermopsin ELISA Test - First Sample	113.00
Cylindrospermopsin ELISA Test- Additional Samples	10.00
E. coli Enumeration in Water	7.00
Seed, Feed, and Meat	
Moisture	20.00
Fat	35.00
Fiber, Crude or ADF (Acid Detergent Fiber)	45.00
Proximate analysis (moisture, protein, fat, fiber, ash)	90.00
Proximate analysis (moisture, protein, fiber)	60.00
Protein	32.00
NPN (Non-Protein Nitrogen)	25.00
Ash	20.00
Water Activity	30.00
Salt	30.00
Fertilizer	
Nitrogen	32.00
Available Phosphorous	35.00
Potash	30.00
Inorganics	
Digested	
Testing	Variable
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn	
Prep and First Analyte	35.00
Additional Analytes	22.00
pH	20.00
Water Test I	250.00
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn	
Water Test II	180.00
Br, Cl, F, NO3, PO4, CO3, HCO3, CLO4, pH	
Water Quality	180.00
Br, Cl, F, NO3, NO2, SO4, PO4, carbonate, bicarbonate, perchlorate	
Herbicides - Water	185.00
Insecticides/Fungicides - Water	205.00
Herbicides - Soil/Plants	305.00
Insecticides - Soil/Plants	265.00
Pesticide	
Water	
Single Test	205.00
Multiresidue Test	275.00
Non-water	
Single Test	305.00
Multiresidue Test	400.00
Formulation	305.00
Inorganics	
Undigested	
Testing	Variable
Ag, Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, V, Zn	
Prep and First Analyte	25.00
Additional Analytes	12.00
Vitamin A	60.00
Mercury Analysis	85.00
Certification	
Milk Laboratory Evaluation Program	
Basic Lab	50.00
Number of Certified Analyst	30.00
3 x \$10.00	

Number of Approved Test	30.00
3 x \$10.00	
Total Yearly Assessed	90.00
Standard Plate Count	10.00
Coliform Count	15.00
Antibiotics Test	5.00
Phosphatase Test	15.00
Wisconsin Mastitis Test (WMT)	
Screening Test	5.00
Direct Microscopic Somatic Cell	
Count (DMSCC): Confirmation	10.00
Direct Somatic Cell	
Count (DSCC): Instrumentation	5.00
Coliform Confirmation	5.00
Container Rinse Test	10.00
H2O Coliform Confirmation Test	5.00
H2O Coliform Total Count	18.00
Butterfat %	10.00
Babcock method	
Added H2O in Raw Milk	5.00
Reactivated Phosphatase	
Confirmation	15.00
Antibiotics Confirmation Test	10.00
Salmonella Screen	40.00
E-Coli Screen (per Test)	40.00
E. coli confirmatory testing	
(per Test)	40.00
Salmonella confirmatory testing	
(per Test)	40.00
STEC confirmatory testing (per Test)	40.00
Listeria confirmatory testing (per Test)	40.00
Listeria Screen	30.00
All Other Services, per hour	40.00

The lab performs a variety of tests for other government agencies. The charges for these tests is determined according to the number of tests, and based on cost to the Laboratory and therefore may be different than the fee schedule. Because of changing needs, the Laboratory may receive requests for test that are impossible to anticipate and list fully in a standard fee schedule. Charges for these tests are authorized and are to be based on costs.

Campylobacter Screen 40.00

Charges for other tests performed for other government agencies are authorized and are to be based on cost recovery.

General Administration	
General Administration	
Produce Dealers	
Produce Dealers	25.00
Dealer's Agent	10.00
Broker/Agent	25.00
Produce Broker	25.00
Livestock Dealer (per dealer)	250.00
Livestock Dealer/Agent (per Agent)	75.00
Registered Farms Recording	10.00
Citations, Maximum per Violation	500.00
All Agriculture Divisions	
Certified document	25.00
Copies of files	
Per hour	10.00
Per copy	0.25
Duplicate	15.00
Internet Access	1.50
Late	25.00
Returned check	15.00

Mileage	Variable
State rate	
Brand Inspection	
Livestock	
Livestock Auction Market	
(per Market)	100.00
Auction Weigh Person (per	
Weigh Person)	25.00
Utah Horse Commission	
Utah Horse Commission (fees are not to exceed the amounts identified)	
Owner/Trainer	100.00
Owner	75.00
Organization	75.00
Trainer	75.00
Assistant trainer	75.00
Jockey	75.00
Jockey Agent	75.00
Veterinarian	75.00
Racing Official	75.00
Racing Organization Manager	
or Official	75.00
Authorized Agent	75.00
Farrier	75.00
Assistant to the Racing Manager	
or Official	75.00
Video Operator	75.00
Photo Finish Operator	75.00
Valet	50.00
Jockey Room Attendant or Custodian	50.00
Colors Attendant	50.00
Paddock Attendant	50.00
Pony Rider	50.00
Groom	50.00
Security Guard	50.00
Stable Gate Man	50.00
Security Investigator	50.00
Concessionaire	50.00
Application Processing	25.00

ANIMAL HEALTH

Animal Health	
Inspection Service	39.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Citation	
Per violation	200.00
Per head	2.00
If not paid within 15 days, two times the	
citation fee; if not paid within 30 days, four	
times the citation fee.	
Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00
Health Certificate Book	50.00
Trichomoniasis Report Book	8.00
Auction Veterinary	
Cattle (per day)	200.00
Sheep (per day)	90.00
Service Fee for Veterinarians	
Per day	250.00
Dog food and brine shrimp, misc.	
Per mile	0.55
Dog food and brine shrimp, misc.	
Trichomoniasis Ear Tags	2.00
Brand Inspection	
Brand Inspection	
Farm Custom Slaughter	100.00

Estray Animals	Variable
Beef Promotion (per head)	1.50
Cattle only	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Brand Inspection	
Special Sales	250.00
Cattle (per head)	1.00
Horse (per head)	2.00
Sheep (per head)	0.05
Brand Book	25.00
Show and Seasonal Permits	
Horse (per per head)	25.00
Cattle (per per head)	25.00
Horse Permit	
Lifetime (per first horse)	55.00
Lifetime (per horses after first)	35.00
Duplicate Lifetime	10.00
Lifetime Transfer	10.00
Brand Recording	75.00
Certified copy of Recording (new brand card)	5.00
Minimum Charge (per inspection stop)	20.00
Brand Transfer	175.00
Brand Renewal and Registration	175.00
Brand registration is on a 5 year cycle.	
Elk Farming	
Elk Inspection New License	300.00
Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner)	15.00
Elk Hunting Permit	100.00
Elk License	
Renewal	300.00
Late	50.00
Meat Inspection	
Meat Inspection	
Inspection Service	39.00
Meat Packing	
Meat Packing Plant	150.00
Custom Exempt	150.00
T/A (Talmage-Aiken) Official	150.00
Packing/Processing Official	150.00

MARKETING AND DEVELOPMENT

Marketing/Utah's Own	
Utah's Own Supporter	1,000.00
Utah's Own Year One Membership	25.00
Utah's Own Annual Membership	50.00

PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00
Official Inspection Services (includes sampling, except where indicated)	
Railcar (per car)	20.50
Truck or trailer (per carrier)	10.50
Container Inspection	21.50
Submitted sample (per sample)	7.50
Re-inspection	
Based on new sample (per truck)	10.50

Basis file sample	7.50
Based on new sample rail	20.50
Protein test	
Original or file sample retest	8.00
Oil and starch	8.00
Basis new sample	5.50
Plus sample hourly	
Factor only determination (per factor)	3.00
Plus samplers hourly rate, if applicable	
Stowage examination services (per certificate)	10.00
A fee for applicant requested certification of specific factors (per request)	3.00
Malting barley analysis of non-malting class barley, HVAC or DHV percentage determination in durum or hard spring wheats, etc.	
Extra copies of certificates (per copy)	1.00
Insect damaged kernel, determination (weevil, bore)	2.75
Sampling only, same as original carrier fee, except hopper cars, 4 or more	14.00
Mailing sample handling charge	3.00
Plus actual cost	
Sealing rail cars or containers upon request over 5 seals per rail car	5.00
Request for services not covered by the above fees will be performed at the applicable hourly rate stated herein, plus mileage and travel time, if applicable. Actual travel time will be assessed outside of a 50 mile radius of Ogden.	
Falling number inspection, per sample (per Sample)	12.00
Class X Weighing inspection (per Inspection)	6.00
Non-Official Services	
Safflower Grading	13.00
Class II weighing (per carrier)	6.00
Dark Hard Vitreous kernels (DHV) percentage in Hard Red Wheat	4.00
Determination of hard kernel percentage in soft white wheat	4.00
Dry Hay Feed Analysis	14.00
Silages (corn or hay) Analysis	20.00
Feed grain Analysis	14.00
Black Light (Alfatoxin)	3.00
Aflatoxin Test	20.00
Strip quick test	
Grain grading instructions (per hour, per person)	20.00
Set of check Samples	25.00
Proteins-moisture, Set of 5	
Other Requests (per hour)	Variable
Agricultural Inspection	
Agricultural Inspection: Inspection services performed (per hour) (per Hour)	40.00
Agricultural Inspection: For inspectors' time over 40 hours per week (overtime) and on Holidays, plus regular fees (per hour) (per hour)	60.00
Good Agricultural Practices (GAP)	
Inspection (per hour)	Federal rate
All inspections shall include mileage which will be charged according to	

the current mileage rate of the State of Utah	Variable	Export Compliance Agreements . . .	50.00
Organic Certification		Nursery	
Organic, Transitional, and Grass		Gross Sales (((\$10.00 min) based on previous calendar year, applies to all Gross Sales Fees)	
Fed Certification	300.00	\$0 to \$5,000	40.00
Annual registration late fee (per Registration)	100.00	\$5,001 to \$100,000	80.00
Fee for inspection (per hour)	65.00	\$100,001 to \$250,000	120.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour)	42.00	\$250,001 to \$500,000	160.00
Major holidays and Sundays plus regular fees (per min. per hour)	42.00	\$500,001 and up	200.00
Gross Sales		Nursery Agency	50.00
\$0 to \$5,000: Exempt	Variable	Feed	
\$10.00 min based on previous calendar year, applies to all Gross Sales Fees		Commercial Feed	25.00
\$5,001 to \$10,000	100.00	Processing	35.00
\$10,001 to \$15,000	180.00	Custom Formula Permit	75.00
\$15,001 to \$20,000	240.00	Pesticide	
\$20,001 to \$25,000	300.00	Commercial Applicator Certification	
\$25,001 to \$30,000	360.00	4 or less Commercial Pesticide	
\$30,001 to \$35,000	420.00	Applicators	75.00
\$35,001 to \$50,000	600.00	5-9 Commercial Pesticide	
\$50,001 to \$75,000	900.00	Applicators	150.00
\$75,001 to \$100,000	1,200.00	10 or more Commercial Pesticide	
\$100,001 to \$150,000	1,800.00	Applicators	300.00
\$150,001 to \$280,000	2,240.00	Triennial (3 year) Certification and License	45.00
\$280,001 to \$375,000	3,000.00	Replacement of lost or stolen certificate/license	15.00
\$375,001 to \$500,000	4,000.00	Triennial (3 year) examination and educational materials	20.00
\$500,001 and up	5,000.00	Product Registration	60.00
Cannabis		Processing Service	135.00
Industrial Hemp Grower		Dealer License	
Licensing Fee	500.00	Triennial	100.00
Industrial Hemp Processor		Fertilizer	
Licensing Fee	2,000.00	Blenders License	75.00
Product Registration Fee for Products Containing Oil Extracted from Cannabis	200.00	Assessment (per ton)	0.35
Product Registration Fee for Products Containing Cannabis Seed or Solid Derivatives from Cannabis Seed	100.00	Minimum Semiannual Assessment (per Assessment)	20.00
Product Registration Service Fee for Cannabis	60.00	Fertilizer Registration	25.00
Late Fee for Product Registration for Cannabis or Cannabis Seed Products	25.00	Processing	35.00
Shipping Point		Beekeepers	
Fruit		Insect Identification	10.00
Bulk load (per hundredweight)	0.10	License	
Vegetables		0 to 20 hives	10.00
Potatoes (per hundredweight)	0.10	21 to 100 hives	25.00
Onions (per hundredweight)	0.10	101 to 500 hives	50.00
Cucurbita (per hundredweight)	0.10	Inspection (per hour)	28.00
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.		Salvage Wax Registration	10.00
Phytosanitary Inspection (per inspection)	100.00	Control Atmosphere	10.00
Phytosanitary Inspection with grade certification (per inspection)	50.00	Seed Purity	
One commodity (per certificate)	30.00	Flowers	24.00
Except regular rate at continuous grading facilities		Grains	16.00
Mixed loads (per commodity)	30.00	Grasses	34.00
		Legumes	16.00
		Trees and Shrubs	25.00
		Vegetables	16.00
		Seed Germination	
		Flowers	24.00
		Grains	16.00
		Grasses	25.00
		Legumes	16.00
		Trees and Shrubs	25.00
		Vegetables	16.00
		Seed Tetrazolium Test	
		Flowers	44.00
		Grains	28.00
		Grasses	44.00
		Legumes	34.00
		Trees and Shrubs	44.00

Vegetables	28.00
Embryo Analysis (Loose Smut Test)	25.00
Cut Test	16.00
Mill Check (per hour)	Variable
Moisture Test	24.00
Canada Standards	20.00
Examination of Extra Quantity for Other Crop or Weed Seed (per hour)	Variable
Examination for Noxious Weeds Only (per hour)	Variable
Identification	No charge
Additional Copies of Analysis Reports	1.00
Emergency service for single component only (per sample)	42.00
Hay and Straw Weed Free Certification Bulk loads of hay up to 10 loads	30.00
Charge for each hay tag	0.10
Citations, maximum per violation	500.00

REGULATORY SERVICES

Regulatory Services

Bedding/Upholstered Furniture Manufacturers of Bedding and/or Upholstered Furniture	65.00
Wholesale Dealer	65.00
Supply Dealer	65.00
Manufacturers of Quilted Clothing	65.00
Upholsterer with employees	50.00
Upholsterer without employees	25.00
Processing /All Bedding Upholstery Licenses	40.00
Sterilization Fee	65.00
Dairy Test milk for payment	40.00
Operate milk manufacturing plant (per Plant)	85.00
Make butter (per Operation)	40.00
Haul farm bulk milk (per Operation)	40.00
Make cheese (per Operation)	40.00
Operate a pasteurizer (per Operator)	40.00
Operate a milk processing plant (per Plant)	85.00
Dairy Products Distributor (per Distributor)	85.00
Base Food Inspection Small	50.00
Less than 1,000 sq. ft. / 4 or fewer employees	
Medium	150.00
1,000-5,000 sq. ft., with limited food processing	
Large	250.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Super	400.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
Plan Review Plan Review Fee - Small (per Each)	50.00
Plan Review Fee - Medium (per Each)	150.00
Plan Review Fee - Large (per Each) ..	250.00
Plan Review Fee - Super (per Each) ..	400.00

Special Inspection Food and Dairy Inspection Per hour	30.00
Overtime rate	40.00
Citations, maximum per violation	500.00
Weights and Measures Weighing and measuring devices/ individual servicemen (per Serviceperson)	50.00
Metrology services (per hour)	50.00
Base Weights and Measures Small	50.00
1-3 scales, 1-12 fuel dispensers, 1 meter, 1 large scale, or 1-3 scanners	
Medium	150.00
4-15 scales, 13-24 fuel dispensers, 2-3 meters, 2-3 large scales, or 4-15 scanners	
Large	250.00
16-25 scales, 25-36 fuel dispensers, 4-6 meters, 4-5 large scales, or 16-25 scanners	
Super	400.00
26+ scales, 37+ fuel dispensers, 7+ meters, 6+ large scales, or 26+ scanners	
Special Scale Inspections Large Capacity Truck (Man Hour) (per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (Equipment Hour) (per hour)	25.00
Equipment use Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use Overnight Trip (per diem)	Variable
Plus cost of hotel	
Petroleum Refinery Gasoline Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00
Overtime charges (per hour)	33.00
Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00
Diesel Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00
Citations, maximum per violation	500.00
Certificate of Free Sale Single Certificate	30.00
More than 3 pages	55.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY

Emission Inventory Workshop	15.00
Attendance	
Air Emissions (per ton)	82.75

Major and Minor Source Compliance	
Inspection (per hour)	100.00
Annual Aggregate Compliance	
20 or less tons per year (per year)	180.00
21-79 tons per year (per year)	360.00
80-99 tons per year (per year)	900.00
100 or more tons per year	
(per year)	1,260.00
Asbestos and Lead-Based Paint	
(LBP) Abatement	
Course Accreditation Fee (per hour)	100.00
Asbestos Company/LBP Firm	
Certification Application (per year) ...	275.00
LBP Renovation Firm Certification	
Application (per year)	110.00
Asbestos Individual Certification	
Application	137.50
Asbestos Individual Certification	
Application Surcharge, (Non-Utah	
Accredited Training Provider)	33.00
LBP Abatement Worker	
Certification Application (per year) ...	110.00
LBP Inspector, Dust Sampling	
Technician Certification Application	
(per year)	137.50
LBP Risk Assessor, Supervisor, Project	
Designer Certification Application	
(per year)	220.00
LBP Renovator Certification Application	
(per year)	110.00
Lost Certification Card Replacement	33.00
Annual Asbestos Notification	550.00
Asbestos/LBP Abatement Project	
Notification Base Fee	165.00
Asbestos/LBP Abatement Project	
Notification Base Fee - Owner	
Occupied Residences	55.00
Abatement Unit Fee/100 units or any	
fraction thereof up to 10,000 units	7.70
(square feet/linear feet/cubic feet) (times 3)	
School Building Asbestos Hazard Emergency	
Response Act (AHERA) abatement unit fees	
will be waived	
Abatement Unit Fee/100 units or any fraction	
thereof more than 10,000 units	3.85
(square feet/linear feet/cubic feet) (times 3)	
School Building AHERA abatement fees will	
be waived	
Demolition Notification Base	27.50
Demolition unit per 5,000 square feet or any	
fraction thereof	55.00
Alternative Work Practice Review Application	
<10 day training provider/Private	
Residence Non-National	
Emission Standards for Hazardous	
Air Pollutants (NESHAP)	
Requests	110.00
NESHAP Structures and Any	
Other Requests	275.00
Permit Category	
Filing Fees	
Name Changes	100.00
Small Sources Exemptions and	
Soil Remediation	250.00
New non-PSD sources, minor &	
major modifications to existing	
sources	500.00

Any unpermitted sources at an	
existing facility	1,500.00
New major prevention of	
significant deterioration (PSD)	
sources	5,000.00
Monitoring plan review and site visit	
Application Review Fees	
New major source or modifications	
to major source in nonattainment	
area	45,000.00
Up to 450 hours	
New major source or modifications	
to major source in	
attainment area	30,000.00
Up to 300 hours	
New minor source or modifications	
to minor source	2,000.00
Up to 20 hours	
Generic permit for minor source	
or modifications of minor sources ...	800.00
Up to 8 hours (sources for which	
engineering review/BACT standardized)	
Temporary Relocations	700.00
Minor sources (new or modified) with	
<3 tpy uncontrolled emissions	500.00
Up to 5 hours	
Permitting cost for additional	
hours (per hour)	100.00
Technical review of and assistance	
given (per hour)	100.00
I.e. appeals, sales/use tax exemptions, soils	
exemptions, soils remediations, experimental	
approvals, impact analyses, etc.	
Air Quality Training	Actual Cost

DRINKING WATER

Special Surveys	Actual cost
File Searches	Actual cost
Well Sealing Inspection (per hour)	100.00
Special Consulting/Technical	
Assistance (per hour)	100.00
Operator Certification Program	
Examination: online	120.00
Any level	
Examination: paper	200.00
Any level	
Renewal of certification	150.00
Every 3 years if applied for during	
designated period	
Reinstatement of lapsed certificate	300.00
Certificate of reciprocity with	
another state	150.00
Cross Connection Control Program	
Certification and Renewal	
Program Administrator:	
online testing	175.00
Program Administrator:	
paper testing	225.00
Program Administrator: renewal	125.00
Assembly Tester and Class III;	
initial certification and renewal	225.00
Certificate of reciprocity with another	
state	225.00
Replacement Certificate	25.00
Cost Recovery - Construction Without	
Prior Approval (per Project)	1,000.00

Drinking Water Loan
 Origination 1.0% of Loan Amount

**ENVIRONMENTAL
 RESPONSE AND REMEDIATION**

Professional and Technical services or
 assistance (per hour) 100.00

Including but not limited to EPCRA
 Technical Assistance, PST Claim
 Preparation Assistance, Oversight for Tanks
 Failing to pay UST fee, UST Compliance
 follow-up Inspection, apportionment of
 Liability requested by responsible parties,
 prepare, administer or conduct
 administrative process, environmental
 covenants.

Voluntary Environmental Cleanup
 Program Application Fee 2,500.00

Review/Oversight/Participation in
 Voluntary Agreements (per hour) 100.00

Annual Underground Storage Tank
 Tanks on Petroleum Storage Tank
 (PST) Fund 110.00

Tanks not on PST Fund 220.00

Tanks at Facilities significantly out of
 compliance with leak prevention
 or leak detection requirements 300.00

PST Fund Reapplication, Certification
 of Compliance Reapplication Fee,
 or both 300.00

Initial Approval of Alternate UST
 Financial Assurance Mechanisms 420.00

(Non-PST Participants)

Approval of alternate UST financial
 assurance mechanisms after
 initial year 240.00

(with no Mechanism changes)

Certification or Certification Renewal for UST
 Consultants

UST installers, removers, groundwater
 & soil samplers, & non-government

UST inspectors & testers 225.00

Consultant Recertification Class 150.00

Clandestine Drug Lab Decontamination Specialist
 Certification

Certification and Recertification 225.00

Retest of Certification Exam 100.00

Enforceable Written Assurance Letters
 Written letter 500.00

Flat fee to cover costs up to \$500

Additional charge for any costs
 above \$500 (per hour) 100.00

Environmental Response and
 Remediation Program Training Actual cost

UST Operators Registration 50.00

UST Red Tag Replacement 500.00

Applied only when a Red Tag is removed
 without authorization

UST Installation Base Fee 500.00

UST Installation Tank Fee (Applied
 only when State Inspectors conduct
 Inspections) 200.00

EXECUTIVE DIRECTOR'S OFFICE

All Divisions

Request for copies over 10 pages
 (per page) 0.25

Copies made by the requestor-over
 10 pages (per page) 0.05

Compiling, tailoring, searching, etc., a record in
 another format. Actual cost after 1st 1/4 hour

Charged at rate of lowest paid staff
 employee who has necessary skill/training to
 perform the request.

Special computer data requests
 (per hour) 100.00

CDs (per disk) 10.00

DVDs (per disk) 8.00

Contract Services Actual Cost

To be charged in order to efficiently utilize
 department resources, protect dept
 permitting processes, address extraordinary
 or unanticipated requests on the permitting
 processes, or make use of specialized
 expertise. In providing these services,
 department may not provide service in a
 manner that impairs any other person's
 service from the department.

**WASTE MANAGEMENT
 AND RADIATION CONTROL**

Resource Conservation and Recovery

Act (RCRA) Facility List 5.00

Solid and Hazardous Waste Program
 Administration (including Used Oil and Waste
 Tire Recycling Programs)

Professional (per hour) 100.00

This fee includes but is not limited to:
 Review of Site Investigation and Site
 Remediation Plans, Review of Permit
 Applications, Permit Modifications and
 Permit Renewals; Review and Oversight of
 Administrative Consent Orders and Consent
 Agreements, Judicial Orders, and related
 compliance activities; Review and Oversight
 of Construction Activities; Review and
 Oversight of Corrective Action Activities; and
 Review and Oversight of Vehicle
 Manufacturer Mercury Switch Removal and
 Collection Plans

Hazardous Waste Permit Filing

Hazardous Waste Operation Plan
 Renewal 1,000.00

Solid Waste Permit Filing (does not apply to
 Municipalities, Counties, or Special Service
 Districts seeking review from the Division)

New Comm. Facility

Class V and Class VI Landfills 1,000.00

New Non-Commercial Facility 750.00

New Incinerator

Commercial 5,000.00

Industrial or Private 1,000.00

Plan Renewals and Plan Modifications 100.00

Variance Requests 500.00

Enforceable Written Assurance Letter
 Flat fee for up to 8 hours to
 complete letter 500.00

Additional per hour charge if over the
 original 8 hours 100.00

Solid Waste Facility Fee

Treatment and Disposal facilities Greater of \$125 or \$0.21/ton Quarterly, w

Treatment (thermal, physical or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. Beginning January 1, 2019, in accordance with 19-6-119(6), facilities treating or disposing of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Transfer facilities Greater of \$125 or \$0.11/ton Quarterly, w

Beginning January 1, 2019, in accordance with 19-6-119(6), facilities transferring of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Waste Tire Recycling
 Registration
 Recycler (per year) 100.00
 Transporter (per year) 100.00
 Fees for registration applications received during the year will be prorated at \$8.30/month over the # of months remaining in the year.

Used Oil
 Do It Your Selter and Used Oil Collection
 Center Registration No charge
 Permit filing fee for Transporter, Transfer Facility, Processor/ Re-refiner, and Off-Spec Burner 100.00
 Plan Review Filing Fee 100.00
 Permit Modification Filing Fee 100.00
 Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year) 100.00

Marketer
 Registration (per year) 50.00
 Permit Filing 50.00

Vehicle Manufacturer Mercury Switch Removal and Collection Plan
 Mercury Switch Removal and Collection Plan Filing 100.00

Non-Hazardous Solid Waste
 Polychlorinated Biphenyl (PCBs) (per ton) 4.75
 Or fraction of a ton

Hazardous Waste Flat Fee (per year) 2,444,800.00
 Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.

Machine-Generated Radiation
 Annual Registration Fee

Per control unit including first tube, plus annual fee for each additional tube connected to the control unit
 Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental 35.00
 Industrial Facility with High and/or Very High Radiation
 Areas Accessible to Individuals . . . 35.00
 Cabinet X-Ray Units or Units Designated for Other Purposes . . . 35.00
 Other 35.00

Division Conducted Inspection, Per Tube
 Hospital/Therapy, Medical, Chiropractic 105.00
 Podiatry/Veterinary 75.00
 Dental
 First tube on a single control unit . . . 45.00
 Additional tubes on a control unit (per Tube) 12.50

Industrial Facilities with High and/or Very High Radiation
 Areas Accessible to Individuals . . . 105.00
 Cabinet X-Ray Units or Units Designated for Other Purposes . . . 75.00

Other
 Annual or Biennial Inspection (per Tube) 105.00
 Five year Inspection, per tube 75.00

Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts
 Inspection report (per Tube) 15.00

Radioactive Material
 Special Nuclear Material
 New License or Renewal License for:
 Possession and use in sealed sources contained in devices used in industrial measuring systems, 440.00
 including X-ray fluorescence analyzers and neutron generators
 Possession and use of less than 15 grams in usealed form for research and development 730.00
 Use as calibration and reference sources 180.00
 All other licenses 1,150.00

Annual Fee
 Possession and use in sealed sources contained in devices used in industrial measuring systems, 740.00
 including X-ray fluorescence analyzers and neutron generators
 Possession and use of less than 15 grams in usealed form for research and development 740.00
 Use as calibration and reference sources 240.00
 All other licenses 1,600.00

Source Material
 New License or License Renewal
 Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 5,510.00
 Regulation of source and byproduct material at uranium mills or commercial waste facilities

Uranium mills or commercial sites disposing of or reprocessing byproduct material (per month)	10,760.00	subject to the fees specified for the listed services	320.00
Uranium mills the Director has determined that are on standby status	10,760.00	Licenses that authorize services for leak testing only	150.00
Licenses for possession and use of source material for shielding	230.00	New License or License Renewal to distribute items containing radioactive material:	
All other source material licenses	1,000.00	To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19	700.00
Annual Fee		To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21	700.00
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake	4,810.00	Annual license fee for possession and use of radioactive material for:	
Licenses for possession and use of source material for shielding	365.00	Broad scope for processing or manufacturing for commercial distribution	2,960.00
All other source material licenses	1,275.00	Others for processing or manufacturing for commercial distribution	2,040.00
Radioactive Material other than Source Material and Special Nuclear Material		Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,960.00
New License or License Renewal for possession and use of radioactive material for:		The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	1,000.00
Broad scope for processing or manufacturing for commercial distribution	2,320.00	Industrial radioactivity operations	2,560.00
Others for processing or manufacturing for commercial distribution	1,670.00	Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	940.00
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material	2,320.00	Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,740.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	860.00	10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,480.00
Industrial radioactivity operations	1,670.00	Broad scope for research and development that do not authorize commercial distribution	2,960.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	700.00	Research and development that do not authorize commercial distribution	940.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,670.00	All other radioactive material	520.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,340.00	Annual fee for:	
Broad scope for research and development that do not authorize commercial distribution	2,320.00	Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services	420.00
Research and development that do not authorize commercial distribution	700.00		
All other radioactive material	440.00		
New License or License Renewal for:			
Licenses that authorize services for other licensees, except licenses that authorize leak testing or waste disposal services			

Licenses that authorize services for leak testing only	160.00
Annual fee to distribute items containing radioactive material:	
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19	580.00
To persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21	580.00
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)	
Annual	1,724,200.00
New Application	
Siting	
application	Actual costs up to \$250,000
License application	Actual costs up to \$1,000,000
Renewal	Actual costs up to \$1,000,000
Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour)	100.00
Review of commercial low-level radioactive waste disposal and uranium recovery special projects. Applicable when the licensee and the Division agree that a review be conducted by a contractor in support of the efforts of Division staff	Actual cost
Generator Site Access Permits	
Non-Broker Generators transferring radioactive waste (per year)	2,500.00
Brokers (waste collectors or processors) (per year)	7,500.00
Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour)	100.00
Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	3,190.00
Annual	2,760.00
Licenses authorizing receipt of prepackaged waste radioactive material from others	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	700.00
Annual	1,100.00
Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material	
New License/Renewal	440.00
Annual	520.00

Well Logging, Well Surveys, and Tracer Studies Licenses	
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies	
New License/Renewal	1,670.00
Annual	2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies	
New License/Renewal	Actual cost
Annual	4,000.00
Nuclear Laundries	
Licenses for commercial collection and laundry of items contaminated with radioactive material	
New License/Renewal	1,670.00
Annual	2,380.00
Human Use of Radioactive Material	
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	1,090.00
Annual	1,280.00
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	2,320.00
Annual	2,960.00
Other licenses issued for human use of radioactive material	
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices	
New License/Renewal	700.00
Annual	1,100.00
Civil Defense	
Licenses for possession and use of radioactive material for civil defense activities	
New License/Renewal	700.00
Annual	380.00
Power Source	
Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power	
New License/Renewal	5,510.00
Annual	2,520.00
Plan Reviews	
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities	400.00
Plus added cost above 8 hours (per hour)	100.00
Investigation of a misadministration	
by a third party as defined in R313-30-5 or in R313-32-2, as applicable	Actual cost
General License	
Initial registration/renewal for first year	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00

other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30	20.00
Annual fee after initial license/renewal	
Measuring, gauging, and control devices as described in R313-21-22(4)	20.00
other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere	
In Vitro testing	20.00
Depleted Uranium	20.00
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category) . Full annual fee	
Publication costs for making public notice of required actions	Actual cost
Expedited application review (per hour)	100.00
Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.	
Management and oversight of impounded radioactive material	Actual cost
License amendment, for greater than three applications in a calendar year	200.00
Analytical costs for monitoring samples from radioactive materials facilities	Actual cost

WATER QUALITY

Operator Certification	
Certification Examination	50.00
Renewal of Certificate	25.00
Renewal of Lapsed Certificate plus renewal (per month)	25.00
\$75 maximum	
Duplicate Certificate	25.00
New Certificate change in status	25.00
Certification by reciprocity with another state	50.00
Grandfather Certificate	20.00
Underground Wastewater Disposal Systems	
New Systems	25.00
Certificate Issuance	25.00
Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water	
Cement Manufacturing	
Major	871.00
Minor	218.00
Coal Mining and Preparation	
General Permit	436.00
Individual Major	1,307.00
Individual Minor	871.00
Concentrated Animal Feeding Operations (CAFO) General Permit	110.00
Construction Dewatering/Hydrostatic Testing General Permit	150.00
Dairy Products	
Major	871.00

Minor	436.00
Electric	
Major	1,089.00
Minor	436.00
Fish Hatcheries General Permit	121.00
Food and Kindred Products	
Major	1,089.00
Minor	436.00
Hazardous Waste Clean-up Sites	2,614.00
Geothermal	
Major	871.00
Minor	436.00
Inorganic Chemicals	
Major	1,307.00
Minor	653.00
Iron and Steel Manufacturing	
Major	2,614.00
Minor	653.00
Leaking Underground Storage Tank (LUST) Cleanup	
General Permit	436.00
LUST Cleanup Individual Permit	871.00
Meat Products	
Major	1,307.00
Minor	436.00
Metal Finishing and Products	
Major	1,307.00
Minor	653.00
Mineral Mining and Processing	
Sand and Gravel	242.00
Salt Extraction	242.00
Other	
Other Majors	871.00
Other Minors	436.00
Manufacturing	
Major	1,742.00
Minor	653.00
Oil and Gas Extraction	
flow rate <=0.5 million gallons per day (MGD)	436.00
flow rate > 0.5 MGD	653.00
Ore Mining	
Major	1,307.00
Minor	653.00
Major w/ concentration process	10,000.00
Organic Chemicals Manufacturing	
Major	2,178.00
Minor	653.00
Petroleum Refining	
Major	1,742.00
Minor	653.00
Pharmaceutical Preparations	
Major	1,742.00
Minor	653.00
Rubber and Plastic Products	
Major	1,089.00
Minor	653.00
Space Propulsion	
Major	2,420.00
Minor	653.00
Steam and/or Power Electric Plants	
Major	871.00
Minor	436.00
Water Treatment Plants (Except Political Subdivisions)	
General Permit	121.00

Annual UPDES Publicly Owned Treatment Works (POTW)	
Large >10 million gallons per day (mgd) flow design (per year)	8,800.00
Medium >3 mgd but <10 mgd flow design (per year)	5,500.00
Small <3mgd but >1 mgd (per year)	1,100.00
Very Small <1mgd (per year)	550.00
Annual UPDES Pesticide Applicator Fee	
Small Applicator	200.00
Medium Applicator	500.00
Large Applicator	1,650.00
Groundwater Remediation	
Treatment Plant	5,500.00
Biosolids Annual Fee (Domestic Sludge)	
Small Systems (per year) 1-4,000 connections	385.00
Medium Systems (per year) 4,001 to 15,000 connections	1,117.00
Large Systems (per year) greater than 15,000 connections	1,623.00
Non-contact Cooling Water	
Flow rate <= 10,000 gallons per day (gpd) (per year)	110.00
10,000 gpd <Flow rate <1.0 mgd (per year)	220.00
\$500 up to \$1000	
100,000 gpd <Flow rate <1.0 mgd (per year)	440.00
\$1000 up to \$2000	
Flow Rate > 1.0 mgd (per year)	660.00
Fee amount is prorated based on flow rate	
Stormwater Permits	
General Multi-Sector Industrial Storm Water Permit (per year)	250.00
Industrial Stormwater No Exposure Certificate (per 5 years)	150.00
General Construction Storm Water Permit > 1 Acre (per year)	150.00
Construction Stormwater Low Exposure Waiver Fee (one time project based fee) (per project)	100.00
Municipal Storm Water	
0-5,000 Population (per year)	750.00
5,001 - 10,000 Population (per year)	1,250.00
10,001 - 50,000 Population (per year)	1,750.00
50,001 - 125,000 Population (per year)	3,000.00
> 125,000 Population (per year)	4,000.00
Registered Stormwater Inspection (RSI) Certifications	
Certification Course and Examination (per year)	200.00
Certification Renewal (per year)	50.00
Renewal of Lapsed Certification (post-marked no more than 90 days after expiration) (per year)	100.00
Registered SWPPP Writer RSI Certification Course and Examination (per year)	300.00
Annual Ground Water Permit Administration Fee	
Tailings/Evaporation/Process Ponds; Heaps (per Each)	Actual cost
0-1 Acre	385.00

>1-15 Acres	770.00
>15-50 Acres	1,540.00
>50-300 Acres	2,310.00
>300-500 Acres	6,140.00
>500 Acres	12,280.00
Non-discharging municipal and commercial treatment facilities	350.00
Underground Injection Control Permit Application Fee	
Class I Hazardous Waste Disposal One time fee	25,000.00
Class I Non-Hazardous Waste Disposal One time fee	9,000.00
Class III Solution Mining One time fee	7,200.00
Class V Aquifer Storage and Recovery One time fee	5,400.00
All Other Permits	
Base (per facility)	770.00
Each additional regulated facility (per facility)	770.00
Multi-celled pond system or grouping of facilities with common compliance point is considered one facility	
UPDES, ground water, underground injection control, & construction permits not listed above & permit modifications, except projects of political subdivisions funded by the Division of Water Quality (per hour)	100.00
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	100.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action, Site Investigation/Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour)	100.00
Actual cost for sample analytical lab work actual cost	
Technical Review of and assistance given (per hour)	100.00
401 Certification reviews and issuance and compliance: permit appeals; and sales and use tax exemptions	
Water Quality Loan	
Origination	1.0% of Loan Amount

GOVERNOR'S OFFICE

OFFICE OF ENERGY DEVELOPMENT

Renewable energy Systems Tax Credit and Qualifying Solar Projects	
Tax Credit	15.00
Production Tax Credit	150.00
Alternative Energy Development	
Tax Credit	150.00
High Cost Infrastructure Tax Credit, private investment \$10 million or less	150.00
High Cost Infrastructure Tax Credit, private investment more than \$10 million	250.00
C-PACE 3rd Party Administrator	3.0%

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration

Administrative

Application

Mineral Lease 40.00

Special Lease Agreement 40.00

Mineral Unit/Communitization

Agreement 40.00

Special Use Lease Agreement

(SULA) 300.00

Grazing Permit 50.00

Materials Permit 200.00

Easement 150.00

Right of Entry 50.00

Exchange of Land 1,000.00

Sovereign Land General Permit

Private 50.00

Public

Assignment

Mineral Lease

Total Assignment 50.00

Interest Assignment 50.00

Operating Right Assignment 50.00

Overriding Royalty Assignment 50.00

Partial Assignment 50.00

Collateral Assignment 50.00

Special Use Lease Agreement (SULA) ... 50.00

Grazing Permit per AUM (Animal

Unit Month) 2.00

Grazing Sublease per AUM (Animal

Unit Month) 2.00

Materials Permits 50.00

Easement 50.00

Right of Entry (ROE) 50.00

Sovereign Land General Permit 50.00

Grazing Non-use (per lease) 10%

Special Use Lease Agreement (SULA)

non-use 10%

ROE, Easement, Grazing amendment 50.00

SULA, general permit, mineral lease,

materials permit amendment 125.00

Reinstatement 150.00

Surface leases & permits

per reinstatement/per lease or permit

Bioprospecting - Registration 50.00

Oral Auction Administration Actual cost

Affidavit of Lost Document

(per document) 25.00

Certified Document (per document) 10.00

Research on Leases or Title Records

(per hour) 50.00

Reproduction of Records

Self service (per copy) 0.10

By staff (per copy) 0.40

Change on Name of Division

Records (per occurrence) 20.00

Fax copy (per page) 1.00

Send only

Late Fee 6% or \$30

Returned check charge 30.00

Sovereign Lands

Rights of Entry

Seismic Survey Fees

Primacord (per mile) 200.00

Surface Vibrators (per mile) 200.00

Shothole >50 ft (per hole) 50.00

Shothole <50 ft (per mile) 200.00

Pattern Shotholes (per pattern) 200.00

Commercial 200.00

Commercial Recreation Event (per

person over 150 people) 2.00

Minimum ROE of \$200 plus per person

royalty

Data Processing

Production Time (per hour) 55.00

Programming Time (per hour) 75.00

Geographic Information System

Processing Time (per hour) 55.00

Personnel Time (per hour) 50.00

Sovereign Lands

Easements

Minimum Easement 225.00

Canal

Existing

<=33' wide (per rod) 15.00

>33' but <= 66' wide (per rod) 30.00

>66' but <= 100' wide (per rod) 45.00

>100' wide (per rod) 60.00

New

<=33' wide (per rod) 30.00

>33' but <= 66' wide (per rod) 45.00

>66' but <=100' wide (per rod) 60.00

>100' wide (per rod) 75.00

Roads

Existing

<=33' wide (per rod) 5.50

>33' but <=66' wide (per rod) 11.00

>66' but <=100' wide (per rod) 16.50

>100' wide (per rod) 22.00

New

<33' wide (per rod) 8.50

>33' but <=66' wide (per rod) 17.00

>66' but <=100' wide (per rod) 25.50

>100' wide (per rod) 34.00

Power lines, Telephone Cables,

Retaining walls and jetties

<=30' wide (per rod) 14.00

>30' but <=60' wide (per rod) 20.00

>60' but <=100' wide (per rod) 26.00

>100' but <=200' wide (per rod) 32.00

>200' but <=300' wide (per rod) 42.00

>300' wide (per rod) 52.00

Pipelines

<=2" (per rod) 7.00

>2" but <=13" (per rod) 14.00

>13" but <=25" (per rod) 20.00

>25" but <=37" (per rod) 26.00

>37" (per rod) (per rod) 52.00

Special Use Lease Agreements (SULA)

SULA Lease Rate 450.00

Minimum \$450 or market rate per

R652-30-400

Grazing Permits 3.00

Annual rate per AUM (Animal Unit Month)

Special Use Lease Agreements Market rate

General Permits

Mooring Bouys: 3 yr max term 50.00

Renewal - Mooring Bouys; 3 yr

max term 50.00

Floating Dock, Wheeled Pier,

Seasonal Use; 3 year max 250.00

Dock/pier, Single Upland Owner	
Use; 3 year max	350.00
Boat Ramp, Temporary, Metal;	
3 year max	250.00
Boat Ramp, Concrete, Gravel;	
10 year max	700.00
Irrigation Pump - Pump Head	
Only; 15 year max	50.00
Irrigation Pump - Structure;	
15 year max	150.00
Storm Water Outfall, Drain;	
10 year max	150.00
Other	450.00
Minimum \$450 or market rate per	
R652-30-400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20

OIL, GAS AND MINING

Administration	
New Coal Mine Permit Application	5.00
Copy	
Bid Specifications	20.00
Telefax of material (per page)	0.25
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
Color	
Staff Copy (per page)	0.50
Self Copy (per page)	0.25
Prints from Microfilm	
Staff Copy (per paper-foot)	0.55
Self Copy (per paper-foot)	0.40
Print of Microfiche	
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
CD	
Mailed	23.00
Picked up	20.00
Well Logs	
Staff Copy (per paper-foot)	0.75
Self Copy (per paper-foot)	0.50
Print of computer screen (per screen)	0.50
Compiling or Photocopying Records	
Actual time spent compiling or copying Current	
personnel rate	
Actual time spent on data entry or records	
segregation	Current personnel rate
Third Party Services	
Copying maps or charts	Actual cost
Copying odd sized documents	Actual cost
Specific Reports	
Monthly Notice of Intent to Drill/Well Completion	
Report	
Picked Up	0.50
Mailed	1.00
Annual Subscription	6.00
Mailed Notice of Board Hearings	
List (per year)	20.00
Current Administrative Rules - Oil and Gas,	
Coal, Non-Coal, Abandoned Mine Lease (first	
copy is free)	
Picked up	10.00
Mailed	13.00
Custom-tailored data reports	
Diskettes/Tapes	Current personnel rate

Custom Maps	
(per linear foot) (per variable)	Variable
Minimum Charges	
Color Plot	25.00
Laser Print	5.00
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
10 to 50 acres	500.00
over 50 acres	1,000.00

PARKS AND RECREATION

Park Operation Management	
Boat Dealer Number and	
Registration Fee	25.00
All fees for the Division of Parks and Recreation	
may not exceed, but may be less than, the	
amounts stated in the division's fee schedule.	
Golf Course Fees RENTALS	
Motorized cart, per 9 holes	16.00
Driving Range	9.00
Golf Course Fees GREENS FEES	
9 holes	18.00
Reservation Fee	10.65
Camping Extra Vehicle Fees	15.00
Camping Fees	40.00
Group Camping Fees	400.00
Boating Fees	
Boat Mooring	
In/Off Season with or without	
Utilities (per foot)	7.00
Boat and RV Storage	200.00
Dry Storage	
Boating Season, Overnight until	
2:00 pm, Off-Season, Unsecured ...	75.00
Promotional Pass	1,100.00
Entrance Fees	
Motor Vehicles	
Day Use Annual Pass	75.00
Group Site Day-Use Fees	250.00
Commercial Groups - per person	3.00
Parking Fee	5.00
Entrance Fees	25.00
Application Fees	250.00
Easement, Grazing permit, Construction/	
Maintenance, Special Use Permit, Waiting	
List, Events	
Assessment and Assignment Fees	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement	
(per storage unit)	80.00
Annual Agreement Fee	50.00
Fee collection, return checks, and	
duplicate document	30.00
Staff or researcher time per hour	50.00
Equipment and building rental	
per hour	100.00
OHV and Boating Program Fees	
OHV Program Fee	
Statewide OHV Registration Fee	72.00

State issued permit to non-resident OHVs, in which there is no reciprocity	30.00
OHV Education Fee	
Division's Off-highway Vehicle Program Safety Certificate	30.00
Boating Section Fees	
Commercial Dealer Demo Pass	200.00
Statewide Boat Registration Fee	40.00
Carrying Passengers for Hire Fee	200.00
Boat Livery Registration Fee	100.00
Boating Education Fee	
Division's Personal Watercraft Course	12.00
State Issued and Replacement Boating Education and OHV Certificate	5.00
new rule passed by board, will take effect in July	
Lodging Fees	
Lodging	120.00

UTAH GEOLOGICAL SURVEY

Administration	
Sample Library	
Cutting Thin Section Blanks	10.00
Core Plug < 1 inch (per plug)	10.00
Core Plugs > 1 inch diameter	25.00
Layout-Cuttings, Core, Coal, Oil/Water (per box)	5.00
Binocular/Petrographic Microscopes (per day)	25.00
Workshop Fee - Building Use (per day)	250.00
Workshop - Saturday/Sunday/Holiday Surcharge	320.00
Research Fee (per hour)	50.00
XRF High Resolution Scanning (per Hour)	15.00
XRF Analysis - Discreet Sample (per Sample)	10.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	10.00
1.8"-3.5" Diameter (per foot)	14.00
Core Photographing	
Box/Closeup 8x10 color/Thin Section (per Photo)	5.00
Geologic Hazards	
School Site Reviews	
Preliminary Screening or Review of Geologic Hazards Report for School Site	
School Site Review Plus travel	575.00
Paleontology	
File Search Requests	
Paleontology File Search Fee Up to 30 minutes	30.00
Miscellaneous	
Copies, Self-Serve (per copy)	0.10
Copies, Staff (per copy)	0.25
Research and Professional Services (per hour)	50.00

WATER RESOURCES

Administration	
Color Plots	

Existing (per linear foot)	2.00
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Copies, Staff (per hour)	Current staff rate

WATER RIGHTS

Administration	
Applications	
Appropriation	Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:	
Flow - cubic feet per second (cfs)	
More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00
More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	1,000.00
Volume - acre-feet (af)	
More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to exceed 1,500	350.00
More than 1,500, not to exceed 2,000	400.00
More than 2,000, not to exceed 2,500	430.00
More than 2,500, not to exceed 3,000	460.00
More than 3,000, not to exceed 3,500	490.00
More than 3,500, not to exceed 4,000	520.00
More than 4,000, not to exceed 4,500	550.00
More than 4,500, not to exceed 5,000	580.00

More than 5,000, not to exceed 5,500	610.00
More than 5,500, not to exceed 6,000	640.00
More than 6,000, not to exceed 6,500	670.00
More than 6,500, not to exceed 7,000	700.00
More than 7,000, not to exceed 7,500	730.00
More than 7,500, not to exceed 8,000	760.00
More than 8,000, not to exceed 8,500	790.00
More than 8,500, not to exceed 9,000	820.00
More than 9,000, not to exceed 9,500 ..	850.00
More than 9,500, not to exceed 10,000	880.00
More than 10,000, not to exceed 10,500	910.00
More than 10,500, not to exceed 11,000	940.00
More than 11,000, not to exceed 11,500	970.00
More than 11,500	1,000.00
Extension Requests for Submitting a Proof of Appropriation	
Less than 14 years after the date of approval of the application	50.00
14 years or more after the date of approval of the application	150.00
Fixed time periods	150.00
For each certification of copies	10.00
A reasonable charge for preparing copies of any and all documents	Variable
Application to segregate a water right ...	50.00
Groundwater Recovery Permit	2,500.00
Fee Changed from Recharge to Recovery	
Notification for the use of sewage effluent or to change the point of discharge	750.00
Diligence claim investigation	500.00
Report of Water Right Conveyance	
Submission	40.00
Protest Filings	15.00
Livestock Watering Certificate	150.00
Well Driller	
Permit	
Initial	350.00
Renewal (Annual) (per year)	100.00
Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	
Commercial	2,000.00
Government	500.00
Non-Commercial	100.00

WATERSHED

Sage Grouse Mitigation Application	
Fee	100.00
Sage Grouse Mitigation Agreement	
Fee (per Credit/Acre)	5.00
Sage Grouse Mitigation Credit	
Transfer Fee (per Credit/Acre)	5.00

WILDLIFE RESOURCES

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13)	5.00
Resident Hunting License Disabled	
Veteran (365 Day)	25.50
Resident Combination License	
Disabled Veteran (365 Day)	28.50
Resident Youth Fishing	
Ages 14-17 (365 Day)	16.00
Resident Fishing Ages 18-64 (365 day)	34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 \$33/year.	
Age 65 Or Older (365 day)	25.00
Disabled Veteran (365 day)	12.00
Resident Fishing 3 day any age	16.00
7-Day (Any Age)	20.00
Nonresident	
Youth Fishing (12-13)	5.00
Nonresident Youth Fishing	
Ages 14-17 (365 day)	25.00
Nonresident Fishing age 18 Or	
Older (365 day)	75.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older \$74/year.	
Nonresident Fishing 3 day any age ...	24.00
7-Day (Any Age)	40.00
Set Line Fishing License	20.00
Season Fishing Licenses not	
Combinations	Up to 20% discount
Stamps	
Wyoming Flaming Gorge	10.00
Arizona Lake Powell	8.00
Game Licenses	
Introductory Hunting License	4.00
Upon successful completion of Hunter Education - add to registration fee	
Resident Introductory Combination license (hunter's ed completion)	6.00
Nonresident Introductory Combination license (hunter's ed completion)	6.00
Resident	
Hunting License (up to 13)	11.00
Resident Hunting License	
Ages 14-17	16.00
Resident Hunting License	
Ages 18-64	34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 \$33/year	
Resident Hunting License	
Ages 65 Or Older	25.00
Resident Youth Combination	
License Ages 14-17	20.00
Resident Combination license	
Ages 18-64	38.00

Resident Multi Year License (Up to 5 Years) for ages 18-64 \$37/year	Archery Bull Elk 393.00
Resident Combination	Includes season fishing license
Ages 65 or Older 29.00	General Bull 393.00
Dedicated Hunter Certificate of Registration (COR)	Includes season fishing license
1 yr. (12-17) 40.00	Multi Season General Bull Elk 700.00
1 Yr. (18+) 65.00	Antlerless Elk 218.00
3 Yr. (12-17) 120.00	Control Antlerless Elk 93.00
3 Yr. (18+) 195.00	Nonresident Two Cow Elk permit 350.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)	Nonresident Landowner Mitigation
1 Yr. (12-17) 12.50	Deer - Antlerless 93.00
1 Yr. (18+) 25.00	Elk - Antlerless 218.00
3 Yr. (12-17) 37.50	Pronghorn - Doe 93.00
3 Yr. (18+) 75.00	Limited Entry Game Permits
Nonresident	Deer
Nonresident Youth Hunting License	Resident
Ages 17 and Under 25.00	Limited Entry 80.00
Nonresident Hunting License	Multi Season Limited Entry Buck . . . 145.00
Age 18 or Older (365 day) 65.00	Premium Limited Entry 168.00
Nonresident Multi Year Hunting License 64.00	Multi Season Premium Limited
(Up to 5 Years)	Entry Buck 305.00
Nonresident Youth Combination license Ages 17 and under 29.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner
Nonresident Combination license	Buck 40.00
Ages 18 Or Older 85.00	Limited Entry 80.00
Nonresident Multi Year License (Up to 5 Years) for Ages 18 or Older \$84/year.	Premium Limited Entry 168.00
Small Game - 3 Day 32.00	Antlerless 30.00
Falconry Meet 15.00	Two Doe Antlerless 45.00
Dedicated Hunter Certificate of Registration (COR)	Nonresident
1 Yr. (14-17) 268.00	Limited Entry 468.00
Includes season fishing license	Includes season fishing license
1 Yr. (18+) 349.00	Multi Season Limited Entry Buck . . . 845.00
Includes season fishing license	Premium Limited Entry 568.00
3 Yr. (12-17) 814.00	Includes season fishing license
Includes season fishing license	Multi Season Premium Limited
3 Yr. (18+) 1,047.00	Entry Buck 1,025.00
Includes season fishing license	Co-Operative Wildlife Management Unit (CWMU)/Landowner
General Season Permits	Buck 268.00
Resident	Includes season fishing license
Youth General Season Turkey 25.00	Limited Entry 468.00
Turkey 35.00	Includes season fishing license
General Season Deer 40.00	Premium Limited Entry 568.00
Antlerless Deer 30.00	Includes season fishing license
Two Doe Antlerless 45.00	Antlerless 93.00
Depredation - Antlerless 30.00	Two Doe Antlerless 171.00
Archery Bull Elk 50.00	Elk
General Bull Elk 50.00	Resident
Multi Season General Bull Elk 150.00	Limited Entry Bull 285.00
Antlerless Elk 50.00	Multi Season Limited Entry Bull . . . 513.00
Control Antlerless Elk 30.00	Depredation 50.00
Resident Two Cow Elk permit 80.00	Depredation - Bull Elk - With Current Year Unused Bull Permit 235.00
Resident Landowner Mitigation	Depredation - Bull Elk - Without Current Year Unused Bull Permit 285.00
Deer - Antlerless 30.00	Co-Operative Wildlife Management Unit (CWMU)/Landowner
Elk - Antlerless 30.00	Any Bull 285.00
Pronghorn - Doe 30.00	Antlerless 50.00
Nonresident	Nonresident
Turkey 100.00	Limited Entry Bull 800.00
General Season Deer 268.00	Includes season fishing license
Includes season fishing license	Multi Season Limited
Depredation - Antlerless 93.00	Entry Bull 1,505.00
Antlerless Deer 93.00	Includes fishing license
Two Doe Antlerless 171.00	Depredation - Antlerless 218.00

Co-Operative Wildlife Management Unit (CWMU)/Landowner	Resident Mountain	413.00
Any Bull	Nonresident Mountain	1,518.00
Includes fishing license	Includes season fishing license	
Antlerless	Cougar/Bear	
218.00	Resident	
Pronghorn	Cougar	58.00
Resident	Bear	83.00
Limited Buck	Premium Bear	166.00
55.00	Bear Archery	83.00
Limited Doe	Cougar Pursuit	30.00
30.00	Bear Pursuit	30.00
Limited Two Doe	Nonresident	
45.00	Cougar	258.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	Bear	308.00
Buck	Premium Bear	475.00
55.00	Cougar Pursuit	135.00
Doe	Bear Pursuit	135.00
30.00	Wolf	
Depredation Doe	Resident	20.00
30.00	Nonresident	80.00
Archery Buck	Cougar/Bear	
55.00	Cougar or Bear Damage	30.00
Nonresident	Wild Turkey	
Limited Buck	Resident Limited Entry	35.00
293.00	Nonresident Limited Entry	100.00
Includes season fishing license	Waterfowl	
Limited Doe	Swan	
93.00	Resident	15.00
Limited Two Doe	Nonresident	15.00
171.00	Sandhill Crane	
Archery Buck	Resident	15.00
293.00	Nonresident	15.00
Includes season fishing license	Sportsman Permits	
Depredation Doe	Resident	
93.00	Bull Moose	413.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	Hunter's Choice Bison	413.00
Buck	Desert Bighorn Ram	513.00
293.00	Bull Elk	513.00
Includes season fishing license	Buck Deer	168.00
Doe	Buck Pronghorn	55.00
93.00	Bear	83.00
Moose	Cougar	58.00
Resident	Mountain Goat	413.00
Bull	Rocky Mountain Sheep	513.00
413.00	Turkey	35.00
Antlerless	Other	
213.00	Falconry Permits	
Co-Operative Wildlife Management Unit (CWMU)/Landowner	Resident	
Bull	Capture	
413.00	Apprentice Class	30.00
Antlerless	General Class	50.00
213.00	Master Class	50.00
Nonresident	Nonresident	
Bull	Capture	
1,518.00	Apprentice Class	115.00
Includes season fishing license	General Class	115.00
Antlerless	Master Class	115.00
713.00	Handling	10.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	Includes licenses, Certificate of Registration, and exchanges	
Bull	Drawing Application	10.00
1,518.00	Landowner Association Application	150.00
Includes season fishing license	Nonrefundable	
Antlerless	Resident/Nonresident Dedicated Hunter	
713.00	Hourly Labor Buyout Rate	20.00
Bison	Bird Bands	0.25
Resident	Furbearer/Trap Registration	
413.00		
Resident Antelope Island		
1,110.00		
Nonresident		
1,518.00		
Includes season fishing license		
Nonresident Antelope Island		
2,615.00		
Includes season fishing license		
Bighorn Sheep		
Resident		
Desert		
513.00		
Rocky Mountain		
513.00		
Resident Rocky Mtn/Desert Bighorn		
Sheep Ewe permit		
100.00		
Nonresident		
Desert		
1,518.00		
Includes season fishing license		
Rocky Mountain		
1,518.00		
Includes season fishing license		
Nonresident Rocky Mtn/Desert		
Bighorn Sheep Ewe permit		
1,000.00		
Goats		

Resident Furbearer	29.00	Sportsmen Club Meetings	20.00
Any age		Shooting Center RV	
Nonresident Furbearer	154.00	Camping	\$10.00 to \$50.00
Any age		Reproduction of Records	
Resident Bobcat Temporary		Self Service (per copy)	0.10
Possession	15.00	Staff Service (per copy)	0.25
Nonresident Bobcat Temporary		Geographic Information System	
Possession	45.00	Personnel Time (per hour)	50.00
Resident Trap Registration	10.00	Processing (per hour)	55.00
Nonresident Trap Registration	10.00	Data Processing	
Duplicate Licenses, Permits and Tags		Programming Time (per hour)	75.00
Hunter Education cards	10.00	Production (per hour)	55.00
Furharvester Education cards	10.00	License Agency	
Duplicate Vouchers CWMU/		Application	20.00
Conservation/Mitigation	25.00	Other Services to be reimbursed at actual	
Refund of Hunting Draw License	25.00	time and materials	
Application Amendment	25.00	Postage	Current rate
Late Harvest Reporting	50.00	Lost license paper by license	
Exchange	10.00	agents (per page)	10.00
Wildlife Management Area Access		Return check charge	20.00
(without a valid license)	10.00	Hardware Ranch Sleigh Ride	
Division Programs Participation fee . . Variable		Adult	5.00
Fees shall be determined by the division		Age 4-8	3.00
using the estimated costs of materials and		Age 0-3	No charge
supplies needed for participation in the event.		Education Groups (per person)	1.00
Wood Products on Division Land		Easement and Leases Schedule	
Firewood (2 Cords)	10.00	Application for Leases	
Christmas Tree	5.00	Leases	250.00
Ornamentals		Nonrefundable	
Conifers (per tree)	5.00	Easements	
Maximum \$60.00 per permit		Rights-of-way	750.00
Deciduous (per tree)	3.00	Nonrefundable	
Maximum \$60.00 per permit		Rights-of-entry	50.00
Posts	0.40	Nonrefundable	
Maximum \$60.00 per permit		Easements Oil and Gas Pipelines . . .	250.00
Hunter Education		Amendment to lease,	
Hunter Education Training	6.00	easement, right-of-way	400.00
Hunter Education Home Study	6.00	Nonrefundable	
Furharvester Education Training	6.00	Amendment to right of entry	50.00
Bowhunter Education Class	6.00	Certified document	5.00
Long Distance Verification	2.00	Nonrefundable	
Becoming an Outdoors Woman	150.00	Research on leases or title	
Special Needs Rates Available		records (per hour)	50.00
Hunter Education Range		Rights-of-Way	
Adult	5.00	Leases and Easements - Resulting	
Market price up to \$10.		in Long-Term Uses of Habitat	Variable
Youth	2.00	Fees shall be determined on a case-by-case	
Ages 15 and under. Market price up to \$5.		basis by the division, using the estimated fair	
Group for organized groups and not		market value of the property, or other	
for special passes	50% discount	legislatively established fees, whichever is	
Spotting Scope Rental	2.00	greater, plus the cost of administering the	
Trap, Skeet or Riverside Skeet		lease, right-of-way, or easement. Fair	
(per round)	5.00	market value shall be determined by	
Market price up to \$10		customary market valuation practices.	
Five Stand - Multi-Station Birds	7.00	Special Use Permits for non-depleting	
Market price up to \$10		land uses of < 1 year	Variable
Ten Punch Pass			
Ten Punch Pass Shooting Ranges		A nonrefundable application of \$50 shall be	
Youth (Rifle/Archery/		assessed for any commercial use. Fees for	
Handgun)	Up to \$45	approved special uses will be based on the fair	
Market price up to \$45.00		market value of the use, determined by	
Ten Punch Pass Shooting Ranges		customary practices which may include: an	
(Shotgun)	Up to \$95	assessment of comparable values for similar	
Market price up to \$95.00		properties, comparable fees for similar land	
Ten Punch Pass Shooting Ranges		uses, or fee schedules. If more than one fee	
Adult (Rifle/Archery/		determination applies, the highest fee will be	
Handgun)	Up to \$95	selected.	
Market price up to \$95.00		Width of Easement	

0' - 30' Initial	12.00
0' - 30' Renewal	8.00
31' - 60' Initial	18.00
31' - 60' Renewal	12.00
61' - 100' Initial	24.00
61' - 100' Renewal	16.00
101' - 200' Initial	30.00
101' - 200' Renewal	20.00
201' - 300' Initial	40.00
201' - 300' Renewal	28.00
>300' Initial	50.00
>300' Renewal	34.00
Outside Diameter of Pipe	
<2.0" Initial	9.40
<2.0" Renewal	4.00
2.0" - 13" Initial	19.00
2.0" - 13" Renewal	8.00
13.1"-37" Initial	38.00
13.1" - 25" Renewal	12.00
25.1" - 37" Renewal	16.00
>37" Initial	75.00
>37" Renewal	32.00
Roads, Canals	
Permanent loss of habitat plus high maintenance disturbance	18.00
1' - 33' New Construction	
Permanent loss of habitat plus high maintenance disturbance	12.00
1' - 33' Existing	
Permanent loss of habitat plus high maintenance disturbance	24.00
33.1' - 66' New Construction	
Permanent loss of habitat plus high maintenance disturbance	18.00
33.1' - 66' Existing	
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use	250.00
Certificates of Registration	
Initial - Personal Use	75.00
Initial - Commercial	150.00
TYPE I	
Certificate of Registration (COR)	
Fishing Contest	
Small, Under 50	20.00
Medium, 50 to 100	100.00
Large, over 200	250.00
Amendment	10.00
Certificate of Registration (COR)	
Handling	10.00
Renewal	30.00
Late fee for failure to renew Certificates of Registration when due: greater of \$10 or 20% of fee.	Variable
Required Inspections	100.00
Failure to Submit Required Annual Activity Report When Due	10.00
Request for Species Reclassification	200.00
Request for Variance	200.00
Commercial Fishing and	
Dealing Commercially in Aquatic Wildlife	
Dealer in Live/Dead Bait	75.00
Helper Cards - Live/Dead Bait	15.00
Commercial Seiner	1,000.00
Helper Cards - Commercial Seiner	100.00
Commercial Brine Shrimper	15,000.00

Helper Cards - Commercial Brine Shrimper	1,500.00
Upland Game Cooperative Wildlife Management Units	
New Application	250.00
Annual	150.00
Big Game Cooperative Wildlife Management Unit	
New Application	250.00
Annual	150.00
Falconry	
Three year	45.00
Five Year	75.00
Commercial Hunting Areas	
New Application	150.00
Renewal Application	150.00

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

**SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Administration	
Research on leases or title by staff (per hour)	75.00
Reproduction of Records	
Copies Made By Staff (per copy)	0.40
Copies - Self-service (per copy)	0.10
Name change on Administrative Records	
Name Change on Admin. Records - Surface Document	15.00
Name Change on Admin. Records - Lease (per lease)	15.00
Late fee	6% or \$30, whichever is greater
Fax send only including cover (per page)	1.00
Certified Copies (per document)	10.00
Affidavit of Lost Document (per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment Fees	250.00
Collateral	250.00
Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	75.00
Application	75.00
Assignment Fees	30.00
Collateral	50.00
Reinstatement	100.00
Non-Use	20.00
Modified	
Amendment	50.00
Application	250.00
Assignment Fees	250.00
Collateral	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00
Assignment	250.00

Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit Application plus AUM (Animal Unit Month) fees	50.00
Sales/Certificates	
Application	250.00
Assignment	250.00
Partial Conveyance	250.00
Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment Fees	250.00
Collateral	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application	100.00
6 months or less	
Assignment	250.00
6 months or less	
Application	500.00
longer than 6 months	
Assignment	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral	
Application	
Materials Permit (Sand and Gravel)	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	25.00
Collateral	75.00
Materials Permit (Sand and Gravel)	200.00
Operating Rights	75.00
Overriding Royalty	50.00
Record Title	75.00
Segregation	150.00
Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to Current Form	50.00
Cash Equivalent	3.00
Bank Charge (per incident)	3 percent

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE ADMINISTRATIVE OFFICE

Board and Administration	
Unauthorized parking fee	30.00
Indirect Cost Pool	
Indirect Cost Pool	
Restricted Funds	
USBE percentage of personal service costs	up to 10.9%
Unrestricted Funds	

USBE percentage of personal service costs	up to 24.6%
Student Advocacy Services	
Conference or Professional Development Registration (per Day)	50.00
These fees apply to the entire department.	

**UTAH SCHOOLS FOR THE
DEAF AND THE BLIND**

Educational Services	
Instruction	
Teachers Aide	12.53
Student Education Services Aide	29.79
Educator	61.32
After-School Program	30.00
Pre-School Monthly Tuition	75.00
Out-of-State Tuition	50,600.00
Support Services	
Study Abroad Fee	500.00
Support Services	
Educator	62.85
Instruction	
Educational Interpreter	46.83
Support Services	
Conference Attendance	
Educator - Conference	
Attendance Fee	100.00
Parent - Conference Attendance Fee ...	25.00
Adult Lunch Tickets	2.25
Copy and Fax Machine	
Copy Machine	
Color	1.00
Black/White	0.10
Athletic (per sport)	100.00
Room Rental	
Dormitory	50.00
Conference	100.00
Multipurpose	200.00

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF
HUMAN RESOURCE MANAGEMENT**

Statewide Management Liability Training	
Certified Public Manager Course	
Fee (per student)	750.00
Per Course	
Other Training Fee (per hour)	25.00
\$25 per training hour - materials not included.	

**HUMAN RESOURCES
INTERNAL SERVICE FUND**

ISF - Core HR Services	
Core HR (per FTE)	12.00
ISF - Field Services	
HR Services (per FTE)	740.00
Consulting Services (Non-Customer) (per Hour)	50.00
Billing for DHRM consultation with agencies who do not use DHRM HR services.	
ISF - Payroll Field Services	

Payroll Services (per FTE) 54.00
 Per UCA 67-19-13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation, Utah Schools for the Deaf and the Blind.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds
 Commercial Production Grounds/per event (per day) 2,500.00
 Commercial Production White Chapel/per event 1,000.00
 Commercial filming/photography Capitol building-2 hour increments . . . 500.00
 Commercial filming/photography Capitol grounds-2 hour increments . . . 250.00
 A-South Lawn
 A-South Lawn/per event 2,000.00
 A-South Lawn/per hour 400.00
 D-West Lawn
 D-West Lawn/per event 500.00
 D-West Lawn/per hour 150.00
 South Steps
 South Steps/per event (per event) 500.00
 South Steps/per hour (per hour) 125.00
 Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
 Parking Lot
 Parking Space (per stall per day) 7.00
 For events only
 Rotunda
 Commercial Production Rotunda/per event (per day) 5,000.00
 Rotunda Rental Fee Monday-Thursday (per event) 2,000.00
 Rotunda Rental Fee Friday-Sunday (per event) 2,300.00
 Rotunda two hour block Mon-Fri during Leg Session (7 a.m.-5:30 p.m.) No charge
 Hall of Governors
 Hall of Governors 1,300.00
 Hall of Governors - Two hour block Monday - Friday during Leg Session (7:00 a.m.-5:30 p.m.) . . . No charge
 Plaza
 Plaza/per event 1,300.00
 Plaza/per hour 200.00
 Room 105
 Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
 Room #105/per hour 50.00
 Room #105 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Room 170
 Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
 Room #170/per hour 50.00

Room #170 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) . . No charge
 Room 210
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Room #210/per hour 50.00
 Room #210 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 State Room
 State Room/per event 1,000.00
 State Room/per hour 125.00
 Centennial Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Centennial Room #130/per hour 50.00
 Centennial Room #130 Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Board Room
 General Public, Commercial, & Private Groups
 Board Room/per hour 150.00
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Board Room/per hour 75.00
 Olmsted Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Olmsted Room/per hour 50.00
 Olmsted Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Kletting Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Kletting Room/per hour 50.00
 Kletting Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Elk Room
 Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
 Elk Room/per hour 50.00
 Elk Room Mon-Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Seagull Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Seagull Room/per hour 50.00
 Seagull Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Beehive Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed
 Beehive Room/per hour 50.00
 Beehive Room Mon - Fri, 7:00 a.m.-5:30 p.m. during Leg Session (no more than 8 hours/week) No charge
 Copper Room
 Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed

Copper Room/per hour	50.00
Copper Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Aspen Room	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Aspen Room/per hour	50.00
Aspen Room Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
State Office Building - The State Capitol	
Preservation Board may establish the maximum amount of time a person may use a facility.	
Auditorium	
General Public, Commercial, & Private Groups	
Auditorium Mon - Fri, 11:00 a.m.-1:30 p.m. during Leg Session with the use of preferred caterer	No charge
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Auditorium/per hour	75.00
Auditorium Mon - Fri, 7:00 a.m.- 11:00 a.m. and 1:30 p.m.-5:30 p.m. during Leg Session (per hour)	75.00
Auditorium Mon - Fri, 11 a.m.- 1:30 p.m. during Leg Session with the use of preferred caterer	No charge
Room 1112	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #1112/per hour	50.00
Room #1112 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
Room B110	
Nonprofit, Gov't Nonofficial Business, K -12, & Higher Ed	
Room #B110/per hour	50.00
Room #B110 Mon - Fri, 7:00 a.m.- 5:30 p.m. during Leg Session (no more than 8 hours/week)	No charge
White Community Memorial Chapel	
Per day of event	500.00
Noon-midnight rehearsal	250.00
Miscellaneous Other	
Access Badges	25.00
Additional Labor (per person, per 1/2 hr)	25.00
Additional Personnel (per person, per 1/2 hr)	25.00
Adjustment (per person, per 1/2 hr)	25.00
Administrative Fee	10.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Change in set-up fee (per person, per 1/2 hr)	25.00
Easel	10.00
Event/Dance Floor 30x30	1,000.00
Event/Dance Floor 21x21	600.00
Event/Dance Floor 15x15	450.00
Event/Dance Floor 12x12	250.00
Event/Dance Floor 6x6	125.00
Extension Cords	5.00
Flags	No charge
Free Speech Public Space Useage	No charge
Garbage Can	No charge

Gold Formal Chair (per chair)	5.00
Insurance Coverage for Capitol Hill Facilities and Grounds	Coverage of \$1,000,000.00
Locker Rentals (per year)	40.00
PA System (Podium & Microphone) with one speaker	50.00
Additional speakers available at a cost of \$15.00 each.	
Podium	
With Microphone	35.00
Without Microphone	25.00
POLYCOM Phone Rental	10.00
Projector Cart	25.00
Risers (per section)	25.00
Security (per officer, per hour)	50.00
Stanchion	10.00
Standing Microphone	15.00
Table (per table)	7.00
Table Pedestal Round 20" (per table)	10.00
Table Pedestal Round 42" (per table)	10.00
Upright Piano	50.00
Wood Folding Chair (per chair)	2.50

UTAH NATIONAL GUARD

Operations and Maintenance

Armory Rental

Armory Rental (per hour)	25.00
Armory rental fee of \$25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.	

Security Attendant (per hour)	15.00
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Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.

Refundable Cleaning Deposit	100.00
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This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Cemetery

Veterans' Burial	796.00
Spouse/Dependent Burial	796.00
Saturday Burial Surcharge	700.00
Lawn Vase	65.00
Disinterment	
Single Depth Disinterment	600.00
Double Depth Disinterment	900.00
Cremains Disinterment	150.00
Chapel Rental	150.00

Fee for renting the on-site chapel for funerals, memorials or other events.

Section 3. Effective Date.

This bill takes effect on July 1, 2019.

CHAPTER 410**S. B. 9**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

REVENUE BONDS AND CAPITAL FACILITIES AUTHORIZATIONS

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Douglas V. Sagers

LONG TITLE**General Description:**

This bill authorizes certain state agencies and institutions to issue revenue bonds and authorizes the construction or lease of certain capital facilities.

Highlighted Provisions:

This bill:

- ▶ authorizes the State Building Ownership Authority to issue revenue bonds as follows:
 - up to \$10,091,100 in revenue bonds for the downtown liquor store relocation; and
 - up to \$14,000,000 in revenue bonds for constructing two liquor stores in the Taylorsville and West Valley City market areas;
- ▶ authorizes the Board of Regents to issue revenue bonds as follows:
 - up to \$40,000,000 for constructing the Kathryn F. Kirk Center for Comprehensive Cancer Care and Women's Cancers at the University of Utah;
 - up to \$80,000,000 for the Rice-Eccles Stadium South End Zone upgrade at the University of Utah;
 - up to \$41,600,000 for constructing the Mountain View Residence Hall replacement at Utah State University;
 - up to \$11,700,000 for constructing the east parking terrace at Utah State University;
 - up to \$37,700,000 for constructing the Space Dynamics Laboratory Research Building at Utah State University;
 - up to \$15,000,000 for constructing the Space Dynamics Laboratory High Bay Building at Utah State University;
 - up to \$41,835,000 for constructing a student housing facility at Dixie State University; and
 - up to \$24,560,000 for the remodel and expansion of the Sorensen Center at Utah Valley University;
- ▶ authorizes the University of Utah to use up to \$89,000,000 in donations and other Huntsman Cancer Institute Funds to plan, design, and construct the Kathryn F. Kirk Center for Comprehensive Cancer Care and Women's Cancers;
- ▶ authorizes Utah State University to use up to \$7,700,000 in institutional funds to plan, design, and construct an information technology services building and authorizes the university to use state funds for operation and maintenance costs and capital improvements of the building; and

- ▶ authorizes Utah State University to use up to \$11,000,000 in institutional funds to plan, design, and construct the Moab Academic Building and authorizes the university to use state funds for operation and maintenance costs and capital improvements of the building.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63B-29-101, Utah Code Annotated 1953
 63B-29-102, Utah Code Annotated 1953
 63B-29-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-29-101 is enacted to read:**CHAPTER 29. 2019 BONDING AND FINANCING AUTHORIZATIONS****Part 1. 2019 Revenue Bond Authorizations****63B-29-101. Revenue bond authorizations****-- State Building Ownership Authority.**

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$10,091,100 for the downtown liquor store relocation, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenue.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to \$14,000,000 for two liquor stores in the Taylorsville and West Valley City market areas, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenue.

Section 2. Section 63B-29-102 is enacted to read:

**63B-29-102. Revenue bond authorizations
-- Board of Regents.**

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Kathryn F. Kirk Center for Comprehensive Cancer Care and Women's Cancers;

(b) the University of Utah use hospital revenue and donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed \$40,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$89,000,000 in donations and other Huntsman Cancer Institute funds together with proceeds authorized under Subsection (1)(c) to plan, design, and construct the Kathryn F. Kirk Center for Comprehensive Cancer Care and Women's Cancers; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Rice-Eccles Stadium South End Zone upgrade;

(b) the University of Utah use athletic revenue and other institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed \$80,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Rice-Eccles Stadium South End Zone upgrade,

subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Mountain View Residence Hall replacement;

(b) Utah State University use student housing rental fees and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed \$41,600,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Mountain View Residence Hall replacement, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the East Parking Terrace;

(b) Utah State University use parking fees and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed \$11,700,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the East Parking Terrace, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Space Dynamics Laboratory Research Building;

(b) Utah State University use reimbursement from research projects as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed \$37,700,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Space Dynamics Laboratory Research Building, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(6) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Space Dynamics Laboratory High Bay Building;

(b) Utah State University use reimbursement from research projects as the primary revenue sources for repayment of any obligation created under authority of this Subsection (6);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (6) may not exceed \$15,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Space Dynamics Laboratory High Bay Building, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(7) The Legislature intends that:

(a) the Board of Regents, on behalf of Dixie State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie State University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a student housing facility;

(b) Dixie State University use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (7);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (7) may not exceed \$41,835,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct a student housing facility, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(8) The Legislature intends that:

(a) the Board of Regents, on behalf of Utah Valley University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah Valley University to borrow money on the credit, revenue, and reserves of the university, other than appropriations of the Legislature, to finance the cost of remodeling and expanding the Sorensen Center;

(b) Utah Valley University use student fees and auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (8);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (8) may not exceed \$24,560,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the remodel and expansion of the Sorensen Center, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

Section 3. Section 63B-29-201 is enacted to read:

Part 2. Capital Facility Design and Construction Authorizations

63B-29-201. Authorization to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$7,700,000 in institutional funds to plan, design, and construct an information technology services building;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs and capital improvements.

(2) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use up to \$11,000,000 in donations and institutional funds to plan, design, and construct the Moab Academic Building;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs and capital improvements.

CHAPTER 411**S. B. 10**

Passed February 11, 2019

Approved March 27, 2019

Effective May 14, 2019

**IDENTIFICATION
REQUEST AMENDMENTS**

Chief Sponsor: Karen Mayne

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill relates to a peace officer's authority to stop and question a suspect of a crime.

Highlighted Provisions:

This bill:

- ▶ modifies the type of information a peace officer may request from a suspect the officer stops to question about a crime; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-8-301.5, as enacted by Laws of Utah 2008,
Chapter 293

77-7-15, as last amended by Laws of Utah 2018,
Chapter 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-8-301.5 is amended to read:**76-8-301.5. Failure to disclose identity.**

(1) A person is guilty of failure to disclose identity if during the period of time that the person is lawfully subjected to a stop as described in Section 77-7-15:

(a) a peace officer demands that the person disclose the person's name or date of birth;

(b) the demand described in Subsection (1)(a) is reasonably related to the circumstances justifying the stop;

(c) the disclosure of the person's name or date of birth by the person does not present a reasonable danger of self-incrimination in the commission of a crime; and

(d) the person fails to disclose the person's name or date of birth.

(2) Failure to disclose identity is a class B misdemeanor.

Section 2. Section 77-7-15 is amended to read:**77-7-15. Authority of peace officer to stop and question suspect -- Grounds.**

A peace officer may stop any [person] individual in a public place when the officer has a reasonable suspicion to believe the [person] individual has committed or is in the act of committing or is attempting to commit a public offense and may demand the [person's] individual's name, address, date of birth, and an explanation of the [person's] individual's actions.

CHAPTER 412**S. B. 12**

Passed March 13, 2019

Approved March 27, 2019

Effective May 14, 2019

(Retrospective operation to January 1, 2019)

**FDIC PREMIUM
DEDUCTION AMENDMENTS**

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Tim Quinn

LONG TITLE**General Description:**

This bill modifies the Corporate Franchise and Income Taxes code and the Individual Income Tax Act by amending provisions relating to certain subtractions from unadjusted income or adjusted gross income.

Highlighted Provisions:

This bill:

- ▶ enacts a provision that authorizes a subtraction from unadjusted income of a corporate taxpayer, adjusted gross income of an individual income taxpayer, and unadjusted income of a resident or nonresident estate or trust for certain amounts of FDIC premiums paid or incurred by the taxpayer that are disallowed as a deduction for federal income tax purposes; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-106, as last amended by Laws of Utah 2017, Chapter 389

59-10-114, as last amended by Laws of Utah 2018, Chapters 190 and 370

59-10-202, as last amended by Laws of Utah 2018, Chapter 190

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-7-106 is amended to read:****59-7-106. Subtractions from unadjusted income.**

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the

federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been

made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

- (i) an amortization expense;
- (ii) a depreciation expense;
- (iii) a gain;
- (iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for a corporation that makes a donation, as that term is defined in Section 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the amount of the donation to the extent that the corporation did not deduct the donation on a federal income tax return;

(t) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust; ~~and~~

(u) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code~~[-];~~

(v) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has

dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 2. Section 59-10-114 is amended to read:

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

- (ii) is:
- (A) subtracted by the resident or nonresident individual:
- (I) who is the account owner; and
- (II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or
- (B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;
- (e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:
- (i) issued by one or more of the following entities:
- (A) a state other than this state;
- (B) the District of Columbia;
- (C) a political subdivision of a state other than this state; or
- (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and
- (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;
- (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- (g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and
- (h) any adoption expense:
- (i) for which a resident or nonresident individual receives reimbursement from another person; and
- (ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:
- (A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or
- (B) from federal taxable income on a federal individual income tax return.
- (2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:
- (a) the difference between:
- (i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:
- (A) included in adjusted gross income for federal income tax purposes for the taxable year; and
- (B) exempt from state income taxes under the laws of the United States; and
- (ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);
- (b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:
- (i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and
- (ii) from a source within the Uintah and Ouray Reservation;
- (c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:
- (i) if that amount or distribution constitutes a refund of taxes imposed by:
- (A) a state; or
- (B) the District of Columbia; and
- (ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;
- (d) the amount of a railroad retirement benefit:
- (i) paid:
- (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
- (B) to a resident or nonresident individual; and
- (C) for the taxable year; and
- (ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;
- (e) an amount:
- (i) received by an enrolled member of an American Indian tribe; and
- (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
- (A) federal law;
- (B) a treaty; or
- (C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year; ~~and~~

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year[-];

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

- (I) the child's taxable interest;
- (II) the child's ordinary dividends; and
- (III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

- (i) the entity; or
- (ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 3. Section 59-10-202 is amended to read:

59-10-202. Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

(a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;

(b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

- (i) issued by one or more of the following entities:
 - (A) a state other than this state;
 - (B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A) through (C); and

(ii) to the extent the interest is not included in federal taxable income on the taxpayer's federal income tax return for the taxable year;

(c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

- (i) in an S corporation; and
- (ii) that is held by an electing small business trust;

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident estate or trust:

(I) that is the account owner; and

(II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and

(e) any fiduciary adjustments required by Section 59-10-210.

(2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:

(a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under

Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(e) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;

(f) an amount:

(i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year;

(h) any fiduciary adjustments required by Section 59-10-210; ~~and~~

(i) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident estate or trust;

(iii) for the taxable year; and

(iv) to the extent the amount is included in federal taxable income on the taxpayer's federal income tax return for the taxable year^[,];

(j) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

(3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

(4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

(i) the income is derived from a deceased Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).

(b) The agreement described in Subsection (4)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(c);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

CHAPTER 413**S. B. 17**

Passed February 27, 2019

Approved March 27, 2019

Effective May 14, 2019

**EXTRATERRITORIAL
JURISDICTION AMENDMENTS**Chief Sponsor: Ralph Okerlund
House Sponsor: Timothy D. Hawkes**LONG TITLE****General Description:**

This bill modifies provisions related to the extraterritorial jurisdiction of a municipality.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions regarding the extraterritorial jurisdiction of a municipality to enact protections for the municipality's water works and water sources;
- ▶ provides a process by which a municipality may adopt an ordinance or regulation under the municipality's extraterritorial jurisdiction; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-8-15, as last amended by Laws of Utah 2016, Chapter 348

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-15 is amended to read:**10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.**

(1) As used in this section, "affected entity" means a:

(a) county that has land use authority over land subject to an ordinance or regulation described in this section;

(b) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

(c) municipality that has enacted or has the right to enact an ordinance or regulation described in this section over the land subject to an ordinance or regulation described in this section; and

(d) municipality that has land use authority over land subject to an ordinance or regulation described in this section.

(2) ~~They~~ A municipality may construct or authorize the construction of waterworks within or without the ~~city~~ municipal limits, and for the purpose of maintaining and protecting the same

from injury and the water from pollution ~~their~~ the municipality's jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or other source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet ~~;~~ ~~provided, that the~~.

(3) The jurisdiction of ~~cities~~ a city of the first class shall additionally be over the entire watershed ~~;~~ ~~except~~ within the county of origin of the city of the first class and subject to Subsection (6) provided that livestock shall be permitted to graze beyond 1,000 feet from any such stream or source; and provided further, that ~~each~~ the city of the first class shall provide a highway in and through ~~its~~ the city's corporate limits, and so far as ~~its~~ the city's jurisdiction extends, which may not be closed to cattle, horses, sheep, ~~or~~ hogs, or goats driven through ~~any such~~ the city, or through any territory adjacent thereto over which ~~such~~ the city has jurisdiction, but the board of commissioners of ~~such~~ the city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses, ~~and~~ hogs, and goats through ~~such~~ the city, or any territory adjacent thereto over which ~~it~~ the city has jurisdiction. ~~They~~

(4) A municipality may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and ~~are~~ is authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the ~~inhabitants of cities derive their~~ municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the ~~city~~ municipality has jurisdiction, and provide for permits for the construction and maintenance of the same.

(5) In granting ~~such permits they~~ a permit described in Subsection (4), a municipality may annex thereto such reasonable conditions and requirements for the protection of the public health as ~~they deem~~ the municipality determines proper, and may, if ~~deemed~~ determined advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

(6) A city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin, as described in Subsection (3), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

(7) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection (7)(b).

(b) At least ten days before the day on which the public hearing described in Subsection (7)(a)(i) is to be held, the notice described in Subsection (7)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

(ii) published:

(A) in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(c) An ordinance or regulation adopted under the authority of this section may not conflict with:

(i) existing federal or state statutes; or

(ii) a rule created pursuant to a federal or state statute governing drinking water or water quality.

(d) A municipality that enacts an ordinance or regulation under the authority of this section shall:

(i) provide a copy of the ordinance or regulation to each affected entity; and

(ii) include a copy of the ordinance or regulation in the municipality's drinking water source protection plan.

CHAPTER 414**S. B. 18**

Passed February 6, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**SUNSET REAUTHORIZATION -
 COMMISSION FOR THE STEWARDSHIP
 OF PUBLIC LANDS**

Chief Sponsor: Keith Grover
 House Sponsor: Susan Duckworth

LONG TITLE**General Description:**

This bill extends the repeal date of the Commission for the Stewardship of Public Lands.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Commission for the Stewardship of Public Lands.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 182, 261, 321, 338, 340, 347, 347, 369, 428, 430, and 469

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:**63I-1-263. Repeal dates, Titles 63A to 63N.**

- (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.
- (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.
- (4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, [2019] 2029.
- (5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.
- (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.
- (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.
- (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.
- (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.
- (10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(19) Section 63N-2-512 is repealed on July 1, 2021.

(20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

(22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

CHAPTER 415**S. B. 24**

Passed February 14, 2019

Approved March 27, 2019

Effective May 14, 2019

STATE ENERGY POLICY AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Keven J. Stratton

LONG TITLE**General Description:**

This bill amends the state energy policy.

Highlighted Provisions:

This bill:

- ▶ adds to the state energy policy the promotion of certain nuclear power generation technologies;
- ▶ adds to the state energy policy the promotion of energy development in certain areas;
- ▶ adds to the state energy policy the promotion of energy education programs in grades K-12; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-4-301, as last amended by Laws of Utah 2015, Chapter 378

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-4-301 is amended to read:**63M-4-301. State energy policy.**

- (1) It is the policy of the state that:
- (a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;
 - (b) Utah will promote the development of:
 - (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands; ~~and~~
 - (ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;
 - (iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;
 - (iv) alternative transportation fuels and technologies; ~~and~~
 - (v) infrastructure to facilitate energy development ~~and~~, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;
 - (vi) energy storage and other advanced energy systems; and

(vii) increased refinery capacity;

(c) Utah will promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah will allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

(e) Utah will pursue energy conservation, energy efficiency, and environmental quality;

(f) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

(g) Utah will maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; and

(h) Utah will promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

~~(i)~~ (A) energy conservation;

~~(ii)~~ (B) energy efficiency;

~~(iii)~~ (C) supply and demand; and

~~(iv)~~ (D) energy related workforce development~~[-];~~ and

~~(v)~~ (ii) energy education programs in grades K-12.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

CHAPTER 416**S. B. 26**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**GOVERNMENTAL NONPROFIT
 CORPORATION ACT AMENDMENTS**

Chief Sponsor: Deidre M. Henderson
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends definitions and provides for certain training relating to governmental nonprofit corporations.

Highlighted Provisions:

This bill:

- ▶ requires the state auditor to:
 - develop a training or other informational resource regarding best practices for financial controls and board governance;
 - distribute the training or other informational resource to certain state and local entities and governmental nonprofit corporations; and
 - issue notices of noncompliance to certain boards of directors of governmental nonprofit corporations and board members;
- ▶ requires each member of a board of directors of a governmental nonprofit corporation to complete the training that the state auditor provides regarding best practices for financial controls and board governance;
- ▶ provides for the disqualification of a board member who fails to complete the required training within certain time periods;
- ▶ amends an informational requirement for the local government and limited purpose entity registry; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-1a-15, as enacted by Laws of Utah 2018, Chapter 256

ENACTS:

11-13a-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13a-106 is enacted to read:

11-13a-106. Training for board members.

(1) (a) (i) Each member of a board of directors of a governmental nonprofit corporation shall complete the training described in Subsection (2)(a):

(A) within six months after the day on which the member becomes a board member; or

(B) for a member already in the position of board member on May 14, 2019, before November 14, 2019.

(ii) If a board member fails to complete the training described in Subsection (2)(a) within the time period specified in Subsection (1)(a)(i):

(A) the state auditor shall issue a notice of noncompliance to the board member and the relevant board of directors; and

(B) if the board member fails to complete the training described in Subsection (2)(a) within 30 calendar days after the date of the auditor's notice of noncompliance, the board member is disqualified and may not act as a board member.

(b) For the purposes of Subsection (1)(a), a member of a board of directors of a governmental nonprofit corporation takes office each time the member is elected or appointed to a new term.

(2) The state auditor shall:

(a) develop a training or other informational resource to aid a governmental nonprofit corporation in implementing best practices for financial controls and board governance;

(b) provide the training or other informational resource described in Subsection (2)(a) to each of the following entities that provides any required budgeting, expenditure, or financial report to the state auditor:

(i) a governmental nonprofit corporation; and

(ii) a state agency or political subdivision of the state that wholly controls or has a controlling interest in a governmental nonprofit corporation, as described in Section 11-13a-102;

(c) ensure that the training described in Subsection (2)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(d) issue a certificate of completion to each board member that completes the training described in Subsection (2)(a).

Section 2. Section 67-1a-15 is amended to read:

67-1a-15. Local government and limited purpose entity registry.

(1) As used in this section:

(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53G, Chapter 5, Charter Schools;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) local districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53G, Chapter 3, School District Creation and Change;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) “Local government and limited purpose entity registry” or “registry” means the registry of local government entities and limited purpose entities created under this section.

(d) “Local government entity” means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

(e) “Notice of failure to register” means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) “Notice of failure to renew” means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) “Notice of noncompliance” means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) “Notice of non-registration” means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) “Notice of registration or renewal” means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) “Registered entity” means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor’s website or otherwise publicly available; and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity’s registration in accordance with Subsection (5); and

(c) within 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity’s registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity’s lawful creation;

(b) if the entity has geographic boundaries, a map or plat establishing the geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the boundaries of the entity, [conclusive] reasonable proof of the entity’s geographic boundaries;

(c) the entity’s name;

(d) the entity’s type of local government entity or limited purpose entity;

(e) the entity’s governmental function;

(f) the entity’s website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) names of the members of the entity’s governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

- (h) the entity's sources of revenue; and
- (i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.
- (5) Each entity shall include the following information in the entity's renewal submission:
- (a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or
- (b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.
- (6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:
- (a) review the submission to determine compliance with Subsection (4) or (5);
- (b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):
- (i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:
- (A) the registering or renewing entity;
- (B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;
- (C) the Division of Archives and Records Service; and
- (D) the Office of the Utah State Auditor; and
- (ii) publish the information from the submission on the registry; and
- (c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:
- (i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;
- (ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and
- (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).
- (7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline

described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

- (i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;
- (ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and
- (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).
- (b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

- (i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;
- (ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and
- (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

- (a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);
- (b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and
- (c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

- (i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;
- (ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or
- (iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

CHAPTER 417**S. B. 27**

Passed February 11, 2019

Approved March 27, 2019

Effective May 14, 2019

**GOVERNMENTAL NONPROFIT
CORPORATION MEETINGS AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Susan Pulsipher

LONG TITLE**General Description:**

This bill amends Title 52, Chapter 4, Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- ▶ allows a governmental nonprofit corporation to close a meeting to discuss a trade secret in certain circumstances; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

52-4-205, as last amended by Laws of Utah 2014, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-205 is amended to read:**52-4-205. Purposes of closed meetings --
Certain issues prohibited in closed meetings.**

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process; [ø]

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

[~~(p)~~] (q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5); and

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

CHAPTER 418**S. B. 28**

Passed February 25, 2019

Approved March 27, 2019

Effective May 14, 2019

(Retrospective operation to January 1, 2019)

INCOME TAX REVISIONS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill modifies corporate income tax provisions.

Highlighted Provisions:

This bill:

- ▶ defines when a corporation is doing business or exercising a corporate franchise in the state for income tax purposes; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

59-7-101, as last amended by Laws of Utah 2018, Second Special Session, Chapters 2 and 3
 59-7-104, as last amended by Laws of Utah 2018, Chapter 456
 59-7-319, as last amended by Laws of Utah 2011, Chapter 69
 59-7-402, as last amended by Laws of Utah 2009, Chapter 312

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-7-101 is amended to read:****59-7-101. Definitions.**

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) “Controlling entity of a captive real estate investment trust” does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining “established securities market.”

(9) “Corporate return” or “return” includes a combined report.

(10) “Corporation” includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) “Dividend” means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) “Doing business” includes any transaction in the course of ~~its~~ business by a domestic corporation~~;~~ or by a foreign corporation qualified to do or doing ~~intrastate~~ business in this state.

(b) Except as provided in Subsection (12)(c) or Subsection 59-7-102(3), “doing business” includes:

(i) the right to do business through incorporation or qualification;

(ii) ~~the~~ owning, renting, or leasing of real or personal property within this state; ~~and~~

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state~~;~~];

(iv) selling or performing a service in this state; and

(v) earning income from the use of intangible property in this state.

(c) “Doing business” does not include the business activity of a corporation if the corporation’s only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

(13) “Domestic corporation” means a corporation that is incorporated or organized under the laws of this state.

(14) “Exercising a corporate franchise” does not include the business activity of a corporation if the corporation’s only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

~~[(14)]~~ (15) (a) “Farmers’ cooperative” means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection ~~[(14)]~~ (15)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection ~~[(14)]~~ (15)(b)(ii), for purposes of this Subsection ~~[(14)]~~ (15), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms “member” and “producer”; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A).

(ii) The rules made under this Subsection ~~[(14)]~~ (15)(b) shall be consistent with the filing requirements under federal law for a farmers’ cooperative.

~~[(15)]~~ (16) “Foreign corporation” means a corporation that is not incorporated or organized under the laws of this state.

~~[(16)]~~ (17) (a) “Foreign operating company” means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation’s business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least \$1,000,000 of payroll located outside the United States; and

(B) at least \$2,000,000 of property located outside the United States.

(b) “Foreign operating company” does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

[(47)] (18) (a) “Foreign real estate investment trust” means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity’s total asset value at the close of the business entity’s taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity’s beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity’s taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity’s:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) “cash or cash equivalents”;

(ii) “established securities market”; or

(iii) “listed Australian property trust.”

[(48)] (19) “Income” includes losses.

[(49)] (20) “Internal Revenue Code” means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

[(20)] (21) “Nonbusiness income” means the same as that term is defined in Section 59-7-302.

[(21)] (22) “Real estate investment trust” means the same as that term is defined in Section 856, Internal Revenue Code.

[(22)] (23) “Related expenses” means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection [(22)] (23), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

[(23)] (24) “S corporation” means an S corporation as defined in Section 1361, Internal Revenue Code.

[(24)] (25) “Safe harbor lease” means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

[(25)] (26) “State of the United States” includes any of the 50 states or the District of Columbia.

[(26)] (27) (a) “Taxable year” means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, “taxable year” includes the period for which such return is made.

[(27)] (28) “Taxpayer” means any corporation subject to the tax imposed by this chapter.

[(28)] (29) “Threshold level of business activity” means business activity in the United States equal to or greater than 20% of the corporation’s total business activity as determined under Section 59-7-401.

[(29)] (30) (a) “Unadjusted income” means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(b) For the last taxable year of a taxpayer beginning on or before December 31, 2017, “unadjusted income” includes deferred foreign income described in Section 965(a), Internal Revenue Code.

[(30)] (31) (a) “Unitary group” means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or

the commission, are economically interdependent with one another as demonstrated by the following factors:

- (A) centralized management;
- (B) functional integration; and
- (C) economies of scale.

(b) “Unitary group” includes a captive real estate investment trust.

(c) “Unitary group” does not include an S corporation.

~~[(31)]~~ (32) “United States” includes the 50 states and the District of Columbia.

~~[(32)]~~ (33) “Utah net loss” means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

~~[(33)]~~ (34) “Utah net loss deduction” means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

~~[(34)]~~ (35) (a) “Utah taxable income” means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) “Utah taxable income” includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

~~[(35)]~~ (36) “Utah taxable income before net loss deduction” means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

~~[(36)]~~ (37) (a) “Water’s edge combined report” means a report combining the income and activities of:

- (i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection ~~[(36)]~~ (37)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water’s edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

~~[(37)]~~ (38) “Worldwide combined report” means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-104 is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation’s Utah taxable income for the taxable year for the privilege of exercising the corporation’s corporate franchise, as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section 59-7-101, in the state.

(2) The tax shall be 4.95% of a corporation’s Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 3. Section 59-7-319 is amended to read:

59-7-319. Circumstances under which a receipt, rent, royalty, or sale is considered to be in this state.

(1) (a) Subject to Subsection (1)(b), as used in this section, “regulated investment company” is as defined in Section 851(a), Internal Revenue Code, in effect for the taxable year.

(b) “Regulated investment company” includes a trustee or sponsor of an employee benefit plan that has an account in a regulated investment company.

(2) The following are considered to be in this state:

- (a) a rent in connection with:

(i) real property if the real property is in this state; or

(ii) tangible personal property if the tangible personal property is in this state;

(b) a royalty in connection with real property if the real property is in this state;

(c) a sale in connection with real property if the real property is in this state; or

(d) other income in connection with real property or tangible personal property if the real property or tangible personal property is in this state.

(3) (a) Subject to Subsection (3)(b), a receipt from the performance of a service is considered to be in this state if the purchaser of the service receives a greater benefit of the service in this state than in any other ~~[state.]~~ single:

- (i) foreign country; or

(ii) state, as defined in Section 68-3-12.5.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a purchaser of a service receives a greater benefit of the service in this state than in any other ~~[state.]~~ single:

- (i) foreign country; or

(ii) state, as defined in Section 68-3-12.5.

(4) (a) Subject to Subsection (4)(b), a receipt in connection with intangible property is considered to be in this state if the intangible property is used in this state.

(b) If the intangible property described in Subsection (4)(a) is used in this state and outside this state, a receipt in connection with the intangible property shall be apportioned to this state in accordance with Subsection (4)(c).

(c) For purposes of Subsection (4)(b), for a taxable year the percentage of a receipt in connection with intangible property that is considered to be in this state is the percentage of the use of the intangible property that occurs in this state during the taxable year.

(5) (a) Notwithstanding Subsections (2) through (4), a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of management, distribution, or administration services to, or on behalf of a regulated investment company, is considered to be in this state:

(i) to the extent that shareholders of the regulated investment company are domiciled in the state; and

(ii) as provided in this Subsection (5).

(b) For purposes of Subsection (5)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of the services; and

(ii) a fraction, the numerator of which is the average of the sum of the beginning of the year and the end of year balance of shares owned by the investment company shareholders domiciled in this state and the denominator of which is the average of the sum of the beginning of the year and end of year balance of shares owned by the investment company shareholders.

(c) A separate computation shall be made to determine the sales for each investment company.

(6) (a) Notwithstanding Subsections (2) through (4) and subject to Subsection (6)(b), the following sales are considered to be in this state to the extent that customers of a securities brokerage business are domiciled in the state:

(i) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer if that taxpayer is primarily engaged in providing a service in this state to a regulated investment company; or

(ii) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer that is an affiliate of a taxpayer that provides a service in this state to a regulated investment company.

(b) For purposes of Subsection (6)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of securities brokerage services; and

(ii) a fraction, the numerator of which is the receipts from securities brokerage services from customers of the taxpayer domiciled in this state, and the denominator of which is the receipts from securities brokerage services from all customers of the taxpayer.

(7) Whether sales by an airline, other than sales of tangible personal property, are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Section 4. Section 59-7-402 is amended to read:

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101[(36)](37)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

CHAPTER 419**S. B. 38**

Passed February 22, 2019

Approved March 27, 2019

Effective May 14, 2019

MENTAL HEALTH AMENDMENTS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Brad M. Daw

LONG TITLE**General Description:**

This bill amends provisions of the civil commitment code and the definition of “unprofessional conduct” applied to mental health professionals.

Highlighted Provisions:

This bill:

- ▶ requires that a mental health professional provide a patient the opportunity to waive the patient’s privacy rights;
- ▶ requires a designated examiner to consider a proposed patient’s mental health history when evaluating the proposed patient for civil commitment;
- ▶ allows a designated examiner to request a court order to obtain a proposed patient’s mental health history;
- ▶ requires a designated examiner to disclose to an unrepresented proposed patient the fact that the designated examiner may, by court order, obtain the proposed patient’s mental health history;
- ▶ limits the circumstances under which a court may terminate a civil commitment; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-60-110, as last amended by Laws of Utah 2001, Chapter 281

62A-15-618, as renumbered and amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

62A-15-626, as last amended by Laws of Utah 2008, Chapter 3

62A-15-631, as last amended by Laws of Utah 2018, Chapter 322

62A-15-632, as last amended by Laws of Utah 2018, Chapter 322

62A-15-637, as last amended by Laws of Utah 2018, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-110 is amended to read:**58-60-110. Unprofessional conduct.**

(1) As used in this chapter, “unprofessional conduct” includes:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices,

standards, or ethics of the profession for which the individual is licensed, or the laws of the state;

(b) failure to confine practice conduct to those acts or practices:

(i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and

(ii) which are within applicable scope of practice laws of this chapter; ~~and~~

(c) disclosing or refusing to disclose any confidential communication under Section 58-60-114 or 58-60-509[-]; and

(d) a pattern of failing to offer a patient the opportunity to waive the patient’s privacy rights under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164.

(2) “Unprofessional conduct” under this chapter may be further defined by division rule.

(3) Notwithstanding Section 58-1-401, the division may not act upon the license of a licensee for unprofessional conduct under Subsection (1)(d).

Section 2. Section 62A-15-618 is amended to read:**62A-15-618. Designated examiners.**

(1) A designated examiner shall consider a proposed patient’s mental health history when evaluating a proposed patient.

(2) A designated examiner may request a court order to obtain a proposed patient’s mental health records if a proposed patient refuses to share this information with the designated examiner.

(3) ~~[Designated examiners]~~ A designated examiner shall be allowed a reasonable fee by the county legislative body of the county in which the proposed patient resides or is found, unless ~~[they are]~~ the designated examiner is otherwise paid.

Section 3. Section 62A-15-626 is amended to read:**62A-15-626. Release from commitment.**

(1) (a) ~~[A]~~ Subject to Subsection (1)(b), a local mental health authority or ~~[its]~~ the mental health authority’s designee shall release from commitment any ~~[person]~~ individual who, in the opinion of the local mental health authority or ~~[its]~~ the mental health authority’s designee, has recovered or no longer meets the criteria specified in Section 62A-15-631.

(b) A local mental health authority’s inability to locate a committed individual may not be the basis for the individual’s release, unless the court orders the release of the individual after a hearing.

(2) A local mental health authority or ~~[its]~~ the mental health authority’s designee may release from commitment any patient whose commitment is determined to be no longer advisable except as provided by Section 78A-6-120, but an effort shall be made to assure that any further supportive

services required to meet the patient's needs upon release will be provided.

(3) When a patient has been committed to a local mental health authority by judicial process, the local mental health authority shall follow the procedures described in Sections 62A-15-636 and 62A-15-637.

Section 4. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible [person] individual who has reason to know of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

- (i) name;
- (ii) date of birth; and
- (iii) social security number; and

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

- (i) may take place at or before the hearing; and
- (ii) is required if the local mental health authority appears at the hearing.

(3) If the court finds from the application, from any other statements under oath, or from any

reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a substantial danger to self or others requiring involuntary commitment pending examination and hearing; or, if the proposed patient has refused to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient in the custody of a local mental health authority or in a temporary emergency facility as provided in Section 62A-15-634 to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall be provided by the court to a proposed patient before, or upon, placement in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court. A copy of that order of detention shall be maintained at the place of detention.

(5) Notice of commencement of those proceedings shall be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other persons whom the proposed patient or the court shall designate. That notice shall advise those persons that a hearing may be held within the time provided by law. If the proposed patient has refused to permit release of information necessary for provisions of notice under this subsection, the extent of notice shall be determined by the court.

(6) Proceedings for commitment of an individual under the age of 18 years to a local mental health authority may be commenced in accordance with Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(7) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(10) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment; ~~and~~

(v) that findings resulting from the examination will be made available to the court; and

(vi) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient:

(a) is not mentally ill;

(b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

(c) has acceptable options for treatment programs that are available without court proceedings.

(14) Before the hearing, an opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(15) (a) The proposed patient, the applicant, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person. The court may allow a waiver of the proposed patient's right to appear only for good cause shown, and that cause shall be made a matter of court record.

(b) The court is authorized to exclude all persons not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee[,] or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes; and

(G) medication records pertaining to the current commitment.

(ii) That information shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) The court shall order commitment of a proposed patient who is 18 years of age or older to a local mental health authority if, upon completion of the hearing and consideration of the information

presented ~~[in accordance with Subsection (15)(d)],~~ the court finds by clear and convincing evidence that:

- (a) the proposed patient has a mental illness;
- (b) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;
- (c) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;
- (d) there is no appropriate less-restrictive alternative to a court order of commitment; and
- (e) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs. In the absence of the required findings of the court after the hearing, the court shall dismiss the proceedings.

(17) (a) The order of commitment shall designate the period for which the patient shall be treated. When the patient is not under an order of commitment at the time of the hearing, that period may not exceed six months without benefit of a review hearing. Upon such a review hearing, to be commenced prior to the expiration of the previous order, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the required conditions in Subsection (16) will last for an indeterminate period.

(b) The court shall maintain a current list of all patients under its order of commitment. That list shall be reviewed to determine those patients who have been under an order of commitment for the designated period. At least two weeks prior to the expiration of the designated period of any order of commitment still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee. The local mental health authority or its designee shall immediately reexamine the reasons upon which the order of commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, it shall discharge the patient from involuntary commitment and immediately report the discharge to the court. Otherwise, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) The local mental health authority or its designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, that local mental health authority or its designee shall discharge the patient from its custody and immediately report the discharge to

the court. If the local mental health authority or its designee determines that the conditions justifying that commitment continue to exist, the local mental health authority or its designee shall send a written report of those findings to the court. The patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued, the reasons for that decision, and that the patient has the right to a review hearing by making a request to the court. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days of the entry of the court order. The petition must allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient. The new hearing shall, in all other respects, be conducted in the manner otherwise permitted.

(19) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

Section 5. Section 62A-15-632 is amended to read:

62A-15-632. Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.

(1) After an individual is involuntarily committed to the custody of a local mental health authority under Subsection 62A-15-631(16), the conditions justifying commitment under that subsection shall be considered to continue to exist, for purposes of continued treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637~~], if the court finds that the patient is still mentally ill, and that absent an order of involuntary commitment and without continued treatment the patient will suffer severe and abnormal mental and emotional distress as indicated by recent past history, and will experience deterioration in the patient's ability to function in the least restrictive environment, thereby making the patient a substantial danger to self or others.],~~ unless:

(a) the court terminates the civil commitment through a review hearing; or

(b) the local mental health authority or a designee of the local mental health authority with custody over the patient discharges the patient and provides notice of the discharge to the court, as described in Subsections 62A-15-631(17)(c) and 62A-15-637(2).

(2) A patient whose treatment is continued or who is conditionally released under ~~[the terms of this section,]~~ Section 62A-15-637 shall be maintained in the least restrictive environment

available that can provide the patient with the treatment that is adequate and appropriate.

(3) Except for good cause, a court may not terminate a civil commitment through a review hearing if the patient:

- (a) is under a conditional release agreement; and
- (b) does not appear at the review hearing.

Section 6. Section 62A-15-637 is amended to read:

62A-15-637. Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.

(1) A local mental health authority or a designee of a local mental health authority may conditionally release an improved patient to less restrictive treatment when:

- (a) the authority specifies the [less-restrictive] less restrictive treatment; and
- (b) the patient agrees in writing to the less restrictive treatment.

(2) (a) Whenever a local mental health authority or a designee of a local mental health authority determines that the conditions justifying commitment no longer exist, the local mental health authority or the designee shall discharge the patient.

(b) If the discharged patient has been committed through judicial proceedings, the local mental health authority or the designee shall prepare a report describing the determination and shall send the report to the clerk of the court where the proceedings were held.

(3) (a) A local mental health authority or a designee of a local mental health authority is authorized to issue an order for the immediate placement of a current patient into a more restrictive environment, if:

- (i) the local mental health authority or a designee of a local mental health authority has reason to believe that the patient's current environment is aggravating the patient's mental illness; or
- (ii) the patient has failed to comply with the specified treatment plan to which the patient agreed in writing.

(b) An order for a more restrictive environment shall [include]:

- (i) state the reasons for the order [and shall];
- (ii) authorize any peace officer to take the patient into physical custody and transport the patient to a facility designated by the local mental health authority[-];

(iii) inform the patient of the right to a hearing, the right to appointed counsel, and the other procedures described in Subsection 62A-15-631(14); and

(iv) [Prior] prior to or upon admission to the more restrictive environment, or upon imposition of

additional or different requirements as conditions for continued conditional release from inpatient care, copies of the order shall be [personally] delivered to:

- (A) the patient [and sent to];
- (B) the person in whose care the patient is placed[-The order shall also be sent to];
- (C) the patient's counsel of record; and [to]
- (D) the court that entered the original order of commitment. [The order shall inform the patient of the right to a hearing, as prescribed in this section, the right to appointed counsel, and the other procedures prescribed in Subsection 62A-15-631(14).]

(c) If the patient was in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or the patient's representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section 62A-15-631, with the exception of Subsection 62A-15-631(16), unless, by the time set for the hearing, the patient is returned to the less restrictive environment or the patient withdraws the request for a hearing, in writing.

(d) The court shall:

- (i) make findings regarding whether the conditions described in Subsections (3)(a) and (b) were met and whether the patient is in the least restrictive environment that is appropriate for the patient's needs; and
- (ii) designate, by order, the environment for the patient's care and the period for which the patient shall be treated, which may not extend beyond expiration of the original order of commitment.

(4) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section 62A-15-636, from discharging a patient from commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.

CHAPTER 420**S. B. 43**

Passed March 6, 2019

Approved March 27, 2019

Effective May 14, 2019

CRIMINAL PROVISIONS MODIFICATIONS

Chief Sponsor: Karen Mayne

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill modifies provisions relating to criminal offenses and penalties in the Utah Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies criminal offenses and penalties relating to:
 - clandestine drug labs;
 - electronic communications harassment; and
 - return of a marriage license to a county clerk;
- ▶ repeals the offense of fornication; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 30-1-11, as last amended by Laws of Utah 2018, Chapter 148
- 58-37d-2, as last amended by Laws of Utah 2013, Chapter 278
- 58-37d-3, as last amended by Laws of Utah 2013, Chapters 262 and 413
- 58-37d-4, as last amended by Laws of Utah 2008, Chapter 305
- 58-37d-5, as last amended by Laws of Utah 2003, Chapter 115
- 58-37d-6, as enacted by Laws of Utah 1992, Chapter 156
- 76-9-201, as last amended by Laws of Utah 2018, Chapter 444
- 77-22-2, as last amended by Laws of Utah 2009, Chapter 6
- 77-22-2.5, as last amended by Laws of Utah 2017, Chapter 447

REPEALS:

- 76-7-104, as enacted by Laws of Utah 1973, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-11 is amended to read:**30-1-11. Return of license after ceremony -- Failure -- Penalty.**

(1) The individual solemnizing the marriage shall within 30 days ~~[thereafter]~~ after solemnizing the marriage return the license to the clerk of the county ~~[whence it issued]~~ that issues the license,

with a certificate of the marriage over the individual's signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage.

(2) An individual described in Subsection (1) who fails to ~~[make the return]~~ return the license is guilty of ~~[a class B misdemeanor]~~ an infraction.

Section 2. Section 58-37d-2 is amended to read:**58-37d-2. Purpose.**

The clandestine production of methamphetamine, other amphetamines, phencyclidine, narcotic analgesic analogs, so-called "designer drugs," various hallucinogens, concentrated tetrahydrocannabinols, counterfeit opioids, cocaine and methamphetamine, base "crack" cocaine and methamphetamine "ice" respectively, has increased dramatically throughout the western states and Utah. These highly technical illegal operations create substantial dangers to the general public and environment from fire, explosions, and the release of toxic chemicals. By their very nature these activities often involve a number of persons in a conspiratorial enterprise to bring together all necessary components for clandestine production, to thwart regulation and detection, and to distribute the final product. Therefore, the Legislature enacts the following Utah Clandestine Laboratory Act for prosecution of specific illegal laboratory operations. With regard to the controlled substances specified herein, this act shall control, notwithstanding the prohibitions and penalties in Title 58, Chapter 37, Utah Controlled Substances Act.

Section 3. Section 58-37d-3 is amended to read:**58-37d-3. Definitions.**

(1) As used in this chapter:

(a) (i) "Booby trap" means a concealed or camouflaged device designed to cause bodily injury when triggered by the action of a person making contact with the device.

(ii) "Booby trap" includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases.

(b) "Clandestine laboratory operation" means the:

(i) purchase or procurement of chemicals, supplies, equipment, or laboratory location for the illegal manufacture of specified controlled substances;

(ii) transportation or arranging for the transportation of chemicals, supplies, or equipment for the illegal manufacture of specified controlled substances;

(iii) setting up of equipment or supplies in preparation for the illegal manufacture of specified controlled substances;

(iv) activity of compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of a substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, when the substance is to be used for the illegal manufacture of specified controlled substances;

(v) illegal manufacture of specified controlled substances; or

(vi) distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the illegal manufacture of specified controlled substances.

(c) “Controlled substance precursor” means those chemicals designated in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, except those substances designated in Subsections 58-37c-3(1)(kk) and (ll).

(d) “Counterfeit opioid” means an opioid or container or labeling of an opioid that:

(i) (A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be an opioid distributed by another manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be an opioid distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under this Subsection (1)(d)(i) or the appearance of the container or labeling of the opioid; or

(ii) (A) is falsely represented to be any legally or illegally manufactured opioid; and

(B) a reasonable person would believe to be a legal or illegal opioid.

~~(d)~~ (e) “Disposal” means the abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing of hazardous or dangerous material into or on property, land, or water so that the material may enter the environment, be emitted into the air, or discharged into any waters, including groundwater.

~~(e)~~ (f) “Hazardous or dangerous material” means a substance that because of its quantity, concentration, physical characteristics, or chemical characteristics may cause or significantly contribute to an increase in mortality, an increase in serious illness, or may pose a substantial present or potential future hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.

~~(f)~~ (g) “Illegal manufacture of specified controlled substances” means in violation of Title

58, Chapter 37, Utah Controlled Substances Act, the:

(i) compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing for the purpose of producing methamphetamine, other amphetamine compounds as listed in Schedule I of the Utah Controlled Substances Act, phencyclidine, narcotic analgesic analogs as listed in Schedule I of the Utah Controlled Substances Act, lysergic acid diethylamide, [or] mescaline, tetrahydrocannabinol, or counterfeit opioid;

(ii) conversion of cocaine or methamphetamine to their base forms; or

(iii) extraction, concentration, or synthesis of [marijuana as that drug is defined in Section 58-37-2] tetrahydrocannabinol.

(h) “Opioid” means the same as that term is defined in Section 58-37f-303.

(i) “Tetrahydrocannabinol” means the same as that term is defined in Section 58-37-3.6.

(2) Unless otherwise specified, the definitions in Section 58-37-2 also apply to this chapter.

Section 4. Section 58-37d-4 is amended to read:

58-37d-4. Prohibited acts -- Second degree felony.

(1) It is unlawful for any person to knowingly or intentionally:

(a) possess a controlled substance or a controlled substance precursor with the intent to engage in a clandestine laboratory operation;

(b) possess laboratory equipment or supplies with the intent to engage in a clandestine laboratory operation;

(c) sell, distribute, or otherwise supply a controlled substance, controlled substance precursor [chemical], laboratory equipment, or laboratory supplies, knowing or having reasonable cause to believe any of these items will be used for a clandestine laboratory operation;

(d) evade the recordkeeping provisions of Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, knowing or having reasonable cause to believe that the material distributed or received will be used for a clandestine laboratory operation;

(e) conspire with or aid another to engage in a clandestine laboratory operation;

(f) produce or manufacture, or possess with intent to produce or manufacture a controlled or counterfeit substance except as authorized under Title 58, Chapter 37, Utah Controlled Substances Act;

(g) transport or convey a controlled or counterfeit substance with the intent to distribute or to be distributed by the person transporting or conveying the controlled or counterfeit substance or by [any other] another person regardless of whether the

final destination for the distribution is within this state or ~~[any other]~~ another location; or

(h) engage in compounding, synthesis, concentration, purification, separation, extraction, or other physical or chemical processing of any substance, including a controlled substance precursor, or the packaging, repackaging, labeling, or relabeling of a container holding a substance that is a product of any of these activities, knowing or having reasonable cause to believe that the substance is a product of any of these activities and will be used in the illegal manufacture of specified controlled substances.

(2) A person who violates ~~[any provision of]~~ Subsection (1) is guilty of a second degree felony punishable by imprisonment for an indeterminate term of not less than ~~[3]~~ three years nor more than 15 years.

Section 5. Section 58-37d-5 is amended to read:

58-37d-5. Prohibited acts -- First degree felony.

(1) A person who violates Subsection 58-37d-4(1)(a), (b), (e), (f), or (h) is guilty of a first degree felony if the trier of fact also finds any one of the following conditions occurred in conjunction with that violation:

- (a) possession of a firearm;
- (b) use of a booby trap;

(c) illegal possession, transportation, or disposal of hazardous or dangerous material or while transporting or causing to be transported materials in furtherance of a clandestine laboratory operation, there was created a substantial risk to human health or safety or a danger to the environment;

(d) intended laboratory operation was to take place or did take place within 500 feet of a residence, place of business, church, or school;

(e) clandestine laboratory operation actually produced any amount of a specified controlled substance or a counterfeit opioid; or

(f) intended clandestine laboratory operation was for the production of cocaine base or methamphetamine base.

(2) If the trier of fact finds that two or more of the conditions listed in Subsections (1)(a) through (f) of this section occurred in conjunction with the violation, at sentencing for the first degree felony:

- (a) probation shall not be granted;
- (b) the execution or imposition of sentence shall not be suspended; and
- (c) the court shall not enter a judgment for a lower category of offense.

Section 6. Section 58-37d-6 is amended to read:

58-37d-6. Legal inference of intent -- Illegal possession of a controlled substance precursor or clandestine laboratory equipment.

The trier of fact may infer that ~~[the]~~ a defendant intended to engage in a clandestine laboratory operation if the defendant:

- (1) is in illegal possession of a controlled substance precursor; or
- (2) illegally possesses or attempts to illegally possess a controlled substance or controlled substance precursor and is in possession of any one of the following pieces of equipment:
 - (a) glass reaction vessel;
 - (b) separatory funnel;
 - (c) glass condenser;
 - (d) analytical balance; ~~[or]~~
 - (e) heating mantle~~[.];~~
 - (f) pill press machine or similar device;
 - (g) closed loop extraction system;
 - (h) extraction tube; or
 - (i) rotary evaporator.

Section 7. Section 76-9-201 is amended to read:

76-9-201. Electronic communication harassment -- Definitions -- Penalties.

- (1) As used in this section:
 - (a) "Adult" means ~~[a person]~~ an individual 18 years of age or older.
 - (b) "Electronic communication" means ~~[any]~~ a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at ~~[any]~~ a specific individual.

(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or ~~[any other]~~ another device or medium that can be used to communicate electronically.

(d) "Minor" means ~~[a person]~~ an individual who is younger than 18 years of age.

(e) "Personal identifying information" means the same as that term is defined in Section 76-6-1102.

(2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:

- (a) (i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device~~[-or]~~.

~~[(c) electronically publishes, posts, or otherwise discloses personal identifying information of another person, in a public online site or forum, without that person's permission.]~~

(3) A person who electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission is guilty of electronic communication harassment.

~~[(3)]~~ (4) (a) (i) Electronic communication harassment committed against an adult is a class B misdemeanor, except under Subsection ~~[(3)]~~ (4)(a)(ii).

(ii) A second or subsequent offense under Subsection ~~[(3)]~~ (4)(a)(i) is [a]:

(A) a class A misdemeanor if all prior violations of this section were committed against adults; and

(B) a third degree felony if ~~[any]~~ a prior violation of this section was committed against a minor.

(b) (i) Electronic communication harassment committed against a minor is a class A misdemeanor, except as provided under Subsection ~~[(3)]~~ (4)(b)(ii).

(ii) A second or subsequent offense under Subsection ~~[(3)]~~ (4)(b)(i) is a third degree felony, regardless of whether ~~[any]~~ a prior violation of this section was committed against a minor or an adult.

~~[(4)]~~ (5) (a) Except as provided under Subsection ~~[(4)]~~ (5)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of ~~[any of the offenses]~~ an offense under this section.

(b) This section does not create ~~[any]~~ a civil cause of action based on electronic communications made for legitimate business purposes.

Section 8. Section 77-22-2 is amended to read:

77-22-2. Investigations -- Right to subpoena witnesses and require production of evidence -- Contents of subpoena -- Rights of witnesses -- Interrogation before closed court -- Disclosure of information.

(1) As used in this section, "prosecutor" means the ~~[attorney general, county attorney, district attorney, or municipal attorney]~~ same as that term is defined in Section 77-22-4.5.

(2) (a) In any matter involving the investigation of a crime or malfeasance in office, or any criminal conspiracy or activity, the prosecutor may, upon application and approval of the district court and for good cause shown, conduct a criminal investigation.

(b) The application and statement of good cause shall state whether ~~[or not any other]~~ another investigative order related to the investigation at issue has been filed in another court.

(3) (a) Subject to the conditions established in Subsection (3)(b), the prosecutor may:

(i) subpoena witnesses;

(ii) compel their attendance and testimony under oath to be recorded by a suitable electronic recording device or to be given before any certified court reporter; and

(iii) require the production of books, papers, documents, recordings, and any other items that ~~[constitute]~~ are evidence or may be relevant to the investigation.

(b) The prosecutor shall:

(i) apply to the district court for each subpoena; and

(ii) show that the requested information is reasonably related to the criminal investigation authorized by the court.

(4) (a) The prosecutor shall state in each subpoena:

(i) the time and place of the examination;

(ii) that the subpoena is issued in aid of a criminal investigation; and

(iii) the right of the person subpoenaed to have counsel present.

(b) The examination may be conducted anywhere within the jurisdiction of the prosecutor issuing the subpoena.

(c) The subpoena need not disclose the names of possible defendants.

(d) Witness fees and expenses shall be paid as in a civil action.

(5) (a) At the beginning of each compelled interrogation, the prosecutor shall personally inform each witness:

(i) of the general subject matter of the investigation;

(ii) of the privilege to, at any time during the proceeding, refuse to answer any question or produce any evidence of a communicative nature that may result in self-incrimination;

(iii) that any information provided may be used against the witness in a subsequent criminal proceeding; and

(iv) of the right to have counsel present.

(b) If the prosecutor has substantial evidence that the subpoenaed witness has committed a crime that is under investigation, the prosecutor shall:

(i) inform the witness in person before interrogation of that witness's target status; and

(ii) inform the witness of the nature of the charges under consideration against the witness.

(6) (a) (i) The prosecutor may make written application to any district court showing a reasonable likelihood that publicly releasing information about the identity of a witness or the substance of the evidence resulting from a subpoena or interrogation would pose a threat of harm to a person or otherwise impede the investigation.

(ii) Upon a finding of reasonable likelihood, the court may order the:

(A) interrogation of a witness be held in secret;

(B) occurrence of the interrogation and other subpoenaing of evidence, the identity of the person subpoenaed, and the substance of the evidence obtained be kept secret; and

(C) record of testimony and other subpoenaed evidence be kept secret unless the court for good cause otherwise orders.

(b) After application, the court may by order exclude from any investigative hearing or proceeding any persons except:

(i) the attorneys representing the state and members of their staffs;

(ii) persons who, in the judgment of the attorneys representing the state, are reasonably necessary to assist in the investigative process;

(iii) the court reporter or operator of the electronic recording device; and

(iv) the attorney for the witness.

(c) This chapter does not prevent attorneys representing the state or members of their staff from disclosing information obtained pursuant to this chapter for the purpose of furthering any official governmental investigation.

(d) (i) If a secrecy order has been granted by the court regarding the interrogation or disclosure of evidence by a witness under this subsection, and if the court finds a further restriction on the witness is appropriate, the court may order the witness not to

disclose the substance of the witness's testimony or evidence given by the witness to others.

(ii) Any order to not disclose made under this subsection shall be served with the subpoena.

(iii) In an appropriate circumstance the court may order that the witness not disclose the existence of the investigation to others.

(iv) Any order under this Subsection (6)(d) must be based upon a finding by the court that one or more of the following risks exist:

(A) disclosure by the witness would cause destruction of evidence;

(B) disclosure by the witness would taint the evidence provided by other witnesses;

(C) disclosure by the witness to a target of the investigation would result in flight or other conduct to avoid prosecution;

(D) disclosure by the witness would damage a person's reputation; or

(E) disclosure by the witness would cause a threat of harm to any person.

(e) (i) If the court imposes an order under Subsection (6)(d) authorizing an instruction to a witness not to disclose the substance of testimony or evidence provided and the prosecuting agency proves by a preponderance of the evidence that a witness has violated that order, the court may hold the witness in contempt.

(ii) An order of secrecy imposed on a witness under this Subsection (6)(e) may not infringe on the attorney-client relationship between the witness and the witness's attorney or on ~~any other~~ another legally recognized privileged relationship.

(7) (a) (i) The prosecutor may submit to any district court a separate written request that the application, statement of good cause, and the court's order authorizing the investigation be kept secret.

(ii) The request for secrecy is a public record under Title 63G, Chapter 2, Government Records Access and Management Act, but need not contain any information that would compromise any of the interest listed in Subsection (7)(c).

(b) With the court's permission, the prosecutor may submit to the court, in camera, any additional information to support the request for secrecy if necessary to avoid compromising the interests listed in Subsection (7)(c).

(c) The court shall consider all information in the application and order authorizing the investigation and any information received in camera and shall order that all information be placed in the public file except information that, if disclosed, would pose:

(i) a substantial risk of harm to a person's safety;

(ii) a clearly unwarranted invasion of or harm to a person's reputation or privacy; or

(iii) a serious impediment to the investigation.

(d) Before granting an order keeping secret documents and other information received under this section, the court shall narrow the secrecy order as much as reasonably possible in order to preserve the openness of court records while protecting the interests listed in Subsection (7)(c).

Section 9. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means any service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" has the same definition as in Section 76-10-1230.

(e) "Prosecutor" has the same definition as in Section ~~[77-22-2]~~ 77-22-4.5.

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g) "Sexual offense against a minor" means:

(i) sexual exploitation of a minor ~~[as defined in Section 76-5b-201]~~ or attempted sexual exploitation of a minor in violation of Section 76-5b-201;

(ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

(iii) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206;

(iv) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401; or

(v) human trafficking of a child in violation of Section 76-5-308.5.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier ~~[was]~~ is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including any temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce any records under Subsections (2)(c)(i) through (v) that are reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4) (a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that ~~[it]~~ the provider does not have the information.

(7) There is no cause of action against any provider or wire or electronic communication service, or ~~[its]~~ the provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8) (a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) ~~[Every]~~ A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 10. Repealer.

This bill repeals:

Section 76-7-104, Fornication.

CHAPTER 421**S. B. 44**

Passed February 20, 2019

Approved March 27, 2019

Effective May 14, 2019

STREET-LEGAL ATV AMENDMENTS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mark A. Strong

LONG TITLE**General Description:**

This bill modifies provisions related to the operation of street-legal all-terrain vehicles.

Highlighted Provisions:

This bill:

- ▶ addresses circumstances under which certain all-terrain vehicles may operate as a street-legal all-terrain vehicle on a highway; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-1509, as last amended by Laws of Utah 2018, Chapters 166 and 373

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1509 is amended to read:**41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.**

(1) (a) ~~[An]~~ Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section ~~[may be operated]~~ as a street-legal ATV on a street or highway ~~[unless].~~

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle as a street-legal ATV on a highway if:

(i) the highway is an interstate ~~[freeway]~~ system as defined in Section ~~[41-6a-102]~~ 72-1-102; or

(ii) ~~[(A)]~~ the highway is in a county of the first class~~;~~ and both of the following criterion is met:

~~[(B)]~~ (A) the highway is near a grade separated portion of the highway; and

~~[(C)]~~ (B) the highway has a posted speed limit ~~[of]~~ higher than 50 miles per hour ~~[or greater; and].~~

~~[(D)]~~ the highway authority with jurisdiction over the highway has designated a portion of a highway as closed to street-legal ATVs.

~~[(b)]~~ The restriction to street-legal ATVs described in Subsection (1)(a)(ii) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.]

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under Title 41, Chapter 6a, Traffic Code;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under Title 41, Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers[, including a footrest and handhold for each passenger]; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Board of Parks and Recreation, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Parks and Recreation shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

CHAPTER 422**S. B. 45**

Passed February 20, 2019

Approved March 27, 2019

Effective May 14, 2019

DOMESTIC VIOLENCE REVISIONS

Chief Sponsor: Allen M. Christensen

House Sponsor: Paul Ray

LONG TITLE**General Description:**

This bill adds aggravated cruelty to an animal to the list of offenses that may qualify as a domestic violence offense.

Highlighted Provisions:

This bill:

- ▶ adds aggravated cruelty to an animal to the list of offenses that may qualify as a domestic violence offense; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-36-1, as last amended by Laws of Utah 2018, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-36-1 is amended to read:**77-36-1. Definitions.**

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" also means commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-109.1;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

~~[(x)]~~ (y) damage to or interruption of a communication device, as described in Section 76-6-108; or

~~[(y)]~~ (z) an offense described in Section 77-20-3.5.

(5) "Jail release agreement" means the same as that term is defined in Section 77-20-3.5.

(6) "Jail release court order" means the same as that term is defined in Section 77-20-3.5.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 77-36-5.1(6).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release pursuant to Subsection 77-20-3.5(3), Subsection 77-36-2.6(3), or Section 77-36-2.7, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals pursuant to Sections 77-36-5 and 77-36-5.1.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

CHAPTER 423**S. B. 69**

Passed February 13, 2019

Approved March 27, 2019

Effective January 1, 2020

**CONSUMER TICKET
PROTECTION AMENDMENTS**

Chief Sponsor: Deidre M. Henderson

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill enacts provisions related to consumer protection and event tickets.

Highlighted Provisions:

This bill:

- ▶ enacts the Ticket Sales Act;
- ▶ defines terms;
- ▶ requires a person who issues a ticket to an event to issue the ticket using a delivery method that enables the purchaser to lawfully resell the ticket independent of the person who issued the ticket;
- ▶ allows a person to issue a restricted ticket, under certain circumstances;
- ▶ provides that a person who issues a restricted ticket shall give the purchaser a conspicuous written disclosure stating that the ticket is nontransferable;
- ▶ prohibits a person from treating an individual differently because the individual resold a ticket to an event or purchased a resold ticket to an event;
- ▶ addresses required reporting to the Division of Consumer Protection; and
- ▶ addresses enforcement of the Ticket Sales Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

13-2-1, as last amended by Laws of Utah 2018, Chapters 252 and 290

ENACTS:

13-54-101, Utah Code Annotated 1953

13-54-102, Utah Code Annotated 1953

13-54-103, Utah Code Annotated 1953

13-54-201, Utah Code Annotated 1953

13-54-301, Utah Code Annotated 1953

13-54-302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:**13-2-1. Consumer protection division established -- Functions.**

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 39, Child Protection Registry;
- (p) Chapter 41, Price Controls During Emergencies Act;
- (q) Chapter 42, Uniform Debt-Management Services Act;
- (r) Chapter 49, Immigration Consultants Registration Act;
- (s) Chapter 51, Transportation Network Company Registration Act;
- (t) Chapter 52, Residential Solar Energy Disclosure Act; ~~and~~
- (u) Chapter 53, Residential, Vocational and Life Skills Program Act~~[-]~~; and
- (v) Chapter 54, Ticket Sales Act.

Section 2. Section 13-54-101 is enacted to read:**CHAPTER 54. TICKET SALES ACT****Part 1. General Provisions****13-54-101. Title.**

This chapter is known as the "Ticket Sales Act."

Section 3. Section 13-54-102 is enacted to read:**13-54-102. Definitions.**

As used in this section:

(1) "Division" means the Division of Consumer Protection in the Department of Commerce.

(2) "Event" means a single, specific occurrence of one of the following, that takes place at a venue:

- (a) a concert;
- (b) a game;
- (c) a performance;
- (d) a show; or
- (e) an occasion similar to the occasions described in Subsections (2)(a) through (d).

(3) “Exempt entity” means:

- (a) a Division I college postseason basketball tournament;
- (b) a nonprofit organization that:
 - (i) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
 - (ii) is domiciled in the state; and
 - (iii) produces an annual international film festival in the state; or
- (c) a public or private postsecondary institution that is located in the state.

(4) “Restricted ticket” means a ticket to an event that is subject to a restriction that prohibits the purchaser from reselling or otherwise transferring the ticket by any lawful method.

(5) “Transferrable ticket” means a ticket to an event that a person issues using a delivery method that enables the purchaser to lawfully resell the ticket independent of the person who issued the ticket or the person’s agent or operator.

(6) (a) “Venue” means real property located in the state where one or more persons host a concert, game, performance, show, or similar occasion.

(b) “Venue” includes an arena, a stadium, a theater, a concert hall, an amphitheater, a fairground, a club, a convention center, a public assembly facility, or a mass gathering location.

(7) “Venue operator” means a person who operates a venue.

Section 4. Section 13-54-103 is enacted to read:

13-54-103. Scope.

(1) This chapter does not apply to an event or venue of an exempt entity.

(2) Nothing in this chapter prohibits a venue operator from maintaining and enforcing one or more policies regarding conduct or behavior at or in connection with the venue.

Section 5. Section 13-54-201 is enacted to read:

Part 2. Ticket Resale Restrictions

13-54-201. Limitations on ticket resale restrictions -- Disclosures.

(1) Except as provided in Subsection (2), each ticket issued for an event shall be a transferrable ticket.

(2) (a) (i) Up to 10% of the total number of tickets issued for an event may be restricted tickets.

(ii) The total number of tickets described in Subsection (2)(a)(i):

(A) includes each ticket that provides access to the event, regardless of whether the ticket is made available for sale; and

(B) does not include a ticket that is part of a youth basketball program associated with a professional sports team where tickets are donated or issued at a reduced rate.

(b) Notwithstanding Subsection (2)(a), each calendar year, an unlimited number of restricted tickets may be issued for up to 10% of the total concert and theater events held at the same venue during the calendar year.

(3) A person who issues a restricted ticket shall provide the purchaser a clear and conspicuous written notice that states the ticket may not be resold or transferred.

(4) A person may not discriminate against an individual or deny an individual admission to an event solely because the individual:

(a) resold a ticket to the event independent of the person who issued the ticket or the person’s agent or operator; or

(b) purchased a resold ticket to the event independent of the person who issued the ticket or the person’s agent or operator.

Section 6. Section 13-54-301 is enacted to read:

Part 3. Enforcement and Reporting

13-54-301. Enforcement powers -- Penalty.

(1) The division may enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) A person who violates a provision of this chapter is subject to a fine of up to \$250 per violation.

Section 7. Section 13-54-302 is enacted to read:

13-54-302. Reporting.

(1) As used in this section, “reporting period” means:

(a) for a report submitted under this section in compliance with a July 15 deadline, January 1 through June 30 of the calendar year in which the report is submitted; or

(b) for a report submitted under this section in compliance with a January 15 deadline, July 1 through December 31 of the calendar year immediately preceding the calendar year in which the report is submitted.

(2) On or before July 15, 2020, and July 15 of each year thereafter, a venue operator shall submit a report described in Subsection (4) to the division, if there was an event scheduled at the venue during

the reporting period for which a person issued one or more restricted tickets.

(3) On or before January 15, 2021, and January 15 of each year thereafter, a venue operator shall submit a report described in Subsection (4) to the division, if there was an event scheduled at the venue during the reporting period for which a person issued one or more restricted tickets.

(4) A report submitted in accordance with this section shall contain the following information:

(a) for each event scheduled at the venue during the reporting period and for which a person issued a restricted ticket:

(i) the total number of tickets issued for the event;

(ii) the number of restricted tickets issued for the event;

(iii) the date of the event; and

(iv) the type of event;

(b) (i) for a report submitted in compliance with a July 15 deadline, the number of concert or theater events scheduled at the venue during the reporting period; or

(ii) for a report submitted in compliance with a January 15 deadline, the number of concert or theater events scheduled at the venue during the preceding calendar year; and

(c) the number of concert or theater events scheduled at the venue during the reporting period for which a person issued a restricted ticket under Subsection 13-54-201(2)(b).

Section 8. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 424**S. B. 82**

Passed February 14, 2019

Approved March 27, 2019

Effective October 1, 2019

DEALERSHIP LICENSING AMENDMENTS

Chief Sponsor: Don L. Ipson

House Sponsor: Walt Brooks

LONG TITLE**General Description:**

This bill repeals provisions of the Motor Vehicle Act and amends provisions of Motor Vehicle Business Regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends licensing requirements for a transporter;
- ▶ amends conditions under which a dealer may not use a dealer plate;
- ▶ amends provisions related to a permit to use a dealer plate;
- ▶ amends provisions regarding the issuance of a special plate;
- ▶ amends provisions regarding salvage vehicles;
- ▶ amends provisions regarding reporting a special plate lost or stolen;
- ▶ makes 10 or more violations of Section 41-3-301 a class A misdemeanor under certain circumstances;
- ▶ repeals provisions regarding unbranded titles; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 41-1a-522, as last amended by Laws of Utah 2008, Chapter 382
- 41-1a-1001, as last amended by Laws of Utah 2012, Chapter 390
- 41-1a-1005, as last amended by Laws of Utah 2012, Chapter 387
- 41-1a-1401, as last amended by Laws of Utah 1998, Chapter 263
- 41-3-102, as last amended by Laws of Utah 2018, Chapter 387
- 41-3-202, as last amended by Laws of Utah 2018, Chapter 387
- 41-3-501, as last amended by Laws of Utah 2018, Chapter 243
- 41-3-502, as renumbered and amended by Laws of Utah 1992, Chapter 234
- 41-3-503, as last amended by Laws of Utah 1996, Chapter 46
- 41-3-507, as renumbered and amended by Laws of Utah 1992, Chapter 234
- 41-3-701, as last amended by Laws of Utah 2012, Chapter 390
- 41-3-702, as last amended by Laws of Utah 2018, Chapter 387

REPEALS:

- 41-1a-1002, as last amended by Laws of Utah 2010, Chapter 324
- 41-1a-1003, as last amended by Laws of Utah 1993, Chapter 221
- 41-1a-1007, as last amended by Laws of Utah 2009, Chapter 183
- 41-3-409.5, as enacted by Laws of Utah 1994, Chapter 175

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-522 is amended to read:**41-1a-522. Record of nonconforming vehicle -- Access -- Brand.**

(1) The definitions in Section 41-3-407 apply to this section.

(2) Upon receipt of a copy of an original certificate of title, Manufacturer's Statement of Origin, or other evidence of ownership of a nonconforming vehicle in accordance with Section 41-3-409, the division shall:

(a) establish a record of the reported nonconforming vehicle;

(b) consider the record a public record with public access under Sections 41-1a-116 and 63G-2-201;

(c) allow access to the record upon written application to the division; and

(d) upon request for a new certificate of title for a nonconforming vehicle, brand the certificate of title with the words "MANUFACTURER BUYBACK NONCONFORMING VEHICLE" clearly and conspicuously on the face of the new certificate of title.

(3) Upon receipt of the branded certificate of title, the division shall ~~[(a)]~~ follow the procedures established in Subsection (2) ~~[(a)]~~.

~~[(b) if the record of the nonconforming vehicle contains an application for an unbranded certificate of title that meets the requirements of Section 41-3-409.5;~~

~~[(i) update the record to show that all nonconformities have been cured;]~~

~~[(ii) consider the record a public record with public access under Sections 41-1a-116 and 63G-2-201;]~~

~~[(iii) allow access to the complete record upon written application to the division; and]~~

~~[(iv) upon request for a new certificate of title, issue an unbranded certificate of title.]~~

Section 2. Section 41-1a-1001 is amended to read:**41-1a-1001. Definitions.**

As used in Sections 41-1a-1001 through 41-1a-1008:

(1) "Certified vehicle inspector" means a person employed by the Motor Vehicle Enforcement Division as qualified through experience, training,

or both to identify and analyze damage to vehicles with either unibody or conventional frames.

(2) "Major component part" means:

(a) the front body component of a motor vehicle consisting of the structure forward of the firewall;

(b) the passenger body component of a motor vehicle including the firewall, roof, and extending to and including the rear-most seating;

(c) the rear body component of a motor vehicle consisting of the main cross member directly behind the rear-most seating excluding any auxiliary seating and structural body assembly rear of the cross members; and

(d) the frame of a motor vehicle consisting of the structural member that supports the auto body.

(3) (a) "Major damage" means damage to a major component part of the motor vehicle requiring 10 or more hours to repair or replace, as determined by a collision estimating guide recognized by the Motor Vehicle Enforcement Division.

(b) For purposes of Subsection (3)(a) repair or replacement hours do not include time spent on cosmetic repairs.

(4) "Nonrepairable certificate" means a certificate of ownership issued for a nonrepairable vehicle.

(5) "Nonrepairable vehicle" means a vehicle of a type otherwise subject to registration that:

(a) has no resale value except as a source of parts or scrap metal or that the owner irreversibly designates as a source of parts or scrap metal or for destruction;

(b) (i) has little or no resale value other than its worth as a source of a vehicle identification number that could be used illegally; and

(ii) (A) has been substantially stripped as a result of theft; or

(B) is missing all of the bolt-on sheet metal body panels, all of the doors and hatches, substantially all of the interior components, and substantially all of the grill and light assemblies; or

(c) is a substantially burned vehicle that:

(i) has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels, or drive train components; or

(ii) the owner irreversibly designates for destruction or as having little or no resale value other than its worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally.

(6) "Owner" means the person who has the legal right to possession of the vehicle.

(7) (a) "Salvage certificate" means a certificate of ownership issued for a salvage vehicle before a new certificate of title is issued for the vehicle.

(b) A salvage certificate is not valid for registration purposes.

(8) "Salvage vehicle" means any vehicle:

(a) damaged by collision, flood, or other occurrence to the extent that the cost of repairing the vehicle for safe operation exceeds its fair market value; or

(b) that has been declared a salvage vehicle by an insurer or other state or jurisdiction, but is not precluded from further registration and titling.

~~[(9) "Unbranded title" means a certificate of title for a previously damaged motor vehicle without any designation that the motor vehicle has been damaged.]~~

~~[(10) "Vehicle damage disclosure statement" means the form designed and furnished by the Motor Vehicle Enforcement Division for a damaged motor vehicle inspection under Section 41-1a-1002.]~~

Section 3. Section 41-1a-1005 is amended to read:

41-1a-1005. Salvage vehicle -- Declaration by insurance company -- Surrender of title -- Salvage certificate of title -- Nonrecovered vehicles.

(1) (a) (i) Except as provided in Subsection (1)(a)(iii) or (iv), if an insurance company declares a vehicle a salvage vehicle and takes possession of the vehicle for disposal, ~~[or an insurance company pays off the owner of a vehicle that is stolen and not recovered,]~~ the insurance company shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs, surrender to the division the outstanding certificate of title, properly endorsed, or other evidence of ownership acceptable to the division.

(ii) ~~[The]~~ After receiving the documents described in Subsection (1)(a)(i), the division shall ~~[then]~~ issue a salvage certificate in the insurance company's name.

(iii) The division shall issue a salvage certificate in an insurance company's name no sooner than 30 days ~~[from the]~~ after the day on which the settlement of the loss occurs if the insurance company:

(A) declares a vehicle a salvage vehicle;

(B) issues settlement payment to the registered owner of the vehicle;

(C) has contacted the owner of the vehicle at least two times requesting certificate of title or other evidence of ownership acceptable to the division and the owner has not responded to the requests; and

(D) has presented the division evidence of the settlement and evidence that the insurance company has complied with the requirements of this Subsection (1)(a)(iii) on a form prescribed by the division.

(iv) The division shall issue a salvage certificate in an insurance company's name no sooner than 30

days ~~[from the receipt of]~~ after the day on which the division receives an improperly endorsed certificate of title if the insurance company:

(A) declares a vehicle a salvage vehicle;

(B) has contacted the owner of the vehicle at least two times requesting correction of the improperly endorsed certificate of title and the owner of the vehicle has not responded to the requests; and

(C) has presented the division evidence of the settlement, the improperly endorsed certificate of title, and evidence that the insurance company has complied with the requirements of this Subsection (1)(a)(iv) on a form prescribed by the division.

(v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the requirements for an insurance company to prove that ~~[it]~~ the insurance company has complied with the requirements of Subsection (1)(a)(iii) or (iv) to receive a salvage certificate.

(b) (i) If the owner of a salvage vehicle retains possession of the vehicle, the insurance company shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs notify the division of the retention on a form prescribed by the division.

(ii) The insurance company shall notify the owner of the vehicle of ~~[his]~~ the owner's responsibility to comply with this section.

(iii) The owner shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs surrender to the division the properly endorsed certificate of title or other evidence of ownership acceptable to the division.

(iv) The division shall then issue a salvage certificate in the owner's name.

(c) (i) When a salvage vehicle is not the subject of an insurance settlement, a self-insurer or an owner who is uninsured shall within 10 days ~~[of the damage]~~ after the day on which the motor vehicle is damaged surrender to the division the properly endorsed certificate of title or other evidence of ownership acceptable to the division.

(ii) ~~[The]~~ After receiving the documents described in Subsection (1)(c)(i), the division shall ~~[then]~~ issue a salvage certificate in the owner's name.

(d) (i) If a dealer licensed under Title 41, Chapter 3, Part 2, Licensing, takes possession of any salvage vehicle for which there is not already issued a branded title or salvage certificate from the division or another jurisdiction, the dealer shall within 10 days after the day on which the dealer takes possession of the vehicle surrender to the division the certificate of title or other evidence of ownership acceptable to the division.

(ii) ~~[The]~~ After receiving the documents described in Subsection (1)(d)(i), the division shall ~~[then]~~ issue a salvage certificate in the applicant's name.

(2) Any person, insurance company, or dealer licensed under Title 41, Chapter 3, Part 2,

Licensing, who fails to obtain a salvage certificate as required in this section or who sells a salvage vehicle without first obtaining a salvage certificate is guilty of a class B misdemeanor.

(3) This section does not apply to a vehicle:

(a) that has an undamaged, wholesale value of \$2,000 or less; or

(b) if a salvage certificate has been issued by another state or jurisdiction for the salvage vehicle.

(4) Upon sale or disposal of a salvage vehicle, the seller shall deliver to the purchaser the properly endorsed salvage certificate within 48 hours as required in Section 41-1a-1310, or if the seller is a dealer licensed under Title 41, Chapter 3, Part 2, Licensing, the dealer shall comply with Section 41-3-301.

(5) Except as provided in Subsection ~~[(4)]~~ (6), this ~~[chapter]~~ part does not apply to a motor vehicle that has been stolen or taken without the consent of the owner until the motor vehicle has been recovered, and then it applies only if the motor vehicle is a salvage vehicle.

(6) (a) An insurance company that pays a claim to the owner of a motor vehicle that is stolen and not recovered shall, within 10 days after the day on which settlement of the loss occurs, surrender to the division the outstanding certificate of title, properly endorsed, or other evidence of ownership acceptable to the division.

(b) After receiving the documents described in Subsection (6)(a), the division shall issue a certificate of title in the insurance company's name.

(c) An insurance company that pays a claim to the owner of a motor vehicle that is later recovered may sell the motor vehicle:

(i) with the certificate of title in the insurance company's name;

(ii) with a salvage certificate, if the recovered vehicle is a salvage vehicle; or

(iii) with a nonrepairable certificate, if the recovered vehicle is a nonrepairable vehicle.

Section 4. Section 41-1a-1401 is amended to read:

41-1a-1401. Report of stolen and recovered vehicles, vessels, and outboard motors by officials.

(1) (a) A peace officer, upon receiving reliable information that a vehicle, vessel, or outboard motor has been stolen, shall immediately report the theft to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(b) An officer, upon receiving information that a vehicle, vessel, or outboard motor, which he has previously reported as stolen, has been recovered, shall immediately report the recovery to the local law enforcement agency and to the Criminal Investigations and Technical Services Division.

(2) A report of a stolen vehicle, vessel, or outboard motor taken by a law enforcement agency shall

include a written advisement to the reporting party of the provisions of Section 76-8-506, and a statement affirming the theft of the vehicle, vessel, or outboard motor signed by the person reporting the theft and witnessed by the person taking the report.

(3) The following information regarding the vehicle, vessel, or outboard motor shall be included in the report and shall be sent to the Criminal Investigations and Technical Services Division:

- (a) the registered owner;
- (b) the person reporting the theft;
- (c) the year, make, model, and color;
- (d) the identification number;
- (e) the estimated present value;
- (f) the license number and state of registration;
- (g) the date, time, and place of the theft; and

(h) the name, address, telephone number, policy number, and agent's name of the insurance company insuring the vehicle, vessel, or outboard motor.

(4) If a member of any law enforcement agency confirms that a stolen vehicle, vessel, or outboard motor has been recovered, he shall send the following information regarding the recovered vehicle, vessel, or outboard motor to the Criminal Investigations and Technical Services Division:

- (a) the date, time, and place of recovery;
- (b) the condition of the vehicle, vessel, or outboard motor; and
- (c) the names of peace officers and any other persons involved in the recovery.

(5) (a) Upon receipt of a report of a stolen vehicle, vessel, or outboard motor, the Criminal Investigations and Technical Services Division shall place a notice of theft in the master file computer.

(b) Upon receipt of a report that a stolen vehicle, vessel, or outboard motor has been recovered, the Criminal Investigations and Technical Services Division shall remove the notice of theft of the vehicle, vessel, or outboard motor from the master file computer.

(6) (a) Except as provided in Section 41-1a-1005, the division shall refuse to register or transfer title to a stolen vehicle until the vehicle is recovered.

(b) [(4)] If the recovered vehicle is a salvage vehicle as defined in Section 41-1a-1001, then Title 41, Chapter 1a, Part 10, Salvage Vehicles - Junk and Dismantled Vehicles, applies.

[(ii) The division may issue an unbranded certificate of title for a recovered vehicle if the vehicle has not suffered major damage in more than one major component part.]

Section 5. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

(5) "Board" means the advisory board created in Section 41-3-106.

(6) "Body shop" means a [business] person engaged in rebuilding, restoring, repairing, or painting [primarily] the body of motor vehicles [damaged by collision or natural disaster] for compensation.

(7) "Commission" means the State Tax Commission.

(8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(9) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

(10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(iii) manufactured by the person;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

(11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

(12) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

(13) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(14) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(15) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

(16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(17) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

(18) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote

the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

(19) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(20) (a) "Franchise holder" means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) "Franchise holder" does not include a manufacturer described in Subsection (20)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

(21) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

(22) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

(23) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections (23)(a) and (b).

(24) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer, travel trailer, or semitrailer; or

- (iii) an off-highway vehicle or small trailer.
- (b) “Motor vehicle” does not include:
- (i) mobile homes as defined in Section 41-1a-102;
- (ii) trailers of 750 pounds or less unladen weight;
- (iii) farm tractors and other machines and tools used in the production, harvesting, and care of farm products; and
- (iv) park model recreational vehicles as defined in Section 41-1a-102.
- (25) “Motorcycle” has the same meaning as defined in Section 41-1a-102.
- (26) “New motor vehicle” means a motor vehicle that:
- (a) has never been titled or registered; and
- (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.
- (27) “Off-highway vehicle” has the same meaning as provided in Section 41-22-2.
- (28) “Pawnbroker” means a person whose business is to lend money on security of personal property deposited with him.
- (29) (a) “Principal place of business” means a site or location in this state:
- (i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;
- (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and
- (iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.
- (b) “Principal place of business” means, with respect to a direct-sale manufacturer, the direct-sale manufacturer’s showroom, which shall comply with the requirements of Subsection (29)(a).
- (30) “Remanufacturer” means a person who reconstructs used motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.
- (31) “Salesperson” means an individual who for a salary, commission, or compensation of any kind, is

employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

(32) “Semitrailer” has the same meaning as defined in Section 41-1a-102.

(33) “Showroom” means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer’s business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

(34) “Small trailer” means a trailer that has an unladen weight of more than 750 pounds, but less than 2,000 pounds.

(35) “Special equipment” includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

(36) “Special equipment dealer” means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

(37) “Trailer” has the same meaning as defined in Section 41-1a-102.

(38) “Transporter” means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

(39) “Travel trailer” has the same meaning as provided in Section 41-1a-102.

(40) “Used motor vehicle” means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

(41) “Wholesale motor vehicle auction” means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 6. Section 41-3-202 is amended to read:

41-3-202. Licenses -- Classes and scope.

(1) A new motor vehicle dealer’s license permits the licensee to:

(a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the licensee;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

(2) A used motor vehicle dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange used motor vehicles;

(b) operate as a body shop; and

(c) dismantle motor vehicles.

(3) A direct-sale manufacturer's license permits the licensee to:

(a) offer for sale, sell, or exchange new motor vehicles of the same line-make that the direct-sale manufacturer manufactures;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

(4) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small trailers if the licensee possesses a franchise from the manufacturer of the motorcycle, off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

(b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small trailers; and

(c) dismantle motorcycles, off-highway vehicles, or small trailers.

(5) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:

(a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small trailers; and

(b) dismantle motorcycles, off-highway vehicles, or small trailers.

(6) (a) Except as provided in Subsection (6)(b), a salesperson's license permits the licensee to act as a motor vehicle salesperson and is valid for employment with only one dealer at a time.

(b) A licensee that has been issued a salesperson's license and that is employed by a dealer that operates as a wholesale motor vehicle auction may be employed by more than one dealer that operates as a wholesale motor vehicle auction at a time.

(7) (a) A direct-sale manufacturer salesperson's license permits the licensee to act as a direct-sale manufacturer salesperson for one direct-sales manufacturer.

(b) A direct-sale manufacturer salesperson licensee may not simultaneously hold a salesperson's license.

(8) (a) A manufacturer's license permits the licensee to construct or assemble motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an established place of business and to remanufacture motor vehicles.

(b) Under rules ~~made by~~ the administrator makes, the licensee may issue and install vehicle identification numbers on manufactured motor vehicles.

(c) The licensee may franchise and appoint dealers to sell manufactured motor vehicles by notifying the division of the franchise or appointment.

(9) (a) A transporter's license permits the licensee to transport or deliver motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to financial institutions or places of storage from points of repossession.

(b) The division may not issue or renew a transporter license to an applicant who is not:

(i) licensed under this chapter as a body shop;

(ii) a detail or repair shop;

(iii) a tow truck motor carrier subject to Title 72, Chapter 9, Motor Carrier Safety Act;

(iv) a repossession company;

(v) licensed under this chapter as a dealer; or

(vi) a finance company.

(c) The division may not issue or renew a transporter license unless the applicant provides proof of insurance or other form of security meeting the minimum requirements of Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act.

(10) A dismantler's license permits the licensee to dismantle motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other dismantler.

(11) A distributor or factory branch and distributor branch's license permits the licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised dealers.

(12) A representative's license, for factory representatives or distributor representatives permits the licensee to contact the licensee's authorized dealers for the purpose of making or promoting the sale of motor vehicles, parts, and accessories.

(13) (a) (i) A remanufacturer's license permits the licensee to construct, reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

(ii) Evidence of ownership of parts and motor vehicles used in remanufacture shall be available to the division upon demand.

(b) Under rules ~~made by~~ the administrator makes, the licensee may issue and install vehicle identification numbers on remanufactured motor vehicles.

(14) A crusher's license permits the licensee to engage in the business of crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact size for recycling.

(15) A body shop's license permits the licensee:

(a) to rebuild, restore, repair, or paint ~~primarily~~ the body of motor vehicles ~~[damaged by collision or natural disaster];~~ and

(b) to dismantle motor vehicles.

(16) A special equipment dealer's license permits the licensee to:

(a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment installed without a franchise from the manufacturer;

(b) offer for sale, sell, or exchange used motor vehicles;

(c) operate as a body shop; and

(d) dismantle motor vehicles.

(17) (a) A salvage vehicle buyer license permits the licensee to bid on or purchase a vehicle with a salvage certificate as defined in Section 41-1a-1001 at any motor vehicle auction.

(b) ~~[A]~~ The division may only issue a salvage vehicle buyer license ~~[may only be issued]~~ to a motor vehicle dealer, dismantler, or body shop who qualifies under rules made by the division and is licensed in any state as a motor vehicle dealer, dismantler, or body shop.

(c) The division may not issue more than two salvage vehicle buyer licenses to any one dealer, dismantler, or body shop.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator shall make rules establishing qualifications of an applicant for a salvage vehicle buyer license. The criteria shall include:

(i) business history;

(ii) salvage vehicle qualifications;

(iii) ability to properly handle and dispose of environmental hazardous materials associated with salvage vehicles; and

(iv) record in demonstrating compliance with the provisions of this chapter.

Section 7. Section 41-3-501 is amended to read:

41-3-501. Special plates -- Dealers -- Dismantlers -- Manufacturers -- Remanufacturers -- Transporters -- Restrictions on use.

(1) Except as provided under this chapter, a dealer may operate or move a motor vehicle displaying a dealer plate issued by the division upon the highways without registering it under Title 41, Chapter 1a, Motor Vehicle Act, if the dealer owns or possesses the motor vehicle by consignment for resale.

(2) A dismantler may operate or move a motor vehicle displaying a dismantler plate issued by the division without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, upon the highways solely to transport the motor vehicle:

(a) from the place of purchase or legal acquisition to the place of business for dismantling; or

(b) to the place of business of a licensed crusher for disposal.

(3) A manufacturer or remanufacturer may operate or move a manufactured or remanufactured motor vehicle displaying a manufacturer plate issued by the division upon the highways without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, solely to:

(a) deliver the motor vehicle to a dealer;

(b) demonstrate a motor vehicle to a dealer or prospective dealer; or

(c) conduct manufacturer tests of a motor vehicle.

(4) (a) A transporter may operate or move a motor vehicle displaying a transporter plate issued by the division upon the highways without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, solely:

(i) from the point of repossession to a financial institution or to the place of storage, so that a financial institution may provide for operation of a repossessed motor vehicle by a prospective purchaser;

(ii) to and from a detail or repair shop for the purpose of detailing or repairing the motor vehicle; or

(iii) to a delivery point in, out, or through the state.

(b) This subsection does not include loaded motor vehicles subject to the gross laden weight provision of Title 41, Chapter 1a, Motor Vehicle Act.

(5) Dealer plates may not be used:

(a) ~~[(4)]~~ on a motor vehicle leased or rented for compensation; ~~or~~

~~[(4)]~~ (b) in lieu of registration, on a motor vehicle sold by the dealer; or

~~[(4)]~~ (c) on a loaded ~~[motor]~~ commercial vehicle over ~~[12,000]~~ 26,000 pounds gross laden weight

unless a special loaded demonstration permit is obtained from the division in accordance with Section 41-3-502.

Section 8. Section 41-3-502 is amended to read:

41-3-502. Special plates -- Permit to use dealer plate to demonstrate loaded motor vehicle.

(1) Under rules established by the administrator, the division may issue a permit to a dealer to use a dealer plate to demonstrate a loaded ~~motor~~ commercial vehicle over 26,000 pounds to a bona fide prospective purchaser.

(2) To obtain a permit, the dealer or his authorized representative shall apply on a form prescribed by the division.

(3) If approved and issued, the permit shall be:

(a) carried in the ~~motor~~ commercial vehicle for which ~~it is issued~~ the division issued the permit during the demonstration trip; and

(b) ~~shall be~~ returned to the division properly completed and signed within 10 days after ~~its expiration date~~ the day on which the permit expires.

Section 9. Section 41-3-503 is amended to read:

41-3-503. Special plates -- Issuance.

(1) Subject to the provisions of Subsections (3), (4), and (5), the division may issue special plates under Section 41-3-501 as necessary to conduct the business of the dealer, dismantler, manufacturer, remanufacturer, or transporter applying for the plates.

(2) Each plate issued shall contain a number or symbol distinguishing it from every other plate.

(3) Except as provided under Subsection (4), the division may issue ~~two~~ five special dealer plates to each dealer licensed under this chapter plus one additional special dealer plate for every 25 motor vehicles ~~sold by~~ the dealer sells each year.

(4) A dealer licensed under this chapter who does not sell at least three new or used motor vehicles in any 12-month period may not be issued or have renewed any special dealer plates.

(5) (a) (i) The division shall determine, at least annually, the number of special dealer plates to be issued or renewed to each dealer ~~prior to~~ before issuing or renewing any special dealer plates.

(ii) In determining the number of special plates to be issued to a dealer, the division shall use the past motor vehicle sales history of the dealer.

(b) If no sales history is available, the division may use generally accepted motor vehicle sales projections based on:

~~(a)~~ (i) written forecasts submitted by the dealer to motor vehicle manufacturers, financial institutions, or bonding and insurance companies;

~~(b)~~ (ii) the dealer's inventory of motor vehicles available for sale; or

~~(c)~~ (iii) written verification of credit extended to the dealer by financial institutions for financing the dealer's inventory of motor vehicles available for sale.

(6) (a) The division may recall, redesign, and reissue special plates under this part, as needed to administer the provisions of this title.

(b) All special plates shall be designed in conformity with Sections 41-1a-401, 41-1a-402, and 41-1a-403.

Section 10. Section 41-3-507 is amended to read:

41-3-507. Special plates -- Record to be kept by users -- Reporting and replacing lost or stolen plates.

(1) Each dealer, dismantler, manufacturer, remanufacturer, and transporter shall keep a written record of each special plate issued to ~~it~~ the licensee.

(2) The record shall contain the name and address of any person to whom the plate has been assigned to be used.

(3) The record shall:

(a) account at all times for every special plate issued to the licensee~~;~~ and

(b) ~~shall~~ be open to inspection by any peace officer or any officer or employee of the division.

~~[(4) Lost or stolen special plates shall be reported immediately to the division.]~~

(4) (a) (i) A licensee shall report immediately the licensee's lost or stolen special plate to the division.

(ii) If a dealer does not report a lost or stolen special plate to the division in accordance with Subsection (4)(a)(i), the division shall add any replacement special plate to the total special plates the division issues the dealer under Section 41-3-503.

(b) A licensee may replace a lost or stolen special plate only after:

(i) the special plate has expired; or

(ii) (A) the licensee provides a police report to the division; and

(B) the plate is listed as stolen in the National Crime Information Center.

Section 11. Section 41-3-701 is amended to read:

41-3-701. Violations as misdemeanors.

(1) Except as otherwise provided in this chapter, any person who violates this chapter is guilty of a class B misdemeanor.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), a person who violates Section 41-3-201 is guilty of a class A misdemeanor.

(ii) A person who violates the requirement to title a vehicle with a salvage certificate within seven

days of purchasing the vehicle at a motor vehicle auction under Subsection 41-3-201(3)(e) is guilty of a class C misdemeanor.

(b) Once a person has met the criteria for the offense of acting as a dealer without a license, each additional motor vehicle the person sells, displays for sale, offers for sale or exchange, or leases in that 12-month period without becoming licensed under Section 41-3-202 is a separate violation.

(3) A person who violates Section 41-3-301 10 or more times is guilty of a class A misdemeanor, unless the selling dealer complies with the requirements of Section 41-3-403.

(4) A person who violates Section 41-3-207.5 is guilty of a class A misdemeanor.

Section 12. Section 41-3-702 is amended to read:

41-3-702. Civil penalty for violation.

(1) The following are civil violations under this chapter and are in addition to criminal violations under this chapter:

(a) Level I:

- (i) failing to display business license;
- (ii) failing to surrender license of salesperson because of termination, suspension, or revocation;
- (iii) failing to maintain a separation from nonrelated motor vehicle businesses at licensed locations;
- (iv) issuing a temporary permit improperly;
- (v) failing to maintain records;
- (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without licensing the motor vehicle;
- (vii) special plate violation;
- (viii) failing to maintain a sign at a principal place of business; or

(ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure location until the purchaser or a transporter has provided the proper documentation to take possession of the salvage vehicle.

(b) Level II:

- (i) failing to report sale;
- (ii) dismantling without a permit;
- (iii) manufacturing without meeting construction or vehicle identification number standards;
- (iv) withholding customer license plates;
- (v) selling a motor vehicle on consecutive days of Saturday and Sunday; or
- (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction as described in Section 41-3-201.

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer without holding the franchise;

(iii) crushing a motor vehicle without proper evidence of ownership;

(iv) selling from an unlicensed location;

(v) altering a temporary permit;

(vi) refusal to furnish copies of records;

(vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

(viii) advertising violation;

(ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act;

(x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers; or

(xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or outboard motor in violation of Section 41-1a-705.

(2) (a) The schedule of civil penalties for violations of Subsection (1) is:

(i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third and subsequent offenses;

(ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the third and subsequent offenses; and

(iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(b) When determining under this section if an offense is a second or subsequent offense, only prior offenses committed within the 12 months before the commission of the current offense may be considered.

~~[(3) The following are civil violations in addition to criminal violations under Section 41-1a-1008:]~~

~~[(a)] (3) [knowingly] Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt[;] is a civil violation in addition to a criminal violation under Section 41-1a-1008.~~

~~[(b) knowingly making a false statement on a vehicle damage disclosure statement, as defined in Section 41-1a-1001; or]~~

~~[(c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded title, as defined in Section 41-1a-1001, when it is not.]~~

(4) The civil penalty for a violation under Subsection (3) is:

(a) not less than \$1,000, or treble the actual damages caused by the person, whichever is greater; and

(b) reasonable attorney fees and costs of the action.

(5) A civil action may be maintained by a purchaser or by the administrator.

Section 13. Repealer.

This bill repeals:

Section 41-1a-1002, Unbranded title -- Prerepair inspections -- Interim repair inspections -- Repair.

Section 41-1a-1003, Unbranded certificate of title -- Application.

Section 41-1a-1007, Fees.

Section 41-3-409.5, Unbranded certificate of title -- Application requirements -- Recording requirements -- Recurrence of nonconformities.

Section 14. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 425**S. B. 92**

Passed March 13, 2019
Approved March 27, 2019
Effective May 14, 2019

**THIRD JUDICIAL DISTRICT
JUDGE AMENDMENTS**

Chief Sponsor: Todd Weiler
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies the number of judges in a district court.

Highlighted Provisions:

This bill:

- ▶ adds two judges to the Third District Court.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

78A-1-103, as last amended by Laws of Utah 2018,
Chapter 97

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-1-103 is amended to read:**78A-1-103. Number of district judges.**

The number of district court judges shall be:

- (1) four district judges in the First District;
 - (2) 14 district judges in the Second District;
 - (3) [29] 31 district judges in the Third District;
 - (4) 13 district judges in the Fourth District;
 - (5) six district judges in the Fifth District;
 - (6) two district judges in the Sixth District;
 - (7) three district judges in the Seventh District;
- and
- (8) three district judges in the Eighth District.

CHAPTER 426**S. B. 100**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

ELECTRONIC DRIVER LICENSES

Chief Sponsor: Lincoln Fillmore
 House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill defines “electronic license certificate” and requires the Driver License Division to implement electronic license certificates.

Highlighted Provisions:

This bill:

- ▶ defines “electronic license certificate”;
- ▶ amends the definition of “license certificate” to include an electronic license certificate;
- ▶ requires the Driver License Division to implement procedures for an individual to obtain an electronic license certificate;
- ▶ requires the Driver License Division to gather information regarding an electronic license certificate program from potential vendors;
- ▶ grants rulemaking authority to the Driver License Division; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Department of Public Safety – Driver License, as a one-time appropriation:
 - from the General Fund, One-time, \$200,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53-3-102, as last amended by Laws of Utah 2017, Chapter 297

ENACTS:

53-3-235, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-102 is amended to read:**53-3-102. Definitions.**

As used in this chapter:

- (1) “Autocycle” means a motor vehicle that:
 - (a) is designed to travel with three or fewer wheels in contact with the ground;
 - (b) is equipped with a steering wheel; and
 - (c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.
- (2) “Cancellation” means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) “Class D license” means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) “Commercial driver instruction permit” or “CDIP” means a commercial learner permit:

- (a) issued under Section 53-3-408; or
- (b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) “Commercial driver license” or “CDL” means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) “Commercial driver license motor vehicle record” or “CDL MVR” means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) “Commercial driver license motor vehicle record” or “CDL MVR” does not mean a motor vehicle record described in Subsection [~~(30)~~] (31).

(7) (a) “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means any person who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

~~(17)~~ (18) "Extension" means a renewal completed in a manner specified by the division.

~~(18)~~ (19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

~~(19)~~ (20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

~~(20)~~ (21) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

~~(21)~~ (22) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

~~(22)~~ (23) "License" means the privilege to drive a motor vehicle.

~~(23)~~ (24) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes [a]:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

- (vi) a temporary regular license certificate; ~~and~~
- (vii) a temporary limited-term license certificate~~]; and~~
- (viii) an electronic license certificate created in Section 53-3-235.

[~~24~~] (25) “Limited-term commercial driver license” or “limited-term CDL” means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

[~~25~~] (26) “Limited-term identification card” means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

[~~26~~] (27) “Limited-term license certificate” means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

[~~27~~] (28) “Motorboat” means the same as that term is defined in Section 73-18-2.

[~~28~~] (29) “Motorcycle” means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

[~~29~~] (30) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

[~~30~~] (31) “Motor vehicle record” or “MVR” means a driving record under Subsection 53-3-109(6)(a).

[~~31~~] (32) “Office of Recovery Services” means the Office of Recovery Services, created in Section 62A-11-102.

[~~32~~] (33) (a) “Owner” means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) “Owner” includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

[~~33~~] (34) (a) “Private passenger carrier” means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) “Private passenger carrier” does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

[~~34~~] (35) “Regular identification card” means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

[~~35~~] (36) “Regular license certificate” means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

[~~36~~] (37) “Renewal” means to validate a license certificate so that it expires at a later date.

[~~37~~] (38) “Reportable violation” means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

[~~38~~] (39) (a) “Resident” means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) “Resident” does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(38)]~~ (39)(b)(i) through (iii).

~~[(39)]~~ (40) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(40)]~~ (41) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

~~[(41)]~~ (42) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

~~[(42)]~~ (43) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 2. Section 53-3-235 is enacted to read:

53-3-235. Electronic license certificate.

(1) On or before January 1, 2021, the division shall establish a process and system for an individual to obtain an electronic license certificate.

(2) The division shall issue, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a request for information to gather information from potential vendors to establish a process within the division to provide an electronic license certificate.

(3) In order to contract with a vendor to establish a process and system to issue an electronic license certificate, the division shall issue a standard procurement process in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to facilitate the implementation, coordination, and administration of electronic license certificates.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety - Driver License

From General Fund, One-time \$200,000

Schedule of Programs:

Driver License \$200,000

Under Section 63J-1-603 the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to establishing a process and system to issue an electronic driver license credential.

CHAPTER 427**S. B. 138**

Passed March 13, 2019
 Approved March 27, 2019
 Effective May 14, 2019

UTAH APPRENTICESHIP ACT

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies provisions of the Talent Ready Utah Center.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Talent Ready Utah Board;
- ▶ creates an apprentice pilot program in the Talent Ready Utah Center;
- ▶ describes the elements and reporting requirements of an apprentice program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-12-503, as enacted by Laws of Utah 2018, Chapter 423
 63N-12-504, as enacted by Laws of Utah 2018, Chapter 423

ENACTS:

63N-12-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-12-503 is amended to read:**63N-12-503. Talent Ready Utah Board.**

(1) There is created within GOED the Talent Ready Utah Board composed of the following ~~[13]~~ 15 members:

- (a) the state superintendent of public instruction or the superintendent's designee;
- (b) the commissioner of higher education or the commissioner of higher education's designee;
- (c) the commissioner of technical education or the commissioner of technical education's designee;
- (d) the chair of the State Board of Education or the chair's designee;

~~[(d)]~~ (e) the executive director of the Department of Workforce Services or the executive director of the department's designee;

~~[(e)]~~ (f) the executive director of GOED or the executive director's designee;

~~(g)~~ the director of the Division of Occupational and Professional Licensing or the director's designee;

~~[(f)]~~ (h) the governor's education advisor or the advisor's designee;

~~[(g)]~~ (i) one member of the Senate, appointed by the president of the Senate;

~~[(h)]~~ (j) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(i)]~~ (k) the president of the Salt Lake Chamber or the president's designee;

~~[(j)]~~ (l) three representatives of private industry chosen by the talent ready board; and

~~[(k)]~~ (m) a representative of the technology industry chosen by the talent ready board.

(2) The talent ready board shall select a chair and vice chair from among the members of the talent ready board.

(3) The talent ready board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent ready board constitutes a quorum for the transaction of official talent ready board business.

(5) Formal action by the talent ready board requires the majority vote of a quorum.

(6) A member of the talent ready board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent ready board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the center regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the center regarding how to better align technical education with current and future workforce needs; and

(d) coordinate with the center to meet the responsibilities described in Subsection 63N-12-502(4).

Section 2. Section 63N-12-504 is amended to read:

63N-12-504. Reporting.

The center shall prepare an annual report describing the center's operations and recommendations for inclusion in GOED's annual written report described in Section 63N-1-301, including the results of the apprenticeship pilot program described in Section 63N-12-505.

Section 3. Section 63N-12-505 is enacted to read:

63N-12-505. Apprenticeships.

(1) The center in collaboration with the talent ready board shall partner with private businesses and the State Board of Education to create a pilot program for apprenticeships that begin in grade 11 and grade 12.

(2) The elements of an apprentice program described in this part may include:

(a) partnering with private businesses to offer apprentice positions to high school students;

(b) the center soliciting participation from businesses in various sectors, such as advanced manufacturing, information technology, financial services, business operations, and health care;

(c) the center in partnership with the State Board of Education soliciting the participation of local education agencies and students;

(d) students selected for apprentice positions spending part of the students' week learning at school and part of the week learning at a job with a private business;

(e) the center in partnership with the State Board of Education collaborating with private businesses to ensure that offered apprenticeships provide career competencies and stackable credentials so that the skills apprentices are developing prepare them for the job market;

(f) the center in partnership with the State Board of Education ensuring that apprenticeship training meets competency-based standards described in Section 53E-4-204, such that the apprentices can graduate from high school in the traditional amount of time;

(g) the center in partnership with the State Board of Education ensuring that students participating in an apprentice program as described in this section are counted as full-day equivalent pupils of the local education agency the student attends for purposes of state funding;

(h) the center providing an intermediary role between the systems of business and education, recruiting students for apprenticeships, and ensuring apprentice work and school schedules are optimized;

(i) participating private businesses:

(i) paying wages, providing meaningful work experience, and providing nationally-recognized certifications to apprentices; and

(ii) offering full-time positions or subsidized higher education opportunities to apprentices after successful completion of apprenticeships; and

(j) researching and implementing innovations and best practices from other jurisdictions.

CHAPTER 428**S. B. 139**

Passed March 12, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**MOTOR ASSISTED
 TRANSPORTATION AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill addresses motor assisted transportation.

Highlighted Provisions:

This bill:

- ▶ addresses definitions, including the definition of low-speed vehicle;
- ▶ prohibits certain activities with regard to an alcohol product and a motor assisted scooter;
- ▶ clarifies that a motor assisted scooter is a vulnerable user of a highway;
- ▶ provides that a motor assisted scooter is subject to provisions for a bicycle, and not a moped or a motor-driven cycle;
- ▶ addresses operation of a motor assisted scooter;
- ▶ exempts motor assisted scooters with respect to certain equipment required on vehicles;
- ▶ addresses scooter-share programs;
- ▶ addresses local ordinances regulating motor assisted scooters; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 41-1a-102, as last amended by Laws of Utah 2018, Chapters 166 and 424
- 41-6a-102, as last amended by Laws of Utah 2018, Chapters 166 and 205
- 41-6a-526, as last amended by Laws of Utah 2018, Chapter 175
- 41-6a-706.5, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-1115, as last amended by Laws of Utah 2015, Chapter 412
- 41-6a-1601, as last amended by Laws of Utah 2017, Chapter 149
- 41-6a-1702, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 79-5-102, as last amended by Laws of Utah 2016, Chapter 173

ENACTS:

41-6a-1115.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-102 is amended to read:**41-1a-102. Definitions.**

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered by a fuel other than:
 - (i) motor fuel;
 - (ii) diesel fuel;
 - (iii) natural gas; or
 - (iv) propane.

(7) "Amateur radio operator" means [any] a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(10) "Camper" means [any] a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(11) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(12) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(13) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(14) "Commission" means the State Tax Commission.

(15) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(16) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(17) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(18) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(19) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(20) "Essential parts" means ~~all~~ the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter ~~its~~ the vehicle's appearance, model, type, or mode of operation.

(21) "Farm tractor" means ~~every~~ a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(22) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and ~~every~~ any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(23) "Fleet" means one or more commercial vehicles.

(24) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(25) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(26) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(27) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(28) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(29) "Implement of husbandry" means ~~every~~ a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(30) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If ~~fleets are~~ a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(31) "Interstate vehicle" means ~~any~~ a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(32) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(33) "Lienholder" means a person with a security interest in particular property.

(34) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(35) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(36) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(37) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(38) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle[-]; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(39) "Motorboat" means the same as that term is defined in Section 73-18-2.

(40) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

(41) "Natural gas" means a fuel of which the primary constituent is methane.

(42) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains [any] a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(43) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(44) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(45) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(46) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(47) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(48) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(49) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(50) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(51) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor [vehicles] vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(52) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(53) "Pneumatic tire" means [every] a tire in which compressed air is designed to support the load.

(54) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(55) "Public garage" means [every] a building or other place where vehicles or vessels are kept and

stored and where a charge is made for the storage and keeping of vehicles and vessels.

(56) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(57) "Reconstructed vehicle" means ~~every~~ a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(58) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(59) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(60) (a) "Registration year" means a 12 consecutive month period commencing with the completion of ~~all~~ the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(61) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(62) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(63) "Road tractor" means ~~every~~ a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(64) "Sailboat" means the same as that term is defined in Section 73-18-2.

(65) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(66) "Semitrailer" means ~~every~~ a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(67) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(68) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (68)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(69) (a) "Special mobile equipment" means ~~every~~ a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(70) "Specially constructed vehicle" means ~~every~~ a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(71) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(72) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the

highways of all jurisdictions during the preceding year.

(73) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(74) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

(75) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

(76) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(77) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(78) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

(79) "Vessel" means the same as that term is defined in Section 73-18-2.

(80) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

(81) "Waters of this state" means the same as that term is defined in Section 73-18-2.

(82) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

- (a) fire department vehicles;
- (b) police vehicles;
- (c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means [~~any~~] a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(24) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(25) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(26) "Highway authority" means the same as that term is defined in Section 72-1-102.

(27) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways [~~which~~] that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(28) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(29) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(30) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(31) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(32) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than ~~four~~ six passengers, including the driver.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(33) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(34) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(35) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (35)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(36) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

~~[(c) "Moped" includes a motor-assisted scooter.]~~

~~[(d)]~~ (c) "Moped" does not include:

(i) an electric assisted bicycle~~[-];~~ or

(ii) a motor assisted scooter.

(37) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) ~~[a gas or]~~ an electric motor not exceeding ~~[40 cubic centimeters]~~ 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; ~~[or]~~

(B) ~~[a deck and]~~ handle bars and a seat designed for a person to sit, straddle, or stand while operating the device; ~~[and]~~

(v) a design for the ability to be propelled by human power alone~~[-];~~ and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

- (i) an electric assisted bicycle~~[;]~~; or
- (ii) a motor-driven cycle.
- (38) (a) “Motor vehicle” means a vehicle that is self-propelled and ~~[every]~~ a vehicle ~~[which]~~ that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (b) “Motor vehicle” does not include:
- (i) vehicles moved solely by human power~~[;]~~;
- (ii) motorized wheelchairs~~[;]~~;
- (iii) an electric personal assistive mobility device~~[;]~~;
- (iv) an electric assisted bicycle~~[;or]~~;
- (v) a motor assisted scooter; or
- (vi) a personal delivery device, as defined in Section 41-6a-1119.
- (39) “Motorcycle” means:
- (a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or
- (b) an auticycle.
- (40) (a) “Motor-driven cycle” means ~~[every]~~ a motorcycle, ~~[motor scooter]~~ moped, ~~[motor assisted scooter]~~, and ~~[every]~~ a motorized bicycle having:
- (i) an engine with less than 150 cubic centimeters displacement; or
- (ii) a motor that produces not more than five horsepower.
- (b) “Motor-driven cycle” does not include:
- (i) an electric personal assistive mobility device; ~~[or]~~
- (ii) a motor assisted scooter; or
- ~~[(ii)]~~ (iii) an electric assisted bicycle.
- (41) “Off-highway implement of husbandry” means the same as that term is defined under Section 41-22-2.
- (42) “Off-highway vehicle” means the same as that term is defined under Section 41-22-2.
- (43) “Operator” means a person who is in actual physical control of a vehicle.
- (44) (a) “Park” or “parking” means the standing of a vehicle, whether the vehicle is occupied or not.
- (b) “Park” or “parking” does not include the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- (45) “Peace officer” means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.
- (46) “Pedestrian” means a person traveling:
- (a) on foot; or
- (b) in a wheelchair.
- (47) “Pedestrian traffic-control signal” means a traffic-control signal used to regulate pedestrians.
- (48) “Person” means ~~[every]~~ a natural person, firm, copartnership, association, or corporation.
- (49) “Pole trailer” means ~~[every]~~ a vehicle without motive power:
- (a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and
- (b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.
- (50) “Private road or driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (51) “Railroad” means a carrier of persons or property upon cars operated on stationary rails.
- (52) “Railroad sign or signal” means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- (53) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.
- (54) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.
- (55) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.
- (b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.
- (c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.
- (56) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (57) (a) “School bus” means a motor vehicle that:
- (i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(58) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(59) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(60) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(61) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(62) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(63) "Stop" when required means complete cessation from movement.

(64) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(65) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(66) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(67) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(68) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(69) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(70) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(71) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(72) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(73) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(74) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(75) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 3. Section 41-6a-526 is amended to read:

41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions.

(1) As used in this section:

(a) "Alcoholic beverage" has the same meaning as defined in Section 32B-1-102.

(b) "Chartered bus" has the same meaning as defined in Section 32B-1-102.

(c) "Limousine" has the same meaning as defined in Section 32B-1-102.

(d) (i) "Passenger compartment" means the area of the vehicle normally occupied by the operator and passengers.

(ii) "Passenger compartment" includes areas accessible to the operator and passengers while traveling, including a utility or glove compartment.

(iii) "Passenger compartment" does not include a separate front or rear trunk compartment or other area of the vehicle not accessible to the operator or passengers while inside the vehicle.

(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.

(2) A person may not drink ~~[any]~~ an alcoholic beverage while operating a motor vehicle, a motor assisted scooter, or a class 2 electric assisted bicycle, or while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any highway or waters of the state.

(3) A person may not keep, carry, possess, transport, or allow another to keep, carry, possess, or transport in the passenger compartment of a motor vehicle, on a motor assisted scooter, or on a class 2 electric assisted bicycle, when the vehicle is on any highway or waters of the state, any container ~~[which]~~ that contains ~~[any]~~ an alcoholic beverage if the container has been opened, its seal broken, or the contents of the container partially consumed.

(4) Subsections (2) and (3) do not apply to a passenger:

(a) in the living quarters of a motor home or camper;

(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in compliance with Subsections 32B-4-415(4)(b) and (c); or

(c) in a motorboat on the waters of the state.

(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.

(6) A violation of Subsection (2) or (3) is a class C misdemeanor.

Section 4. Section 41-6a-706.5 is amended to read:

41-6a-706.5. Definitions -- Operation of motor vehicle near a vulnerable user of a highway prohibited -- Endangering a vulnerable user of a highway prohibited.

(1) As used in this section, "vulnerable user of a highway" means:

(a) a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;

(b) a person riding an animal; or

(c) a person operating any of the following on a highway:

(i) a farm tractor or implement of husbandry, without an enclosed shell;

(ii) a skateboard;

(iii) roller skates;

(iv) in-line skates;

(v) a bicycle;

(vi) an electric-assisted bicycle;

(vii) an electric personal assistive mobility device;

(viii) a moped;

(ix) a motor assisted scooter;

~~[(ix)]~~ (x) a motor-driven cycle;

~~[(x) a motorized scooter;]~~

(xi) a motorcycle; or

(xii) a manual wheelchair.

(2) An operator of a motor vehicle may not knowingly, intentionally, or recklessly:

(a) operate a motor vehicle within three feet of a vulnerable user of a highway;

(b) distract or attempt to distract a vulnerable user of a highway for the purpose of causing violence or injury to the vulnerable user of a highway; or

(c) force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an infraction.

(b) A violation of Subsection (2) that results in bodily injury to the vulnerable user of a highway is a class C misdemeanor.

Section 5. Section 41-6a-1115 is amended to read:

41-6a-1115. Motor assisted scooters -- Conflicting provisions -- Restrictions -- Penalties.

(1) (a) Except as otherwise provided in this section, a motor assisted scooter is subject to the provisions under this chapter for a bicycle~~, moped, or a motor-driven cycle~~.

(b) For a person operating a motor assisted scooter, the following provisions do not apply:

(i) seating positions under Section 41-6a-1501;

(ii) required lights, horns, and mirrors under Section 41-6a-1506;

(iii) entitlement to full use of a lane under Subsection 41-6a-1502(1); and

(iv) driver licensing requirements under Section 53-3-202.

(c) A person may operate a motor assisted scooter across a roadway in a crosswalk, except that the person may not operate the motor assisted scooter in a negligent manner in the crosswalk:

(i) so as to collide with a:

(A) pedestrian; or

(B) person operating a bicycle or vehicle or device propelled by human power; or

(ii) at a speed greater than is reasonable and prudent under the existing conditions, giving

regard to the actual and potential hazards then existing.

~~[(2) A person under 15 years of age may not operate a motor assisted scooter using the motor unless the person is under the direct supervision of the person's parent or guardian.]~~

~~[(3)] (2) A person under eight years of age may not operate a motor assisted scooter with the motor running on any public property, highway, path, or sidewalk.~~

~~[(4)] (3) A person may not operate a motor assisted scooter:~~

~~(a) in a public parking structure;~~

~~(b) on public property posted as an area prohibiting ~~[skateboards]~~ bicycles;~~

~~[(e) on a highway consisting of a total of four or more lanes designated for regular vehicular traffic;]~~

~~[(d) on a highway with a posted speed limit greater than 25 miles per hour;]~~

~~[(e)] (c) while carrying more persons at one time than the number for which it is designed; ~~[or]~~~~

~~[(4)] (d) that has been structurally or mechanically altered from the original manufacturer's design[-], except for an alteration by, or done at the request of, a person who rents the motor assisted scooter to lower the maximum speed for the motor assisted scooter; or~~

~~(e) at a speed of greater than 15 miles per hour or in violation of Subsection 41-6a-1115.1(3).~~

~~[(5)] (4) Except where posted or prohibited by local ordinance, a motor assisted scooter is considered a nonmotorized vehicle if it is being used with the motor turned off.~~

~~[(6)] (5) An owner may not authorize or knowingly permit a person under the age of 18 to operate a motor assisted scooter in violation of this section.~~

~~[(7)] (6) A person who violates this section is guilty of an infraction.~~

Section 6. Section 41-6a-1115.1 is enacted to read:

**41-6a-1115.1. Scooter-share programs --
Local ordinances regulating motor
assisted scooters.**

(1) For the purposes of this section:

(a) "Local authority" means a county, city, town, or metro township.

(b) "Scooter-share operator" means a person offering a shared scooter for hire.

(c) "Scooter-share program" means the offering of a shared scooter for hire.

(d) "Shared scooter" means a motor assisted scooter offered for hire.

(2) A local authority may regulate the operation of a motor assisted scooter within its jurisdiction.

(3) A local authority may authorize the operation of a motor assisted scooter on sidewalks and regulate the operation, including the maximum speed on the sidewalks.

(4) A regulation adopted by a local authority pursuant to this section regarding the operation of a motor assisted scooter shall be consistent with the regulation of bicycles and this title.

(5) (a) A local authority may regulate the operation of a scooter-share program within its jurisdiction. Regulation of scooter-share programs shall be consistent with this Subsection (5).

(b) A shared scooter shall bear a single unique alphanumeric identification visible from a distance of five feet, that may not be obfuscated by branding or other markings, and that shall be used throughout the state, including by local authorities, to identify the shared scooter.

(c) A scooter-share operator shall maintain the following insurance coverage dedicated exclusively for operation of shared scooters:

(i) commercial general liability insurance coverage with a limit of at least \$1,000,000 each occurrence and \$5,000,000 aggregate;

(ii) automobile insurance coverage with a limit of at least \$1,000,000 each occurrence and \$1,000,000 aggregate;

(iii) umbrella or excess liability coverage with a limit of at least \$5,000,000 each occurrence and \$5,000,000 aggregate; and

(iv) when the scooter-share operator employs an individual, workers' compensation coverage of no less than required by law.

(d) Penalties for a moving or parking violation involving a motor assisted scooter or a shared scooter shall be assessed to the person responsible for the violation, and may not exceed penalties assessed to a rider of a bicycle.

(e) A scooter-share operator may be required to pay fees, provided that the total amount of the fees collected may not exceed the reasonable and necessary cost to the local authority of administering scooter-share programs, including a reasonable fee for the use of the right-of-way, commensurate and proportional to fees charged for similar uses.

(f) A scooter-share operator may be required to indemnify the local authority for claims, demands, costs, including reasonable attorney fees, losses, or damages brought against the local authority, and arising out of a negligent act, error, omission, or willful misconduct by the scooter-share operator or the scooter-share operator's employees, except to the extent the claims, demands, costs, losses, or damages arise out of such local authority's negligence or willful misconduct.

(g) In the interests of safety and right-of-way management, a local authority may designate locations where scooter-share operators may not stage shared scooters, provided that at least one

location shall be permitted on each side of each city block in commercial zones and business districts.

(h) A local authority may require scooter-share operators, as a condition for operating a scooter-share program, to provide to the local authority anonymized fleet and ride activity data for completed trips starting or ending within the jurisdiction of the local authority on a vehicle of the scooter-share operator or of any person or company controlled by, controlling, or under common control with the scooter-share operator, provided that, to ensure individual privacy the trip data:

(i) is provided via an application programming interface, subject to the scooter-share operator's license agreement for such interface, in compliance with a national data format specification;

(ii) provided shall be treated as trade secret and proprietary business information, and may not be shared to third parties without the scooter-share operator's consent, and may not be treated as owned by the local authority; and

(iii) shall be considered private information, and may not be disclosed under Title 63G, Chapter 2, Government Records Access and Management Act, pursuant to a public records request received by the local authority without prior aggregation or obfuscation to protect individual privacy.

(i) In regulating a shared scooter or a scooter-share program, a local authority may not impose any unduly restrictive requirement on a scooter-share operator, including:

(i) requiring operation below cost; or

(ii) subjecting riders of shared scooters to requirements more restrictive than those applicable to riders of privately owned motor assisted scooters or bicycles.

Section 7. Section 41-6a-1601 is amended to read:

41-6a-1601. Operation of unsafe or improperly equipped vehicles on public highways -- Exceptions.

(1) (a) A person may not operate or move and an owner may not cause or knowingly permit to be operated or moved on a highway a vehicle or combination of vehicles ~~which~~ that:

(i) is in an unsafe condition that may endanger any person;

(ii) does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter;

(iii) is equipped in any manner in violation of this chapter; or

(iv) emits pollutants in excess of the limits allowed under the rules of the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act, or under rules made by local health departments.

(b) A person may not do any act forbidden or fail to perform any act required under this chapter.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in coordination with the rules made under Section 53-8-204, the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part.

(b) The rules under Subsection (2)(a):

(i) shall conform as nearly as practical to Federal Motor Vehicle Safety Standards and Regulations;

(ii) may incorporate by reference, in whole or in part, the federal standards under Subsection (2)(b)(i) and nationally recognized and readily available standards and codes on motor vehicle safety;

(iii) shall include provisions for the issuance of a permit under Section 41-6a-1602;

(iv) shall include standards for the emergency lights of authorized emergency vehicles;

(v) may provide standards and specifications applicable to lighting equipment on school buses consistent with:

(A) this part;

(B) federal motor vehicle safety standards; and

(C) current specifications of the Society of Automotive Engineers;

(vi) shall provide procedures for the submission, review, approval, disapproval, issuance of an approval certificate, and expiration or renewal of approval of any part as required under Section 41-6a-1620;

(vii) shall establish specifications for the display or etching of a vehicle identification number on a vehicle;

(viii) shall establish specifications in compliance with this part for a flare, fusee, electric lantern, warning flag, or portable reflector used in compliance with this part;

(ix) shall establish approved safety and law enforcement purposes when video display is visible to the motor vehicle operator; and

(x) shall include standards and specifications for both original equipment and parts included when a vehicle is manufactured and aftermarket equipment and parts included after the original manufacture of a vehicle.

(c) The following standards and specifications for vehicle equipment are adopted:

(i) 49 C.F.R. 571.209 related to safety belts;

(ii) 49 C.F.R. 571.213 related to child restraint devices;

(iii) 49 C.F.R. 393, 396, and 396 Appendix G related to commercial motor vehicles and trailers operated in interstate commerce;

(iv) 49 C.F.R. 571 Standard 108 related to lights and illuminating devices; and

(v) 40 C.F.R. 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related to air conditioning equipment.

(3) Nothing in this chapter or the rules made by the department prohibit:

(a) equipment required by the United States Department of Transportation; or

(b) the use of additional parts and accessories on a vehicle not inconsistent with the provisions of this chapter or the rules made by the department.

(4) Except as specifically made applicable, ~~the provisions of~~ this chapter and rules of the department with respect to equipment required on vehicles do not apply to:

(a) implements of husbandry;

(b) road machinery;

(c) road rollers;

(d) farm tractors;

(e) motorcycles;

(f) motor-driven cycles;

(g) motor assisted scooters;

~~(g)~~ (h) vehicles moved solely by human power;

~~(h)~~ (i) off-highway vehicles registered under Section 41-22-3 either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3); or

~~(i)~~ (j) off-highway implements of husbandry when operated in the manner prescribed by Subsections 41-22-5.5(3) through (5).

(5) The vehicles referred to in Subsections (4)~~(h)~~ and ~~(i)~~ (i) and (j) are subject to the equipment requirements of Title 41, Chapter 22, Off-Highway Vehicles, and the rules made under that chapter.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii), a federal motor vehicle safety standard supersedes any conflicting provision of this chapter.

(ii) Federal motor vehicle safety standards do not supersede the provisions of Section 41-6a-1509 governing the requirements for and use of street-legal all-terrain vehicles on highways.

(b) The department:

(i) shall report any conflict found under Subsection (6)(a) to the appropriate committees or officials of the Legislature; and

(ii) may adopt a rule to replace the superseded provision.

(7) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 8. Section 41-6a-1702 is amended to read:

41-6a-1702. Sidewalk -- Driving prohibited -- Exception.

(1) Except for a bicycle ~~[or]~~, a device propelled by human power, or a motor assisted scooter, a person may not operate a vehicle on a sidewalk or sidewalk area. A motor assisted scooter may be operated on a sidewalk only if permitted pursuant to Subsection 41-6a-1115.1(3).

(2) ~~The provisions of~~ Subsection (1) ~~do~~ does not apply on a driveway.

Section 9. Section 79-5-102 is amended to read:

79-5-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Parks and Recreation.

(2) "Council" means the Recreational Trails Advisory Council.

(3) "Division" means the Division of Parks and Recreation.

(4) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling;

(ii) cross-country skiing;

(iii) walking;

(iv) jogging; and

(v) horseback riding; and

(b) uses compatible with the uses described in Subsection (4)(a), including the use of an electric assisted bicycle or motor assisted scooter, as defined in Section 41-6a-102.

CHAPTER 429**S. B. 207**

Passed March 12, 2019
 Approved March 27, 2019
 Effective May 14, 2019

JUDICIARY AMENDMENTS

Chief Sponsor: Lyle W. Hillyard
 House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill modifies provisions relating to the judiciary or acts of the judiciary.

Highlighted Provisions:

This bill:

- ▶ addresses notification regarding termination of supervised probation;
- ▶ addresses which court has jurisdiction regarding an alleged violation of conditions of probation;
- ▶ addresses extradition;
- ▶ deletes a provision limiting the number of successive terms an associate chief justice may serve;
- ▶ omits outdated language regarding evaluation of justice court judges;
- ▶ modifies training of a justice court judge;
- ▶ corrects citations relating to whether a violation of a protective order is a criminal or civil violation; and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

77-18-1, as last amended by Laws of Utah 2018, Chapter 334
 77-30-25, as last amended by Laws of Utah 2018, Chapter 281
 78A-3-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
 78A-7-203, as last amended by Laws of Utah 2016, Chapter 146
 78A-7-205, as last amended by Laws of Utah 2012, Chapter 205
 78B-7-106, as last amended by Laws of Utah 2018, Chapters 124 and 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance

as provided in [Title 77,] Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

(iii) the demand for services;

(iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with [Title 77,] Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall

make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with [Title 77,] Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines

established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) (i) The department shall notify the [sentencing] court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of

probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to constitute violation of the conditions of probation, the court [~~that authorized probation~~] shall determine if the affidavit establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

(ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to

questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative; or

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install

electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 2. Section 77-30-25 is amended to read:

77-30-25. Individual brought into state on extradition exempt from civil process -- Waiver of extradition proceedings -- Nonwaiver by this state.

(1) ~~[A person]~~ An individual brought into this state by or after waiver of extradition based on a criminal charge ~~[shall not be]~~ is not subject to service of personal process in a civil ~~[actions]~~ action arising out of the same facts as the criminal proceedings to answer which ~~[he]~~ the individual is being or has been returned until ~~[he]~~ the individual has been convicted in the criminal proceedings, or, if acquitted, until ~~[he]~~ the individual has had reasonable opportunity to return to the state from which ~~[he]~~ the individual was extradited.

(2) (a) ~~[Any person]~~ An individual arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of ~~[his]~~ the individual's bail, probation, or parole may waive the issuance and service of the warrant provided for in Sections 77-30-7 and 77-30-8, and ~~[all other]~~ a procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing ~~[which]~~ that states that ~~[he]~~ the individual consents to return to the demanding state~~;~~ ~~[provided]~~, except that before ~~[such]~~ the waiver ~~[shall be]~~ is executed or subscribed by ~~[such person]~~ the individual, it shall be the duty of ~~[such]~~ the judge to inform ~~[such person of his]~~ the individual of the individual's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 77-30-10.

(b) ~~[If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein.]~~ The judge shall direct the officer having ~~[such person]~~ an individual in custody to deliver forthwith ~~[such person]~~ the individual to the ~~[duly]~~ accredited agent or agents of the demanding state and shall deliver or cause to be delivered to ~~[such]~~ the accredited agent or agents a copy of ~~[such]~~ the consent~~;~~ ~~[provided]~~, except that nothing in this section ~~[shall be deemed]~~ may be considered to limit the rights of the accused ~~[person]~~ individual to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be ~~[deemed]~~ considered to be an exclusive procedure or to limit

the powers, rights, or duties of the officers of the demanding state or of this state.

(3) Nothing in this chapter ~~[shall be deemed]~~ may be considered to constitute a waiver by this state of its right, power, or privilege to try ~~[such]~~ the demanded ~~[person]~~ individual for a crime committed within this state, or of its right, power, or privilege to regain custody of ~~[such person]~~ the individual by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under this chapter, which result in or fail to result in extradition, be ~~[deemed]~~ considered a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

Section 3. Section 78A-3-101 is amended to read:

78A-3-101. Number of justices -- Terms -- Chief justice and associate chief justice -- Selection and functions.

(1) The Supreme Court consists of five justices.

(2) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment. Thereafter, the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election. A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.

(3) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices. The term of the office of chief justice is four years. The chief justice may serve successive terms. The chief justice may resign from the office of chief justice without resigning from the Supreme Court. The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

(4) If the justices are unable to elect a chief justice within 30 days of a vacancy in that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section. If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) There is created the office of associate chief justice. The term of office of the associate chief justice is two years. ~~[The associate chief justice may serve in that office no more than two successive terms.]~~ The associate chief justice shall be elected by a majority vote of the members of the Supreme Court and shall be allocated duties as the chief justice determines. If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice. The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

Section 4. Section 78A-7-203 is amended to read:

78A-7-203. Term of office for justice court judge -- Retention -- Reduction in force.

(1) The term of a justice court judge is six years beginning the first Monday in January following the date of election.

(2) Upon the expiration of a justice court judge's term of office, the judge shall be subject to an unopposed retention election in accordance with the procedures set forth in Section 20A-12-201:

(a) in the county or counties in which the court to which the judge is appointed is located if the judge is a county justice court judge or a municipal justice court judge in a town or city of the fourth or fifth class; or

(b) in the municipality in which the court to which the judge is appointed is located if the judge is a municipal justice court judge and Subsection (2)(a) does not apply.

(3) Before each retention election, each justice court judge shall be evaluated in accordance with the performance evaluation program established in ~~[Title 78A,]~~ Chapter 12, Judicial Performance Evaluation Commission Act.

~~[(4) Notwithstanding Subsection (3), each justice court judge who is subject to a retention election in 2012, 2014, and 2016, and who is not a full-time justice court judge on July 1, 2012, shall be evaluated by the Judicial Performance Evaluation Commission according to the following performance standards:]~~

~~[(a) the justice court judge shall have at least 30 annual hours of continuing legal education for each year of the justice court judge's current term;]~~

~~[(b) the justice court judge may not have more than one public reprimand issued by the Judicial Conduct Commission or the Supreme Court during the justice court judge's current term; and]~~

~~[(c) the justice court judge may not have had any cases under advisement for more than two months.]~~

~~[(5) Political subdivisions in counties]~~ (4) A political subdivision in a county of the first ~~[and]~~ or second class that ~~[have]~~ has more than one justice court judge and the weighted caseload per judge is lower than 0.60 as determined by the Administrative Office of the Courts may, at the political subdivision's discretion and at the end of a judge's term of office, initiate a reduction in force and reduce, lay off, terminate, or eliminate a judge's position pursuant to the political subdivision's employment policies.

~~[(6) Political subdivisions in counties]~~ (5) A political subdivision in a county of the first ~~[and]~~ or second class may only add a new justice court judge ~~[positions]~~ position if the Judicial Council, after considering the caseload of the court, approves creation of the position.

Section 5. Section 78A-7-205 is amended to read:

78A-7-205. Required training -- Expenses -- Failure to attend.

(1) ~~[All]~~ A justice court ~~[judges]~~ judge shall meet the continuing education requirements of the Judicial Council ~~[each calendar year]~~.

(2) Successful completion of the continuing education requirement includes instruction regarding competency and understanding of constitutional provisions and laws relating to the jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as indicated by a certificate awarded by the Judicial Council.

(3) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission against each justice court judge who does not comply with this section.

Section 6. Section 78B-7-106 is amended to read:

78B-7-106. Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for an order for protection or a petition to modify an order for protection that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of an order for protection is required, a court may:

(a) without notice, immediately issue an order for protection ex parte or modify an order for protection ex parte as it considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue an order for protection or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in an order for protection or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

(k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in an order for protection or a modification of an order

after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 77-36-5.3.

(5) Following the protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; and

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113.

(6) (a) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(i) criminal offenses are those under Subsections (2)(a) through ~~(e)~~ (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through ~~(e)~~ (g); and

(ii) civil offenses are those under Subsections (2)~~(f), (h), and (i)~~ (h), (j), (k), and (l), and Subsection (3)(a) as it refers to Subsections (2)~~(f), (h), and (i)~~ (h), (j), (k), and (l).

(b) The criminal provision portion shall include a statement that violation of any criminal provision is a class A misdemeanor.

(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

(7) The protective order shall include:

(a) a designation of a specific date, determined by the court, when the civil portion of the protective order either expires or is scheduled for review by the court, which date may not exceed 150 days after the date the order is issued, unless the court indicates on the record the reason for setting a date beyond 150 days;

(b) information the petitioner is able to provide to facilitate identification of the respondent, such as social security number, driver license number, date

of birth, address, telephone number, and physical description; and

(c) a statement advising the petitioner that:

(i) after two years from the date of issuance of the protective order, a hearing may be held to dismiss the criminal portion of the protective order;

(ii) the petitioner should, within the 30 days prior to the end of the two-year period, advise the court of the petitioner's current address for notice of any hearing; and

(iii) the address provided by the petitioner will not be made available to the respondent.

(8) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(9) (a) The county sheriff that receives the order from the court, pursuant to Subsection (6)(a), shall provide expedited service for orders for protection issued in accordance with this chapter, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(10) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(11) A court may modify or vacate an order of protection or any provisions in the order after notice and hearing, except that the criminal provisions of a protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the protective order.

(12) A protective order may be modified without a showing of substantial and material change in circumstances.

(13) Insofar as the provisions of this chapter are more specific than the Utah Rules of Civil Procedure, regarding protective orders, the provisions of this chapter govern.

CHAPTER 430**S. B. 214**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

**PROPERTY TAX
REPORTING MODIFICATIONS**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Adam Robertson

LONG TITLE**General Description:**

This bill requires that a water conservancy district and a metropolitan water district submit a certain written report to the Revenue and Taxation Interim Committee.

Highlighted Provisions:

This bill:

- ▶ requires that a water conservancy district and a metropolitan water district submit a certain written report to the Revenue and Taxation Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17B-2a-602, as enacted by Laws of Utah 2007,
Chapter 329

17B-2a-1003, as enacted by Laws of Utah 2007,
Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-602 is amended to read:**17B-2a-602. Provisions applicable to metropolitan water districts.**

(1) Each metropolitan water district is governed by and has the powers stated in:

- (a) this part; and
- (b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to metropolitan water districts.

(3) A metropolitan water district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) Before September 30, 2019, a metropolitan water district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the metropolitan water district's fiscal year that ended in 2018, the percentage and amount of revenue in the metropolitan water district from:

(a) property taxes;

(b) water rates; and

(c) all other sources.

Section 2. Section 17B-2a-1003 is amended to read:**17B-2a-1003. Provisions applicable to water conservancy districts.**

(1) Each water conservancy district is governed by and has the powers stated in:

- (a) this part; and
- (b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to water conservancy districts.

(3) A water conservancy district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) Before September 30, 2019, a water conservancy district shall submit a written report to the Revenue and Taxation Interim Committee that describes, for the water conservancy district's fiscal year that ended in 2018, the percentage and amount of revenue in the water conservancy district from:

(a) property taxes;

(b) water rates; and

(c) all other sources.

CHAPTER 431**S. B. 233**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

TRANSPORTATION CODE REVISIONS

Chief Sponsor: Wayne A. Harper
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends provisions related to the Department of Transportation, policies and procedures, aeronautics, and lane restrictions.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to lane restrictions to allow certain public transit vehicles or vehicles towing a trailer to operate in the left general purpose lane;
- ▶ amends provisions related to vehicle and equipment restrictions related to weather conditions;
- ▶ amends provisions regarding the scope and applicability of the Administrative Procedures Act regarding certain actions by the Department of Transportation, including judicial review of those actions;
- ▶ provides transitional instructions regarding any claim against the Department of Transportation related to certain decisions made and the inapplicability of the Administrative Procedures Act;
- ▶ amends certain reporting requirements of the Department of Transportation;
- ▶ amends provisions related to studies and reports to the Legislature regarding managed lane use;
- ▶ adds parking facilities to the list of state transportation purposes;
- ▶ amends provisions and definitions related to the management of the Department of Transportation related to aeronautics; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-6a-702, as last amended by Laws of Utah 2016, Chapter 137
 41-6a-715, as renumbered and amended by Laws of Utah 2005, Chapter 2
 63G-4-102, as last amended by Laws of Utah 2018, Chapter 317
 72-1-102, as last amended by Laws of Utah 2018, Chapter 424
 72-1-201, as last amended by Laws of Utah 2018, Chapter 200
 72-5-102, as last amended by Laws of Utah 2001, Chapter 79
 72-10-102, as last amended by Laws of Utah 2008, Chapters 206 and 286

72-10-103, as last amended by Laws of Utah 2008, Chapter 382
 72-10-105, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-106, as last amended by Laws of Utah 1998, Chapter 365 and renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-107, as last amended by Laws of Utah 2008, Chapter 382
 72-10-108, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-115, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-117, as last amended by Laws of Utah 2008, Chapter 382
 72-10-118, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-126, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-129, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-201, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-202, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-203, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-204, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-205, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-209, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-210, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-211, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-303, as renumbered and amended by Laws of Utah 1998, Chapter 270
 72-10-304, as renumbered and amended by Laws of Utah 1998, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-702 is amended to read:**41-6a-702. Left lane restrictions -- Exceptions -- Other lane restrictions -- Penalties.**

(1) As used in this section and Section 41-6a-704, "general purpose lane" means a highway lane open to vehicular traffic but does not include a designated:

- (a) high occupancy vehicle (HOV) lane; or
- (b) auxiliary lane that begins as a freeway on-ramp and ends as part of the next freeway off-ramp.

(2) On a freeway or section of a freeway which has three or more general purpose lanes in the same direction, a person may not operate a vehicle in the left most general purpose lane if the person's ~~(-a) vehicle is drawing a trailer or semitrailer regardless of size; or (-b)~~ vehicle or combination of

vehicles has a gross vehicle weight of 12,001 or more pounds.

(3) Subsection (2) does not apply to a person operating a vehicle who is:

(a) preparing to turn left or taking a different highway split or an exit on the left;

(b) responding to emergency conditions;

(c) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(d) following direction signs that direct use of a designated lane.

(4) (a) A highway authority may designate a specific lane or lanes of travel for any type of vehicle on a highway or portion of a highway under its jurisdiction for the:

(i) safety of the public;

(ii) efficient maintenance of a highway; or

(iii) use of high occupancy vehicles.

(b) The lane designation under Subsection (4)(a) is effective when appropriate signs giving notice are erected on the highway or portion of the highway.

(5) (a) Subject to Subsection (5)(b) [~~and beginning on July 1, 2011~~], the lane designation under Subsection (4)(a)(iii) shall allow a vehicle with a clean fuel vehicle decal issued in accordance with Section 72-6-121 to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to allow a vehicle with a clean fuel vehicle decal to travel in lanes designated for the use of high occupancy vehicles regardless of the number of occupants as permitted by federal law or federal regulation.

(ii) Except as provided in Subsection (5)(b)(iii), the Department of Transportation may not issue more than 6,000 clean fuel vehicle decals under Section 72-6-121.

(iii) The Department of Transportation may, through rules made under Subsection (5)(b)(i), increase the number of clean fuel vehicle decals issued in accordance with Section 72-6-121 beyond the minimum described in Subsection (5)(b)(ii) if the increased issuance will allow the Department of Transportation to continue to meet its goals for operational management of the lane designated under Subsection (4)(a)(iii).

(6) A public transportation vehicle may operate in a lane designated under Subsection (4)(a)(iii) regardless of the number of occupants as permitted by federal law and regulation.

[~~6~~] (7) A person who operates a vehicle in violation of Subsection (2) or in violation of the

restrictions made under Subsection (4) is guilty of an infraction.

Section 2. Section 41-6a-715 is amended to read:

41-6a-715. Controlled-access highways -- Prohibiting use by class or kind of traffic -- Traffic-control devices.

(1) A highway authority may regulate or prohibit the use of any controlled-access highway within its respective jurisdiction by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(2) A highway authority may restrict traffic on a highway to specific vehicle equipment of capabilities due to weather conditions for the safe movement of traffic.

[~~2~~] (3) The highway authority shall erect and maintain traffic-control devices on the controlled-access highway on which the regulations or prohibitions are applicable.

Section 3. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Title 63G, Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, valves, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action; [ø]

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act[-]; or

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 4. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Commission" means the Transportation Commission created under Section 72-1-301.

(2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(13) "Municipality" has the same meaning set forth in Section 10-1-104.

(14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) "Public transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

- (i) railway or other right-of-way;
- (ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(18) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(19) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(20) "Semitrailer" has the meaning set forth in Section 41-1a-102.

(21) "SR" means state route and has the same meaning as state highway as defined in this section.

(22) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

(23) "State highway purposes" has the meaning set forth in Section 72-5-102.

(24) "State transportation systems" means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

(25) "Trailer" has the meaning set forth in Section 41-1a-102.

(26) "Truck tractor" has the meaning set forth in Section 41-1a-102.

(27) "UDOT" means the Utah Department of Transportation.

(28) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 5. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable,

environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make ~~policy and~~ rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the~~(i)]~~ operation, maintenance, condition, mobility, and safety needs for ~~highways]~~ state transportation systems; and]

~~[(ii) condition, safety, and mobility of the state transportation system jointly with the Transportation Commission; and]~~

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department~~[-]; and~~

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 6. Section 72-5-102 is amended to read:

72-5-102. Definitions.

As used in this part, "state transportation purposes" includes:

(1) highway and public transportation rights-of-way, including those necessary within cities and towns;

(2) the construction, reconstruction, relocation, improvement, maintenance, and mitigation from the effects of these activities on state highways and other transportation facilities, including parking facilities, under the control of the department;

(3) limited access facilities, including rights of access, air, light, and view and frontage and service roads to highways;

(4) adequate drainage in connection with any highway, cut, fill, or channel change and the maintenance of any highway, cut, fill, or channel change;

(5) weighing stations, shops, offices, storage buildings and yards, and road maintenance or construction sites;

(6) road material sites, sites for the manufacture of road materials, and access roads to the sites;

(7) the maintenance of an unobstructed view of any portion of a highway to promote the safety of the traveling public;

(8) the placement of traffic signals, directional signs, and other signs, fences, curbs, barriers, and obstructions for the convenience of the traveling public;

(9) the construction and maintenance of storm sewers, sidewalks, and highway illumination;

(10) the construction and maintenance of livestock highways;

(11) the construction and maintenance of roadside rest areas adjacent to or near any highway; and

(12) the mitigation of impacts from public transportation projects.

Section 7. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(3) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

- (a) compensation or other reward;
- (b) advertising the occupation;
- (c) calling his facilities an air school, or any equivalent term; or
- (d) employing or using other instructors.

(4) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(5) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(6) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;

(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;

(c) meets the minimum requirements established by the ~~[division]~~ department as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

(7) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(8) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

(9) (a) "Airport revenue" means:

(i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

(A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

(B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(I) for the right to conduct an activity on the airport or to use or occupy airport property;

(II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

(III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

(IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

(C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and

(ii) state and local taxes on aviation fuel.

(b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

(10) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(11) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(12) "Civil aircraft" means any aircraft other than a public aircraft.

(13) "Commercial aircraft" means aircraft used for commercial purposes.

(14) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

(15) "Commercial flight operator" means a person who conducts commercial operations.

(16) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

(17) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

~~[(18) "Division" means the Operations Division in the Department of Transportation, created in Section 72-1-204.]~~

[(49)] (18) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

~~[(20)]~~ (19) "Flight" means any kind of locomotion by aircraft while in the air.

~~[(21)]~~ (20) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

~~[(22)]~~ (21) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

~~[(23)]~~ (22) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

~~[(24)]~~ (23) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

~~[(25)]~~ (24) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

~~[(26)]~~ (25) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

~~[(27)]~~ (26) "Person" means any individual, corporation, limited liability company, or association of individuals.

~~[(28)]~~ (27) "Pilot" means any person who operates the controls of an aircraft while in-flight.

~~[(29)]~~ (28) "Primary glider" means any glider that has a gliding angle of less than 10 to one.

~~[(30)]~~ (29) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

~~[(31)]~~ (30) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

~~[(32)]~~ (31) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

~~[(33)]~~ (32) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

~~[(34)]~~ (33) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

**Section 8. Section 72-10-103 is amended to read:
72-10-103. Rulemaking requirement.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(a) governing the establishment, location, and use of air navigation facilities;

(b) regulating the use, licensing, and supervision of airports;

(c) establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and

(d) safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground.

(2) The rules may:

(a) require that any device or accessory that forms part of any aircraft or its equipment be certified as complying with this chapter;

(b) limit the use of any device or accessory as necessary for safety; and

(c) develop and promote aeronautics within this state.

(3) (a) To avoid the danger of accident incident to confusion arising from conflicting rules governing aeronautics, the rules shall conform as nearly as possible with federal legislation, rules, regulations, and orders on aeronautics.

(b) The rules may not be inconsistent with paramount federal legislation, rules, regulations, and orders on the subject.

(4) The department may not require any pilot, aircraft, or mechanic who has procured a license under the Civil Aeronautics Authority of the United States to obtain a license from this state, other than required by this chapter.

(5) The department may not make rules that conflict with the regulations of:

(a) the Civil Aeronautics Authority; or

(b) other federal agencies authorized to regulate the particular activity.

~~[(6) All schedules of charges, tolls, and fees established by the division shall be approved and adopted by the department.]~~

~~[(7) (6) The department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.~~

Section 9. Section 72-10-105 is amended to read:

72-10-105. Reports of investigations or hearings -- Restrictions on use -- Employees of department not required to testify.

(1) The reports of investigations or hearings, or any part of them, may not be admitted in evidence

or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigations or hearings, or in any report of them, except in case of criminal or other proceedings instituted by or on behalf of the ~~[division]~~ department under this title.

(2) An employee of the ~~[division]~~ department may not be required to testify to any fact ascertained in or information gained by reason of his official capacity.

(3) The employees of the ~~[division]~~ department may not be required to testify as expert witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

Section 10. Section 72-10-106 is amended to read:

72-10-106. Enforcement of chapter -- Fees for services by department.

(1) (a) The ~~[division]~~ department and every county and municipal officer required to enforce state laws shall enforce and assist in the enforcement of this chapter.

(b) The ~~[division]~~ department may enforce this chapter by injunction in the district courts of this state.

(c) Other departments and political subdivisions of this state may cooperate with the department ~~[and the division]~~ in the development of aeronautics within this state.

(2) (a) Unless otherwise provided by statute, the ~~[division]~~ department may adopt a schedule of fees assessed for services provided by the ~~[division]~~ department.

(b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.

(c) Each fee established in this manner shall be submitted to and approved by the Legislature as part of the ~~[division's]~~ department's annual appropriations request.

(d) The ~~[division]~~ department may not charge or collect any fee proposed in this manner without approval by the Legislature.

Section 11. Section 72-10-107 is amended to read:

72-10-107. Procedures -- Adjudicative proceedings.

The ~~[division]~~ department shall conduct adjudicative proceedings in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Section 12. Section 72-10-108 is amended to read:

72-10-108. Payment of expenses of administration.

The ~~[division]~~ department shall pay the expenses of the administration of this part out of the special funds set up by the state treasurer for that purpose.

Section 13. Section 72-10-115 is amended to read:

72-10-115. Certificate carried subject to inspection -- Burden of proving validity of certificate in criminal proceedings.

(1) The certificate of license or permit required of a pilot or a student shall be kept in the personal possession of a licensee or permittee operating an aircraft within the state.

(2) The certificate of license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted in clear view of passengers.

(3) The certificate of pilot's license, student's permit, or aircraft license shall be presented for inspection upon the demand of any peace officer of this state, any authorized official or employee of the [division] department, or any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person.

(4) In any criminal prosecution under this title, a defendant who relies upon a license or permit of any kind has the burden of proving that the defendant is properly licensed or is the possessor of a proper license or permit.

(5) The fact of nonissuance of a license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that a diligent search in the office records has been made and that from the records it appears that no license or permit was issued.

Section 14. Section 72-10-117 is amended to read:

72-10-117. Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules -- Proof of insurance -- Bonds.

(1) (a) The county executive of any county may issue permits authorizing aircraft to land on or take off from designated county roads.

(b) Permits may be issued to aircraft operated:

(i) as air ambulances;

(ii) as pesticide applicators; or

(iii) by or under contract with public utilities and used in connection with inspection, maintenance, installation, operation, construction, or repair of property owned or operated by the public utility.

(2) Permits may also be issued by the county executive to other aircraft under rules made by the [division] department.

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [division] department shall make rules for issuing a special license to:

(i) an aircraft permitted by a county executive to land on a county road; and

(ii) a pilot permitted to operate an aircraft licensed under this subsection from a county road.

(b) The rules made under this subsection shall include provisions for the safety of the flying and motoring public.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the landing and taking off of aircraft to which permits have been issued, which may include annual reports of activities of the aircraft.

(5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the county executive and the [division] department a certificate of insurance executed by an insurance company or association authorized to transact business in this state upon a form prescribed by the [division] department that there is in full force and effect a policy of insurance covering the aircraft for liability against:

(a) personal injury or death for any one person in an amount of \$50,000 or more;

(b) any one accident in an amount of \$100,000 or more; and

(c) property damage in an amount of \$50,000 or more.

(6) In addition to the insurance required under this section, either the county executive or the [division] department may require the posting of a bond to indemnify the county or [division] department against liability resulting from issuing the permit or license.

Section 15. Section 72-10-118 is amended to read:

72-10-118. Reason for department order to be stated -- Closing airports -- Notice -- Right of inspection.

(1) If the [division] department rejects an application for permission to operate or establish an airport, or issues any order under this chapter that requires or prohibits certain actions, its order shall:

(a) contain the reasons for the rejection or order; and

(b) state the requirements to be met before approval will be given or the order changed.

(2) The [division] department may order the closing of any airport until its requirements have been fulfilled.

(3) (a) An airport not meeting the standards required by the [division] department shall:

(i) be given notice of its noncompliance; and

(ii) have 10 days from the receipt of that notice to respond to the [division] department with a plan and schedule for compliance.

(b) If the airport fails to respond within the required time, the [division] department may revoke the airport license and close the airport.

(4) The [division] department and any state, county, or municipal officer charged with the duty of enforcing this chapter may inspect and examine at reasonable hours any premises, buildings, or other structures where regulated airports are operated.

Section 16. Section 72-10-126 is amended to read:

72-10-126. Marking buildings to aid navigation.

(1) The [division] department may cooperate with the officials of all state institutions for the purpose of marking one building within their group as an aid to aerial navigation.

(2) The marking is subject to the approval of the [division] department and shall comply with the requirements of the United States civil aeronautics authority for air marking.

Section 17. Section 72-10-129 is amended to read:

72-10-129. Expenditures for Civil Air Patrol.

(1) The [division] department may expend state aeronautics funds for the Utah wing of the Civil Air Patrol to be used to:

(a) purchase aviation facilities, training, supplies, and equipment;

(b) defray maintenance and rental costs of hangar facilities and aircraft;

(c) purchase maintenance supplies and equipment for the communications network of the Civil Air Patrol; and

(d) provide administrative costs approved by the [division] department.

(2) The expenditures may not exceed in any fiscal year the amount appropriated to the Utah wing of the Civil Air Patrol by the Legislature.

Section 18. Section 72-10-201 is amended to read:

72-10-201. Powers of department -- Acceptance of property.

The [division] department, a county, or municipal legislative body may accept contributions of money or real or personal property for the purpose of establishing, developing, operating, or maintaining airports under this part.

Section 19. Section 72-10-202 is amended to read:

72-10-202. Cooperation with counties, municipalities, and federal government -- Expenditures by department.

(1) The [division] department may:

(a) cooperate with counties and municipalities in developing and constructing airports;

(b) make agreements on behalf of the state with any county or municipality regarding the financial

participation, construction, and operation of any airports;

(c) cooperate with the federal government in establishing airports; and

(d) accept from the United States of America, money to be matched with the funds of the state and funds appropriated by any county or municipality in developing and constructing airports under the Uniform Airports Act.

(2) The [division] department may expend not to exceed 10% of its annual appropriation from the Aeronautics Restricted Account upon any one project under this chapter.

Section 20. Section 72-10-203 is amended to read:

72-10-203. Department and counties, municipalities, and airport authorities authorized to acquire and regulate airports.

(1) The [division] department and municipalities, counties, and airport authorities may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police airports for the use of aircraft and may use for these purposes any available property that is owned or controlled by the [division] department or by a municipality, county, or airport authority.

(2) A county may not exercise the authority conferred in this section outside of its geographical limits except jointly with an adjoining county.

Section 21. Section 72-10-204 is amended to read:

72-10-204. Lands acquired by department and counties, municipalities, and airport authorities -- Declaration of public purpose.

Any land acquired, owned, leased, controlled, or occupied by the [division] department or by a county, municipality, or airport authority for the purposes enumerated in Section 72-10-203, is acquired, owned, leased, controlled, or occupied for public, governmental, and municipal purposes.

Section 22. Section 72-10-205 is amended to read:

72-10-205. Acquisition of property -- Condemnation.

(1) Private property needed by the [division] department or a county, municipality, or airport authority for an airport or landing field or for the expansion of an airport or landing field may be acquired by grant, purchase, lease, or other means if the [division] department or the political subdivision is able to agree with the owners of the property on the terms of acquisition.

(2) If no agreement can be reached, the private property may be obtained by condemnation in the manner provided for the state or a political subdivision to acquire real property for public purposes.

Section 23. Section 72-10-209 is amended to read:

72-10-209. Acquisition of air rights -- Condemnation.

(1) To provide unobstructed air space for the landing and taking off of aircraft using airports acquired or maintained under this chapter, the [division] department and a county, municipality, or airport authority may acquire the air rights over private property necessary to insure safe approaches to the landing areas of the airports.

(2) The air rights may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 72-10-205 for the acquisition or expansion of airports.

Section 24. Section 72-10-210 is amended to read:

72-10-210. Easements for marks or lights -- Condemnation.

(1) The [division] department and a county, municipality, or airport authority may acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate, and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions for the safe operation of aircraft using airports and landing fields acquired or maintained under this chapter.

(2) The rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 72-10-205 for the acquisition or expansion of airports.

Section 25. Section 72-10-211 is amended to read:

72-10-211. Police regulations.

The [division] department and a county, municipality, or airport authority acquiring, establishing, developing, operating, maintaining, or controlling airports outside the geographical limits of the subdivisions, under this chapter may amend and enforce police regulations for the airports.

Section 26. Section 72-10-303 is amended to read:

72-10-303. Submission of requests for aid -- Approval by department -- Receipt and disbursement of funds.

(1) The state, a county, municipality, or airport authority may not submit to any federal agency or department of the United States any requests for aid under any act of congress that provides funds for airports or commercial airport construction, development, expansion, or improvements, unless the project and the requests for aid have been first approved by the [division] department.

(2) The state, a county, municipality, or airport authority may not directly accept, receive, receipt for, or disburse any funds granted by the United States under the act, but it shall designate the [division] department as its agent and in its behalf to accept, receive, receipt for, and disburse the funds.

(3) The state, a county, municipality, or airport authority shall enter into an agreement with the

[division] department, prescribing the terms and conditions of the agency in accordance with federal laws, rules, and regulations and applicable laws of this state.

(4) Money paid by the United States government shall be retained by the state or paid to a county, municipality, or airport authority under terms and conditions imposed by the United States government in making the grant.

Section 27. Section 72-10-304 is amended to read:

72-10-304. Powers and duties of department.

(1) The [division] department may make available its engineering and other technical services, with or without charge, to the state, a county, municipality, or airport authority or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities.

(2) (a) The [division] department may render financial assistance by grant, loan, or both, to any county, municipality, or airport authority, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by the county, municipality, or airport authority, out of appropriations made by the Legislature for these purposes.

(b) Financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(3) (a) The [division] department may use the facilities and services of other state agencies and of the counties and municipalities to the utmost extent possible.

(b) The state agencies, counties, and municipalities shall make available their facilities and services.

(4) All powers granted to any county, municipality, or airport authority by this chapter may be exercised jointly with any county, municipality, or airport authority, and jointly with any state agency or the United States if the laws of the other state or of the United States permit the joint exercise.

CHAPTER 432**S. B. 235**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

**EXECUTIVE BRANCH ETHICS
COMMISSION AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill amends provisions relating to the Executive Branch Ethics Commission.

Highlighted Provisions:

This bill:

- ▶ provides that, if the commission determines that all allegations made against an executive branch elected official are without merit, the executive branch elected official may request payment, by the state, of reasonable attorney fees and costs for legal representation during the complaint review process.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-14-708, as enacted by Laws of Utah 2013, Chapter 426

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-14-708 is amended to read:**63A-14-708. Attorney fees and costs.**

(1) A complainant:

(a) may, but is not required to, retain legal representation during the complaint review process; and

(b) is responsible for payment of the complainant's attorney fees and costs incurred.

(2) A respondent:

(a) may, but is not required to, retain legal representation during the complaint review process; and

(b) except as provided in Subsection (3), is responsible for payment of the respondent's attorney fees and costs incurred.

(3) (a) If the commission determines that all allegations in the complaint are without merit, the respondent may file a request with the Executive Appropriations Committee of the Legislature for the payment of reasonable attorney fees and costs for legal representation during the complaint review process.

(b) If the Executive Appropriations Committee of the Legislature receives a request described in

Subsection (3)(a), the Legislature may appropriate money to reimburse the respondent for some or all of the reasonable attorney fees and costs described in Subsection (3)(a).

[(3)] (4) An attorney who participates in a hearing before the commission shall comply with:

(a) the Rules of Professional Conduct established by the Utah Supreme Court;

(b) the procedures and requirements of this chapter; and

(c) the directions of the chair and the commission.

[(4)] (5) A violation of Subsection [(3)] (4) may constitute:

(a) contempt of the commission under Section 63A-14-705; or

(b) a violation of the Rules of Professional Conduct, subject to enforcement by the Utah State Bar.

CHAPTER 433**S. B. 242**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

PRESIDENTIAL PRIMARY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Patrice M. Arent

LONG TITLE**General Description:**

This bill amends provisions related to a presidential primary election.

Highlighted Provisions:

This bill:

- ▶ requires a presidential primary election to be held;
- ▶ amends the date on which a presidential primary election is held;
- ▶ amends deadlines associated with a presidential primary election;
- ▶ eliminates provisions that allow a presidential primary election to be held on the date of a regular primary election; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 11-14-203, as last amended by Laws of Utah 2013, Chapter 415
- 20A-1-102, as last amended by Laws of Utah 2018, Chapters 187 and 274
- 20A-1-201.5, as last amended by Laws of Utah 2015, Chapters 296 and 352
- 20A-1-204, as last amended by Laws of Utah 2015, Chapters 111 and 352
- 20A-2-101, as last amended by Laws of Utah 2018, Chapter 223
- 20A-2-107, as last amended by Laws of Utah 2015, Chapter 394
- 20A-2-107.5, as last amended by Laws of Utah 2008, Chapter 329
- 20A-3-101, as last amended by Laws of Utah 2017, Chapter 181
- 20A-3-101.5, as enacted by Laws of Utah 2018, Chapter 223
- 20A-3-104.5, as last amended by Laws of Utah 2011, Chapter 335
- 20A-3-202, as last amended by Laws of Utah 2018, Chapters 195 and 274
- 20A-3-304, as last amended by Laws of Utah 2018, Chapter 206
- 20A-4-304, as last amended by Laws of Utah 2018, Chapter 187
- 20A-4-306, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2
- 20A-5-102, as last amended by Laws of Utah 2003, Chapter 116
- 20A-5-401, as last amended by Laws of Utah 2009, Chapter 45

- 20A-5-601, as last amended by Laws of Utah 2014, Chapters 31 and 391
- 20A-9-201, as last amended by Laws of Utah 2018, Chapter 11
- 20A-9-202.5, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2
- 20A-9-403, as last amended by Laws of Utah 2018, Chapter 80
- 20A-9-801, as enacted by Laws of Utah 1999, Chapter 22
- 20A-9-802, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2
- 20A-9-803, as last amended by Laws of Utah 2013, Chapter 317
- 20A-9-805, as enacted by Laws of Utah 1999, Chapter 22
- 20A-9-806, as last amended by Laws of Utah 2006, Chapter 326
- 20A-9-807, as enacted by Laws of Utah 1999, Chapter 22
- 20A-9-808, as repealed and reenacted by Laws of Utah 2008, Chapter 329
- 20A-9-809, as last amended by Laws of Utah 2008, Chapter 329

RENUMBERS AND AMENDS:

- 20A-9-802.5, (Renumbered from 20A-9-810, as enacted by Laws of Utah 2017, Chapter 250)

REPEALS:

- 20A-9-804, as last amended by Laws of Utah 2008, Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-203 is amended to read:**11-14-203. Time for election -- Equipment -- Election officials -- Combining precincts.**

(1) (a) The local political subdivision shall ensure that bond elections are conducted and administered according to the procedures set forth in this chapter and the sections of the Election Code specifically referenced by this chapter.

(b) When a local political subdivision complies with those procedures, there is a presumption that the bond election was properly administered.

(2) (a) A bond election may be held, and the proposition for the issuance of bonds may be submitted, on the same date as the regular general election, the municipal general election held in the local political subdivision calling the bond election, or at a special election called for the purpose on a date authorized by Section 20A-1-204.

(b) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the ~~Western States Presidential Primary election established in Title 20A, Chapter 9, Part 8, Western States Presidential Primary~~ presidential primary election held under Title 20A, Chapter 9, Part 8, Presidential Primary Election.

(3) (a) The bond election shall be conducted and administered by the election officer designated in Sections 20A-1-102 and 20A-5-400.5.

(b) (i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part 4, Election Officer's Duties.

(ii) The publishing requirement under Subsection 20A-5-405(1)(j)(iii) does not apply when notice of a bond election has been provided according to the requirements of Section 11-14-202.

(c) The hours during which the polls are to be open shall be consistent with Section 20A-1-302.

(d) The appointment and duties of election judges shall be governed by Title 20A, Chapter 5, Part 6, Poll Workers.

(e) General voting procedures shall be conducted according to the requirements of Title 20A, Chapter 3, Voting.

(f) The designation of election crimes and offenses, and the requirements for the prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election Code.

(4) When a bond election is being held on a day when no other election is being held in the local political subdivision calling the bond election, voting precincts may be combined for purposes of bond elections so long as no voter is required to vote outside the county in which the voter resides.

(5) When a bond election is being held on the same day as any other election held in a local political subdivision calling the bond election, or in some part of that local political subdivision, the polling places and election officials serving for the other election may also serve as the polling places and election officials for the bond election, so long as no voter is required to vote outside the county in which the voter resides.

Section 2. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

(3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon which a voter records the voter's votes.

(b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy envelopes.

(4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

(a) contain the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) are used in conjunction with ballot sheets that do not display that information.

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(6) "Ballot sheet":

(a) means a ballot that:

(i) consists of paper or a card where the voter's votes are marked or recorded; and

(ii) can be counted using automatic tabulating equipment; and

(b) includes punch card ballots and other ballots that are machine-countable.

(7) "Bind," "binding," or "bound" means securing more than one piece of paper together with a staple or stitch in at least three places across the top of the paper in the blank space reserved for securing the paper.

(8) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(9) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(10) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(11) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(12) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(13) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(14) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(15) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(16) “Convention” means the political party convention at which party officers and delegates are selected.

(17) “Counting center” means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(18) “Counting judge” means a poll worker designated to count the ballots during election day.

(19) “Counting room” means a suitable and convenient private place or room, immediately adjoining the place where the election is being held, for use by the poll workers and counting judges to count ballots during election day.

(20) “County officers” means those county officers that are required by law to be elected.

(21) “Date of the election” or “election day” or “day of the election”:

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for absentee voting; or

(ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early Voting.

(22) “Elected official” means:

(a) a person elected to an office under Section 20A-1-303 or [Title 20A,] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(23) “Election” means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(24) “Election Assistance Commission” means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(25) “Election cycle” means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(26) “Election judge” means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(27) “Election officer” means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(28) “Election official” means any election officer, election judge, or poll worker.

(29) “Election results” means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(30) “Election returns” includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(31) “Electronic ballot” means a ballot that is recorded using a direct electronic voting device or other voting device that records and stores ballot information by electronic means.

(32) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(33) (a) “Electronic voting device” means a voting device that uses electronic ballots.

(b) “Electronic voting device” includes a direct recording electronic voting device.

(34) “Inactive voter” means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(35) “Judicial office” means the office filled by any judicial officer.

(36) “Judicial officer” means any justice or judge of a court of record or any county court judge.

(37) “Local district” means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(38) “Local district officers” means those local district board members that are required by law to be elected.

(39) “Local election” means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(40) “Local political subdivision” means a county, a municipality, a local district, or a local school district.

(41) “Local special election” means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(42) “Municipal executive” means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(43) “Municipal general election” means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(44) “Municipal legislative body” means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(45) “Municipal office” means an elective office in a municipality.

(46) “Municipal officers” means those municipal officers that are required by law to be elected.

(47) “Municipal primary election” means an election held to nominate candidates for municipal office.

(48) “Municipality” means a city, town, or metro township.

(49) “Official ballot” means the ballots distributed by the election officer to the poll workers to be given to voters to record their votes.

(50) “Official endorsement” means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) (A) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(B) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii); and

(b) the information on the ballot stub that identifies:

(i) the poll worker’s initials; and

(ii) the ballot number.

(51) “Official register” means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(52) “Paper ballot” means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record the voter’s vote for each office and for or against each ballot proposition.

(53) “Political party” means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(54) (a) “Poll worker” means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) “Poll worker” includes election judges.

(c) “Poll worker” does not include a watcher.

(55) “Pollbook” means a record of the names of voters in the order that they appear to cast votes.

(56) “Polling place” means the building where voting is conducted.

(57) “Position” means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter’s choice.

(58) “Presidential Primary Election” means the election established in Chapter 9, Part 8, Presidential Primary Election.

~~(58)~~ (59) “Primary convention” means the political party conventions held during the year of the regular general election.

~~(59)~~ (60) “Protective counter” means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

~~(60)~~ (61) “Provider election officer” means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer’s local political subdivision in accordance with Section 20A-5-400.1.

~~(61)~~ (62) “Provisional ballot” means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

[(62)] (63) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

[(63)] (64) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

[(64)] (65) "Receiving judge" means the poll worker that checks the voter's name in the official register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

[(65)] (66) "Registration form" means a book voter registration form and a by-mail voter registration form.

[(66)] (67) "Regular ballot" means a ballot that is not a provisional ballot.

[(67)] (68) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

[(68)] (69) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

[(69)] (70) "Resident" means a person who resides within a specific voting precinct in Utah.

[(70)] (71) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

[(71)] (72) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties or who are unaffiliated.

[(72)] (73) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after the voter has voted it in order to preserve the secrecy of the voter's vote.

[(73)] (74) "Special election" means an election held as authorized by Section 20A-1-203.

[(74)] (75) "Spoiled ballot" means each ballot that:

- (a) is spoiled by the voter;
- (b) is unable to be voted because it was spoiled by the printer or a poll worker; or
- (c) lacks the official endorsement.

[(75)] (76) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

[(76)] (77) "Stub" means the detachable part of each ballot.

[(77)] (78) "Substitute ballots" means replacement ballots provided by an election officer to the poll workers when the official ballots are lost or stolen.

[(78)] (79) "Ticket" means a list of:

- (a) political parties;
- (b) candidates for an office; or
- (c) ballot propositions.

[(79)] (80) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

[(80)] (81) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

[(81)] (82) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

- (i) a currently valid Utah driver license;
- (ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

- (i) a valid tribal identification card;
- (ii) a Bureau of Indian Affairs card; or
- (iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection [(81)] (82)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

- (i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;
- (ii) a bank or other financial account statement, or a legible copy thereof;
- (iii) a certified birth certificate;
- (iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

[~~(82)~~ (83) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

[~~(83)~~ (84) "Voter" means a person who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

[~~(84)~~ (85) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

[~~(85)~~ (86) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

[~~(86)~~ (87) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting machine enclosure or curtain; or

(b) a voting device that is free standing.

[~~(87)~~ (88) "Voting device" means:

(a) an apparatus in which ballot sheets are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance;

(c) an electronic voting device or other device used to make selections and cast a ballot electronically, or any component thereof;

(d) an automated voting system under Section 20A-5-302; or

(e) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

[~~(88)~~ (89) "Voting machine" means a machine designed for the sole purpose of recording and tabulating votes cast by voters at an election.

[~~(89)~~ (90) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

[~~(90)~~ (91) "Watcher" means an individual who complies with the requirements described in Section 20A-3-201 to become a watcher for an election.

[~~(91) "Western States Presidential Primary" means the election established in Chapter 9, Part 8, Western States Presidential Primary.]~~

(92) "Write-in ballot" means a ballot containing any write-in votes.

(93) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 3. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) A regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for:

(a) national, state, school board, and county offices; and

(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

[~~(3) If the Legislature makes an appropriation for a Western States Presidential Primary election, the Western States Presidential Primary]~~

(3) A presidential primary election shall be held throughout the state on the first Tuesday in [~~February~~] March in the year in which a presidential election will be held.

Section 4. Section 20A-1-204 is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not ~~call~~ hold a local special election ~~[for the date established in Chapter 9, Part 8, Western States Presidential Primary, for Utah's Western States Presidential Primary] on the same date as the presidential primary election conducted under Chapter 9, Part 8, Presidential Primary Election.~~

(d) The legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

- (i) another special election;
- (ii) a regular general election; or
- (iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

- (i) polling places;
- (ii) ballots;
- (iii) election officials; and
- (iv) other administrative and procedural matters connected with the election.

Section 5. Section 20A-2-101 is amended to read:

20A-2-101. Eligibility for registration.

(1) Except as provided in Subsection (2), an individual may register to vote in an election who:

- (a) is a citizen of the United States;
- (b) has been a resident of Utah for at least the 30 days immediately before the election;
- (c) will be:
 - (i) at least 18 years of age on the day of the election; or
 - (ii) if the election is a regular primary election, a municipal primary election, or a ~~[Western States Presidential Primary]~~ presidential primary election:

(A) 17 years of age on or before the day of the regular primary election, municipal primary election, or ~~[Western States Presidential Primary]~~ presidential primary election; and

(B) 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or ~~[Western States Presidential Primary]~~ presidential primary election; and

(d) currently resides within the voting district or precinct in which the individual applies to register to vote.

(2) (a) (i) An individual who is involuntarily confined or incarcerated in a jail, prison, or other facility within a voting precinct is not a resident of that voting precinct and may not register to vote in that voting precinct unless the individual was a resident of that voting precinct before the confinement or incarceration.

(ii) An individual who is involuntarily confined or incarcerated in a jail or prison is a resident of the voting precinct in which the individual resided before the confinement or incarceration.

(b) An individual who has been convicted of a felony or a misdemeanor for an offense under this title may not register to vote or remain registered to vote unless the individual's right to vote has been restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(c) An individual whose right to vote has been restored, as provided in Section 20A-2-101.3 or 20A-2-101.5, is eligible to register to vote.

(3) An individual who is eligible to vote and who resides within the geographic boundaries of the entity in which the election is held may register to vote in a:

- (a) regular general election;
- (b) regular primary election;
- (c) municipal general election;
- (d) municipal primary election;
- (e) statewide special election;

- (f) local special election;
- (g) local district election;
- (h) bond election; and

(i) ~~[Western States Presidential Primary]~~ presidential primary election.

Section 6. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) The county clerk shall:

(a) record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate, during any period except the following:

(i) the period beginning on the day after the voter registration deadline and continuing through the date of the regular primary election; and

(ii) the period beginning on the day after the voter registration deadline and continuing through the date of the ~~[Western States Presidential Primary]~~ presidential primary election.

Section 7. Section 20A-2-107.5 is amended to read:

20A-2-107.5. Designating or changing party affiliation -- Regular primary election and presidential primary election.

(1) At any regular primary election or ~~[the Western States Presidential Primary]~~ presidential primary election:

(a) each county clerk shall provide change of party affiliation forms to the poll workers for each voting precinct within the county; and

(b) any registered voter who is classified as "unaffiliated" may affiliate with a political party by completing the form and giving it to the poll worker.

(2) An unaffiliated voter who affiliates with a political party as provided in Subsection (1)(b) may vote in that party's primary election.

Section 8. Section 20A-3-101 is amended to read:

20A-3-101. Residency and age requirements of voters.

(1) ~~[A person]~~ An individual may vote in any regular general election or statewide special election if that ~~[person]~~ individual has registered to vote in accordance with ~~[Title 20A,]~~ Chapter 2, Voter Registration.

(2) ~~[A person]~~ An individual may vote in the ~~[Western States Presidential Primary]~~ presidential primary election or a regular primary election if:

(a) that ~~[person]~~ individual has registered to vote in accordance with ~~[Title 20A,]~~ Chapter 2, Voter Registration; and

(b) that ~~[person's]~~ individual's political party affiliation, or unaffiliated status, allows the person to vote in the election.

(3) ~~[A person]~~ An individual may vote in a municipal general election, municipal primary election, local special election, local district election, and bond election if that ~~[person]~~ individual:

(a) has registered to vote in accordance with ~~[Title 20A,]~~ Chapter 2, Voter Registration; and

(b) is a resident of a voting district or precinct within the local entity that is holding the election.

Section 9. Section 20A-3-101.5 is amended to read:

20A-3-101.5. Age requirements for primary elections -- 17-year-olds may vote.

An individual who is 17 years of age may vote in a regular primary election, a municipal primary election, or a ~~[Western States Presidential Primary]~~ presidential primary election, if:

(1) the individual will be 18 years of age on or before the day of the general election that immediately follows the regular primary election, municipal primary election, or ~~[Western States Presidential Primary]~~ presidential primary election;

(2) the individual is registered to vote in accordance with Chapter 2, Voter Registration;

(3) the individual's political party affiliation, or unaffiliated status, allows the individual to vote in the election; and

(4) the individual otherwise complies with the requirements to vote in the primary election.

Section 10. Section 20A-3-104.5 is amended to read:

20A-3-104.5. Voting -- Regular primary election and presidential primary election.

(1) (a) Any registered voter desiring to vote at the regular primary election or [~~Utah's Western States Presidential—Primary~~] presidential primary election shall give the voter's name, the name of the registered political party whose ballot the voter wishes to vote, and, if requested, the voter's residence, to one of the poll workers.

(b) The voter shall present valid voter identification to one of the poll workers.

(c) (i) The poll worker shall follow the procedures and requirements of Section 20A-3-105.5 if:

(A) the poll worker is not satisfied that the voter presented valid voter identification; or

(B) the voter's right to vote is challenged under Section 20A-3-202.

(ii) The poll worker shall notify a voter casting a provisional ballot under Section 20A-3-105.5 because of failure to present valid voter identification that the voter has until the close of normal office hours on Monday after the day of the election to:

(A) present valid voter identification to the county clerk at the county clerk's office; or

(B) an election officer who is administering the election.

(2) (a) (i) If the voter is properly identified, the poll worker in charge of the official register shall check the official register to determine:

(A) whether or not the person is registered to vote; and

(B) whether or not the voter's party affiliation designation in the official register allows the voter to vote the ballot that the voter requested.

(ii) If the official register does not affirmatively identify the voter as being affiliated with a registered political party or if the official register identifies the voter as being "unaffiliated," the voter shall be considered to be "unaffiliated."

(b) (i) Except as provided in Subsection (2)(b)(ii), if the voter's name is not found on the official register, the poll worker shall follow the procedures and requirements of Section 20A-3-105.5.

(ii) (A) If it is not unduly disruptive of the election process, the poll worker shall attempt to contact the county clerk's office to request oral verification of the voter's registration.

(B) If oral verification is received from the county clerk's office, the poll worker shall:

(I) record the verification on the official register;

(II) determine the voter's party affiliation and the ballot that the voter is qualified to vote; and

(III) perform the other administrative steps required by Subsection (3).

(c) (i) Except as provided in Subsection (2)(c)(ii), if the voter's political party affiliation listed in the official register does not allow the voter to vote the ballot that the voter requested, the poll worker shall inform the voter of that fact and inform the voter of the ballot or ballots that the voter's party affiliation does allow the voter to vote.

(ii) (A) If the voter is listed in the official register as "unaffiliated," or if the official register does not affirmatively identify the voter as either "unaffiliated" or affiliated with a registered political party, and the voter, as an "unaffiliated" voter, is not authorized to vote the ballot that the voter requests, the poll worker shall ask the voter if the voter wishes to vote another registered political party ballot that the voter, as "unaffiliated," is authorized to vote, or remain "unaffiliated."

(B) If the voter wishes to vote another registered political party ballot that the unaffiliated voter is authorized to vote, the poll worker shall proceed as required by Subsection (3).

(C) If the voter wishes to remain unaffiliated and does not wish to vote another ballot that unaffiliated voters are authorized to vote, the poll worker shall instruct the voter that the voter may not vote.

(3) If the poll worker determines that the voter is registered and eligible, under Subsection (2), to vote the ballot that the voter requested and:

(a) if the ballot is a paper ballot or a ballot sheet:

(i) the poll worker in charge of the official register shall:

(A) write the ballot number and the name of the registered political party whose ballot the voter voted opposite the name of the voter in the official register; and

(B) direct the voter to sign the voter's name in the election column in the official register;

(ii) another poll worker shall list the ballot number and voter's name in the pollbook; and

(iii) the poll worker having charge of the ballots shall:

(A) endorse the voter's initials on the stub;

(B) check the name of the voter on the pollbook list with the number of the stub;

(C) hand the voter the ballot for the registered political party that the voter requested and for which the voter is authorized to vote; and

(D) allow the voter to enter the voting booth; or

(b) if the ballot is an electronic ballot:

(i) the poll worker in charge of the official register shall direct the voter to sign the voter's name in the official register;

(ii) another poll worker shall list the voter's name in the pollbook; and

(iii) the poll worker having charge of the ballots shall:

(A) provide the voter access to the electronic ballot for the registered political party that the voter requested and for which the voter is authorized to vote; and

(B) allow the voter to vote the electronic ballot.

(4) Whenever the election officer is required to furnish more than one kind of official ballot to the voting precinct, the poll workers of that voting precinct shall give the registered voter the kind of ballot that the voter is qualified to vote.

Section 11. Section 20A-3-202 is amended to read:

20A-3-202. Challenges to a voter's eligibility -- Basis for challenge -- Procedures.

(1) A person may challenge an individual's eligibility to vote on any of the following grounds:

(a) the individual is not the individual in whose name the individual tries to vote;

(b) the individual is not a resident of Utah;

(c) the individual is not a citizen of the United States;

(d) the individual has not or will not have resided in Utah for 30 days immediately before the date of the election;

(e) the individual's principal place of residence is not in the voting precinct that the individual claims;

(f) the individual's principal place of residence is not in the geographic boundaries of the election area;

(g) the individual has already voted in the election;

(h) the individual is not at least 18 years of age;

(i) the individual has been convicted of a misdemeanor for an offense under this title and the individual's right to vote in an election has not been restored under Section 20A-2-101.3;

(j) the individual is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or

(k) in a regular primary election or [~~in the Western States Presidential Primary~~] presidential primary election, the individual does not meet the political party affiliation requirements for the ballot the individual seeks to vote.

(2) A person who challenges an individual's right to vote in an election shall make the challenge in accordance with:

(a) Section 20A-3-202.3, for a challenge that is not made in person at the time an individual votes; or

(b) Section 20A-3-202.5, for challenges made in person at the time an individual votes.

Section 12. Section 20A-3-304 is amended to read:

20A-3-304. Application for absentee ballot -- Time for filing and voting.

(1) (a) A registered voter who wishes to vote an absentee ballot may file an absentee ballot application:

(i) on the electronic system maintained by the lieutenant governor under Section 20A-2-206;

(ii) with the appropriate election officer for an official absentee ballot as provided in this section; or

(iii) by answering "yes" to the question described in Subsection 20A-2-108(2)(a) when registering to vote while filing a driver license or state identification card application.

(b) An absentee voter may vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.

(c) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election official before the earlier of:

(i) 14 days after the day on which the registered voter signed the absentee ballot form; or

(ii) the Tuesday before the next election.

(2) As it relates to an absentee ballot application to be filled out entirely by the voter:

(a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, ____, a qualified elector, residing at ____ Street, ____ City, ____ County, Utah apply for an official absentee ballot to be voted by me at the election.

Date _____ (month \ day \ year) Signed _____ Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for [~~the Western States Presidential Primary~~] presidential primary elections:

(i) in substantially the following form:

"I, ____, a qualified elector, residing at ____ Street, ____ City, ____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated _____ (month \ day \ year) ____
 Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(3) If requested by the applicant, the election officer shall:

(a) mail or fax the application form to the absentee voter; or

(b) deliver the application form to any voter who personally applies for it at the office of the election officer.

(4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

“I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Tuesday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date _____ (month \ day \ year) Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular

primary elections and for ~~the Western States Presidential Primary~~ presidential primary elections:

(i) in substantially the following form:

“I, _____, a qualified elector, residing at _____ Street, _____ City, _____ County, Utah apply for an official absentee ballot for the _____ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party’s ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Tuesday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated _____ (month \ day \ year) ____

Signed _____

Voter”; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

(A) until the voter requests otherwise at a future date; or

(B) until a date specified by the voter in the application form.

(5) The forms described in Subsections (2) and (4) shall contain instructions on how a voter may cancel an absentee ballot application.

(6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer no later than the Tuesday before election day.

(7) (a) A county clerk shall establish an absentee voter list containing the name of each voter who:

(i) requests absentee voter status; and

(ii) meets the requirements of this section.

(b) A county clerk may not remove a voter’s name from the list described in Subsection (7)(a) unless:

(i) the voter is no longer listed in the official register;

(ii) the voter cancels the voter’s absentee status;

(iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form; or

(iv) the county clerk is required to remove the voter's name from the list under Subsection (7)(c) or 20A-3-302(8)(c)(ii).

(c) A county clerk shall remove a voter's name from the list described in Subsection (7)(a) if the voter fails to vote in two consecutive regular general elections.

(d) (i) Each year, the clerk shall mail a questionnaire to each voter whose name is on the absentee voter list.

(ii) The questionnaire shall allow the voter to:

(A) verify the voter's residence; or

(B) cancel the voter's absentee status.

(e) The clerk shall provide a copy of the absentee voter list to election officers for use in elections.

Section 13. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in [~~Title 20A, Chapter 4,~~ Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) (a) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(i) the total number of votes cast in the board's jurisdiction;

(ii) the names of each candidate whose name appeared on the ballot;

(iii) the title of each ballot proposition that appeared on the ballot;

(iv) each office that appeared on the ballot;

(v) from each voting precinct:

(A) the number of votes for each candidate;

(B) for each race conducted by instant runoff voting under [~~Title 20A, Chapter 4,~~ Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(C) the number of votes for and against each ballot proposition;

(vi) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(vii) the number of ballots that were rejected; and

(viii) a statement certifying that the information contained in the report is accurate.

(b) The election officer and the board of canvassers shall:

(i) review the report to ensure that it is correct; and

(ii) sign the report.

(c) The election officer shall:

(i) record or file the certified report in a book kept for that purpose;

(ii) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(iii) publish a copy of the certified report:

(A) in one or more conspicuous places within the jurisdiction;

(B) in a conspicuous place on the county's website; and

(C) in a newspaper with general circulation in the board's jurisdiction; and

(iv) file a copy of the certified report with the lieutenant governor.

(3) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit it by registered mail to the lieutenant governor.

(4) In each county election, municipal election, school election, local district election, and local

special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(5) ~~[In regular primary elections and in the Western States Presidential Primary,] In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:~~

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor~~[(i)]~~ not later than the second Tuesday after the ~~[primary] election [for the regular primary election];~~ and

~~[(ii) not later than the Tuesday following the election for the Western States Presidential Primary; and]~~

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 14. Section 20A-4-306 is amended to read:

20A-4-306. Statewide canvass.

(1) (a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(c) Attendance of all members of the state board of canvassers shall be required to constitute a quorum for conducting the canvass.

(2) (a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in his office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) The lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with his seal; and

(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and

(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.

(5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the

results of ~~[(i) the primary canvass[, except for the office of President of the United States,] to the county clerks[; and].~~

~~[(ii) the primary canvass for the office of President of the United States to each registered political party that participated in the primary.]~~

(6) (a) At noon on the ~~[day that falls seven days after the last day on which a county canvass may occur under Section 20A-4-301 for the Western States Presidential Primary election,] fourth Tuesday in March of a year in which a presidential election will be held,~~ the lieutenant governor shall:

(i) canvass the returns of the presidential primary election; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) The lieutenant governor shall certify the results of the ~~[Western States Presidential Primary] presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.~~

Section 15. Section 20A-5-102 is amended to read:

20A-5-102. Voting instructions.

(1) Each election officer shall:

(a) print instruction cards for voters;

(b) ensure that the cards are printed in English in large clear type; and

(c) ensure that the cards instruct voters:

(i) about how to obtain ballots for voting;

(ii) about special political party affiliation requirements for voting in ~~[the Western States Presidential Primary or in] a regular primary election or~~ presidential primary election;

(iii) about how to prepare ballots for deposit in the ballot box;

(iv) about how to record write-in votes;

(v) about how to obtain a new ballot in the place of one spoiled by accident or mistake;

(vi) about how to obtain assistance in marking ballots;

(vii) about obtaining a new ballot if the voter's ballot is defaced;

(viii) that identification marks or the spoiling or defacing of a ballot will make it invalid;

(ix) about how to obtain and vote a provisional ballot;

(x) about whom to contact to report election fraud;

(xi) about applicable federal and state laws regarding:

(A) voting rights and the appropriate official to contact if the voter alleges his rights have been violated; and

(B) prohibitions on acts of fraud and misrepresentation;

(xii) about procedures governing mail-in registrants and first-time voters; and

(xiii) about the date of the election and the hours that the polls are open on election day.

(2) Each election officer shall:

(a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of their ballots;

(b) direct the election judges to post:

(i) general voting instructions in each voting booth; and

(ii) at least three instruction cards and at least one sample ballot elsewhere in and about the polling place.

Section 16. Section 20A-5-401 is amended to read:

20A-5-401. Official register -- Preparation -- Contents.

(1) (a) Before the registration days for each regular general, municipal general, regular primary, municipal primary, or ~~[Western States Presidential Primary] presidential primary election,~~ each county clerk shall prepare an official register of voters for each voting precinct that will participate in the election.

(b) The county clerk shall ensure that the official register is prepared for the alphabetical entry of names and contains entry fields to provide for the following information:

(i) registered voter's name;

(ii) party affiliation;

(iii) grounds for challenge;

(iv) name of person challenging a voter;

(v) primary, November, special;

(vi) date of birth;

(vii) place of birth;

(viii) place of current residence;

(ix) street address;

(x) zip code;

(xi) identification and provisional ballot information as required under Subsection (1)(d); and

(xii) space for the voter to sign his name for each election.

(c) When preparing the official register for the ~~[Western States Presidential Primary] presidential primary election,~~ the county clerk shall include:

(i) an entry field to record the name of the political party whose ballot the voter voted; and

(ii) an entry field for the poll worker to record changes in the voter's party affiliation.

(d) When preparing the official register for any regular general election, municipal general election, statewide special election, local special election, regular primary election, municipal primary election, local district election, or election for federal office, the county clerk shall include:

(i) an entry field for the poll worker to record the type of identification provided by the voter;

(ii) a column for the poll worker to record the provisional envelope ballot number for voters who receive a provisional ballot; and

(iii) a space for the poll worker to record the type of identification that was provided by voters who receive a provisional ballot.

(2) (a) (i) For regular and municipal elections, primary elections, regular municipal elections, local district elections, and bond elections, the county clerk shall make an official register only for voting precincts affected by the primary, municipal, local district, or bond election.

(ii) If a polling place to be used in a bond election serves both voters residing in the local political subdivision calling the bond election and voters residing outside of that local political subdivision, the official register shall designate whether each voter resides in or outside of the local political subdivision.

(iii) Each county clerk, with the assistance of the clerk of each affected local district, shall provide a detailed map or an indication on the registration list or other means to enable a poll worker to determine the voters entitled to vote at an election of local district officers.

(b) Municipalities shall pay the costs of making the official register for municipal elections.

Section 17. Section 20A-5-601 is amended to read:

20A-5-601. Poll workers -- Appointment for regular general elections, primary elections, and special elections.

(1) (a) By March 1 of each even-numbered year, each county clerk shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each voting precinct.

(b) (i) By April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the county clerk containing, for each voting precinct, the names of individuals in the county who are willing to serve as poll workers, who are qualified to serve as poll workers in accordance with this section, and who are competent and trustworthy.

(ii) The county chair and secretary shall submit, for each voting precinct, names equal in number to the number required by the county clerk plus one.

(2) Each county legislative body shall provide for the appointment of individuals to serve as poll workers at the regular primary election, the regular general election, the ~~Western States Presidential~~

~~Primary~~ presidential primary election, and a statewide or countywide special election.

(3) For regular general elections and statewide or countywide special elections, each county legislative body shall provide for the appointment of:

(a) (i) three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as receiving judges for each voting precinct when ballots will be counted after the polls close; or

(ii) three registered voters, or one individual who is 16 or 17 years of age and two registered voters, one of whom is at least 21 years of age, from the list to serve as receiving judges in each voting precinct and three registered voters from the list to serve as counting judges in each voting precinct when ballots will be counted throughout election day; and

(b) three registered voters from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(4) For each precinct in which ballots are counted after the polls close^[,] in a regular primary election ~~[and for the Western States Presidential Primary]~~ or presidential primary election, each county legislative body shall provide for the appointment of two or three individuals from the list to serve as receiving judges:

(a) each of whom is a registered voter; or

(b) (i) the first of whom is a registered voter and is at least 21 years of age;

(ii) the second of whom is 16 or 17 years of age; and

(iii) if three individuals are appointed, the third of whom is a registered voter.

(5) For each precinct in which ballots are counted throughout election day^[,] in a regular primary election ~~[and for the Western States Presidential Primary]~~ or presidential primary election, each county legislative body shall provide for the appointment of:

(a) two or three individuals from the list to serve as receiving judges:

(i) each of whom is a registered voter; or

(ii) (A) the first of whom is a registered voter and is at least 21 years of age;

(B) the second of whom is 16 or 17 years of age; and

(C) if three individuals are appointed, the third of whom is a registered voter; and

(b) two or three individuals from the list to serve as counting judges:

(i) each of whom is a registered voter; or

(ii) (A) one of whom is 17 years of age and will be 18 years of age by the date of the next regular general election; and

(B) each of the rest of whom is a registered voter; and

(c) two or three registered voters, or one or two registered voters and one individual 17 years of age who will be 18 years of age by the date of the next regular general election, from the list for each 100 absentee ballots to be counted to serve as canvassing judges.

(6) Each county legislative body may provide for the appointment of:

(a) three registered voters from the list to serve as inspecting judges at the regular general election, or a statewide or countywide special election, to observe the clerk's receipt and deposit of the ballots for safekeeping; and

(b) two or three registered voters, or one or two registered voters and one individual 17 years of age who will be 18 years of age by the date of the next regular general election, from the list to serve as inspecting judges at the regular primary election to observe the clerk's receipt and deposit of the ballots for safekeeping.

(7) (a) For each set of three counting or receiving judges to be appointed for each voting precinct for the regular primary election, the regular general election, the ~~[Western States Presidential Primary]~~ presidential primary election, or a statewide or countywide special election, the county legislative body shall ensure that:

(i) two judges are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(b) For each set of two counting or receiving judges to be appointed for each voting precinct for the regular primary election and ~~[Western States Presidential Primary]~~ the presidential primary election, the county legislative body shall ensure that:

(i) one judge is appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges; and

(ii) one judge is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes

for unopposed candidates, in the voting precinct at the last regular general election before the appointment of the election judges.

(8) When the voting precinct boundaries have been changed since the last regular general election, the county legislative body shall ensure that:

(a) for the regular primary election and the ~~[Western States Presidential Primary]~~ presidential primary election, when the county legislative body is using three receiving, counting, and canvassing judges, and regular general election, not more than two of the judges are selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment; and

(b) for the regular primary election and the ~~[Western States Presidential Primary]~~ presidential primary election, when the county legislative body is using two receiving, counting, and canvassing judges, not more than one of the judges is selected from the political party that cast the highest number of votes for the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer in the territory that formed the voting precinct at the time of appointment.

(9) The county legislative body shall provide for the appointment of any qualified county voter as an election judge when:

(a) a political party fails to file the poll worker list by the filing deadline; or

(b) the list is incomplete.

(10) A registered voter of the county may serve as a poll worker in any voting precinct of the county.

(11) A county legislative body may not appoint a candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker in a precinct where the candidate appears on the ballot.

(12) If an individual serves as a poll worker outside the voting precinct where the individual is registered, that individual may vote an absentee voter ballot.

(13) The county clerk shall fill all poll worker vacancies.

(14) If a conflict arises over the right to certify the poll worker lists for any political party, the county legislative body may decide between conflicting lists, but may only select names from a properly submitted list.

(15) The county legislative body shall establish compensation for poll workers.

(16) The county clerk may appoint additional poll workers to serve in the polling place as needed.

Section 18. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

- (a) be a United States citizen;
- (b) meet the legal requirements of that office; and
- (c) if seeking a registered political party's nomination as a candidate for elective office, state:
 - (i) the registered political party of which the individual is a member; or
 - (ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

- (i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;
- (ii) appear on the ballot as the candidate of more than one political party; or
- (iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

- (i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and
- (ii) require the individual to state whether the individual meets those requirements.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the county in which the individual is seeking office; and
- (iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

- (i) a United States citizen;
- (ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;
- (iii) a registered voter in the prosecution district in which the individual is seeking office; and
- (iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

- (i) is a United States citizen;
- (ii) is a registered voter in the county in which the individual seeks office;
- (iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or (B) has met the waiver requirements in Section 53-6-206;
- (iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and
- (v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

- (i) that the individual filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603; and

(ii) if the filing officer is not the lieutenant governor, that the individual provides the financial disclosure to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of _____

I, _____, declare my candidacy for the office of _____, seeking the nomination of the _____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of _____, Utah, Zip Code _____ Phone No. _____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

Subscribed and sworn before me this _____(month\day\year).Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(b) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

(i) \$50 for candidates for the local school district board; and

(ii) \$50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

“Affidavit of Impecuniosity

Individual Name _____

_____ Address _____

Phone Number _____

I, _____ (name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____ Signature _____

Affiant

Subscribed and sworn to before me on _____ (month \ day \ year)

_____ (signature)

Name and Title of Officer Authorized to Administer Oath _____”

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

“Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in

addition to being subject to criminal penalties, will be removed from the ballot.”

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

~~[(9) (a) If there is no legislative appropriation for the Western States Presidential Primary election, as provided in Part 8, Western States Presidential Primary, a candidate for president of the United States who is affiliated with a registered political party and chooses to participate in the regular primary election shall:]~~

~~[(i) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor:]~~

~~[(A) on a form developed and provided by the lieutenant governor; and]~~

~~[(B) on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular primary election;]~~

~~[(ii) identify the registered political party whose nomination the candidate is seeking;]~~

~~[(iii) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and]~~

~~[(iv) pay the filing fee of \$500.]~~

~~[(b) A designated agent described in Subsection (9)(a)(i) may not sign the form described in Subsection (9)(a)(i)(A).]~~

~~[(10)] (9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.~~

~~[(11)] (10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.~~

Section 19. Section 20A-9-202.5 is amended to read:

20A-9-202.5. Declaration of candidacy -- Presidential primary election.

(1) As used in this section:

(a) “Presidential candidate” means a person seeking nomination for President of the United States from a Utah registered political party.

(b) “Utah registered political party” means a political party that has complied with the requirements of [Title 20A,] Chapter 8, Political Party Formation and Procedures, to become a political party officially recognized by the state.

(2) Each presidential candidate, or the candidate's designated agent, shall file a declaration of candidacy with the lieutenant governor as provided in ~~[(a)]~~ Section 20A-9-803, for participation in the ~~[Western States Presidential Primary election; or]~~ presidential primary election.

[~~(b) Section 20A-9-201, for participation in the regular primary election.~~]

Section 20. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The fourth Tuesday of June of each even-numbered year is designated as regular primary election day. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection

(2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a set of nomination petitions that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit nomination petitions to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) verify signatures on nomination petitions in a transparent and orderly manner;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than 5 p.m. on the first Monday after the third Saturday in April;

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) utilize procedures described in Section 20A-7-206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a

registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) By 5 p.m. on the first Wednesday after the third Saturday in April, the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ____ (year), to

nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is _____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate~~[, other than a presidential candidate,]~~ who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates~~[, other than presidential candidates,]~~ are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 21. Section 20A-9-801 is amended to read:

Part 8. Presidential Primary Election

20A-9-801. Definitions.

As used in this part, "registered political party" means a political party that has complied with the requirements of [Title 20A,] Chapter 8, Political Party Formation and Procedures, to become a political party officially recognized by the state.

Section 22. Section 20A-9-802 is amended to read:

20A-9-802. Presidential primary election established -- Other ballot items prohibited.

[~~(1) (a) (i) Contingent upon legislative appropriation, there is established a Western States Presidential Primary election to be held on the first Tuesday in February~~]

(1) (a) There is established a presidential primary election held on the first Tuesday in March in the year in which a presidential election will be held.

[~~(ii) A political party may participate in a regular primary election for the office of President of the United States only if there is no Western States Presidential Primary election in that year.~~]

(b) Except as otherwise specifically provided in this chapter, county clerks shall administer the [Western States Presidential Primary] presidential primary election according to the provisions of [Title 20A, Election Code] this title, including:

- (i) [Title 20A,] Chapter 1, General Provisions;
- (ii) [Title 20A,] Chapter 2, Voter Registration;
- (iii) [Title 20A,] Chapter 3, Voting;
- (iv) [Title 20A,] Chapter 4, Election Returns and Election Contests;
- (v) [Title 20A,] Chapter 5, Election Administration; and
- (vi) [Title 20A,] Chapter 6, Ballot Form.

(c) (i) The county clerks shall ensure that the ballot voted by the voters at the [Western States Presidential Primary] presidential primary election contains only the names of candidates for President of the United States who have qualified as provided in this part.

(ii) The county clerks may not present any other items to the voters to be voted upon at this election.

(2) Registered political parties, and candidates for President of the United States who are affiliated with a registered political party, may participate in the [Western States Presidential Primary]

presidential primary election established by this part.

(3) As a condition for using the state's election system, each registered political party wishing to participate in [Utah's Western States Presidential Primary] the presidential primary election held under this section shall:

(a) declare [their] the political party's intent to participate in the [Western States Presidential Primary] presidential primary election;

(b) identify one or more registered political parties whose members may vote for the registered political party's candidates and whether [~~or not persons~~] individuals identified as unaffiliated with a political party may vote for the registered political party's candidates; and

(c) certify that information to the lieutenant governor no later than 5 p.m. on [the June 30] August 10 of the year before the year in which the presidential primary election will be held.

Section 23. Section 20A-9-802.5, which is renumbered from Section 20A-9-810 is renumbered and amended to read:

[20A-9-810]. 20A-9-802.5. Presidential primary required.

(1) A presidential primary election shall be held under this part each year in which a presidential election will be held.

(2) A registered political party that wishes to nominate a presidential candidate for the general election may participate in a presidential primary election conducted under this [section] part.

(3) The Legislature shall appropriate sufficient funds to administer each presidential primary election conducted under this [section] part.

Section 24. Section 20A-9-803 is amended to read:

20A-9-803. Declaration of candidacy -- Filing fee -- Form.

(1) Candidates for president of the United States who are affiliated with a registered political party [in Utah] that has elected to participate in [Utah's Western States Presidential Primary] the presidential primary election and who wish to participate in the primary election shall:

(a) file a declaration of candidacy, in person or via a designated agent, with the lieutenant governor between [July 1] August 15 of the year before the primary election will be held and 5 p.m. on [October 15] December 1 of the year before the primary election will be held;

(b) identify the registered political party whose nomination the candidate is seeking;

(c) provide a letter from the registered political party certifying that the candidate may participate as a candidate for that party in that party's presidential primary election; and

(d) pay the filing fee of \$500.

(2) The lieutenant governor shall develop a declaration of candidacy form for presidential candidates participating in the primary.

(3) An agent designated to file a declaration of candidacy may not sign the form described in Subsection (2).

Section 25. Section 20A-9-805 is amended to read:

20A-9-805. Closed primary -- Determining party affiliation -- Changing party affiliation.

(1) If a registered political party has restricted voting for its presidential candidates as authorized by Subsection 20A-9-802(3)(b), the lieutenant governor shall direct the county clerks and other election officials to allow only those voters meeting the registered political party's criteria to vote for that party's presidential candidates.

(2) (a) For each ~~person~~ individual who registers to vote ~~on or after May 3, 1999~~, the county clerk shall:

(i) record the party affiliation designated by the ~~voter~~ individual on the voter registration form as the ~~voter's~~ individual's party affiliation; or

(ii) if no political party affiliation is designated by the ~~voter~~ individual on the voter registration form, record the ~~voter's~~ individual's party affiliation as "unaffiliated."

(b) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of Section 20A-2-107 or Section 20A-9-808.

Section 26. Section 20A-9-806 is amended to read:

20A-9-806. Ballots.

(1) The lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties, shall:

(a) develop paper ballots, ballot labels, ballot sheets, electronic ballots, and provisional ballot envelopes to be used in ~~[Utah's Western States Presidential Primary]~~ a presidential primary election;

(b) ensure that the paper ballots, ballot labels, ballot sheets, electronic ballots, and provisional ballot envelopes comply generally with the requirements of ~~[Title 20A,]~~ Chapter 6, Part 1, General Requirements for All Ballots; and

(c) provide voting booths, election records and supplies, and ballot boxes for each voting precinct as required by Section 20A-5-403.

(2) (a) Notwithstanding the requirements of Subsections (1)(b) and (c), ~~[Title 20A,]~~ Chapter 6, Part 1, General Requirements for All Ballots, and Section 20A-5-403, the lieutenant governor, together with county clerks, suppliers of election materials, and representatives of registered political parties shall ensure that the paper ballots, ballot labels, ballot sheets, electronic ballots,

provisional ballot envelopes, and voting booths, election records and supplies, and ballot boxes:

(i) facilitate the distribution, voting, and tallying of ballots in a closed primary;

(ii) simplify the task of poll workers, particularly in determining a voter's party affiliation;

(iii) minimize the possibility of spoiled ballots due to voter confusion; and

(iv) protect against fraud.

(b) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties shall:

(i) mark, prepunch, or otherwise identify ballot sheets as being for a particular registered political party; and

(ii) instruct persons counting the ballots to count only those votes for candidates from the registered political party whose ballot the voter received.

(c) To accomplish the requirements of this Subsection (2), the lieutenant governor, county clerks, suppliers of election materials, and representatives of registered political parties may:

(i) notwithstanding the requirements of Sections 20A-6-101 and 20A-6-102, use different colored ballot sheets for each registered political party;

(ii) place ballot labels or ballots for each registered political party in different voting booths and direct voters to the particular voting booth for the political party whose ballot they are voting; or

(iii) consider other means of accomplishing the objectives outlined in Subsection (2)(a).

Section 27. Section 20A-9-807 is amended to read:

20A-9-807. Combining voting precincts.

(1) The county legislative body may combine voting precincts for ~~[Utah's Western States Presidential Primary]~~ the presidential primary election by following the procedures and requirements of Section 20A-5-303.

(2) The county legislative body may not combine voting precincts if the voting precincts are in different congressional districts as established by Section 20A-13-102.

Section 28. Section 20A-9-808 is amended to read:

20A-9-808. Voting.

Voting in ~~[Utah's Western States Presidential Primary]~~ a presidential primary election shall be conducted in accordance with the procedures of Section 20A-3-104.5.

Section 29. Section 20A-9-809 is amended to read:

20A-9-809. Counting votes -- Canvass -- Certification of results to parties.

(1) Votes shall be counted, results tabulated, returns transmitted, ballots reviewed and retained,

returns canvassed, and recounts and election contests conducted as provided in [~~Title 20A,~~] Chapter 4, Election Returns and Election Contests.

(2) After the canvass is complete and the report is prepared, the lieutenant governor shall transmit a copy of the report to each registered political party that participated in [~~Utah's Western States Presidential Primary~~] the presidential primary election.

Section 30. Repealer.

This bill repeals:

Section 20A-9-804, Registration with county clerk.

CHAPTER 434**S. B. 247**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

STATE TREASURER AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Steve Eliason

LONG TITLE**General Description:**

This bill allows the state treasurer to prescribe the method of receipt, deposit, or custody of certain funds.

Highlighted Provisions:

This bill:

- ▶ allows the state treasurer to prescribe the method of receipt, deposit, or custody of certain funds; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

67-4-1, as last amended by Laws of Utah 2018, Chapters 256 and 448

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-4-1 is amended to read:**67-4-1. Duties.**

- (1) The state treasurer shall:
- (a) receive and maintain custody of all state funds;
 - (b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
 - (c) pay warrants drawn by the Division of Finance as they are presented;
 - (d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;
 - (e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;
 - (f) account for all money received and disbursed;
 - (g) keep separate account of the different funds;
 - (h) keep safe all bonds, warrants, and securities delivered into his custody;
 - (i) at the request of either house of the Legislature, or of any legislative committee, give

information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;

(j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;

(k) authenticate and validate documents when necessary;

(l) adopt a seal and file a description and an impression of it with the Division of Archives;

(m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah; and

(n) oversee and support the advocacy of the Land Trusts Protection and Advocacy Office, created in Title 53D, Chapter 2, Land Trusts Protection and Advocacy Office.

(2) The state treasurer may prescribe the manner and method of receipt, deposit, or custody for any funds to be paid to, remitted to, or deposited with the state treasurer by:

(a) letter; or

(b) rule that the office of the state treasurer makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(2)]~~ (3) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

~~[(3)]~~ (4) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1(12).

CHAPTER 435**S. B. 251**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**PARENTAL DEFENSE
OFFICE AMENDMENTS**

Chief Sponsor: Wayne A. Harper
 House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill changes the administration of the Child Welfare Parental Defense Program from the Department of Administrative Services to the Commission on Criminal and Juvenile Justice.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the administration of the Child Welfare Parental Defense Program from the Department of Administrative Services to the Commission on Criminal and Juvenile Justice;
- ▶ modifies provisions relating to the duties and functions of the Child Welfare Parental Defense Program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to Commission on Criminal and Juvenile Justice -- Child Welfare Parental Defense Fund, as an ongoing appropriation:
 - from General Fund, \$6,500.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63M-7-204, as last amended by Laws of Utah 2018, Chapters 54 and 126

77-32-802, as last amended by Laws of Utah 2018, Chapter 296

ENACTS:

63M-7-211, Utah Code Annotated 1953

63M-7-211.1, Utah Code Annotated 1953

63M-7-211.2, Utah Code Annotated 1953

REPEALS:

63A-11-101, as last amended by Laws of Utah 2011, Chapter 265

63A-11-102, as last amended by Laws of Utah 2011, Chapter 265

63A-11-103, as last amended by Laws of Utah 2011, Chapter 265

63A-11-104, as last amended by Laws of Utah 2011, Chapter 265

63A-11-105, as last amended by Laws of Utah 2011, Chapter 265

63A-11-106, as last amended by Laws of Utah 2011, Chapter 265

63A-11-107, as last amended by Laws of Utah 2008, Chapter 382

63A-11-201, as last amended by Laws of Utah 2011, Chapter 265

63A-11-202, as last amended by Laws of Utah 2011, Chapter 265

63A-11-203, as last amended by Laws of Utah 2013, Chapter 400

63A-11-204, as last amended by Laws of Utah 2011, Chapter 265

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-204 is amended to read:**63M-7-204. Duties of commission.**

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants funded from money from the Law Enforcement Operations Account created in Section 51-9-411 for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs; ~~and~~

(u) oversee the trauma-informed justice program described in Section 63M-7-209~~[-]~~; and

(v) administer the Child Welfare Parental Defense Program in accordance with Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that

the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 2. Section 63M-7-211 is enacted to read:

63M-7-211. Child welfare parental defense program -- Creation -- Duties -- Contracting -- Annual report -- Budget -- Records access.

(1) As used in this section and Sections 63M-7-211.1 and 63M-7-211.2:

(a) “Child welfare case” means a proceeding under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

(b) “Commission” means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) “Contracted parental defense attorney” means a parental defense attorney who is under contract with the commission to provide parental defense in a child welfare case.

(d) “Executive director” means the executive director of the commission appointed under Section 63M-7-203.

(e) “Fund” means the Child Welfare Parental Defense Fund established in Section 63M-7-211.2.

(f) “Parental defense attorney” means an attorney, law firm, or group of attorneys who:

(i) are authorized to practice law in the state; and

(ii) provide legal representation under contract with the commission, or a county in the state, to a parent who is a party in a child welfare case.

(g) “Program” means the Child Welfare Parental Defense Program created in this section.

(2) There is created within the commission the Child Welfare Parental Defense Program.

(3) The commission shall:

(a) administer and enforce this section;

(b) manage the operation and budget of the program;

(c) provide assistance and advice to parental defense attorneys;

(d) develop and provide educational and training programs for parental defense attorneys; and

(e) provide information and advice to assist a parental defense attorney to comply with the attorney’s professional, contractual, and ethical duties.

(4) The commission may contract with:

(a) a person who is qualified to perform the program duties under this section; and

(b) an attorney authorized to practice law in the state, as an independent contractor, to serve as a parental defense attorney under this section.

(5) (a) On or before October 1 of each year, the executive director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.

(b) The executive director shall prepare a budget of:

(i) the administrative expenses for the program; and

(ii) the amount estimated to fund needed contracts and other costs.

(c) The professional legislative staff may include summary data and nonidentifying information in the staff's audits and reports to the Legislature.

(6) (a) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, and except as provided in Subsection (6)(b), a record of a contracted parental defense attorney is protected and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.

(ii) A record of a contracted parental defense attorney is subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers.

(b) The Legislature shall maintain a record released in accordance with Subsection (6)(a)(ii) as confidential.

Section 3. Section 63M-7-211.1 is enacted to read:

63M-7-211.1. Child welfare parental defense contracts.

(1) (a) The commission may enter into a contract with a parental defense attorney to provide services for an indigent parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires a parental defense attorney under Section 78A-6-1111.

(b) Payment for the representation, costs, and expenses of a contracted parental defense attorney shall be made from the Child Welfare Parental Defense Fund in accordance with Section 63M-7-211.2.

(c) The parental defense attorney shall maintain the minimum qualifications as provided by this section.

(2) A contracted parental defense attorney shall:

(a) adequately prepare for and attend all court hearings, including initial and continued shelter hearings and mediations;

(b) fully advise the client of the nature of the proceedings and of the client's rights, communicate to the client any offers of settlement or compromise, and advise the client regarding the reasonably foreseeable consequences of any course of action in the proceedings;

(c) be reasonably available to consult with the client outside of court proceedings;

(d) where attendance is reasonably necessary, attend meetings regarding the client's case with representatives of one or more of the Division of Child and Family Services, the Office of the Attorney General, or the Office of Guardian Ad Litem;

(e) represent the interest of the client at all stages of the proceedings before the trial court, and on appeal as required by law; and

(f) participate in the training courses and otherwise maintain the standards described in Subsection (4).

(3) If the commission enters into a contract with a firm to provide parental defense attorney services under this section, the contract shall require that each attorney in the firm who will provide representation of a parent in a child welfare case under the contract perform the duties described in Subsection (2).

(4) (a) Except as otherwise provided in Subsection (4)(b), a contracted parental defense attorney shall:

(i) complete a basic training course provided by the program;

(ii) have experience in child welfare cases; and

(iii) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection (4)(a) an attorney who has equivalent training or adequate experience.

Section 4. Section 63M-7-211.2 is enacted to read:

63M-7-211.2. Child Welfare Parental Defense Fund -- Agreements for coverage by the Child Welfare Parental Defense Fund.

(1) There is created an expendable special revenue fund known as the "Child Welfare Parental Defense Fund."

(2) Subject to availability, the commission may make distributions from the fund as required in this section or Section 63M-7-211 or 63M-7-211.1 for the following purposes:

(a) to pay for the representation, costs, expert witness fees, and expenses of parental defense attorneys who are under contract with the commission to provide parental defense in child welfare cases for an indigent parent that is the subject of a petition alleging abuse, neglect, or dependency;

(b) for administrative costs under this section or Section 63M-7-211 or 63M-7-211.1; and

(c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.

(3) The fund consists of:

(a) appropriations made to the fund by the Legislature;

(b) interest and earnings from the investment of fund money;

(c) proceeds deposited by participating counties under this section; and

(d) private contributions to the fund.

(4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) (a) If the commission anticipates a deficit in the fund during a fiscal year:

(i) the commission shall request an appropriation from the Legislature; and

(ii) the Legislature may fund the anticipated deficit through appropriation.

(b) If the anticipated deficit is not funded by the Legislature, the commission may request an interim assessment to participating counties as described in Subsection (6) to fund the anticipated deficit.

(6) (a) A county legislative body and the commission may annually enter into a written agreement for the commission to provide parental defense attorney services in the county out of the fund.

(b) The agreement described under Subsection (6)(a) shall:

(i) require the county to pay into the fund an amount defined by a formula established by the commission by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) provide for revocation of the agreement for failure to pay an assessment on the due date established by the commission by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) (a) After the first year of operation of the fund, any county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, shall be required to make an equity payment, in addition to the assessment provided in Subsection (5).

(b) The commission shall determine the amount of the equity payment described in Subsection (7)(a) by rule established by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) A county that elects to withdraw from participation in the fund, or whose participation in the fund is revoked due to failure to pay the county's assessment, as described in Subsection (6), when due, shall forfeit any right to any previously paid assessment by the county or coverage from the fund.

Section 5. Section 77-32-802 is amended to read:

77-32-802. Commission members -- Member qualifications -- Terms -- Vacancy.

(1) The commission is composed of 14 voting members and one ex officio, nonvoting member.

(a) The governor, with the consent of the Senate, shall appoint the following 12 voting members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) an attorney representing minority interests recommended by the Utah Minority Bar Association;

(iv) one member recommended by the Utah Association of Counties from a county of the first or second class;

(v) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vi) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(vii) two members recommended by the Utah League of Cities and Towns from its membership;

(viii) a retired judge recommended by the Judicial Council;

(ix) one member of the Utah Legislature selected jointly by the Speaker of the House and President of the Senate; and

(x) one attorney practicing in the area of parental defense, recommended by an entity funded under [~~Title 63A, Chapter 11,~~] the Child Welfare Parental Defense Program created in Section 63M-7-211.

(b) The Judicial Council shall appoint a voting member from the Administrative Office of the Courts.

(c) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a voting member of the commission.

(d) The director of the commission, appointed under Section 77-32-803, is an ex officio, nonvoting member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal

defense, parental defense, or juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) A person who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) The commission shall annually elect a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

Section 6. Repealer.

This bill repeals:

Section 63A-11-101, Title.

Section 63A-11-102, Definitions.

Section 63A-11-103, Creation of program.

Section 63A-11-104, Program -- Duties -- Contracting.

Section 63A-11-105, Program -- Duties, functions, and responsibilities.

Section 63A-11-106, Annual report -- Budget.

Section 63A-11-107, Records access.

Section 63A-11-201, Child welfare parental defense contracts -- Qualifications.

Section 63A-11-202, Contracted parental defense attorney.

Section 63A-11-203, Child Welfare Parental Defense Fund -- Creation.

Section 63A-11-204, Agreements for coverage by the Child Welfare Parental

Defense Fund -- Eligibility -- County and state obligations -- Termination -- Revocation.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Commission on Criminal and Juvenile Justice -- Child Welfare Parental

Defense Fund

From General Fund \$6,500

Schedule of Programs:

Child Welfare Parental Defense Fund \$6,500

CHAPTER 436**S. B. 253**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**CONSTRUCTION CODE FOR
HISTORIC PRESERVATION**

Chief Sponsor: Gene Davis
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends provisions related to the construction code.

Highlighted Provisions:

This bill:

- ▶ adopts provisions related to plaster in the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-2-103, as last amended by Laws of Utah 2018, Chapter 186

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-2-103 is amended to read:**15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.**

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Part 3, Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2015 edition of the International Building Code, including Appendix J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) the 2015 edition of the International Plumbing Code, issued by the International Code Council;

(d) the 2015 edition of the International Mechanical Code, issued by the International Code Council;

(e) the 2015 edition of the International Fuel Gas Code, issued by the International Code Council;

(f) the 2017 edition of the National Electrical Code, issued by the National Fire Protection Association;

(g) the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(h) the 2015 edition of the International Existing Building Code, issued by the International Code Council;

(i) subject to Subsection 15A-2-104(2), the HUD Code;

(j) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council; [and]

(k) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association[-]; and

(l) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(l) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

CHAPTER 437**S. B. 257**

Passed March 14, 2019

Approved March 27, 2019

Effective May 14, 2019

INTEREST RATES AMENDMENTS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Craig Hall

LONG TITLE**General Description:**

This bill amends interest rate provisions in Title 15, Contracts and Obligations in General.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding interest rates, including contracted and legal interest rates.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15-1-1, as last amended by Laws of Utah 1989, Chapter 79

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15-1-1 is amended to read:**15-1-1. Interest rates -- Contracted rate -- Legal rate.**

(1) The parties to a lawful written, verbal, or implied contract may agree upon any rate of interest for the contract, including a contract for services, a loan or forbearance of any money, goods, or services, or ~~chese in action that is the subject of their contract~~ a claim for breach of contract.

(2) Unless the parties to a lawful written, verbal, or implied contract expressly specify a different rate of interest, the legal rate of interest for the contract, including a contract for services, a loan or forbearance of any money, goods, or services, or ~~chese in action shall be~~ a claim for breach of contract is 10% per annum.

(3) Nothing in this section may be construed in any way to affect any penalty or interest charge that by law applies to delinquent or other taxes or to any contract or obligations made before May 14, 1981.

CHAPTER 438**S. B. 262**

Passed March 14, 2019
 Approved March 27, 2019
 Effective May 14, 2019

**SALES REPRESENTATIVE COMMISSION
 PAYMENT ACT AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore
 House Sponsor: Brady Brammer

LONG TITLE**General Description:**

This bill amends the Sales Representative Commission Payment Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ excludes a participant in a direct sales company from the definition of "sales representative"; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-44-102, as last amended by Laws of Utah 2010,
 Chapter 379

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-44-102 is amended to read:

34-44-102. Definitions.

As used in this chapter:

(1) "Business relationship" means an agreement that governs the relationship of principal and sales representative.

(2) "Commission" means:

(a) compensation:

(i) that accrues to a sales representative;

(ii) for payment by a principal; and

(iii) at a rate expressed as a percentage of the dollar amount of sales, orders, or profits; or

(b) any other method of compensation agreed to between a sales representative and a principal including:

(i) fees for services; and

(ii) a retainer.

(3) (a) "Direct sales company" means a person that:

(i) sells, distributes, or supplies for consideration a good or service through participants:

(A) at different levels of distribution; or

(B) in accordance with a formula for compensating participants in whole or in part based on:

(I) the sale of a good or service; and

(II) the recruitment of or the performance or action of another participant; and

(ii) (A) permits participants to recruit other participants to sell, distribute, or supply for consideration the person's good or service; or

(B) provides for commission, cross-commissions, override commissions, bonuses, refunds, dividends, or other consideration that is or may be paid as a result of:

(I) the sale of a good or service; or

(II) the recruitment of or the performance or action of another participant.

(b) As used in this Subsection (3), "participant" means an independent agent, contractor, or distributor.

~~[(3)]~~ (4) "Principal" means a person who:

(a) engages in any of the following activities with regard to a product or service:

(i) manufactures;

(ii) produces;

(iii) imports;

(iv) sells; or

(v) distributes;

(b) establishes a business relationship with a sales representative to solicit orders for a product or a service described in Subsection ~~[(3)]~~ (4)(a); and

(c) agrees to compensate a sales representative, in whole or in part, by commission.

~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b), "sales representative" means a person who enters into a business relationship with a principal:

(i) to solicit orders for a product or a service described in Subsection ~~[(3)]~~ (4)(a); and

(ii) under which the person is compensated, in whole or in part, by commission.

(b) "Sales representative" does not include:

(i) an employee of a principal;

(ii) a person licensed under Title 31A, Insurance Code;

(iii) a person licensed under Title 41, Chapter 3, Part 2, Licensing;

(iv) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(v) a person who provides a product or service under a business relationship with a principal that is incident to the purchase or sale of real property; ~~[or]~~

(vi) a person who places an order or purchases a product or service for that person's own account for resale~~[-];~~ or

(vii) an independent agent, contractor, or distributor through whom a direct sales company supplies for consideration a good or service.

[(5)] (6) "Terminates" or "termination" means the end of a business relationship between a sales representative and a principal, whether by:

- (a) agreement;
- (b) expiration of a time period; or
- (c) exercise of a right of termination by either the principal or the sales representative.

CHAPTER 439**S. B. 264**

Passed March 13, 2019
 Approved March 27, 2019
 Effective January 1, 2020

**MEDICAL TREATMENT
 AUTHORIZATION AMENDMENTS**

Chief Sponsor: Evan J. Vickers
 House Sponsor: Suzanne Harrison

LONG TITLE**General Description:**

This bill enacts provisions relating to preauthorization of health care.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an insurer to post certain information regarding requirements for the authorization for health care;
- ▶ prohibits an insurer from denying certain requests for authorization of health care;
- ▶ requires an insurer to respond to a request for authorization for health care within a certain time period;
- ▶ creates requirements when an insurer changes certain policies in the middle of a plan year; and
- ▶ creates a reporting requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

31A-2-201.2, as last amended by Laws of Utah 2018, Chapter 319

31A-4-116, as last amended by Laws of Utah 2002, Chapter 308

31A-22-613.5, as last amended by Laws of Utah 2017, Chapters 241 and 292

ENACTS:

31A-22-650, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-2-201.2 is amended to read:**31A-2-201.2. Evaluation of health insurance market.**

- (1) Each year the commissioner shall:
- (a) conduct an evaluation of the state's health insurance market;
 - (b) report the findings of the evaluation to the Health and Human Services Interim Committee before December 1 of each year; and
 - (c) publish the findings of the evaluation on the department website.
- (2) The evaluation required by this section shall:
- (a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy,

competitive health insurance market that meets the needs of the state, and includes an analysis of:

- (i) the availability and marketing of individual and group products;
- (ii) rate changes;
- (iii) coverage and demographic changes;
- (iv) benefit trends;
- (v) market share changes; and
- (vi) accessibility;

(b) assess complaint ratios and trends within the health insurance market, which assessment shall include complaint data from the Office of Consumer Health Assistance within the department;

(c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes; ~~and~~

(d) include claims loss ratio data for each health insurance company doing business in the state~~[-];~~ and

(e) include information, for each health insurance company doing business in the state, regarding:

- (i) preauthorization determinations; and
- (ii) adverse benefit determinations.

(3) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured persons, providers, and others with an interest in the health insurance market.

(4) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.

(5) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 31A-4-116 is amended to read:**31A-4-116. Adverse benefit determination procedures.**

(1) If an insurer has established a complaint resolution body or grievance appeal board, the body or board shall include at least one consumer representative.

(2) Adverse benefit determination procedures for health insurance policies and health maintenance organization contracts shall be established in accordance ~~[Section]~~ Sections 31A-22-629 and 31A-22-650.

Section 3. Section 31A-22-613.5 is amended to read:**31A-22-613.5. Price and value comparisons of health insurance.**

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

(i) all health benefit plans; and

(ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to provide to all enrollees, before enrollment in the health benefit plan, written disclosure of:

(a) restrictions or limitations on prescription drugs and biologics, including:

(i) the use of a formulary;

(ii) co-payments and deductibles for prescription drugs; and

(iii) requirements for generic substitution;

(b) coverage limits under the plan;

(c) any limitation or exclusion of coverage, including:

(i) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(ii) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition;

(d) (i) (A) each drug, device, and covered service that is subject to a preauthorization requirement as defined in Section 31A-22-650; or

(B) if listing each device or covered service in accordance with Subsection (2)(d)(i)(A) is too numerous to list separately, all devices or covered services in a particular category where all devices or covered services have the same preauthorization requirement;

(ii) each requirement for authorization as defined in Section 31A-22-650 for:

(A) each drug, device, or covered service described in Subsection (2)(d)(i)(A); and

(B) each category of devices or covered services described in Subsection (2)(d)(i)(B); and

(iii) sufficient information to allow a network provider or enrollee to submit all of the information to the insurer necessary to meet each requirement for authorization described in Subsection (2)(d)(ii);

[(d)] (e) whether the insurer permits an exchange of the adoption indemnity benefit in Section 31A-22-610.1 for infertility treatments, in accordance with Subsection 31A-22-610.1(1)(c)(ii) and the terms associated with the exchange of benefits; and

[(e)] (f) whether the insurer provides coverage for telehealth services in accordance with Section 26-18-13.5 and terms associated with that coverage.

(3) An insurer shall provide the disclosure required by Subsection (2)[(a)(i)] in writing to the commissioner:

(a) upon commencement of operations in the state; and

(b) anytime the insurer amends any of the following described in Subsection (2):

(i) treatment policies;

(ii) practice standards;

(iii) restrictions;

(iv) coverage limits of the insurer's health benefit plan or health insurance policy; or

(v) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(4) (a) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(b) If under Subsection (2)(a) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(c) [(4)] The commissioner shall develop examples of limitations or exclusions of a secondary medical condition that an insurer may use under Subsection (2)(c).

[(ii)] (5) Examples of a limitation or exclusion of coverage provided under [Subsection (2)(c)] this section or otherwise are for illustrative purposes only, and the failure of a particular fact situation to fall within the description of an example does not, by itself, support a finding of coverage.

(6) An insurer shall:

(a) post the information described in Subsection (2)(d) on the insurer's website and provider portal;

(b) if requested by an enrollee, provide the enrollee with the information required by this section by mail or email; and

(c) if requested by a network provider for a specific drug, device, or covered service, provide the

network provider with the information described in Subsection (2)(d) for the drug, device, or covered service by mail or email.

Section 4. Section 31A-22-650 is enacted to read:

31A-22-650. Health care preauthorization requirements.

(1) As used in this section:

(a) “Adverse preauthorization determination” means a determination by an insurer that health care does not meet the preauthorization requirement for the health care.

(b) “Authorization” means a determination by an insurer that for health care with a preauthorization requirement:

(i) the proposed drug, device, or covered service meets all requirements, restrictions, limitations, and clinical criteria for authorization established by the insurer;

(ii) the drug, device, or covered service is covered by the enrollee’s insurance policy; and

(iii) the insurer will provide coverage for the drug, device, or covered service subject to the provisions of the insurance policy, including any cost sharing responsibilities of the enrollee.

(c) “Device” means a prescription device as defined in Section 58-17b-102.

(d) “Drug” means the same as that term is defined in Section 58-17b-102.

(e) “Insurer” means the same as that term is defined in Section 31A-22-634.

(f) “Preauthorization requirement” means a requirement by an insurer that an enrollee obtain authorization for a drug, device, or service covered by the insurance policy, before receiving the drug, device, or service.

(2) (a) An insurer may not modify an existing requirement for authorization unless, at least 30 days before the day on which the modification takes effect, the insurer:

(i) posts a notice of the modification on the website described in Subsection 31A-22-613.5(6)(a); and

(ii) if requested by a network provider or the network provider’s representative, provides to the network provider by mail or email a written notice of modification to a particular requirement for authorization described in the request from the network provider.

(b) Subsection (2)(a) does not apply if:

(i) complying with Subsection (2)(a) would create a danger to the enrollee’s health or safety; or

(ii) the modification is for a newly covered drug or device.

(c) An insurer may not revoke an authorization for a drug, device, or covered service if:

(i) the network provider submits a request for authorization for the drug, device, or covered service to the insurer;

(ii) the insurer grants the authorization requested under Subsection (2)(c)(i);

(iii) the network provider renders the drug, device, or covered service to the enrollee in accordance with the authorization and any terms and conditions of the network provider’s contract with the insurer;

(iv) on the day on which the network provider renders the drug, device, or covered service to the enrollee:

(A) the enrollee is eligible for coverage under the enrollee’s insurance policy; and

(B) the enrollee’s condition or circumstances related to the enrollee’s care have not changed;

(v) the network provider submits an accurate claim that matches the information in the request for authorization under Subsection (2)(c)(i); and

(vi) the authorization was not based on fraudulent or materially incorrect information from the network provider.

(3) (a) An insurer that receives a request for authorization shall treat the request as a pre-service claim as defined in 29 C.F.R. Sec. 2560.503-1 and process the request in accordance with:

(i) 29 C.F.R. Sec. 2560.503-1, regardless of whether the coverage is offered through an individual or group health insurance policy;

(ii) Subsection 31A-4-116(2); and

(iii) Section 31A-22-629.

(b) If a network provider submits a claim to an insurer that includes an unintentional error that results in a denial of the claim, the insurer shall permit the network provider with an opportunity to resubmit the claim with corrected information within a reasonable amount of time.

(c) Except as provided in Subsection (3)(d), the appeal of an adverse preauthorization determination regarding clinical or medical necessity as requested by a physician may only be reviewed by a physician who is currently licensed as a physician and surgeon in a state, district, or territory of the United States.

(d) The appeal of an adverse determination requested by a physician regarding clinical or medical necessity of a drug, may only be reviewed by an individual who is currently licensed in a state, district, or territory of the United States as:

(i) a physician and surgeon; or

(ii) a pharmacist.

(e) An insurer shall ensure that an adverse preauthorization determination regarding clinical or medical necessity is made by an individual who:

(i) has knowledge of the medical condition or disease of the enrollee for whom the authorization is requested; or

(ii) consults with a specialist who has knowledge of the medical condition or disease of the enrollee for whom the authorization is requested regarding the request before making the determination.

(f) An insurer shall specify how long an authorization is valid.

(4) (a) An insurer that removes a drug from the insurer's formulary shall:

(i) permit an enrollee, an enrollee's designee, or an enrollee's network provider to request an exemption from the change to the formulary for the purpose of providing the patient with continuity of care; and

(ii) have a process to review and make a decision regarding an exemption requested under Subsection (4)(a)(i).

(b) If an insurer makes a change to the formulary for a drug in the middle of a plan year, the insurer may not implement the changes for an enrollee that is on an active course of treatment for the drug unless the insurer provides the enrollee with notice at least 30 days before the day on which the change is implemented.

(5) Before April 1, 2021, and before April 1 of each year thereafter, an insurer with a preauthorization requirement shall report to the department, for the previous calendar year, the percentage of authorizations, not including a claim involving urgent care as defined in 29 C.F.R. Sec. 2560.503-1, for which the insurer notified a provider regarding an authorization or adverse preauthorization determination more than one week after the day on which the insurer received the request for authorization.

(6) An insurer may not have a preauthorization requirement for emergency health care as described in Section 31A-22-627.

Section 5. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 440**H. B. 17**

Passed March 14, 2019
 Approved March 28, 2019
 Effective May 14, 2019

**FIREARM VIOLENCE AND
 SUICIDE PREVENTION AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill reenacts and modifies previously sunsetted provisions relating to a voluntary firearm safety program and a suicide prevention education course.

Highlighted Provisions:

This bill:

- ▶ requires the Division of Substance Abuse and Mental Health, in consultation with the Bureau of Criminal Identification, to implement and manage a firearm safety program and a suicide prevention education course by:
 - producing a firearm safety brochure and firearm safety packet;
 - procuring cable-style gun locks;
 - distributing firearm safety packets;
 - administering a program in which a Utah resident who has filed an application for a concealed firearm permit receives a redeemable coupon toward the purchase of a firearm safe and receives a firearm safety brochure; and
 - creating a suicide prevention education course;
- ▶ modifies the administration of a grant program to provide suicide prevention education opportunities for firearm dealers;
- ▶ requires a federal firearm dealer to provide a cable-style gun lock supplied by the Division of Substance Abuse and Mental Health to an individual purchasing a certain firearm;
- ▶ requires the Bureau of Criminal Identification, in conjunction with the Division of Substance Abuse and Mental Health, to:
 - create a firearm safety and suicide prevention web-accessible video; and
 - require an applicant seeking renewal of a concealed firearm permit to view the video before renewal; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to Department of Human Services - Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from General Fund, \$10,000.
- ▶ to Department of Human Services - Division of Substance Abuse and Mental Health, as a one-time appropriation:
 - from General Fund Restricted, One-time - Concealed Weapons Account, \$500,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

53-5-707, as last amended by Laws of Utah 2018, Chapter 417
 62A-15-103, as last amended by Laws of Utah 2018, Chapter 322
 62A-15-1101, as last amended by Laws of Utah 2018, Chapters 38, 414, and 415
 63I-1-262, as last amended by Laws of Utah 2018, Chapters 74, 220, 281, and 347
 63I-1-276, as enacted by Laws of Utah 2014, Chapter 226
 63I-2-262, as last amended by Laws of Utah 2018, Chapter 38
 76-10-526, as last amended by Laws of Utah 2018, Chapter 417

ENACTS:

53-5-707.6, Utah Code Annotated 1953
 62A-15-103.1, Utah Code Annotated 1953

REPEALS:

53-10-202.3, as enacted by Laws of Utah 2017, Chapter 296

Utah Code Sections Affected by Coordination Clause:

62A-15-1101, as last amended by Laws of Utah 2018, Chapters 38, 414, and 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5-707 is amended to read:**53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.**

(1) (a) An applicant for a concealed firearm permit shall pay a fee of \$25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional \$10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is \$20. A nonresident shall pay an additional \$5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is \$10.

(4) (a) The late fee for the renewal permit is \$7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account ~~shall~~ may only be used to cover costs relating to:

(i) ~~the issuance of concealed firearm permits under this part [and may not be used for any other purpose.]; or~~

(ii) ~~the programs described in Subsections 62A-15-103(3) and 76-10-526(15) and Section 62A-15-1101.~~

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 2. Section 53-5-707.6 is enacted to read:

53-5-707.6. Concealed firearm permit renewal -- Firearm safety and suicide prevention video.

(1) The bureau, in conjunction with the Division of Substance Abuse and Mental Health created in Section 62A-15-103, shall create a firearm safety and suicide prevention video that:

(a) is web-accessible;

(b) is no longer than 10 minutes in length; and

(c) includes information about:

(i) safe handling, storage, and use of firearms in a home environment;

(ii) at-risk individuals and individuals who are legally prohibited from possessing firearms; and

(iii) suicide prevention awareness.

(2) Before renewing a firearm permit, an individual shall view the firearm safety and suicide prevention video and submit proof in the form required by the bureau.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the bureau shall make rules that establish procedures for:

(a) producing and distributing the firearm safety and suicide prevention video; and

(b) providing access to the video to an applicant seeking renewal of a firearm permit.

Section 3. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative

policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301~~(5)~~(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by

the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is required to participate in treatment by the court or the Board of Pardons and Parole, or who is incarcerated, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and

coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i); and

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a redeemable coupon program described in this Subsection (3) and Section 76-10-526 that includes:

(i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed firearm permit; and

(ii) collecting the receipts described in Section 76-10-526 from the participating dealers and persons and reimbursing the dealers and persons;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

[3] (4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

[44] (5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection [44] (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

[45] (6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

[46] (7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

[47] (8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

- (a) use of public funds;
- (b) oversight of public funds; and
- (c) governance of substance use disorder and mental health programs and services.

[48] (9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

[49] (10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

- (a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or
- (b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 4. Section 62A-15-103.1 is enacted to read:

62A-15-103.1. Suicide Prevention Education Program -- Definitions -- Grant requirements.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(2) There is created a Suicide Prevention Education Program to fund suicide prevention

education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.

(3) The division, in conjunction with the bureau, shall provide a grant to an employer described in Subsection (2) in accordance with the criteria provided in Subsection 62A-15-1101(7)(b).

(4) An employer may apply for a grant of up to \$2,500 under the program.

Section 5. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(2) The coordinator shall:

- (a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and
- (b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

(3) The state suicide prevention program may include the following components:

- (a) delivery of resources, tools, and training to community-based coalitions;
- (b) evidence-based suicide risk assessment tools and training;
- (c) town hall meetings for building community-based suicide prevention strategies;
- (d) suicide prevention gatekeeper training;
- (e) training to identify warning signs and to manage an at-risk individual's crisis;
- (f) evidence-based intervention training;
- (g) intervention skills training; and
- (h) postvention training.

(4) The coordinator shall coordinate with the following to gather statistics, among other duties:

- (a) local mental health and substance abuse authorities;
- (b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;
- (c) the Department of Health;
- (d) health care providers, including emergency rooms;
- (e) federal agencies, including the Federal Bureau of Investigation;
- (f) other unbiased sources; and
- (g) other public health suicide prevention efforts.

(5) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (1) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection 62A-15-103(3).

~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section ~~[53-10-202.3]~~ 62A-15-103.1, which shall include:

(i) attendance at ~~[a]~~ the suicide prevention education course described in Subsection 62A-15-103(3); and

(ii) ~~[display of posters and]~~ distribution of the firearm safety brochures or packets created in Subsection ~~[53-10-202(18)(a)(iii)]~~ 62A-15-103(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

~~[(7)]~~ (8) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

~~[(8)]~~ (9) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 6. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Subsections 62A-1-120(8)(g), (h), and (i) are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

(3) Section 62A-4a-202.9 is repealed December 31, 2019.

(4) Section 62A-4a-213 is repealed July 1, 2019.

(5) Section 62A-15-114 is repealed December 31, 2021.

~~[(6) Subsection 62A-15-1101(7) is repealed July 1, 2018.]~~

Section 7. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates, Title 76.

~~[Subsection 76-10-526(15) is repealed July 1, 2018.]~~

Section 8. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

~~[(1) Section 62A-1-111.5 is repealed July 1, 2018.]~~

~~[(2) Subsection 62A-5-103.1(6) is repealed January 1, 2023.]~~

~~[(3) Subsection 62A-15-1101(6) is repealed January 1, 2019.]~~

~~[(4) Section 62A-15-1102 is repealed January 1, 2019.]~~

Section 9. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited

from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section. ~~[This]~~

(b) ~~The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process [in accordance with] described in Section 63J-1-504.~~

~~[(b)]~~ (c) (i) The dealer shall forward at one time all collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) ~~[This section]~~ Subsection (14)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer or a person engaged in the business of selling firearm safes in Utah may participate in the redeemable coupon program described in this Subsection (15) and Subsection 62A-15-103(3).

(b) A participating dealer or person shall:

(i) apply the coupon only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of a firearm safe using the redeemable coupons and send the receipts to the Division of Substance Abuse and Mental Health for redemption; and

(iii) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge.

(16) A dealer engaged in the business of selling, leasing, or otherwise transferring any firearm shall:

(a) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 10. Repealer.

This bill repeals:

Section 53-10-202.3, Suicide Prevention Education Program -- Definitions -- Grant requirements.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services - Division of Substance Abuse and Mental Health

<u>From General Fund</u>	<u>\$10,000</u>
<u>From General Fund Restricted - Concealed Weapons Account</u>	
<u>One-time</u>	<u>\$500,000</u>

Schedule of Programs:

<u>Community Mental Health Services</u>	<u>\$510,000</u>
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Section 12. Coordinating H.B. 17 with H.B. 249 -- Technical amendments.

If this H.B. 17 and H.B. 249, Revisor's Technical Corrections to Utah Code, both pass and become law, it is the intent of the Legislature that the amendments to Section 62A-15-1101 in this bill supersede the amendments to Section 62A-15-1101 in H.B. 249 when the Office of

Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 441**H. B. 120**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

**STUDENT AND SCHOOL
 SAFETY ASSESSMENT**

Chief Sponsor: Raymond P. Ward
 Senate Sponsor: Ann Millner

LONG TITLE**General Description:**

This bill enacts provisions related to school safety.

Highlighted Provisions:

This bill:

- ▶ amends provisions of the International Fire Code related to routine emergency evacuation drills;
- ▶ directs the Department of Public Safety to employ a public safety liaison;
- ▶ directs the State Board of Education (Board) to establish policies and procedures for student resource officers;
- ▶ creates the State Safety and Support Program;
- ▶ requires the Board to develop model policies and procedures for student safety and support;
- ▶ directs the Division of Substance Abuse and Mental Health to employ a school-based mental health specialist; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Education - MSP Categorical Program Administration - State Safety and Support Program, as an ongoing appropriation:
 - from the Education Fund, \$480,000;
- ▶ to the Department of Public Safety - Programs and Operations - Department Commissioner's Office, as an ongoing appropriation:
 - from the General Fund, \$150,000; and
- ▶ to the Department of Human Services - Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from the General Fund, \$150,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

15A-5-202.5, as last amended by Laws of Utah 2018, Chapter 189
 53-1-106, as last amended by Laws of Utah 2018, Chapters 200 and 417
 53G-8-702, as renumbered and amended by Laws of Utah 2018, Chapter 3
 62A-15-103, as last amended by Laws of Utah 2018, Chapter 322

ENACTS:

53G-8-801, Utah Code Annotated 1953
 53G-8-802, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-5-202.5 is amended to read:**15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.**

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "the Utah Administrative Code, R652-122-200, Minimum Standards for Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 310.8, Hazardous and Environmental Conditions, is deleted and rewritten as follows: "1. When the fire code official determines that existing or historical hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1.1. If the existing or historical hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in:

1.1.1. mountainous, brush-covered, forest-covered, or dry grass-covered areas;

1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

1.1.3. the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; or

1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to facilitate a readily identifiable closed area, in accordance with paragraph 2.

1.2. If the existing or historical hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

1.3. If the existing or historical hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the township.

2. If a municipal legislative body, the state forester, or a metro township legislative body closes an area to the discharge of fireworks under paragraph 1, the legislative body or state forester shall:

2.1. designate the closed area along readily identifiable features like major roadways, waterways, or geographic features;

2.2. ensure that the boundary of the designated closed area is as close as is practical to the defined hazardous area, provided that the closed area may include areas outside of the hazardous area to facilitate a readily identifiable line; and

2.3. identify the closed area through a written description or map that is readily available to the public.

3. A municipal legislative body, the state forester, or a metro township legislative body may close a defined area to the discharge of fireworks due to a historical hazardous environmental condition under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body, the state forester, or a metro township legislative body may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3.”

(c) IFC, Chapter 3, Section 311.1.1, Abandoned Premises, is amended as follows: On line 10 delete the words “International Property Maintenance Code and the”.

(d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word “shall” and replace it with the word “may”.

(e) IFC, Chapter 3, Section 315.2.1, Ceiling Clearance, is amended to add the following: “Exception: Where storage is not directly below the sprinkler heads, storage is allowed to be placed to the ceiling on wall-mounted shelves that are protected by fire sprinkler heads in occupancies meeting classification as light or ordinary hazard.”

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and replaced with the following:

“403.10.2.1 College and university buildings and fraternity and sorority houses.

(a) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(b) Group R-2 college and university buildings, including fraternity and sorority houses, shall

comply with Sections 403.10.2.1.1 and 403.10.2.1.2.”

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) “e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline.”

(ii) “f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill [~~for fire~~] must be conducted at least every other evacuation drill.”

(iii) “g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Subsection 404.2.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code.”

Section 2. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods

of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact; ~~and~~

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department[-]; and

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 3. Section 53G-8-702 is amended to read:

53G-8-702. School resource officer training -- Curriculum.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the State Board of Education shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; and

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies and procedures that govern student resource officers.

Section 4. Section 53G-8-801 is enacted to read:

Part 8. State Safety and Support Program
53G-8-801. Definitions.

As used in this section:

(1) “Bullying” means the same as that term is defined in Section 53G-9-601.

(2) “Law enforcement officer” means the same as that term is defined in Section 53-13-103.

(3) “Program” means the State Safety and Support Program established in Section 53G-8-802.

Section 5. Section 53G-8-802 is enacted to read:

53G-8-802. State Safety and Support Program -- State board duties.

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Division of Substance Abuse and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes protocols for conducting a threat assessment, and ensuring building security during an incident;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 62A-15-103;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

(j) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

Section 6. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private

programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

- (A) emergency department utilization;
- (B) jail and prison populations;
- (C) the homeless population; and
- (D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education

and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

- (A) local substance abuse authorities;
- (B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

- (A) a statewide comprehensive continuum of substance abuse services;
- (B) a statewide comprehensive continuum of mental health services;
- (C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract

with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is required to participate in treatment by the court or the Board of Pardons and Parole, or who is incarcerated, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the

treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i); and

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(3) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or

services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(10) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - MSP Categorical Program Administration

From Education Fund \$480,000

Schedule of Programs:

State Safety and Support Program \$480,000

(1) The Legislature intends that the State Board of Education use:

(a) \$150,000 of the ongoing appropriation under this item to fund school safety technical assistance for local education agencies, including training, materials, and curriculum;

(b) \$150,000 of the ongoing appropriation under this item to fund the development of a student support team pilot program for participating local education agencies, including support team structures, climate surveys as described in Section 53G-8-802, and policies; and

(c) \$180,000 of the ongoing appropriation under this item to fund a data collection analyst for school safety data.

(2) No later than November 1, 2019, the State Board of Education shall submit a report to the Education Interim Committee on the development of the student support team pilot program described in Subsection (1)(b).

ITEM 2

To Department of Public Safety - Program and Operations

From General Fund \$150,000

Schedule of Programs:

Department Commissioner's Office \$150,000

(1) The Legislature intends that the Department of Public Safety use the appropriation provided under this item to fund the public safety liaison described in Section 53-1-106.

(2) The Legislature further intends that under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020.

ITEM 3

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund \$150,000

Schedule of Programs:

Community Health Services \$150,000

(1) The Legislature intends that the Department of Human Services use the appropriation provided under this item to fund the school-based mental health specialist described in Section 62A-15-103.

(2) The Legislature further intends that under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020.

CHAPTER 442**H. B. 174**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

**PSYCHIATRY MEDICAL
 RESIDENTS AMENDMENTS**

Chief Sponsor: Steve Eliason
 Senate Sponsor: Ralph Okerlund
 Cosponsors: Craig Hall
 Brian S. King
 Carol Spackman Moss
 Mike Winder

LONG TITLE**General Description:**

This bill requires the University of Utah Health Sciences to select additional psychiatry residents.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the University of Utah Health Sciences to select additional psychiatry residents; and
- ▶ enacts provisions related to money used for psychiatry residents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

53B-17-902, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-17-902 is enacted to read:

**Part 9. Health Sciences and School of
 Medicine**

**53B-17-902. Health Sciences -- Psychiatry
 medical residents selection.**

(1) As used in this section:

(a) "Psychiatry resident" means a medical resident practicing in any type of psychiatry specialty or subspecialty, as determined by the university.

(b) "University" means the University of Utah Health Sciences.

(2) (a) Subject to legislative appropriations, beginning with the 2020-21 academic year, the university shall annually select up to four more first-year psychiatry residents than the number of first-year psychiatry residents the university selected for the 2018-19 academic year.

(b) Nothing in this section prohibits the university from using money from a source other than legislative appropriations to select more than the total number of psychiatry residents described in Subsection (2)(a).

(3) The university may not use money appropriated for the purposes described in this section to supplant existing money used for psychiatry residents.

CHAPTER 443**H. B. 227**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

UTAH COMPUTER SCIENCE GRANT ACT

Chief Sponsor: John Knotwell
 Senate Sponsor: Ann Millner
 Cosponsors: Cheryl K. Acton
 Carl R. Albrecht
 Kyle R. Andersen
 Melissa G. Ballard
 Walt Brooks
 Kay J. Christofferson
 Kim F. Coleman
 Jennifer Dailey-Provost
 Brad M. Daw
 Susan Duckworth
 Steve Eliason
 Joel Ferry
 Francis D. Gibson
 Craig Hall
 Stephen G. Handy
 Suzanne Harrison
 Timothy D. Hawkes
 Jon Hawkins
 Sandra Hollins
 Eric K. Hutchings
 Dan N. Johnson
 Marsha Judkins
 Brian S. King
 Karen Kwan
 Bradley G. Last
 Karianne Lisonbee
 Phil Lyman
 A. Cory Maloy
 Kelly B. Miles
 Jefferson Moss
 Calvin R. Musselman
 Merrill F. Nelson
 Derrin R. Owens
 Lee B. Perry
 Val L. Peterson
 Val K. Potter
 Susan Pulsipher
 Tim Quinn
 Adam Robertson
 Angela Romero
 Douglas V. Sagers
 Mike Schultz
 Travis M. Seegmiller
 Rex P. Shipp
 Casey Snider
 Robert M. Spendlove
 Jeffrey D. Steenquist
 Andrew Stoddard
 Mark A. Strong
 Steve Waldrip
 Christine F. Watkins
 Logan Wilde
 Mike Winder

LONG TITLE**General Description:**

This bill modifies provisions related to the Talent Ready Utah Center.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the responsibilities of the Talent Ready Utah Board;
- ▶ requires the Talent Ready Utah Board to create a computer science education master plan;
- ▶ creates the Computer Science for Utah Grant Program;
- ▶ describes the requirements for the State Board of Education and the Talent Ready Utah Board to administer the grant program;
- ▶ describes the requirements for a local education agency to apply for the grant program; and
- ▶ describes reporting requirements of a local education agency that receives money from the grant program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Education -- Initiative Programs -- Computer Science for Utah Grant Program, as a one-time appropriation:
 - from the Education Fund, \$3,150,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-12-501, as enacted by Laws of Utah 2018, Chapter 423

ENACTS:

63N-12-505, Utah Code Annotated 1953
 63N-12-506, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-12-501 is amended to read:**63N-12-501. Definitions.**

As used in this part:

(1) "Center" means the Talent Ready Utah Center created in Section 63N-12-502.

(2) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(3) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(4) "Master plan" means the computer science education master plan described in Section 63N-12-505.

(5) "State board" means the State Board of Education.

~~(2)~~ (6) "Talent ready board" means the Talent Ready Utah Board created in Section 63N-12-503.

~~(3)~~ (7) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 2. Section 63N-12-505 is enacted to read:

63N-12-505. Computer science education master plan.

On or before August 30, 2019, the talent ready board, in consultation with the state board and the center, shall develop a computer science education master plan that:

(1) includes a statement of the objectives and goals of the master plan;

(2) describes how the talent ready board and the state board will administer the Computer Science for Utah Grant Program created in Section 63N-12-506;

(3) provides guidance for local education agencies in implementing computer science education opportunities for students in high school, middle school, and elementary school;

(4) integrates recommendations and best practices from private and public entities that are seeking to improve and expand the opportunities for computer science education, including the Expanding Computer Education Pathways Alliance; and

(5) makes recommendations to assist a local education agency in creating a local education agency computer science plan described in Subsection 63N-12-506(7), including:

(a) providing recommendations regarding course offerings in computer science;

(b) providing recommendations regarding professional development opportunities in computer science for licensed teachers;

(c) providing recommendations regarding curriculum software for computer science courses;

(d) providing recommendations regarding assessment solutions to measure the learning outcomes of students in computer science courses; and

(e) providing information regarding how a local education agency can receive technical support from the talent ready board in providing computer science education opportunities for students.

Section 3. Section 63N-12-506 is enacted to read:

63N-12-506. Computer Science for Utah Grant Program.

(1) As used in this section, "grant program" means the Computer Science for Utah Grant Program created in Subsection (2).

(2) The Computer Science for Utah Grant Program is created to provide grants to eligible local education agencies for improving computer science learning outcomes and course offerings as demonstrated by:

(a) the creation and implementation of a local education agency computer science plan as described in Subsection (7); and

(b) the effective implementation of approved courses and the provision of effective training opportunities for licensed teachers.

(3) Subject to appropriations from the Legislature, and subject to the approval of the talent ready board, the state board shall distribute to local education agencies money appropriated for the grant program in accordance with this section.

(4) The state board shall:

(a) solicit applications from local education agency boards to receive grant money under the grant program;

(b) make recommendations to the talent ready board regarding the awarding of grant money to a local education agency board on behalf of a local education agency based on the criteria described in Subsection (6); and

(c) obtain final approval from the talent ready board before awarding grant money.

(5) In administering the Computer Science for Utah Grant Program, the state board and the office, in consultation with the talent ready board, may make rules, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) describe the form and deadlines for a grant application by a local education agency under this section; and

(b) describe the reporting requirements required by a local education agency after receiving a grant under this section.

(6) In awarding a grant under Subsection (3), the state board shall consider the effectiveness of the local education agency in creating and implementing a local education agency computer science plan as described in Subsection (7).

(7) Each local education agency that seeks a grant as described in this section shall submit a written computer science plan, in a form approved by the state board and the talent ready board, that:

(a) covers at least four years;

(b) addresses the recommendations of the talent ready board's computer science education master plan described in Section 63N-12-505;

(c) identifies targets for improved computer science offerings, student learning, and licensed teacher training;

(d) describes a computer science professional development program and other opportunities for high quality professional learning for licensed teachers or individuals training to become licensed teachers;

(e) provides a detailed budget, communications, and reporting structure for implementing the computer science plan;

(f) commits to provide one computer science course offering, approved by the talent ready board, in every middle and high school within the local education agency;

(g) commits to integrate computer science education into the curriculum of each elementary school within the local education agency; and

(h) includes any other requirement established by the state board or the office by rule, in consultation with the talent ready board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) Each local education agency that receives a grant as described in this section shall provide an annual written assessment to the state board and the talent ready board for each year that the local education agency receives a grant or expends grant money that includes:

(a) how the grant money was used;

(b) any improvements in the number and quality of computer science offerings provided by the local education agency and any increase in the number of licensed teachers providing computer science teaching to students;

(c) any difficulties encountered during implementation of the local education agency's written computer science plan and steps that will be taken to address the difficulties; and

(d) any other requirement established by the state board or the office by rule, in consultation with the talent ready board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) The state board and the talent ready board shall review each annual written assessment described in Subsection (8).

(b) As a result of the review described in Subsection (9)(a):

(i) the state board or the talent ready board may provide recommendations to improve the progress of the local education agency in meeting the objectives of the written computer science plan;

(ii) the state board may determine not to renew or extend a grant under this section; or

(iii) the state board or the talent ready board may take other action to assist the local education agency.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the State Board of Education -- Initiative Programs

From Education Fund, One-time \$3,150,000

Schedule of Programs:

<u>Computer Science for Utah</u>	
<u>Grant Program</u>	<u>\$3,150,000</u>

The Legislature intends that:

(1) up to \$150,000 of this appropriation may be used annually by the State Board of Education to administer the Computer Science for Utah Grant Program; and

(2) a first round of grants under the Computer Science for Utah Grant Program may be awarded by March 1, 2020, and ongoing grants under the Computer Science for Utah Grant Program may be awarded on or after July 1, 2020.

CHAPTER 444**H. B. 260**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

**ACCESS UTAH PROMISE
SCHOLARSHIP PROGRAM**

Chief Sponsor: Derrin R. Owens
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Cheryl K. Acton
 Carl R. Albrecht
 Walt Brooks
 Scott H. Chew
 Jennifer Dailey-Provost
 Susan Duckworth
 Suzanne Harrison
 Karen Kwan
 Marie H. Poulson
 Lawanna Shurtliff
 Christine F. Watkins
 Mike Winder

LONG TITLE**General Description:**

This bill creates the Access Utah Promise Scholarship Program and amends and repeals certain other scholarship programs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Access Utah Promise Scholarship Program;
- ▶ enacts provisions related to promise scholarships, including provisions related to:
 - eligibility; and
 - the amount awarded for a promise scholarship;
- ▶ enacts provisions related to promise partner awards, including provisions related to:
 - eligibility, including requirements for employers who intend to participate as promise partners; and
 - administration of the program;
- ▶ prohibits the State Board of Regents (board) and institutions of higher education from accepting applications for certain previously authorized scholarships after certain dates;
- ▶ allows an individual who received certain scholarships before certain dates to receive the scholarships until the end of the scholarship term;
- ▶ amends provisions related to a Regents' scholarship and a New Century Scholarship, including:
 - the maximum amount of a scholarship;
 - the postsecondary institutions at which a student may use a scholarship; and
 - allowable uses for a scholarship;
- ▶ requires the board to make administrative rules;
- ▶ allows the board to use certain existing funds for administrative costs associated with certain scholarships;
- ▶ provides repeal dates; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Regents Student Assistance Access Utah Promise Scholarship Program, as an ongoing appropriation:
 - from the Education Fund, \$2,000,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 53B-6-105, as last amended by Laws of Utah 2009, Chapters 210 and 370
- 53B-6-105.5, as last amended by Laws of Utah 2013, Chapter 49
- 53B-6-105.7, as last amended by Laws of Utah 2009, Chapter 210
- 53B-8-105, as last amended by Laws of Utah 2017, Chapter 386
- 53B-8-112, as enacted by Laws of Utah 2017, Chapter 426
- 53B-8-201, as enacted by Laws of Utah 2017, Chapter 386
- 63G-12-402, as last amended by Laws of Utah 2017, Chapter 386
- 63I-2-253, as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and 456

ENACTS:

- 53B-8-114, Utah Code Annotated 1953
- 53B-8-301, Utah Code Annotated 1953
- 53B-8-302, Utah Code Annotated 1953
- 53B-8-303, Utah Code Annotated 1953
- 53B-8-304, Utah Code Annotated 1953

REPEALS:

- 53B-8-113, as enacted by Laws of Utah 2017, Chapter 426

Utah Code Sections Affected by Coordination Clause:

- 53B-1-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-6-105 is amended to read:**53B-6-105. Engineering and Computer Technology Initiative.**

(1) The Legislature recognizes that a significant increase in the number of engineering, computer science, and related technology graduates from the state system of higher education is required over the next several years to advance the intellectual, cultural, social, and economic well-being of the state and its citizens.

(2) (a) (i) The [~~State Board of Regents~~] board shall therefore develop, establish, and maintain an Engineering and Computer Science Initiative within the state system of higher education to double the number of graduates in engineering, computer science, and related technology by 2006 and triple the number of graduates by 2009.

(ii) The board shall make [~~a rule~~] rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing the criteria for those fields of study that qualify as "related technology" under this section and [~~Sections 53B-6-105.7 and~~] Section 53B-6-105.9.

(b) The initiative shall include components that:

(i) improve the quality of instructional programs in engineering, computer science, and related technology by providing supplemental money for equipment purchases; and

~~[(ii) provide incentives to:]~~

~~[(A) students through a scholarship program under Section 53B-6-105.7; and]~~

~~[(B)]~~ (ii) provide incentives to institutions to hire and retain faculty under Section 53B-6-105.9.

(3) The increase in program capacity under Subsection (2)(a) shall include funding for new and renovated capital facilities and funding for new engineering and computer science programs.

(4) The Legislature shall provide an annual appropriation to the ~~[State Board of Regents]~~ board to fund the initiative.

Section 2. Section 53B-6-105.5 is amended to read:

53B-6-105.5. Technology Initiative Advisory Board -- Composition -- Duties.

(1) There is created a Technology Initiative Advisory Board to assist and make recommendations to the State Board of Regents in its administration of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) (a) The advisory board shall consist of individuals appointed by the governor from business and industry who have expertise in the areas of engineering, computer science, and related technologies.

(b) The advisory board shall select a chair and cochair.

(c) The advisory board shall meet at the call of the chair.

(d) The State Board of Regents, through the commissioner of higher education, shall provide staff support for the advisory board.

(3) A member of an advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) The advisory board shall:

(a) make recommendations to the State Board of Regents on the allocation and distribution of money appropriated to fund:

(i) the faculty incentive program established in Section 53B-6-105.9; and

(ii) equipment purchases required to improve the quality of instructional programs in engineering, computer science, and related technology; ~~[and]~~

~~[(iii) the scholarship program established in Section 53B-6-105.7.]~~

(b) prepare a strategic plan that details actions required by the State Board of Regents to meet the intent of the Engineering and Technology Science Initiative;

(c) review and assess engineering, computer science, and related technology programs currently being offered at higher education institutions and their impact on the economic prosperity of the state;

(d) provide the State Board of Regents with an assessment and reporting plan that:

(i) measures results against expectations under the initiative, including verification of the matching requirements for institutions of higher education to receive money under Section 53B-6-105.9; and

(ii) includes an analysis of market demand for technical employment, program articulation among higher education institutions in engineering, computer science, and related technology, tracking of student placement, student admission to the initiative program by region, transfer rates, and retention in and graduation rates from the initiative program; and

(e) make an annual report of its activities to the State Board of Regents.

(5) The annual report of the Technology Initiative Advisory Board shall include the summary report of the institutional matches described in Section 53B-6-105.9.

Section 3. Section 53B-6-105.7 is amended to read:

53B-6-105.7. Initiative student scholarship program.

(1) Notwithstanding the provisions of this section, beginning on July 1, 2019, the board may not accept new applications for a scholarship described in this section.

~~[(1)]~~ (2) (a) There is established an engineering, computer science, and related technology scholarship program as a component of the initiative created in Section 53B-6-105.

(b) The program is established to recruit, retain, and train engineering, computer science, and related technology students to assist in providing for and advancing the intellectual and economic welfare of the state.

~~[(2)]~~ (3) (a) The board:

(i) may make rules for the overall administration of the scholarship program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall administer the program in consultation with the Technology Initiative Advisory Board created in Section 53B-6-105.5.

(b) The board shall also use the following policies and procedures in administering the student scholarship program:

(i) students may use scholarship money at any institution within the state system of higher education that offers an engineering, computer science, or related technology degree;

(ii) scholarships shall be given to students who declare an intent to complete a prescribed course of instruction in one of the areas referred to in Subsection ~~[(2)]~~ (3)(b)(i) and to work in the state after graduation in one of those areas; and

(iii) a scholarship may be cancelled at any time by the institution of attendance, if the student fails to make reasonable progress towards obtaining the degree or there appears to be a reasonable certainty that the student does not intend to work in the state upon graduation.

~~[(3) (a) By June 1 of each year, the Technology Initiative Advisory Board shall recommend to the board a distribution of the scholarship funds to institutions in the state system of higher education, based on a formula.]~~

~~[(b) The Technology Initiative Advisory Board shall develop the formula for distribution of total scholarship funds to the institutions, which shall contain the following components:]~~

~~[(i) the number of graduates of engineering, computer science, and related technology degrees from the previous year;]~~

~~[(ii) the number and level of engineering, computer science, and related technology degrees offered at an institution; and]~~

~~[(iii) the length of each engineering, computer science, and related technology degree offered at an institution.]~~

(4) The Legislature shall make an annual appropriation to the board to fund the student scholarship program created in this section.

Section 4. Section 53B-8-105 is amended to read:

53B-8-105. New Century scholarships -- High school requirements.

(1) As used in this section[, "complete]:

(a) "Complete the requirements for an associate degree" means that a student:

~~[(a)]~~ (i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

~~[(ii)]~~ (B) applies for the associate degree from the institution; or

~~[(b)]~~ (ii) completes equivalent requirements described in Subsection (1)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(2) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (3)(a)(ii).

(3) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (3)(a) shall be completed:

~~[(i) (A) for a student whose class graduates from high school in 2010 or before, by September 1 of the year the student's class graduates from high school; or]~~

~~[(B) for a student whose class graduates from high school in 2011 or after,]~~

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (3)(a), a student in Utah ~~[schools whose class graduates from high school in 2011 or after]~~ shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(4) Notwithstanding Subsection (3), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

~~[(i) (A) for a student who completes high school in 2010 or before, by September 1 of the year the student completes high school; or]~~

~~[(B) for a student who completes high school in 2011 or after,]~~

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(5) To be eligible for the scholarship, a student:

(a) shall submit an application to the board with:

(i) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(ii) (A) if applicable, an official high school transcript; or

(B) if applicable, a copy of the student's ACT scores;

(b) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

(c) may not have a criminal record, with the exception of a misdemeanor traffic citation; and

(d) if applicable, shall meet the application deadlines as established by the board under Subsection (10).

(6) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

~~[(b) For a student whose class graduates from high school in 2010 and who completes the requirements under Subsection (3)(a) by September 1, 2010:]~~

~~[(i) if used at an institution described in Subsection (6)(a)(i), the value of the scholarship is up to 75% of the tuition costs at the selected institution; or]~~

~~[(ii) if used at an institution described in Subsection (6)(a)(ii), the value of the scholarship is up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the institutions referred in Subsection (6)(a)(i).]~~

~~[(c) (i) For a student whose class graduates in 2011 or after and who completes the requirements under this section]~~

(b) (i) Subject to Subsection (6)(e), the total value of the scholarship is up to \$5,000, allocated over a time period described in Subsection (6)(~~(d)~~)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (6)(~~(e)~~)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

~~[(~~d~~) (c) The scholarship is valid for the shortest of the following time periods:~~

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

~~[(e) (d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.~~

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the ~~[student]~~ scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(7) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(8) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections (2)(a) and (6), if the appropriation under Subsection (8)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

(9) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (8)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (9) shall include a statement advising the signer that

providing false information subjects the signer to penalties for perjury.

(10) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(11) A student may not receive both a New Century scholarship and a Regents' scholarship established in Part 2, Regents' Scholarship Program.

Section 5. Section 53B-8-112 is amended to read:

53B-8-112. Public Safety Officer Career Advancement Reimbursement Program.

(1) The Public Safety Officer Career Advancement Reimbursement Program is created.

(2) (a) Notwithstanding the provisions in this section, the board may not accept a new application for a reimbursement described in this section for an academic year that begins on or after July 1, 2019.

(b) Subject to legislative appropriations and Subsection (7) the board shall reimburse an applicant who:

~~(a)~~ (i) is a certified peace officer, currently employed by a law enforcement agency within the state;

~~(b)~~ (ii) has been employed as a certified peace officer for three or more consecutive years;

~~(c)~~ (iii) is seeking a post-secondary degree in the area of criminal justice from a credit-granting higher education institution within the state system of higher education, described in Section 53B-1-102; and

~~(d)~~ (iv) is employed as a peace officer for one year following completion of the academic year for which the individual is seeking reimbursement.

(3) Individuals who qualify for reimbursement from the Public Safety Officer Career Advancement Reimbursement ~~program~~ Program may apply for reimbursement by July 1 one year after each academic year for which they are requesting reimbursement.

(4) Subject to Legislative appropriations, of the funds appropriated for the ~~Peacee~~ Public Safety Officer Career Advancement Reimbursement Program:

(a) 25% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the third or fourth class; and

(b) 12% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the fifth or sixth class.

(5) (a) A qualified applicant may be reimbursed up to half of the cost of tuition and fees.

(b) A reimbursement under Subsection (5)(a) is limited to:

(i) a maximum of \$5,000 each academic year; and

(ii) a maximum of eight academic years.

(6) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving reimbursement applications and supporting documentation; and

(ii) establish the application process and an appeal process for a reimbursement from the ~~Peacee~~ Public Safety Officer Career Advancement Reimbursement Program, including procedures to allow for online application submittals.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded reimbursements may be subject to funding or be reduced, in accordance with Subsection (7).

(7) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Education Fund to the board for the costs associated with the ~~Peacee~~ Public Safety Officer Career Advancement Reimbursement Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the ~~Peacee~~ Public Safety Officer Career Advancement Reimbursement Program, the board may reduce the amount of a reimbursement.

(c) Any individual who is denied reimbursement because of insufficient funds appropriated may re-apply for reimbursement up to two years after the first year of eligibility.

Section 6. Section 53B-8-114 is enacted to read:

53B-8-114. Continuation of previously authorized scholarships.

(1) As used in this section:

(a) "Institution of higher education" means an institution that awards money through a program described in Subsection (2)(a).

(b) "Scholarship term" means the length of time during which an individual is eligible to receive award money through a program described in Subsection (2)(a).

(2) The board or an institution of higher education:

(a) beginning on July 1, 2019, may not accept a new application for an award described in:

(i) Section 53B-6-105.7, which describes engineering and computer technology scholarships; or

(ii) Section 53B-8-112, which describes a reimbursement for public safety officers; and

(b) may pay, through the end of the scholarship term, an award through a program described in

Subsection (2)(a) to an individual whose application for the program was accepted before the applicable date described in Subsection (2)(a).

Section 7. Section 53B-8-201 is amended to read:

53B-8-201. Regents' Scholarship Program.

(1) As used in this section:

(a) "Eligible institution" means ~~[(i) a credit-granting]~~ an institution of higher education within the state system of higher education described in Section 53B-1-102 ~~;~~ ~~or~~.

~~[(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.]~~

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (6);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (6).

(c) "Fee" means:

(i) for an eligible institution that is part of the Utah System of Higher Education, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

~~[(e)]~~ (d) "Program" means the Regents' Scholarship Program described in this section.

(2) (a) A student who graduates from high school after July 1, 2018:

(i) may receive a Regents' scholarship in accordance with this section; and

(ii) may not ~~may~~ receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205.

(b) A student who graduates from high school on or before July 1, 2018:

(i) may receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205; and

(ii) may not receive a Regents' scholarship in accordance with this section.

(3) (a) Subject to legislative appropriations ~~[and Subsection (3)(d)]~~, beginning with an appropriation for fiscal year 2019, the board shall annually distribute money for the Regents' Scholarship Program described in this section to each eligible institution to award as Regents' scholarships to eligible students.

(b) The board shall annually determine the amount of a Regents' scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board shall annually determine the total amount of money to distribute to an eligible institution based on the eligible institution's share of all eligible students in the state.

~~[(d) An eligible institution that is a private, nonprofit college or university shall, to receive money distributed by the board described in Subsection (3)(a), enter into a written agreement with the board in which the eligible institution agrees to:]~~

~~[(i) provide the board with access to information and data necessary for the purposes of the program; and]~~

~~[(ii) comply with an audit by the board described in Subsection (5) if the board conducts an audit.]~~

(4) (a) Except as provided in Subsection (4)(b) or (c), an eligible institution shall provide to an eligible student a Regents' scholarship in the amount determined by the board described in Subsection (3)(b).

(b) ~~[An]~~ For a Regents' scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of ~~[a]~~ the Regents' scholarship ~~[provided to an eligible student]~~ based on other state aid awarded to the eligible student for tuition and fees.

(c) For a Regents' scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Regents' scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Regents' scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Regents' scholarship for tuition and fees.

(5) The board may:

(a) audit an eligible institution's administration of Regents' scholarships; and

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as a Regents' scholarship.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

~~[(a)]~~ (i) requirements related to an eligible institution's administration of Regents' scholarships;

~~[(b)]~~ (ii) a process for a student to apply to the board to determine the student's eligibility for a Regents' scholarship;

~~[(c)]~~ (iii) criteria to determine a student's eligibility for a Regents' scholarship, including:

~~[(i)]~~ (A) minimum secondary education academic performance standards;

~~[(ii)]~~ (B) the completion of secondary core curriculum and graduation requirements;

(iii) (C) the completion of a Free Application for Federal Student Aid;

(iv) (D) need-based measures that address college affordability and access; and

(v) (E) minimum enrollment requirements in an eligible institution; and

(d) (iv) a requirement for each eligible institution to annually report to the board on all Regents' scholarships awarded by the eligible institution.

(b) In making rules described in Subsection (6)(a) that apply to a technical college, the board shall consult with the Utah System of Technical Colleges Board of Trustees.

(7) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(8) (a) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

(b) The State Board of Education shall annually provide to the board a list of directory information, including name and address, for each grade 8 student in the state.

(9) Notwithstanding the provisions in this section, a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities is an eligible institution for purposes of providing a Regents' scholarship to an eligible student who applies for a Regents' scholarship on or before July 1, 2019.

(10) If money appropriated under this section is available after Regents' scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

Section 8. Section 53B-8-301 is enacted to read:

Part 3. Access Utah Promise Scholarship Program

53B-8-301. Definitions.

As used in this part:

(1) "Access Utah promise scholarship" or "promise scholarship" means a scholarship described in Section 53B-8-303.

(2) "Eligible individual" means an individual who:

(a) applies for a promise scholarship in accordance with Section 53B-8-303; and

(b) meets the eligibility requirements described in Section 53B-8-303.

(3) "Fee" means:

(a) for an institution that is part of the Utah System of Higher Education, a fee approved by the board; or

(b) for an institution that is a technical college, a fee approved by the institution.

(4) "Institution of higher education" or "institution" means an institution described in Section 53B-1-102.

(5) "Partner award" means a financial award described in Section 53B-8-304.

(6) "Promise partner" means an employer that participates in the program described in Section 53B-8-304.

Section 9. Section 53B-8-302 is enacted to read:

53B-8-302. Access Utah Promise Scholarship Program.

(1) There is created the Access Utah Promise Scholarship Program, which includes:

(a) promise scholarships described in Section 53B-8-303; and

(b) partner awards described in Section 53B-8-304.

(2) The board may not allocate more than 20% of a legislative appropriation for the Access Utah Promise Scholarship Program for partner awards.

Section 10. Section 53B-8-303 is enacted to read:

53B-8-303. Access Utah promise scholarships.

(1) An individual may apply for a promise scholarship in accordance with the rules described in Subsection (8).

(2) An individual is eligible to receive a promise scholarship if the individual:

(a) (i) has a high school diploma or the equivalent; and

(ii) does not have an associate or higher postsecondary degree;

(b) demonstrates financial need, in accordance with the rules described in Subsection (8);

(c) is a Utah resident;

(d) enrolls in an institution; and

(e) accepts all other grants, tuition or fee waivers, and scholarships offered to the individual to attend the institution in which the individual enrolls.

(3) Subject to legislative appropriations, and in accordance with the rules described in Subsection (8), the board shall annually distribute money for promise scholarships to each institution.

(4) (a) Except as provided in Subsection (4)(d), an institution shall award a promise scholarship to an eligible individual.

(b) For a promise scholarship recipient, an institution shall:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (4)(b)(i).

(c) An institution shall award a promise scholarship in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships received by the recipient to attend the institution.

(d) If an institution's distribution described in Subsection (3) is insufficient to award a promise scholarship to each eligible individual in the amount described in Subsection (4)(c), the institution:

(i) shall, when possible, use other funding sources to fully fund the amount described in Subsection (4)(c) for each eligible individual; and

(ii) may prioritize promise scholarships based on financial need in accordance with the rules described in Subsection (8).

(e) An institution may use up to 3% of the institution's distribution described in Subsection (3) for administration.

(5) An institution shall continue to award a promise scholarship to a recipient who meets the requirements established by the board in the rules described in Subsection (8) until the earliest of the following:

(a) two years after the recipient initially receives a promise scholarship;

(b) the recipient uses a promise scholarship to attend an institution for four semesters;

(c) the recipient completes the requirements for an associate degree; or

(d) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(6) A recipient may only use a promise scholarship for tuition and fees.

(7) A promise scholarship is transferable between institutions.

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Subsection (8)(b), the board shall make rules to establish:

(i) requirements related to whether an individual is eligible for a promise scholarship, including:

(A) a process for an eligible individual to defer a promise scholarship;

(B) how an individual demonstrates financial need for purposes of receiving a promise scholarship; and

(C) how to determine whether an individual is a Utah resident;

(ii) a process and requirements for an individual to apply for a promise scholarship;

(iii) a formula to determine the distributions to each institution described in Subsection (3) that takes into account:

(A) the cost of tuition and fees for programs offered by institutions; and

(B) the number of eligible individuals who attend each institution;

(iv) how an institution may prioritize awarding scholarships based on the financial needs of eligible individuals;

(v) conditions a recipient is required to meet to continue to receive a promise scholarship, including requirements related to academic achievement and enrollment status; and

(vi) a requirement that in communicating about promise scholarships to recipients and potential recipients, the board and institutions do not portray the Access Utah Promise Scholarship Program as a program that is guaranteed to be in effect indefinitely.

(b) In making the rules described in Subsection (8)(a), the board shall consult with the Utah System of Technical Colleges Board of Trustees.

(9) On or before November 1 each year, the board shall report to the Higher Education Appropriations Subcommittee regarding promise scholarships, including:

(a) the number of scholarships awarded; and

(b) whether the promise scholarship program is effective in helping underserved students access higher education.

Section 11. Section 53B-8-304 is enacted to read:

53B-8-304. Utah promise partners.

(1) In consultation with the Talent Ready Utah Center created in Section 63N-12-502, and in accordance with Subsection (2), the board shall select employers to be promise partners.

(2) The board may select an employer as a promise partner if the employer:

(a) applies to the board to be a promise partner; and

(b) meets other requirements established by the board in the rules described in Subsection (5).

(3) An individual employed by a promise partner is eligible to receive a partner award if the individual:

(a) applies for a partner award;

(b) is admitted to and enrolled in an institution;

(c) is a Utah resident;

(d) does not have an associate or higher postsecondary degree;

(e) meets requirements established by the promise partner related to a partner award; and

(f) maintains the eligibility requirements described in this Subsection (3) for the full length of time the individual receives the partner award.

(4) (a) Subject to legislative appropriations and Subsection (4)(b), the board shall award a partner award to an individual who meets the requirements described in Subsection (3).

(b) The board may:

(i) award a partner award for up to the portion of tuition and fees for a program at an institution that is not covered by an employer reimbursement described in Subsection (5)(b); and

(ii) prioritize awarding partner awards if an appropriation for partner awards is not sufficient to provide a partner award to each individual who is eligible under Subsection (3).

(c) The board may continue to award a partner award to a recipient who meets the requirements described in Subsection (3) until the earliest of the following:

(i) two years after the individual initially receives a partner award;

(ii) the recipient uses a partner award to attend an institution for four semesters;

(iii) the recipient completes the requirements for an associate degree; or

(iv) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements for an employer to seek and receive approval from the board for the employer's employees to receive partner awards;

(b) requirements related to an employer providing reimbursement to an employee who receives a partner award for a portion of the employee's tuition and fees;

(c) a process for an individual to apply for a partner award;

(d) criteria for the board to prioritize awarding partner awards; and

(e) a requirement that an institution shall, for a recipient of a partner award:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (5)(e)(i).

Section 12. Section 63G-12-402 is amended to read:

63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years of age who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable

discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) a Regents' scholarship described in Title 53B, Chapter 8, Part 2, Regents' Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105; ~~or~~

(iii) a promise scholarship described in Section 53B-8-303; or

~~(iii)~~ (iv) a privately funded scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Subsection 76-8-504(2); and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

(B) unemployment compensation under Section 76-8-1301.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 13. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

~~[(1) Section 53A-24-602 is repealed July 1, 2018.]~~

~~[(2) (1) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.~~

(b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~[(3) (2) (a) Subsection 53B-2a-108(5) is repealed July 1, 2022.~~

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53B-6-105.7 is repealed July 1, 2024.

(4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B) is repealed July 1, 2021.

(5) (a) Subsection 53B-7-707(4)(a)(ii), the language that states "Except as provided in Subsection (4)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(4)(b) is repealed July 1, 2021.

(6) Section 53B-8-112 is repealed July 1, 2024.

(7) Section 53B-8-114 is repealed July 1, 2024.

~~[(6)] (8) (a) The following sections are repealed on July 1, 2023:~~

~~(i) Section 53B-8-202;~~

~~(ii) Section 53B-8-203;~~

~~(iii) Section 53B-8-204; and~~

~~(iv) Section 53B-8-205.~~

~~(b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.~~

~~(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~

~~[(7)] (9) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.~~

~~[(8)] (10) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.~~

~~[(9)] (11) Section 53E-5-307 is repealed July 1, 2020.~~

~~[(10)] (12) Subsections 53F-2-205(4) and (5), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(11)] (13) Subsection 53F-2-301(1) is repealed July 1, 2023.~~

~~[(12)] (14) Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(13)] (15) Section 53F-4-204 is repealed July 1, 2019.~~

~~[(14)] (16) Section 53F-6-202 is repealed July 1, 2020.~~

~~[(15)] (17) Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(16)] (18) Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(17)] (19) Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(18)] (20) Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.~~

~~[(19)] (21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.~~

Section 14. Repealer.

This bill repeals:

Section 53B-8-113, Reporting.**Section 15. Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1To State Board of Regents Student Assistance

<u>From Education Fund</u>	<u>\$2,000,000</u>
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Schedule of Programs:

<u>Access Utah Promise</u>	
<u>Scholarship Program</u>	<u>\$2,000,000</u>

The Legislature intends that:

(1) appropriations under this item be used for the Access Utah Promise Scholarship Program described in Title 53B, Chapter 8, Part 3, Access Utah Promise Scholarship Program;

(2) the State Board of Regents use money as it becomes available as new awards are no longer granted through a program described in Section 53B-8-114 for the Access Utah Promise Scholarship Program described in Title 53B, Chapter 8, Part 3, Access Utah Promise Scholarship Program; and

(3) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020 and the use of any nonlapsing funds is limited to the purposes described in Title 53B, Chapter 8, Part 3, Access Utah Promise Scholarship Program.

Section 16. Coordinating H.B. 260 with S.B. 14 -- Substantive language.

If this H.B. 260 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) inserting the following language as a new Subsection 53B-1-301(1)(g):

“(g) the report described in Section 53B-8-303 by the State Board of Regents regarding Access Utah promise scholarships;”;

(2) deleting the language in Subsection 53B-1-301(1)(e) that reads “(e) the report described in Section 53B-8-113 by the board on the Public Safety Officer Career Advancement Reimbursement Program;” and

(3) renumbering remaining subsections accordingly.

CHAPTER 445**H. B. 337**

Passed March 14, 2019
 Approved March 28, 2019
 Effective May 14, 2019

**PROFESSIONAL COMPETENCY
 STANDARDS AMENDMENTS**

Chief Sponsor: Jennifer Dailey-Provost
 Senate Sponsor: Daniel Hemmert

LONG TITLE**General Description:**

This bill amends certain restrictions on age-based physician testing.

Highlighted Provisions:

This bill:

- ▶ amends a restriction on certain age-based testing for physician licensing, employment, privileges, or reimbursement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

26-21-31, as enacted by Laws of Utah 2018, Chapter 438
 31A-45-305, as enacted by Laws of Utah 2018, Chapter 438
 58-67-302, as last amended by Laws of Utah 2018, Chapters 318 and 438
 58-67-302.5, as last amended by Laws of Utah 2018, Chapters 318 and 438
 58-68-302, as last amended by Laws of Utah 2018, Chapters 318 and 438

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-31 is amended to read:

26-21-31. Prohibition on certain age-based physician testing.

A health care facility may not require for purposes of employment, privileges, or reimbursement, that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects [nationally recognized] the standards [adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients] described in Subsections 58-67-302(5)(b)(i) through (x).

Section 2. Section 31A-45-305 is amended to read:

31A-45-305. Prohibition on certain age-based physician testing.

A managed care organization or other third party may not require for purposes of reimbursement that a physician, as defined in Section 58-67-102, take a cognitive test when the physician reaches a specified age, unless the test reflects [nationally

recognized] the standards [adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients] described in Subsections 58-67-302(5)(b)(i) through (x).

Section 3. Section 58-67-302 is amended to read:

58-67-302. Qualifications for licensure.

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-67-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or

(ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;

(f) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or

(ii) (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1)(e);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;

(g) pass the licensing examination sequence required by division rule made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;

(i) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;

(j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(k) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (e), (1)(f)(i), and (1)(h) through (k);

(d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the

board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and

(g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require the following requirements for licensure:

(a) a post-residency board certification; or

(b) a cognitive test when the physician reaches a specified age, ~~unless the test reflects nationally recognized standards adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients.~~

(i) the screening is based on evidence of cognitive changes associated with aging that are relevant to physician performance;

(ii) the screening is based on principles of medical ethics;

(iii) physicians are involved in the development of standards for assessing competency;

(iv) guidelines, procedures, and methods of assessment, which may include cognitive screening, are relevant to physician practice and to the physician's ability to perform the tasks specifically required in the physician's practice environment;

(v) the primary driver for establishing assessment results is the ethical obligation of the profession to the health of the public and patient safety;

(vi) the goal of the assessment is to optimize physician competency and performance through education, remediation, and modifications to a physician's practice environment or scope;

(vii) a credentialing committee determines that public health or patient safety is directly threatened, the screening permits a physician to retain the right to modify the physician's practice environment to allow the physician to continue to provide safe and effective care;

(viii) guidelines, procedures, and methods of assessment are transparent to physicians and physicians' representatives, if requested by a physician or a physician's representative, and physicians are made aware of the specific methods used, performance expectations and standards against which performance will be judged, and the possible outcomes of the screening or assessment;

(ix) education or remediation practices that result from screening or assessment procedures are:

(A) supportive of physician wellness;

(B) ongoing; and

(C) proactive; and

(x) procedures and screening mechanisms that are distinctly different from for cause assessments do not result in undue cost or burden to senior physicians providing patient care.

Section 4. Section 58-67-302.5 is amended to read:

58-67-302.5. Licensing of graduates of foreign medical schools.

(1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:

(a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)(e);

(b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;

(c) has completed all of the formal requirements of the foreign medical school except internship or social service;

(d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;

(e) has satisfactorily completed one calendar year of supervised clinical training under the direction of a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;

(f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)(f)(i); and

(g) has passed the examination required by the division of all applicants for licensure.

(2) Satisfaction of the requirements of Subsection (1) is in lieu of:

(a) the completion of any foreign internship or social service requirements; and

(b) the certification required by Subsection 58-67-302(1)(e).

(3) Individuals who satisfy the requirements of Subsections (1)(a) through (g) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.

(4) A document issued by a medical school located outside the United States shall be considered the

equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:

(a) the foreign medical school is recognized by an organization approved by the division;

(b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and

(c) the foreign medical school certifies that the person to whom the document was issued has satisfactorily completed the requirements of Subsection (1)(c).

(5) The division may not require as a requirement for licensure a cognitive test when the physician reaches a specified age, unless the test reflects ~~[nationally recognized] the standards [adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients] described in Subsections 58-67-302(5)(b)(i) through (x).~~

(6) The provisions for licensure under this section shall be known as the "fifth pathway program."

Section 5. Section 58-68-302 is amended to read:

58-68-302. Qualifications for licensure.

(1) An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and

(iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) if the applicant is applying to participate in the Interstate Medical Licensure Compact under Chapter 67b, Interstate Medical Licensure Compact, consent to a criminal background check in accordance with Section 58-68-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as an osteopathic physician and surgeon, as evidenced by:

(i) having received an earned degree of doctor of osteopathic medicine from an AOA approved medical school or college; or

(ii) submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board, if the applicant is graduated from an osteopathic medical school or college located outside of the United States or its territories which at the time of the applicant's graduation, met criteria for accreditation by the AOA;

(f) satisfy the division and board that the applicant:

(i) has successfully completed 24 months of progressive resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine required under Subsection (1)(e); or

(ii) (A) has successfully completed 12 months of resident training in an ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine as required under Subsection (1)(e);

(B) has been accepted in and is successfully participating in progressive resident training in an ACGME or AOA approved program within Utah, in the applicant's second or third year of postgraduate training; and

(C) has agreed to surrender to the division the applicant's license as an osteopathic physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon will be automatically revoked by the division if the applicant fails to continue in good standing in an ACGME or AOA approved progressive resident training program within the state;

(g) pass the licensing examination sequence required by division rule, as made in collaboration with the board;

(h) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board, if requested by the board;

(i) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure;

(j) designate:

(i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and

(ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and

(k) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will

practice in a location with no other persons licensed under this chapter.

(2) An applicant for licensure as an osteopathic physician and surgeon by endorsement who is currently licensed to practice osteopathic medicine in any state other than Utah, a district or territory of the United States, or Canada shall:

(a) be currently licensed with a full unrestricted license in good standing in any state, district or territory of the United States, or Canada;

(b) have been actively engaged in the legal practice of osteopathic medicine in any state, district or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the day on which the applicant applied for licensure in Utah;

(c) comply with the requirements for licensure under Subsections (1)(a) through (e), (1)(f)(i), and (1)(h) through (k);

(d) have passed the licensing examination sequence required in Subsection (1)(g) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;

(e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:

(i) the license was subsequently reinstated as a full unrestricted license in good standing; or

(ii) the division in collaboration with the board determines, after full disclosure by the applicant, that:

(A) the conduct has been corrected, monitored, and resolved; or

(B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;

(f) submit to a records review, a practice review history, and physical and psychological assessments, if requested by the division in collaboration with the board; and

(g) produce evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

(3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:

(a) the applicant submits a complete application required for temporary licensure to the division;

(b) the applicant submits a written document to the division from:

(i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:

(A) invitation of the health care facility; and

(B) the general supervision of a physician practicing at the health care facility; or

(ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:

(A) the applicant is practicing under the invitation and general supervision of the individual; and

(B) the applicant will practice at the same clinical location as the individual;

(c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);

(d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;

(e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and

(f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.

(4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).

(5) The division may not require ~~the following as a requirement for licensure: (a)~~ a post-residency board certification~~[-or]-~~.

(b) a cognitive test when the physician reaches a specified age, unless the test reflects ~~nationally recognized~~ the standards ~~adopted by the American Medical Association for testing whether an older physician remains able to provide safe and effective care for patients~~ described in Subsections 58-67-302(5)(b)(i) through (x).

CHAPTER 446**H. B. 373**

Passed March 14, 2019
 Approved March 28, 2019
 Effective May 14, 2019

STUDENT SUPPORT AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Ann Millner
 Cosponsors: Karen Kwan
 Mike Winder

LONG TITLE**General Description:**

This bill amends provisions related to student support and health services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the name of the School Safety and Crisis Line to the SafeUT Crisis Line;
- ▶ amends provisions related to the SafeUT Crisis Line and the SafeUT and School Safety Commission, including provisions related to the University Neuropsychiatric Institute charging a fee for the use of the SafeUT Crisis Line;
- ▶ repeals a grant program related to the SafeUT Crisis Line;
- ▶ amends provisions related to mobile crisis outreach teams;
- ▶ authorizes the State Board of Education (board) to distribute money to local education agencies (LEAs) for personnel who provide school-based mental health support;
- ▶ requires the board to establish a formula for distribution of money to LEAs;
- ▶ enacts requirements on LEAs to receive money;
- ▶ requires the board to make rules related to money for the personnel;
- ▶ requires the Division of Substance Abuse and Mental Health to coordinate and make recommendations with the board and the Department of Health related to Medicaid reimbursement for school-based health services;
- ▶ enacts other provisions related to student mental health support; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs - Student Health and Counseling Support Program, as an ongoing appropriation:
 - from the Education Fund, \$26,000,000;
- ▶ to the State Board of Education - Minimum School Program - Related to Basic School Programs - Student Health and Counseling Support Program, as a one-time appropriation:
 - from the Education Fund, One-time, (\$10,000,000);
- ▶ to the Department of Human Services - Division of Substance Abuse and Mental Health - Community Mental Health Services, as an ongoing appropriation:
 - from the General Fund, (\$500,000); and

- ▶ to the University of Utah - SafeUT Crisis Text and Tip Line - SafeUT Operations, as an ongoing appropriation:
 - from the Education Fund, \$1,770,000.

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 53F-2-519, as last amended by Laws of Utah 2018, Chapter 396 and renumbered and amended by Laws of Utah 2018, Chapter 107
- 53G-8-202, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-8-203, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 53G-9-703, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 62A-15-116, as enacted by Laws of Utah 2018, Chapter 414

ENACTS:

- 53F-2-415, Utah Code Annotated 1953
- 62A-15-117, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 53B-17-1201, (Renumbered from 53E-10-501, as renumbered and amended by Laws of Utah 2018, Chapter 1)
- 53B-17-1202, (Renumbered from 53E-10-502, as renumbered and amended by Laws of Utah 2018, Chapter 1)
- 53B-17-1203, (Renumbered from 53E-10-503, as renumbered and amended by Laws of Utah 2018, Chapter 1)
- 53B-17-1204, (Renumbered from 53E-10-504, as renumbered and amended by Laws of Utah 2018, Chapter 1)

REPEALS:

- 53E-10-505, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 53E-10-506, as enacted by Laws of Utah 2018, Chapter 414

Utah Code Sections Affected by Coordination Clause:

- 53B-17-1203, Utah Code Annotated 1953
- 53B-17-1204, Utah Code Annotated 1953
- 53E-1-201, as enacted by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-17-1201, which is renumbered from Section 53E-10-501 is renumbered and amended to read:

Part 12. SafeUT Crisis Line

[53E-10-501]. 53B-17-1201. Definitions.

As used in this part:

(1) "Commission" means the SafeUT and School Safety [~~and Crisis Line~~] Commission established in Section [~~53E-10-503~~] 53B-17-1203.

(2) "University Neuropsychiatric Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

Section 2. Section 53B-17-1202, which is renumbered from Section 53E-10-502 is renumbered and amended to read:

[53E-10-502]. 53B-17-1202. SafeUT Crisis Line established.

The University Neuropsychiatric Institute shall:

(1) establish a [~~School Safety and~~ SafeUT Crisis Line] to provide:

(a) a means for an individual to anonymously report:

(i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;

(ii) incidents of bullying, cyber-bullying, harassment, or hazing; and

(iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

(b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

(a) school officials; and

(b) law enforcement officials.

Section 3. Section 53B-17-1203, which is renumbered from Section 53E-10-503 is renumbered and amended to read:

[53E-10-503]. 53B-17-1203. SafeUT and School Safety Commission established -- Members.

(1) There is created the SafeUT and School Safety [~~and Crisis Line~~] Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah public education system, appointed by the State Board of Education;

(c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;

(d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2) (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3) (a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6) (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 4. Section 53B-17-1204, which is renumbered from Section 53E-10-504 is renumbered and amended to read:

[53E-10-504]. 53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing board duties -- Fees.

(1) As used in this section:

(a) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(2) The commission shall coordinate:

~~[(4)]~~ (a) statewide efforts related to the ~~[School Safety and]~~ SafeUT Crisis Line; and

~~[(2)]~~ (b) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the ~~[School Safety and]~~ SafeUT Crisis Line.

(3) An LEA governing board shall inform students, parents, and school personnel about the SafeUT Crisis Line.

(4) (a) Except as provided in Subsection (4)(b), the University Neuropsychiatric Institute may charge a fee to an institution of higher education or other entity for the use of the SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

(b) The University Neuropsychiatric Institute may not charge a fee to the State Board of Education or a local education agency for the use of the SafeUT Crisis Line.

(c) The commission shall establish a standard method for charging a fee described in Subsection (4)(a).

Section 5. Section 53F-2-415 is enacted to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section, "qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

- (a) is licensed; and
- (b) collaborates with educators and a student's parent on:

(i) early identification and intervention of the student's academic and mental health needs; and

(ii) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through employing or entering into contracts for services provided by qualifying personnel.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support

in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) in an amount of money that the LEA equally matches using local or unrestricted state money.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to employ or enter into contracts for services provided by qualified personnel.

(6) The state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to 2% of an appropriation under this section for costs related to the administration of the provisions of this section.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

Section 6. Section 53F-2-519 is amended to read:

53F-2-519. Appropriation for school nurses.

(1) The State Board of Education shall distribute money appropriated for school nurses to award grants to school districts and charter schools that:

(a) provide an equal amount of matching funds; and

(b) do not supplant other money used for school nurses.

(2) (a) A school district or charter school that is awarded a grant under this section shall require each school nurse employed by the school district or charter school to complete two hours of continuing nurse education on the emotional and mental health of students.

(b) The continuing nurse education described in Subsection (2)(a) shall include training on:

(i) the awareness of, screening for, and triaging to appropriate treatment for mental health problems;

(ii) trauma-informed care;

(iii) signs of mental illness;

(iv) alcohol and substance abuse;

(v) response to acute mental health crises; and

(vi) suicide prevention, including information about the 24-hour availability of the [~~School Safety and~~ SafeUT Crisis Line established under Section [~~53E-10-502~~] 53B-17-1202.

Section 7. Section 53G-8-202 is amended to read:

53G-8-202. Public school discipline policies -- Basis of the policies -- Enforcement.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2) (a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c) (i) On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the [~~School Safety and~~ SafeUT Crisis Line under Subsection [~~53E-10-502~~] 53B-17-1202(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

Section 8. Section 53G-8-203 is amended to read:

53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the [~~School Safety and~~ SafeUT Crisis Line under Subsection [~~53E-10-502~~] 53B-17-1202(3).

(2) (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b) (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through six.

(ii) The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent or guardian of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

Section 9. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety.

(1) (a) Except as provided in Subsection (4), a school district shall offer a seminar for parents of students in the school district that:

(i) is offered at no cost to parents;

(ii) begins at or after 6 p.m.;

(iii) is held in at least one school located in the school district; and

(iv) covers the topics described in Subsection (2).

(b) (i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop its own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the State Board of Education under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent

seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the [~~School Safety and~~ SafeUT Crisis Line established in Section [~~53E-10-502~~] 53B-17-1202; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, on:

(a) the progress of implementation of the parent seminar;

(b) the number of parent seminars conducted in each school district;

(c) the estimated attendance reported by each school district;

(d) a recommendation of whether to continue the parent seminar program; and

(e) if a local school board has opted out of providing the parent seminar, as described in Subsection (4), the reasons why a local school board opted out.

(4) (a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

Section 10. Section 62A-15-116 is amended to read:

62A-15-116. Mobile crisis outreach team expansion.

(1) In consultation with the [~~Crisis Line~~] Mental Health Crisis Line Commission, established in Section [~~53E-10-503~~] 63C-18-202, the division shall award grants for the development of five mobile crisis outreach teams:

(a) (i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) to provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(2) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(3) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(4) In consultation with the [Crisis Line] Mental Health Crisis Line Commission, established in Section [53E-10-503] 63C-18-202, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 11. Section 62A-15-117 is enacted to read:

62A-15-117. Medicaid reimbursement for school-based health services -- Report to Legislature.

(1) As used in this section, “individualized education program” or “IEP” means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(2) The division shall coordinate with the State Board of Education, the Department of Health, and stakeholders to address and develop recommendations related to:

(a) the expansion of Medicaid reimbursement for school-based health services, including how to expand Medicaid-eligible school-based services beyond the services for students with IEPs; and

(b) other areas concerning Medicaid reimbursement for school-based health services, including the time threshold for medically necessary IEP services.

(3) The division, the State Board of Education, and the Department of Health shall jointly report the recommendations described in Subsection (2) to the Education Interim Committee on or before August 15, 2019.

Section 12. Repealer.

This bill repeals:

Section 53E-10-505, State Board of Education and local boards of education to update policies and promote awareness.

Section 53E-10-506, Higher education implementation of School Safety and Crisis Line.

Section 13. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund \$26,000,000

From Education Fund, One-time (\$10,000,000)

Schedule of Programs:

Student Health and Counseling Support Program \$16,000,000

The Legislature intends that the State Board of Education use the appropriation provided under this item for the purposes described in Section 53F-2-415.

ITEM 2

To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund (\$500,000)

Schedule of Programs:

Community Mental Health Services (\$500,000)

ITEM 3

To University of Utah - SafeUT Crisis Text and Tip Line

From Education Fund \$1,770,000

Schedule of Programs:

SafeUT Operations \$1,770,000

Section 14. Coordinating H.B. 373 with S.B. 14 -- Substantive language.

If this H.B. 373 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) inserting the following language as a new Subsection 53E-1-201(2)(j):

“(j) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services;” and

(2) renumbering remaining subsections accordingly.

Section 15. Coordinating H.B. 373 with H.B. 27 -- Superseding technical and substantive amendments.

If this H.B. 373 and H.B. 27, Public Education Definitions Amendments, both pass and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) Section 53B-17-1203 in this bill supersedes Section 53E-10-503 in H.B. 27; and

(2) Section 53B-17-1204 in this bill supersedes Section 53E-10-504 in H.B. 27.

CHAPTER 447**H. B. 393**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

SUICIDE PREVENTION AMENDMENTS

Chief Sponsor: Steve Eliason
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill relates to suicide prevention and mental health treatment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands the scope of suicide prevention programs in a school;
- ▶ requires the Division of Occupational and Professional Licensing, in conjunction with the Division of Substance Abuse and Mental Health, to create a suicide prevention web-accessible video;
- ▶ requires certain primary care providers to view the suicide prevention web-accessible video in order to renew a medical license;
- ▶ establishes the Survivors of Suicide Loss Account;
- ▶ establishes the Psychiatric Consultation Program Account;
- ▶ provides immunity from civil liability for an individual who provides assistance to another individual who has expressed suicide ideation or taken suicidal action; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to General Fund Restricted -- Survivors of Suicide Loss Account, as an ongoing appropriation:
 - from General Fund, \$40,000.
- ▶ to Department of Human Services -- Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from General Fund -- Survivors of Suicide Loss Account, \$40,000.
- ▶ to General Fund Restricted -- Psychiatric Consultation Program Account, as an ongoing appropriation:
 - from General Fund, \$275,000.
- ▶ to Department of Human Services -- Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from General Fund -- Psychiatric Consultation Program Account, \$275,000.
- ▶ to Department of Human Services -- Division of Substance Abuse and Mental Health, as an ongoing appropriation:
 - from General Fund, \$285,000.
- ▶ to Governor's Office -- Suicide Prevention -- Suicide Prevention, as a one-time appropriation:
 - from General Fund, One-time, \$700,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53G-9-702, as last amended by Laws of Utah 2018, Chapter 414 and renumbered and amended by Laws of Utah 2018, Chapter 3
 58-31b-305, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
 58-67-303, as last amended by Laws of Utah 2017, Chapter 299
 58-68-303, as last amended by Laws of Utah 2017, Chapter 299
 58-70a-304, as last amended by Laws of Utah 2001, Chapter 268

ENACTS:

58-1-601, Utah Code Annotated 1953
 62A-15-1501, Utah Code Annotated 1953
 62A-15-1502, Utah Code Annotated 1953
 62A-15-1601, Utah Code Annotated 1953
 62A-15-1602, Utah Code Annotated 1953
 78B-4-516, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-702 is amended to read:**53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.**

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Public education suicide prevention coordinator" means an individual designated by the board as described in Subsection (3).

(f) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school, in the secondary grades of the school district or charter school, shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

(a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;

(b) prevention of youth suicide;

(c) increased risk of suicide among youth who are not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth;

~~[(e)]~~ (d) youth suicide intervention;

~~[(d)]~~ (e) postvention for family, students, and faculty;

(e) (f) underage drinking of alcohol;

(f) (g) methods of strengthening the family; and

~~[(g)]~~ (h) methods of strengthening a youth's relationships in the school and community.

(3) The board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools;

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator; and

(c) award grants in accordance with Section 53F-5-206.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6) (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$1,000.

(c) (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices

and programs, for preventing suicide that the school implements.

(7) (a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the public education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the public education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

Section 2. Section 58-1-601 is enacted to read:

Part 6. Suicide Prevention Training for Primary Care Providers

58-1-601. Suicide prevention video -- Primary care providers.

(1) As used in this section:

(a) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Chapter 31b, Nurse Practice Act.

(b) "Physician" means an individual licensed to practice as a physician or osteopath under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Chapter 70a, Physician Assistant Act.

(d) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

(2) The division, in conjunction with the Division of Substance Abuse and Mental Health created in Section 62A-15-103, shall:

(a) create a series of suicide prevention videos that:

(i) are web-accessible;

(ii) are each no longer than 20 minutes in length; and

(iii) include information about:

(A) individuals at-risk for suicide; and

(B) suicide prevention and intervention; and

(b) provide, on the division's website, educational materials or courses that relate to suicide prevention that a primary care provider may complete at no cost and apply toward continuing competency requirements required by division rule.

(3) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish procedures for:

(a) producing the suicide prevention videos described in Subsection (2); and

(b) providing access to the videos to each primary care provider.

Section 3. Section 58-31b-305 is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles [it] the division administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the division;

(b) pays a renewal fee established by the division under Section 63J-1-504; [and]

(c) views a suicide prevention video described in Section 58-1-601 and submits proof in the form required by the division; and

[e] (d) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as an advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on the license or certification unless renewed in accordance with Section 58-1-308.

(6) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)[e](d) continuing education that an advanced practice registered nurse completes in accordance with Section 26-61a-106.

Section 4. Section 58-67-303 is amended to read:

58-67-303. Term of license -- Expiration -- Renewal.

(1) (a) Except as provided in Section 58-67-302.7, the division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles [it] the division administers.

(2) At the time of renewal, the licensee shall [show compliance with]:

(a) view a suicide prevention video described in Section 58-1-601 and submit proof in the form required by the division;

[a] (b) show compliance with continuing education renewal requirements; and

[b] (c) show compliance with the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-67-304(1)(b) and (c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) An individual may not be licensed as an associate physician for more than a total of four years.

Section 5. Section 58-68-303 is amended to read:

58-68-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles [it] the division administers.

(2) At the time of renewal, the licensee shall [show compliance with]:

(a) view a suicide prevention video described in Section 58-1-601 and submit proof in the form required by the division;

[a] (b) show compliance with continuing education renewal requirements; and

~~(b)~~ (c) show compliance with the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-68-304(1)(b) and (c).

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) An individual may not be licensed as an associate physician for more than a total of four years.

Section 6. Section 58-70a-304 is amended to read:

58-70a-304. License renewal -- Continuing education.

(1) Prior to license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule[s]:

(a) view a suicide prevention video described in Section 58-1-601 and submit proof in the form required by the division; and

(b) complete qualified continuing professional education requirements as defined by division rule made in collaboration with the board.

(2) If a renewal period is extended or shortened under Section 58-70a-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

Section 7. Section 62A-15-1501 is enacted to read:

Part 15. Survivors of Suicide Loss Program

62A-15-1501. Definitions.

As used in this part:

(1) "Account" means the Survivors of Suicide Loss Account created in Section 62A-15-1502.

(2) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Section 8. Section 62A-15-1502 is enacted to read:

62A-15-1502. Survivors of Suicide Loss Account.

(1) There is created a restricted account within the General Fund known as the "Survivors of Suicide Loss Account."

(2) The division shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the division shall award grants from the account to:

(a) a relative, legal guardian, or cohabitant of an individual who dies by suicide as reimbursement for costs incurred by the relative, legal guardian, or cohabitant for mental health treatment or therapy as a result of the suicide; and

(b) a person who provides, for no or minimal cost:

(i) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

(ii) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

(5) The division shall establish a grant application and review process for the expenditure of money from the account.

(6) The grant application and review process shall describe:

(a) requirements to complete the grant application;

(b) requirements for receiving funding;

(c) criteria for the approval of a grant application; and

(d) support offered by the division to complete a grant application.

(7) Upon receipt of a grant application, the division shall:

(a) review the grant application for completeness;

(b) make a determination regarding the grant application;

(c) inform the grant applicant of the division's determination regarding the grant application; and

(d) if approved, award grants from the account to the grant applicant.

(8) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding the status of the account and expenditures made from the account.

Section 9. Section 62A-15-1601 is enacted to read:

Part 16. Psychiatric Consultation Program

62A-15-1601. Definitions.

As used in this part:

(1) "Account" means the Psychiatric Consultation Program Account created in Section 62A-15-1602.

(2) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

(3) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act.

(4) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58,

Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(5) “Physician assistant” means an individual who is licensed to practice as a physician assistant under Title 58, Chapter 70a, Physician Assistant Act.

(6) “Primary care provider” means a nurse practitioner, physician, or physician assistant.

(7) “Psychiatrist” means an individual who:

(a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association’s Bureau of Osteopathic Specialists.

(8) “Telehealth psychiatric consultation” means a consultation regarding a patient’s mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

Section 10. Section 62A-15-1602 is enacted to read:

62A-15-1602. Psychiatric Consultation Program Account.

(1) There is created a restricted account within the General Fund known as the “Psychiatric Consultation Program Account.”

(2) The division shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the division shall award grants from the account to one or more health care facilities to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when evaluating a patient for or providing a patient mental health treatment.

(5) The division may award and distribute grant money to a health care facility only if the health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection (6).

(6) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility;

(b) the health care facility’s plan to implement the telehealth psychiatric consultation program described in Subsection (4);

(c) the estimated cost to implement the telehealth psychiatric consultation program described in Subsection (4);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program described in Subsection (4);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program described in Subsection (4); and

(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program described in Subsection (4).

(7) A health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program;

(b) the utilization of the telehealth psychiatric program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

(8) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding:

(a) the status of the account and expenditures made from the account; and

(b) a summary of any report provided to the division under Subsection (7).

Section 11. Section 78B-4-516 is enacted to read:

78B-4-516. Immunity for providing assistance in a suicide emergency.

(1) As used in this section:

(a) “Emergency care” means assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of a suicide emergency.

(b) “Suicide emergency” means an occurrence that reasonably indicates an individual is at risk of dying or attempting to die by suicide.

(2) A person who provides emergency care at or near the scene of, or during, a suicide emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a result of any act or omission by the person providing the emergency care, unless the person is grossly negligent or caused the suicide emergency.

Section 12. Appropriation.

The following sums of money are appropriated for the fiscal year beginning on July 1, 2019, and ending June 30, 2020. These are additions to

amounts previously appropriated for fiscal year 2020.

Subsection (12)(a). Restricted Fund and Account Transfers.

The Legislature authorizes the Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted -- Survivors of Suicide Loss Account

From General Fund \$40,000

Schedule of Programs:

General Fund Restricted —
Survivors of Suicide Loss Account \$40,000

ITEM 2

To General Fund Restricted -- Psychiatric Consultation Program Account

From General Fund \$275,000

Schedule of Programs:

General Fund Restricted —
Psychiatric Consultation
Program Account \$275,000

Subsection (12)(b). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 3

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund Restricted -- Survivors of Suicide Loss Account \$40,000

Schedule of Programs:

Community Mental Health Services \$40,000

The Legislature intends that under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020 and the use of any nonlapsing funds is limited to the purpose described under Section 62A-15-1502.

ITEM 4

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund Restricted -- Psychiatric Consultation

Program Account \$275,000

Schedule of Programs:

Community Mental Health
Services \$275,000

The Legislature intends that under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020 and the use of any nonlapsing funds is limited to the purpose described under Section 62A-15-1602.

ITEM 5

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund \$285,000

Schedule of Programs:

Community Mental Health
Services \$285,000

The Legislature intends that:

(1) appropriations provided under this item be used for suicide prevention, intervention, and postvention, including:

(a) suicide prevention and intervention training and education for health care providers and individuals in the community;

(b) development of suicide prevention resources and tools and delivery of the resources and tools to individuals in the community; and

(c) providing postvention support and information relating to coping and problem solving skills to individuals in the community impacted by suicide loss; and

(2) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020 and the use of any nonlapsing funds is limited to the purpose described under this item.

ITEM 6

To Governor's Office -- Suicide Prevention

From General Fund, One-time \$700,000

Schedule of Programs:

Suicide Prevention \$700,000

The Legislature intends that:

(1) subject to Subsection (2) of this item, the appropriations provided under this item be used to award grants under Section 62A-15-1103;

(2) the amount of appropriations under this item used to award grants under Section 62A-15-1103 may not exceed the total amount of private gifts, grants, and bequests of personal property made to the Governor's Suicide Prevention Fund under Section 62A-15-1103 after October 31, 2018; and

(3) subject to Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2020 and the use of any nonlapsing funds is, subject to Subsection (2) of this item, limited to the purpose described in Subsection (1) of this item.

CHAPTER 448**H. B. 431**

Passed March 13, 2019
Approved March 28, 2019
Effective May 1, 2020

EXPUNGEMENT ACT AMENDMENTS

Chief Sponsor: Eric K. Hutchings
Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill modifies the Utah Expungement Act.

Highlighted Provisions:

This bill:

- ▶ allows for automatic expungement or deletion of charges for which an individual is acquitted, charges that are dismissed with prejudice, and certain convictions;
- ▶ creates processes for automatic expungement and deletion, which include:
 - defining terms;
 - requiring identification of cases that may be eligible for automatic expungement or deletion;
 - requiring a prosecuting agency to be notified before the record of a case is automatically expunged;
 - providing for the Department of Public Safety to make rules to implement procedures for processing an automatic expungement; and
 - providing for the Judicial Council to make rules to implement procedures to processing an automatic expungement or deletion;
- ▶ modifies the circumstances under which the state may petition a court to open an expunged record; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

77-40-102, as last amended by Laws of Utah 2017, Chapter 356
77-40-103, as last amended by Laws of Utah 2014, Chapter 263
77-40-104, as last amended by Laws of Utah 2018, Chapter 266
77-40-104.1, as enacted by Laws of Utah 2018, Chapter 278
77-40-105, as last amended by Laws of Utah 2018, Chapter 266
77-40-107, as last amended by Laws of Utah 2018, Chapter 266
77-40-108, as last amended by Laws of Utah 2017, Chapter 356
77-40-108.5, as enacted by Laws of Utah 2017, Chapter 447
77-40-109, as last amended by Laws of Utah 2017, Chapter 356
77-40-110, as last amended by Laws of Utah 2013, Chapter 41

77-40-111, as enacted by Laws of Utah 2010, Chapter 283

ENACTS:

77-40-114, Utah Code Annotated 1953
77-40-115, Utah Code Annotated 1953
77-40-116, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-40-102 is amended to read:**77-40-102. Definitions.**

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction;

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection 77-40-105(8); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) “Clean slate eligible case” includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) “Clean slate eligible case” does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal judgment accounts receivable, as defined in Section 77-32a-101, that:

(A) has been entered as a civil judgment and transferred to the Office of State Debt Collection; or

(B) has not been satisfied according to court records;

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

~~[(5)]~~ (6) “Conviction” means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

~~[(6)]~~ (7) “Department” means the Department of Public Safety established in Section 53-1-103.

~~[(7)]~~ (8) “Drug possession offense” means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person’s body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection ~~[(7)]~~ (8).

~~[(8)]~~ (9) “Expunge” means to seal or otherwise restrict access to the ~~petitioner’s~~ individual’s record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

~~[(9)]~~ (10) “Jurisdiction” means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

~~[(10)]~~ (11) “Minor regulatory offense” means any class B or C misdemeanor offense, ~~as well as~~ and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections ~~[(10)]~~ (11)(a) through (d).

~~[(11)]~~ (12) “Petitioner” means ~~a person seeking~~ an individual applying for expungement under this chapter.

~~[(12)]~~ (13) (a) “Traffic offense” means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) “Traffic offense” does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections ~~(12)~~ (13)(b)(i) and (ii).

Section 2. Section 77-40-103 is amended to read:

77-40-103. Petition for expungement procedure overview.

The process for a petition for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.

(4) (a) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred.

(b) If there were no court proceedings, or the court no longer exists, the petitioner may file the petition ~~may be filed~~ in the district court where the arrest occurred.

(c) If a ~~certificate is filed~~ petitioner files a certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. ~~If the original certificate is filed~~

(d) If the petitioner files the original certificate of eligibility with the petition, the clerk or the court shall scan ~~it~~ and return ~~it~~ the original certificate to the petitioner or the petitioner's attorney, who shall keep ~~it~~ the original certificate until the proceedings are concluded.

(5) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.

(b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate ~~shall be delivered~~ to the county attorney's office in the jurisdiction where the arrest occurred.

~~[(6) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be set by the court and the prosecutor and victim notified of the date.]~~

(6) If the prosecutor or the victim files an objection to the petition, the court shall set a hearing and notify the prosecutor and the victim of the date set for the hearing.

(7) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.

(8) ~~[An expungement may be granted]~~ A court may grant an expungement without a hearing if no objection is received.

(9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

Section 3. Section 77-40-104 is amended to read:

77-40-104. Requirements to apply for certificate of eligibility to expunge records of arrest, investigation, and detention.

~~[(1) A person]~~ An individual who is arrested or formally charged with an offense may apply to the bureau for a certificate of eligibility to expunge the records of arrest, investigation, and detention that may have been made in the case, subject to the following conditions:

~~[(a)]~~ (1) at least 30 days have passed since the day of the arrest for which a certificate of eligibility is sought;

~~[(b)]~~ (2) there are no criminal proceedings pending against the ~~petitioner~~ individual; and

~~[(c)]~~ (3) one of the following occurs:

~~[(i)]~~ (a) charges are screened by the investigating law enforcement agency and the prosecutor makes a final determination that no charges will be filed in the case;

~~[(ii)]~~ (b) the entire case is dismissed with prejudice;

~~[(iii)]~~ (c) the entire case is dismissed without prejudice or without condition and:

~~[(A)]~~ (i) the prosecutor consents in writing to the issuance of a certificate of eligibility; or

~~[(B)]~~ (ii) at least 180 days have passed since the day on which the case is dismissed;

~~[(iv)] the person]~~

(d) the individual is acquitted at trial on all of the charges contained in the case; or

~~[(v)]~~ (e) the statute of limitations expires on all of the charges contained in the case.

~~[(2) Notwithstanding Subsection (1)(a), the bureau shall issue a certificate of eligibility on an expedited basis to a petitioner seeking expungement under Subsection (1)(e)(iv).]~~

Section 4. Section 77-40-104.1 is amended to read:

77-40-104.1. Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section:

(a) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) "Personal identifying information" means:

(i) a current name, former name, nickname, or alias; and

(ii) date of birth.

(2) ~~[A person]~~ An individual whose criminal case is dismissed may move the court for an order to remove the link between the ~~[person's]~~ individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts and the court shall grant that relief if:

(a) 30 days have passed from the day on which the case is dismissed;

(b) no appeal is filed for the dismissed case within the 30-day period described in Subsection (2)(a); and

(c) no charge in the case was a domestic violence offense.

(3) Removing the link to personal identifying information of a court record under Subsection (2) does not affect a prosecuting, arresting, or other agency's records.

(4) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Section 5. Section 77-40-105 is amended to read:

77-40-105. Requirements to apply for a certificate of eligibility to expunge conviction.

(1) ~~[A person]~~ An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) ~~[A petitioner]~~ An individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony violation of Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought [have been paid in full];

(b) the petitioner has paid in full all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6[; has been paid in full]; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility.

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that

the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 6. Section 77-40-107 is amended to read:

77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.

(1) (a) The petitioner shall file a petition for expungement and the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.~~[If the certificate is filed]~~

(b) If the petitioner files the certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.~~[If the original certificate is filed]~~

(c) If the petitioner files the original certificate of eligibility with the petition, the clerk of the court shall scan ~~it~~ and return ~~it~~ the original certificate to the petitioner or the petitioner's attorney, who shall keep ~~it~~ the original certificate until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) (i) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(ii) The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other ~~person~~ individual who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; and

(e) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the ~~person~~ individual seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 7. Section 77-40-108 is amended to read:

77-40-108. Distribution of order -- Redaction -- Receipt of order -- Bureau requirements -- Administrative proceedings.

(1) (a) ~~A person~~ (i) An individual who receives an order of expungement under ~~this chapter~~ Section 77-40-107 or Section 77-27-5.1 shall be responsible for delivering a copy of the order of expungement to all affected criminal justice agencies and officials including the court, arresting agency, booking agency, prosecuting agency, Department of Corrections, and the bureau.

(ii) The provisions of Subsection (1)(a)(i) do not apply to an individual who receives an automatic expungement under Section 77-40-114.

(b) ~~A person~~ An individual who receives an order of expungement under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.

(2) Unless otherwise provided by law or ordered by a court of competent jurisdiction to respond differently, ~~a person~~ an individual who has received an expungement of an arrest or conviction under this chapter or Section 77-27-5.1~~;~~ may respond to any inquiry as though the arrest or conviction did not occur.

(3) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(4) An agency receiving an expungement order shall expunge the ~~petitioner's~~ individual's identifying information contained in records in ~~its~~ the agency's possession relating to the incident for which expungement is ordered.

(5) Unless ordered by a court to do so, or in accordance with Subsection 77-40-109(2), a government agency or official may not divulge information or records ~~which~~ that have been expunged ~~regarding the petitioner contained in a record of arrest, investigation, detention, or conviction after receiving an expungement order~~.

(6) (a) An order of expungement may not restrict an agency's use or dissemination of records in ~~its~~ the agency's ordinary course of business until the agency has received a copy of the order.

(b) Any action taken by an agency after issuance of the order but prior to the agency's receipt of a copy of the order may not be invalidated by the order.

(7) An order of expungement may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the ~~petitioner~~ individual had notice according to the records of the administrative body prior to issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to ~~its~~ the administrative body's lawful authority prior to issuance of the expungement order;

(c) remove any evidence relating to the ~~petitioner~~ individual including records of arrest, which the administrative body has used or may use in these proceedings; or

(d) prevent an agency from maintaining, sharing, or distributing any record required by law.

Section 8. Section 77-40-108.5 is amended to read:

77-40-108.5. Distribution for order for vacatur.

(1) ~~A person~~ An individual who receives an order for vacatur under Subsection 78B-9-108(2) shall be responsible for delivering a copy of the order for vacatur to all affected criminal justice agencies and officials including the court, arresting agency, booking agency, prosecuting agency, Department of Corrections, and the bureau.

(2) ~~In order to~~ To complete delivery of the order for vacatur to the bureau, the ~~petitioner~~ individual shall complete and attach to the order for vacatur an application for a certificate of eligibility for expungement, including identifying information and fingerprints, as provided in Subsection 77-40-103(1).

(3) The bureau shall treat the order for vacatur and attached certificate of eligibility for expungement the same as a valid order for expungement under Section 77-40-108, except as provided in this section.

(4) Unless otherwise provided by law or ordered by a court of competent jurisdiction to respond

differently, ~~a person~~ an individual who has received a vacatur of conviction under Section 78B-9-108(2)~~;~~ may respond to any inquiry as though the conviction did not occur.

(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of Investigation.

(6) An agency receiving an order for vacatur shall expunge the ~~petitioner's~~ individual's identifying information contained in records in the agency's possession relating to the incident for which vacatur is ordered.

(7) A government agency or official may not divulge information contained in a record of arrest, investigation, detention, or conviction after receiving an order for vacatur to any person or agency, except for:

(a) the ~~petitioner~~ individual for whom vacatur was ordered; or

(b) Peace Officer Standards and Training, pursuant to Section 53-6-203 and Subsection 77-40-109(2)(b)(ii).

(8) The bureau may not count vacated convictions against any future expungement eligibility.

Section 9. Section 77-40-109 is amended to read:

77-40-109. Retention and release of expunged records -- Agencies.

(1) The bureau shall keep, index, and maintain all expunged records of arrests and convictions.

(2) (a) Employees of the bureau may not divulge any information contained in ~~its~~ the bureau's index to any person or agency without a court order unless specifically authorized by statute.

(b) The following organizations may receive information contained in expunged records upon specific request:

(i) the Board of Pardons and Parole;

(ii) Peace Officer Standards and Training;

(iii) federal authorities, only as required by federal law;

(iv) the Department of Commerce;

(v) the Department of Insurance;

(vi) the State Board of Education; and

(vii) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office.

(c) A person or agency authorized by this Subsection (2) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the ~~court order~~ specific request, except as directed by a court order, including distribution on a public website.

(3) The bureau may also use the information in ~~its~~ the bureau's index as provided in Section 53-5-704.

(4) If, after obtaining an expungement, ~~the petitioner~~ an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction, the state may petition the court to open the expunged records upon a showing of good cause.

(5) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (5) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(6) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records.

Section 10. Section 77-40-110 is amended to read:

77-40-110. Use of expunged records -- Individuals -- Use in civil actions.

Records expunged under this chapter or Section 77-27-5.1 may be released to or viewed by the following individuals:

(1) the petitioner or an individual who receives an automatic expungement under Section 77-40-114;

(2) a law enforcement officer who was involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

(3) parties to a civil action arising out of the expunged incident, providing the information is kept confidential and utilized only in the action.

Section 11. Section 77-40-111 is amended to read:

77-40-111. Rulemaking.

~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(1) implement procedures for processing an automatic expungement;

~~(1)~~ (2) implement procedures for applying for certificates of eligibility;

~~(2)~~ (3) specify procedures for receiving a certificate of eligibility; and

~~(3)~~ (4) create forms and determine information necessary to be provided to the bureau.

Section 12. Section 77-40-114 is enacted to read:

77-40-114. Automatic expungement procedure.

(1) (a) Except as provided in Subsection (1)(b) and subject to Section 77-40-116, this section governs the process for the automatic expungement of all records in:

(i) a case that resulted in an acquittal on all charges;

(ii) except as provided in Subsection (3)(d), a case that is dismissed with prejudice; or

(iii) a case that is a clean slate eligible case.

(b) This section does not govern automatic expungement of a traffic offense.

(2) (a) The process for automatic expungement of records for a case that resulted in an acquittal is as described in Subsections (2)(b) through (c).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(3) (a) The process for an automatic expungement of a case that is dismissed with prejudice is as described in Subsections (3)(b) through (c).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(d) For purposes of this Subsection (3), a case that is dismissed with prejudice does not include a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).

(4) (a) The process for the automatic expungement of a clean slate eligible case is as described in Subsections (4)(b) through (f) and in accordance with any rules made by the Judicial Council as described in Subsection (4)(g).

(b) A prosecuting agency shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be a clean slate eligible case.

(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the prosecuting agency shall provide written notice in accordance with any rules made by the Judicial Council if the prosecuting agency objects to an

automatic expungement for any of the following reasons:

(i) after reviewing the agency record, the prosecuting agency believes that the case does not meet the definition of a clean slate eligible case;

(ii) the individual has not paid court-ordered restitution to the victim; or

(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual with a clean slate eligible case is continuing to engage in criminal activity within or outside of the state.

(d) (i) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (4)(c) within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the court may not proceed with automatic expungement.

(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is sent without the prosecuting agency providing written notice of an objection for a reason described in Subsection (4)(c), the court may proceed with automatic expungement.

(e) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(f) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(g) The Judicial Council shall make rules to govern the process for automatic expungement of records for a clean slate eligible case in accordance with this Subsection (4).

(5) Nothing in this section precludes an individual from filing a petition for expungement of records that are eligible for automatic expungement under this section if an automatic expungement has not occurred pursuant to this section.

(6) An automatic expungement performed under this section does not preclude a person from requesting access to expunged records in accordance with Section 77-40-109 or 77-40-110.

Section 13. Section 77-40-115 is enacted to read:

77-40-115. Automatic deletion for traffic offense.

(1) Subject to Section 77-40-116, records for the following traffic offenses shall be deleted without a court order or notice to the prosecuting agency:

(a) a traffic offense case that resulted in an acquittal on all charges;

(b) a traffic offense case that is dismissed with prejudice, other than a case that is dismissed with

prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b); or

(c) a traffic offense case that is a clean slate eligible case, as that term is defined in Section 77-40-102.

(2) The Judicial Council shall make rules to provide an ongoing process for identifying and deleting records on all traffic offenses described in Subsection (1).

Section 14. Section 77-40-116 is enacted to read:

77-40-116. Time periods for expungement or deletion -- Identification and processing of clean slate eligible cases.

(1) Reasonable efforts within available funding shall be made to expunge or delete a case as quickly as is practicable with the goal of:

(a) for cases adjudicated on or after May 1, 2020:

(i) expunging a case that resulted in an acquittal on all charges, 60 days after the acquittal;

(ii) expunging a case that resulted in a dismissal with prejudice, other than a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b), 180 days after:

(A) for a case in which no appeal was filed, the day on which the entire case against the individual is dismissed with prejudice; or

(B) for a case in which an appeal was filed, the day on which a court issues a final unappealable order;

(iii) expunging a clean slate eligible case that is not a traffic offense within 30 days of the court, in accordance with Section 77-40-114, determining that the requirements for expungement have been satisfied; or

(iv) deleting a clean slate eligible case that is a traffic offense upon identification; and

(b) for cases adjudicated before May 1, 2020, expunging or deleting a case within one year of the day on which the case is identified as eligible for automatic expungement or deletion.

(2) (a) The Judicial Council shall make rules governing the identification and processing of clean slate eligible cases in accordance with Sections 77-40-114 and 77-40-115.

(b) Reasonable efforts shall be made to identify and process all clean slate eligible cases in accordance with Sections 77-40-114 and 77-40-115.

(c) An individual does not have a cause of action for damages as a result of the failure to identify an individual's case as a clean slate eligible case or to automatically expunge or delete the records of a clean slate eligible case.

Section 15. Effective date.

This bill takes effect on May 1, 2020.

CHAPTER 449**S. B. 52**

Passed March 13, 2019
 Approved March 28, 2019
 Effective May 14, 2019

SECONDARY WATER REQUIREMENTS

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Timothy D. Hawkes

LONG TITLE**General Description:**

This bill addresses the metering of pressurized secondary water.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a secondary water provider that begins design work for new secondary water services to certain users on or after April 1, 2020, to meter the use of water;
- ▶ requires a secondary water supplier to develop a plan related to metering for submission to the Division of Water Resources;
- ▶ requires reporting;
- ▶ requires a study of issues related to metering secondary water by a task force within the Department of Natural Resources and reporting its findings; and
- ▶ permits loans to fund metering of secondary water.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

73-10-34, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-10-34 is enacted to read:**73-10-34. Secondary water metering.**

(1) As used in this section:

(a) (i) “Commercial user” means a secondary water user that is a place of business.

(ii) “Commercial user” does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(b) (i) “Industrial user” means a secondary water user that manufactures or produces materials.

(ii) “Industrial user” includes a manufacturing plant, an oil and gas producer, and a mining company.

(c) (i) “Institutional user” means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) “Institutional user” includes a school, church, hospital, park, golf course, and government facility.

(d) (i) “Residential user” means a secondary water user in a residence.

(ii) “Residential user” includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(e) “Secondary water” means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end consumer for the irrigation of landscaping or a garden.

(f) “Secondary water supplier” means an entity that supplies pressurized secondary water.

(2) A secondary water supplier that begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(3) (a) A secondary water provider that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan for metering the use of the pressurized water in accordance with this Subsection (3).

(b) The plan required by this Subsection (3) shall be filed with the Division of Water Resources by no later than December 31, 2019, and address the process the secondary water supplier will follow to implement metering, including:

(i) the costs of full metering by the secondary water provider;

(ii) how long it would take the secondary water provider to complete full metering, including an anticipated begin date and completion date; and

(iii) how the secondary water supplier will finance metering.

(4) (a) The Department of Natural Resources shall oversee a study by the Utah Water Task Force within the Department of Natural Resources of issues related to metering secondary water in the state including cost, timing, the need for exemptions, resources to pay the cost of metering, and any other issues the Department of Natural Resources finds relevant.

(b) The Department of Natural Resources shall report the results of the study to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November interim meeting of 2019.

(5) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial,

institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from its sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(6) (a) Beginning July 1, 2019, the Board of Water Resources may make up to \$10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (6), except the rules may not include prepayment penalties.

CHAPTER 450**S. B. 179**

Passed March 14, 2019

Approved March 28, 2019

Effective May 14, 2019

TRUTH IN TAXATION AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill modifies public hearing requirements in the property tax code.

Highlighted Provisions:

This bill:

- ▶ places limitations on the other items a taxing entity can place on an agenda for a meeting during which the taxing entity will hold a public hearing to discuss a proposed tax rate increase;
- ▶ requires a public meeting addressing the general business of the taxing entity that occurs on the same date as a public hearing to discuss a proposed tax rate increase to conclude before the public hearing on the proposed tax rate increase begins;
- ▶ prohibits unreasonable restriction on the number of individuals who offer public comment; and
- ▶ prohibits a taxing entity from holding a public hearing to discuss a proposed tax rate increase on the same date as another public hearing, other than a taxing entity's budget hearing, a local district's or special service district's fee hearing, or a city's or town's enterprise fund hearing.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-2-919, as last amended by Laws of Utah 2018, Chapters 68 and 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-919 is amended to read:**59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.**

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

- (iv) provides notice by mail:
- (A) seven or more days before the regular general election or municipal general election held in the current calendar year; and
- (B) as provided in Subsection (3)(c); and
- (v) conducts a public hearing that is held:
- (A) in accordance with Subsections (8) and (9); and
- (B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.
- (b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:
- (A) county council;
- (B) county executive; or
- (C) both the county council and county executive.
- (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:
- (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and
- (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).
- (c) The notice described in Subsection (3)(a)(iv):
- (i) shall be mailed to each owner of property:
- (A) within the calendar year taxing entity; and
- (B) listed on the assessment roll;
- (ii) shall be printed on a separate form that:
- (A) is developed by the commission;
- (B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and
- (C) may be mailed with the notice required by Section 59-2-1317;
- (iii) shall contain for each property described in Subsection (3)(c)(i):
- (A) the value of the property for the current calendar year;
- (B) the tax on the property for the current calendar year; and
- (C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year

taxing entity's certified tax rate, the estimated tax on the property;

- (iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

- (i) be no less than 1/4 page in size;
- (ii) use type no smaller than 18 point; and
- (iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

“NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)”

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$_____ to \$_____, which is \$_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$_____ to \$_____, which is \$_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity).”

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public[-]; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a local district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

CHAPTER 451**S. B. 245**

Passed March 14, 2019

Approved March 28, 2019

Effective May 14, 2019

SCHOOL COMMUNITY AWARENESS

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill enacts provisions related to providing notice regarding school turnaround, school closure, and school boundary changes.

Highlighted Provisions:

This bill:

- ▶ requires a local school board or a charter school governing board of a low performing school to notify parents and the municipality in which the school is located of certain information related to:
 - the school's status in school turnaround; and
 - community support;
- ▶ requires a local school board to provide notice and opportunities for public comment before closing or changing the boundaries of a school;
- ▶ amends other provisions related to a local school board providing certain notice; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53E-5-303, as renumbered and amended by Laws of Utah 2018, Chapter 1

53E-5-304, as renumbered and amended by Laws of Utah 2018, Chapter 1

53G-4-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-5-303 is amended to read:**53E-5-303. Required action to turn around a low performing district school -- Notification to parents and municipality.**

(1) In accordance with deadlines established by the board, a local school board of a low performing school shall:

(a) establish a school turnaround committee composed of the following members:

(i) the local school board member who represents the voting district where the low performing school is located;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school appointed by the chair of the school community council;

(iv) one teacher at the low performing school appointed by the principal;

(v) one teacher at the low performing school appointed by the school district superintendent; and

(vi) one school district administrator;

(b) solicit proposals from a turnaround expert identified by the board under Section 53E-5-305;

(c) partner with the school turnaround committee to select a proposal;

(d) submit the proposal described in Subsection (1)(b) to the board for review and approval; and

(e) subject to Subsections (3) and (4), contract with a turnaround expert.

(2) A proposal described in Subsection (1)(b) shall include a:

(a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).

(3) A local school board may not select a turnaround expert that is:

(a) the school district; or

(b) an employee of the school district.

(4) A contract between a local school board and a turnaround expert:

(a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;

(b) shall include a scope of work that requires the turnaround expert to at a minimum:

(i) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection (5);

(ii) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

(iii) provide ongoing implementation support and project management for a school turnaround plan;

(iv) provide high-quality professional development personalized for school staff that is designed to build:

(A) the leadership capacity of the school principal;

(B) the instructional capacity of school staff;

(C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and

(v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;

(c) may include a scope of work that requires the turnaround expert to:

(i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or

(ii) other services that respond to the needs assessment conducted under Section 53E-5-302;

(d) shall include travel costs and payment milestones; and

(e) may include pay for performance provisions.

(5) A school turnaround committee shall partner with the turnaround expert selected under Subsection (1) to develop and implement a school turnaround plan that:

(a) addresses the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302;

(b) includes recommendations regarding changes to the low performing school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;

(c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;

(d) includes a professional development plan that identifies a strategy to address problems of instructional practice;

(e) includes a detailed budget specifying how the school turnaround plan will be funded;

(f) includes a plan to assess and monitor progress;

(g) includes a plan to communicate and report data on progress to stakeholders; and

(h) includes a timeline for implementation.

(6) A local school board of a low performing school shall:

(a) prioritize school district funding and resources to the low performing school;

(b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan; ~~and~~

(c) assist the turnaround expert and the low performing school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan~~[-]; and~~

(d) provide initial and annual notice:

(i) that includes the following information regarding the low performing school:

(A) the school's turnaround status;

(B) the goals, benchmarks, and timetable in the school's turnaround plan and any progress toward the goals, benchmarks, and timetable; and

(C) how the community may provide support to the school and students of the school inside and outside the classroom; and

(ii) to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents; and

(B) the governing council and the mayor of the municipality in which the school is located.

(7) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.

(b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the local school board does not approve the school turnaround plan submitted under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53E-5-305(6).

(8) A local school board, or a local school board's designee, shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Section 2. Section 53E-5-304 is amended to read:

53E-5-304. Required action to terminate or turn around a low performing charter school -- Notification to parents and municipality.

(1) In accordance with deadlines established by the board, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53G-5-303, including the school's established minimum standards for student achievement.

(2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter in accordance with Section 53G-5-503.

(3) A charter school authorizer shall make a determination on the status of a low performing

school's charter under Subsection (2) on or before a date specified by the board in an initial remedial year.

(4) In accordance with deadlines established by the board, if a charter school authorizer does not terminate a low performing school's charter under Subsection (2), a charter school governing board of a low performing school shall:

(a) establish a school turnaround committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the low performing school, appointed by the school principal;

(b) solicit proposals from a turnaround expert identified by the board under Section 53E-5-305;

(c) partner with the school turnaround committee to select a proposal;

(d) submit the proposal described in Subsection (4)(b) to the board for review and approval; and

(e) subject to Subsections (6) and (7), contract with a turnaround expert.

(5) A proposal described in Subsection (4)(b) shall include a:

(a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection 53E-5-303(4)(b).

(6) A charter school governing board may not select a turnaround expert that:

(a) is a member of the charter school governing board;

(b) is an employee of the charter school; or

(c) has a contract to operate the charter school.

(7) A contract entered into between a charter school governing board and a turnaround expert shall include and reflect the requirements described in Subsection 53E-5-303(4).

(8) (a) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4) to develop and implement a school turnaround plan that includes the elements described in Subsection 53E-5-303(5).

(b) A charter school governing board shall assist a turnaround expert and a low performing charter school with:

(i) addressing the root cause of the low performing school's low performance; and

(ii) the development or implementation of a school turnaround plan.

(9) (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.

(b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a low performing school shall submit the school turnaround plan to the board for approval.

(c) If the charter school governing board does not approve the school turnaround plan submitted under Subsection (9)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53E-5-305(6).

(10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter in accordance with Section 53G-5-503.

(11) (a) A charter school governing board or a charter school governing board's designee shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

(b) A charter school governing board of a low performing school shall provide initial and annual notice:

(i) that includes the following information regarding the low performing school:

(A) the school's turnaround status;

(B) the goals, benchmarks, and timetable in the school's turnaround plan and any progress toward the goals, benchmarks, and timetable; and

(C) how the community may provide support to the school and students of the school inside and outside the classroom; and

(ii) to:

(A) parents of students enrolled in the school, using the same form of communication the charter school governing board regularly uses to communicate with parents; and

(B) the governing council and the mayor of the municipality in which the school is located.

Section 3. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the State Board of Education, which measure the progress of each

student, and coordinate with the state superintendent and State Board of Education to assess results and create plans to improve the student's progress, which shall be submitted to the State Board of Education for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the State Board of Education to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts; and

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects.

(2) Local school boards shall spend minimum school program funds for programs and activities for which the State Board of Education has established minimum standards or rules under Section 53E-3-501.

(3) (a) A board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on board resolution affirmed by at least two-thirds of the members.

(4) (a) A board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the State Board of Education.

(5) A board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A board may establish and support school libraries.

(8) A board may collect damages for the loss, injury, or destruction of school property.

(9) A board may authorize guidance and counseling services for children and their parents or guardians before, during, or following enrollment of the children in schools.

(10) (a) A board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A board may organize school safety patrols and adopt rules under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A board may on its own behalf, or on behalf of an educational institution for which the board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A board shall adopt bylaws and rules for the board's own procedures.

(15) (a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) Board rules and policies shall be in writing, filed, and referenced for public access.

(16) A board may hold school on legal holidays other than Sundays.

(17) (a) A board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

- (i) the schools within the district;
 - (ii) the Parent Teachers' Association of the schools within the district;
 - (iii) the municipality or county;
 - (iv) state or local law enforcement; and
 - (v) state or local traffic safety engineering.
- (c) The committee shall:
- (i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;
 - (ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;
 - (iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade six, within the district, on school crossing safety and use; and
 - (iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.
- (d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).
- (18) (a) A school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.
- (b) The plan shall:
- (i) include prevention, intervention, and response components;
 - (ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;
 - (iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;
 - (iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and
 - (v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:
 - (A) participating in a school-related activity; or
 - (B) excused from school for a period of time during the regular school day to participate in religious

instruction at the request of the student's parent or guardian.

(c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require inservice training on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The State Board of Education, through the state superintendent of public instruction, shall provide local school boards with an emergency plan response model that local boards may use to comply with the requirements of this Subsection (19).

(20) A board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by

the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

[~~(i)~~] (iii) hold a public hearing^[,] as defined in Section 10-9a-103^[,] ~~and (ii)~~ and provide public notice of the public hearing^[,] ~~as specified~~ as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing; ~~and~~

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality ~~[ø]~~ in which the school is located, on the school district's official website~~[-]~~, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

CHAPTER 452**S. B. 259**

Passed March 14, 2019
 Approved March 28, 2019
 Effective May 14, 2019

RAILROAD RIGHT-OF-WAY AMENDMENTS

Chief Sponsor: Daniel Hemmert
 House Sponsor: Carl R. Albrecht

LONG TITLE**General Description:**

This bill enacts provisions related to fiber optic carrier crossings of railroad rights-of-way.

Highlighted Provisions:

This bill:

- ▶ requires a fiber optic carrier that intends to place a facility across or upon a railroad right-of-way to submit a request for permission from the railroad prior to placing a facility;
- ▶ establishes procedures for a fiber optic carrier to request permission from a railroad;
- ▶ allows railroads to impose certain requirements prior to granting permission for a fiber optic carrier crossing of a railroad right-of-way;
- ▶ establishes a standard fee that may be charged for each facility placed by a fiber optic carrier across a railroad right-of-way;
- ▶ allows a fiber optic carrier or railroad to petition the Public Service Commission if the parties are unable to resolve an objection; and
- ▶ defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-23-101, Utah Code Annotated 1953
 54-23-102, Utah Code Annotated 1953
 54-23-103, Utah Code Annotated 1953
 54-23-104, Utah Code Annotated 1953
 54-23-105, Utah Code Annotated 1953
 54-23-106, Utah Code Annotated 1953
 54-23-107, Utah Code Annotated 1953
 54-23-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-23-101 is enacted to read:

**CHAPTER 23. CROSSING RAILROAD
 RIGHTS-OF-WAY BY FIBEROPTIC
 CARRIERS**

54-23-101. Title.

This chapter is known as "Crossing Railroad Rights-of-Way by Fiber Optic Carriers."

Section 2. Section 54-23-102 is enacted to read:**54-23-102. Definitions.**

As used in this chapter:

(1) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) (a) "Crossing" means a telecommunications facility constructed under or across a railroad right-of-way:

(i) at an angle between 80 degrees and 100 degrees;

(ii) with a minimum depth of:

(A) 10 feet below rail level for nonhorizontal directional drilling; or

(B) 15 feet below rail for horizontal directional drilling; and

(iii) within a county that is not a county of the first class.

(b) "Crossing" does not include longitudinal occupancy of railroad right-of-way.

(3) "Facility" or "telecommunications facility" means fiber optics or related conduit installed in a crossing.

(4) "Fiber optic carrier" means a telecommunications corporation or a telecommunications corporation's contractor or agent.

Section 3. Section 54-23-103 is enacted to read:**54-23-103. Right-of-way crossing -- application for permission.**

(1) (a) Any fiber optic carrier that intends to place a facility across or upon a railroad right-of-way shall submit a request for permission from the railroad prior to placing a facility.

(b) A request under this Subsection (1) shall:

(i) be in the railroad form of a completed crossing application;

(ii) include an engineering design that:

(A) shows the location of the proposed crossing and the railroad's property, tracks, and wires that the telecommunications facility will cross; and

(B) conforms with guidelines published in the most recent edition of the National Electric Safety Code and American Railway Engineering and Maintenance-of-Way Association standards; and

(iii) include the standard crossing fee specified in Section 54-23-105.

(2) Unless the railroad provides written or electronic notice to the fiber optic carrier that the proposed crossing is a serious threat to the safe operations of the railroad or to the current or future use of the railroad right-of-way, would violate any federal law or regulation applicable to a public transit district, or would violate an agreement between a public transit district and the federal government, the railroad shall approve the application within 35 calendar days after the receipt of a completed application for a crossing.

(3) This section applies to:

(a) any crossing in existence before May 14, 2019, if an agreement concerning the crossing has expired or has been terminated; and

(b) any crossing commenced on or after May 14, 2019.

(4) If an applicant that intends to place a facility across or upon a railroad right-of-way at a crossing described in Subsection (3)(a) has paid a collective amount that equals or exceeds the standard crossing fee established under Section 54-23-105 to the railroad during the existence of the crossing, no additional fee may be required.

Section 4. Section 54-23-104 is enacted to read:

54-23-104. Right-of-way crossing -- Construction.

Unless the railroad notifies the fiber optic carrier in writing or electronically that the approved crossing is a serious threat to the safe operation of the railroad or to the current or future use of the railroad right-of-way, would violate any federal law or regulation applicable to a public transit district, or would violate an agreement between a public transit district and the federal government, the railroad shall issue the permit or crossing agreement and schedule flagging to occur within 45 calendar days of the approved application.

Section 5. Section 54-23-105 is enacted to read:

54-23-105. Standard crossing fee.

(1) Unless otherwise agreed by the parties, a fiber optic carrier that crosses a railroad right-of-way shall pay the railroad a one-time standard crossing fee of \$1,250, adjusted as provided in Subsection (5), for each crossing.

(2) (a) Except as otherwise provided in this chapter, the standard crossing fee is paid in lieu of any license, permit, application, processing fee, or any other fee or charge to reimburse the railroad for direct expenses incurred by the railroad as a result of the crossing.

(b) Except as otherwise provided in this chapter, no other fee or charge related to the crossing may be assessed to the fiber optic carrier by the railroad.

(3) In addition to the standard crossing fee, the fiber optic carrier shall also reimburse the railroad for any reasonable and necessary flagging expense associated with a crossing, based on the railroad traffic at the crossing.

(4) (a) The placement of a single conduit is limited to a single applicant, and the conduit's contents are a single facility.

(b) No additional fees are payable based on the individual fibers, wires, lines, or other items contained within a single conduit.

(5) On January 1 of each year, the standard crossing fee under Subsection (1) shall be adjusted

by multiplying the current standard crossing fee by the sum of:

(a) one; and

(b) the actual percent change of the consumer price index during the most recent 12-month period for which data is available.

Section 6. Section 54-23-106 is enacted to read:

54-23-106. Objections -- petition to Public Service Commission by a railroad.

(1) If a railroad objects to the proposed crossing due to the proposal being a serious threat to the safe operations of the railroad or to the current or future use of the railroad right-of-way, a violation of any federal law or regulation applicable to a public transit district, or a violation of an agreement between a public transit district and the federal government, the railroad shall provide written or electronic notice to the fiber optic carrier of the objection and the specific basis for the objection.

(2) (a) If the parties make good faith efforts to resolve the objection, and are unable to resolve the objection, either party may petition the commission for assistance via mediation or arbitration of the disputed crossing application.

(b) The petition shall be filed within 60 days of receipt of the objection.

(3) If a petition is filed under Subsection (2), the commission shall issue an order within 120 days of filing of the petition.

(4) An order issued under Subsection (3) may be appealed in accordance with Chapter 7, Hearings, Practice, and Procedure.

(5) The commission shall assess the costs associated with a petition equitably among the parties.

Section 7. Section 54-23-107 is enacted to read:

54-23-107. Objections -- petition to Public Service Commission by a fiber optic carrier.

(1) (a) If a railroad imposes additional requirements on a fiber optic carrier for crossing the railroad's lines, other than the proposed crossing being a serious threat to the safe operations of the railroad or to the current or future use of the railroad right-of-way, a violation of any federal law or regulation applicable to a public transit district, or a violation of an agreement between a public transit district and the federal government, the fiber optic carrier may object to one or more of the requirements.

(b) The fiber optic carrier shall provide written or electronic notice of the objection and the specific basis for the objection to the railroad.

(2) (a) If the parties make good faith efforts to resolve the objection, and are unable to resolve the objection, either party may petition the commission for resolution or modification of the additional requirements.

(b) The petition shall be filed within 60 days of receipt of the objection.

(3) (a) If a petition is filed under Subsection (2), the commission shall determine, after notice and opportunity for hearing, whether special circumstances exist that necessitate additional requirements for the placement of the crossing.

(b) The commission shall issue an order within 120 days of filing of the petition.

(4) An order issued under Subsection (3) may be appealed in accordance with Chapter 7, Hearings, Practice, and Procedure.

(5) The commission shall assess the costs associated with a petition equitably among the parties.

Section 8. Section 54-23-108 is enacted to read:

54-23-108. Existing agreements.

Nothing in this chapter prevents a railroad and a fiber optic carrier from continuing under an existing agreement, or from otherwise negotiating the terms and conditions applicable to a crossing or the resolution of any disputes relating to the crossing.

CHAPTER 453**H. B. 24**

Passed February 14, 2019

Approved March 29, 2019

Effective January 1, 2020

**PROPERTY TAX EXEMPTIONS,
DEFERRALS, AND ABATEMENTS
AMENDMENTS**

Chief Sponsor: Steve Eliason

Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to property tax exemptions, deferrals, and abatements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ repeals outdated provisions related to property tax exemptions, deferrals, and abatements;
- ▶ reorganizes, redrafts, and updates existing provisions related to property tax exemptions, deferrals, and abatements;
- ▶ broadens the appeal right for a person who is dissatisfied with a tax relief decision;
- ▶ expands the armed forces property tax exemption; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-1006, as last amended by Laws of Utah 2013, Chapter 180

59-2-1101, as last amended by Laws of Utah 2018, Chapter 415

59-2-1102, as last amended by Laws of Utah 2015, Chapter 129

59-2-1202, as last amended by Laws of Utah 2017, Chapter 391

ENACTS:

59-2-1801, Utah Code Annotated 1953

59-2-1802, Utah Code Annotated 1953

59-2-1803, Utah Code Annotated 1953

59-2-1804, Utah Code Annotated 1953

59-2-1805, Utah Code Annotated 1953

59-2-1901, Utah Code Annotated 1953

59-2-1902, Utah Code Annotated 1953

59-2-1903, Utah Code Annotated 1953

59-2-1904, Utah Code Annotated 1953

59-2-1905, Utah Code Annotated 1953

REPEALS:

59-2-1104, as last amended by Laws of Utah 2018, Chapter 39

59-2-1105, as last amended by Laws of Utah 2017, Chapter 189

59-2-1107, as last amended by Laws of Utah 2001, Chapters 221 and 310

59-2-1108, as last amended by Laws of Utah 2013, Chapter 19

59-2-1109, as last amended by Laws of Utah 2018, Chapter 310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1006 is amended to read:

59-2-1006. Appeal to commission -- Duties of auditor -- Decision by commission.

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101.

(2) The auditor shall:

- (a) file one notice with the commission;
- (b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization or entity with designated decision-making authority for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; and

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of:

(i) the board of equalization as required by Section 59-2-1102; or

(ii) the entity with designated decision-making authority.

(3) In reviewing [~~the county board's decision~~] a decision described in Subsection (1), the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization or entity with decision-making authority.

(4) In reviewing evidence submitted to the commission [~~by or on behalf of an owner or a county~~] to decide an appeal under this section, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented [~~by the owner or the county~~];

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing ~~[the county board's decision]~~ a decision described in Subsection (1), the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

Section 2. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Educational purposes" includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) "Nonprofit entity" includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption ~~[under Section 59-2-1104]~~ described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103;

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(7) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (6)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 3. Section 59-2-1102 is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection (11)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part or Part 18, Tax Deferral and Tax Abatement, in the value of property and an exemption may not be granted under this part or Part 19, Armed Forces Exemptions, unless the party affected or the party's agent:

(i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement; and

(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or

(ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, the county board of equalization may examine under oath the person or agent making the application.

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(6) Except as provided in Subsection (11)(b), the county board of equalization shall hold hearings

and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

- (a) Subsections 59-2-1101(3)(a)(i) through (iii);
- (b) Subsection 59-2-1101(3)(a)(vi) or (viii);
- (c) Section 59-2-1110;
- (d) Section 59-2-1111;
- (e) Section 59-2-1112;
- (f) Section 59-2-1113; or
- (g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (10), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (9)(a) if:

(i) (A) the owner filed an application under Subsection (9)(a); or

(B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (9)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (9)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

(10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(A) the day set by rule as the deadline for filing a property tax exemption application; or

(B) 30 days after the day on which the property is acquired.

(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.

(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

(A) September 30, 2005; or

(B) 30 days after the day on which the property is acquired.

(11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (10), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (6), if an application for an exemption is filed under Subsection (10), a county board of equalization shall hold the hearing and render the decision described in Subsection (6) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Section 4. Section 59-2-1202 is amended to read:

59-2-1202. Definitions.

As used in this part:

(1) (a) "Claimant" means a homeowner or renter who:

(i) files a claim under this part;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:

(A) 65 years of age or older if the person was born on or before December 31, 1942;

(B) 66 years of age or older if the person was born on or after January 1, 1943, but on or before December 31, 1959; or

(C) 67 years of age or older if the person was born on or after January 1, 1960.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(3) "Homeowner's credit" means a credit against a claimant's property tax liability.

(4) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(5) "Household income" means all income received by all persons of a household in:

(a) the calendar year preceding the calendar year in which property taxes are due; or

(b) for purposes of the renter's credit authorized by this part, the year for which a claim is filed.

(6) (a) (i) "Income" means the sum of:

(A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

(B) all nontaxable income as defined in Subsection (6)(b).

(ii) "Income" does not include:

(A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(B) surplus foods;

(C) relief in kind supplied by a public or private agency; or

(D) relief provided under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement.

(b) For purposes of Subsection (6)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part~~[, Section 59-2-1108, or Section 59-2-1109]~~ or Part 18, Tax Deferral and Tax Abatement;

(iv) support money received;

(v) nontaxable strike benefits;

(vi) cash public assistance or relief;

(vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

(viii) payments received under the Social Security Act;

(ix) state unemployment insurance amounts;

(x) nontaxable interest received from any source;

(xi) workers' compensation;

(xii) the gross amount of "loss of time" insurance; and

(xiii) voluntary contributions to a tax-deferred retirement plan.

(7) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which

the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.

(ii) The amount described in Subsection (7)(c)(i) constitutes:

(A) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

(B) the residential exemption provided for in Section 59-2-103.

(d) (i) For purposes of this Subsection (7) property taxes accrued are levied on the lien date.

(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as its principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be the same percentage of the total property taxes accrued as the value of the residence is of the total value.

(ii) For purposes of this Subsection (7)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(8) (a) As used in this section, "rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity; or

(B) (I) charitable organization; or

(II) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part; and

(B) regardless of whether the payment is made to the:

(I) claimant; or

(II) landlord; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

(9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built and includes a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection (9), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Section 5. Section 59-2-1801 is enacted to read:

Part 18. Tax Deferral and Tax Abatement

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a tax deferral described in Section 59-2-1802.

(3) "Indigent individual" is a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Subsection 59-2-1208(1);

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(4) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

(5) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

(6) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

(7) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

Section 6. Section 59-2-1802 is enacted to read:

59-2-1802. Tax deferral.

(1) (a) In accordance with this part, a county may defer a tax on residential property after giving notice to the taxpayer.

(b) In determining a deferral, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years prior to the day on which the applicant applied for deferral.

(2) A county may grant a deferral at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3) Taxes deferred by the county accumulate with interest as a lien against the residential property, as described in Subsection (4), until the owner sells or otherwise disposes of the residential property.

(4) Deferred taxes under this section:

(a) bear interest at an interest rate equal to the lesser of:

(i) 6%; or

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred; and

(b) have the same status as a lien as described in Sections 59-2-1301 and 59-2-1325.

(5) If the owner of residential property that is granted deferral under this section is an indigent individual, during the period of deferral the county may not subject the residential property to a tax sale.

Section 7. Section 59-2-1803 is enacted to read:

59-2-1803. Tax abatement for indigent individuals-- Maximum amount -- Refund.

(1) In accordance with this part, a county may remit or abate the taxes of an indigent individual in an amount not more than the lesser of:

(a) the amount provided as a homeowner's credit for the lowest household income bracket as described in Section 59-2-1208; or

(b) 50% of the total tax levied for the indigent individual for the current year.

(2) A county that grants an abatement to an indigent individual shall refund to the indigent individual an amount that is equal to the amount by which the indigent individual's property taxes paid exceed the indigent individual's property taxes due, if the amount is at least \$1.

Section 8. Section 59-2-1804 is enacted to read:

59-2-1804. Application for tax deferral or tax abatement.

(1) (a) Except as provided in Subsection (1)(b), an applicant for deferral or abatement for the current tax year shall file an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

(3) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(4) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 9. Section 59-2-1805 is enacted to read:

59-2-1805. Treatment of trusts.

If an applicant for deferral or abatement is the grantor of a trust holding title to real or tangible personal property for which a deferral or abatement is claimed, a county may allow the applicant to claim a portion of the deferral or abatement and be treated as the owner of that portion of the property held in trust, if the applicant proves to the satisfaction of the county that:

(1) title to the portion of the trust will revert in the applicant upon the exercise of a power by:

(a) the claimant as grantor of the trust;

(b) a nonadverse party; or

(c) both the claimant and a nonadverse party;

(2) title will revert as described in Subsection (1), regardless of whether the power described in Subsection (1) is a power to revoke, terminate, alter, amend, or appoint;

(3) the applicant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the deferral or abatement; and

(4) the claimant satisfies the requirements described in this part for deferral or abatement.

Section 10. Section 59-2-1901 is enacted to read:

Part 19. Armed Forces Exemptions

59-2-1901. Definitions.

As used in this section:

(1) “Active component of the United States Armed Forces” means the same as that term is defined in Section 59-10-1027.

(2) “Active duty claimant” means a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who:

(a) performed qualifying active duty military service; and

(b) applies for an exemption described in Section 59-2-1902.

(3) “Adjusted taxable value limit” means:

(a) for the calendar year that begins on January 1, 2015, \$252,126; or

(b) for each calendar year after the calendar year that begins on January 1, 2015, the amount of the adjusted taxable value limit for the previous year plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the consumer price index during the previous calendar year.

(4) “Consumer price index” means the same as that term is described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(5) “Deceased veteran with a disability” means a deceased individual who was a veteran with a disability at the time the individual died.

(6) “Military entity” means:

(a) the United States Department of Veterans Affairs;

(b) an active component of the United States Armed Forces; or

(c) a reserve component of the United States Armed Forces.

(7) “Primary residence” includes the residence of a individual who does not reside in the residence if the individual:

(a) does not reside in the residence because the individual is admitted as an inpatient at a health care facility as defined in Section 26-55-102; and

(b) otherwise meets the requirements of this part.

(8) “Qualifying active duty military service” means at least 200 days, regardless of whether consecutive, in any continuous 365-day period of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, if the days of active duty military service:

(a) were completed in the year before an individual applies for an exemption described in Section 59-2-1902; and

(b) have not previously been counted as qualifying active duty military service for purposes of qualifying for an exemption described in Section 59-2-1902 or applying for the exemption described in Section 59-2-1902.

(9) “Statement of disability” means the statement of disability described in Section 59-2-1904.

(10) “Reserve component of the United States Armed Forces” means the same as that term is defined in Section 59-10-1027.

(11) “Residence” means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(12) “Veteran claimant” means one of the following individuals who applies for an exemption described in Section 59-2-1903:

(a) a veteran with a disability;

(b) the unmarried surviving spouse:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty; or

(c) a minor orphan:

(i) of a deceased veteran with a disability; or

(ii) a veteran who was killed in action or died in the line of duty.

(13) “Veteran who was killed in action or died in the line of duty” means an individual who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that individual had a disability at the time that individual was killed in action or died in the line of duty.

(14) “Veteran with a disability” means an individual with a disability who, during military

training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, as determined by a military entity.

Section 11. Section 59-2-1902 is enacted to read:

59-2-1902. Active duty armed forces exemption -- Amount -- Application.

(1) As used in this section, “default application deadline” means the application deadline described in Subsection (4)(a).

(2) (a) The total taxable value of an active duty claimant’s primary residence is exempt from taxation for the calendar year after the year in which the active duty claimant completed qualifying military service.

(b) An active duty claimant may claim an exemption in accordance with this section if the active duty claimant owns the property eligible for the exemption at any time during the calendar year for which the active duty claimant claims the exemption.

(3) An active duty claimant shall:

(a) file an application as described in Subsection (4) in the year after the year during which the active duty claimant completes the qualifying active duty military service; and

(b) if the active duty claimant meets the requirements of this section, claim one exemption only in the year the active duty claimant files the application.

(4) (a) Except as provided in Subsection (5) or (6), an active duty claimant shall, on or before September 1 of the calendar year for which the active duty claimant is applying for the exemption, file an application for an exemption with the county in which the active duty claimant resides on September 1 of that calendar year.

(b) An application described in Subsection (4)(a) shall include:

(i) a completed travel voucher or other satisfactory evidence of eligible military service; and

(ii) a statement that lists the dates on which the 200 days of qualifying active duty military service began and ended.

(c) A county that receives an application described in Subsection (4)(a) shall, within 30 days after the day on which the county received the application, provide the active duty claimant with a receipt that states that the county received the active duty claimant’s application.

(5) A county may extend the default application deadline for an application described in Subsection (4)(a) until December 31 of the year for which the active duty claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

(6) A county shall extend the default application deadline by one additional year if the county legislative body determines that:

(a) the active duty claimant or a member of the active duty claimant’s immediate family had an illness or injury that prevented the active duty claimant from filing the application on or before the default application deadline;

(b) a member of the active duty claimant’s immediate family died during the calendar year of the default application deadline;

(c) the active duty claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or

(d) the failure of the active duty claimant to file the application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) was beyond the reasonable control of the active duty claimant.

(7) After issuing the receipt described in Subsection (4)(c), a county may not require an active duty claimant to file another application under Subsection (4)(a), except under the following circumstances:

(a) a change in the active duty claimant’s ownership of the active duty claimant’s primary residence; or

(b) a change in the active duty claimant’s occupancy of the primary residence for which the active duty claimant claims an exemption under this section.

(8) A county may verify that real property for which an active duty claimant applies for an exemption is the active duty claimant’s primary residence.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(a) establish procedures and requirements for amending an application described in Subsection (4);

(b) for purposes of Subsection (6), define the terms:

(i) “immediate family”; or

(ii) “physically present”; or

(c) for purposes of Subsection (6)(d), prescribe the circumstances under which the failure of an active duty claimant to file an application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of an active duty claimant.

Section 12. Section 59-2-1903 is enacted to read:

59-2-1903. Veteran armed forces exemption -- Amount.

(1) As used in this section, "eligible property" means property owned by a veteran claimant that is:

- (a) the veteran claimant's primary residence; or
- (b) tangible personal property that:
 - (i) is held exclusively for personal use; and
 - (ii) is not used in a trade or business.

(2) In accordance with this part, the amount of taxable value of eligible property described in Subsection (3) or (4) is exempt from taxation if the eligible property is owned by a veteran claimant.

(3) (a) Except as provided in Subsection (4) and in accordance with this Subsection (3), the amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the percentage of disability described in the statement of disability multiplied by the adjusted taxable value limit.

(b) The amount of an exemption calculated under Subsection (3)(a) may not exceed the taxable value of the eligible property.

(c) A county shall consider a veteran with a disability to have a 100% disability, regardless of the percentage of disability described on the statement of disability, if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(d) A county may not allow an exemption claimed under this section if the percentage of disability listed on the statement of disability is less than 10%.

(4) The amount of taxable value of eligible property that is exempt under Subsection (2) is equal to the total taxable value of the veteran claimant's eligible property if the property is owned by:

(a) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(b) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(c) the unmarried surviving spouse or minor orphan of a deceased veteran with a disability:

(i) who served in the military service of the United States or the state prior to January 1, 1921; and

(ii) whose percentage of disability described in the statement of disability is 10% or more.

(5) For purposes of this section and Section 59-2-1904, an individual who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces:

(a) is presumed to be a citizen of the United States; and

(b) may not be required to provide additional proof of citizenship to establish that the individual is a citizen of the United States.

(6) The Department of Veterans and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning an individual's status as a veteran with a disability.

Section 13. Section 59-2-1904 is enacted to read:

59-2-1904. Veteran armed forces exemption -- Application.

(1) As used in this section, "default application deadline" means the application deadline described in Subsection (3)(a).

(2) A veteran claimant may claim an exemption in accordance with Section 59-2-1903 and this section if the veteran claimant owns the property eligible for the exemption at any time during the calendar year for which the veteran claimant claims the exemption.

(3) (a) Except as provided in Subsection (4) or (5), a veteran claimant shall, on or before September 1 of the calendar year for which the veteran claimant is applying for the exemption, file an application for an exemption described in Section 59-2-1903 with the county in which the veteran claimant resides on September 1 of that calendar year.

(b) An application described in Subsection (3)(a) shall include:

(i) a copy of the veteran's certificate of discharge from military service or other satisfactory evidence of eligible military service; and

(ii) for an application submitted under the circumstances described in Subsection (5)(a), a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (5)(a) takes effect.

(c) A veteran claimant who is claiming an exemption for a veteran with a disability or a deceased veteran with a disability, shall ensure that as part of the application described in this Subsection (3), the county has on file, for the veteran related to the exemption, a statement of disability:

(i) issued by a military entity; and

(ii) that lists the percentage of disability for the veteran with a disability or deceased veteran with a disability.

(d) If a veteran claimant is in compliance with Subsection (3)(c), a county may not require the veteran claimant to file another statement of disability, except under the following circumstances:

(i) the percentage of disability has changed for the veteran with a disability or the deceased veteran with a disability; or

(ii) the veteran claimant is not the same individual who filed an application for the

exemption for the calendar year immediately preceding the current calendar year.

(e) A county that receives an application described in Subsection (3)(a) shall, within 30 days after the day on which the county received the application, provide the veteran claimant with a receipt that states that the county received the veteran claimant's application.

(4) A county may extend the default application deadline for an initial or amended application until December 31 of the year for which the veteran claimant is applying for the exemption if the county finds that good cause exists to extend the default application deadline.

(5) A county shall extend the default application deadline by one additional year if, on or after January 4, 2004:

(a) a military entity issues a written decision that:

(i) (A) for a potential claimant who is a living veteran, determines the veteran is a veteran with a disability; or

(B) for a potential claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran, determines the deceased veteran was a deceased veteran with a disability at the time the deceased veteran with a disability died; and

(ii) takes effect in a year before the current calendar year; or

(b) the county legislative body determines that:

(i) the veteran claimant or a member of the veteran claimant's immediate family had an illness or injury that prevented the veteran claimant from filing the application on or before the default application deadline;

(ii) a member of the veteran claimant's immediate family died during the calendar year of the default application deadline;

(iii) the veteran claimant was not physically present in the state for a time period of at least six consecutive months during the calendar year of the default application deadline; or

(iv) the failure of the veteran claimant to file the application on or before the default application deadline:

(A) would be against equity or good conscience; and

(B) was beyond the reasonable control of the veteran claimant.

(6) (a) A county shall allow a veteran claimant to amend an application described in Subsection (3)(a) after the default application deadline if, on or after January 4, 2004, a military entity issues a written decision:

(i) that the percentage of disability has changed:

(A) for a veteran with a disability, if the veteran with a disability is the veteran claimant; or

(B) for a deceased veteran with a disability, if the claimant is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability; and

(ii) that takes effect in a year before the current calendar year.

(b) A veteran claimant who files an amended application under Subsection (6)(a) shall include a statement, issued by a military entity, that gives the date on which the written decision described in Subsection (6)(a) takes effect.

(7) After issuing the receipt described in Subsection (3)(e), a county may not require a veteran claimant to file another application under Subsection (3)(a), except under the following circumstances relating to the veteran claimant:

(a) the veteran claimant applies all or a portion of an exemption to tangible personal property;

(b) the percentage of disability changes for a veteran with a disability or a deceased veteran with a disability;

(c) the veteran with a disability dies;

(d) a change in the veteran claimant's ownership of the veteran claimant's primary residence;

(e) a change in the veteran claimant's occupancy of the primary residence for which the veteran claimant claims an exemption under this section; or

(f) for an exemption relating to a deceased veteran with a disability or a veteran who was killed in action or died in the line of duty, the veteran claimant is not the same individual who filed an application for the exemption for the calendar year immediately preceding the current calendar year.

(8) If a veteran claimant is the grantor of a trust holding title to real or tangible personal property for which an exemption described in Section 59-2-1903 is claimed, a county may allow the veteran claimant to claim a portion of the exemption and be treated as the owner of that portion of the property held in trust, if the veteran claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revert in the veteran claimant upon the exercise of a power by:

(i) the veteran claimant as grantor of the trust;

(ii) a nonadverse party; or

(iii) both the veteran claimant and a nonadverse party;

(b) title will revert as described in Subsection (8)(a), regardless of whether the power described in Subsection (8)(a) is a power to revoke, terminate, alter, amend, or appoint; and

(c) the veteran claimant satisfies the requirements described in this part for the exemption described in Section 59-2-1903.

(9) A county may verify that real property for which a veteran claimant applies for an exemption is the veteran claimant's primary residence.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule:

(a) establish procedures and requirements for amending an application described in Subsection (3)(a);

(b) for purposes of Subsection (5)(b), define the terms:

(i) "immediate family"; or

(ii) "physically present"; or

(c) for purposes of Subsection (5)(b), prescribe the circumstances under which the failure of a veteran claimant to file an application on or before the default application deadline:

(i) would be against equity or good conscience; and

(ii) is beyond the reasonable control of a veteran claimant.

Section 14. Section 59-2-1905 is enacted to read:

59-2-1905. Refund.

(1) As used in this section:

(a) "Property taxes and fees due" means:

(i) the taxes due on an active duty claimant or veteran claimant's property:

(A) with respect to which a county grants an exemption under this part; and

(B) for the calendar year for which the county grants an exemption under this part; and

(ii) for a veteran claimant, a uniform fee on tangible personal property described in Section 59-2-405 that is owned by the veteran claimant and assessed for the calendar year for which the county grants an exemption under this part.

(b) "Property taxes and fees paid" is an amount equal to the sum of the following:

(i) the amount of property taxes that qualifies for an exemption under this part that the active duty claimant or the veteran claimant paid for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part;

(ii) the amount of the exemption the county grants for the calendar year for which the active duty claimant or veteran claimant is applying for an exemption under this part; and

(iii) for a veteran claimant, the amount of a uniform fee on tangible personal property, described in Section 59-2-405 and that qualifies for an exemption under this part, that is paid by the veteran claimant for the calendar year for which the

veteran claimant is applying for an exemption under this part.

(2) A county shall refund to an active duty claimant or a veteran claimant an amount equal to the amount by which the active duty claimant or veteran claimant's property taxes and fees paid exceed the active duty claimant or veteran claimant's property taxes and fees due, if that amount is \$1 or more.

Section 15. Repealer.

This bill repeals:

Section 59-2-1104, Definitions -- Armed forces exemption -- Amount of armed forces exemption.

Section 59-2-1105, Application for United States armed forces exemption -- Rulemaking authority -- Statement -- County authority to make refunds.

Section 59-2-1107, Indigent persons -- Amount of abatement.

Section 59-2-1108, Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of deferred taxes.

Section 59-2-1109, Indigent persons -- Deferral or abatement -- Application -- County authority to make refunds -- Appeal.

Section 16. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 454**H. B. 32**

Passed February 28, 2019

Approved March 29, 2019

Effective May 14, 2019

**RULEMAKING FISCAL
ACCOUNTABILITY AMENDMENTS**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Keith Grover

LONG TITLE**General Description:**

This bill amends provisions relating to the Water Quality Board, rulemaking procedure, and the Administrative Rules Review Committee.

Highlighted Provisions:

This bill:

- ▶ provides for review and Legislative approval of certain Water Quality Board rules or standards;
- ▶ requires an agency to submit certain proposed rules to an appropriations subcommittee and interim committee for review before the agency enacts the rules;
- ▶ requires certain notification to the Administrative Rules Review Committee regarding the review of a rule in certain circumstances;
- ▶ amends the duties of the Administrative Rules Review Committee; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 19-5-104.5, as enacted by Laws of Utah 2011, Chapter 304
- 53C-1-201, as last amended by Laws of Utah 2018, Chapters 13 and 469
- 63G-3-301, as last amended by Laws of Utah 2017, Chapter 255
- 63G-3-501, as last amended by Laws of Utah 2016, Chapter 193
- 63G-6a-204, as last amended by Laws of Utah 2015, Chapter 218

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-5-104.5 is amended to read:**19-5-104.5. Legislative review and approval.**

(1) Before sending a board-approved report, strategy, or recommendation that will recommend a total maximum daily load end point and implementation strategy to the EPA for review and approval, the Water Quality Board shall submit the report, strategy, or recommendation:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the report, strategy, or recommendation will require a public or private expenditure in excess of

\$10,000,000 but less than \$100,000,000 for compliance; or

(b) for approval to the Legislature if the strategy will require a public or private expenditure of \$100,000,000 or more.

(2) (a) As used in this Subsection (2):

(i) "Expenditure" means the act of expending funds:

(A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a group of private agricultural facilities; and

(B) through an initial capital investment, or through operational costs over a three-year period.

(ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in accordance with 33 U.S.C. Sec. 1342.

(b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall submit the rule or standard as directed in Subsections (2)(c) and (d).

(c) (i) If compliance with the rule or standard requires an expenditure in excess of \$250,000, but less than \$10,000,000, the board shall submit the rule or standard for review to the Natural Resources, Agriculture, and Environment Interim Committee.

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources, Agriculture, and Environment Interim Committee shall review a rule or standard the board submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment Interim Committee's committee meeting immediately following the day on which the board submits the rule or standard.

(B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days after the day on which the board submits the rule or standard for review, the Natural Resources, Agriculture, and Environment Interim Committee shall review the rule or standard during the committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

(d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or more, the board shall submit the rule or standard for approval to the Legislature.

(e) (i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in Subsection (2)(b) using:

(A) an independent, licensed engineer; and

(B) industry-accepted project cost estimate methods.

(ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).

(f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the Office of

Legislative Fiscal Analyst shall determine the estimated cost to comply with the rule or standard.

~~[(2)]~~ (3) In reviewing a report, strategy, rule, standard, or recommendation, the Natural Resources, Agriculture, and Environment Interim Committee may:

(a) consider the impact of the report, strategy, rule, standard, or recommendation on:

- (i) economic costs and benefit;
- (ii) public health; and
- (iii) the environment;

~~[(a)]~~ (b) suggest additional areas of consideration;
or

~~[(b)]~~ (c) recommend the report, strategy, rule, standard, or recommendation ~~[be re-evaluated by the Water Quality Board.]~~ to the board for:

- (i) adoption; or
- (ii) re-evaluation followed by further review by the committee.

(4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the review of a rule submitted under Subsection (2)(c)(i) as an agenda item, the committee shall:

(a) before the review, directly inform the chairs of the Administrative Rules Review Committee of the coming review, including the date, time, and place of the review; and

(b) after the review, directly inform the chairs of the Administrative Rules Review Committee of the outcome of the review, including any recommendation.

Section 2. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) ~~[(H)]~~ The administration is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section

63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if ~~[(it)]~~ the administration decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), ~~and~~ (7), and (13) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) (A) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law.

(B) The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) (A) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board.

(B) The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer funds between its line items.

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) (i) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and

institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.

(ii) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 3. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the department to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file [its] the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the executive director or the executive director's designee determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of [its] the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the [elose of] day on which the public comment period closes under Subsection (11)[, nor]; and

(ii) no more than 120 days after the publication date day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the department.

(c) The notice of effective date may not provide for an effective date [prior to] before the [date it is received by the office] day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days [of publication] after the day on which the rule is published.

(13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) \$250,000 to a single person; or

(ii) \$7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Administrative Rules Review Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Administrative Rules Review Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the Administrative Rules Review Committee that the Administrative Rules Review Committee not recommend reauthorization of the rule in the omnibus legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

[(13)] (14) (a) As used in this Subsection [(13)] (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the [effective date of] day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection [(13)] (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection [(13)] (14)(b), the state agency shall appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay.

Section 4. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to

review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; ~~and~~

(iv) the rule's impact on affected persons~~[-]~~;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefit to the citizens of the state; and

(vii) whether adoption of the rule requires legislative review or approval.

(c) (i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.

(ii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews an existing ~~[rules]~~ rule, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing ~~[rules are]~~ rule is being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule and may include any ~~[recommendations]~~ recommendation, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings, if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) (i) The committee may submit a report on ~~[its]~~ the committee's review of state agency rules to each member of the Legislature at each regular session.

~~[(b)]~~ (ii) The report shall include:

~~[(4)]~~ (A) any ~~[findings and recommendations]~~ finding or recommendation the committee made under Subsection (7);

~~[(ii)]~~ (B) any action an agency took in response to a committee ~~[recommendations]~~ recommendation; and

~~[(iii)]~~ (C) any ~~[recommendations]~~ recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize a rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

Section 5. Section 63G-6a-204 is amended to read:

63G-6a-204. Applicability of rules and regulations of Utah State Procurement Policy Board and State Building Board -- Report to interim committee.

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the applicable rulemaking authority.

(2) The building board rules governing procurement of construction, design professional services, and leases apply to the procurement of construction, design professional services, and leases of real property by the Division of Facilities Construction and Management.

(3) An applicable rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the

applicable rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

(5) Notwithstanding Subsection 63G-3-301~~(13)~~(15)(b), an applicable rulemaking authority is required to initiate rulemaking proceedings, for rules required to be made under this chapter, on or before:

(a) May 13, 2014, if the applicable rulemaking authority is the board; or

(b) January 1, 2015, for each other applicable rulemaking authority.

CHAPTER 455**H. B. 37**

Passed February 20, 2019

Approved March 29, 2019

Effective May 14, 2019

(Exception clause)

REAUTHORIZATION OF HOSPITAL PROVIDER ASSESSMENT ACT

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Allen M. Christensen

LONG TITLE**General Description:**

This bill amends, reauthorizes, and adds a retrospective effective date to the Hospital Provider Assessment Act.

Highlighted Provisions:

This bill:

- ▶ repeals and reenacts the Hospital Provider Assessment Act with a retrospective effective date;
- ▶ amends provisions relating to the calculation of hospital provider assessment rates; and
- ▶ extends the sunset date for the Hospital Provider Assessment Act for five years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

63I-1-226, as last amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468

REPEALS AND REENACTS:

26-36d-101, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-102, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-103, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-201, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-202, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-203, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-204, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-205, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-206, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-207, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-36d-208, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-36d-101 is repealed and reenacted to read:**CHAPTER 36d. HOSPITAL PROVIDER ASSESSMENT ACT****Part 1. General Provisions****26-36d-101. Title.**

This chapter is known as the "Hospital Provider Assessment Act."

Section 2. Section 26-36d-102 is repealed and reenacted to read:**26-36d-102. Legislative findings.**

(1) The Legislature finds that there is an important state purpose to improve the access of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state revenues and increases in enrollment under the Utah Medicaid program.

(2) The Legislature finds that in order to improve this access to those persons described in Subsection (1):

(a) the rates paid to Utah hospitals shall be adequate to encourage and support improved access; and

(b) adequate funding shall be provided to increase the rates paid to Utah hospitals providing services pursuant to the Utah Medicaid program.

Section 3. Section 26-36d-103 is repealed and reenacted to read:**26-36d-103. Definitions.**

As used in this chapter:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on Worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a human services program, as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare Cost Report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 4. Section 26-36d-201 is repealed and reenacted to read:

Part 2. Hospital Provider Assessment

26-36d-201. Application of chapter.

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;

(b) other applicable federal law;

(c) any state law;

(d) any ad valorem property taxes;

(e) any sales or use taxes; or

(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

(b) impose a tax or assessment upon hospitals; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 5. Section 26-36d-202 is repealed and reenacted to read:

26-36d-202. Assessment, collection, and payment of hospital provider assessment.

(1) A uniform, broad based, assessment is imposed on each hospital as defined in Subsection 26-36d-103(5)(a):

(a) in the amount designated in Section 26-36d-203; and

(b) in accordance with Section 26-36d-204.

(2) (a) The assessment imposed by this chapter is due and payable on a quarterly basis in accordance with Section 26-36d-204.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this chapter, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and

(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this chapter; and

(B) does not file a Medicare Cost Report.

(c) The department shall forward proceeds from the assessment imposed by this chapter to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26-36d-207.

(3) The department may, by rule, extend the time for paying the assessment.

Section 6. Section 26-36d-203 is repealed and reenacted to read:

26-36d-203. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Subsections 26-36d-205(1)(a) and (b) that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) \$1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and

(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 7. Section 26-36d-204 is repealed and reenacted to read:

26-36d-204. Quarterly notice -- Collection.

Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

Section 8. Section 26-36d-205 is repealed and reenacted to read:

26-36d-205. Medicaid hospital adjustment under accountable care organization rates.

To preserve and improve access to hospital services, the division shall, for accountable care organization rates effective on or after April 1, 2013, incorporate into the accountable care organization rate structure calculation consistent with the certified actuarial rate range:

(1) \$154,000,000 to be allocated toward the hospital inpatient directed payments for the Medicaid eligibility categories covered in Utah before January 1, 2019; and

(2) an amount equal to the difference between payments made to hospitals by accountable care organizations for the Medicaid eligibility categories covered in Utah before January 1, 2019, based on submitted encounter data and the maximum amount that could be paid for those services using Medicare payment principles to be used for directed payments to hospitals for outpatient services.

Section 9. Section 26-36d-206 is repealed and reenacted to read:

26-36d-206. Penalties and interest.

(1) A facility that fails to pay any assessment or file a return as required under this chapter, within the time required by this chapter, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive,

reduce, or compromise any of the penalties imposed under this part.

Section 10. Section 26-36d-207 is repealed and reenacted to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

Section 11. Section 26-36d-208 is repealed and reenacted to read:

26-36d-208. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

(iii) a division change in rules that reduces any of the following below July 1, 2011, payments:

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or

(C) any cost settlement protocol; or

(iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011, payments; and

(d) the sunset of this chapter in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36d-205 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 12. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Section 26-1-40 is repealed July 1, 2019.

(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

(5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(8) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, [2019] 2024.

[~~(9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.~~]

[~~(40)~~ (9) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 13. Retrospective operation -- Effective date.

This bill has retrospective operation to December 1, 2018, except that the amendments to Section 63I-1-226 take effect on May 14, 2019.

CHAPTER 456**H. B. 39**

Passed February 20, 2019

Approved March 29, 2019

Effective May 14, 2019

**INDEPENDENT ENTITIES
COMPLIANCE AMENDMENTS**

Chief Sponsor: Lee B. Perry

Senate Sponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill amends code provisions relating to certain independent entities to specify exemption from, or the requirement to comply with, certain code provisions.

Highlighted Provisions:

This bill:

- ▶ amends code provisions relating to certain independent entities to specify exemption from, or the requirement to comply with, the Open and Public Meetings Act, the Government Records Access and Management Act, the Utah Procurement Code, and other code provisions; and
- ▶ specifies the “applicable rulemaking authority” for certain independent entities in relation to the Utah Procurement Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

4-21-106, as enacted by Laws of Utah 2018, Chapter 393

4-22-107, as last amended by Laws of Utah 2017, Chapter 221 and renumbered and amended by Laws of Utah 2017, Chapter 345

53B-8a-103, as last amended by Laws of Utah 2018, Chapter 306

53C-1-201, as last amended by Laws of Utah 2018, Chapters 13 and 469

53D-1-103, as last amended by Laws of Utah 2017, Chapter 221

63G-6a-103, as last amended by Laws of Utah 2018, Second Special Session, Chapter 4

63H-4-108, as last amended by Laws of Utah 2017, Chapter 221

63H-5-108, as last amended by Laws of Utah 2017, Chapter 221

63H-6-103, as last amended by Laws of Utah 2017, Chapter 221

ENACTS:

63H-7a-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-21-106 is amended to read:**4-21-106. Exemption from certain operational requirements.**

(1) The council is exempt from:

- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) Title 63A, Utah Administrative Services Code, except as provided in Subsection (2)(c);

(c) Title 63G, Chapter 6a, Utah Procurement Code, but the council shall adopt procedures to ensure that the council makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

~~(e)~~ (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

~~(d)~~ (e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The council is subject to:

(a) Title 51, Chapter 7, State Money Management Act;

(b) Title 52, Chapter 4, Open and Public Meetings Act;

(c) Title 63A, Chapter 3, Part 4, Utah Public Finance Website;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) other Utah Code provisions not specifically exempted under Subsection 4-21-106(1); and

(f) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor pursuant to Section 36-12-15.

Section 2. Section 4-22-107 is amended to read:**4-22-107. Exemption from certain operational requirements.**

(1) The commission is exempt from:

- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) Title 51, Chapter 7, State Money Management Act;

(c) except as provided in Subsection (2)(b), Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code, but the commission shall adopt procedures to ensure that the commission makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

~~(d)~~ (e) Title 63J, Chapter 1, Budgetary Procedures Act; and

~~(e)~~ (f) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The commission is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website[-]; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 3. Section 53B-8a-103 is amended to read:

53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.

(1) There is created the Utah Educational Savings Plan, which may also be known and do business as:

- (a) the Utah Educational Savings Plan Trust; or
- (b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

- (i) consistent with sound fiduciary principles; and
- (ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

- (i) contracts for goods and services; and
- (ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any institution of higher education, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.

(ii) Financial information that is provided by the plan to the Division of Finance and posted on the Utah Public Finance Website in accordance with Section 63A-3-402 is a public record.

(5) The plan is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

Section 4. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Office of

Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

(iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iii) Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer funds between its line items.

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 5. Section 53D-1-103 is amended to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to:

(a) Title 63G, Chapter 2, Government Records Access and Management Act^[,], except for records relating to investment activities; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).

(iii) (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section 6. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) “Applicable rulemaking authority” means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the Division of Facilities Construction and Management, created in Section 63A-5-201, the building board;

(B) for the Office of the Attorney General, the attorney general; and

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the legislative body of the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district’s own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education described in:

(i) Subsections 53B-1-102(1)(a) and (c), the State Board of Regents; or

(ii) Subsection 53B-1-102(1)(b), the Utah System of Technical Colleges Board of Trustees;

(g) for the State Board of Education, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district:

(i) before January 1, 2015, the board of trustees of the local district or the governing body of the special service district; or

(ii) on or after January 1, 2015, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(A) with respect to a subject addressed by board rules; or

(B) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the board of directors of the Utah Educational Savings Plan;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

~~(j)~~ (m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority Board, created in Section 63H-7a-203; or

~~(k)~~ (n) for any other procurement unit, the board.

(2) “Approved vendor” means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(3) “Approved vendor list” means a list of approved vendors established under Section 63G-6a-507.

(4) “Approved vendor list process” means the procurement process described in Section 63G-6a-507.

(5) “Bidder” means a person who submits a bid or price quote in response to an invitation for bids.

(6) “Bidding process” means the procurement process described in Part 6, Bidding.

(7) “Board” means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) “Building board” means the State Building Board, created in Section 63A-5-101.

(9) “Change directive” means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(10) “Change order” means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(11) “Chief procurement officer” means the chief procurement officer appointed under Subsection 63G-6a-302(1).

(12) “Conducting procurement unit” means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except as provided in Subsection 63G-6a-707(6)(b) relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(13) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(14) "Construction":

(a) means services, including work, and supplies for a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(15) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(16) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(17) "Contract" means an agreement for a procurement.

(18) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(19) "Contractor" means a person who is awarded a contract with a procurement unit.

(20) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(21) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(23) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(24) "Days" means calendar days, unless expressly provided otherwise.

(25) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(26) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act; or

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(27) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

~~[(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.]~~

~~[(29)]~~ (28) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102; or

- (c) master planning and programming services.
- (29) “Design-build” means the procurement of design professional services and construction by the use of a single contract.
- (30) “Director” means the director of the division.
- (31) “Division” means the Division of Purchasing and General Services, created in Section 63A-2-101.
- (32) “Educational procurement unit” means:
- (a) a school district;
- (b) a public school, including a local school board or a charter school;
- (c) the Utah Schools for the Deaf and Blind;
- (d) the Utah Education and Telehealth Network;
- (e) an institution of higher education of the state described in Section 53B-1-102; or
- (f) the State Board of Education.
- (33) “Established catalogue price” means the price included in a catalogue, price list, schedule, or other form that:
- (a) is regularly maintained by a manufacturer or contractor;
- (b) is published or otherwise available for inspection by customers; and
- (c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.
- (34) “Executive branch procurement unit” means a department, division, office, bureau, agency, or other organization within the state executive branch.
- (35) “Fixed price contract” means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:
- (a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or
- (b) an adjustment is required by law.
- (36) “Fixed price contract with price adjustment” means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:
- (a) is based on the consumer price index or another commercially acceptable index, source, or formula; and
- (b) is not based on a percentage of the cost to the contractor.
- (37) “Grant” means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public

purpose authorized by law, without acquiring a procurement item in exchange.

(38) “Head of a procurement unit” means:

- (a) for a legislative procurement unit, any person designated by rule made by the applicable rulemaking authority;
- (b) for an executive branch procurement unit:
- (i) the director of the division; or
- (ii) any other person designated by the board, by rule;
- (c) for a judicial procurement unit:
- (i) the Judicial Council; or
- (ii) any other person designated by the Judicial Council, by rule;
- (d) for a local government procurement unit:
- (i) the legislative body of the local government procurement unit; or
- (ii) any other person designated by the local government procurement unit;
- (e) for a local district other than a public transit district, the board of trustees of the local district or a designee of the board of trustees;
- (f) for a special service district, the governing body of the special service district or a designee of the governing body;
- (g) for a local building authority, the board of directors of the local building authority or a designee of the board of directors;
- (h) for a conservation district, the board of supervisors of the conservation district or a designee of the board of supervisors;
- (i) for a public corporation, the board of directors of the public corporation or a designee of the board of directors;
- (j) for a school district or any school or entity within a school district, the board of the school district, or the board’s designee;
- (k) for a charter school, the individual or body with executive authority over the charter school, or the individual’s or body’s designee;
- (l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education, or the president’s designee;
- (m) for a public transit district, the board of trustees or a designee of the board of trustees;
- (n) for the State Board of Education, the State Board of Education or a designee of the State Board of Education; or
- (o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or a designee of the executive director.
- (39) “Immaterial error”:

- (a) means an irregularity or abnormality that is:
- (i) a matter of form that does not affect substance; or
- (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and
- (b) includes:
- (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;
- (ii) a typographical error;
- (iii) an error resulting from an inaccuracy or omission in the solicitation; and
- (iv) any other error that the chief procurement officer or the head of a procurement unit with independent procurement authority reasonably considers to be immaterial.
- (40) "Indefinite quantity contract" means a fixed price contract that:
- (a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and
- (b) (i) does not require a minimum purchase amount; or
- (ii) provides a maximum purchase limit.
- (41) "Independent procurement authority" means authority granted to a procurement unit under Subsection 63G-6a-106(4)(a).
- (42) "Invitation for bids":
- (a) means a document used to solicit:
- (i) bids to provide a procurement item to a procurement unit; or
- (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- (b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).
- (43) "Issuing procurement unit" means a procurement unit that:
- (a) reviews a solicitation to verify that it is in proper form;
- (b) causes the notice of a solicitation to be published; and
- (c) negotiates and approves the terms and conditions of a contract.
- (44) "Judicial procurement unit" means:
- (a) the Utah Supreme Court;
- (b) the Utah Court of Appeals;
- (c) the Judicial Council;
- (d) a state judicial district; or
- (e) an office, committee, subcommittee, or other organization within the state judicial branch.
- (45) "Labor hour contract" is a contract under which:
- (a) the supplies and materials are not provided by, or through, the contractor; and
- (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.
- (46) "Legislative procurement unit" means:
- (a) the Legislature;
- (b) the Senate;
- (c) the House of Representatives;
- (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- (e) a committee, subcommittee, commission, or other organization:
- (i) within the state legislative branch; or
- (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
- (B) the membership of which includes legislators; and
- (C) for which the Office of Legislative Research and General Counsel provides staff support.
- (47) "Local building authority" means the same as that term is defined in Section 17D-2-102.
- (48) "Local district" means the same as that term is defined in Section 17B-1-102.
- (49) "Local government procurement unit" means:
- (a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;
- (b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or
- (c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.
- (50) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.
- (51) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.
- (52) "Municipality" means a city, town, or metro township.
- (53) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (53)(a).

(54) "Offeror" means a person who submits a proposal in response to a request for proposals.

(55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(56) "Procure" means to acquire a procurement item through a procurement.

(57) "Procurement":

(a) means a procurement unit's acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership;

(b) includes all functions that pertain to the acquisition of a procurement item, including:

(i) preparing and issuing a solicitation; and

(ii) (A) conducting a standard procurement process; or

(B) conducting a procurement process that is an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements; and

(c) does not include a grant.

(58) "Procurement item" means a supply, a service, or construction.

(59) "Procurement officer" means:

(a) for a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) a designee of the head of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for the division or a procurement unit without independent procurement authority, the chief procurement officer.

(60) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; or

(xii) a public transit district; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(61) "Professional service" means labor, effort, or work that requires an elevated degree of specialized knowledge and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(62) "Protest officer" means:

(a) for the division or a procurement unit with independent procurement authority:

(i) the head of the procurement unit;

(ii) the head of the procurement unit's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the applicable rulemaking authority; or

(b) for a procurement unit without independent procurement authority, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means any government entity of the state or political subdivision of the state, including:

(a) a procurement unit;

(b) a municipality or county, regardless of whether the municipality or county has adopted this chapter or any part of this chapter; and

(c) any other government entity located in the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) “Public funds” means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) “Public transit district” means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) “Public-private partnership” means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) “Qualified vendor” means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) “Real property” means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) “Request for information” means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) “Request for proposals” means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) “Request for proposals process” means the procurement process described in Part 7, Request for Proposals.

(74) “Request for statement of qualifications” means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) “Requirements contract” means a contract:

(a) under which a contractor agrees to provide a procurement unit’s entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) “Responsible” means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) “Responsive” means conforming in all material respects to the requirements of a solicitation.

(78) “Sealed” means manually or electronically secured to prevent disclosure.

(79) “Service”:

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(80) “Small purchase process” means the procurement process described in Section 63G-6a-506.

(81) “Sole source contract” means a contract resulting from a sole source procurement.

(82) “Sole source procurement” means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(83) “Solicitation” means an invitation for bids, request for proposals, request for statement of qualifications, or request for information.

(84) “Solicitation response” means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(85) “Special service district” means the same as that term is defined in Section 17D-1-102.

(86) “Specification” means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(87) “Standard procurement process” means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

- (d) the small purchase process; or
- (e) the design professional procurement process.
- (88) “State cooperative contract” means a contract awarded by the division for and in behalf of all public entities.

(89) “Statement of qualifications” means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(90) “Subcontractor”:

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person’s contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(91) “Supply” means a good, material, technology, piece of equipment, or any other item of personal property.

(92) “Tie bid” means that the lowest responsive bids of responsible bidders are identical in price.

(93) “Time and materials contract” means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(94) “Transitional costs”:

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(95) “Trial use contract” means a contract for a procurement item that the procurement unit acquires for a trial use or testing to determine whether the procurement item will benefit the procurement unit.

(96) “Vendor”:

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 7. Section 63H-4-108 is amended to read:

63H-4-108. Relation to certain acts -- Participation in Risk Management Fund.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2)(b), Title 63A, Utah Administrative Services Code;

~~[(c) Title 63G, Chapter 6a, Utah Procurement Code;]~~

~~[(d)]~~ (c) Title 63J, Chapter 1, Budgetary Procedures Act; and

~~[(e)]~~ (d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website[-];

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

(3) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

(4) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 8. Section 63H-5-108 is amended to read:

63H-5-108. Relation to certain acts.

- (1) The authority is exempt from:
- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) except as provided in Subsection (2)(b), Title 63A, Utah Administrative Services Code;
- ~~[(c) Title 63G, Chapter 6a, Utah Procurement Code;]~~
- ~~[(d)]~~ (c) Title 63J, Chapter 1, Budgetary Procedures Act; and
- ~~[(e)]~~ (d) Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The authority is subject to:
- (a) Title 52, Chapter 4, Open and Public Meetings Act;
- ~~[(a)]~~ (b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website; ~~and]~~
- (c) Title 63G, Chapter 2, Government Records Access and Management Act;
- (d) Title 63G, Chapter 6a, Utah Procurement Code; and
- ~~[(b)]~~ (e) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

Section 9. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

- (1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."
- (2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.
- (3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.
- (4) The corporation shall:
- (a) manage, supervise, and control:
- (i) all activities relating to the annual exhibition described in Subsection (4)(j); and
- (ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;
- (b) for public entertainment, displays, and exhibits or similar events:
- (i) provide, sponsor, or arrange the events;
- (ii) publicize and promote the events; and
- (iii) secure funds to cover the cost of the exhibits from:
- (A) private contributions;
- (B) public appropriations;
- (C) admission charges; and

- (D) other lawful means;
- (c) acquire and designate exposition sites;
- (d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;
- (e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;
- (f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;
- (g) develop and maintain a marketing program to promote expositions and the use of the state fair park;
- (h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;
- (i) prepare an economic development plan for the state fair park;
- (j) hold an annual exhibition that:
- (i) is called the state fair or a similar name;
- (ii) promotes and highlights agriculture throughout the state;
- (iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;
- (iv) includes the award of premiums for the best specimens of the exhibited articles and animals;
- (v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and
- (vi) is arranged according to plans approved by the board;
- (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and
- (l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.
- (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

~~(iv) Title 63G, Chapter 6a, Utah Procurement Code;~~

~~(v) Title 63J, Chapter 1, Budgetary Procedures Act; and~~

~~(vi) Title 67, Chapter 19, Utah State Personnel Management Act.~~

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code; and

~~(iv) Title 63G, Chapter 6a, Utah Procurement Code; and~~

~~(v) Title 63J, Chapter 1, Budgetary Procedures Act.~~

(c) The corporation shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

~~(iii) the provisions of Title 63A, Chapter 3, Part 4, Utah Public Finance Website; and~~

~~(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:~~

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

~~(iv) (v) the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).~~

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 10. Section 63H-7a-104 is enacted to read:

63H-7a-104. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2)(b), Title 63A, Utah Administrative Services Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 3, Part 4, Utah Public Finance Website;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

CHAPTER 457**H. B. 78**

Passed March 14, 2019
Approved March 29, 2019
Effective May 14, 2019

FEDERAL DESIGNATIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends and enacts provisions regarding federal designations within the state.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a governmental entity that is advocating for a federal designation within the state to bring the proposal to the Natural Resources, Agriculture, and Environment Interim Committee for review; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63L-2-101, as enacted by Laws of Utah 2008, Chapter 382
63L-2-201, as last amended by Laws of Utah 2015, Chapter 84

ENACTS:

63L-2-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63L-2-101 is amended to read:

CHAPTER 2. TRANSFER OF STATE LANDS TO UNITED STATES GOVERNMENT AND FEDERAL DESIGNATIONS

63L-2-101. Title.

This chapter is known as ~~the~~ "Transfer of State Lands to United States Government ~~Act~~ and Federal Designations."

Section 2. Section 63L-2-201 is amended to read:

63L-2-201. Federal government acquisition of real property in the state.

(1) As used in this ~~chapter~~ section:

(a) "Governmental entity" means:

(i) an agency, as that term is defined in Subsection 63G-10-102(2);

(ii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(iii) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202; or

(iv) a county.

(b) "Governmentally controlled land" means land owned or managed by a governmental entity.

(2) (a) Before legally binding the state by executing an agreement to sell or transfer to the United States government 500 or more acres of governmentally controlled land or school and institutional trust lands, a governmental entity shall submit the agreement or proposal:

(i) to the Legislature for its approval or rejection; or

(ii) in the interim, to the Legislative Management Committee for review of the agreement or proposal.

(b) The Legislative Management Committee may:

(i) recommend that the governmental entity execute the agreement or proposal;

(ii) recommend that the governmental entity reject the agreement or proposal; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the agreement or proposal.

(3) Before legally binding the state by executing an agreement to sell or transfer to the United States government less than 500 acres of any governmentally controlled land or school and institutional trust lands, a governmental entity shall notify the Natural Resources, Agriculture, and Environment Interim Committee.

(4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances of school trust lands to the United States government made for the purpose of completing the Red Cliffs National Conservation Area in Washington County.

(5) A governmental entity may, in ~~its~~ the governmental entity's discretion, give written notice to the Legislative Management Committee of formal negotiations ~~it~~ the governmental entity enters into with a federal agent or entity intended or likely to result in:

(a) the sale, exchange, or transfer of specific governmentally controlled land or school and institutional trust lands to the federal government; or

(b) designation of specific governmentally controlled land or school and institutional trust lands as a federal park, monument, or wilderness area.

Section 3. Section 63L-2-301 is enacted to read:

Part 3. Federal Designations and Local Advocacy

63L-2-301. Promoting or lobbying for a federal designation within the state.

(1) As used in this section:

(a) "Federal designation" means the designation of a:

- (i) national monument;
- (ii) national conservation area;
- (iii) wilderness area or wilderness study area;
- (iv) area of critical environmental concern;
- (v) research natural area; or
- (vi) national recreation area.

(b) (i) "Governmental entity" means:

(A) a state-funded institution of higher education or public education;

(B) a political subdivision of the state;

(C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201; or

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202.

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall notify the Natural Resources, Agriculture, and Environment Interim Committee before the introduction of federal legislation, and shall meet with the Natural Resources, Agriculture, and Environment Interim Committee to review the proposal upon request.

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

CHAPTER 458**H. B. 94**

Passed March 7, 2019

Approved March 29, 2019

Effective May 14, 2019

WEAPONS RESTRICTIONS AMENDMENTS

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Jacob L. Anderegg

LONG TITLE**General Description:**

This bill changes and clarifies the prohibitions for carrying a dangerous weapon by an intoxicated individual.

Highlighted Provisions:

This bill:

- ▶ eliminates the current exemption that allows a peace officer to carry a dangerous weapon while intoxicated;
- ▶ clarifies that carrying a dangerous weapon that is securely encased or not readily available is not prohibited;
- ▶ modifies the law to respect an individual's constitutional right to self defense; and
- ▶ provides an exception for an individual who carries a dangerous weapon in a private residence with the consent of the owner.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-10-523, as last amended by Laws of Utah 2014, Chapter 248

76-10-528, as last amended by Laws of Utah 2008, Chapter 226

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-523 is amended to read:**76-10-523. Persons exempt from weapons laws.**

(1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

- (a) a United States marshal;
- (b) a federal official required to carry a firearm;
- (c) a peace officer of this or any other jurisdiction;
- (d) a law enforcement official as defined and qualified under Section 53-5-711;
- (e) a judge as defined and qualified under Section 53-5-711; or
- (f) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Notwithstanding Subsection (1), the provisions of Section 76-10-528 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

~~(2)~~ (3) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to any person to whom a permit to carry a concealed firearm has been issued:

- (a) pursuant to Section 53-5-704; or
- (b) by another state or county.

~~(3)~~ (4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or through the state, provided that any firearm is:

- (a) unloaded; and
- (b) securely encased as defined in Section 76-10-501.

Section 2. Section 76-10-528 is amended to read:**76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.**

(1) ~~[Any person who carries]~~ It is a class B misdemeanor for any person to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the person's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2 ~~[is guilty of a class B misdemeanor. Under the influence means the same level of influence or blood or breath alcohol concentration as provided in Subsections 41-6a-502(1)(a) through (c)].~~

(2) This section does not apply to:

(a) a person carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) any person who uses or threatens to use force in compliance with Section 76-2-402; or

(c) any person carrying a dangerous weapon in the person's residence or the residence of another with the consent of the individual who is lawfully in possession.

~~(2)~~ (3) It is not a defense to prosecution under this section that the person:

- (a) is licensed in the pursuit of wildlife of any kind; or
- (b) has a valid permit to carry a concealed firearm.

CHAPTER 459**H. B. 101**

Passed March 1, 2019

Approved March 29, 2019

Effective May 14, 2019

AUTONOMOUS VEHICLE REGULATIONS

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill amends provisions regarding traffic laws, licensing, and titling requirements, and adds provisions regarding the operation of autonomous vehicles.

Highlighted Provisions:

This bill:

- ▶ defines terms related to autonomous vehicles;
- ▶ allows the operation of a vehicle in the state by an automated driving system;
- ▶ exempts a vehicle with an engaged automated driving system from licensure;
- ▶ provides protocol in case of an accident involving an autonomous vehicle;
- ▶ requires a vehicle equipped with an automated driving system to be properly titled, registered, and insured;
- ▶ preempts political subdivisions from regulating autonomous vehicles in addition to regulation provided in state statute; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 13-51-102, as enacted by Laws of Utah 2015, Chapter 461
- 13-51-103, as last amended by Laws of Utah 2016, Chapter 359
- 41-1a-102, as last amended by Laws of Utah 2018, Chapters 166 and 424
- 41-1a-201, as last amended by Laws of Utah 2017, Chapter 149
- 41-1a-202, as last amended by Laws of Utah 2013, Chapter 463
- 41-1a-1503, as enacted by Laws of Utah 2013, Chapter 189
- 41-6a-102, as last amended by Laws of Utah 2018, Chapters 166 and 205
- 41-6a-1641, as last amended by Laws of Utah 2015, Chapter 412
- 53-3-102, as last amended by Laws of Utah 2017, Chapter 297
- 53-3-104, as last amended by Laws of Utah 2018, Chapters 233 and 415
- 53-3-202, as last amended by Laws of Utah 2017, Chapter 297

ENACTS:

- 41-26-102.1, Utah Code Annotated 1953
- 41-26-103, Utah Code Annotated 1953
- 41-26-104, Utah Code Annotated 1953

41-26-105, Utah Code Annotated 1953

41-26-106, Utah Code Annotated 1953

41-26-107, Utah Code Annotated 1953

41-26-108, Utah Code Annotated 1953

REPEALS:

41-26-102, as enacted by Laws of Utah 2016, Chapter 212

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-51-102 is amended to read:**13-51-102. Definitions.**

(1) "Division" means the Division of Consumer Protection within the Department of Commerce.

(2) "Prearranged ride" means a period of time that:

(a) begins when the transportation network driver has accepted a passenger's request for a ride through the transportation network company's software application; and

(b) ends when the passenger exits the transportation network driver's vehicle.

(3) "Software application" means an Internet-connected software platform, including a mobile application, that a transportation network company uses to:

(a) connect a transportation network driver to a passenger; and

(b) process passenger requests.

(4) "Transportation network company" means an entity that:

(a) uses a software application to connect a passenger to a transportation network driver providing transportation network services;

(b) is not:

(i) a taxicab, as defined in Section 53-3-102; or

(ii) a motor carrier, as defined in Section 72-9-102; and

(c) except in certain cases involving a motor vehicle with a level four or five automated driving system, as defined in Section 41-26-102.1, does not own, control, operate, or manage the vehicle used to provide the transportation network services.

(5) "Transportation network driver" means ~~an individual who~~:

(a) an individual who:

~~(i)~~ (i) pays a fee to a transportation network company, and, in exchange, receives a connection to a potential passenger from the transportation network company;

~~(ii)~~ (ii) operates a motor vehicle that:

~~(A)~~ (A) the individual owns, leases, or is authorized to use; and

~~(B)~~ (B) the individual uses to provide transportation network services; and

~~[(e)]~~ (iii) receives, in exchange for providing a passenger a ride, compensation that exceeds the individual's cost to provide the ride~~[-]; or~~

(b) a level four or five automated driving system, as defined in Section 41-26-102.1, when the automated driving system is operating the vehicle and used to provide a passenger a ride in exchange for compensation.

(6) "Transportation network services" means, for a transportation network driver providing services through a transportation network company:

- (a) providing a prearranged ride; or
- (b) being engaged in a waiting period.

(7) "Waiting period" means a period of time when:

(a) a transportation network driver is logged into a transportation network company's software application; and

(b) the transportation network driver is not engaged in a prearranged ride.

Section 2. Section 13-51-103 is amended to read:

13-51-103. Exemptions -- Transportation network company and transportation network driver.

(1) A transportation network company or a transportation network driver is not subject to the requirements applicable to:

(a) a motor carrier, under Title 72, Chapter 9, Motor Carrier Safety Act;

(b) a common carrier, under Title 59, Chapter 12, Sales and Use Tax Act; or

(c) a taxicab, under Title 53, Chapter 3, Uniform Driver License Act.

(2) A transportation network driver is:

(a) (i) an independent contractor of a transportation network company; and

~~[(b)]~~ (ii) not an employee of a transportation network company~~[-]; or~~

(b) for a motor vehicle with a level four or five automated driving system as defined in Section 41-26-102.1, in driverless operation, an automated driving system if dispatched:

(i) at the direction of, on behalf of, or as an agent of a transportation network company; or

(ii) at the direction of, on behalf of, or as an agent of a third party pursuant to an agreement between the third party and a transportation network company, operated on behalf of and as an agent of the transportation network company.

Section 3. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered by a fuel other than:
 - (i) motor fuel;
 - (ii) diesel fuel;
 - (iii) natural gas; or
 - (iv) propane.

(7) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

~~[(9)]~~ (10) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

~~[(10)]~~ (11) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

~~[(11)]~~ (12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

~~[(12)]~~ (13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

~~[(13)]~~ (14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

[(14)] (15) "Commission" means the State Tax Commission.

[(15)] (16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

[(16)] (17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

[(17)] (18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

[(18)] (19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

[(19)] (21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

[(20)] (22) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

[(21)] (23) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

[(22)] (24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

[(23)] (25) "Fleet" means one or more commercial vehicles.

[(24)] (26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

[(25)] (27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

[(26)] (28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

[(27)] (29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

[(28)] (30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

[(29)] (31) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

[(30)] (32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

[(31)] (33) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

[(32)] (34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[(33)] (35) "Lienholder" means a person with a security interest in particular property.

[(34)] (36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

[(35)] (37) "Manufacturer" means a person engaged in the business of constructing,

manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

[~~36~~] (38) “Mobile home” means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

[~~37~~] (39) “Motor fuel” means the same as that term is defined in Section 59-13-102.

[~~38~~] (40) (a) “Motor vehicle” means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) “Motor vehicle” does not include an off-highway vehicle.

[~~39~~] (41) “Motorboat” means the same as that term is defined in Section 73-18-2.

[~~40~~] (42) “Motorcycle” means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

[~~41~~] (43) “Natural gas” means a fuel of which the primary constituent is methane.

[~~42~~] (44) (a) “Nonresident” means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

[~~43~~] (45) “Odometer” means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

[~~44~~] (46) “Off-highway implement of husbandry” means the same as that term is defined in Section 41-22-2.

[~~45~~] (47) “Off-highway vehicle” means the same as that term is defined in Section 41-22-2.

[~~46~~] (48) (a) “Operate” means ~~[to drive or be in actual physical control of a vehicle or]~~:

(i) to navigate a vessel[-]; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) “Operate” includes testing of an automated driving system.

[~~47~~] (49) “Outboard motor” means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[~~48~~] (50) (a) “Owner” means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee’s option to purchase the vehicle.

[~~49~~] (51) “Park model recreational vehicle” means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[~~50~~] (52) “Personalized license plate” means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[~~51~~] (53) (a) “Pickup truck” means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) “Pickup truck” includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[~~52~~] (54) “Plug-in hybrid electric motor vehicle” means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

[~~53~~] (55) “Pneumatic tire” means every tire in which compressed air is designed to support the load.

[~~54~~] (56) “Preceding year” means a period of 12 consecutive months fixed by the division that is

within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[(55)] (57) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[(56)] (58) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[(57)] (59) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[(58)] (60) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

[(59)] (61) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[(60)] (62) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[(61)] (63) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[(62)] (64) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[(63)] (65) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[(64)] (66) "Sailboat" means the same as that term is defined in Section 73-18-2.

[(65)] (67) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[(66)] (68) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor

vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[(67)] (69) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[(68)] (70) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [(68)] (70)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[(69)] (71) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[(70)] (72) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[(71)] (73) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[472] (74) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[473] (75) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[474] (76) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[475] (77) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[476] (78) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[477] (79) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[478] (80) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[479] (81) "Vessel" means the same as that term is defined in Section 73-18-2.

[480] (82) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[481] (83) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[482] (84) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 4. Section 41-1a-201 is amended to read:

41-1a-201. Function of registration -- Registration required -- Penalty.

(1) Unless exempted, a person or automated driving system may not operate and an owner may not engage an automated driving system, give another person permission to engage an automated driving system, or give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, off-highway vehicle, vessel, or park model recreational vehicle

in this state unless it has been registered in accordance with this chapter, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

(2) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 5. Section 41-1a-202 is amended to read:

41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.

(1) In this section:

(a) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

(I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or

(II) operates a motor vehicle in intrastate transportation for other than seasonal work.

(ii) "Resident" does not include any of the following:

(A) a member of the military temporarily stationed in Utah;

(B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a

trade, profession, or occupation in this state or accepts employment in this state; and

(C) an individual domiciled in another state or a foreign country that:

(I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);

(II) is not compensated for services rendered other than expense reimbursements; and

(III) is temporarily in Utah for a period not to exceed 24 months.

(iii) Notwithstanding Subsections (1)(b)(i) and (ii), "resident" includes the owner of a vehicle equipped with an automated driving system as defined in Section 41-26-102.1 if the vehicle is physically present in the state for more than 30 consecutive days in a calendar year.

(2) Registration under this chapter is not required for any:

(a) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

(b) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(c) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;

(d) special mobile equipment;

(e) vehicle owned or leased by the federal government;

(f) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;

(g) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

(h) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

(i) manufactured home or mobile home;

(j) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

(i) being towed;

(ii) operated on a street or highway designated as open to off-highway vehicle use; or

(iii) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

(k) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

(l) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

(m) electric assisted bicycle defined under Section 41-6a-102;

(n) motor assisted scooter defined under Section 41-6a-102; or

(o) electric personal assistive mobility device defined under Section 41-6a-102.

(3) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle within 60 days of the owner establishing residency in this state.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 6. Section 41-1a-1503 is amended to read:

41-1a-1503. Event data recorders -- Retrieval or disclosure of event data.

(1) (a) Event data that is recorded on an event data recorder:

(i) is private;

(ii) is the personal information of the motor vehicle's owner; and

(iii) except as provided in Subsection (2), may not be retrieved by a person who is not the owner of the motor vehicle.

(b) If a motor vehicle is owned by more than one person, only one owner is required to consent to the retrieval or use of the data from a motor vehicle event data recorder.

(2) Event data that is recorded on an event data recorder may be retrieved, obtained, or used by a person who is not the owner of the motor vehicle in the following circumstances:

(a) the owner of the motor vehicle or the owner's agent has consented to the retrieval of the data relating to an accident;

(b) the data is retrieved by a motor vehicle dealer, motor vehicle manufacturer, or by an automotive technician to diagnose, service, or repair the motor

vehicle at the request of the owner or the owner's agent;

(c) the data is subject to discovery in a criminal prosecution or pursuant to the rules of civil procedure in a claim arising out of a motor vehicle accident;

(d) a court or administrative agency having jurisdiction orders the data to be retrieved;

(e) a peace officer retrieves the data pursuant to a court order as part of an investigation of a suspected violation of a law that has caused, or contributed to the cause of, an accident resulting in damage of property or injury to a person; [or]

(f) to facilitate or determine the need for emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including the retrieval of data from a company that provides subscription services to the owner of a motor vehicle for in-vehicle safety and security communications[-]; or

(g) for purposes of improving motor vehicle safety, security, or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner, passenger, or human driver is not disclosed in connection with the retrieved data.

(3) Except as provided in Subsection (4), a person who has retrieved, obtained, or used event data under Subsection (2) may not release event data that is recorded on an event data recorder.

(4) A person may release event data that is recorded on an event data recorder in the following circumstances:

(a) the owner of the motor vehicle or the owner's agent has consented to the release of the data;

(b) the data is subject to discovery in a criminal prosecution or pursuant to the rules of civil procedure in a claim arising out of a motor vehicle accident;

(c) the data is released pursuant to a court order as part of an investigation of a suspected violation of a law that has caused, or contributed to the cause of, an accident resulting in damage of property or injury to a person; or

(d) if the identity of the owner or driver is not disclosed[-], the data is released to a motor vehicle safety and medical research entity or data processor in order to advance motor vehicle safety, security, or traffic management] in connection with the retrieved data, the data is released for purposes of improving motor vehicle safety, security, or traffic management, including medical research on the human body's reaction to a motor vehicle crash.

(5) (a) If a motor vehicle is equipped with an event data recorder that is capable of recording or transmitting event data and that capability is part of a subscription service, the fact that the event data

may be recorded or transmitted shall be disclosed in the subscription service agreement.

(b) Notwithstanding the provisions of this section, event data from an event data recorder may be retrieved, obtained, and used by a subscription service provider for subscription services meeting the requirement of Subsection (5)(a).

Section 7. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) “Class 1 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) “Class 2 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) “Class 3 electric assisted bicycle” means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) “Commissioner” means the commissioner of the Department of Public Safety.

(12) “Controlled-access highway” means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) “Crosswalk” means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) “Department” means the Department of Public Safety.

(15) “Direct supervision” means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) “Divided highway” means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) “Electric assisted bicycle” means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) “Electric personal assistive mobility device” means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) “Electric personal assistive mobility device” does not include a wheelchair.

(19) “Explosives” means any chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) “Farm tractor” means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) “Flammable liquid” means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) “Freeway” means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) “Gore area” means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(24) “Gross weight” means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(25) “Highway” means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(26) “Highway authority” means the same as that term is defined in Section 72-1-102.

(27) (a) “Intersection” means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways which join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) “Intersection” does not include the junction of an alley with a street or highway.

(28) “Island” means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(29) “Law enforcement agency” means the same as that term is as defined in Section 53-1-102.

(30) “Limited access highway” means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(31) “Local highway authority” means the legislative, executive, or governing body of a county, municipal, or other local board or body having

authority to enact laws relating to traffic under the constitution and laws of the state.

(32) (a) “Low-speed vehicle” means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than four passengers, including ~~[the driver]~~ a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) “Low-speed vehicle” does not include a golfcart or an off-highway vehicle.

(33) “Metal tire” means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(34) (a) “Mini-motorcycle” means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) “Mini-motorcycle” does not include a moped or a motor assisted scooter.

(c) “Mini-motorcycle” does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(35) “Mobile home” means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (35)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(36) (a) “Moped” means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters

and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" includes a motor assisted scooter.

(d) "Moped" does not include an electric assisted bicycle.

(37) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) a gas or electric motor not exceeding 40 cubic centimeters;

(iv) either:

(A) a deck design for a person to stand while operating the device; or

(B) a deck and seat designed for a person to sit, straddle, or stand while operating the device; and

(v) a design for the ability to be propelled by human power alone.

(b) "Motor assisted scooter" does not include an electric assisted bicycle.

(38) (a) "Motor vehicle" means a vehicle that is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include vehicles moved solely by human power, motorized wheelchairs, an electric personal assistive mobility device, an electric assisted bicycle, or a personal delivery device, as defined in Section 41-6a-1119.

(39) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an auticycle.

(40) (a) "Motor-driven cycle" means every motorcycle, motor scooter, moped, motor assisted scooter, and every motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device; or

(ii) an electric assisted bicycle.

(41) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(42) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(43) "Operate" means the same as that term is defined in Section 41-1a-102.

~~(43)~~ (44) "Operator" means ~~[a person who is in actual physical control of a vehicle].~~

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

~~(44)~~ (45) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers~~[-];~~ or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

~~(45)~~ (46) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

~~(46)~~ (47) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

~~(47)~~ (48) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

~~(48)~~ (49) "Person" means ~~[every]~~ a natural person, firm, copartnership, association, ~~[or]~~ corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

~~(49)~~ (50) "Pole trailer" means every vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

~~(50)~~ (51) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

~~(51)~~ (52) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

~~(52)~~ (53) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public

body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

~~[(53)]~~ (54) “Railroad train” means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

~~[(54)]~~ (55) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

~~[(55)]~~ (56) (a) “Roadway” means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) “Roadway” does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) “Roadway” refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

~~[(56)]~~ (57) “Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

~~[(57)]~~ (58) (a) “School bus” means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of “Minimum Standards for School Buses”; and

(ii) is used to transport school children to or from school or school activities.

(b) “School bus” does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

~~[(58)]~~ (59) (a) “Semitrailer” means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) “Semitrailer” does not include a pole trailer.

~~[(59)]~~ (60) “Shoulder area” means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved “Manual on Uniform Traffic Control Devices”; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

~~[(60)]~~ (61) “Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a

roadway, and the adjacent property lines intended for the use of pedestrians.

~~[(61)]~~ (62) “Solid rubber tire” means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

~~[(62)]~~ (63) “Stand” or “standing” means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

~~[(63)]~~ (64) “Stop” when required means complete cessation from movement.

~~[(64)]~~ (65) “Stop” or “stopping” when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

~~[(65)]~~ (66) “Street-legal all-terrain vehicle” or “street-legal ATV” means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

~~[(66)]~~ (67) “Traffic” means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

~~[(67)]~~ (68) “Traffic signal preemption device” means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

~~[(68)]~~ (69) “Traffic-control device” means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

~~[(69)]~~ (70) “Traffic-control signal” means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

~~[(70)]~~ (71) (a) “Trailer” means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) “Trailer” does not include a pole trailer.

~~[(71)]~~ (72) “Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

~~[(72)]~~ (73) “Truck tractor” means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[473] (74) “Two-way left turn lane” means a lane:

- (a) provided for vehicle operators making left turns in either direction;
- (b) that is not used for passing, overtaking, or through travel; and
- (c) that has been indicated by a lane traffic-control device that may include lane markings.

[474] (75) “Urban district” means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[475] (76) “Vehicle” means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except devices used exclusively on stationary rails or tracks.

Section 8. Section 41-6a-1641 is amended to read:

41-6a-1641. Video display in motor vehicles prohibited if visible to driver -- Exceptions.

(1) A motor vehicle may not be operated on a highway if the motor vehicle is equipped with a video display located so that the display is visible to the ~~operator~~ conventional driver of the vehicle as that term is defined in Section 41-26-102.1.

(2) This section does not prohibit the use of a video display used exclusively for:

- (a) safety or law enforcement purposes if the use is approved by rule of the department under Section 41-6a-1601;
- (b) motor vehicle navigation; ~~or~~
- (c) monitoring of equipment and operating systems of the motor vehicle~~;~~ or
- (d) operation of a vehicle in a connected platooning system.

(3) A violation of this section is an infraction.

Section 9. Section 41-26-102.1 is enacted to read:

41-26-102.1. Definitions.

(1) “ADS-dedicated vehicle” means a vehicle designed to be operated exclusively by a level four or five ADS for all trips within the given operational design domain limitations of the ADS, if any.

(2) (a) “Automated driving system” or “ADS” means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the ADS is limited to a specific operational design domain, if any.

(b) “Automated driving system” or “ADS” is used specifically to describe a level three, four, or five driving automation system.

(3) “Commission” means the State Tax Commission as defined in Section 59-1-101.

(4) “Conventional driver” means a human driver who is onboard the motor vehicle and manually performs some or all of the following actions in order to operate a vehicle:

- (a) braking;
- (b) accelerating;
- (c) steering; and
- (d) transmission gear selection input devices.

(5) (a) “Dispatch” means to place an ADS-equipped vehicle into service in driverless operation by engaging the ADS.

(b) “Dispatch” includes software-enabled dispatch of multiple ADS-equipped motor vehicles in driverless operation that may complete multiple trips involving pick-up and drop-off of passengers or goods throughout a day or other pre-defined periods of service, and which may involve multiple agents performing various tasks related to the dispatch function.

(6) “Division” means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(7) “Driverless operation” means the operation of an ADS-equipped vehicle in which:

- (a) no on-board user is present; or
- (b) no on-board user is a human driver or fallback-ready user.

(8) “Driverless operation dispatcher” means a user who dispatches an ADS-equipped vehicle in driverless operation.

(9) “Driving automation system” means the hardware and software collectively capable of performing part or all of the dynamic driving task on a sustained basis.

(10) “Driving automation system feature” means a specific function of a driving automation system.

(11) (a) “Dynamic driving task” means all of the real-time operational and tactical functions required to operate a motor vehicle in on-road traffic, including:

- (i) lateral vehicle motion control through steering;
- (ii) longitudinal motion control through acceleration and deceleration;
- (iii) monitoring the driving environment through object and event detection, recognition, classification, and response preparation;
- (iv) object and event response execution;
- (v) maneuver planning; and
- (vi) enhancing conspicuity with lighting, signaling, and gesturing.

(b) “Dynamic driving task” does not include strategic functions such as trip scheduling and selection of destinations and waypoints.

(12) “Engage” as it pertains to the operation of a vehicle by a driving automation system means to cause a driving automation system feature to perform part or all of the dynamic driving task on a sustained basis.

(13) “External event” is a situation in the driving environment that necessitates a response by a human driver or driving automation system.

(14) “Fallback-ready user” means the user of a vehicle equipped with an engaged level three ADS who is:

- (a) a human driver; and
- (b) ready to operate the vehicle if:
 - (i) a system failure occurs; or
 - (ii) the ADS issues a request to intervene.

(15) (a) “Human driver” means a natural person:

(i) with a valid license to operate a motor vehicle of the proper class for the motor vehicle being operated; and

(ii) who performs in real-time all or part of the dynamic driving task.

(b) “Human driver” includes a:

- (i) conventional driver; and
- (ii) remote driver.

(16) “Level five automated driving system” or “level five ADS” means an ADS feature that has the capability to perform on a sustained basis the entire dynamic driving task under all conditions that can reasonably be managed by a human driver, as well as any maneuvers necessary to respond to a system failure, without any expectation that a human user will respond to a request to intervene.

(17) “Level four automated driving system” or “level four ADS” means an ADS feature that, without any expectation that a human user will respond to a request to intervene, has:

(a) the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) the capability to perform any maneuvers necessary to achieve a minimal risk condition in response to:

- (i) an exit from the operational design domain of the ADS; or
- (ii) a system failure.

(18) “Level three automated driving system” or “level three ADS” means an ADS feature that:

(a) has the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) requires a fallback-ready user to operate the vehicle after receiving a request to intervene or in response to a system failure.

(19) “Minimal risk condition” means a condition to which a user or an ADS may bring a motor vehicle in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(20) “Object and event detection and response” means the subtasks of the dynamic driving task that include:

- (a) monitoring the driving environment; and
- (b) executing an appropriate response in order to perform the dynamic driving task.

(21) “On-demand autonomous vehicle network” means a transportation service network that uses a software application or other digital means to dispatch or otherwise enable the prearrangement of transportation with motor vehicles that have a level four or five ADS in driverless operation for purposes of transporting persons, including for-hire transportation and transportation for compensation.

(22) “Operate” means the same as that term is defined in Section 41-1a-102.

(23) “Operational design domain” means the operating conditions under which a given ADS or feature thereof is specifically designed to function, including:

- (a) speed range, environmental, geographical, and time-of-day restrictions; or
- (b) the requisite presence or absence of certain traffic or roadway characteristics.

(24) “Operator” means the same as that term is defined in Section 41-6a-102.

(25) “Passenger” means a user on board a vehicle who has no role in the operation of that vehicle.

(26) “Person” means the same as that term is defined in Section 41-6a-102.

(27) “Remote driver” means a human driver who is not located in a position to manually exercise in-vehicle braking, accelerating, steering, or transmission gear selection input devices, but operates the vehicle.

(28) “Request to intervene” means the notification by an ADS to a fallback-ready user indicating that the fallback-ready user should promptly begin or resume operation of the vehicle.

(29) “Sustained operation of a motor vehicle” means the performance of part or all of the dynamic driving task both between and across external events, including response to external events and continued performance of part or all of the dynamic driving task in the absence of external events.

(30) “System failure” means a malfunction in a driving automation system or other vehicle system that prevents the ADS from reliably performing the portion of the dynamic driving task on a sustained basis, including the complete dynamic driving task, that the ADS would otherwise perform.

(31) “User” means a:

- (a) human driver;

- (b) passenger;
- (c) fallback-ready user; or
- (d) driverless operation dispatcher.

Section 10. Section 41-26-103 is enacted to read:

41-26-103. Operation of motor vehicles equipped with an automated driving system.

(1) A motor vehicle equipped with a level three ADS may operate on a highway in this state if:

(a) the motor vehicle is operated, whether by the ADS or human driver, in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable motor vehicle safety standards; and

(ii) bears the required certification label, including reference to any exemption granted under federal law;

(c) when operated by an ADS, if a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, the ADS will achieve a minimal risk condition or make a request to intervene; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(2) A motor vehicle equipped with a level four or level five ADS may operate in driverless operation on a highway in this state if:

(a) the ADS is capable of operating in compliance with applicable traffic and motor vehicle laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable Federal Motor Vehicle Safety Standards and regulations; and

(ii) bears the required certification label including reference to any exemption granted under federal law;

(c) a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, a minimal risk condition will be achieved; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(3) A vehicle being operated by an ADS or a remote driver is not considered unattended.

(4) The division may revoke the registration and privilege for a vehicle equipped with an ADS to operate on a highway of the state if the Department of Transportation or the Department of Public Safety determines and notifies the division that:

(a) the ADS is operating in an unsafe manner; or

(b) the vehicle's ADS is being engaged in an unsafe manner.

(5) Special mobile equipment, as defined in Section 41-1a-102, equipped with a level three, four, or five ADS, may be moved or operated incidentally over a highway.

(6) Nothing in this chapter prohibits or restricts a human driver from operating a vehicle equipped with an ADS and equipped with controls that allow for the human driver to perform all or part of the dynamic driving task.

Section 11. Section 41-26-104 is enacted to read:

41-26-104. Licensing -- Responsibility for compliant operation of ADS-equipped vehicles.

For the purpose of assessing compliance with applicable traffic or motor vehicle laws:

(1) (a) When an ADS is operating a motor vehicle, the ADS is the operator, and shall satisfy electronically all physical acts required by a conventional driver in operation of the vehicle.

(b) The ADS is responsible for the compliant operation of the vehicle and is not required to be licensed to operate the vehicle.

(2) (a) If a vehicle with an engaged level three ADS issues a request to intervene, the ADS is responsible for the compliant operation of the vehicle until disengagement of the ADS.

(b) If a vehicle with an engaged level four or five ADS issues a request to intervene, the ADS is responsible for the compliant operation of the vehicle until or unless a human user begins to operate the vehicle.

(3) The ADS is responsible for compliant operation of an ADS-dedicated vehicle.

Section 12. Section 41-26-105 is enacted to read:

41-26-105. Duties following crashes involving motor vehicles equipped with an automated driving system.

(1) In the event of a crash involving a vehicle with the ADS engaged:

(a) the ADS-equipped vehicle shall remain on the scene of the crash when required to do so under Section 41-6a-401, consistent with the vehicle's ability to achieve a minimal risk condition as described in Section 41-26-103; and

(b) the owner of the ADS-equipped vehicle, or a person on behalf of the vehicle owner, shall report any crashes or collisions consistent with Chapter 6a, Part 4, Accident Responsibilities.

(2) If the owner or person on behalf of the owner is not on board the vehicle at the time of the crash, the owner shall ensure that the following information is immediately communicated or made available to the persons involved or to a peace officer upon request:

(a) the contents of the vehicle's registration card; and

(b) the name of the insurance provider for the vehicle, including the phone number of the agent or provider.

(3) The department may require that an accident report filed under Section 41-6a-402 include:

(a) whether a vehicle equipped with an ADS was involved in the accident; and

(b) whether the ADS was engaged at the time of the accident.

Section 13. Section 41-26-106 is enacted to read:

41-26-106. On-demand autonomous vehicle network.

(1) Subject to Subsection (2), an on-demand autonomous vehicle network may only operate pursuant to state laws governing the operation of ground transportation for-hire under state law, including:

(a) a transportation network company pursuant to Title 13, Chapter 51, Transportation Network Company Registration Act;

(b) a public transit district as defined in Section 17B-2a-802; or

(c) a private passenger carrier as defined in Section 53-3-102.

(2) Any provision of state law described in Subsection (1) that reasonably applies only to a human driver, including Subsection 13-51-105(5)(b), shall not apply to the operation of a vehicle by an engaged level four or five ADS that is part of an on-demand autonomous vehicle network.

Section 14. Section 41-26-107 is enacted to read:

41-26-107. Registration, title, and insurance of motor vehicles equipped with an automated driving system.

(1) If the owner of a vehicle equipped with an ADS is a resident of this state, the owner shall properly register the vehicle in accordance with Chapter 1a, Part 2, Registration.

(2) If the owner of a vehicle equipped with an ADS is a resident of this state, the owner shall properly title the vehicle in accordance with Chapter 1a, Part 5, Titling Requirement.

(3) Before an ADS may operate a vehicle on a highway in this state, the owner of the vehicle shall ensure that the vehicle complies with Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act.

Section 15. Section 41-26-108 is enacted to read:

41-26-108. Controlling authority.

No local agency, political subdivision, or other entity may prohibit the operation of a vehicle equipped with a driving automation system, an ADS, or an on-demand autonomous vehicle network, or otherwise enact or keep in force a rule or ordinance that would impose a tax, fee, performance standard, or other requirement specific to the operation of a vehicle equipped with a driving automation system, an ADS, or an on-demand autonomous vehicle network in addition to the requirements of this title.

Section 16. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground;

(b) is equipped with a steering wheel; and

(c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) “Commercial driver license motor vehicle record” or “CDL MVR” does not mean a motor vehicle record described in Subsection ~~[(30)]~~ (29).

(7) (a) “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) “Conviction” means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person’s appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) “Denial” or “denied” means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner’s or Operator’s Security, do not apply.

(10) “Director” means the division director appointed under Section 53-3-103.

(11) “Disqualification” means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person’s privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) “Division” means the Driver License Division of the department created in Section 53-3-103.

(13) “Downgrade” means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) “Drive” means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) “Driver” means ~~[any person]~~ an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, “driver” includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) “Driving privilege card” means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) “Extension” means a renewal completed in a manner specified by the division.

(18) “Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(19) “Highway” means the entire width between property lines of every way or place of any nature

when any part of it is open to the use of the public, as a matter of right, for traffic.

(20) "Human driver" means the same as that term is defined in Section 41-26-102.1.

~~[(20)]~~ (21) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

~~[(21)]~~ (22) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

~~[(22)]~~ (23) "License" means the privilege to drive a motor vehicle.

~~[(23)]~~ (24) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes a:

- (i) regular license certificate;
- (ii) limited-term license certificate;
- (iii) driving privilege card;
- (iv) CDL license certificate;
- (v) limited-term CDL license certificate;
- (vi) temporary regular license certificate; and
- (vii) temporary limited-term license certificate.

~~[(24)]~~ (25) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

~~[(25)]~~ (26) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

~~[(26)]~~ (27) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

~~[(27)]~~ "Motorboat" means the same as that term is defined in Section 73-18-2.

~~[(28)]~~ "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(29)]~~ "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

~~[(30)]~~ "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(28) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(29) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(30) "Motorboat" means the same as that term is defined in Section 73-18-2.

(31) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

~~[(31)]~~ (32) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(33) "Operate" means the same as that term is defined in Section 41-1a-102.

~~[(32)]~~ (34) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

~~[(33)]~~ (35) (a) "Private passenger carrier" means any motor vehicle for hire that is:

- (i) designed to transport 15 or fewer passengers, including the driver; and
- (ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

- (i) a taxicab;
- (ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;
- (iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

~~[(34)]~~ (36) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

~~[(35)]~~ (37) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

~~[(36)]~~ (38) "Renewal" means to validate a license certificate so that it expires at a later date.

~~[(37)]~~ (39) “Reportable violation” means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

~~[(38)]~~ (40) (a) “Resident” means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) “Resident” does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections ~~[(38)]~~ (40)(b)(i) through (iii).

~~[(39)]~~ (41) “Revocation” means the termination by action of the division of a licensee’s privilege to drive a motor vehicle.

~~[(40)]~~ (42) (a) “School bus” means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) “School bus” does not include a bus used as a common carrier as defined in Section 59-12-102.

~~[(41)]~~ (43) “Suspension” means the temporary withdrawal by action of the division of a licensee’s privilege to drive a motor vehicle.

~~[(42)]~~ (44) “Taxicab” means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 17. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant’s identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on [a person] an individual driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter;

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

(f) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by ~~[(4)]~~ the division and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by ~~[(4)]~~ the division under state law;

(7) maintain a record of each licensee showing the licensee’s convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any ~~person~~ individual licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of ~~a person~~ an individual who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 18. Section 53-3-202 is amended to read:

53-3-202. Drivers must be licensed -- Violation.

(1) A ~~person~~ human driver may not drive a motor vehicle or an autocycle on a highway in this state unless the ~~person~~ human driver is:

(a) granted the privilege to operate a motor vehicle by being licensed as a driver by the division under this chapter;

(b) driving an official United States Government class D motor vehicle with a valid United States Government driver permit or license for that type of vehicle;

(c) (i) driving a road roller, road machinery, or any farm tractor or implement of husbandry temporarily drawn, moved, or propelled on the highways; and

(ii) driving the vehicle described in Subsection (1)(c)(i) in conjunction with a construction or agricultural activity;

(d) a nonresident who is at least 16 years of age and younger than 18 years of age who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country and is driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(e) a nonresident who is at least 18 years of age and who has in the nonresident's immediate possession a valid license certificate issued to the nonresident in the nonresident's home state or country if driving in the class or classes identified on the home state license certificate, except those persons referred to in Part 6, Drivers' License Compact, of this chapter;

(f) driving under a learner permit in accordance with Section 53-3-210.5;

(g) driving with a temporary license certificate issued in accordance with Section 53-3-207; or

(h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

~~(2) A person may not drive or, while within the passenger compartment of a motor vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a motor vehicle upon a highway unless the person:~~

(2) A human driver may not drive a motor vehicle or perform lateral or longitudinal vehicle motion control for a vehicle being towed by another motor vehicle upon a highway unless the human driver:

(a) ~~holds a valid license issued under this chapter for~~ is licensed under this chapter to drive a motor vehicle of the type or class of motor vehicle being towed; or

(b) is exempted under either Subsection (1)(b) or (1)(c).

(3) (a) A ~~person~~ human driver may not drive a motor vehicle as a taxicab on a highway of this state unless the person has a valid class D driver license issued by the division.

(b) A ~~person~~ human driver may not drive a motor vehicle as a private passenger carrier on a highway of this state unless the ~~person~~ human driver has:

(i) a taxicab endorsement issued by the division on the ~~[person's]~~ human driver's license certificate; or

(ii) a commercial driver license with:

(A) a taxicab endorsement;

(B) a passenger endorsement; or

(C) a school bus endorsement.

(c) Nothing in Subsection (3)(b) is intended to exempt a ~~[person]~~ human driver driving a motor vehicle as a private passenger carrier from regulation under other statutory and regulatory schemes, including:

(i) 49 C.F.R. Parts 350-399, Federal Motor Carrier Safety Regulations;

(ii) Title 34, Chapter 36, Transportation of Workers, and rules adopted by the Labor Commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) Title 72, Chapter 9, Motor Carrier Safety Act, and rules adopted by the Motor Carrier Division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) Except as provided in Subsections (4)(b), (c), (d), and (e), a ~~[person]~~ human driver may not operate:

(i) a motorcycle unless the ~~[person]~~ human driver has a valid class D driver license and a motorcycle endorsement issued under this chapter;

(ii) a street legal all-terrain vehicle unless the ~~[person]~~ human driver has a valid class D driver license; or

(iii) a motor-driven cycle unless the ~~[person]~~ human driver has a valid class D driver license and a motorcycle endorsement issued under this chapter.

(b) A ~~[person]~~ human driver operating a moped, as defined in Section 41-6a-102, is not required to have a motorcycle endorsement issued under this chapter.

(c) ~~[A person]~~ An individual operating an electric assisted bicycle, as defined in Section 41-6a-102, is not required to have a valid class D driver license or a motorcycle endorsement issued under this chapter.

(d) ~~[A person]~~ An individual is not required to have a valid class D driver license if the person is:

(i) operating a motor assisted scooter, as defined in Section 41-6a-102, in accordance with Section 41-6a-1115; or

(ii) operating an electric personal assistive mobility device, as defined in Section 41-6a-102, in accordance with Section 41-6a-1116.

(e) A ~~[person]~~ human driver operating an autocycle is not required to have a motorcycle endorsement issued under this chapter.

(5) An automated driving system as defined in Section 41-26-102.1 is not required to have a driver license.

~~[(5)]~~ (6) A person who violates this section is guilty of an infraction.

Section 19. Repealer.

This bill repeals:

Section 41-26-102, Autonomous motor vehicle study.

CHAPTER 460**H. B. 107**

Passed March 1, 2019
 Approved March 29, 2019
 Effective May 14, 2019

**SUSTAINABLE TRANSPORTATION AND
 ENERGY PLAN ACT AMENDMENTS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Curtis S. Bramble

LONG TITLE**General Description:**

This bill expands the Sustainable Transportation Plan Act to include a large-scale natural gas utility.

Highlighted Provisions:

This bill:

- ▶ amends the Sustainable Transportation Plan Act to expand the program to include a large-scale natural gas utility;
- ▶ defines the pilot program period for a large-scale natural gas utility;
- ▶ defines parameters for the program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 54-2-1, as last amended by Laws of Utah 2016, Chapters 267, 315, and 393
 54-3-8, as last amended by Laws of Utah 2014, Chapter 381
 54-4-2, as last amended by Laws of Utah 2014, Chapter 381
 54-4-13.1, as enacted by Laws of Utah 2009, Chapter 303
 54-4-13.4, as enacted by Laws of Utah 2013, Chapter 311
 54-20-102, as enacted by Laws of Utah 2016, Chapter 393
 54-20-105, as enacted by Laws of Utah 2016, Chapter 393
 54-20-107, as enacted by Laws of Utah 2016, Chapter 393

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for

reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(4) "Commission" means the Public Service Commission.

(5) "Commissioner" means a member of the commission.

(6) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(7) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

(8) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

(9) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

(10) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

(11) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection (10)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

(12) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for

domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

(13) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

(14) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

(15) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

(16) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

(17) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

(18) "Large-scale electric utility" means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

(19) "Large-scale natural gas utility" means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.

[49] (20) "Nonutility energy supplier" means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R.

Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

[(20)] (21) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

[(21)] (22) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [(21)] (22) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [(21)] (22)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [(21)] (22)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [(21)] (22)(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financier of an electric plant, small power production facility, or cogeneration facility, then that third-party financier is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a “public utility,” unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a “public utility.”

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) “Public utility” does not include:

(i) an eligible customer who provides electricity for the eligible customer’s own use or the use of the eligible customer’s tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer’s service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer’s tenant or affiliate.

(i) “Public utility” does not include an entity that sells electric vehicle battery charging services, unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) “Public utility” does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

[(22)] (23) “Purchasing utility” means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

[(23)] (24) “Qualifying power producer” means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

[(24)] (25) “Qualifying power production facility” means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

[(25)] (26) “Railroad” includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

[(26)] (27) “Railroad corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

[(27)] (28) (a) “Sewerage corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) “Sewerage corporation” does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[(28)] (29) “Telegraph corporation” includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

[(29)] (30) “Telegraph line” includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

[(30)] (31) “Telephone cooperative” means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation’s members and the public at cost plus a reasonable rate of return.

[(31)] (32) (a) “Telephone corporation” means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) “Telephone corporation” does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

- (ii) Internet service; or
- (iii) resold intrastate toll service.

~~[(32)]~~ (33) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

~~[(33)]~~ (34) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

~~[(34)]~~ (35) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

~~[(35)]~~ (36) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

~~[(36)]~~ (37) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

~~[(37)]~~ (38) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 2. Section 54-3-8 is amended to read:

54-3-8. Preferences forbidden -- Power of commission to determine facts -- Applicability of section.

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), ~~[(49)]~~ (20), or ~~[(24)]~~ (22)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 3. Section 54-4-2 is amended to read:

54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.

(1) (a) The commission may conduct an investigation if the commission determines an investigation:

(i) is necessary to secure compliance with this title or with an order of the commission;

(ii) is in the public interest; or

(iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility.

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

(i) establish a time and place for a hearing;

(ii) provide notice to the public utility concerning the investigation; and

(iii) make findings and orders that are just and reasonable with respect to the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), ~~[(49)]~~ (20), or ~~[(24)]~~ (22)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section 54-4-13.1 is amended to read:

54-4-13.1. Natural gas vehicle rate -- Natural gas clean air programs.

(1) The commission may find that a gas corporation's request for a natural gas vehicle rate that is less than full cost of service is:

- (a) in the public interest; and
- (b) just and reasonable.

(2) If the commission approves a gas corporation's request under Subsection (1), the remaining costs may be spread to other customers of the gas corporation.

(3) The commission may authorize a gas corporation to establish natural gas clean air programs that promote sustainability through increasing the use of natural gas or renewable natural gas that the commission determines are in the public interest, subject to the funding limits set forth in Subsection 54-20-105(3)(d).

(4) For purposes of this section, and as pertaining to the transportation sector, "natural gas clean air program" means:

(a) an incentive or program to support the use of natural gas, including renewable natural gas;

(b) a program to improve air quality through the use of natural gas or renewable natural gas; and

(c) does not include any program under Section 54-4-13.4.

(5) A gas corporation proposing a natural gas clean air program for approval by the commission under Subsection (3) shall seek input from:

- (a) the Division of Public Utilities;
- (b) the Office of Consumer Services; and

(c) any person that files a request for notice with the commission.

(6) The commission may review the expenditure made by a gas corporation for a natural gas clean air program to determine if the gas corporation made the expenditure prudently in accordance with the purposes of the program.

(7) If the commission approves a gas corporation's request under Subsection (3), the remaining costs may be spread to other customers of the gas corporation.

(8) A natural gas clean air program under Section 54-4-13.1 shall be considered distinct and independent of Section 54-4-13.4.

Section 5. Section 54-4-13.4 is amended to read:

54-4-13.4. Natural gas fueling stations and facilities -- Recovery of expenditures for stations and facilities.

(1) The commission shall find that a gas corporation's expenditures for the construction, operation, and maintenance of natural gas fueling stations and appurtenant natural gas facilities ~~for use by the state, political subdivisions of the state, and the public~~ are in the public interest and are just and reasonable, if:

(a) the gas corporation's expenditures for the fueling stations and appurtenant facilities:

- (i) are prudently incurred; and
- (ii) do not exceed \$5,000,000 in any calendar year;

(b) the gas corporation shows that the estimated annual incremental increase in revenue related to the stations and facilities exceeds 50% of the annual revenue requirement of the stations and facilities; and

(c) the stations and facilities are in service and are being used and are useful.

(2) (a) A gas corporation may seek the recovery of expenditures under Subsection (1) through a mechanism designed to track and collect the expenditures between general rate cases.

(b) (i) The commission shall allow a gas corporation to recover, through an incremental surcharge to all of its rate classes, expenditures that the gas corporation incurs that are directly related to the construction, operation, and maintenance of the stations and facilities described in Subsection (1), reduced by revenues the gas corporation receives during the same time period directly attributable to the stations and facilities.

(ii) The commission shall assign a surcharge under Subsection (2)(b)(i) to each rate class based upon the pro rata share, approved by the commission, of the tariff revenue ordered in the gas corporation's most recent general rate case.

(iii) A gas corporation may file an application to adjust a surcharge under Subsection (2)(b)(i) as frequently as semiannually.

(iv) At the gas corporation's next general rate case, the commission shall include in base rates all expenditures that the gas corporation prudently incurs associated with a surcharge under Subsection (2)(b)(i).

Section 6. Section 54-20-102 is amended to read:

54-20-102. Definitions.

As used in this chapter:

(1) "Demand side management" means the same as that term is defined in Section 54-7-12.8.

(2) "Pilot program period" means a period of [5] five years~~, beginning on January 1, 2017,~~ during which the sustainable transportation and energy plan is effective~~[-]~~:

(a) for a large-scale electric utility, beginning on January 1, 2017; or

(b) for a large-scale natural gas utility, beginning on July 1, 2019.

(3) "Sustainable transportation and energy plan" means the programs approved by the commission and undertaken by a large-scale electric utility or large-scale natural gas utility during the pilot program period, including:

(a) a natural gas vehicle rate or natural gas clean air program described in Section 54-4-13.1;

~~[(a)]~~ (b) the electric vehicle incentive program described in Section 54-20-103;

~~[(b)]~~ (c) the clean coal technology program described in Section 54-20-104; and

~~[(e)]~~ (d) the innovative technology programs described in Section 54-20-105.

Section 7. Section 54-20-105 is amended to read:

54-20-105. Innovative utility programs.

(1) The commission may authorize, subject to funding available under Subsection 54-7-12.8(6)(b)(ii)(B), a large-scale electric utility to implement programs that the commission determines are in the interest of large-scale electric utility customers to provide for the investigation, analysis, and implementation of:

- (a) an economic development incentive rate;
- (b) a solar generation incentive;
- (c) a battery storage or electric grid related project;
- (d) a commercial line extension pilot program;
- (e) a program to curtail emissions from thermal generation plant in the Salt Lake non-attainment area during a non-attainment event as defined by the Division of Air Quality;
- (f) an additional electric vehicle incentive program incremental to the program described in Section 54-20-103;

(g) an additional clean coal program incremental to the program described in Section 54-20-104; ~~and~~

(h) an acquisition of electric infrastructure behind the large-scale electric utility's meter; and

~~[(h)]~~ (i) any other technology program.

(2) The commission may review the expenditures made by a large-scale electric utility for a program described in Subsection (1) in order to determine if the large-scale electric utility made the expenditures prudently in accordance with the purposes of the program.

(3) (a) The commission may authorize a large-scale natural gas utility to implement and fund programs that the commission determines are in the public interest of large-scale natural gas utility customers to provide for the investigation, analysis, and implementation of:

- (i) an economic development incentive rate;
- (ii) research and development of other efficiency technologies;
- (iii) an acquisition of nonresidential natural gas infrastructure behind the large-scale natural gas utility's meter;
- (iv) the development of communities that can reduce greenhouse gases and NOx emissions;
- (v) a natural gas renewable energy project;

(vi) a commercial line extension program; or

(vii) any other technology program.

(b) A large-scale natural gas utility proposing a program under this Subsection (3) shall, before submitting the program to the commission for approval, seek input from:

- (i) the Division of Public Utilities;
- (ii) the Office of Consumer Services; and
- (iii) a person that files a request for notice with the commission.

(c) In determining whether a project is in the public interest, the commission shall consider the following factors:

- (i) to what extent the use of renewable natural gas is facilitated or expanded by the proposed project;
- (ii) potential air quality improvements associated with the proposed project;
- (iii) whether the proposed project could be provided by the private sector or would be viable without the proposed incentives;
- (iv) whether any proposed incentives were offered to all similarly situated potential partners and recipients; and
- (v) potential benefits to ratepayers.

(d) Upon commission approval, the commission may authorize the large-scale natural gas utility to allocate on an annual basis up to \$10,000,000 to a specific sustainable transportation and energy plan as described in Subsections (3)(a)(i) through (vii) or a specific natural gas clean air program as provided in Section 54-4-13.1.

(e) A large-scale natural gas utility shall establish a balancing account that includes:

- (i) funds allocated for projects that have been approved by the commission under Subsection (3)(a); and
- (ii) a carrying charge in an amount determined by the commission.

(4) The commission may review the expenditures made by a large-scale natural gas utility for a program described in Subsection (3) and approved by the commission in order to determine if the large-scale natural gas utility made the expenditures prudently in accordance with the purposes of the program.

~~[(3)]~~ (5) The commission may authorize and establish funding for a conservation, efficiency, or new technology program in addition to the programs described in this chapter if the conservation, efficiency, or new technology program is cost-effective and in the public interest.

(6) A large-scale electric utility or a large-scale natural gas utility that establishes and operates a natural gas clean air program described in Section 54-4-13.1, a sustainable transportation and energy plan under Section 54-7-12.8, or any plan or

program under this chapter, shall submit a written report annually, on or before June 1, to the Public Utilities, Energy and Technology Interim Committee about each plan or program active during the previous calendar year, including status, operation, funding, disposition of funds, plan or program benefits, and the impact on rates.

Section 8. Section 54-20-107 is amended to read:

54-20-107. Other programs.

The commission may authorize a large-scale electric utility or a large-scale natural gas utility to establish a program in addition to the programs described in this chapter if the commission determines that the program is cost-effective and in the public interest.

CHAPTER 461**H. B. 139**

Passed March 1, 2019
Approved March 29, 2019
Effective May 14, 2019

**MOTOR VEHICLE
EMISSIONS AMENDMENTS**

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE**General Description:**

This bill amends provisions related to violations of motor vehicle emission standards.

Highlighted Provisions:

This bill:

- ▶ amends the penalties for a vehicle that violates the emission standards;
- ▶ prohibits the distraction or endangerment of a vulnerable highway user by emission of excessive exhaust;
- ▶ requires the court to report repeat offenders of emission standards to the local health department in certain circumstances;
- ▶ requires the local health department to report repeat offenders of emission standards to the Motor Vehicle Division in certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

41-1a-110, as last amended by Laws of Utah 2015, Chapter 304

41-6a-706.5, as last amended by Laws of Utah 2015, Chapter 412

41-6a-1626, as last amended by Laws of Utah 2016, Chapter 303

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-110 is amended to read:**41-1a-110. Authority of division to suspend or revoke registration, certificate of title, license plate, or permit.**

(1) Except as provided in Subsections (3) and (4), the division may suspend or revoke a registration, certificate of title, license plate, or permit if:

(a) the division is satisfied that a registration, certificate of title, license plate, or permit was fraudulently procured or erroneously issued;

(b) the division determines that a registered vehicle is mechanically unfit or unsafe to be operated or moved upon the highways;

(c) a registered vehicle has been dismantled;

(d) the division determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand;

(e) a registration decal, license plate, or permit is knowingly displayed upon a vehicle other than the one for which issued;

(f) the division determines that the owner has committed any offense under this chapter involving the registration, certificate of title, registration card, license plate, registration decal, or permit; or

(g) the division receives notification by the Department of Transportation that the owner has committed any offense under Title 72, Chapter 9, Motor Carrier Safety Act.

(2) (a) The division shall revoke the registration of a vehicle if the division receives notification by the:

(i) Department of Public Safety that a person:

(A) has been convicted of operating a registered motor vehicle in violation of Section 41-12a-301 or 41-12a-303.2; or

(B) is under an administrative action taken by the Department of Public Safety for operating a registered motor vehicle in violation of Section 41-12a-301; or

(ii) designated agent that the owner of a motor vehicle:

(A) has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under Section 41-12a-804; or

(B) provided a false or fraudulent statement to the designated agent.

(b) The division shall notify the Driver License Division if the division revokes the registration of a vehicle under Subsection (2)(a)(ii)(A).

(3) The division may not suspend or revoke the registration of a vessel or outboard motor unless authorized under Section 73-18-7.3.

(4) The division may not suspend or revoke the registration of an off-highway vehicle unless authorized under Section 41-22-17.

(5) The division shall charge a registration reinstatement fee under Section 41-1a-1220, if the registration is revoked under Subsection (1)(f).

(6) Except as provided in Subsections (3), (4), and (7), the division may suspend or revoke a registered vehicle's registration if the division is notified by a local health department, as defined in Section 26A-1-102, that the registered vehicle is unable to meet state or local air emissions standards or violates Subsection 41-6a-1626(2)(a) or (b).

(7) The division may not suspend or revoke a registered vehicle's registration under Subsection (6) if the registered vehicle has a manufacturer's gross vehicle weight rating that is greater than 26,000 pounds.

Section 2. Section 41-6a-706.5 is amended to read:**41-6a-706.5. Definitions -- Operation of motor vehicle near a vulnerable user of a**

highway prohibited -- Endangering a vulnerable user of a highway prohibited.

(1) As used in this section, “vulnerable user of a highway” means:

(a) a pedestrian, including a person engaged in work upon a highway or upon utilities facilities along a highway or providing emergency services within the right-of-way of a highway;

(b) a person riding an animal; or

(c) a person operating any of the following on a highway:

(i) a farm tractor or implement of husbandry, without an enclosed shell;

(ii) a skateboard;

(iii) roller skates;

(iv) in-line skates;

(v) a bicycle;

(vi) an electric-assisted bicycle;

(vii) an electric personal assistive mobility device;

(viii) a moped;

(ix) a motor-driven cycle;

(x) a motorized scooter;

(xi) a motorcycle; or

(xii) a manual wheelchair.

(2) An operator of a motor vehicle may not knowingly, intentionally, or recklessly:

(a) operate a motor vehicle within three feet of a vulnerable user of a highway;

(b) distract or attempt to distract a vulnerable user of a highway for the purpose of causing violence or injury to the vulnerable user of a highway; [or]

(c) force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety[-]; or

(d) cause a motor vehicle to emit an excessive amount of exhaust in a manner that distracts or endangers a vulnerable user of a highway.

(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is an infraction.

(b) A violation of Subsection (2) that results in bodily injury to the vulnerable user of a highway is a class C misdemeanor.

Section 3. Section 41-6a-1626 is amended to read:

41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2) (a) Except while the engine is being warmed to the recommended operating temperature, the engine and power mechanism of a gasoline-powered motor vehicle may not emit visible contaminants during operation.

(b) (i) As used in this Subsection (2)(b), “heavy tow” means a tow that exceeds the vehicle’s maximum tow weight.

(ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible contaminants during operation:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer’s gross vehicle weight rating in excess of 26,000 pounds.

(iii) A diesel engine manufactured before January 1, 2008, may not emit visible contaminants of a shade or density that obscures a contrasting background by more than 20%, for more than five consecutive seconds:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer’s gross vehicle weight rating in excess of 26,000 pounds.

(c) A person who violates the provisions of Subsection (2)(a) is guilty of an infraction and shall be fined:

(i) not less than \$50 for a violation; or

(ii) not less than \$100 for a second or subsequent violation within three years of a previous violation of this section.

(d) A person who violates the provisions of Subsection (2)(b) is guilty of an infraction and shall be fined:

(i) not less than \$100 for a violation; or

(ii) not less than \$500 for a second or subsequent violation within three years of a previous violation of this section.

(e) (i) As used in this section:

(A) “Local health department” means the same as that term is defined in Section 26A-1-102.

(B) “Nonattainment area” means the same as that term is defined in Section 63N-3-102.

(ii) Within a nonattainment area, for a second or subsequent violation of Subsection (2)(a) or (2)(b), the court shall report the violations to the local health department at a regular interval.

(iii) If the local health department receives a notification as described in Subsection (2)(e)(ii), and the local health department determines that the registered vehicle is unable to meet state or local air emission standards, the local health department shall send notification to the Motor Vehicle Division.

(3) (a) If a motor vehicle is equipped by a manufacturer with air pollution control devices, the devices shall be maintained in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of an infraction.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

(5) A violation of Subsection (1), (2), or (3) is an infraction.

CHAPTER 462**H. B. 156**

Passed March 13, 2019
 Approved March 29, 2019
 Effective May 14, 2019

SEARCH AMENDMENTS

Chief Sponsor: Kim F. Coleman
 Senate Sponsor: Daniel W. Thatcher

LONG TITLE**General Description:**

This bill requires correctional facilities to implement certain search policies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires county jails to adopt and adhere to a model policy regarding body cavity searches; and
- ▶ dictates certain requirements to be included in the model policy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

77-7-17.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-7-17.5 is enacted to read:**77-7-17.5. Physical body cavity search policy -- Requirements.**

(1) As used in this section:

(a) "Arrestee" means an individual who is in the custody of law enforcement for an offense for which the individual has not been convicted.

(b) (i) "Body cavity" includes the anus, rectum, vagina, esophagus, or stomach.

(ii) "Body cavity" does not include the mouth, ear canal, or nasal passages.

(c) (i) "Physical body cavity search" means a search of a body cavity of an individual that involves touching the individual with:

(A) any part of another individual's body; or

(B) an instrument or other item.

(ii) "Physical body cavity search" does not include a clothed, pat down search.

(2) Each county jail shall adopt and implement a policy that meets the minimum standards contained in a model policy established by the Commission on Criminal and Juvenile Justice.

(3) The model policy shall specify the minimum standards and procedures to be followed by the county jail when a body cavity search is performed

on an arrestee within the county jail's jurisdiction, including:

(a) stating with specificity the circumstances under which a body cavity search may be performed on an arrestee;

(b) designating who may authorize the performance of a body cavity search;

(c) designating specific jail staff or medical personnel who may perform a body cavity search;

(d) requiring any nonmedically trained jail staff who may perform a body cavity search to be trained on safe practices for conducting a body cavity search;

(e) requiring documentation of each body cavity search performed at the correctional facility, including:

(i) the identity of the arrestee searched;

(ii) the date, time, and location of the search;

(iii) the identity of the individual performing the search;

(iv) the identity of the individual authorizing the search;

(v) a description of the body areas searched and the procedures followed in performing the search; and

(vi) the circumstances necessitating the body cavity search; and

(f) designating rules and procedures to be followed, by authorized staff, when performing a body cavity search that account for the health and privacy interests of the arrestee, including:

(i) the location where a body cavity search must be performed;

(ii) the gender requirements of the individuals who perform or observe the search in relation to the gender of the arrestee being searched; and

(iii) methods to ensure the body cavity search is conducted with the minimal amount of touching necessary to effectuate the purposes of the search.

(4) A county jail's body cavity search policy is a public record.

CHAPTER 463**H. B. 231**

Passed March 11, 2019
 Approved March 29, 2019
 Effective January 1, 2020

**TANGIBLE PERSONAL
PROPERTY REVISIONS**

Chief Sponsor: Karianne Lisonbee
 Senate Sponsor: Daniel McCay

LONG TITLE**General Description:**

This bill amends provisions related to tax exemptions for tangible personal property.

Highlighted Provisions:

This bill:

- ▶ adjusts the amount of total aggregate taxable value of personal property that qualifies for a certain personal property tax exemption;
- ▶ adds a tax exemption for certain items of business tangible personal property;
- ▶ amends filing requirements for a person who qualifies for certain tax exemptions from tangible personal property; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-1115, as last amended by Laws of Utah 2013, Chapters 19 and 147

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1115 is amended to read:**59-2-1115. Exemption of certain tangible personal property.**

(1) For purposes of this section:

(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and

(ii) includes:

- (A) the purchase price for a new or used item;
- (B) the cost of freight and shipping;
- (C) the cost of installation, engineering, erection, or assembly; and
- (D) sales and use taxes.

(b) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(c) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used:

- (I) on a public highway;
- (II) on a public waterway;
- (III) on public land; or
- (IV) in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of [~~\$10,000~~] \$15,000 or less.

(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable tangible personal property:

- (i) has an acquisition cost of \$1,000 or less;
- (ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and

(iii) is in a personal property schedule with a residual value of 15% or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(a) or (b), the item is exempt from taxation if:

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is less than \$150.

(3) (a) For calendar years beginning on or after January 1, 2015, the commission shall increase the dollar amount described in Subsection (2)(a):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013; and

(ii) up to the nearest \$100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(a) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(a) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(a).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(a) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(b) or (c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 464**H. B. 241**

Passed March 13, 2019

Approved March 29, 2019

Effective July 1, 2020

**BUDGETARY PROCEDURES
ACT AMENDMENTS**Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Curtis S. Bramble**LONG TITLE****General Description:**

This bill modifies the Budgetary Procedures Act by amending provisions relating to the governor's proposed budget.

Highlighted Provisions:

This bill:

- ▶ provides that the governor's proposed budget to the Legislature shall include a statement of:
 - the final status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the previous fiscal year; and
 - the current status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the current fiscal year; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63J-1-201, as last amended by Laws of Utah 2017, Chapter 466

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-201 is amended to read:**63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

- (i) a proposed budget for the ensuing fiscal year;
- (ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

- (A) estimated revenues by major tax type;
- (B) 15-year trends for each major tax type;
- (C) estimated receipts of federal funds;
- (D) 15-year trends for federal fund receipts; and
- (E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of:

(A) agency and program objectives, effectiveness measures, and program size indicators; ~~and~~

(B) the final status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the fiscal year ending the previous June 30; and

(C) the current status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the current fiscal year; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 2. Effective date.

This bill takes effect on July 1, 2020.

CHAPTER 465**H. B. 264**

Passed March 14, 2019

Approved March 29, 2019

Effective May 14, 2019

(Retrospective operation to January 1, 2019)

**ECONOMIC
DEVELOPMENT MODIFICATIONS**Chief Sponsor: Mike Winder
Senate Sponsor: Daniel McCay**LONG TITLE****General Description:**

This bill modifies provisions related to the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ defines terms and modifies definitions;
- ▶ modifies provisions related to tax credit incentives for economic development;
- ▶ repeals provisions related to the Alternative Energy Manufacturing Tax Credit Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

- 59-7-159, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-10-137, as enacted by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-10-1025, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63N-1-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350
- 63N-2-202, as last amended by Laws of Utah 2016, Chapter 11
- 63N-4-302, as enacted by Laws of Utah 2017, Chapter 274
- 63N-4-402, as enacted by Laws of Utah 2018, Chapter 340

REPEALS:

- 59-7-614.8, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 59-10-1030, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 63N-2-701, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-2-702, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-2-703, as last amended by Laws of Utah 2018, Chapter 149
- 63N-2-704, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63N-2-705, as renumbered and amended by Laws of Utah 2015, Chapter 283

Utah Code Sections Affected by Coordination Clause:

63N-2-103, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-159 is amended to read:**59-7-159. Review of credits allowed under this chapter.**

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-7-609;
- (ii) Section 59-7-614.2;
- (iii) Section 59-7-614.10;
- (iv) Section 59-7-617;
- (v) Section 59-7-619; and
- (vi) Section 59-7-620.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-7-605;
- (ii) Section 59-7-610;
- (iii) Section 59-7-614;
- (iv) Section 59-7-614.7; and
- ~~[(v) Section 59-7-614.8; and]~~
- ~~[(vi)]~~ (v) Section 59-7-618.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1004;
- (ii) Section 59-10-1010;
- (iii) Section 59-10-1015;
- (iv) Section 59-10-1025;
- (v) Section 59-10-1027;
- (vi) Section 59-10-1031;
- (vii) Section 59-10-1032;
- (viii) Section 59-10-1035;
- (ix) Section 59-10-1104;
- (x) Section 59-10-1105; and
- (xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1005;
- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1013;
- (v) Section 59-10-1022;
- (vi) Section 59-10-1023;
- (vii) Section 59-10-1028;
- (viii) Section 59-10-1034;
- (ix) Section 59-10-1037; and
- (x) Section 59-10-1107.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

- (i) Section 59-10-1007;
- (ii) Section 59-10-1009;
- (iii) Section 59-10-1014;
- (iv) Section 59-10-1017;
- (v) Section 59-10-1018;

- (vi) Section 59-10-1019;
- (vii) Section 59-10-1024;
- (viii) Section 59-10-1029;
- ~~[(ix) Section 59-10-1030];~~
- ~~[(x)]~~ (ix) Section 59-10-1033;
- ~~[(xi)]~~ (x) Section 59-10-1036;
- ~~[(xii)]~~ (xi) Section 59-10-1106; and
- ~~[(xiii)]~~ (xii) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 3. Section 59-10-1025 is amended to read:

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.

(c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:

- (i) biotechnologies;
- (ii) medical devices;
- (iii) medical diagnostics; and
- (iv) pharmaceuticals.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

- (i) (A) common stock;
- (B) preferred stock; or
- (C) an ownership interest in a pass-through entity;
- (ii) originally issued to:
 - (A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

- (A) by a Utah small business corporation;
- (B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by an eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or

(ii) \$350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(8) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;

(ii) the amount of eligible new state tax revenues generated by each eligible product or project;

(iii) estimates for each of the next three calendar years of the following:

(A) the amount of tax credit that the office will grant;

(B) the amount of eligible new state tax revenues that will be generated; and

(C) the number of new incremental jobs within the state that will be generated; and

~~(iv) the information contained in the office's latest report under Section 63N-2-705; and]~~

~~(v)~~ (iv) any other information that the Office of the Legislative Fiscal Analyst requests.

(c) (i) In providing the information described in Subsection (8)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the information described in Subsection (8)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (8)(b) in the aggregate for all entities that receive the tax credit under this section.

(d) As part of the study required by this Subsection (8), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (8)(b).

(e) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:

(i) the cost of the tax credit under this section;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 4. Section 63N-1-102 is amended to read:

63N-1-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the board.

~~(4)~~ (3) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.

~~[(2)] (4)~~ “Council” means the Governor’s Economic Development Coordinating Council created in Section 63N-1-501.

~~[(3)] (5)~~ “Executive director” means the executive director of the office.

(6) “Full-time employee” means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) “High paying job” means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is at least 110% of the average wage of the county in which the employment position exists.

(8) “Incremental job” means a full-time employment position in the state that:

(a) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(b) is created in addition to the number of baseline jobs that existed within a business entity.

(9) “New state revenue” means the state revenue collected from a business entity or a business entity’s employees during a calendar year minus the baseline state revenue calculation.

~~[(4)] (10)~~ “Office” or “GOED” means the Governor’s Office of Economic Development.

(11) “State revenue” means state tax liability paid by a business entity or a business entity’s employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

Section 5. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) “Business entity” means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the

person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(2) “Community reinvestment agency” has the same meaning as that term is defined in Section 17C-1-102.

(3) “Development zone” means an economic development zone created under Section 63N-2-104.

~~[(4) “High paying jobs” means:]~~

~~[(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;]~~

~~[(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or]~~

~~[(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.]~~

~~[(5)] (4)~~ “Local government entity” means a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within the county’s, city’s, or town’s boundaries; and

(b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.

~~[(6)] (5) (a)~~ “New commercial project” means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) “New commercial project” does not include retail business.

~~[(7) (a) “New incremental jobs” means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:]~~

~~[(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;]~~

~~[(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or]~~

~~[(iii) with respect to a city or town, created as a result of a new commercial project with respect to~~

which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.]

~~[(b) “New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.]~~

~~[(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.]~~

~~[(8) “New state revenues” means:]~~

~~[(a) with respect to a business entity:]~~

~~[(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~

~~[(b) with respect to a local government entity:]~~

~~[(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~

~~[(9) (6) “Significant capital investment” means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~

~~(a) that represents an expansion of existing operations in the state; or~~

~~(b) that maintains or increases the business entity’s existing work force in the state.~~

~~[(10) (7) “Tax credit” means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(11) (8) “Tax credit amount” means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(12) (9) “Tax credit certificate” means a certificate issued by the office that:~~

~~(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;~~

~~(b) lists the business entity’s, local government entity’s, or community development and renewal agency’s taxpayer identification number;~~

~~(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and~~

~~(d) may include other information as determined by the office.~~

Section 6. Section 63N-2-202 is amended to read:

63N-2-202. Definitions.

As used in this part:

(1) “Business entity” means an entity, sole proprietorship, or individual:

- (a) including a claimant, estate, or trust; and
- (b) under which or by whom business is conducted or transacted.

(2) "Claimant" means a resident or nonresident person that has:

(a) Utah taxable income as defined in Section 59-7-101; or

(b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.

(3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.

(4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

(5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.

~~[(6) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within the business entity during the previous three taxable years and is filled by an employee working at least 30 hours per week.]~~

~~[(a) for a period of at least six consecutive months; and]~~

~~[(b) where the period ends in the tax year for which the credit is claimed.]~~

~~[(7)]~~ (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

~~[(8)]~~ (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.

~~[(9)]~~ (8) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section 7. Section 63N-4-302 is amended to read:

63N-4-302. Definitions.

As used in this part:

(1) (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(2) "Claimant" means a resident or nonresident person that has state taxable income.

(3) "Closing date" means the date on which a rural investment company has collected all of the investments described in Subsection 63N-4-303(7).

(4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).

(b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.

(5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:

(a) has fewer than 150 employees;

(b) has less than \$10,000,000 in net income for the preceding taxable year;

(c) maintains the business's principal business operations in the state; and

(d) is engaged in an industry related to:

(i) aerospace;

(ii) defense;

(iii) energy and natural resources;

(iv) financial services;

(v) life sciences;

(vi) outdoor products;

(vii) software development;

(viii) information technology;

(ix) manufacturing; or

(x) agribusiness.

(6) (a) "Excess return" means the difference between:

(i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and

(ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.

(b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.

(7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.

(8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.

(9) (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.

(10) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.

(11) (a) "High wage" means a wage that is at least 100% of the county average wage.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.

(12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.

(13) (a) "New annual jobs" means the difference between:

(i) (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or

(B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and

(ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.

(b) If the amount calculated in Subsection (2)(a) is less than zero, the new annual jobs amount is equal to zero.

(14) (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.

(b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection (14)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.

(15) "Program" means the provisions of this part applicable to a rural investment company.

(16) "Rural county" means any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

(17) "Rural investment company" means a person approved by the office under Section 63N-4-303.

(18) (a) "State reimbursement amount" means the difference between:

(i) 50% of the rural investment company's credit-eligible capital contributions; and

(ii) the product of:

(A) the total sum of new annual jobs reported to the state in the rural investment company's exit report described in Section 63N-4-309; and

(B) \$20,000.

(b) If the amount calculated in Subsection (18)(a) is less than zero, the state reimbursement amount is equal to zero.

(19) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.

(20) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the person to which the office authorizes a tax credit;

(b) lists the person's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and

(d) may include other information as determined by the office.

Section 8. Section 63N-4-402 is amended to read:

63N-4-402. Definitions.

As used in this part:

(1) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

- (i) construction;
- (ii) staffing;
- (iii) retail trade; or
- (iv) public utility activities.

~~[(2) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.]~~

~~[(3) "New full-time employee position" means a position that has been newly created in addition to the highest baseline count of employment positions that existed within a business entity during the previous taxable year and is filled by an employee working at least 30 hours per week:]~~

~~[(a) in a county of the fourth, fifth, or sixth class;]~~

~~[(b) for a period of at least 12 consecutive months;]~~

~~[(c) in a position that does not primarily involve:]~~

~~[(i) construction;]~~

~~[(ii) retail trade; or]~~

~~[(iii) public utility activities;]~~

~~[(d) where the annual gross wage of the position, not including healthcare or other paid or unpaid benefits, is at least 125% of the average wage of the county in which the position exists; and]~~

~~[(e) who is not an immediate family member of an owner or officer of the business entity.]~~

[(4)] (2) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

- (i) a member of a board of directors or other governing body of an entity; or
- (ii) a partner in any type of partnership.

[(5)] (3) "Rural employment expansion grant" means a grant available under this part.

Section 9. Repealer.

This bill repeals:

Section 59-7-614.8, Nonrefundable alternative energy manufacturing tax credit.

Section 59-10-1030, Nonrefundable alternative energy manufacturing tax credit.

Section 63N-2-701, Title.

Section 63N-2-702, Definitions.

Section 63N-2-703, Tax credits.

Section 63N-2-704, Qualifications for tax credit -- Procedure.

Section 63N-2-705, Reporting.

Section 10. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

Section 11. Coordinating H.B. 264 with H.B. 433 -- Substantive and technical amendments.

If this H.B. 264 and H.B. 433, Inland Port Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 63N-2-103 to read:

"63N-2-103. Definitions.

As used in this part:

(1) "Authority project area" means a project area of the inland port authority.

[(4)] (2) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

[(2)] (3) "Community reinvestment agency" [has the same meaning] means the same as that term is defined in Section 17C-1-102.

[(3)] (4) "Development zone" means an economic development zone created under Section 63N-2-104.

(5) "Inland port authority" means the Utah Inland Port Authority, created in Section 11-58-201.

[(4) "High paying jobs" means:]

~~[(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;]~~

~~[(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or]~~

~~[(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.]~~

~~[(5)] (6) “Local government entity” means a county, city, [or] town, or inland port authority that enters into an agreement with the office to have a new commercial project that:~~

~~(a) is initiated within [the county’s, city’s, or town’s boundaries; and]:~~

~~(i) the boundary of the county, city, or town; or~~

~~(ii) the project area of the inland port authority; and~~

~~(b) qualifies the county, city, [or] town, or inland port authority to receive a tax credit under Section 59-7-614.2.~~

~~[(6)] (7) (a) “New commercial project” means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.~~

~~(b) “New commercial project” does not include retail business.~~

~~[(7) (a) “New incremental jobs” means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:]~~

~~[(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;]~~

~~[(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or]~~

~~[(iii) with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.]~~

~~[(b) —“New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.]~~

~~[(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.]~~

~~[(8) “New state revenues” means:]~~

~~[(a) with respect to a business entity:]~~

~~[(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(a)(i)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) — a combination of Subsections (8)(a)(i) through (iii); or]~~

~~[(b) with respect to a local government entity:]~~

~~[(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(b)(i)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) — a combination of Subsections (8)(b)(i) through (iii).]~~

~~[(9)] (8)~~ “Significant capital investment” means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity’s existing work force in the state.

~~[(40)] (9)~~ “Tax credit” means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

~~[(41)] (10)~~ “Tax credit amount” means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

~~[(42)] (11)~~ “Tax credit certificate” means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity’s, local government entity’s, or community development and renewal agency’s taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.”.

Section 12. Coordinating H.B. 264 with S.B. 269 -- Substantive and technical amendments.

If this H.B. 264 and S.B. 269, Military Development Authority, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 63N-2-103 to read:

“63N-2-103. Definitions.

As used in this part:

(1) “Authority project area” means a project of the Military Installation Development Authority, created in Section 63H-1-201.

~~[(4)] (2)~~ “Business entity” means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

~~[(2)] (3)~~ “Community reinvestment agency” [has the same meaning] means the same as that term is defined in Section 17C-1-102.

~~[(3)] (4)~~ “Development zone” means an economic development zone created under Section 63N-2-104.

~~[(4)] “High paying jobs” means:]~~

~~[(a) with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;]~~

~~[(b) with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or]~~

~~[(c) with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist.]~~

(5) “Local government entity” means:

(a) a county, city, or town that enters into an agreement with the office to have a new commercial project that:

[(a)] (i) is initiated within the county’s, city’s, or town’s boundaries; and

[(b)] (ii) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2[.]; or

(b) the Military Installation Development Authority, if the Military Installation Development Authority enters into an agreement described in Subsection (5)(a).

(6) (a) “New commercial project” means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) “New commercial project” does not include retail business.

~~[(7) (a) “New incremental jobs” means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:]~~

~~[(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;]~~

~~[(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or]~~

~~[(iii) with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.]~~

~~[(b) “New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.]~~

~~[(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.]~~

~~[(8) “New state revenues” means:]~~

~~[(a) with respect to a business entity:]~~

~~[(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(a)(ii)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~

~~[(b) with respect to a local government entity:]~~

~~[(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~

~~[(9) (7) “Significant capital investment” means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~

~~(a) that represents an expansion of existing operations in the state; or~~

~~(b) that maintains or increases the business entity’s existing work force in the state.~~

~~[(10) (8) “Tax credit” means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(11) (9) “Tax credit amount” means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(12) (10) “Tax credit certificate” means a certificate issued by the office that:~~

~~(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;~~

~~(b) lists the business entity’s, local government entity’s, or community development and renewal agency’s taxpayer identification number;~~

~~(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and~~

~~(d) may include other information as determined by the office.”.~~

Section 13. Coordinating H.B. 264, H.B. 433, and S.B. 269 -- Substantive and technical amendments.

If this H.B. 264, and H.B. 433, Inland Port Amendments, and S.B. 269, Military Development Authority, all pass and become law, it is the intent of the Legislature that:

(1) this coordination clause supersedes the other coordination clauses in this H.B. 264 and the coordination clause in S.B. 269, Military Development Authority; and

(2) the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 63N-2-103 to read:

“63N-2-103. Definitions.

As used in this part:

(1) “Authority” means:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

(2) “Authority project area” means a project area of:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

[4] (3) “Business entity” means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

[2] (4) “Community reinvestment agency” has the same meaning as that term is defined in Section 17C-1-102.

[3] (5) “Development zone” means an economic development zone created under Section 63N-2-104.

[4] “High paying jobs” means:

(a) ~~with respect to a business entity, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a business entity that are at least 110% of the average wage of a community in which the employment positions will exist;~~

(b) ~~with respect to a county, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits, of newly created full-time employment positions in a new commercial project within the county that are at least 110% of the average wage of the county in which the employment positions will exist; or~~

(c) ~~with respect to a city or town, the aggregate average annual gross wages, not including healthcare or other paid or unpaid benefits of newly created full-time employment positions in a new commercial project within the city or town that are at least 110% of the average wages of the city or town in which the employment positions will exist;~~

[5] (6) “Local government entity” means a county, city, [or] town, or authority that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within:

(i) [the county’s, city’s, or town’s boundaries] the boundary of the county, city, or town; or

(ii) an authority project area; and

(b) qualifies the county, city, [or] town, or authority to receive a tax credit under Section 59-7-614.2.

[6] (7) (a) “New commercial project” means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) “New commercial project” does not include retail business.

[7] (a) “New incremental jobs” means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:

(i) ~~with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;~~

(ii) ~~with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or~~

(iii) ~~with respect to a city or town, created as a result of a new commercial project with respect to which the city, town, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2;~~

(b) ~~“New incremental jobs” may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.~~

(c) “New incremental jobs” does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

[8] “New state revenues” means:

(a) ~~with respect to a business entity;~~

(i) ~~incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;~~

(ii) ~~incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under;~~

(A) ~~Title 59, Chapter 7, Corporate Franchise and Income Taxes;~~

(B) ~~Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;~~

(C) ~~Title 59, Chapter 10, Part 2, Trusts and Estates;~~

(D) ~~Title 59, Chapter 10, Part 4, Withholding of Tax; or~~

(E) ~~a combination of Subsections (8)(a)(i)(A) through (D);~~

(iii) ~~incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or~~

~~expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(a)(i) through (iii); or]~~

~~[(b) with respect to a local government entity;]~~

~~[(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;]~~

~~[(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under;]~~

~~[(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;]~~

~~[(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;]~~

~~[(C) Title 59, Chapter 10, Part 2, Trusts and Estates;]~~

~~[(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or]~~

~~[(E) a combination of Subsections (8)(b)(ii)(A) through (D);]~~

~~[(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or]~~

~~[(iv) a combination of Subsections (8)(b)(i) through (iii).]~~

~~[(9)] (8) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~

~~(a) that represents an expansion of existing operations in the state; or~~

~~(b) that maintains or increases the business entity's existing work force in the state.~~

~~[(10)] (9) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.~~

~~[(11)] (10) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.~~

~~[(12)] (11) "Tax credit certificate" means a certificate issued by the office that:~~

~~(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;~~

~~(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;~~

~~(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and~~

~~(d) may include other information as determined by the office."~~

CHAPTER 466**H. B. 268**

Passed March 8, 2019
 Approved March 29, 2019
 Effective May 14, 2019
 (Exception clause)

TAX AND FEE REVISIONS

Chief Sponsor: Steve Waldrip
 Senate Sponsor: Ronald Winterton

LONG TITLE**General Description:**

This bill modifies certain tax and fee provisions.

Highlighted Provisions:

This bill:

- ▶ provides and repeals definitions;
- ▶ repeals provisions relating to hazardous and treated hazardous waste disposal fees that applied through June 30, 2014;
- ▶ repeals provisions for determining the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium through December 31, 2004;
- ▶ enacts an addition to unadjusted income of a corporate taxpayer for any deduction on a return for a royalty or other expense paid to a captive insurance company for the use of an intangible asset in certain circumstances;
- ▶ repeals provisions relating to a tax on radioactive waste received at a radioactive waste facility that applied through June 30, 2003;
- ▶ repeals the Hazardous Waste Facility and Nonhazardous Solid Waste Facility Tax Act that applied through December 31, 2003; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:**AMENDS:**

- 19-6-118, as last amended by Laws of Utah 2013, Chapter 201
 59-5-203, as last amended by Laws of Utah 2008, Chapter 382
 59-7-101, as last amended by Laws of Utah 2018, Second Special Session, Chapters 2 and 3
 59-7-105, as last amended by Laws of Utah 2017, Chapter 389
 59-7-402, as last amended by Laws of Utah 2009, Chapter 312
 59-24-104, as enacted by Laws of Utah 2001, Chapter 314

REPEALS:

- 59-24-103, as last amended by Laws of Utah 2003, Chapter 295
 59-25-101, as enacted by Laws of Utah 2003, Chapter 295
 59-25-102, as enacted by Laws of Utah 2003, Chapter 295
 59-25-103, as last amended by Laws of Utah 2004, Chapter 311

- 59-25-104, as enacted by Laws of Utah 2003, Chapter 295
 59-25-105, as enacted by Laws of Utah 2003, Chapter 295
 59-25-106, as enacted by Laws of Utah 2003, Chapter 295
 59-25-108, as last amended by Laws of Utah 2008, Chapter 382
 59-25-109, as enacted by Laws of Utah 2003, Chapter 295

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-118 is amended to read:**19-6-118. Hazardous waste and treated hazardous waste disposal fees.**

~~[(1) As used in this section:]~~

~~[(a) "Demilitarization waste" means:]~~

~~[(i) a nerve, military, or chemical agent, including:]~~

~~[(A) CX;]~~

~~[(B) GA;]~~

~~[(C) GB;]~~

~~[(D) GD;]~~

~~[(E) H;]~~

~~[(F) HD;]~~

~~[(G) HL;]~~

~~[(H) HN-1;]~~

~~[(I) HN-2;]~~

~~[(J) HN-3;]~~

~~[(K) HT;]~~

~~[(L) L; or]~~

~~[(M) VX; or]~~

~~[(ii) waste or residue from demilitarization, treatment, testing, or disposal of an agent described in Subsection (1)(a)(i).]~~

~~[(b) "Remediation project" means:]~~

~~[(i) a superfund cleanup project;]~~

~~[(ii) a Resource Conservation and Recovery Act closure or corrective action site; or]~~

~~[(iii) a voluntary cleanup of:]~~

~~[(A) hazardous debris; or]~~

~~[(B) hazardous waste subject to regulation solely because of removal or remedial action taken in response to environmental contamination.]~~

~~[(c) "Remediation waste" means waste from a remediation project.]~~

~~[(2)] (1) (a) An owner or operator of any commercial hazardous waste or mixed waste disposal or treatment facility that primarily receives hazardous or mixed wastes generated by off-site sources not owned, controlled, or operated~~

by the facility or site owner or operator, and that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection ~~[(3)]~~ (2).

(b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or industrial furnace that receives for burning hazardous waste generated by off-site sources not owned, controlled, or operated by the owner or operator shall pay the fee under Subsection ~~[(3)]~~ (2).

~~[(3) (a) (i) Through June 30, 2014, the owner or operator of each facility under Subsection (2) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received at the facility for disposal, treatment, or both.]~~

~~[(ii) The fee required under Subsection (3)(a)(i) shall be calculated by multiplying the total tonnage of waste, computed to the first decimal place, received during the calendar month by \$28.]~~

~~[(b) (i) Through June 30, 2014, hazardous waste received at a land disposal facility is subject to a fee of \$14 per ton instead of the fee described in Subsection (3)(a) if the waste is treated so that it:]~~

~~[(A) meets the state treatment standards required for land disposal at the facility; or]~~

~~[(B) is no longer a hazardous waste at the time of disposal at that facility.]~~

~~[(ii) Through June 30, 2014, demilitarization waste received at a land disposal facility is subject to the fee described in Subsection (3)(b)(i), if:]~~

~~[(A) the demilitarization waste contains an additional constituent that is not demilitarization waste and is required by rule to be treated before land disposal; and]~~

~~[(B) the additional constituent meets every applicable state treatment standard required for land disposal of that constituent at the facility.]~~

~~[(iii) A fee required under Subsection (3)(b)(i) shall be calculated by multiplying the tonnage of waste, computed to the first decimal place, received during the calendar month by \$14.]~~

~~[(c) Through June 30, 2014, when hazardous waste or mixed waste is received at a facility for treatment or disposal and the fee required under Subsection (3) is paid for that treatment or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees under Subsection (3).]~~

~~[(d) (i) (2) (a) In accordance with Section 63J-1-504, [on or before July 1, 2014,] the department shall establish a fee schedule for the treatment and land disposal of hazardous waste and mixed waste.~~

~~[(iii) (b) To create the fee schedule described in Subsection ~~[(3)(d)(i)]~~ (2)(a), the department shall, before establishing the fee schedule, complete a review of program costs and indirect costs of regulating hazardous waste and mixed waste in the state.~~

~~[(iii) (c) The fee schedule described in Subsection ~~[(3)(d)(i)]~~ (2)(a) shall:~~

~~[(A) (i) implement a flat fee not calculated according to the amount of waste treated or disposed;~~

~~[(B) (ii) provide for reasonable and timely oversight by the department; and]~~

~~[(C) (iii) adequately meet the needs of industry and the department, including enabling the department to employ qualified personnel to appropriately oversee industry regulation.~~

~~[(iv) (d) A facility that treats or disposes of hazardous waste or mixed waste is authorized to collect the fee established under Subsection ~~[(3)(d)(i)]~~ (2)(a) from the generator of the waste.~~

~~[(4) (a) Through June 30, 2014, remediation waste received at a hazardous waste land disposal or treatment facility from a remediation project is subject to a fee in the following amounts:]~~

~~[Amount of Remediation Waste Received from a Remediation Project][Fee Amount]~~

~~[More than 0, but less than 1,000 tons][\$28 per ton]~~

~~[Equal to or greater than 1,000 tons, but less than 12,500 tons][\$10 per ton for all waste]~~

~~[Equal to or greater than 12,500 tons, but less than 25,000 tons][\$5 per ton for all waste]~~

~~[Equal to or greater than 25,000 tons][\$2.50 per ton for all waste]~~

~~[(b) Through June 30, 2014, emission control dust/sludge from the primary production of steel in electric furnaces (K061, as defined in 40 C.F.R. Sec. 261.32) received at a hazardous waste land disposal or treatment facility is subject to a fee of \$5 per ton in lieu of the fee established in Subsection (3).]~~

~~[(c) Through June 30, 2014, demilitarization waste received at a hazardous waste treatment, storage, or disposal facility is subject to a fee of \$5 per ton in addition to the fee established in Subsection (3).]~~

~~[(d) (i) Through June 30, 2014, the department may in accordance with this Subsection (4)(d) assess a person required to pay a fee under this section a special assessment if the department determines that the aggregate of the following fees is insufficient to cover the department's costs of administering its hazardous waste program:]~~

~~[(A) a fee imposed under this section; and]~~

~~[(B) a fee imposed under Section 19-6-118.5.]~~

~~[(ii) In determining the amount of a special assessment under this Subsection (4)(d), the department shall calculate the amount of the insufficiency and assess each person subject to the special assessment a proportion of the insufficiency equal to the proportion of fees paid by that person.]~~

~~[(iii) The department shall deposit a special assessment collected under this Subsection (4)(d)~~

into the Environmental Quality Restricted Account created in Section 19-1-108.]

~~[(e) Through June 30, 2014, the department shall annually review the fee established in Subsection (4)(a) and make recommendations to the Legislature's Natural Resources, Agriculture, and Environment Interim Committee concerning the amount of the fee.]~~

~~[(5) (a) Through June 30, 2014, the department shall allocate at least 10% of the fees received from a facility under this section to the county where the facility is located, not including a special assessment.]~~

~~[(b) (3) (a) [Beginning on July 1, 2014, the] The department shall allocate and pay to a county at least 10% of the fee established under Subsection [(3)(d)(i)] (2)(a) that the department receives from a facility in that county.~~

~~[(e) (b) The county may use fees allocated under this Subsection [(5)] (3) to carry out its hazardous waste monitoring and response programs.~~

~~[(6) (4) The department shall deposit the state portion of a fee received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.~~

~~[(7) (a) (i) Except as provided in Subsection (7)(a)(ii), the owner or operator shall pay a fee, accrued under this section before June 30, 2014, to the department on or before the 15th day of the month following the month in which the fee accrued.]~~

~~[(ii) If a fee accrues on remediation waste under this section before June 30, 2014, the fee shall be paid in accordance with a schedule determined by the department:]~~

~~[(A) made in consultation with the person paying the fee; and]~~

~~[(B) considering any contractual schedule for payment between the person paying the fee and another person with whom the person paying the fee has contracted.]~~

~~[(b) With the monthly fee described in Subsection (7)(a)(i), the owner or operator shall submit a completed form, as prescribed by the department, specifying information required by the department to verify the amount of waste received and the fee amount for which the owner or operator is liable.]~~

~~[(e) (5) [Beginning on July 1, 2014, an] An owner or operator shall submit payment of the fee established in Subsection [(3)(d)(i)] (2)(a) to the department:~~

~~[(i) (a) in accordance with a schedule provided by the department; and]~~

~~[(ii) (b) using forms provided by the department.~~

~~[(8) (6) (a) The department shall oversee and monitor hazardous waste treatment, disposal, and incineration facilities, including federal government facilities located within the state.~~

(b) The department may determine facility oversight priorities.

[(9) (7) (a) The department, in preparing its budget for the governor and the Legislature, shall separately indicate the amount necessary to administer the hazardous waste program established by this part.

(b) The Legislature shall appropriate the costs of administering this program.

[(40) (8) The Office of Legislative Fiscal Analyst shall monitor a fee collected under this part.

[(41) (9) Mixed waste subject to a fee under this section is not subject to a fee under Section 19-3-106.

Section 2. Section 59-5-203 is amended to read:

59-5-203. Determining taxable value.

(1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of priority, is as follows:

(a) If the metals or metalliferous mineral products are actually sold, the value of those metals or metalliferous mineral products shall be the gross amount the producer receives from that sale, provided that the metals or metalliferous mineral products are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b) If the metals or metalliferous mineral products are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due. The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals or metalliferous minerals sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal or metalliferous mineral.

(d) In the event of a sale of metals or metalliferous minerals between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a), (b), or (c) are not applicable, the commission shall determine the value of such metals or metalliferous minerals in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise disposed of by the producer of the metal.

~~[(3) (a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the beryllium sold or otherwise disposed of by the producer.]~~

~~[(b) (i)]~~ (3) Notwithstanding Subsection (1) or (4) ~~[and subject to Subsection (3)(b)(ii), beginning on January 1, 2005]~~, the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

~~[(ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value of beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).]~~

(4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Section 3. Section 59-7-101 is amended to read:

59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

~~[(6)]~~ (7) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

~~[(7)]~~ (8) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

~~[(8)]~~ (9) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

~~[(9)]~~ (10) "Corporate return" or "return" includes a combined report.

~~[(10)]~~ (11) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

~~[(11)]~~ (12) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

~~[(12)]~~ (13) (a) "Doing business" includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

~~[(13)]~~ (14) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

~~[(14)]~~ (15) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association,

corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection ~~[(14)]~~ (15)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection ~~[(14)]~~ (15)(b)(ii), for purposes of this Subsection ~~[(14)]~~ (15), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms "member" and "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A).

(ii) The rules made under this Subsection ~~[(14)]~~ (15)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

~~[(15)]~~ (16) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

~~[(16)]~~ (17) (a) "Foreign operating company" means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least \$1,000,000 of payroll located outside the United States; and

(B) at least \$2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

~~[(17)]~~ (18) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(i) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

[48] (19) "Income" includes losses.

[49] (20) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

[20] (21) "Nonbusiness income" means the same as that term is defined in Section 59-7-302.

[21] (22) "Real estate investment trust" means the same as that term is defined in Section 856, Internal Revenue Code.

[22] (23) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and

business income that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection [(22)] (23), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

[(23)] (24) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

[(24)] (25) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

[(25)] (26) "State of the United States" includes any of the 50 states or the District of Columbia.

[(26)] (27) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

[(27)] (28) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

[(28)] (29) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

[(29)] (30) (a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(b) For the last taxable year of a taxpayer beginning on or before December 31, 2017, "unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.

[(30)] (31) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

[(31)] (32) "United States" includes the 50 states and the District of Columbia.

[~~32~~] (33) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

[~~33~~] (34) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

[~~34~~] (35) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

[~~35~~] (36) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

[~~36~~] (37) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection [~~36~~] (37)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

[~~37~~] (38) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 4. Section 59-7-105 is amended to read:

59-7-105. Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102.5; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106 (1)(r); ~~and~~

(11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation[-]; and

(12) any deduction on a return filed under this chapter for a royalty or other expense paid to a captive insurance company for the use of an

intangible asset where the intangible asset is owned by the captive insurance company and used, in exchange for a royalty or other fee, by an entity related by common ownership to the captive insurance company.

Section 5. Section 59-7-402 is amended to read:

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101[(36)](37)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

- (i) doing business in Utah;
- (ii) part of the same affiliated group; and
- (iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Section 6. Section 59-24-104 is amended to read:

59-24-104. Payment of tax.

(1) The tax imposed by Section [59-24-103] 59-24-103.5 shall be paid by the owner or operator of a radioactive waste facility that receives radioactive waste for disposal or reprocessing.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) The payment shall be paid quarterly on or before the last day of the month next succeeding each calendar quarterly period.

Section 7. Repealer.

This bill repeals:

Section 59-24-103, Tax imposed on radioactive waste.

Section 59-25-101, Title.

Section 59-25-102, Definitions.

Section 59-25-103, Hazardous waste facility and nonhazardous solid waste facility tax.

Section 59-25-104, Payment of tax.

Section 59-25-105, Deposit of tax revenue.

Section 59-25-106, Records.

Section 59-25-108, Rulemaking authority.

Section 59-25-109, Penalties and interest.

Section 8. Effective date -- Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2019.

(2) The actions affecting the following sections take effect on May 14, 2019:

- (a) Section 19-6-118;
- (b) Section 59-5-203;
- (c) Section 59-24-103;
- (d) Section 59-24-104;
- (e) Section 59-25-101;
- (f) Section 59-25-102;
- (g) Section 59-25-103;
- (h) Section 59-25-104;
- (i) Section 59-25-105;
- (j) Section 59-25-106;
- (k) Section 59-25-108; and
- (l) Section 59-25-109.

CHAPTER 467**H. B. 296**

Passed March 13, 2019
Approved March 29, 2019
Effective May 14, 2019

**RURAL ONLINE WORKING
HUBS AMENDMENTS**

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ralph Okerlund

LONG TITLE**General Description:**

This bill creates a grant program in the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ defines terms, including "coworking and innovation center";
- ▶ creates the Rural Coworking and Innovation Center Grant Program in GOED;
- ▶ describes the requirements and purposes of the grant program; and
- ▶ creates the Rural Online Working Hubs Grant Advisory Committee to advise GOED regarding the grant program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Governor's Office of Economic Development -- Rural Coworking and Innovation Center Grant Program, as an ongoing appropriation:
 - from the General Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63N-4-501, Utah Code Annotated 1953
63N-4-502, Utah Code Annotated 1953
63N-4-503, Utah Code Annotated 1953
63N-4-504, Utah Code Annotated 1953
63N-4-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-4-501 is enacted to read:**Part 5. Rural Coworking and Innovation Center Grant Program****63N-4-501. Title.**

This part is known as the "Rural Coworking and Innovation Center Grant Program."

Section 2. Section 63N-4-502 is enacted to read:**63N-4-502. Definitions.**

As used in this part:

(1) "Advisory committee" means the Rural Online Working Hubs Grant Advisory Committee created in Section 63N-4-505.

(2) "Coworking and innovation center" means a facility designed to provide individuals with the

infrastructure and equipment to participate in the online workforce.

(3) "Entity" means a county, city, institution of higher education, or private company.

(4) "Grant" means a grant awarded as part of the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

(5) "Grant program" means the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

(6) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Section 3. Section 63N-4-503 is enacted to read:**63N-4-503. Creation and purpose of the Rural Coworking and Innovation Center Grant Program.**

(1) There is created the Rural Coworking and Innovation Center Grant Program administered by the office.

(2) The office may seek to accomplish the following objectives in administering the grant program:

(a) constructing or renovating a facility in one or more rural areas to create one or more coworking and innovation centers;

(b) extending and improving utilities and broadband service connections to one or more coworking and innovation centers in one or more rural areas; and

(c) purchasing equipment, furniture, and security systems as part of one or more coworking and innovation centers in one or more rural areas.

Section 4. Section 63N-4-504 is enacted to read:**63N-4-504. Requirements for awarding a working hubs grant.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:

(a) the form and process of submitting an application to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining grant amounts; and

(d) the reporting requirements of grant recipients.

(2) In determining the award of a grant, the office may prioritize projects:

(a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;

(b) where an applicant demonstrates comprehensive planning of the project but has

limited access to financial resources, including financial resources from local or county government; and

(c) that maximize economic development opportunities in collaboration with the economic development needs or plans of an educational institution, a county, and a municipality.

(3) Subject to legislative appropriation, a grant may only be awarded by the executive director after consultation with the advisory committee.

(4) A grant may only be awarded under this part:

(a) if the grant recipient agrees to provide any combination of funds, land, buildings, or in-kind work in an amount equal to at least 25% of the grant;

(b) if the grant recipient agrees not to use grant money for the ongoing operation or maintenance of a coworking and innovation center; and

(c) in an amount no more than \$500,000 to a grant applicant.

Section 5. Section 63N-4-505 is enacted to read:

63N-4-505. Rural Online Working Hubs Grant Advisory Committee -- Membership -- Duties -- Expenses.

(1) There is created in the office the Rural Online Working Hubs Grant Advisory Committee, composed of the following seven members:

(a) the executive director, or the executive director's designee;

(b) a member of the Senate, or a member of the House of Representatives, who represents rural constituents, chosen by the president of the Senate;

(c) one member representing municipal government in a rural county, recommended by the Utah League of Cities and Towns and appointed by the executive director;

(d) one member representing rural county government, recommended by the Utah Association of Counties and appointed by the executive director;

(e) one member representing higher education, appointed by the executive director;

(f) one member representing the information technology sector, recommended by the Utah Technology Council and appointed by the executive director; and

(g) one member representing the commercial real estate development community, recommended by the Utah chapter of the Commercial Real Estate Development Association and appointed by the executive director.

(2) The advisory committee shall advise and make recommendations to the office regarding awarding grants under this part.

(3) (a) Except as required by Subsection (3)(b), as terms of advisory committee members appointed by the executive director expire, the executive director

shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of advisory committee members appointed by the executive director are staggered so that approximately half of the appointed advisory committee members are appointed every two years.

(4) The executive director, or the director's designee, shall serve as chair of the advisory committee.

(5) The advisory committee shall elect annually a vice chair from the advisory committee's members.

(6) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.

(7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(8) The office shall provide administrative staff support for the advisory committee.

(9) A member may not receive compensation or benefits for the member's service, but a member, who is not a legislator, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Governor's Office of Economic Development -- Rural Coworking and Innovation Center Grant Program

From General Fund	\$500,000
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Schedule of Programs:

Rural Coworking and Innovation Center Grant Program	\$500,000
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CHAPTER 468**H. B. 349**

Passed March 13, 2019
 Approved March 29, 2019
 Effective May 14, 2019

STATE BUILDINGS AMENDMENTS

Chief Sponsor: Kay J. Christofferson
 Senate Sponsor: David G. Buxton

LONG TITLE**General Description:**

This bill modifies provisions relating to state buildings.

Highlighted Provisions:

This bill:

- ▶ shifts responsibility for prioritizing capital improvements in state buildings from the State Building Board to the Division of Facilities Construction and Management;
- ▶ allows the director of the Division of Facilities Construction and Management to use project reserve funds for emergency capital improvement projects;
- ▶ enacts provisions relating to the Division of Facilities Construction and Management's:
 - prioritization of capital improvement requests from state agencies; and
 - establishing and charging lease rates for state agencies' use and occupancy of state buildings;
- ▶ enacts provisions relating to the establishment of line items for money appropriated to state agencies for lease payments; and
- ▶ repeals obsolete language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63A-5-104, as last amended by Laws of Utah 2017, Chapter 355
 63A-5-209, as last amended by Laws of Utah 2010, Chapter 163
 63B-23-101, as enacted by Laws of Utah 2014, Chapter 113
 63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469
 63J-1-206, as last amended by Laws of Utah 2018, Chapters 415 and 469
 63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

63A-5-228, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development process -- Approval

requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) (i) "Capital developments" means a:

(A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

(B) new facility with a construction cost of \$500,000 or more; or

(C) purchase of real property where an appropriation is requested to fund the purchase.

(ii) "Capital developments" does not include a project described in Subsection (1)(b)(iii).

(b) "Capital improvements" means:

(i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;

(ii) a site or utility improvement with a total cost of less than \$3,500,000;

(iii) a utility infrastructure improvement project that:

(A) has a total cost of less than \$7,000,000;

(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or

(iv) a new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not include:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) The board shall, on behalf of all state agencies [~~and in accordance with Subsection (4)~~],

submit capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the board's capital development recommendations and priorities, the board shall require each state agency that requests an appropriation for a capital development project to:

(i) submit to the board a capital development project request; and

(ii) complete and submit to the board a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project.

(c) The board shall verify the completion and accuracy of a feasibility study that a state agency submits to the board under Subsection (2)(b).

(d) The board shall require that an institution of higher education described in Section 53B-1-102 that submits a request for a capital development project address whether and how, as a result of the project, the institution will:

(i) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(ii) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

(iii) respond to industry demands for trained workers;

(iv) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(v) respond to changing needs in the economy; and

(vi) based on demographics, respond to demands for on-line or in-class instruction.

(e) The board shall give more weight in the board's scoring process to a request that is designated as a higher priority by the State Board of Regents than a request that is designated as a lower priority by the State Board of Regents only when determining the order of prioritization among requests submitted by the State Board of Regents.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the board determines that the requesting state agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the state agency provides to the board a written document, signed by the head of the state agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance to the resulting facility for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance for immediate and future capital improvements to the resulting facility; and

(iii) the board determines that the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

~~[(4) (a) (i) On or before January 15 of each year, the board shall, on behalf of all state agencies, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.]~~

~~[(ii) The board shall ensure that the list identifies:]~~

~~[(A) a single project that costs more than \$1,000,000;]~~

~~[(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;]~~

~~[(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;]~~

~~[(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;]~~

~~[(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000;]~~

~~[(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and]~~

~~[(G) projects approved under Subsection (1)(b)(iii).]~~

~~[(b) Unless otherwise directed by the Legislature, the board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.]~~

~~[(c) In prioritizing capital improvements, the board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.]~~

~~[(d) In prioritizing capital improvements, the board shall allocate at least 80% of the funds that~~

~~the Legislature appropriates for capital improvements to:]~~

~~[(i) projects that address:]~~

~~[(A) a structural issue;]~~

~~[(B) fire safety;]~~

~~[(C) a code violation; or]~~

~~[(D) any issue that impacts health and safety;]~~

~~[(ii) projects that upgrade:]~~

~~[(A) an HVAC system;]~~

~~[(B) an electrical system;]~~

~~[(C) essential equipment;]~~

~~[(D) an essential building component; or]~~

~~[(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or]~~

~~[(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.]~~

~~[(e) In prioritizing capital improvements, the board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:]~~

~~[(i) remodeling and aesthetic upgrades to meet state programmatic needs; or]~~

~~[(ii) construct an addition to an existing building or facility.]~~

~~[(f) The board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.]~~

~~[(g) The board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$3,500,000 or more, if:]~~

~~[(i) the capital improvement project is a project described in Subsection (1)(b)(iii); and]~~

~~[(ii) the Legislature has not refused to fund the project with capital improvement funds.]~~

~~[(h) In prioritizing and allocating capital improvement funding, the State Building Board shall comply with the requirement in Subsection 63B-23-101(2)(f).]~~

~~[(5) (4) The Legislature may authorize:~~

~~(a) the total square feet to be occupied by each state agency; and~~

~~(b) the total square feet and total cost of lease space for each agency.~~

~~[(6) (5) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:~~

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

~~[(7)]~~ (6) (a) Except as provided in Subsection ~~[(7)]~~ (6)(b), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit or a General Fund budget deficit as those terms are defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

~~[(8)]~~ (7) (a) The Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(b) An agency is required to receive approval from the board before the agency begins programming for a new facility that requires legislative approval under Subsection (3).

(c) The board or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection ~~[(8)]~~ (7)(a).

~~[(9)]~~ (8) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, after the Legislature approves capital development and capital improvement priorities under this section and Section 63A-5-228, if an emergency arises that creates an unforeseen and critical need for a capital improvement project, the board may reallocate capital improvement funds to address the project.

(b) The board shall report any changes the board makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

~~[(10)]~~ (a) ~~The board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.~~

~~[(b) The board shall ensure that the rule:]~~

~~[(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and]~~

~~[(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.]~~

~~[(11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.]~~

~~[(12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.]~~

~~[(b) The board may modify the requirement described in Subsection (12)(a) if the board determines that a different allocation of capital improvements funds is in the best interest of the state.]~~

Section 2. Section 63A-5-209 is amended to read:

63A-5-209. Building appropriations supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.

(1) The director shall:

(a) (i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated when more than one project is included in any single appropriation without legislative directive;

(b) (i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii) (A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5-211 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) which may be over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2) (a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) 4-1/2% to 6-1/2% for new construction; and

- (i) 6% to 9-1/2% for remodeling projects.
- (b) The director shall hold the statewide contingency funds to cover:
 - (i) costs of change orders; and
 - (ii) unforeseen, necessary costs beyond those specifically budgeted for the project.
- (c) (i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.
 - (ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.
- (3) (a) The director shall hold in a separate reserve those state appropriated funds accrued through bid savings and project residual as a project reserve.
 - (b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:
 - (i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5-104; and
 - (ii) bid savings and project residual from a capital development project, as defined in Section 63A-5-104.
 - (c) The State Building Board may authorize the use of project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:
 - (i) approved under Section 63A-5-104; and
 - (ii) for which funds are not allocated.
 - (d) The director may:
 - (i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project; ~~and~~
 - (ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget~~;~~; and
 - (iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.
 - (e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:
 - (i) an authorization under Subsection (3)(c); or
 - (ii) a transfer under Subsection (3)(d).
 - (f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building

- needs, including the cost of administering building projects.
 - (4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.
 - (5) (a) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.
 - (b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.
 - (c) Funds from appropriations for any state building or facility of which any part is derived from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds, may not be set aside.
- Section 3. Section 63A-5-228 is enacted to read:**
- 63A-5-228. Capital improvement projects.**
- (1) As used in this section:
 - (a) "Building board" means the State Building Board created under Section 63A-5-101.
 - (b) "Capital improvement" means:
 - (i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;
 - (ii) a site or utility improvement with a total cost of less than \$3,500,000;
 - (iii) a utility infrastructure improvement project that:
 - (A) has a total cost of less than \$7,000,000;
 - (B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and
 - (C) the division determines is more cost effective or feasible to be completed as a single project; or
 - (iv) a new facility with a total construction cost of less than \$500,000.
 - (c) "Capital improvements list" means the list that the division is required to submit to the Legislature under Subsection (2)(a).
 - (2) (a) (i) On or before January 15 of each year, the division shall, on behalf of all state agencies, submit a list of anticipated capital improvement requirements to the Legislature.

(ii) The division shall ensure that the capital improvements list identifies:

(A) each single project that costs more than \$1,000,000;

(B) each multiple project within a single building or facility that collectively costs more than \$1,000,000;

(C) each single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(D) each multiple project within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(E) each single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000;

(F) each multiple project within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

(G) each project described in Subsection (1)(b)(iii).

(b) Unless otherwise directed by the Legislature, the division shall prioritize capital improvements on the capital improvements list up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the division shall consider the results of facility evaluations completed by an architect or engineer as stipulated by the building board's facilities maintenance standards.

(d) In prioritizing capital improvements, the division shall allocate at least 90% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

(D) any issue that impacts health and safety;

(ii) projects that upgrade:

(A) an HVAC system;

(B) an electrical system;

(C) essential equipment;

(D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) In prioritizing capital improvements, the division may not allocate more than 10% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(f) The division may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(g) The division may provide capital improvement funding to a single project or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$3,500,000 or more, if:

(i) the capital improvement project is a project described in Subsection (1)(b)(iii); and

(ii) the Legislature has not refused to fund the project with capital improvement funds.

(h) In prioritizing and allocating capital improvement funding, the division shall comply with the requirement in Subsection 63B-23-101(2)(f).

(i) In developing the capital improvement list and priorities, the division shall require each state agency that requests an appropriation for a capital improvement project to:

(i) submit a capital improvement project request; and

(ii) complete and submit a project scoping document.

(j) A project scoping document under Subsection (2)(i)(ii) shall address:

(i) the need for the capital improvement project; and

(ii) the appropriateness of the scope of the capital improvement project.

(k) The division shall verify the completion and accuracy of a project scoping document that a state agency submits under Subsection (2)(i)(ii).

(3) (a) Beginning July 1, 2020, the division shall implement a program to charge state agencies, except institutions included within the state system of higher education under Section 53B-1-102, lease payments for the agency's use and occupancy of space within a building.

(b) Before July 1, 2020, the division shall:

(i) conduct a market analysis of market lease rates for comparable space in buildings comparable to division-owned buildings; and

(ii) establish lease rates for an agency's use and occupancy of a division-owned building.

(c) The lease rates shall be:

(i) consistent with market rates for comparable space in comparable buildings;

(ii) calculated to cover:

(A) an amortized amount for capital replacement;

(B) an amount for capital improvements; and

(C) operation and maintenance costs; and

(iii) in proportion to legislative appropriations.

(d) In making appropriations to cover lease payments under this Subsection (3), the Legislature shall create a line item, as defined in Section 63J-1-102, for each agency to fund the lease payments.

Section 4. Section 63B-23-101 is amended to read:

63B-23-101. Revenue bond authorizations -- Board of Regents.

(1) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Lassonde Living Center;

(b) the University of Utah use student fees and rents as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) is \$45,238,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university shall plan, design, and construct the Lassonde Living Center subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, except as provided in Subsection (2)(f), other than appropriations of the Legislature, to finance the cost of replacing the University of Utah's utility distribution infrastructure;

(b) the University of Utah impose a power bill surcharge as the primary revenue source for the repayment of any obligation created under authority of this Subsection (2);

(c) the maximum amount of revenue bonds or evidences of indebtedness authorized by this

Subsection (2) is \$32,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not mature later than 10 years after the date of issuance;

(e) the university shall plan, design, and construct the University of Utah's replacement utility distribution infrastructure subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management; and

(f) until July 1, 2024, the [~~Utah State Building Board~~] Division of Facilities Construction and Management annually allocate up to \$1,500,000 of the capital improvement funding allocation given to the University of Utah under Section [~~63A-5-104~~] 63A-5-228 to be used to pay the debt service on the bonds authorized under this Subsection (2).

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection [~~63A-5-104(4)(h)~~] 63A-5-228(2)(h), relating to prioritizing and allocating capital improvement funding, is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource Development Coordinating Committee," is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.";

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(19) Section 63N-2-512 is repealed on July 1, 2021.

(20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

(22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 6. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsection (2)(b), [(3)] (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection (2)(c)(ii) and Subsection (2)(c)(iii), an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, division, or line item only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.

(iii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.

(iv) If the money appropriated to an agency to pay lease payments under the program established in Subsection 63A-5-228(3) exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

Section 7. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(6) The primary care grant program created in Section 26-10b-102.

(7) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(8) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(11) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b).

(12) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(13) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(14) The Utah National Guard, created in Title 39, Militia and Armories.

(15) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(16) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(17) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(18) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(19) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(20) The State Board of Education, as provided in Section 53F-2-205.

(21) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(22) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(23) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(24) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(25) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(26) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

(27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(29) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(30) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

(31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(32) The Traffic Noise Abatement Program created in Section 72-6-112.

(33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(34) A state rehabilitative employment program, as provided in Section 78A-6-210.

(35) The Utah Geological Survey, as provided in Section 79-3-401.

(36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(38) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

(39) The program established by the Division of Facilities Construction and Management under Subsection 63A-5-228(3) under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

CHAPTER 469**H. B. 353**

Passed March 13, 2019
 Approved March 29, 2019
 Effective May 14, 2019

**REDUCTION OF SINGLE OCCUPANCY
VEHICLE TRIPS PILOT PROGRAM**

Chief Sponsor: Joel K. Briscoe
 Senate Sponsor: Curtis S. Bramble
 Cosponsor: Suzanne Harrison

LONG TITLE**General Description:**

This bill modifies provisions related to reducing single occupancy vehicle trips.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a pilot project;
- ▶ requires the division to contract with an entity to administer the program;
- ▶ outlines the duties of the division;
- ▶ includes a repeal date;
- ▶ provides for nonlapsing funds; and
- ▶ requires reporting.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to Department of Environmental Quality -- Trip Reduction Program, as a one-time appropriation:
 - from the General Fund, One-time, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 63I-1-219, as last amended by Laws of Utah 2018, Chapter 31
- 63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469
- 63J-1-602.2, as repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

19-2a-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2a-104 is enacted to read:**19-2a-104. Air quality -- Trip reduction.**

(1) As used in this section:

(a) "Division" means the Division of Air Quality created in Section 19-1-105.

(b) "Program" means the Trip Reduction Program created by this section.

(2) (a) In accordance with this section, beginning May 14, 2019, the division shall administer a three year pilot program ending June 30, 2022.

(b) The division shall use money appropriated by the Legislature or donated from a public or private entity, that is treated as dedicated credits, to fund the following to address reducing motor vehicle emissions' contribution to inversions by:

(i) determining an alternative transportation and work day;

(ii) designating the geographic area that is subject to an alternative transportation and work days;

(iii) funding alternative transportation and work days; and

(iv) pay the administrative costs of the fund.

(3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the division shall, through a request for proposals, contract with an entity to serve as the administrator of the program.

(b) The division shall:

(i) in accordance with Subsection (4), determine when to designate:

(A) specific days as alternative transportation and work days; and

(B) the geographic area covered by the specified alternative transportation and work days;

(ii) work with public and private entities to promote the specified days as alternative transportation and work days;

(iii) encourage trip reductions through use of public transportation, car pooling, teleworking, or other methods; and

(iv) analyze the impact of actions taken under this section.

(4) The division shall analyze:

(a) atmospheric and meteorological information to determine when to implement an alternative transportation and work days; and

(b) public transit ridership, vehicles on the roads, and the general benefits of the program.

(5) The division shall report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee during the 2020 interim about the results of the actions taken under this section.

Section 2. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2019.

(2) Section 19-2a-104 is repealed July 1, 2022.

~~(2)~~ (3) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

~~(3)~~ (4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

~~(4)~~ (5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

~~(45)~~ (6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

~~(46)~~ (7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

~~(47)~~ (8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

~~(48)~~ (9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

~~(49)~~ (10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

~~(409)~~ (11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

~~(44)~~ (15) (a) Subsection 63J-1-602.1(51), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(51), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(45)~~ (16) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

~~(46)~~ (17) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

~~(47)~~ (18) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

~~(48)~~ (19) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection ~~[(48)]~~ (19)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections ~~[(49)]~~ (19)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

~~[(49)]~~ (20) Section 63N-2-512 is repealed on July 1, 2021.

~~[(20)]~~ (21) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection ~~[(20)]~~ (21)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

~~[(21)]~~ (22) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

~~[(22)]~~ (23) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

~~[(23)]~~ (24) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(24)]~~ (25) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.

Section 4. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and its committees.

(2) The Percent-for-Art Program created in Section 9-6-404.

(3) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(4) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(5) The Trip Reduction Program created in Section 19-2a-104.

~~[(5)]~~ (6) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

~~[(6)]~~ (7) The primary care grant program created in Section 26-10b-102.

~~[(7)]~~ (8) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

~~[(8)]~~ (9) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

~~[(9)]~~ (10) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

~~[(10)]~~ (11) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

~~[(11)]~~ (12) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(7)(a)(ii) or (b).

~~[(12)]~~ (13) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

~~[(13)]~~ (14) A new program or agency that is designated as nonlapsing under Section 36-24-101.

~~[(14)]~~ (15) The Utah National Guard, created in Title 39, Militia and Armories.

~~[(15)]~~ (16) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

~~[(16)]~~ (17) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

~~[(17)]~~ (18) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

~~[(18)]~~ (19) The State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

~~[(19)]~~ (20) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

~~[(20)]~~ (21) The State Board of Education, as provided in Section 53F-2-205.

~~[(21)]~~ (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

{22} (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

{23} (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

{24} (25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

{25} (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

{26} (27) The Utah Science Technology and Research Initiative created in Section 63M-2-301.

{27} (28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

{28} (29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

{29} (30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

{30} (31) The University of Utah Poison Control Center program, as provided in Section 69-2-5.5.

{31} (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

{32} (33) The Traffic Noise Abatement Program created in Section 72-6-112.

{33} (34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

{34} (35) A state rehabilitative employment program, as provided in Section 78A-6-210.

{35} (36) The Utah Geological Survey, as provided in Section 79-3-401.

{36} (37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

{37} (38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

{38} (39) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Environmental Quality -- Trip Reduction Program

From General Fund, One-time	\$500,000
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Schedule of Programs:

Trip Reduction Program	\$500,000
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CHAPTER 470
H. B. 357

Passed March 13, 2019
Approved March 29, 2019
Effective May 14, 2019

**VOLUNTARY WOOD BURNING
CONVERSION PROGRAM**

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Todd Weiler
Cosponsors: Steve Eliason
Joel Ferry
Francis D. Gibson
Stephen G. Handy
Suzanne Harrison
Lee B. Perry
Mike Schultz
Steve Waldrip
Christine F. Watkins
Mike Winder

LONG TITLE

General Description:

This bill addresses wood burning.

Highlighted Provisions:

This bill:

- ▶ modifies the type of wood burning for conversions;
- ▶ modifies the requirements to be eligible for the conversion program;
- ▶ directs the division to give preference to applicants for conversions who meet certain criteria; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2019:

- ▶ to the Department of Environmental Quality -- Air Quality -- Air Quality as a one-time appropriation:
 - from the General Fund, One-time, \$5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-107.5, as last amended by Laws of Utah 2017, Chapter 320

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2-107.5 is amended to read:

19-2-107.5. Solid fuel burning.

(1) The division shall create a ~~[(a)]~~ public awareness campaign, in consultation with representatives of the solid fuel burning industry, the healthcare industry, and members of the clean air community, on best wood burning practices and the effects of wood burning on air quality, specifically targeting nonattainment areas ~~[,] and~~.

~~[(b)]~~ (2) (a) Subject to Subsection (2)(b), the division shall create a program to assist an individual to convert a dwelling to a natural gas,

propane, ~~[or wood pellet heating source or a wood burning stove certified by the United States Environmental Protection Agency,] or electric heating source, as funding allows, if the individual~~ ~~[(i)]~~ lives in a dwelling where [a] wood burning ~~[stove] is the sole or secondary source of heat~~ ~~[,] and~~.

~~[(ii)]~~ is on the list of registered sole heating source homes.]

(b) In creating the program described in Subsection (2)(a), the division shall give preference to applicants who:

- (i) have an adjusted gross household income of 250% or less of the federal poverty level;
- (ii) live in a house where wood is the sole or supplemental source of heating; or
- (iii) live within six miles of the Great Salt Lake Base and Meridian.

~~[(2)]~~ (3) (a) The division may not impose a burning ban prohibiting burning during a specified seasonal period of time.

(b) Notwithstanding Subsection ~~[(2)]~~ (3)(a), the division shall:

- (i) allow burning:
 - (A) during local emergencies and utility outages; or
 - (B) if the primary purpose of the burning is to cook food; and
- (ii) provide for exemptions, through registration with the division, for:
 - (A) devices that are sole sources of heat; or
 - (B) locations where natural gas service is limited or unavailable.

~~[(3)]~~ (4) The division may seek private donations and federal sources of funding to supplement any funds appropriated by the Legislature to fulfill Subsection ~~[(4)(b)]~~ (2).

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Environmental Quality -- Air Quality

From General Fund, One-time	\$5,000,000
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Schedule of Programs:

Air Quality	\$5,000,000
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The Legislature intends that this appropriation pay for the conversion of wood stoves and fireplaces as provided in Section 19-2-107.5. Under Section

63J-1-603 the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to conversion of wood stoves and fireplaces as provided in Section 19-2-107.5.

CHAPTER 471**H. B. 411**

Passed March 14, 2019
 Approved March 29, 2019
 Effective May 14, 2019

COMMUNITY RENEWABLE ENERGY ACT

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Daniel Hemmert
 Cosponsors: Patrice M. Arent
 Stewart E. Barlow
 Walt Brooks
 Tim Quinn
 Angela Romero
 Douglas V. Sagers
 V. Lowry Snow
 Jeffrey D. Stenquist
 Elizabeth Weight

LONG TITLE**General Description:**

This bill enacts the Community Renewable Energy Act in the Public Utilities Code.

Highlighted Provisions:

This bill:

- ▶ enacts the Community Renewable Energy Act;
- ▶ defines terms and program requirements under the act;
- ▶ outlines the role and rulemaking authority of the Utah Public Service Commission in approving a community renewable energy program under the act;
- ▶ establishes and clarifies options for customer participation and nonparticipation in programs under the act;
- ▶ provides an initial opt-out period for a participating customer to elect to leave the community renewable energy program without penalty;
- ▶ establishes procedures concerning rates, customer billing, and renewable energy resource acquisition under the act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

54-17-901, Utah Code Annotated 1953
 54-17-902, Utah Code Annotated 1953
 54-17-903, Utah Code Annotated 1953
 54-17-904, Utah Code Annotated 1953
 54-17-905, Utah Code Annotated 1953
 54-17-906, Utah Code Annotated 1953
 54-17-907, Utah Code Annotated 1953
 54-17-908, Utah Code Annotated 1953
 54-17-909, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-17-901 is enacted to read:**Part 9. Community Renewable Energy Act**
54-17-901. Community Renewable Energy Act.

This part is known as the “Community Renewable Energy Act.”

Section 2. Section 54-17-902 is enacted to read:**54-17-902. Definitions.**

As used in this part:

(1) (a) “Auxiliary services” means those services necessary to safely and reliably:

(i) interconnect and transmit electric power from any renewable energy resource constructed or acquired for a community renewable energy program; and

(ii) integrate and supplement electric power from any renewable energy resource.

(b) “Auxiliary services” shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.

(2) “Commission” means the Public Service Commission created in Section 54-1-1.

(3) “Community renewable energy program” means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more renewable energy resources to a participating customer within a participating community.

(4) “County” means the unincorporated area of a county.

(5) “Division” means the Division of Public Utilities created in Section 54-4a-1.

(6) (a) “Initial opt-out period” means the period of time immediately after the community renewable energy program’s commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.

(b) “Initial opt-out period” may not be shorter than three typical billing cycles of the qualified utility.

(7) “Municipality” means a city or a town as defined in Section 10-1-104.

(8) “Office” means the Office of Consumer Services created in Section 54-10a-101.

(9) “Ongoing costs” means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.

(10) “Participating community” means a municipality or a county:

(a) whose residents are served by a qualified utility; and

(b) the municipality or county meets the requirements in Section 54-17-903.

(11) "Participating customer" means:

(a) a customer of a qualified utility located within the boundary of a municipality or county where a community renewable energy program has been approved by the commission; and

(b) the customer has not exercised the right to not participate in the community renewable energy program as provided in Section 54-17-905.

(12) "Qualified utility" means the same as that term is defined in Section 54-17-801.

(13) "Renewable electric energy supply" means incremental renewable energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.

(14) "Renewable energy resource" means:

(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:

(i) wind;

(ii) solar photovoltaic or thermal solar technology;

(iii) a geothermal resource; or

(iv) a hydroelectric plant; or

(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:

(i) increases efficient energy usage;

(ii) is capable of being used for demand response; or

(iii) facilitates the use and development of renewable generation resources through electrical grid management or energy storage.

(15) "Replaced asset" means an existing thermal energy resource:

(a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's customers, including customers within a participating community;

(b) that was built or acquired prior to commission approval and the effective date of the community renewable energy program; and

(c) to the extent the asset is no longer used to serve participating customers.

Section 3. Section 54-17-903 is enacted to read:

54-17-903. Program requirement for a municipality or county.

(1) Customers of a qualified utility may be served by the community renewable energy program described in this part if the municipality or county satisfies the requirements of Subsection (2).

(2) The municipality or county in which the customer resides shall:

(a) adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030;

(b) enter into an agreement with a qualified utility:

(i) with the stipulation of payment by the municipality or county to the qualified utility for the costs of:

(A) third-party expertise contracted for by the division and the office, for assistance with activities associated with initial approval of the community renewable energy program; and

(B) providing notice to the municipality's or county's customers as provided in Section 54-17-905;

(ii) determining the obligation for the payment of any termination charges under Subsection 54-17-905(3) that are not paid by a participating customer and not included in participating customer rates under Subsections 54-17-904 (2) and (4); and

(iii) identifying any initially proposed replaced asset;

(c) adopt a local ordinance that:

(i) establishes participation in the renewable energy program; and

(ii) is consistent with the terms of the agreement entered into with the qualified utility under Subsection (2)(b); and

(d) comply with any other terms or conditions required by the commission.

(3) The local ordinance required in Subsection (2)(c) shall be adopted by the municipality or county within 90 days after the date of the commission order approving the community renewable energy program.

Section 4. Section 54-17-904 is enacted to read:

54-17-904. Authority of commission to approve a community renewable energy program.

(1) After the commission has adopted administrative rules as required under Section 54-17-909, a qualified utility may file an application with the commission for approval of a community renewable energy program.

(2) The application shall include:

(a) the names of each municipality and county to be served by the community renewable energy program;

(b) a map of the geographic boundaries of each municipality and county;

(c) the number of customers served by the qualified utility within those boundaries;

(d) projected rates for participating customers that take into account:

(i) the estimated number of customers expected to participate in the program;

(ii) the quantifiable costs and benefits to the qualified utility and all of the qualified utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility, including as applicable:

(A) replaced assets;

(B) auxiliary services; and

(C) new renewable energy resources used to serve the community renewable energy program; and

(iii) the ongoing costs at the time of the application;

(e) the agreement entered into with the qualified utility under Section 54-17-903;

(f) a proposed plan established by the participating community addressing low-income programs and assistance;

(g) a proposed solicitation process for the acquisition of renewable energy resources as provided in Section 54-17-908; and

(h) any other information the commission may require by rule.

(3) The commission may approve an application for a community renewable energy program if the commission finds:

(a) the application meets all of the requirements in this section and administrative rules adopted by the commission in accordance with Sections 54-17-908 and 54-17-909 to implement this part; and

(b) the community renewable energy program is in the public interest.

(4) The rates approved by the commission for participating customers:

(a) shall be based on the factors included in Subsection (2)(d) and any other factor determined by the commission to be in the public interest;

(b) may not result in any shift of costs or benefits to any nonparticipating customer, or any other customer of the qualified utility beyond the participating community boundaries; and

(c) shall take into account any quantifiable benefits to the qualified utility, and the qualified utility's customers, including participating customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's costs of service.

(5) (a) Each municipality or county included in the application shall be a party to the regulatory proceeding.

(b) A municipality or county identified in the application shall provide information to all relevant parties in accordance with the commission's rules for discovery, notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act.

(6) The community renewable energy program may not be implemented until after the municipality or county adopts the ordinance required in Section 54-17-903.

Section 5. Section 54-17-905 is enacted to read:

54-17-905. Customer participation -- Election not to participate.

(1) (a) After commission approval of a community renewable energy program and adoption of the ordinance by the participating community as required in Section 54-17-903, a qualified utility shall provide notice to each of its customers within the participating community that includes:

(i) the projected rates and terms of participation in the community renewable energy program approved by the commission;

(ii) an estimated comparison to otherwise applicable existing rates;

(iii) an explanation that the customer may elect to not participate in the community renewable energy program by notifying the qualified utility; and

(iv) any other information required by the commission.

(b) The qualified utility shall provide the notice required under Subsection (1)(a) to each customer:

(i) no less than twice within the period of 60 days immediately preceding the date required to opt out of the community renewable energy program; and

(ii) separately from the customer's monthly billing.

(c) The qualified utility shall provide the information required under Subsection (1)(a) in person to each customer with an electric load of one megawatt or greater measured at a single meter.

(2) (a) An existing customer of the qualified utility may elect to not participate in the community renewable energy program and continue to pay applicable existing rates by giving notice to the qualified utility in the manner and within the time period determined by the commission.

(b) After implementation of the community renewable energy program:

(i) a customer that previously elected not to participate in the program may become a participating customer as allowed by commission rules and by giving notice to the qualified utility in the manner required by the commission; and

(ii) a customer of the qualified utility that begins taking electric service within a participating community after the date of implementation of the community renewable energy program shall:

(A) be given notice as determined by the commission; and

(B) shall become a participating customer unless the person elects not to participate by giving notice to the qualified utility in the manner and within the time period determined by the commission.

(3) (a) A customer that does not opt out of the community renewable energy program under Subsection (2) may later discontinue participation in the community renewable energy program as allowed by the commission as described in Subsection (3)(b) or (c).

(b) (i) During the initial opt-out period, a participating customer may elect to leave the program by giving notice to the qualified utility in the manner determined by the commission.

(ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not subject to a termination charge.

(c) After the community renewable energy program's initial opt-out period, a participating customer may elect to leave the program by:

(i) giving notice to the qualified utility in the manner determined by the commission; and

(ii) paying a termination charge as determined by the commission that may include the cost of renewable energy resources acquired or constructed for the community renewable energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.

(4) (a) A customer of a qualified utility that is annexed into the boundaries of a participating community after the effective date of the community renewable energy program shall be given notice as provided in Subsection (1) advising the customer of the option to opt out of the program.

(b) A participating customer located in a portion of a county that is annexed into a municipality that is not a participating community shall continue to be included in the renewable energy program if the customer remains a customer of the qualified utility.

(c) If a participating customer is annexed into a municipality that provides electric service to the municipality's residents:

(i) the customer may continue to be served by the qualified utility under the community renewable energy program if the qualified utility enters into an agreement with the municipality under Section 54-3-30; or

(ii) the municipality shall pay the termination charge for each participating customer that is no longer served by the qualified utility.

(5) A residential customer that is participating in the net metering program under Title 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this part.

(6) (a) The cost of providing notice under Subsection (1) shall be paid by the participating communities.

(b) All other notices required under this section shall be paid for as program costs and recovered through participating customers' rates.

Section 6. Section 54-17-906 is enacted to read:

54-17-906. Customer billing.

The qualified utility shall:

(1) include information on its monthly bills to participating customers identifying the community renewable energy program cost; and

(2) provide notice to participating customers of any change in rate for participation in the community renewable energy program.

Section 7. Section 54-17-907 is enacted to read:

54-17-907. Rate adjustment filing -- Modification of rates for participating customers.

(1) (a) The qualified utility may make a rate adjustment filing, not more than annually, with the commission to adjust rates for participating customers to reflect any changes in the quantifiable costs and benefits of the community renewable energy program.

(b) The rate adjustment filing may not include any changes to ongoing costs.

(2) The commission shall determine the content and filing requirements for the filing by administrative rules as described in Section 54-17-909.

(3) The commission shall determine rate changes which shall become effective within 90 days after the date of the filing, unless otherwise determined by the commission for good cause.

Section 8. Section 54-17-908 is enacted to read:

54-17-908. Acquisition of renewable energy resources.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules outlining a competitive solicitation process for the acquisition of renewable assets acquired by the qualified utility for purposes of this act.

(2) The solicitation rules shall include the following provisions:

(a) solar photovoltaic or thermal solar energy facilities may be acquired under the provisions of Section 54-17-807;

(b) renewable energy resources developed under this part shall be constructed or acquired subject to an option by the qualified utility to own the renewable energy resource so long as including the option in a solicitation is in the interest of

participating customers and other customers of the qualified utility; and

(c) any other requirement determined by the commission to be in the public interest.

(3) Upon completion of a solicitation under this section and the rules adopted by the commission to implement this section, the commission may approve cost recovery for a renewable energy resource for the community renewable energy program if approval of the renewable energy resource:

(a) complies with the provisions of this part;

(b) does not result in shifting of costs or benefits to other customers of the qualified utility; and

(c) is in the public interest.

Section 9. Section 54-17-909 is enacted to read:

54-17-909. Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to implement this part, including:

(1) establishing the initial opt-out period;

(2) the terms and conditions of the agreement under Section 54-17-903;

(3) the content and filing of an application under Section 54-17-904;

(4) the notice requirements under Section 54-17-905;

(5) the standards for determining when a termination charge is applicable and the amount and timing of a termination charge under Subsection 54-17-905(3);

(6) the content and filing requirements for the annual filing under Subsection 54-17-907(2);

(7) the solicitation requirements under Section 54-17-908; and

(8) any other requirements determined by the commission necessary to protect the public interest and to implement this part.

CHAPTER 472**H. B. 415**

Passed March 14, 2019
 Approved March 29, 2019
 Effective May 14, 2019

**LOCAL LAW ENFORCEMENT STRUCTURE
AND GOVERNANCE AMENDMENTS**

Chief Sponsor: Paul Ray
 Senate Sponsor: Don L. Ipson

LONG TITLE**General Description:**

This bill prohibits a municipality from establishing a board or committee with certain powers over a police chief.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality from establishing a board or committee with certain powers over a police chief;
- ▶ establishes limitations on a municipality's power to establish a board or committee that relates to the provision of law enforcement services; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 10-3-910, as enacted by Laws of Utah 1977, Chapter 48
 10-3-913, as last amended by Laws of Utah 2017, Chapter 459
 10-3-918, as last amended by Laws of Utah 2003, Chapter 292

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-910 is amended to read:**10-3-910. Heads of departments and subordinate officers.**

(1) The administration of the police and fire departments shall consist of a chief of [the] each department and [such] other officers, members, employees and agents [as the board of commissioners may by ordinance prescribe, and the board of commissioners] as provided by ordinance or statute.

(2) The [shall appoint the] heads of [such] the police and fire departments shall be appointed in accordance with Title 10, Chapter 3b, Forms of Municipal Government.

Section 2. Section 10-3-913 is amended to read:**10-3-913. Authority of chief of police -- Oversight.**

(1) The chief of police has the same authority as the sheriff within the boundaries of the

municipality of appointment. The chief has authority to:

(a) suppress riots, disturbances, and breaches of the peace;

(b) apprehend all persons violating state laws or city ordinances;

(c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons;

(d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions; and

(e) create a child protection unit, as defined in Section 62A-4a-101.

(2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.

(3) The chief of police shall[~~on or before January 1, 2003,~~] adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

(4) (a) Notwithstanding Sections 10-3-918 and 10-3-919, a municipality may not establish a board, committee, or other entity that:

(i) has authority independent of the chief of police; and

(ii) (A) has authority to overrule a hiring or appointment proposal of the chief of police;

(B) is required to review or approve a police department's rules, regulations, policies, or procedures in order for the rules, regulations, policies, or procedures to take effect;

(C) has authority to veto a new policy, or strike down an existing policy, established under the authority of the chief of police;

(D) is required to review or approve a police department's budget in order for the budget to take effect; or

(E) has authority to review or approve a contract the police department makes with a police union or other organization.

(b) Nothing in this Subsection (4):

(i) limits the authority the Utah Code provides over the chief of police;

(ii) prohibits the municipal council or chief executive officer from taking a lawful action described in Subsection (4)(a)(ii) that is allowed by law; or

(iii) limits the authority of a civil service commission established in accordance with Title 10, Chapter 3, Part 10, Civil Service Commission.

(5) Subject to Subsection (4), a municipality may establish a board, committee, or other entity that relates to the provision of law enforcement services

and that has authority independent of the chief of police if the municipality:

(a) directly appoints the board, committee, or other entity's members; and

(b) provides direct oversight of the board, committee, or other entity.

Section 3. Section 10-3-918 is amended to read:

10-3-918. Chief of police or marshal in a city of the third, fourth, or fifth class or town.

[The] Subject to Subsection 10-3-913(4), the chief of police or marshal in each city of the third, fourth, or fifth class or town:

(1) shall:

(a) exercise and perform the duties that are prescribed by the legislative body;

(b) be under the direction, control, and supervision of the person or body that appointed the chief or marshal; and

(c) [~~on or before January 1, 2003,~~] adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; and

(2) may, with the consent of the person or body that appointed the chief or marshal, appoint assistants to the chief of police or marshal.

CHAPTER 473**H. B. 466**

Passed March 13, 2019

Approved March 29, 2019

Effective July 1, 2019

**FIREFIGHTER
RETIREMENT AMENDMENTS**Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson**LONG TITLE****General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by enacting provisions relating to firefighter retirement funding.

Highlighted Provisions:

This bill:

- ▶ provides definitions; and
- ▶ requires the Utah State Retirement Office to determine and report certain information about state funding of the Firefighters' Retirement System to the governor and Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**ENACTS:**

49-11-903, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-903 is enacted to read:**49-11-903. State appropriation funding offset -- Proportionate share determination and reporting.**

(1) As used in this section:

(a) "Baseline period" means calendar years 2013, 2014, and 2015.

(b) "Premium tax receipts" means the money received by the office under Subsection 49-11-901.5(1) and paid in accordance with Subsections 49-11-901.5(2)(a) and (b).

(c) "State appropriation" means the ongoing state appropriation from the General Fund to the Firefighters Retirement Trust and Agency Fund that offsets the gross expense of the Firefighters' Retirement System.

(2) The office shall make a determination for the Firefighters' Retirement System, as recommended by the actuary and adopted by the executive director, as follows:

(a) determine for the baseline period:

(i) the average annual dollar amount of premium tax receipts;

(ii) the average annual dollar amount of total employer contributions; and

(iii) the proportionate share of total dollar employer contributions funded by premium tax receipts for the baseline period, which is calculated as the average annual dollar amount of premium tax receipts divided by the average annual dollar amount of total employer contributions;

(b) determine for each calendar year, beginning after calendar year 2020, the proportionate share of total dollar employer contributions funded by the state appropriation, which is calculated as the dollar amount of the state appropriation divided by the total dollar employer contributions; and

(c) if the proportionate share for the year exceeds the proportionate share for the baseline period under Subsection (2)(a)(iii), recommend the actuarially determined dollar amount, if any, that the state appropriation may be reduced by in the future to maintain an equivalent proportionate share that is not expected to exceed the proportionate share for the baseline period.

(3) (a) If the determination under Subsection (2)(c) results in recommending a reduction to the state appropriation, the office shall report the dollar amount of the recommended reduction to the governor and Legislature, which may be included in the annual report on contribution rates required under Subsection 49-11-203(1)(h).

(b) If the Legislature reduces the state appropriation, the board's subsequent certified contribution rates for the Firefighters' Retirement System shall include any additional member or employer contributions required to maintain the system on a financially and actuarially sound basis due to the reduced funding offset dollars.

(4) As required to implement this section, the office may make the determinations using actuarial assumptions and methods adopted by the board.

Section 2. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 474**H. B. 495**

Passed March 14, 2019

Approved March 29, 2019

Effective March 29, 2019

(Exception clause in Section 4)

**TAX RESTRUCTURING AND
EQUALIZATION TASK FORCE**Chief Sponsor: Mike Schultz
Senate Sponsor: Daniel Hemmert**LONG TITLE****General Description:**

This bill creates the Tax Restructuring and Equalization Task Force and repeals the Transportation and Tax Review Task Force.

Highlighted Provisions:

This bill:

- ▶ creates the Tax Restructuring and Equalization Task Force; and
- ▶ repeals the Transportation and Tax Review Task Force.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to the Legislature - Senate as a one-time appropriation:
 - from the General Fund, \$48,000.
- ▶ to the Legislature - House of Representatives as a one-time appropriation:
 - from the General Fund, \$48,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a repeal date.

Utah Code Sections Affected:**REPEALS AND REENACTS:**

36-29-103 (Repealed 03/31/20), as enacted by Laws of Utah 2018, Chapter 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-103 (Repealed 03/31/20) is repealed and reenacted to read:**36-29-103 (Repealed 03/31/20). Tax Restructuring and Equalization Task Force.**

(1) As used in this section, "task force" means the Tax Restructuring and Equalization Task Force created in Subsection (2).

(2) There is created the Tax Restructuring and Equalization Task Force consisting of:

(a) the following voting members:

(i) five members from the Senate, appointed by the president of the Senate, with one member from the minority party; and

(ii) five members from the House of Representatives, appointed by the speaker of the House of Representatives, with one member from the minority party; and

(b) the following nonvoting members:

(i) if appointed by the president of the Senate, two members appointed by the president of the Senate who are not legislators, taking into consideration:

(A) recommendations by the governor; and

(B) taxation expertise of a potential appointee; and

(ii) if appointed by the speaker of the House of Representatives, two members appointed by the speaker of the House of Representatives who are not legislators, taking into consideration:

(A) recommendations by the governor; and

(B) taxation expertise of a potential appointee.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a)(i) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a)(ii) as a cochair of the task force.

(4) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force, but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(6) (a) A vacancy shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2).

(b) Each member of the task force shall serve until a successor is appointed and qualified.

(7) (a) A majority of the voting members of the task force constitutes a quorum.

(b) The vote of a majority of the voting members when a quorum is present constitutes the action of the task force.

(8) The task force shall study state and local revenue systems with the purpose of making recommendations to address structural imbalances among revenue sources.

(9) The task force shall solicit public feedback and involvement, including coordination with individuals and entities with taxation expertise.

(10) (a) The task force shall report on the task force's progress and preliminary study findings at:

(i) the first Executive Appropriations Committee meeting after June 1, 2019; and

(ii) the first Revenue and Taxation Interim Committee meeting after June 1, 2019.

(b) The task force shall report study recommendations at:

(i) the first Executive Appropriations Committee meeting after August 1, 2019; and

(ii) the first Revenue and Taxation Interim Committee meeting after August 1, 2019.

(11) The task force shall remain in effect until June 30, 2020.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

<u>From General Fund, One-time</u>	<u>\$48,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$48,000</u>
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ITEM 2

To Legislature - House of Representatives

<u>From General Fund, One-time</u>	<u>\$48,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$48,000</u>
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The Legislature intends that an appropriation provided under these items be used for expenses relating to the Tax Restructuring and Equalization Task Force as described in Section 36-29-103.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 4. Repeal date.

Section 36-29-103 is repealed on June 30, 2020.

CHAPTER 475**S. B. 121**

Passed March 12, 2019
 Approved March 29, 2019
 Effective May 14, 2019

**CONTROLLED BUSINESS
 IN TITLE INSURANCE REPEAL**

Chief Sponsor: Daniel Hemmert
 House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill modifies provisions related to title insurance.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts provisions that govern affiliated business arrangements involving a title entity;
- ▶ with certain exceptions, adopts the federal Real Estate Settlement Procedures Act as the state law governing affiliated business arrangements involving a title entity;
- ▶ provides that the Division of Real Estate shall enforce the provisions of the bill;
- ▶ requires a title entity to submit an annual report to the Division of Real Estate related to the title entity's affiliated business arrangements and capitalization during the previous calendar year;
- ▶ allows the Division of Real Estate to enforce certain provisions of the federal Real Estate Settlement Procedures Act against real estate licensees;
- ▶ repeals existing provisions governing controlled business relationships in the title industry; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

31A-23a-504, as last amended by Laws of Utah 2015, Chapter 330
 61-2f-401, as last amended by Laws of Utah 2018, Chapter 213

ENACTS:

31A-23a-1101, Utah Code Annotated 1953
 31A-23a-1102, Utah Code Annotated 1953
 31A-23a-1103, Utah Code Annotated 1953
 31A-23a-1104, Utah Code Annotated 1953
 31A-23a-1105, Utah Code Annotated 1953
 31A-23a-1106, Utah Code Annotated 1953
 31A-23a-1107, Utah Code Annotated 1953

REPEALS:

31A-23a-503, as last amended by Laws of Utah 2013, Chapter 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-23a-504 is amended to read:**31A-23a-504. Sharing commissions.**

(1) (a) Except as provided in Subsection 31A-15-103(3), a licensee under this chapter or an insurer may only pay consideration or reimburse out-of-pocket expenses to a person if the licensee knows that the person is licensed under this chapter as to the particular type of insurance to act in Utah as:

- (i) a producer;
- (ii) a limited line producer;
- (iii) a consultant;
- (iv) a managing general agent; or
- (v) a reinsurance intermediary.

(b) A person may only accept commission compensation or other compensation as a person described in Subsections (1)(a)(i) through (v) that is directly or indirectly the result of an insurance transaction if that person is licensed under this chapter to act as described in Subsection (1)(a).

(2) (a) Except as provided in Section 31A-23a-501, a consultant may not pay or receive a commission or other compensation that is directly or indirectly the result of an insurance transaction.

(b) A consultant may share a consultant fee or other compensation received for consulting services performed within Utah only:

- (i) with another consultant licensed under this chapter; and
- (ii) to the extent that the other consultant contributed to the services performed.

(3) This section does not prohibit:

(a) the payment of renewal commissions to former licensees under this chapter, former Title 31, Chapter 17, or their successors in interest under a deferred compensation or agency sales agreement;

(b) compensation paid to or received by a person for referral of a potential customer that seeks to purchase or obtain an opinion or advice on an insurance product if:

- (i) the person is not licensed to sell insurance;
- (ii) the person does not sell or provide opinions or advice on the product; and
- (iii) the compensation does not depend on whether the referral results in a purchase or sale; or

(c) the payment or assignment of a commission, service fee, brokerage, or other valuable consideration to an agency or a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an inducement or commission rebate under Section 31A-23a-402 or 31A-23a-402.5.

(4) (a) In selling a policy of title insurance, sharing of commissions under Subsection (1) may not occur if it will result in:

(i) an unlawful rebate; or

~~(ii) compensation in connection with controlled business; or~~

~~(iii)~~ (ii) payment of a forwarding fee or finder's fee.

(b) A person may share compensation for the issuance of a title insurance policy only to the extent that the person contributed to the examination of the title or other services connected with the title insurance policy.

(5) This section does not apply to:

(a) a bail bond producer or bail enforcement agent as defined in Section 31A-35-102 and as described in Subsection 31A-23a-106(2)(c);

(b) a travel retailer registered pursuant to Part 9, Travel Insurance Act; or

(c) a nonlicensed individual employee or authorized representative of a licensed limited line producer who holds one or more of the following limited lines of authority as described in Subsection 31A-23a-106(2)(c):

(i) car rental related insurance;

(ii) self-service storage insurance;

(iii) portable electronics insurance; or

(iv) travel insurance.

Section 2. Section 31A-23a-1101 is enacted to read:

Part 10. Affiliated Business in Title Insurance

31A-23a-1101. Definitions.

As used in this part:

(1) "Affiliated business" means the gross transaction revenue of a title entity's title insurance business in the state that is the result of an affiliated business arrangement.

(2) "Affiliated business arrangement" means the same as that term is defined in 12 U.S.C. Sec. 2602, except the services that are the subject of the arrangement do not need to involve a federally related mortgage loan.

(3) "Applicable percentage" means:

(a) on February 1, 2020, through January 31, 2021, 0.5%;

(b) on February 1, 2021, through January 31, 2022, 1%;

(c) on February 1, 2022, through January 31, 2023, 1.5%;

(d) on February 1, 2023, through January 31, 2024, 2%;

(e) on February 1, 2024, through January 31, 2025, 2.5%;

(f) on February 1, 2025, through January 31, 2026, 3%;

(g) on February 1, 2026, through January 31, 2027, 3.5%;

(h) on February 1, 2027, through January 31, 2028, 4%; and

(i) on February 1, 2028, through January 31, 2029, 4.5%.

(4) "Associate" means the same as that term is defined in 12 U.S.C. Sec. 2602.

(5) "Division" means the Division of Real Estate created in Section 61-2-201.

(6) "Essential function" means:

(a) examining and evaluating, based on relevant law and title insurance underwriting principles and guidelines, title evidence to determine the insurability of a title and which items to include or exclude in a title commitment or title insurance policy to be issued;

(b) preparing and issuing a title commitment or other document that:

(i) discloses the status of the title as the title is proposed to be insured;

(ii) identifies the conditions that must be met before a title insurance policy will be issued; and

(iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)(ii) are met;

(c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the issuance of a title insurance policy;

(d) preparing the issuance of a title insurance policy; or

(e) handling the closing or settlement of a real estate transaction when:

(i) it is customary for a title entity to handle the closing or settlement; and

(ii) the title entity's compensation for handling the closing or settlement is customarily part of the payment or retention from the insurer.

(7) "New or newly affiliated title entity" means a title entity that:

(a) is licensed as a title entity for the first time on or after May 14, 2019; or

(b) (i) is licensed as a title entity before May 14, 2019; and

(ii) enters into an affiliated business arrangement for the first time on or after May 14, 2019.

(8) "Ownership affiliated business arrangement" means an affiliated business arrangement based on a person or a person's affiliate having a direct or beneficial ownership interest of more than 1% in a title entity.

(9) "RESPA" means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

(10) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.

(11) "Sufficient capital and net worth" means:

(a) for a new or newly affiliated title entity:

(i) \$100,000 for the first five years after becoming a new or newly affiliated title entity; or

(ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:

(A) \$50,000; or

(B) on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000; or

(b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:

(i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:

(A) an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage first applies; or

(B) \$150,000; and

(ii) beginning on February 1, 2029, the greater of:

(A) \$50,000; or

(B) an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to \$150,000.

(12) "Title entity" means:

(a) a title licensee as defined in Section 31A-2-402; or

(b) a title insurer as defined in Section 31A-23a-415.

(13) (a) "Title evidence" means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records relevant to the history and current condition of a title to be insured.

(b) "Title evidence" does not include a pro forma commitment.

Section 3. Section 31A-23a-1102 is enacted to read:

31A-23a-1102. Regulation of affiliated business -- Applicable law.

(1) Except as provided in this part, for purposes of state law, Section 8 of RESPA governs an affiliated business arrangement involving a title entity.

(2) The division shall enforce the provisions of this part, including Section 8 of RESPA.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to implement the provisions of this part.

Section 4. Section 31A-23a-1103 is enacted to read:

31A-23a-1103. Affiliated business arrangements.

(1) An affiliated business arrangement between a person and a title entity violates Section 8 of RESPA for purposes of state law if:

(a) the title entity does not have sufficient capital and net worth in a reserve account in the title entity's name; or

(b) more than 70% of the title entity's annual title insurance business is affiliated business on or after the later of:

(i) two years after a title entity begins an affiliated business arrangement; or

(ii) June 1, 2021.

(2) In addition to Subsection (1), the division may find that an affiliated business arrangement between a person and a title entity violates Section 8 of RESPA after evaluating and weighing the following factors in light of the specific facts before the division:

(a) whether the title entity:

(i) is staffed with its own employees to conduct title insurance business;

(ii) manages its own business affairs;

(iii) has a physical office for business that is separate from any associate's office and pays market rent;

(iv) provides the essential functions of title insurance business for a fee, including incurring the risks and receiving the rewards of any comparable title entity; and

(v) performs the essential functions of title insurance business itself;

(b) if the title entity contracts with another person to perform a portion of the title entity's title insurance business, whether the contract:

(i) is with an independent third party; and

(ii) provides payment for the services that bears a reasonable relationship to the value of the services or goods received; and

(c) whether the person from whom the title entity receives referrals under the affiliated business arrangement also sends title insurance business to other title entities.

Section 5. Section 31A-23a-1104 is enacted to read:

31A-23a-1104. Annual affiliated business report.

Before March 1 each year, each title entity shall submit a report to the division that:

(1) contains the following for the preceding calendar year:

(a) the name and address of any associate that owns a financial interest in the title entity;

(b) for each associate identified under Subsection (1)(a), the percentage of the title entity's affiliated business that is the result of an affiliated business arrangement with the associate;

(c) a description of any affiliated business arrangement the title entity has with a person other than an associate identified under Subsection (1)(a);

(d) the percentage of the title entity's annual title insurance business that is affiliated business;

(e) proof of sufficient capital and net worth; and

(f) any other information required by the division by rule;

(2) is certified by an officer of the title entity that the information contained in the report is true to the best of the officer's knowledge, information, and belief.

Section 6. Section 31A-23a-1105 is enacted to read:

31A-23a-1105. Investigations.

(1) To enforce the provisions of this part, including Section 8 of RESPA, the division may conduct a public or private investigation within or outside of the state as the division considers necessary to determine whether a person has violated a provision of this part, including Section 8 of RESPA.

(2) For the purpose of an investigation described in Subsection (1), the division may:

(a) administer an oath or affirmation;

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

(3) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

Section 7. Section 31A-23a-1106 is enacted to read:

31A-23a-1106. Disciplinary action.

(1) Subject to the requirements of Section 31A-23a-1107, the division may impose a sanction described in Subsection (2) against a person if the person is:

(a) a title entity or a person previously licensed as a title entity for an act the person committed while licensed; and

(b) violates a provision of this part, including Section 8 of RESPA.

(2) The division may, against a person described in Subsection (1):

(a) impose an educational requirement;

(b) impose a civil penalty in an amount not to exceed \$5,000 for each violation;

(c) do any of the following to a title entity:

(i) suspend;

(ii) revoke; or

(iii) place on probation;

(d) issue a cease and desist order; and

(e) impose any combination of sanctions described in this Subsection (2).

(3) (a) If the presiding officer in a disciplinary action under this part issues an order that orders a fine as part of a disciplinary action against a person, including a stipulation and order, the presiding officer shall state in the order the deadline, that is no more than one year after the day on which the presiding officer issues the order, by which the person shall comply with the fine.

(b) If a person fails to comply with a stated deadline:

(i) the person's license is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) The division may delegate to an administrative law judge the authority to conduct a hearing under this part.

Section 8. Section 31A-23a-1107 is enacted to read:

31A-23a-1107. Adjudicative proceedings -- Review -- Coordination with department.

(1) (a) Before an action described in Section 31A-23a-1106 may be taken, the division shall:

(i) give notice to the person against whom the action is brought; and

(ii) commence an adjudicative proceeding.

(b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the presiding officer determines that a title entity has violated a provision of this part, including Section 8 of RESPA, the division may take an action described in Section 31A-23a-1106 by written order.

(2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, a person against whom action is taken under this part may seek review of the action by the executive director of the Department of Commerce.

(3) If a person prevails in a judicial appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to that individual or entity as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(4) (a) An order issued under this section takes effect 30 days after the service of the order unless otherwise provided in the order.

(b) If a person appeals an order issued under this section, the division may stay enforcement of the order in accordance with Section 63G-4-405.

(5) (a) Except as provided in Subsection (5)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) The division may commence a disciplinary action under this part after the time period described in Subsection (5)(a) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (5)(a).

(6) (a) Within two business days after the day on which a presiding officer issues an order under this part that suspends or revokes a title entity's license, the division shall deliver written notice to the department that states the action the presiding officer ordered against the title entity's license.

(b) Upon receipt of the notice described in Subsection (6)(a), the department shall implement the action ordered against the title entity's license.

(7) Upon receipt of a notice described in Subsection (6), the department shall take the action described in the notice upon the title entity's license.

Section 9. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration, as defined by the commission, to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) being convicted, within five years of the most recent application for licensure, of a criminal offense involving moral turpitude regardless of whether:

(a) the criminal offense is related to real estate; or

(b) the conviction is based upon a plea of *nolo contendere*;

(12) having, within five years of the most recent application for a license under this chapter, entered any of the following related to a criminal offense involving moral turpitude:

(a) a plea in abeyance agreement;

(b) a diversion agreement;

(c) a withheld judgment; or

(d) an agreement in which a charge was held in suspense during a period of time when the licensee was on probation or was obligated to comply with conditions outlined by a court;

(13) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(14) in the case of a principal broker or a branch broker, failing to exercise reasonable supervision over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(15) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(16) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(17) any other conduct which constitutes dishonest dealing;

(18) unprofessional conduct as defined by statute or rule;

(19) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(20) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(21) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(22) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(23) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(24) as a principal broker, placing a lien on real property, unless authorized by law; [ø]

(25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services[-]; or

(26) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1101, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section 10. Repealer.

This bill repeals:

Section 31A-23a-503, Controlled business in title insurance.

CHAPTER 476**S. B. 134**

Passed March 13, 2019
Approved March 29, 2019
Effective May 14, 2019

CAMPUS SAFETY AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill enacts provisions related to campus safety plans and training at institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires an institution of higher education to develop:
 - a campus safety plan; and
 - a campus safety training curriculum;
- ▶ provides requirements for what a campus safety plan and campus safety training curriculum must address; and
- ▶ places reporting and other requirements related to campus safety on the State Board of Regents and the Utah System of Technical Colleges Board of Trustees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**ENACTS:**

53B-28-301, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53E-1-201, as enacted by Laws of Utah 2018, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-28-301 is enacted to read:**Part 3. Campus Safety****53B-28-301. Campus safety plans and training -- Institution duties -- Governing board duties.**

(1) As used in this section:

(a) "Covered offense" means:

- (i) sexual assault;
- (ii) domestic violence;
- (iii) dating violence; or
- (iv) stalking.

(b) "Governing board" means:

(i) for a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102, the board; or

(ii) for a technical college, the Utah System of Technical Colleges Board of Trustees.

(c) "Institution" means an institution of higher education described in Section 53B-1-102.

(d) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) Each governing board shall:

(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);

(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and

(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on the implementation of the requirements described in this section.

Section 2. Coordinating S.B. 134 with S.B. 14 -- Substantive language.

If this S.B. 134 and S.B. 14, Education Reporting Requirements, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) inserting the following language as Subsection 53E-1-201(1)(e):

"(e) the reports described in Section 53B-28-301 by the State Board of Regents and the Utah System of Technical Colleges Board of Trustees regarding activities related to campus safety;" and

(2) renumbering remaining subsections accordingly.

CHAPTER 477**S. B. 21**

Passed February 6, 2019

Approved April 1, 2019

Effective May 14, 2019

**SUNSET REAUTHORIZATION -
AIR CONSERVATION ACT**

Chief Sponsor: Keith Grover

House Sponsor: Jon Hawkins

LONG TITLE**General Description:**

This bill extends the repeal date of the Air Conservation Act.

Highlighted Provisions:

This bill:

- ▶ extends the repeal date of the Air Conservation Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-1-219, as last amended by Laws of Utah 2018, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-219 is amended to read:**63I-1-219. Repeal dates, Title 19.**

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, [~~2019~~] 2029.

(2) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

(3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

(4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2019.

(5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2020.

(6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2019.

(9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2020.

(10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 478**S. B. 59**

Passed March 13, 2019

Approved April 1, 2019

Effective May 14, 2019

CHILD WELFARE WORKER PROTECTIONS

Chief Sponsor: Evan J. Vickers

House Sponsor: Walt Brooks

LONG TITLE**General Description:**

This bill makes it a crime to assault a child welfare worker.

Highlighted Provisions:

This bill:

- ▶ makes it a crime to assault or threaten violence against a child welfare worker.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-8-318, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-8-318 is enacted to read:**76-8-318. Assault or threat of violence against child welfare worker -- Penalty.**

(1) As used in this section:

(a) "Assault" means the same as that term is defined in Section 76-5-102.

(b) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 62A-4a-103.

(c) "Threat of violence" means the same as that term is defined in Section 76-5-107.

(2) An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor if:

(a) the individual is not:

(i) a prisoner or an individual detained under Section 77-7-15; or

(ii) a minor in the custody of or receiving services from a division within the Department of Human Services;

(b) the individual knew that the victim was a child welfare worker; and

(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.

(3) An individual who violates this section is guilty of a third degree felony if the individual:

(a) causes substantial bodily injury, as defined in Section 76-1-601; and

(b) acts intentionally or knowingly.

CHAPTER 479**S. B. 72**

Passed March 11, 2019

Approved April 1, 2019

Effective May 14, 2019

(Exception clause in Section 56)

**TRANSPORTATION GOVERNANCE
AND FUNDING REVISIONS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Kay J. Christofferson

LONG TITLE**General Description:**

This bill amends provisions related to transportation including transportation reinvestment zones, public transit districts, local option sales and use taxes, transportation governance, and a road usage charge program.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to transportation reinvestment zones;
- ▶ amends provisions related to public transit district governance structure and responsibilities;
- ▶ renames the local advisory board of a large public transit district as a “local advisory council”;
- ▶ repeals a provision related to the name of a large public transit district;
- ▶ amends the procedure for appointment to the board of trustees of a large public transit district;
- ▶ requires two or more entities providing public transit services in adjacent or overlapping areas to integrate and coordinate services and fees with oversight by the Department of Transportation;
- ▶ allows a public transit district to exclude applicants for certain positions of employment based on results of a background check;
- ▶ amends definitions related to motor vehicles;
- ▶ amends provisions related to motor vehicle registration;
- ▶ amends allowable uses of certain local option sales and use tax revenue;
- ▶ makes technical changes regarding local option sales and use taxes;
- ▶ amends provisions related to the governance structure and duties of certain positions within the Department of Transportation;
- ▶ amends certain provisions related to transportation funding procedures;
- ▶ exempts the Transportation Commission from certain restrictions on setting rates for certain programs administered by the Department of Transportation;
- ▶ creates a road usage charge program, requires the Department of Transportation to administer the program, and grants rulemaking authority;
- ▶ amends provisions related to the State Infrastructure Bank;
- ▶ amends certain provisions pertaining to anonymized location data of certain connected vehicles; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 11-13-227, as enacted by Laws of Utah 2018, Chapter 424
- 17B-1-311, as last amended by Laws of Utah 2013, Chapter 448
- 17B-2a-802, as last amended by Laws of Utah 2018, Chapter 424
- 17B-2a-807.1, as enacted by Laws of Utah 2018, Chapter 424
- 17B-2a-808.1, as enacted by Laws of Utah 2018, Chapter 424
- 17B-2a-808.2, as enacted by Laws of Utah 2018, Chapter 424
- 17B-2a-826, as last amended by Laws of Utah 2018, Chapter 424
- 34-52-201, as enacted by Laws of Utah 2017, Chapter 242
- 41-1a-102, as last amended by Laws of Utah 2018, Chapters 166 and 424
- 41-1a-203, as last amended by Laws of Utah 2018, Chapter 269
- 41-1a-1206, as last amended by Laws of Utah 2018, Chapter 424
- 51-2a-202, as last amended by Laws of Utah 2016, Chapter 373
- 59-12-103, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 59-12-2202, as last amended by Laws of Utah 2018, Chapter 424
- 59-12-2203, as last amended by Laws of Utah 2018, Chapter 424
- 59-12-2214, as last amended by Laws of Utah 2015, Chapter 421
- 59-12-2215, as enacted by Laws of Utah 2010, Chapter 263
- 59-12-2216, as enacted by Laws of Utah 2010, Chapter 263
- 59-12-2217, as last amended by Laws of Utah 2018, Chapter 424
- 59-12-2218, as last amended by Laws of Utah 2018, Chapter 424
- 59-12-2219, as last amended by Laws of Utah 2018, Chapters 330 and 424
- 59-12-2220, as enacted by Laws of Utah 2018, Chapter 424
- 59-13-301, as last amended by Laws of Utah 2018, Chapter 281
- 63B-1b-102, as last amended by Laws of Utah 2017, Chapter 345
- 63B-18-401, as last amended by Laws of Utah 2013, Chapter 389
- 63B-27-101, as last amended by Laws of Utah 2018, Chapter 280
- 63I-1-259, as last amended by Laws of Utah 2018, Chapter 281
- 72-1-102, as last amended by Laws of Utah 2018, Chapter 424
- 72-1-202, as last amended by Laws of Utah 2018, Chapter 424
- 72-1-203, as last amended by Laws of Utah 2018, Chapter 424

72-1-204, as last amended by Laws of Utah 2018, Chapter 424

72-1-205, as renumbered and amended by Laws of Utah 1998, Chapter 270

72-1-213, as last amended by Laws of Utah 2018, Chapter 424

72-1-301, as last amended by Laws of Utah 2011, Chapter 336

72-1-304, as last amended by Laws of Utah 2018, Chapter 424

72-2-107, as last amended by Laws of Utah 2017, Chapter 144

72-2-117.5, as last amended by Laws of Utah 2018, Chapter 424

72-2-121, as last amended by Laws of Utah 2018, Chapters 403 and 424

72-2-121.1, as last amended by Laws of Utah 2010, Chapters 263 and 278

72-2-121.2, as last amended by Laws of Utah 2011, Chapter 342

72-2-124, as last amended by Laws of Utah 2018, Chapter 424

72-2-201, as last amended by Laws of Utah 2017, Chapter 216

72-2-202, as last amended by Laws of Utah 2008, Chapter 382

72-2-203, as last amended by Laws of Utah 2008, Chapter 382

72-2-204, as last amended by Laws of Utah 2008, Chapter 382

72-5-111, as last amended by Laws of Utah 2017, Chapter 273

72-6-403, as enacted by Laws of Utah 2014, Chapter 132

72-10-102, as last amended by Laws of Utah 2008, Chapters 206 and 286

77-23c-101, as enacted by Laws of Utah 2014, Chapter 223

77-23c-102, as last amended by Laws of Utah 2016, Chapter 161

ENACTS:

17B-2a-807.2, Utah Code Annotated 1953

17B-2a-827, Utah Code Annotated 1953

59-12-2212.2, Utah Code Annotated 1953

72-1-213.1, Utah Code Annotated 1953

REPEALS:

17B-2a-803.1, as enacted by Laws of Utah 2018, Chapter 424

Utah Code Sections Affected by Coordination Clause:

77-23c-101, as enacted by Laws of Utah 2014, Chapter 223

77-23c-102, as last amended by Laws of Utah 2016, Chapter 161

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-227 is amended to read:**11-13-227. Transportation reinvestment zones.**

(1) Subject to the provisions of this part, any two or more public agencies may enter into an agreement with one another to create a

transportation reinvestment zone as described in this section.

(2) To create a transportation reinvestment zone, two or more public agencies, at least one of which has land use authority over the transportation reinvestment zone area, shall:

(a) define the transportation infrastructure need and proposed improvement;

(b) define the boundaries of the zone;

(c) establish terms for sharing sales tax revenue among the members of the agreement;

(d) establish a base year to calculate the increase of property tax revenue within the zone;

(e) establish terms for sharing any increase in property tax revenue within the zone; and

(f) before an agreement is approved as required in Section 11-13-202.5, hold a public hearing regarding the details of the proposed transportation reinvestment zone.

(3) Any agreement to establish a transportation reinvestment zone is subject to the requirements of Sections 11-13-202, 11-13-202.5, 11-13-206, and 11-13-207.

(4) (a) Each public agency that is party to an agreement under this section shall annually publish a report including a statement of the increased tax revenue and the expenditures made in accordance with the agreement.

(b) Each public agency that is party to an agreement under this section shall transmit a copy of the report described in Subsection (4)(a) to the state auditor.

(5) If any surplus revenue remains in a tax revenue account created as part of a transportation reinvestment zone agreement, the parties may use the surplus for other purposes as determined by agreement of the parties.

(6) (a) An action taken under this section is not subject to:

(i) Section 10-8-2;

(ii) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(iii) Title 17, Chapter 27a, County Land Use, Development, and Management Act; or

(iv) Section 17-50-312.

(b) An ordinance, resolution, or agreement adopted under this title is not a land use regulation as defined in Sections 10-9a-103 and 17-27a-103.

Section 2. Section 17B-1-311 is amended to read:**17B-1-311. Board member prohibited from district employment -- Exception.**

(1) No elected or appointed member of the board of trustees of a local district may, while serving on the board, be employed by the district, whether as an employee or under a contract.

(2) No person employed by a local district, whether as an employee or under a contract, may serve on the board of that local district.

(3) A local district is not in violation of a prohibition described in Subsection (1) or (2) if the local district:

(a) treats a member of a board of trustees as an employee for income tax purposes; and

(b) complies with the compensation limits of Section 17B-1-307 for purposes of that member.

(4) This section does not apply to a local district if:

(a) fewer than 3,000 people live within 40 miles of the primary place of employment, measured over all weather public roads; and

(b) with respect to the employment of a board of trustees member under Subsection (1):

(i) the job opening has had reasonable public notice; and

(ii) the person employed is the best qualified candidate for the position.

(5) This section does not apply to a board of trustees of a large public transit district as described in Chapter 2a, Part 8, Public Transit District Act.

Section 3. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(5) "Department" means the Department of Transportation created in Section 72-1-201.

(6) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(7) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(8) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(9) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(10) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(11) "Multicounty district" means a public transit district located in more than one county.

(12) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

~~[(13) "Public transit" means the transportation of passengers only and their incidental baggage by means other than:]~~

~~[(a) chartered bus;]~~

~~[(b) sightseeing bus; or]~~

~~[(c) taxi.]~~

(13) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(14) "Public transit district" means a local district that provides public transit services.

(15) "Small public transit district" means any public transit district that is not a large public transit district.

(16) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(17) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

(18) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a public transit district that serves a county of the first class.

(19) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a public transit district.

Section 4. Section 17B-2a-807.1 is amended to read:

17B-2a-807.1. Large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1) (a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(b) (i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making~~g~~ an appointment from nominations given from each region created in Subsection (1)(b)(ii).

~~[(A) one appointment from the nominees described in Subsection (1)(b)(ii);]~~

~~[(B) one appointment from the nominees described in Subsection (1)(b)(iii); and]~~

~~[(C) one appointment from the nominees described in Subsection (1)(b)(iv).]~~

~~[(ii) The chief executive officer of a county of the first class within a large public transit district, with approval of the legislative body of the county, shall nominate two or more individuals to the governor for appointment to the board of trustees.]~~

~~[(iii) (A) Subject to Subsection (1)(b)(iii)(B), the executive governing individuals or bodies of a county or counties of the second class, with a population over 500,000, within a large public transit district, shall nominate two or more individuals to the governor for appointment to the board of trustees.]~~

~~[(B) To select individuals for nomination, the executive governing individuals or bodies described in Subsection (1)(b)(iii)(A) shall consult with the executive governing individual or body of a county of the third or smaller class within the large public transit district.]~~

~~[(iv) (A) Subject to Subsection (1)(b)(iv)(B), the executive governing individuals or bodies of any county or counties of the second class, with a population of 500,000 or less, within a large public transit district, shall jointly nominate two or more individuals to the governor for appointment to the board of trustees.]~~

~~[(B) To select individuals for nomination, the executive governing individuals or bodies described in Subsection (1)(b)(iv)(A) shall consult with the executive governing individual or body of a county of the third or smaller class within the large public transit district different from a third or smaller class county consulting with the county or counties described in Subsection (1)(b)(iii).]~~

(ii) (A) Before creation of a large public transit district, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) For a large public transit district created after January 1, 2019, the Legislature, after receiving and considering the proposal described in Subsection (1)(b)(ii)(A), shall designate three regions for nominating members to the board of trustees of the large public transit district, and further describe the process for nomination for appointment to the board of trustees.

(c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(e) The compensation package for the board of trustees shall be determined by ~~the~~ a local advisory ~~board~~ council as described in Section 17B-2a-808.2.

(f) (i) Subject to Subsection (1)(f)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of the board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member

board of trustees and what constitutes a public meeting.

(2) (a) Subject to Subsections (3) and (4), each member of the board of trustees of a large public transit district shall serve for a term of ~~three~~ four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(3) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:

(a) one member of the board of trustees shall serve an initial term of two years;

(b) one member of the board of trustees shall serve an initial term of three years; and

(c) one member of the board of trustees shall serve an initial term of four years.

(5) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.

(b) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (2)(b).

(c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

~~[(7) For any large public transit district in existence as of May 8, 2018:]~~

~~[(a) the individuals or bodies providing nominations as described in this section shall provide the nominations to the governor as described in this section before July 31, 2018;]~~

~~[(b) the governor shall appoint the members of the board of trustees before August 31, 2018; and]~~

~~[(c) the new board shall assume control of the large public transit district on or before November 1, 2018.]~~

Section 5. Section 17B-2a-807.2 is enacted to read:

17B-2a-807.2. Existing large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1) (a) (i) For a large public transit district created before January 1, 2019, and except as provided in Subsection (7), the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(ii) For purposes of a large public transit district created before January 1, 2019, the nominating regions are as follows:

(A) a central region that is Salt Lake County;

(B) a southern region that is comprised of Utah County and the portion of Tooele County that is part of the large public transit district; and

(C) a northern region that is comprised of Davis County, Weber County, and the portion of Box Elder County that is part of the large public transit district.

(iii) (A) If a large public transit district created before January 1, 2019, annexes an additional county into the large public transit district pursuant to Section 17B-1-402, following the issuance of the certificate of annexation by the lieutenant governor, the political subdivisions making up the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) If a large public transit district created before January 1, 2019, has a change to the boundaries of the large public transit district, the Legislature, after receiving and considering the proposal described in Subsection (1)(a)(iii)(A), shall designate the three regions for nominating members to the board of trustees of the large public transit district.

(b) (i) Except as provided in Subsection (5), the governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:

(A) one appointment from individuals nominated from the central region as described in Subsection (2);

(B) one appointment from individuals nominated from the southern region described in Subsection (3); and

(C) one appointment from individuals nominated from the northern region described in Subsection (4).

(2) For the appointment from the central region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Salt Lake County; and

(b) three individuals nominated by the mayor of Salt Lake County, with approval of the Salt Lake County council.

(3) For the appointment from the southern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Utah County;

(b) two individuals nominated by the county commission of Utah County; and

(c) one individual nominated by the county commission of Tooele County.

(4) For the appointment from the northern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) one individual nominated by the council of governments of Davis County;

(b) one individual nominated by the council of governments of Weber County;

(c) one individual nominated by the county commission of Davis County;

(d) one individual nominated by the county commission of Weber County; and

(e) one individual nominated by the county commission of Box Elder County.

(5) If the governor fails to appoint one of the individuals nominated as described in Subsection (2), (3), or (4), as applicable, within 60 days of the nominations, the following appointment procedures apply:

(a) for an appointment for the central region, the Salt Lake County council shall appoint an individual, with confirmation by the Senate;

(b) for an appointment for the southern region, the Utah County commission shall appoint an individual, in consultation with the Tooele County commission, with confirmation by the Senate; and

(c) for an appointment for the northern region, the Davis County commission and the Weber County commission, collectively, and in consultation with the Box Elder County commission, shall appoint an individual, with confirmation by the Senate.

(6) (a) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(b) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(c) The compensation package for the board of trustees shall be determined by the local advisory council as described in Section 17B-2a-808.2.

(d) (i) Subject to Subsection (6)(d)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of a board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(7) (a) Subject to Subsection (8), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(c) Notwithstanding Subsection (2), (3), or (4), as applicable, at the expiration of a term of a member of the board of trustees, if the respective nominating entities and individuals for the respective region described in Subsection (2), (3), or (4), unanimously agree to retain the existing member of the board of trustees, the respective nominating individuals or bodies described in Subsection (2), (3), or (4) are not required to make nominations to the governor, and the governor may reappoint the existing member to the board of trustees.

(8) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(9) Subject to Subsections (7) and (8), a board of trustees of a large public transit district that is in place as of February 1, 2019, may remain in place.

(10) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(11) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (2), (3), or (4), and, if applicable, Subsection (5), for the respective member of the board of trustees creating the vacancy.

(b) If a vacancy occurs on the board of trustees of a large public transit district, the respective nominating region shall nominate individuals to the governor as described in this section within 60 days after the vacancy occurs.

(c) If the respective nominating region does not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(d) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (7)(b).

Section 6. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds

and other financial instruments, after consultation with the local advisory ~~[board]~~ council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory ~~[board]~~ council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory ~~[board]~~ council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

~~[(4)]~~ (j) (i) in partnership with the Department of Transportation, study and evaluate the feasibility of a strategic transition of a large public transit district into a state entity; and

(ii) in partnership with the Department of Transportation, before November 30 ~~[of each year]~~, 2019, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;

~~[(j)]~~ (k) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

~~[(ii) the chief internal auditor;]~~

~~[(iii) the chief people officer;]~~

~~[(iv) any vice president level officer; and]~~

~~[(v) the chief safety, security, and technology officer;]~~

~~[(k)]~~ (l) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

~~[(4)]~~ (m) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

~~[(m)]~~ (n) in consultation with the local advisory ~~[board]~~ council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

~~[(n)]~~ (o) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

~~[(o)]~~ (p) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)~~[(o)]~~(p)(ii) to the general public upon request;

~~[(p)]~~ (q) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

~~[(q)]~~ (r) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory ~~[board]~~ council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

~~(s)~~ (s) together with the local advisory ~~board~~ council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)~~(p)~~(p);

~~(t)~~ (t) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

- (i) how negotiations occurred;
- (ii) the rationale for providing a reduced fare; and
- (iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

~~(u)~~ (u) in consultation with the local advisory ~~board~~ council, develop and approve other board policies, ordinances, and bylaws; and

~~(v)~~ (v) review and approve any:

- (i) contract or expense exceeding \$200,000; or
- (ii) proposed change order to an existing contract if the value of the change order exceeds:
 - (A) 15% of the total contract; or
 - (B) \$200,000.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory ~~board~~ council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)~~(a)~~(o).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Bonding Commission created in Section 63B-1-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed \$150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 7. Section 17B-2a-808.2 is amended to read:

17B-2a-808.2. Large public transit district local advisory council -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory ~~board~~ council.

(2) (a) ~~[The] (i) For a large public transit district in existence as of January 1, 2019, the local advisory board council shall have membership selected as described in Subsection (2)(b) [on or before November 1, 2018].~~

(ii) (A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).

(B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.

(b) (i) The council of governments of ~~[a county of the first class within a large public transit district]~~ Salt Lake County shall appoint three members to the local advisory ~~board~~ council.

(ii) ~~[The chief executive officer of a city that is the county seat within a county of the first class within a large public transit district]~~ The mayor of Salt Lake City shall appoint one member to the local advisory ~~board~~ council.

(iii) The council of governments of ~~[a county of the second class with a population of 500,000 or more within a large public transit district]~~ Utah County shall appoint two members to the local advisory ~~board~~ council.

(iv) The council of governments of ~~[a county of the second class with a population under 500,000 within a large public transit district]~~ Davis County and Weber County shall each appoint one member to the local advisory ~~board~~ council.

(v) The councils of governments of ~~[any counties of the third class or smaller within a large public transit district]~~ Box Elder County and Tooele County shall jointly appoint one member to the local advisory ~~board~~ council.

~~[(c) The population numbers used to apportion appointment powers described in Subsection (2)(b) shall be based on the most recent official census or census estimate of the United States Census Bureau.]~~

(3) The local advisory ~~board~~ council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4) The duties of the local advisory ~~board~~ council shall include:

(a) setting the compensation packages of the board of trustees, which salary may not exceed \$150,000, plus additional retirement and other standard benefits;

(b) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;

(c) reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;

(d) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;

(e) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;

(f) assisting with coordinated mobility and constituent services provided by the public transit district;

(g) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

(h) other duties described in Section 17B-2a-808.1.

(5) The local advisory ~~board~~ council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 8. Section 17B-2a-826 is amended to read:

17B-2a-826. Public transit district office of constituent services and office of coordinated mobility.

(1) (a) The board of trustees of a large public transit district shall create and employ an office of constituent services.

(b) The duties of the office of constituent services described in Subsection (1)(a) shall include:

(i) establishing a central call number to hear and respond to complaints, requests, comments, concerns, and other communications from customers and citizens within the district;

(ii) keeping a log of the complaints, comments, concerns, and other communications from customers and citizens within the district; and

(iii) reporting complaints, comments, concerns, and other communications to management and to the local advisory ~~board~~ council created in Section 17B-2a-808.2.

(2) (a) A large public transit district shall create and employ an office of coordinated mobility.

(b) The duties of the office of coordinated mobility shall include:

(i) establishing a central call number to facilitate human services transportation;

(ii) coordinating all human services transportation needs within the public transit district;

(iii) receiving requests and other communications regarding human services transportation;

(iv) receiving requests and other communications regarding vans, buses, and other vehicles available for use from the public transit district to maximize the utility of and investment in those vehicles; and

(v) supporting local efforts and applications for additional funding.

Section 9. Section 17B-2a-827 is enacted to read:

17B-2a-827. Integration of public transit services and facilities.

(1) If a public transit district provides public transit services in an area that is adjacent to or overlaps with an area in which public transit services are also provided by another public transit provider, including a public-private partnership entity, the public transit district and the public transit provider entity shall ensure that:

(a) any public transit facilities of one provider connect with the public transit facilities of the other provider;

(b) the schedules of all relevant public transit providers are coordinated as one public transit system; and

(c) (i) if both public transit providers collect a fare directly from public transit passengers, an integrated and uniform fare system is implemented across the coordinated public transit system; and

(ii) the revenue generated from the uniform fare system is equitably divided among the public transit providers according to service provided and mileage covered.

(2) A public transit district and a public transit provider, including a public-private partnership entity, may negotiate the ability of one public transit provider to operate on the transit facilities of the other public transit provider.

(3) (a) The Department of Transportation shall oversee the negotiation, integration, and coordination described in Subsection (1).

(b) For the negotiation, integration, or coordination between a public transit district and a public-private partnership, the oversight described in Subsection (3)(a) applies only to fixed-route bus or rail services.

Section 10. Section 34-52-201 is amended to read:

34-52-201. Employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.

(3) Subject to Subsections (1) and (2), nothing in this section prevents an employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction history when making a hiring decision.

(4) Subsections (1) and (2) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage Control created in Section 32B-2-203;

(g) to the State Tax Commission; ~~and~~

(h) to a public employer whose primary purpose is performing financial or fiduciary functions[-]; and

(i) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

Section 11. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

- (i) motor fuel;
- (ii) diesel fuel;
- (iii) natural gas; or
- (iv) propane.

(7) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Branded title" means a title certificate that is labeled:

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

(10) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(11) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(12) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(13) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

- (a) as a carrier for hire, compensation, or profit; or
- (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(14) "Commission" means the State Tax Commission.

(15) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(16) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(17) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(18) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(19) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(20) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(21) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(22) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

- (i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;
- (ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and
- (iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(23) "Fleet" means one or more commercial vehicles.

(24) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(25) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(26) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(27) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

- (a) an internal combustion engine or heat engine using consumable fuel; and
- (b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(28) (a) "Identification number" means the identifying number assigned by the manufacturer

or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(29) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(30) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(31) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(32) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(33) "Lienholder" means a person with a security interest in particular property.

(34) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(35) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(36) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(37) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(38) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(39) "Motorboat" means the same as that term is defined in Section 73-18-2.

(40) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an auticycle.

(41) "Natural gas" means a fuel of which the primary constituent is methane.

(42) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(43) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(44) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(45) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(46) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(47) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(48) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(49) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(50) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(51) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(52) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(53) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(54) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(55) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(56) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(57) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(58) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(59) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and

that is evidence of compliance with the registration requirements of the jurisdiction.

(60) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(61) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(62) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(63) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(64) "Sailboat" means the same as that term is defined in Section 73-18-2.

(65) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(66) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(67) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(68) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (68)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from

original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(69) (a) "Special mobile equipment" means every vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(70) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(71) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(72) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

(73) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(74) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

(75) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

(76) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(77) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(78) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

(79) "Vessel" means the same as that term is defined in Section 73-18-2.

(80) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

(81) "Waters of this state" means the same as that term is defined in Section 73-18-2.

(82) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 12. Section 41-1a-203 is amended to read:

41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.

(1) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223; and

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

(2) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

(3) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(5) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request [as described in Section 72-6-118 involving] for the motor vehicle for which a registration renewal has been requested[.] as described in:

- (a) Section 72-1-213.1; or
- (b) Section 72-6-118.

Section 13. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

- (a) \$46.00 for each motorcycle;
- (b) \$44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;
- (c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:
 - (i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or
 - (ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;
 - (d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;
 - (e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
 - (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
 - (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
 - (g) \$45 for each vintage vehicle that is less than 40 years old; and
 - (h) in addition to the fee described in Subsection (1)(b):
 - (i) for each electric motor vehicle:

- (A) \$60 during calendar year 2019;
- (B) \$90 during calendar year 2020; and
- (C) \$120 beginning January 1, 2021, and thereafter;
- (ii) for each hybrid electric motor vehicle:
 - (A) \$10 during calendar year 2019;
 - (B) \$15 during calendar year 2020; and
 - (C) \$20 beginning January 1, 2021, and thereafter;
- (iii) for each plug-in hybrid electric motor vehicle:
 - (A) \$26 during calendar year 2019;
 - (B) \$39 during calendar year 2020; and
 - (C) \$52 beginning January 1, 2021, and thereafter; and
 - (iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane:
 - (A) \$60 during calendar year 2019;
 - (B) \$90 during calendar year 2020; and
 - (C) \$120 beginning January 1, 2021, and thereafter.
 - (2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:
 - (i) \$34.50 for each motorcycle; and
 - (ii) \$33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.
 - (b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:
 - (i) for each electric motor vehicle:
 - (A) \$46.50 during calendar year 2019;
 - (B) \$69.75 during calendar year 2020; and
 - (C) \$93 beginning January 1, 2021, and thereafter;
 - (ii) for each hybrid electric motor vehicle:
 - (A) \$7.50 during calendar year 2019;
 - (B) \$11.25 during calendar year 2020; and
 - (C) \$15 beginning January 1, 2021, and thereafter;
 - (iii) for each plug-in hybrid electric motor vehicle:
 - (A) \$20 during calendar year 2019;
 - (B) \$30 during calendar year 2020; and

(C) \$40 beginning January 1, 2021, and thereafter; and

(iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) \$46.50 during calendar year 2019;

(B) \$69.75 during calendar year 2020; and

(C) \$93 beginning January 1, 2021, and thereafter.

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2022, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(i)(C), (1)(h)(ii)(C), (1)(h)(iii)(C), (1)(h)(iv)(C), (2)(b)(i)(C), (2)(b)(ii)(C), (2)(b)(iii)(C), and (2)(b)(iv)(C) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is \$40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of \$130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than \$200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 14. Section 51-2a-202 is amended to read:

51-2a-202. Reporting requirements.

(1) The governing board of each entity required to have an audit, review, compilation, or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

(a) made at least annually; and

(b) filed with the state auditor within six months of the close of the fiscal year of the entity.

(2) If the political subdivision, interlocal organization, or other local entity receives federal funding, the audit, review, or compilation shall be performed in accordance with both federal and state auditing requirements.

(3) If a political subdivision receives revenue from a sales and use tax imposed under Section 59-12-2219, the political subdivision shall identify the amount of revenue the political subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(13), regarding new revenue supplanting existing allocations, in the audit, review, compilation, or fiscal report.

Section 15. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as

determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation

under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the

lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources

Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit ~~and~~ Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

~~[(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be expended or deposited in accordance with Subsections (4) through (12) and (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.]~~

[(14)] (13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue generated by a 0.15% tax rate imposed beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection

(2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing; and

(ii) for a fiscal year beginning on or after fiscal year 2019-20, annually transfer the amount of revenue generated by a 0.15% tax rate on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health Care Financing.

(c) The revenue described in Subsection [(14)] (13)(b) that the Division of Finance transfers to the Division of Health Care Financing as dedicated credits shall be expended for the following uses:

(i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and 26-18-3.9(2)(b);

(ii) if revenue remains after the use specified in Subsection [(14)] (13)(c)(i), other measures required by Section 26-18-3.9; and

(iii) if revenue remains after the uses specified in Subsections [(14)] (13)(c)(i) and (ii), other measures described in Title 26, Chapter 18, Medical Assistance Act.

Section 16. Section 59-12-2202 is amended to read:

59-12-2202. Definitions.

As used in this part:

(1) "Airline" means the same as that term is defined in Section 59-2-102.

(2) "Airport facility" means the same as that term is defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Class A road" means the same as that term is described in Section 72-3-102.

(7) "Class B road" means the same as that term is described in Section 72-3-103.

(8) "Class C road" means the same as that term is described in Section 72-3-104.

(9) "Class D road" means the same as that term is described in Section 72-3-105.

[(6)] (10) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

[(7)] (11) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

~~[(8)]~~ (12) “Large public transit district” means the same as that term is defined in Section 17B-2a-802.

~~[(9)]~~ (13) “Major collector highway” means the same as that term is defined in Section 72-4-102.5.

~~[(10)]~~ (14) “Metropolitan planning organization” means the same as that term is defined in Section 72-1-208.5.

~~[(11)]~~ (15) “Minor arterial highway” means the same as that term is defined in Section 72-4-102.5.

~~[(12)]~~ (16) “Minor collector road” means the same as that term is defined in Section 72-4-102.5.

~~[(13)]~~ (17) “Principal arterial highway” means the same as that term is defined in Section 72-4-102.5.

~~[(14)]~~ (18) “Regionally significant transportation facility” means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the second class that is not part of a large public transit district, or in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

~~[(15)]~~ (19) “State highway” means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

~~[(16)]~~ (20) (a) Subject to Subsection ~~[(16)]~~ (20)(b), “system for public transit” means the same as the term “public transit” is defined in Section 17B-2a-802.

(b) “System for public transit” includes:

(i) the following costs related to public transit:

(A) maintenance costs; or

(B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;

(iv) a passenger station or passenger terminal;

(v) a right-of-way for public transit; or

(vi) the following that serve a public transit facility:

(A) a maintenance facility;

(B) a platform;

(C) a repair facility;

(D) a roadway;

(E) a storage facility;

(F) a utility line; or

(G) a facility or item similar to those described in Subsections ~~[(16)]~~ (20)(b)(vi)(A) through (F).

Section 17. Section 59-12-2203 is amended to read:

59-12-2203. Authority to impose a sales and use tax under this part.

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

(4) A county may impose the sales and use tax authorized by Section 59-12-2219 in accordance with Section 59-12-2219.

(5) A county~~, city, or town~~ may impose the sales and use tax authorized by Section 59-12-2220 in accordance with Section 59-12-2220.

Section 18. Section 59-12-2212.2 is enacted to read:

59-12-2212.2. Allowable uses of local option sales and use tax revenue.

(1) Except as otherwise provided in this part, a county, city, or town that imposes a local option sales and use tax under this part may expend the revenue generated from the local option sales and use tax for the following purposes:

(a) the development, construction, maintenance, or operation of:

- (i) a class A road;
- (ii) a class B road;
- (iii) a class C road;
- (iv) a class D road;

(v) traffic and pedestrian safety infrastructure, including:

- (A) a sidewalk;
- (B) curb and gutter;
- (C) a safety feature;
- (D) a traffic sign;
- (E) a traffic signal; or
- (F) street lighting;

(vi) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures;

(vii) an airport facility;

(viii) an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination; or

(ix) an intelligent transportation system;

(b) a system for public transit;

(c) all other modes and forms of conveyance used by the public;

(d) debt service or bond issuance costs related to a project or facility described in Subsections (1)(a) through (c); or

(e) corridor preservation related to a project or facility described in Subsections (1)(a) through (c).

(2) Any revenue subject to rights or obligations under a contract between a county, city, or town and a public transit district entered into before January 1, 2019, remains subject to existing contractual rights and obligations.

Section 19. Section 59-12-2214 is amended to read:

59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, a water conservation project, or to be deposited into the County of the First Class Highway Projects Fund -- Base -- Rate.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.

(2) [Subject] Notwithstanding Section 59-12-2212.2, and subject to Subsection (3), a county, city, or town that imposes a sales and use

tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use tax shall be deposited into the County of the First Class Highway Projects Fund created by Section 72-2-121.

~~[(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:]~~

~~[(a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;]~~

~~[(b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:]~~

~~[(i) Section 59-12-2213; or]~~

~~[(ii) Section 59-12-2215; and]~~

~~[(c) the county, city, or town obtained voter approval to impose the sales and use tax under:]~~

~~[(i) Section 59-12-2213; or]~~

~~[(ii) Section 59-12-2215.]~~

Section 20. Section 59-12-2215 is amended to read:

59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a city or town may impose a sales and use tax of up to

.30% on the transactions described in Subsection 59-12-103(1) located within the city or town.

~~[(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:]~~

~~[(a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;]~~

~~[(b) to fund a system for public transit; or]~~

~~[(c) for a combination of Subsections (2)(a) and (b).]~~

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax as described in Section 59-12-2212.2.

Section 21. Section 59-12-2216 is amended to read:

59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

~~[(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:]~~

~~[(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;]~~

~~[(b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;]~~

~~[(c) the following relating to a state highway within the county:]~~

~~[(i) a project within the county if the project:]~~

~~[(A) begins on or after the day on which a county legislative body imposes a tax under this section; and]~~

~~[(B) involves an environmental study, an improvement, new construction, or a renovation;]~~

~~[(ii) debt service on a project described in Subsection (2)(c)(i); or]~~

~~[(iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or]~~

~~[(d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating to a highway that is:]~~

~~[(i) a principal arterial highway or minor arterial highway;]~~

~~[(ii) included in a metropolitan planning organization's regional transportation plan; and]~~

~~[(iii) not a state highway.]~~

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund uses described in Section 59-12-2212.2.

(3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in ~~[Subsection (2)]~~ Section 59-12-2212.2.

(4) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this section.

(5) The revenues collected from a sales and use tax under this section shall be:

(a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(b) expended as provided in this section.

(6) If a county legislative body allocates revenues collected from a sales and use tax under this section for a state highway project ~~[described in Subsection (2)(c)(i)]~~, before beginning the state highway project within the county, the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

(7) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:

(a) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the items described in ~~[Subsection (2)]~~ Section 59-12-2212.2;

(b) obtaining approval to change the allocation of the sales and use tax by a majority of all of the members of the county legislative body; and

(c) subject to Subsection (8):

(i) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(a) and approved by the county legislative body in accordance with Subsection (7)(b).

(9) Revenues collected from a sales and use tax under this section that a county allocates for a ~~[purpose described in Subsection (2)(e)]~~ state highway within the county shall be:

(a) deposited into the Highway Projects Within Counties Fund created by Section 72-2-121.1; and

(b) expended as provided in Section 72-2-121.1.

(10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a ~~[purpose described in Subsection (2)(d)]~~ project, debt service, or bond issuance cost relating to a highway that is a principal arterial highway or minor arterial highway that is included in a metropolitan planning organization's regional transportation plan, but is not a state highway, shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:

(i) entered into on or before January 1, 2010; and

(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Section 22. Section 59-12-2217 is amended to read:

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, and subject to Subsection [(40)] (8), a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

~~[(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:]~~

~~[(a) a project or service:]~~

~~[(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;]~~

~~[(ii) for new capacity or congestion mitigation if the project or service is performed within a county:]~~

~~[(A) of the first or second class; or]~~

~~[(B) if that county is part of an area metropolitan planning organization; and]~~

~~[(iii) that is on a priority list:]~~

~~[(A) created by the county's council of governments in accordance with Subsection (7); and]~~

~~[(B) approved by the county legislative body in accordance with Subsection (7);]~~

~~[(b) corridor preservation for a project or service described in Subsection (2)(a); or]~~

~~[(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).]~~

~~[(3) If a project or service described in Subsection (2) is for: (a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:]~~

~~[(i) county and municipal master plan; and]~~

~~[(ii) (A) statewide long-range plan; or]~~

~~[(B) regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or]~~

~~[(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.]~~

~~[(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:]~~

~~[(a) a principal arterial highway;]~~

~~[(b) a minor arterial highway;]~~

~~[(c) a collector road in a county of the second class; or]~~

~~[(d) a major collector highway in a rural area.]~~

~~[(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first class, 25% or more shall be expended for the purpose described in Subsection (2)(b).]~~

(2) (a) Except as provided in Subsection (2)(b), and subject to Subsections (3) through (6) and Section 59-12-2207, the revenue collected from a sales and use tax under this section may only be expended as described in Section 59-12-2212.2.

(b) Subject to Subsections (3) through (6), in a county of the first or second class, or if a county is part of an area metropolitan planning organization, that portion of the county within the metropolitan planning organization, the revenue collected from a

sales and use tax under this section may only be expended as described in Section 59-12-2212.2, and only if the expenditure is for:

(i) a project or service:

(A) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(B) for new capacity or congestion mitigation, and not for operation or maintenance, if the project or service is performed within the county; and

(C) on a priority list created by the county's council of governments in accordance with Subsection (5) and approved by the county legislative body in accordance with Subsection (5);

(ii) corridor preservation for a project or service described in Subsection (2)(b)(i)(A) or (B); or

(iii) debt service or bond issuance costs related to a project or service described in Subsection (2)(b)(i)(A) or (B).

(c) The restriction in Subsection (2)(b)(i)(B) from using revenue for operation or maintenance does not apply to any revenue subject to rights or obligations under a contract entered into before January 1, 2019, between a county and a public transit district.

(3) For revenue expended under this section for a project or service described in Subsection (2) that is on or part of a regionally significant transportation facility and that constructs or adds a new through lane or interchange, or provides new fixed guideway public transit service, the project shall be part of:

(a) the statewide long-range plan; or

(b) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization area exists for the area.

~~[(6)]~~ (4) (a) As provided in this Subsection ~~[(6)]~~ (4), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of ~~regionally significant~~ transportation ~~facility~~ projects or services described in ~~Subsection (2)(a)(i)~~ Section 59-12-2212.2 in accordance with Subsection ~~[(7)]~~ (5); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection ~~[(7)]~~ (5).

(b) The written prioritization process described in Subsection ~~[(6)]~~ (4)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection ~~[(6)]~~ (4)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will

be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection ~~[(6)]~~ (4)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection ~~[(6)]~~ (4)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

(ii) any proposed amendment to the written prioritization process.

~~[(7)]~~ (5) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection ~~[(6)]~~ (4) to create a priority list of ~~regionally significant~~ transportation ~~facility~~ projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection ~~[(7)]~~ (5)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the

weighted criteria system at the public meeting required by Subsection [(7)] (5)(b); and

(ii) make the reasons described in Subsection [(7)] (5)(d)(i) publicly available.

(e) Subject to Subsections [(7)] (5)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection [(7)] (5), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection [(7)] (5)(e) per calendar year.

[(8)] (6) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection [(2)(b)] 59-12-2212.2(5) shall be:

(a) deposited in or transferred to the County of the First Class Highway Projects Fund created by Section 72-2-121; and

(b) expended as provided in Section 72-2-121.

[(9)] (7) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

[(10)] (8) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection [(10)] (8)(a), any sales and use tax imposed under this section on or before June 30, 2022, may remain in effect.

Section 23. Section 59-12-2218 is amended to read:

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, and subject to Subsection [(11)] (8), the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of [(a) .10%; or (b) .25%].

[(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:]

[(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;]

~~[(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed;]~~

~~[(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or]~~

~~[(ii) for a city or town legislative body that imposes the sales and use tax, if;]~~

~~[(A) that city or town owns or operates the airport facility; and]~~

~~[(B) an airline is headquartered in that city or town; or]~~

~~[(c) deposited or expended for a combination of Subsections (3)(a) and (b).]~~

~~[(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:]~~

~~[(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;]~~

~~[(b) expended for:]~~

~~[(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;]~~

~~[(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or]~~

~~[(iii) a combination of Subsections (4)(b)(i) and (ii);]~~

~~[(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;]~~

~~[(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;]~~

~~[(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or]~~

~~[(ii) for a city or town legislative body that imposes the sales and use tax, if;]~~

~~[(A) that city or town owns or operates the airport facility; and]~~

~~[(B) an airline is headquartered in that city or town;]~~

~~[(c) expended for:]~~

~~[(i) a class B road, as defined in Section 72-3-103;]~~

~~[(ii) a class C road, as defined in Section 72-3-104; or]~~

~~[(iii) a combination of Subsections (4)(e)(i) and (ii);]~~

~~[(f) expended for traffic and pedestrian safety, including;]~~

~~[(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:]~~

~~[(A) a sidewalk;]~~

~~[(B) curb and gutter;]~~

~~[(C) a safety feature;]~~

~~[(D) a traffic sign;]~~

~~[(E) a traffic signal;]~~

~~[(F) street lighting; or]~~

~~[(G) a combination of Subsections (4)(f)(i)(A) through (F);]~~

~~[(ii) the construction of an active transportation facility that:]~~

~~[(A) is for nonmotorized vehicles and multimodal transportation; and]~~

~~[(B) connects an origin with a destination; or]~~

~~[(iii) a combination of Subsections (4)(f)(i) and (ii); or]~~

~~[(g) deposited or expended for a combination of Subsections (4)(a) through (f).]~~

(3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (4), a sales and use tax imposed under this section shall be expended as determined by the county, city, or town legislative body for uses described in Section 59-12-2212.2.

(b) (i) Notwithstanding Subsection 59-12-2212.2(1)(a), revenues collected from a sales and use tax under this section may only be used for new capacity or congestion mitigation projects, and may not be expended for operation or maintenance purposes.

(ii) The restriction in Subsection (3)(b)(i) from using revenue for operation or maintenance purposes does not apply to any revenue subject to rights or obligations under a contract entered into before January 1, 2019, between a county, city, or town legislative body and a public transit district.

[(5)] (4) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this section for a purpose described in [Subsections (4)(b) through (f)] Section 59-12-2212.2 unless the purpose is recommended by:

(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or

(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.

~~[(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5.]~~

~~[(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.]~~

~~[(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:]~~

~~[(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or]~~

~~[(ii) has continuously imposed a tax described in Subsection (2)(b);]~~

~~[(A) beginning after July 1, 2010; and]~~

~~[(B) for a five-year period.]~~

~~[(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:]~~

~~[(i) expend the revenues in accordance with Subsection (4); or]~~

~~[(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:]~~

~~[(A) that city or town owns or operates an airport facility; and]~~

~~[(B) an airline is headquartered in that city or town.]~~

~~[(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:]~~

~~[(A) that city or town owns or operates an airport facility; and]~~

~~[(B) an airline is headquartered in that city or town.]~~

~~[(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:]~~

~~[(A) a project or service relating to the airport facility; and]~~

~~[(B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.]~~

~~[(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any~~

~~remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:]~~

~~[(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and]~~

~~[(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Highway and Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.]~~

~~[(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (e):]~~

~~[(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:]~~

~~[(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and]~~

~~[(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);]~~

~~[(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:]~~

~~[(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and]~~

~~[(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);]~~

~~[(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):]~~

~~[(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and]~~

~~[(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and]~~

~~[(iv) may not change the tax rate the city or town legislative body determines in accordance with~~

Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).]

[~~(8)~~ (5) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

[~~(9)(a)~~ (6) Subject to [Subsections (9)(b) through (e) and] Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in [Subsection (3)(b) or Subsections (4)(b) through (f)] Section 59-12-2212.2 to the county, city, or town legislative body in accordance with Section 59-12-2206.

[~~(b)~~ Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:]

[~~(i)~~ are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or]

[~~(ii)~~ a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.]

[~~(c)~~ Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:]

[~~(i)~~ transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and]

[~~(ii)~~ deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(e).]

[~~(d)~~ (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:]

[~~(A)~~ in accordance with Subsection (9)(e);]

[~~(B)~~ beginning on the date the city or town legislative body enacts the sales and use tax; and]

[~~(C)~~ ending on the earlier of the June 30 immediately following the date the city or town

legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.]

[~~(ii)~~ If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:]

[~~(A)~~ in accordance with Subsection (9)(e);]

[~~(B)~~ beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and]

[~~(C)~~ ending on the earlier of the June 30 of the year after the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.]

[~~(e)~~ (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).]

[~~(ii)~~ If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:]

[~~(A)~~ Subsection (9)(e); and]

[~~(B)~~ the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).]

[~~(10)~~ (7) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

[~~(11)~~ (8) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county, city, or town is annexed into a large public transit district, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the county, city, or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county, city, or town is annexed into a large public transit district, the county, city, or town legislative body may not pass the ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection [(11)] (8)(a), any sales and use tax imposed under this section by passage of a county, city, or town ordinance on or before June 30, 2022, may remain in effect.

Section 24. Section 59-12-2219 is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) As used in this section:

[(a) "Class B road" means the same as that term is defined in Section 72-3-103.]

[(b) "Class C road" means the same as that term is defined in Section 72-3-104.]

[(e)] (a) "Eligible political subdivision" means a political subdivision that:

(i) (A) on May 12, 2015, provides public transit services; or

(B) after May 12, 2015, provides written notice to the commission in accordance with Subsection [(10)] (9)(b) that it intends to provide public transit service within a county;

(ii) is not a public transit district; and

(iii) is not annexed into a public transit district.

[(d)] (b) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2) Subject to the other provisions of this part, and subject to Subsection [(47)] (15), a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) Subject to [Subsections (11) and (12)] Subsection (10), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) through [(10)] (9).

(4) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection [(8)] (7); and

(c) .05% shall be distributed to the county legislative body.

(5) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district [that also has a county of the

first class annexed into the same public transit district], the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection [(8)] (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection [(8)] (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection [(8)] (7); and

(ii) .15% shall be distributed to the county legislative body.

[(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:]

[(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:]

[(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;]

[(ii) .10% shall be distributed as provided in Subsection (8); and]

[(iii) .05% shall be distributed to the county legislative body;]

[(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:]

[(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;]

~~[(ii) .10% shall be distributed as provided in Subsection (8); and]~~

~~[(iii) .05% shall be distributed to the county legislative body; and]~~

~~[(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (6)(a) and (b), as follows:]~~

~~[(i) .10% shall be distributed as provided in Subsection (8); and]~~

~~[(ii) .15% shall be distributed to the county legislative body.]~~

~~[(7)] (6) For a county not described in Subsection (4) or (5), if [the entire boundary of] a county of the second, third, fourth, fifth, or sixth class [that] imposes a sales and use tax under this section [is not annexed into a single public transit district, or if there is not a public transit district within the county], the commission shall distribute the sales and use tax revenue collected within the county as follows:~~

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection ~~[(8)]~~ (7);

(ii) .10% shall be distributed as provided in Subsection ~~[(9)]~~ (8); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection ~~[(8)]~~ (7);

(ii) .10% shall be distributed as provided in Subsection ~~[(9)]~~ (8); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections ~~[(7)]~~ (6)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection ~~[(8)]~~ (7); and

(ii) .15% shall be distributed to the county legislative body.

~~[(8)]~~ (7) (a) Subject to Subsection ~~[(8)]~~ (7)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), ~~[(6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(e)(i)]~~ (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), ~~[(6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(e)(i)]~~ (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), ~~[(6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), (9)(d)(ii)(A), and (12)(e)(i)]~~ (6)(a)(i), (6)(b)(i), (6)(c)(i), and (8)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b) (i) Population for purposes of this Subsection ~~[(8)]~~ (7) shall be determined on the basis of the most recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

~~[(9)]~~ (8) (a) (i) Subject to the requirements in Subsections ~~[(9)]~~ (8)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection ~~[(9)]~~ (8)(e), allocate the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that ~~[obtains approval from a majority of the county's registered voters voting on the imposition of]~~ imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection ~~[(9)]~~ (8)(a)(i)(A) does not allocate the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) in accordance with Subsection ~~[(9)]~~ (8)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection ~~[(9)]~~ (8)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question ~~required by~~ described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection ~~[(9)]~~ (8).

(d) The commission shall make the distributions required by Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection ~~[(9)]~~ (8)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection ~~[(9)]~~ (8)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) not allocated by a county legislative body through a resolution under Subsection ~~[(9)]~~ (8)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection ~~[(8)]~~ (7); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection ~~[(9)]~~ (8)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection ~~[(9)]~~ (8)(a) specifying the percentage of revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection ~~[(9)]~~ (8)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation

so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection ~~[(9)]~~ (8)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection ~~[(9)]~~ (8)(e) and approved by the county legislative body in accordance with Subsection ~~[(9)]~~ (8)(e)(ii).

(g) (i) If a county makes an allocation by adopting a resolution under Subsection ~~[(9)]~~ (8)(a) or changes an allocation by adopting a resolution under Subsection ~~[(9)]~~ (8)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection ~~[(9)]~~ (8)(g)(ii) from the county.

(ii) The notice described in Subsection ~~[(9)]~~ (8)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection ~~[(9)]~~ (8)(a) or (e); and

(B) the percentage of revenue under Subsection ~~[(7)]~~ (6)(a)(ii) or ~~[(7)]~~ (6)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

~~[(10)]~~ (9) (a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

~~[(11)]~~ (10) (a) (i) Notwithstanding Subsections (4) through ~~[(10)]~~ (9), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection ~~[(11)]~~ (10)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection ~~[(11)]~~ (10)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (4) through ~~[(10)]~~ (9).

(c) ~~[Subject to Subsection (12), for]~~ For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (4) through ~~[(10)]~~ (9).

~~[(12) (a) Beginning on July 1, 2020, if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (12)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.]~~

~~[(b) The following cities or towns may impose the sales and use tax as described in Subsection (12)(a):]~~

~~[(i) in a county of the first, second, or third class, a city or town that:]~~

~~[(A) has been annexed into a public transit district; or]~~

~~[(B) is an eligible political subdivision; or]~~

~~[(ii) a city or town that:]~~

~~[(A) is in a county of the third or smaller class; and]~~

~~[(B) has been annexed into a large public transit district.]~~

~~[(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:]~~

~~[(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (8); and]~~

~~[(ii) .125%, as applicable, to:]~~

~~[(A) the large public transit district in which the city or town is annexed; or]~~

~~[(B) the eligible political subdivision for public transit services.]~~

~~[(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (12)(e).]~~

~~[(13) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:]~~

~~[(a) a class B road;]~~

~~[(b) a class C road;]~~

~~[(c) traffic and pedestrian safety, including for a class B road or class C road, for:]~~

~~[(i) a sidewalk;]~~

~~[(ii) curb and gutter;]~~

~~[(iii) a safety feature;]~~

~~[(iv) a traffic sign;]~~

~~[(v) a traffic signal;]~~

~~[(vi) street lighting; or]~~

~~[(vii) a combination of Subsections (13)(e)(i) through (vi);]~~

~~[(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;]~~

~~[(e) public transit system services; or]~~

~~[(f) a combination of Subsections (13)(a) through (e).]~~

~~[(11) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (8)(d)(i), for a purpose described in Section 59-12-2212.2.~~

~~[(14) (12) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or ~~[(9)]~~ (8)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.~~

~~[(15) (13) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing general fund appropriations that a county, city, or town has budgeted for transportation as of the date the tax becomes effective for a county, city, or town.~~

~~(b) The limitation under Subsection ~~[(15)]~~ (13)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.~~

~~[(16) (14) Notwithstanding Section 59-12-2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the~~

county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

~~[(17) (a) (i) (A) Notwithstanding any other provision in this section, if the county, city, or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.]~~

~~[(B) A city legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.]~~

~~[(ii) (A)] (15) (a) (i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.~~

~~[(B)] (ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.~~

(b) Notwithstanding the deadline described in Subsection ~~[(17)]~~ (15)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

(16) (a) Beginning on July 1, 2020, and subject to Subsection (17), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (16)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59-12-103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection (16)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (7); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the

commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (16)(c).

(17) (a) (i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (17)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 25. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, beginning on July 1, 2019, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) [the county has imposed] the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision as defined in Section 59-12-2219; or

(ii) a city or town within the boundary of the county is an eligible political subdivision as defined in Section 59-12-2219; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales

and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a [small] public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of [upto] .2%.

(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:

- (a) a public transit district;
- (b) an eligible political subdivision; or

(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

(4) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2023.

(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.

(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.

(6) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county has budgeted for transportation or public transit as of the date the tax becomes effective for a county.

(b) The limitation under Subsection (6)(a) does not apply to a designated transportation or public transit capital or reserve account a county may have established prior to the date the tax becomes effective.

Section 26. Section 59-13-301 is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

(1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

- (i) removal of undyed diesel fuel from any refinery;
- (ii) removal of undyed diesel fuel from any terminal;
- (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;
- (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;
- (v) any untaxed special fuel blended with undyed diesel fuel; or
- (vi) use of untaxed special fuel other than propane or electricity.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of

Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12) (a) (i) [A] Subject to Subsections (12)(a)(ii) and (iii), a tax imposed under this section on compressed natural gas is imposed at a rate of:

[(4)] (A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

[(4)] (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

[(4)] (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

[(4)] (D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

(ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on compressed natural gas by taking the rate for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the rate of a tax imposed under this section on compressed natural gas for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The rate of a tax imposed under this section on compressed natural gas determined by the commission under Subsection (12)(a)(ii) may not exceed 22-1/2 cents per gasoline gallon equivalent.

(b) (i) [A] Subject to Subsections (12)(b)(ii) and (iii), a tax imposed under this section on liquified natural gas is imposed at a rate of:

[(4)] (A) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;

[(4)] (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon equivalent;

[(4)] (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon equivalent; and

[(4)] (D) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.

(ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on liquified natural gas by taking the rate for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the rate of a tax imposed under this section on liquified natural gas for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The rate of a tax imposed under this section on liquified natural gas determined by the commission under Subsection (12)(b)(ii) may not exceed 22-1/2 cents per diesel gallon equivalent.

(c) (i) [A] Subject to Subsections (12)(c)(ii) and (iii), a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state is imposed at a rate of:

[(4)] (A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

[(4)] (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

[(iii)] (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and

[(iv)] (D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

(ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state by taking the rate for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state determined by the commission under Subsection (12)(c)(ii) may not exceed 22-1/2 cents per gasoline gallon equivalent.

(d) (i) The commission shall annually:

(A) adjust the fuel tax rates imposed under Subsections (12)(a)(ii), (b)(ii), and (c)(ii), rounded to the nearest one-tenth of a cent;

(B) publish the adjusted fuel tax as a cents per gallon rate; and

(C) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (12)(d)(i)(A) no later than 60 days prior to the annual effective date under Subsection (12)(d)(ii).

(ii) The tax rates imposed under this Subsection (12) and adjusted as required under Subsection (12)(d)(i) shall take effect on January 1 of each year.

Section 27. Section 63B-1b-102 is amended to read:

63B-1b-102. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission, created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409; and

(j) the ~~Transportation Infrastructure Loan~~ State Infrastructure Bank Fund, created in Section 72-2-202.

Section 28. Section 63B-18-401 is amended to read:

63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) The total amount of bonds issued under this section may not exceed \$2,077,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5) have been met and certifies the amount of bond proceeds that it needs to provide funding for the projects described in Subsection (2) for the next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) Interstate 15 reconstruction in Utah County;

(b) the Mountain View Corridor;

(c) the Southern Parkway; and

(d) state and federal highways prioritized by the Transportation Commission through:

(i) the prioritization process for new transportation capacity projects adopted under Section 72-1-304; or

(ii) the state highway construction program.

(3) (a) Except as provided in Subsection (5), the bond proceeds issued under this section shall be provided to the Department of Transportation.

(b) The Department of Transportation shall use bond proceeds and the funds provided to it under Section 72-2-124 to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highways:

(i) \$35 million to add highway capacity on I-15 south of the Spanish Fork Main Street interchange to Payson;

(ii) \$28 million for improvements to Riverdale Road in Ogden;

(iii) \$1 million for intersection improvements on S.R. 36 at South Mountain Road;

(iv) \$2 million for capacity enhancements on S.R. 248 between Sidewinder Drive and Richardson Flat Road;

(v) \$12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore Road;

(vi) \$7 million for 2600 South interchange modifications in Woods Cross;

(vii) \$9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder County;

(viii) \$18 million for the Provo west-side connector;

(ix) \$8 million for interchange modifications on I-15 in the Layton area;

(x) \$3,000,000 for an energy corridor study and environmental review for improvements in the Uintah Basin;

(xi) \$2,000,000 for highway improvements to Harrison Boulevard in Ogden City;

(xii) \$2,500,000 to be provided to Tooele City for roads around the Utah State University campus to create improved access to an institution of higher education;

(xiii) \$3,000,000 to be provided to the Utah Office of Tourism within the Governor's Office of Economic Development for transportation infrastructure improvements associated with annual tourism events that have:

(A) a significant economic development impact within the state; and

(B) significant needs for congestion mitigation;

(xiv) \$4,500,000 to be provided to the Governor's Office of Economic Development for transportation infrastructure acquisitions and improvements that have a significant economic development impact within the state;

(xv) \$125,000,000 to pay all or part of the costs of state and federal highway construction or reconstruction projects prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304; and

(xvi) \$10,000,000 for the Transportation Fund to pay all or part of the costs of state and federal highway construction or reconstruction projects as prioritized by the Transportation Commission.

(4) (a) The Department of Transportation shall use bond proceeds and the funds under Section 72-2-121 to pay for, or to provide funds to, a municipality, county, or political subdivision to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highway or transit projects in Salt Lake County:

(i) \$4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;

(ii) \$4,200,000 to Taylorsville City for highway improvements on or surrounding 6200 South and pedestrian crossings and system connections;

(iii) \$2,250,000 to Herriman City for highway improvements to the Salt Lake Community College Road;

(iv) \$5,300,000 to West Jordan City for highway improvements on 5600 West from 6200 South to 8600 South;

(v) \$4,000,000 to West Jordan City for highway improvements to 7800 South from 1300 West to S.R. 111;

(vi) \$7,300,000 to Sandy City for highway improvements on Monroe Street;

(vii) \$3,000,000 to Draper City for highway improvements to 13490 South from 200 West to 700 West;

(viii) \$5,000,000 to Draper City for highway improvements to Suncrest Road;

(ix) \$1,200,000 to Murray City for highway improvements to 5900 South from State Street to 900 East;

(x) \$1,800,000 to Murray City for highway improvements to 1300 East;

(xi) \$3,000,000 to South Salt Lake City for intersection improvements on West Temple, Main Street, and State Street;

(xii) \$2,000,000 to Salt Lake County for highway improvements to 5400 South from 5600 West to Mountain View Corridor;

(xiii) \$3,000,000 to West Valley City for highway improvements to 6400 West from Parkway Boulevard to SR-201 Frontage Road;

(xiv) \$4,300,000 to West Valley City for highway improvements to 2400 South from 4800 West to 7200 West and pedestrian crossings;

(xv) \$4,000,000 to Salt Lake City for highway improvements to 700 South from 2800 West to 5600 West;

(xvi) \$2,750,000 to Riverton City for highway improvements to 4570 West from 12600 South to Riverton Boulevard;

(xvii) \$1,950,000 to Cottonwood Heights for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard and Big Cottonwood Canyon;

(xviii) \$1,300,000 to Cottonwood Heights for highway improvements to Bengal Boulevard;

(xix) \$1,500,000 to Midvale City for highway improvements to 7200 South from I-15 to 1000 West;

(xx) \$1,000,000 to Bluffdale City for an environmental impact study on Porter Rockwell Boulevard;

(xxi) \$2,900,000 to the Utah Transit Authority for the following public transit studies:

(A) a circulator study; and

(B) a mountain transport study; and

(xxii) \$1,000,000 to South Jordan City for highway improvements to 2700 West.

(b) (i) Before providing funds to a municipality or county under this Subsection (4), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under this Subsection (4) solely for the projects described in Subsection (4)(a); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (4)(c), by January 1 of each year, the municipality or county receiving funds described in this Subsection (4) shall submit to the Department of Transportation a statement of cash flow for the next fiscal year detailing the funds necessary to pay project costs for the projects described in Subsection (4)(a).

(iii) After receiving the statement required under Subsection (4)(b)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the next fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsection (4)(a), the municipality or county receiving funds under this Subsection (4) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(c) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (4)(b)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(5) Twenty million dollars of the bond proceeds issued under this section and funds available under Section 72-2-124 shall be provided to the [~~Transportation Infrastructure Loan~~] State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for transportation infrastructure loans and transportation infrastructure assistance under Title 72, Chapter 2, Part 2, [~~Transportation Infrastructure Loan~~] State Infrastructure Bank Fund.

(6) The costs under Subsections (2), (3), and (4) may include the costs of studies necessary to make transportation infrastructure improvements, the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsections (2), (3), and (4) before the receipt of proceeds of bonds issued under this section.

(9) The Department of Transportation may enter into a new or amend an existing interlocal agreement related to the projects described in Subsections (3) and (4) to establish any necessary covenants or requirements not otherwise provided for by law.

Section 29. Section 63B-27-101 is amended to read:

63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year,

the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed one percent of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) Thirty-nine million dollars of the bond proceeds issued under this section shall be provided to the ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund, including the amounts as follows:

(a) \$14,000,000 to the military installation development authority created in Section 63H-1-201; and

(b) \$5,000,000 for right-of-way acquisition and highway construction in Salt Lake County for roads in the northwest quadrant of Salt Lake City.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Ten million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 30. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section 59-1-213.1 is repealed on May 9, 2019.

(2) Section 59-1-213.2 is repealed on May 9, 2019.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2019.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2019.

(5) Section 59-7-618 is repealed July 1, 2020.

(6) Section 59-9-102.5 is repealed December 31, 2020.

(7) Section 59-10-1033 is repealed July 1, 2020.

(8) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

(9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

Section 31. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Commission" means the Transportation Commission created under Section 72-1-301.

(2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(13) "Municipality" has the same meaning set forth in Section 10-1-104.

(14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

(17) "Public transit" means the same as that term is defined in Section 17B-2a-802.

~~[(17)]~~ (18) "Public transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

~~[(18)]~~ (19) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

~~[(19)]~~ (20) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(20)]~~ (21) "Semitrailer" has the meaning set forth in Section 41-1a-102.

~~[(21)]~~ (22) "SR" means state route and has the same meaning as state highway as defined in this section.

~~[(22)]~~ (23) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

~~[(23)]~~ (24) "State ~~highway~~ transportation purposes" has the meaning set forth in Section 72-5-102.

~~[(24)]~~ (25) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

~~[(25)]~~ (26) "Trailer" has the meaning set forth in Section ~~41-1a-102~~.

~~[(26)]~~ (27) "Truck tractor" has the meaning set forth in Section 41-1a-102.

~~[(27)]~~ (28) "UDOT" means the Utah Department of Transportation.

~~[(28)]~~ (29) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 32. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, ~~[after consultation with the commission and]~~ with the consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business; ~~[and]~~

(f) purchase all necessary equipment and supplies for the department~~[-];~~

(g) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(h) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.

Section 33. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint two deputy directors, who shall serve at the discretion of the executive director.

(2) (a) The deputy director of engineering and operations shall be a registered professional engineer in the state and is the chief engineer of the department.

(b) The deputy director of engineering and operations shall assist the executive director with areas of responsibility ~~[including]~~ that may include:

(i) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(ii) oversight of the management of the region offices described in Section 72-1-205;

(iii) ~~[management of operations; and]~~ operations and traffic management;

(iv) oversight of operations of motor carriers and ports~~[-];~~

(v) transportation systems safety;

(vi) aeronautical operations; and

(vii) equipment for department engineering and maintenance functions.

~~[(b)]~~ (c) The deputy director of planning and investment shall assist the executive director with areas of responsibility ~~[including]~~ that may include:

(i) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations and local governments; and

(C) corridor and area planning;

(ii) asset management;

(iii) programming and prioritization of transportation projects;

(iv) fulfilling requirements for environmental studies and impact statements; ~~[and]~~

(v) resource investment, including identification ~~[and development]~~, development, and oversight of public-private partnership opportunities~~[-];~~

(vi) data analytics services to the department;

(vii) corridor preservation;

(viii) employee development;

(ix) maintenance planning; and

(x) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827.

~~[(3) The executive director may also appoint assistants to administer the divisions of the department. These assistants shall serve at the discretion of the executive director.]~~

~~[(4) In addition, the executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Department of Human Resource Management.]~~

Section 34. Section 72-1-204 is amended to read:

72-1-204. Divisions enumerated -- Duties.

[The] In addition to divisions created by the department necessary to administer the areas of responsibility of the deputy directors as described in Section 72-1-203, the divisions of the department are:

(1) the Comptroller Division responsible for:

(a) all financial aspects of the department, including budgeting, accounting, and contracting;

(b) providing all material data and documentation necessary for effective fiscal planning and programming; and

(c) procuring administrative supplies;

(2) the Internal Audit Division responsible for:

(a) conducting and verifying all internal audits and reviews within the department;

(b) performing financial and compliance audits to determine the allowability and reasonableness of proposals, accounting records, and final costs of consultants, contractors, utility companies, and other entities used by the department; and

(c) implementing audit procedures that meet or exceed generally accepted auditing standards relating to revenues, expenditures, and funding; and

(3) the Communications Division responsible for:

(a) developing, managing, and implementing the department's public hearing processes and programs;

(b) responding to public complaints, requests, and input;

(c) assisting the divisions and regions in the department's public involvement programs;

(d) developing and managing internal department communications; and

(e) managing and overseeing department media relations[;].

~~[(4) the Program Development Division responsible for:]~~

~~[(a) developing transportation plans for state transportation systems;]~~

~~[(b) collecting, processing, and storing transportation data to support department's engineering functions;]~~

~~[(c) maintaining and operating the asset management systems;]~~

~~[(d) designating state transportation systems qualifications;]~~

~~[(e) developing a statewide transportation improvement program for approval by the commission;]~~

~~[(f) providing cartographic services to the department;]~~

~~[(g) assisting local governments in participating in federal-aid transportation programs; and]~~

~~[(h) providing research services associated with transportation programs;]~~

~~[(5) the Project Development Division responsible for:]~~

~~[(a) developing statewide standards for project design and construction;]~~

~~[(b) providing support for project development in the areas of design environment, right-of-way, materials testing, structures, value engineering, and construction; and]~~

~~[(c) designing specialty projects;]~~

~~[(6) the Operations Division responsible for:]~~

~~[(a) maintaining the state transportation systems;]~~

~~[(b) state transportation systems safety;]~~

~~[(c) operating state ports of entry;]~~

~~[(d) operating state motor carrier safety programs in accordance with this title and federal law;]~~

~~[(e) aeronautical operations;]~~

~~[(f) providing equipment for department engineering and maintenance functions; and]~~

~~[(g) risk management; and]~~

~~[(7) the Planning and Investment Division responsible for:]~~

~~[(a) creating and managing an intermodal terminal facility to promote economic development and investment;]~~

~~[(b) promoting strategies to synergize development of an intermodal inland port; and]~~

~~[(c) overseeing and coordinating public-private partnerships.]~~

Section 35. Section 72-1-205 is amended to read:

72-1-205. Region offices -- Region directors -- Qualifications -- Responsibilities.

(1) The department shall maintain region offices throughout the state as the executive director finds reasonable and necessary for the efficient carrying out of the duties of the department.

(2) (a) The executive director shall appoint a region director for each region.

(b) Each region director shall be a qualified executive with technical and administrative experience and training.

~~[(3) The region director is responsible for:]~~

~~[(a) executing department policy within the region;]~~

~~[(b) supervising project development and operations of the state transportation systems within the region; and]~~

~~[(c) promoting the department's public involvement and information programs.]~~

(3) The executive director shall establish the responsibilities of each region director.

(4) The executive director may also establish district offices within a region to implement maintenance, encroachment, safety, community involvement, and loss management functions of the region.

Section 36. Section 72-1-213 is amended to read:

72-1-213. Road usage charge study -- Recommendations.

(1) (a) The department shall study a road usage charge mileage-based revenue system, including a demonstration program, as an alternative to the motor and special tax.

(b) The demonstration program may consider:

(i) the necessity of protecting all personally identifiable information used in reporting highway use;

(ii) alternatives to recording and reporting highway use;

(iii) alternatives to administration of a road usage charge program; and

(iv) other factors as determined by the department.

(2) (a) The department shall create a Road Usage Charge Advisory Committee to assist the department to conduct a road usage charge demonstration program.

(b) The executive director shall appoint members of the committee, considering individuals with experience and expertise in the following areas:

(i) telecommunications;

(ii) data security and privacy;

(iii) privacy rights advocacy organizations;

(iv) transportation agencies with technical expertise;

(v) national research;

(vi) members of the Legislature;

(vii) representatives from the State Tax Commission; and

(viii) other relevant stakeholders as determined by the executive director.

(c) The executive director or the executive director's designee shall serve as chair of the committee.

(d) A member of the committee may not receive compensation or benefits for the member's service,

but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(3) (a) Beginning in 2019, and no later than September 30 of each year, the department shall prepare and submit a report of its findings based on the results of the road usage charge demonstration program to the:

(i) Road Usage Charge Advisory Committee created under Subsection (2);

(ii) Transportation Commission;

(iii) Transportation Interim Committee of the Legislature; and

(iv) Revenue and Taxation Interim Committee of the Legislature.

(b) The report shall review the following issues:

(i) cost;

(ii) privacy, including recommendations regarding public and private access, including by law enforcement, to data collected and stored for purposes of the road usage charge to ensure individual privacy rights are protected;

(iii) jurisdictional issues;

(iv) feasibility;

(v) complexity;

(vi) acceptance;

(vii) use of revenues;

(viii) security and compliance, including a discussion of processes and security measures necessary to minimize fraud and tax evasion rates;

(ix) data collection technology, including a discussion of the advantages and disadvantages of various types of data collection equipment and the privacy implications and considerations of the equipment;

(x) potential for additional driver services; and

(xi) implementation issues.

(c) The report may make recommendations to the Legislature and other policymaking bodies on the potential use and future implementation of a road usage charge within the state.

(4) Upon full implementation of a road user charge program for alternative fuel vehicles, which shall occur no later than January 1, 2020, as set forth in Section 72-1-213.1, the department, in coordination with the Motor Vehicle Division, shall offer the option to an owner of an alternative fuel vehicle as defined in Section 41-1a-102 to:

(a) pay an increased motor vehicle registration fee required in Subsection 41-1a-1206(1)(h) or (2)(b); or

(b) participate in a road user charge program.

Section 37. Section 72-1-213.1 is enacted to read:

72-1-213.1. Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means the same as that term is defined in Section 41-1a-102.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Transportation Fund.

(b) The department may use revenue generated by the program to cover the costs of administering the program.

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection (8)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(10) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period as set by the department and the commission pursuant to Subsections (5) and (6); and

(c) comply with all other provisions of this section and other requirements of the program.

Section 38. Section 72-1-301 is amended to read:

72-1-301. Transportation Commission created -- Members, appointment, terms -- Qualifications -- Pay and expenses -- Chair -- Quorum.

(1) (a) There is created the Transportation Commission which shall consist of seven members.

(b) The members of the commission shall be residents of Utah.

(c) The members of the commission shall be selected on a nonpartisan basis.

(d) (i) The commissioners shall be appointed by the governor, with the consent of the Senate, for a term of six years, beginning on April 1 of odd-numbered years, except as provided under Subsection (1)(d)(ii).

(ii) The first two additional commissioners serving on the seven member commission shall be appointed for terms of two years nine months and four years nine months, respectively, initially commencing on July 1, 1996, and subsequently commencing as specified under Subsection (1)(d)(i).

(e) The commissioners serve on a part-time basis.

(f) Each commissioner shall remain in office until a successor is appointed and qualified.

(2) (a) Except as provided in Subsection (2)(b), the selection of the commissioners shall be as follows:

(i) one commissioner from Box Elder, Cache, or Rich county;

(ii) one commissioner from Salt Lake or Tooele county;

(iii) one commissioner from Carbon, Emery, Grand, or San Juan county;

(iv) one commissioner from Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Washington, or Wayne county;

(v) one commissioner from Weber, Davis, or Morgan county;

(vi) one commissioner from Juab, Utah, Wasatch, Duchesne, Summit, Uintah, or Daggett county; and

(vii) one commissioner selected from the state at large.

(b) Beginning with the appointment of commissioners on or after July 1, 2009 and subject to the restriction in Subsection (2)(d), the selection of commissioners shall be as follows:

(i) four commissioners with one commissioner selected from each of the four regions established by the department; and

(ii) subject to the restriction in Subsection (2)(c), three commissioners selected from the state at large.

(c) (i) At least one of the three commissioners appointed under Subsection (2)(b)(ii) shall be selected from a rural county.

(ii) For purposes of this Subsection (2)(c), a rural county includes a county of the third, fourth, fifth, or sixth class.

(d) No more than two commissioners appointed under Subsection (2)(b) may be selected from any one of the four regions established by the department.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(4) (a) One member of the commission shall be designated by the governor as chair.

(b) The commission shall select one member as vice chair to act in the chair's absence.

(5) Any four commissioners constitute a quorum.

(6) Each member of the commission shall qualify by taking the constitutional oath of office.

(7) For the purposes of Section 63J-1-504, the commission is not considered an agency.

Section 39. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways[,-or];

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that add capacity to the public transit systems within the state[-]; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding

source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the ~~[funds]~~ costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(7)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) recreation;

(C) commerce; and

(D) residential areas;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by ~~[Subsection 72-2-124(7)(e).]~~ Subsections 72-2-124(4)(a)(viii) and 72-2-124(7)(e).

(3) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(5) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (4).

Section 40. Section 72-2-107 is amended to read:

72-2-107. Appropriation from Transportation Fund -- Apportionment for class B and class C roads.

(1) There is appropriated to the department from the Transportation Fund annually an amount equal to 30% of an amount which the director of finance shall compute in the following manner: The total revenue deposited into the Transportation Fund during the fiscal year from state highway-user taxes and fees, minus those amounts appropriated or transferred from the Transportation Fund during the same fiscal year to:

- (a) the Department of Public Safety;
- (b) the State Tax Commission;
- (c) the Division of Finance;
- (d) the Utah Travel Council; ~~and~~

(e) the road usage charge program created in Section 72-1-213.1; and

~~(e)~~ (f) any other amounts appropriated or transferred for any other state agencies not a part of the department.

(2) (a) Except as provided in Subsection (2)(b), all of the money appropriated in Subsection (1) shall be apportioned among counties and municipalities for class B and class C roads as provided in this title.

(b) The department shall annually transfer \$500,000 of the amount calculated under Subsection (1) to the State Park Access Highways Improvement Program created in Section 72-3-207.

(3) Each quarter of every year the department shall make the necessary accounting entries to transfer the money appropriated under this section for class B and class C roads.

(4) The funds appropriated for class B and class C roads shall be expended under the direction of the department as the Legislature shall provide.

Section 41. Section 72-2-117.5 is amended to read:

72-2-117.5. Definitions -- Local Highway and Transportation Corridor Preservation Fund -- Disposition of fund money.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Highway and Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) all money collected from rents and sales of real property acquired with fund money;

(e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds; and

~~[(f) the portion of the sales and use tax described in Section 59-12-2217 deposited into the fund; and]~~

~~[(g)]~~ (f) sales and use tax revenues deposited into the fund in accordance with ~~[Section 59-12-2218]~~ Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(c) The State Tax Commission shall allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;

(ii) provided under Subsection 59-12-2217(2)~~[(b)]~~ to each county imposing a county option sales and use tax for transportation; and

(iii) provided under Subsection (3)~~[(g)]~~(f) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.

(d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.

(e) The money allocated and distributed under this Subsection (4):

(i) shall be used for the purposes provided in this section for each county, city, or town;

(ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated and distributed under this Subsection (4), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and

(iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(f) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) A highway authority may acquire real property or any interests in real property for state, county, and municipal highway or public transit corridors subject to:

(i) money available in the fund to each county under Subsection (4); and

(ii) the provisions of this section.

(b) Fund money may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund money allocated and distributed under Subsection (4) may be used by a county highway authority for countywide transportation or public transit planning if:

(i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation or public transit planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund money as provided under this section.

(e) (i) Subject to Subsection (11), fund money allocated and distributed under Subsection (4) may be used by a county highway authority for transportation or public transit corridor planning that is part of the corridor elements of an ongoing work program of transportation or public transit projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(f) (i) A county, city, or town that imposes a local option highway construction and transportation

corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund.

(ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund, a local highway authority shall repay the fund money authorized for the project to the fund.

(iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.

(g) (i) Subject to the restrictions in Subsections (5)(g)(ii) and (iii), fund money may be used by a county of the third, fourth, fifth, or sixth class or by a city or town within a county of the third, fourth, fifth, or sixth class for:

(A) the construction, operation, or maintenance of a class B road or class C road; or

(B) the restoration or repair of survey monuments associated with transportation infrastructure.

(ii) A county, city, or town may not use more than 50% of the current balance of fund money allocated to the county, city, or town for the purposes described in Subsection (5)(g)(i).

(iii) A county, city, or town may not use more than 50% of the fund revenue collections allocated to a county, city, or town in the current fiscal year for the purposes described in Subsection (5)(g)(i).

(6) (a) (i) The Local Highway and Transportation Corridor Preservation Fund shall be used to preserve highway and public transit corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Highway and Transportation Corridor Preservation Fund shall only be used to preserve a highway or public transit corridor that is right-of-way:

(A) in a county of the first or second class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a collector highway in an urban area as defined in Section 72-4-102.5; or

(V) a transit facility as defined in Section 17B-2a-802; or

(B) in a county of the third, fourth, fifth, or sixth class for:

(I) a state highway;

(II) a principal arterial highway as defined in Section 72-4-102.5;

(III) a minor arterial highway as defined in Section 72-4-102.5;

(IV) a major collector highway as defined in Section 72-4-102.5;

(V) a minor collector road as defined in Section 72-4-102.5; or

(VI) a transit facility as defined in Section 17B-2a-802.

(iii) The Local Highway and Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.

(b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:

(i) endorsed by the council of governments; and

(ii) for a right-of-way purchase for a highway or public transit corridor authorized under Subsection (6)(a)(ii).

(7) (a) (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and

(vii) whether the transportation or public transit corridor is included as part of:

(A) the county and municipal master plan; and

(B) (I) the statewide long range plan; or

(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(c) The council of governments shall:

(i) establish a priority list of highway and public transit corridor preservation projects within the county;

(ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and

(iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.

(d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.

(e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.

(8) (a) Unless otherwise provided by written agreement with another highway authority or public transit district, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities or public transit district.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Highway and Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Highway and Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets department requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the department to acquire real property or any interests in real property on behalf of the local highway authority under this section.

(11) The county shall ensure, to the extent possible, that the fund money allocated and

distributed to a city or town in accordance with Subsection (4) is expended:

(a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;

(b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:

(i) secured by money allocated to the city or town; and

(ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;

(c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or

(d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

(12) Notwithstanding any other provision in this section, any amounts within the fund allocated to a public transit district or for a public transit corridor may only be derived from the portion of the fund that does not include constitutionally restricted sources related to the operation of a motor vehicle on a public highway or proceeds from an excise tax on liquid motor fuel to propel a motor vehicle.

Section 42. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) for fiscal year 2012-13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72-2-121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required

under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Fund created in Section 72-2-102 until \$28,079,000 has been deposited into the Transportation Fund;

(k) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(l) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state; and

(m) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(j)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on July 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under this section is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory ~~board~~ council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

Section 43. Section 72-2-121.1 is amended to read:

72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues -- Interest -- Expenditure of revenues.

(1) There is created a special revenue fund within the Transportation Fund known as the "Highway Projects Within Counties Fund."

(2) The Highway Projects Within Counties Fund shall be funded by revenues generated by a tax imposed by a county under Section 59-12-2216, if those revenues are allocated:

(a) for a ~~[purpose described in Subsection 59-12-2216(2)(e)]~~ state highway within the county; and

(b) in accordance with Section 59-12-2216.

(3) The department shall make a separate accounting for:

(a) the revenues described in Subsection (2); and

(b) each county for which revenues are deposited into the Highway Projects Within Counties Fund.

(4) (a) The Highway Projects Within Counties Fund shall earn interest.

(b) The department shall allocate the interest earned on the Highway Projects Within Counties Fund:

(i) proportionately;

(ii) to each county's balance in the Highway Projects Within Counties Fund; and

(iii) on the basis of each county's balance in the Highway Projects Within Counties Fund.

(5) The department shall expend the revenues and interest deposited into the Highway Projects Within Counties Fund to pay:

(a) for a state highway project within the county; ~~(i) described in Subsection 59-12-2216(2)(e)(i); and~~

(iii) for which the requirements of Subsection 59-12-2216(6) are met;

(b) debt service on a project described in Subsection (5)(a); or

(c) bond issuance costs related to a project described in Subsection (5)(a).

Section 44. Section 72-2-121.2 is amended to read:

72-2-121.2. Definition -- County of the Second Class State Highway Projects Fund -- Use of fund money.

(1) As used in this section, "fund" means the County of the Second Class State Highway Projects Fund created by this section.

(2) There is created within the Transportation Fund a special revenue fund known as the County of the Second Class State Highway Projects Fund.

(3) The fund shall be funded by money collected from:

(a) any voluntary contributions the department receives for new construction, major renovations, and improvements to state highways within a county of the second class; and

(b) sales and use taxes deposited into the fund in accordance with [Section 59-12-2218] Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act.

(4) The department shall make a separate accounting for:

(a) the revenues described in Subsection (3); and

(b) each county of the second class or city or town within a county of the second class for which revenues are deposited into the fund.

(5) (a) The fund shall earn interest.

(b) Interest earned on fund money shall be deposited into the fund.

(6) Subject to Subsection (9), the executive director may use fund money only:

(a) for right-of-way acquisition, new construction, major renovations, and improvements to state highways within a county of the second class or a city or town within a county of the second class in an amount that does not exceed the amounts deposited for or allocated to that county of the second class or city or town within a county of the second class in accordance with this section;

(b) to pay any debt service and bond issuance costs related to a purpose described in Subsection (6)(a) in an amount that does not exceed the amounts deposited for or allocated to that county of the second class or city or town within a county of the second class described in Subsection (6)(a) in accordance with this section; and

(c) to pay the costs of the department to administer the fund in an amount not to exceed interest earned by the fund money.

(7) If interest remains in the fund after the executive director pays the costs of the department to administer the fund, the interest shall be:

(a) allocated to each county of the second class or city or town within a county of the second class for which revenues are deposited into the fund in proportion to the deposits made into the fund for that county of the second class or city or town within a county of the second class; and

(b) expended for the purposes described in Subsection (6).

(8) Revenues described in Subsection (3)(b) that are deposited into the fund are considered to be a local matching contribution for the purposes described in Section 72-2-123.

(9) (a) The executive director shall, in using fund money, ensure to the extent possible that the fund money deposited for or allocated to a city or town is used:

(i) for a purpose described in Subsection (6)(a) within the city or town to which the fund money is allocated;

(ii) to pay debt service and bond issuance costs described in Subsection (6)(b) if the debt service and bond issuance costs are:

(A) secured by money deposited for or allocated to the city or town; and

(B) related to a project described in Subsection (6)(a) within the city or town to which the fund money is allocated; or

(iii) for a purpose described in Subsection (6)(c).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement the requirements of Subsection (9)(a).

Section 45. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may use fund money only to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(f);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118; ~~and~~

(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121[-]; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the

amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(6) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(7) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (7)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the ~~funds~~ costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (7)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 46. Section 72-2-201 is amended to read:

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Transportation project":

(a) means a project:

(i) to improve a state or local highway; ~~and~~

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to improve parking facilities that support an intermodal regional transportation purpose; or

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing~~[-]~~; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan.

Section 47. Section 72-2-202 is amended to read:

72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the ~~[Transportation Infrastructure Loan]~~ State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

~~[(a)]~~ (i) appropriations made to the fund by the Legislature;

~~[(b)]~~ (ii) federal money and grants that are deposited in the fund;

~~[(e)]~~ (iii) money transferred to the fund by the commission from other money available to the department;

~~[(d)]~~ (iv) state grants that are deposited in the fund;

~~[(e)]~~ (v) contributions or grants from any other private or public sources for deposit into the fund; and

~~[(f)]~~ (vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Section 48. Section 72-2-203 is amended to read:

72-2-203. Loans and assistance -- Authority -- Rulemaking.

(1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance~~[-]~~ and a process for prioritization of requests for loans and assistance.

(3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:

- (a) availability of money in the fund;
- (b) credit worthiness of the project;
- (c) demonstration that the project will encourage, enhance, or create economic benefits to the state;
- (d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;
- (e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;
- (f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;
- (g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;
- (h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and
- (i) other provisions the commission considers appropriate.

Section 49. Section 72-2-204 is amended to read:

72-2-204. Loan program procedures -- Repayment.

(1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.

(2) A loan or assistance from the fund shall bear interest at or above bond market interest rates available to the state.

(3) A loan shall be repaid no later than 10 years from the date the department issues the loan to the borrower, with repayment commencing no later than:

- (a) when the project is completed; or
- (b) in the case of a highway project, when the facility has opened to traffic.

[(2)] (4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

- (a) transportation project revenues, including special assessment revenues;
- (b) general funds of the public entity;
- (c) money withheld under Subsection [(5)] (7); or

(d) any other legally available revenues.

[(3)] (5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

[(4)] (6) Before obtaining an infrastructure loan, a county or municipality shall:

(a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and

(b) adopt an ordinance or resolution authorizing the infrastructure loan.

[(5)] (7) (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection [(5)] (7).

[(6)] (8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

Section 50. Section 72-5-111 is amended to read:

72-5-111. Disposal of real property.

(1) (a) If the department determines that any real property or interest in real property, acquired for a highway purpose, is no longer necessary for the purpose, the department may lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

(b) (i) Real property may be sold at private or public sale.

(ii) Except as provided in Subsection (1)(c) related to exchanges and Subsection (1)(d) related to the proceeds of any sale of real property from a maintenance facility, proceeds of any sale shall be deposited with the state treasurer and credited to the Transportation Fund.

(c) (i) [(H)] Except as provided in Subsection (1)(c)(ii), if approved by the commission, real property or an interest in real property may be exchanged by the department for other real property or interest in real property, including improvements, for highway purposes.

(ii) The department may exchange an interest in real property for another interest in real property for a project that is part of a statewide transportation improvement program approved by the commission.

(d) Proceeds from the sale of real property or an interest in real property from a maintenance

facility may be used by the department for the purchase or improvement of another maintenance facility, including real property.

(2) (a) In the disposition of real property at any private sale, first consideration shall be given to the original grantor.

(b) Notwithstanding the provisions of Section 78B-6-521, if no portion of a parcel of real property acquired by the department is used for transportation purposes, then the original grantor shall be given the opportunity to repurchase the parcel of real property at the department's original purchase price from the grantor.

(c) In accordance with Section 72-5-404, this Subsection (2) does not apply to property rights acquired in proposed transportation corridors using funds from the Marda Dillree Corridor Preservation Fund created in Section 72-2-117.

(d) (i) The right of first consideration described in Subsection (2)(a) is subject to the same terms and may be assigned by the original grantor in the manner described in Subsection 78B-6-521(2).

(ii) The original grantor or the assignee shall notify the department of an assignment by certified mail to the current office address of the executive director of the department.

(iii) An exchange of real property as provided in Subsection (1)(c) or Section 72-5-113 does not entitle the original grantor to exercise the right of first consideration described in Subsection (2)(a).

(iv) The right of first consideration described in Subsection (2)(a) terminates upon an exchange of the acquired real property as provided in Subsection (1)(c) or Section 72-5-113.

(3) (a) Any sale, exchange, or disposal of real property or interest in real property made by the department under this section, is exempt from the mineral reservation provisions of Title 65A, Chapter 6, Mineral Leases.

(b) Any deed made and delivered by the department under this section without specific reservations in the deed is a conveyance of all the state's right, title, and interest in the real property or interest in the real property.

Section 51. Section 72-6-403 is amended to read:

72-6-403. Highway sponsorship program -- Sponsorship advertisement restrictions -- Rulemaking.

(1) The department may establish a sponsorship program to allow for private sponsorship of the following department operational activities or other highway-related services or programs:

- (a) traveler information; ~~and~~
- (b) rest areas~~[-]; and~~
- (c) courtesy patrol services.

(2) All revenue generated from a sponsorship authorized by this section shall be deposited into

the Transportation Fund created by Section 72-2-102 to be used to:

(a) offset costs associated with providing the service being sponsored; and

(b) support costs associated with operation and maintenance of the state highway system.

(3) (a) The department shall adopt a policy on sponsorship agreements that is applicable to all department operational activities or other highway-related services within the state described in Subsection (1).

(b) The policy described in Subsection (3)(a) shall:

(i) include language requiring the department to terminate a sponsorship agreement if it determines the sponsorship agreement or acknowledgment sign:

- (A) presents a safety concern;
- (B) interferes with the free and safe flow of traffic; or
- (C) is not in the public interest; and

(ii) describe the sponsors and sponsorship agreements that are acceptable and consistent with applicable state and federal laws.

(4) A sponsorship authorized by this section:

(a) may not contain:

(i) promotion of any substance or activity that is illegal for minors, such as alcohol, tobacco, drugs, or gambling;

(ii) promotion of any political party, candidate, or issue; or

(iii) sexual material;

(b) may not resemble a traffic-control device as defined in Section 41-6a-102; and

(c) shall comply with federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make and enforce rules governing:

(a) the placement and size restrictions for acknowledgment signs at rest areas; and

(b) other size, placement, and content restrictions that the department determines are necessary.

(6) A commercial advertiser that enters a sponsorship agreement with the department for the use of space for a sponsorship shall pay:

(a) the cost of placing the sponsorship advertisement on a sign; and

(b) for the removal of the sponsorship advertisement after the term of the sponsorship agreement has expired.

Section 52. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(3) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

- (a) compensation or other reward;
- (b) advertising the occupation;
- (c) calling his facilities an air school, or any equivalent term; or
- (d) employing or using other instructors.

(4) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(5) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(6) "Airport" means any area of land, water, or both, that:

- (a) is used or is made available for landing and takeoff;
- (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;
- (c) meets the minimum requirements established by the division as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

(7) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(8) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

(9) (a) "Airport revenue" means:

(i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

(A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

(B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(I) for the right to conduct an activity on the airport or to use or occupy airport property;

(II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

(III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

(IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

(C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and

(ii) state and local taxes on aviation fuel.

(b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

(10) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(11) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(12) "Civil aircraft" means any aircraft other than a public aircraft.

(13) "Commercial aircraft" means aircraft used for commercial purposes.

(14) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

(15) "Commercial flight operator" means a person who conducts commercial operations.

(16) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal

government or the services incidental to those operations.

(17) “Dealer” means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

~~[(18) (18) “Division” means the Operations Division in the Department of Transportation, created in Section 72-1-204.]~~

[(19) (18) “Experimental aircraft” means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

[(20) (19) “Flight” means any kind of locomotion by aircraft while in the air.

[(21) (20) “Flying club” means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

[(22) (21) “Glider” means an aircraft heavier than air, similar to an airplane, but without a power plant.

[(23) (22) “Mechanic” means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

[(24) (23) “Parachute jumper” means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

[(25) (24) “Parachute rigger” means any person who has passed the required test for packing, repairing, and maintaining parachutes.

[(26) (25) “Passenger aircraft” means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

[(27) (26) “Person” means any individual, corporation, limited liability company, or association of individuals.

[(28) (27) “Pilot” means any person who operates the controls of an aircraft while in-flight.

[(29) (28) “Primary glider” means any glider that has a gliding angle of less than 10 to one.

[(30) (29) “Public aircraft” means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of

Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

~~[(31) (30) “Reckless flying” means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.~~

[(32) (31) “Registration number” means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

[(33) (32) “Secondary glider” means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

[(34) (33) “Soaring glider” means any glider that has a gliding angle of more than 16 to one.

Section 53. Section 77-23c-101 is amended to read:

77-23c-101. Definitions.

As used in this chapter:

(1) “Connected vehicle” means a vehicle that is equipped with a wireless communication device which can, for the purpose of improving vehicle safety or traffic mobility:

(a) broadcast, according to industry-defined standards and without operator intervention, specific information about the vehicle movement and activity; and

(b) receive related information from other vehicles, roadside transportation infrastructure, and others.

[(4) (2) “Electronic communication service” means a service that provides to users of the service the ability to send or receive wire or electronic communications.

[(2) (3) “Electronic device” means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

[(3) (4) “Government entity” means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

[(4) (5) “Location information” means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.

[(5) (6) “Location information service” means the provision of a global positioning service or other

mapping, location, or directional information service.

[~~(6)~~] (7) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

Section 54. Section 77-23c-102 is amended to read:

77-23c-102. Location information privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2), a government entity may not obtain the location information, stored data, or transmitted data of an electronic device without a search warrant issued by a court upon probable cause.

(b) Except as provided in Subsection (1)(c), a government entity may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device that is not the subject of the warrant that is collected as part of an effort to obtain the location information, stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).

(c) A government entity may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the government entity reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the government entity as soon as reasonably possible after the data is collected.

(2) (a) A government entity may obtain location information without a warrant for an electronic device:

- (i) in accordance with Section 53-10-104.5;
- (ii) if the device is reported stolen by the owner;
- (iii) with the informed, affirmative consent of the owner or user of the electronic device;
- (iv) in accordance with judicially recognized exceptions to warrant requirements; or
- (v) if the owner has voluntarily and publicly disclosed the location information.

(b) A prosecutor may obtain a judicial order as defined in Section 77-22-2.5 for the purposes enumerated in Section 77-22-2.5.

(3) An electronic communication service provider, its officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in accordance with the terms of the warrant issued under this section or without a warrant pursuant to Subsection (2).

(4) (a) (i) Notwithstanding Subsections (1) through (3), a government entity may receive and

utilize electronic data containing the location information of an electronic device from a non-government entity as long as the electronic data contains no information that includes, or may reveal, the identity of an individual.

(ii) Notwithstanding Subsections (1) through (3), for roadway operation purposes, the Department of Transportation may obtain, collect, and utilize electronic data containing the location information of an electronic device that is placed in a motor vehicle by the vehicle manufacturer or the vehicle owner to make the vehicle a connected vehicle as long as the electronic data contains no information that includes or may reveal the:

(A) identity of an individual; or

(B) vehicle make, model, registration information, or manufacturer-issued vehicle identification number.

(b) Electronic data collected in accordance with this subsection may not be used for investigative purposes by a law enforcement agency.

Section 55. Repealer.

This bill repeals:

Section 17B-2a-803.1, Authority to name a large public transit district.

Section 56. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 14, 2019.

(2) The amendments to the following sections in this bill take effect on July 1, 2019:

(a) Section 59-12-2202;

(b) Section 59-12-2203;

(c) Section 59-12-2212.2;

(d) Section 59-12-2214;

(e) Section 59-12-2215;

(f) Section 59-12-2216;

(g) Section 59-12-2217;

(h) Section 59-12-2218;

(i) Section 59-12-2219;

(j) Section 59-12-2220;

(k) Section 59-13-301; and

(l) Section 72-2-201.

Section 57. Coordinating S.B. 72 with H.B. 57 -- Substantive amendments.

If this S.B. 72 and H.B. 57, Electronic Information or Data Privacy, both pass and become law, it is the intent of the Legislature that the amendments to Sections 77-23c-101 and 77-23c-102 in H.B. 57 supersede the amendments to Sections 77-23c-101 and 77-23c-102 in this bill, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 480**S. B. 77**

Passed March 12, 2019

Approved April 1, 2019

Effective May 14, 2019

TAX INCREMENT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Stephen G. Handy

LONG TITLE**General Description:**

This bill amends provisions related to a community reinvestment agency's collection of tax increment revenue.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the application of the Community Reinvestment Agency Act;
- ▶ clarifies the manner in which an agency may receive a taxing entity's tax revenue that results from a tax increase; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17C-1-102, as last amended by Laws of Utah 2018, Chapter 364

17C-1-103, as last amended by Laws of Utah 2016, Chapter 350

17C-1-407, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17C-1-102 is amended to read:**17C-1-102. Definitions.**

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development; or

(c) a contribution, loan, grant, or other financial assistance from any public or private source.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date

on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) “Basic levy” means the portion of a school district’s tax levy constituting the minimum basic levy under Section 59-2-902.

(11) “Blight” or “blighted” means the condition of an area that meets the requirements described in Subsection 17C-2-303(1) for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(12) “Blight hearing” means a public hearing regarding whether blight exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-405.

(13) “Blight study” means a study to determine whether blight exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(14) “Board” means the governing body of an agency, as described in Section 17C-1-203.

(15) “Budget hearing” means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(16) “Closed military base” means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(17) “Combined incremental value” means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency’s boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(18) “Community” means a county or municipality.

(19) “Community development project area plan” means a project area plan adopted under Chapter 4,

Part 1, Community Development Project Area Plan.

(20) “Community legislative body” means the legislative body of the community that created the agency.

(21) “Community reinvestment project area plan” means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(22) “Contest” means to file a written complaint in the district court of the county in which the agency is located.

(23) “Economic development project area plan” means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) “Fair share ratio” means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) “Family” means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) “Greenfield” means land not developed beyond agricultural, range, or forestry use.

(27) “Hazardous waste” means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) “Housing allocation” means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) “Housing fund” means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds allocated for the purposes described in Section 17C-1-411; or

(b) an agency’s housing allocation.

(30) (a) “Inactive airport site” means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Marginal value" means the difference between actual taxable value and base taxable value.

(37) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(38) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(39) "Participant" means one or more persons that enter into a participation agreement with an agency.

(40) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(41) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(42) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(43) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(44) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(45) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(46) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section ~~[17C-2-202]~~ 17C-2-201;

(b) for an economic development project area, Section ~~[17C-3-202]~~ 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(47) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating blight or the causes of blight;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (47) outside of a project area that the board determines to be a benefit to the project area.

(48) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(49) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(50) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(51) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(52) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, community reinvestment agency, or interlocal cooperation entity.

(53) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(54) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(55) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(56) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (56)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(57) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) blight exists within the survey area.

(58) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(59) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(60) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(61) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(62) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(63) "Unincorporated" means not within a municipality.

(64) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 2. Section 17C-1-103 is amended to read:

17C-1-103. Limitations on applicability of title -- Amendment of previously adopted project area plan.

(1) Except where expressly provided, nothing in this title may be construed to:

(a) impose a requirement or obligation on an agency, with respect to a project area plan adopted or an agency action taken, that was not imposed by

the law in effect at the time the project area plan was adopted or the action taken;

(b) prohibit an agency from taking an action that:

(i) was allowed by the law in effect immediately before an applicable amendment to this title;

(ii) is permitted or required under the project area plan adopted before the amendment; and

(iii) is not explicitly prohibited under this title;

(c) revive any right to challenge any action of the agency that had already expired; or

(d) require a project area plan to contain a provision that was not required by the law in effect at the time the project area plan was adopted.

(2) (a) A project area plan adopted before an amendment to this title becomes effective may be amended as provided in this title.

(b) Unless explicitly prohibited by this title, an amendment under Subsection (2)(a) may include a provision that is allowed under this title but that was not required or allowed by the law in effect before the applicable amendment.

(3) Except as expressly provided in this title, this title applies to all project areas, regardless of when the project area was created.

Section 3. Section 17C-1-407 is amended to read:

17C-1-407. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas.

(b) Development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) After July 1, 2005, an agency may not receive or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

~~[(2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.]~~

(2) (a) For the purpose of this Subsection (2):

(i) "Final tax rate" means the rate used to determine the amount of taxes a taxing entity levies as described in the notice to a taxpayer under Subsection 59-2-1317(2).

(ii) "Increased tax revenue" means tax revenue attributable to a tax rate increase.

(iii) “Tax rate increase” means the amount calculated by subtracting a taxing entity’s certified rate, as defined in Section 59-2-924, from the taxing entity’s final tax rate.

(b) Except as provided in Subsection (2)(c), for a year in which a taxing entity imposes a final tax rate higher than the certified tax rate, a county shall not pay an agency any portion of a taxing entity’s increased tax revenue.

(c) Notwithstanding Subsection (2)(b), a county may pay all or a portion of a taxing entity’s increased tax revenue to an agency if, at the time of the project area budget approval, the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 consents to pay the agency the increased tax revenue.

~~[(b)] (d) If the taxing entity committee or each tax entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 does not [approve] consent to payment of the increased [taxes] tax revenue to the agency under Subsection (2)[(a)](c), the county shall distribute to the taxing entity the [taxes attributable to the tax rate increase] increased tax revenue in the same manner as other property [taxes] tax revenue.~~

~~[(e)] (e) Notwithstanding any other provision of this section, if, before tax year 2013, increased [taxes are] tax revenue is paid to an agency without the [approval] consent of the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204, and notwithstanding the law at the time that the tax revenue was collected or increased:~~

~~(i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased [taxes] tax revenue from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;~~

~~(ii) the county is not liable to a taxing entity or any other person or entity for the increased [taxes] tax revenue that [were] was paid to the agency; and~~

~~(iii) tax increment, including the increased [taxes] tax revenue, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.~~

~~(f) An adjustment may not be made to incremental value under Section 59-2-924 for increased tax revenue not paid to an agency under this section.~~

~~(3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:~~

~~(a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or~~

(b) for more tax years than specified in the project area budget.

CHAPTER 481**S. B. 79**

Passed February 27, 2019

Approved April 1, 2019

Effective May 14, 2019

SALES AND USE TAX CHANGES

Chief Sponsor: Wayne A. Harper
House Sponsor: Robert M. Spendlove

LONG TITLE**General Description:**

This bill modifies sales and use tax definitions.

Highlighted Provisions:

This bill:

- ▶ modifies the definitions of “certified service provider” and “model 1 seller” to reference a contract between a certified service provider and the governing board of the Streamlined Sales and Use Tax Agreement; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-102 is amended to read:**59-12-102. Definitions.**

As used in this chapter:

(1) “800 service” means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

- (i) under the name 800 toll-free calling;
- (ii) under the name 855 toll-free calling;
- (iii) under the name 866 toll-free calling;
- (iv) under the name 877 toll-free calling;
- (v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) “900 service” means an inbound toll telecommunications service that:

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber’s:
 - (A) prerecorded announcement; or
 - (B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) “900 service” does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber’s customer:

(A) a product; or

(B) a service.

(3) (a) “Admission or user fees” includes season passes.

(b) “Admission or user fees” does not include annual membership dues to private organizations.

(4) “Agreement” means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) “Agreement combined tax rate” means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) “Agreement sales and use tax” means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

<p>(t) Section 59-12-2215;</p> <p>(u) Section 59-12-2216;</p> <p>(v) Section 59-12-2217;</p> <p>(w) Section 59-12-2218;</p> <p>(x) Section 59-12-2219; or</p> <p>(y) Section 59-12-2220.</p> <p>(7) "Aircraft" means the same as that term is defined in Section 72-10-102.</p> <p>(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:</p> <p>(a) except for:</p> <p>(i) an airline as defined in Section 59-2-102; or</p> <p>(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and</p> <p>(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:</p> <p>(i) check, diagnose, overhaul, and repair:</p> <p>(A) an onboard system of a fixed wing turbine powered aircraft; and</p> <p>(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;</p> <p>(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;</p> <p>(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:</p> <p>(A) an inspection;</p> <p>(B) a repair, including a structural repair or modification;</p> <p>(C) changing landing gear; and</p> <p>(D) addressing issues related to an aging fixed wing turbine powered aircraft;</p> <p>(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and</p> <p>(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.</p> <p>(9) "Alcoholic beverage" means a beverage that:</p> <p>(a) is suitable for human consumption; and</p> <p>(b) contains .5% or more alcohol by volume.</p> <p>(10) "Alternative energy" means:</p> <p>(a) biomass energy;</p> <p>(b) geothermal energy;</p>	<p>(c) hydroelectric energy;</p> <p>(d) solar energy;</p> <p>(e) wind energy; or</p> <p>(f) energy that is derived from:</p> <p>(i) coal-to-liquids;</p> <p>(ii) nuclear fuel;</p> <p>(iii) oil-impregnated diatomaceous earth;</p> <p>(iv) oil sands;</p> <p>(v) oil shale;</p> <p>(vi) petroleum coke; or</p> <p>(vii) waste heat from:</p> <p>(A) an industrial facility; or</p> <p>(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.</p> <p>(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:</p> <p>(i) uses alternative energy to produce electricity; and</p> <p>(ii) has a production capacity of two megawatts or greater.</p> <p>(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:</p> <p>(i) connected to an electric grid; or</p> <p>(ii) located on the premises of an electricity consumer.</p> <p>(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.</p> <p>(b) "Ancillary service" includes:</p> <p>(i) a conference bridging service;</p> <p>(ii) a detailed communications billing service;</p> <p>(iii) directory assistance;</p> <p>(iv) a vertical service; or</p> <p>(v) a voice mail service.</p> <p>(13) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.</p> <p>(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:</p> <p>(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and</p> <p>(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.</p> <p>(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or</p>
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washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform ~~all of~~ a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (107).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(34) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

(A) tablet form;

- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or
- (ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- (A) as conventional food; and
- (B) for use as a sole item of:
- (I) a meal; or
- (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
- (i) identifiable by the “Supplemental Facts” box found on the label; and
- (ii) as required by 21 C.F.R. Sec. 101.36.
- ~~[(35) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.]~~
- ~~[(36)]~~ (35) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.
- (b) “Digital audio work” includes a ringtone.
- (36) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
- (37) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.
- (38) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:
- (i) to:
- (A) a mass audience; or
- (B) addressees on a mailing list provided:
- (I) by a purchaser of the mailing list; or
- (II) at the discretion of the purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.
- (b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- (c) “Direct mail” does not include multiple items of printed material delivered to a single address.
- (39) “Directory assistance” means an ancillary service of providing:
- (a) address information; or
- (b) telephone number information.
- (40) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:
- (i) cannot withstand repeated use; and
- (ii) are purchased by, for, or on behalf of a person other than:
- (A) a health care facility as defined in Section 26-21-2;
- (B) a health care provider as defined in Section 78B-3-403;
- (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- (b) “Disposable home medical equipment or supplies” does not include:
- (i) a drug;
- (ii) durable medical equipment;
- (iii) a hearing aid;
- (iv) a hearing aid accessory;
- (v) mobility enhancing equipment; or
- (vi) tangible personal property used to correct impaired vision, including:
- (A) eyeglasses; or
- (B) contact lenses.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
- (41) “Drilling equipment manufacturer” means a facility:
- (a) located in the state;
- (b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
- (c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
- (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
- (42) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
- (i) recognized in:
- (A) the official United States Pharmacopoeia;
- (B) the official Homeopathic Pharmacopoeia of the United States;
- (C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(44) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the

federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(46) "Employee" means the same as that term is defined in Section 59-10-401.

(47) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(48) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(51) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (51)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(52) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(53) “Governing board of the agreement” means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(54) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

(55) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

(56) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(57) (a) Except as provided in Subsection (57)(b), “installation charge” means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or
 (ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(59) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) \$100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(63) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(64) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(65) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(66) "Member of the immediate family of the producer" means a person who is related to a

producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or

(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(68) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(69) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

- (A) home; or
- (B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform [all of] the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least \$500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(80) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(81) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(82) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(83) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(84) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (125)(c).

(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(86) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(87) (a) “Postpaid calling service” means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

- (A) bank card;
- (B) credit card;
- (C) debit card; or
- (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) “Postpaid calling service” includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(88) “Postproduction” means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(89) “Prepaid calling service” means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:
 - (A) access number; or
 - (B) authorization code;
- (c) that is dialed:
 - (i) manually; or
 - (ii) electronically; and

(d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

(90) “Prepaid wireless calling service” means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

- (i) manually; or
- (ii) electronically; and

(d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

(91) (a) “Prepared food” means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) “Prepared food” does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration’s Food Code that a

consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(92) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software"

means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(94) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(95) (a) Except as provided in Subsection (95)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(96) (a) “Prosthetic device” means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) “Prosthetic device” does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(97) (a) “Protective equipment” means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “protective equipment”; and

(ii) that are consistent with the list of items that constitute “protective equipment” under the agreement.

(98) (a) For purposes of Subsection 59-12-104(41), “publication” means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”

(99) (a) “Purchase price” and “sales price” mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) “Purchase price” and “sales price” include:

(i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) “Purchase price” and “sales price” do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(100) “Purchaser” means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(101) “Qualifying enterprise data center” means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

(102) “Regularly rented” means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(103) “Rental” means the same as that term is defined in Subsection (59).

(104) (a) Except as provided in Subsection (104)(b), “repairs or renovations of tangible personal property” means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of

tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(108) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.]~~

~~[(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.]~~

~~[(109)] (108) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:~~

~~(a) resale;~~

~~(b) sublease; or~~

~~(c) subrent.~~

(109) (a) “Retailer” means any person engaged in a regularly organized business in tangible personal

property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(110) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) “Sale at retail” means the same as that term is defined in Subsection ~~[(109)]~~ (108).

(112) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(113) “Sales price” means the same as that term is defined in Subsection (99).

(114) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (114)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

- (A) other than a:
 - (I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to

organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

(115) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

- (A) is a:
 - (I) public school; or
 - (II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53E-10-601.

(116) “Seller” means a person that makes a sale, lease, or rental of:

- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.

(117) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
 - (Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:
 - (Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(120) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(122) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(123) "State" means the state of Utah, its departments, and agencies.

(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) “Tangible personal property” includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) “Tangible personal property” includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) “Tangible personal property” does not include a product that is transferred electronically.

(e) “Tangible personal property” does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(126) (a) “Telecommunications enabling or facilitating equipment, machinery, or software” means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (126)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

(127) “Telecommunications equipment, machinery, or software required for 911 service” means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(128) “Telecommunications maintenance or repair equipment, machinery, or software” means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(129) (a) “Telecommunications service” means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) “Telecommunications service” includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
 - (iii) a 900 service;
 - (iv) a fixed wireless service;
 - (v) a mobile wireless service;
 - (vi) a postpaid calling service;
 - (vii) a prepaid calling service;
 - (viii) a prepaid wireless calling service; or
 - (ix) a private communications service.
- (c) "Telecommunications service" does not include:
- (i) advertising, including directory advertising;
 - (ii) an ancillary service;
 - (iii) a billing and collection service provided to a third party;
 - (iv) a data processing and information service if:
 - (A) the data processing and information service allows data to be:
 - (I) (Aa) acquired;
 - (Bb) generated;
 - (Cc) processed;
 - (Dd) retrieved; or
 - (Ee) stored; and
 - (II) delivered by an electronic transmission to a purchaser; and
 - (B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
 - (v) installation or maintenance of the following on a customer's premises:
 - (A) equipment; or
 - (B) wiring;
 - (vi) Internet access service;
 - (vii) a paging service;
 - (viii) a product transferred electronically, including:
 - (A) music;
 - (B) reading material;
 - (C) a ring tone;
 - (D) software; or
 - (E) video;
 - (ix) a radio and television audio and video programming service:
 - (A) regardless of the medium; and
 - (B) including:
 - (I) furnishing conveyance, routing, or transmission of a television audio and video

programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to

an item listed in Subsections (131)(b)(i) through (ix).

(132) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.
- (b) The following apply to Subsection (132)(a):
 - (i) an amplifier;
 - (ii) a cable;
 - (iii) a closure;
 - (iv) a conduit;
 - (v) a controller;
 - (vi) a duplexer;
 - (vii) a filter;
 - (viii) an input device;
 - (ix) an input/output device;
 - (x) an insulator;
 - (xi) microwave machinery or equipment;
 - (xii) an oscillator;
 - (xiii) an output device;
 - (xiv) a pedestal;
 - (xv) a power converter;
 - (xvi) a power supply;
 - (xvii) a radio channel;
 - (xviii) a radio receiver;
 - (xix) a radio transmitter;
 - (xx) a repeater;
 - (xxi) software;
 - (xxii) a terminal;
 - (xxiii) a timing unit;
 - (xxiv) a transformer;
 - (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
 - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

(138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;
- (ii) a vehicle as defined in Section 41-1a-102;
- (iii) an off-highway vehicle as defined in Section 41-22-2; or
- (iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- (i) a vehicle described in Subsection (138)(a); or
- (ii) (A) a locomotive;
- (B) a freight car;
- (C) railroad work equipment; or
- (D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

- (A) identify a caller; and
- (B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

- (A) tires;
- (B) waste coal;
- (C) oil shale; or
- (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(143) "Watercraft" means a vessel as defined in Section 73-18-2.

(144) "Wind energy" means wind used as the sole source of energy to produce electricity.

(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

CHAPTER 482**S. B. 102**

Passed March 14, 2019

Approved April 1, 2019

Effective July 1, 2019

**HIGHER EDUCATION
CAPITAL FACILITIES**

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill enacts and amends provisions related to capital developments at institutions of higher education.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Technical Colleges Capital Projects Fund;
- ▶ creates the Higher Education Capital Projects Fund;
- ▶ enacts provisions related to the Technical Colleges Capital Projects Fund and the Higher Education Capital Projects Fund, including provisions related to:
 - deposits into the funds;
 - the use of money in the funds; and
 - the administration of the funds;
- ▶ enacts procedures for how an institution of higher education, including a technical college, receives legislative approval for a capital development project;
- ▶ requires the State Board of Regents and the Utah System of Technical Colleges Board of Trustees to establish certain measurements and procedures;
- ▶ exempts certain capital development projects from State Building Board prioritization;
- ▶ amends provisions related to capital development projects; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Capital Budget - Capital Development Fund:
 - from the General Fund, as an ongoing appropriation, (\$40,000,000);
 - from the General Fund, One-time, \$40,000,000;
 - from the Education Fund, as an ongoing appropriation, (\$47,000,000); and
 - from the Education Fund, One-time, \$47,000,000;
- ▶ to the Capital Budget - Higher Education Capital Projects Fund:
 - from the General Fund, as an ongoing appropriation, \$26,000,000;
 - from the General Fund, One-time, (\$26,000,000);
 - from the Education Fund, as an ongoing appropriation, \$47,000,000; and

- from the Education Fund, One-time, (\$47,000,000); and
- ▶ to the Capital Budget - Technical Colleges Capital Projects Fund:
 - from the General Fund, as an ongoing appropriation, \$14,000,000; and
 - from the General Fund, One-time, (\$14,000,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 53B-2a-101, as last amended by Laws of Utah 2018, Chapter 382
- 53B-7-101, as last amended by Laws of Utah 2017, Chapters 365 and 382
- 63A-5-104, as last amended by Laws of Utah 2017, Chapter 355
- 63I-1-263, as last amended by Laws of Utah 2018, Chapters 85, 144, 182, 261, 321, 338, 340, 347, 369, 428, 430, and 469
- 63J-1-602.1, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and repealed and reenacted by Laws of Utah 2018, Chapter 469

ENACTS:

- 53B-2a-117, Utah Code Annotated 1953
- 53B-2a-118, Utah Code Annotated 1953
- 53B-22-201, Utah Code Annotated 1953
- 53B-22-202, Utah Code Annotated 1953
- 53B-22-203, Utah Code Annotated 1953
- 53B-22-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-2a-101 is amended to read:**53B-2a-101. Definitions.**

As used in this chapter:

(1) "Board of trustees" means the UTech Board of Trustees.

(2) "Capital developments" means the same as that term is defined in Section 63A-5-104.

~~[(2)]~~ (3) "Commissioner of technical education" means the UTech commissioner of technical education.

~~[(3)]~~ (4) "Competency-based" means mastery of subject matter or skill level, as demonstrated through business and industry approved standards and assessments, achieved through participation in a hands-on learning environment, and which is tied to observable, measurable performance objectives.

(5) "Dedicated project" means a capital development project for which state funds from the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

(6) "Nondedicated project" means a capital development project for which state funds from a source other than the Technical Colleges Capital Projects Fund created in Section 53B-2a-118 are requested or used.

~~[(4)]~~ (7) "Open-entry, open-exit" means:

(a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered;

(b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered; and

(c) if competency is demonstrated in a program of study, a credential, certificate, or diploma may be awarded.

(8) “State funds” means the same as that term is defined in Section 63A-5-104.

[45] (9) “UTech” means the Utah System of Technical Colleges described in Section 53B-1-102.

Section 2. Section 53B-2a-117 is enacted to read:

53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.

(1) As used in this section:

(a) “Consumer Price Index” means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) “Fund” means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board of trustees a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board of trustees shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board of trustees’ review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board’s:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the State Building Board’s recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board’s prioritization as described in Section 63A-5-104.

(6) (a) Subject to Subsection (7), the board of trustees shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) On or before August 1, 2019, the board of trustees shall establish:

(i) how the board of trustees will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board of trustees may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$7,000,000 but less than \$14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider a technical college’s request described in Subsection (8)(a).

Section 3. Section 53B-2a-118 is enacted to read:

53B-2a-118. Technical Colleges Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.

(1) As used in this section, "fund" means the Technical Colleges Capital Projects Fund created in this section.

(2) There is created a capital projects fund known as the Technical Colleges Capital Projects Fund.

(3) Subject to appropriation, money in the fund shall be used:

(a) for a dedicated project approved in accordance with Section 53B-2a-117; or

(b) to pay debt service in accordance with Subsection (4).

(4) Money in the fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

(5) The fund shall be funded by appropriations.

(6) The fund shall accrue interest, which shall be deposited into the fund.

(7) The Division of Finance shall administer the fund in accordance with this section.

Section 4. Section 53B-7-101 is amended to read:

53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section:

(a) (i) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(ii) "Higher education institution" or "institution" does not include:

(A) the Utah System of Technical Colleges Board of Trustees; or

(B) a technical college.

(b) "Research university" means the University of Utah or Utah State University.

(2) (a) The board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in Part 7, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after it has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) [Funding] Except as provided in Section 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the State Building Board.

(4) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher [educational] education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

(5) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the appropriate committees of the Legislature.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Legislature's committees is substantially different from the recommendations of the board, the board may request further hearings with the Legislature

or the Legislature's appropriate committees to reconsider both the total amount and the allocation.

(6) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the committees of the Legislature in making appropriation recommendations.

(7) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

(8) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(9) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions [~~of higher education~~] are appropriated to the respective institutions [~~of higher education and~~] to be used in accordance with institutional work programs.

(10) An institution [~~of higher education~~] may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

(11) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

Section 5. Section 53B-22-201 is enacted to read:

Part 2. Capital Developments

53B-22-201. Definitions.

As used in this part:

(1) "Capital developments" means the same as that term is defined in Section 63A-5-104.

(2) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Dedicated project" means a capital development project for which state funds from an institution's allocation are requested or used.

(4) "Fund" means the Higher Education Capital Projects Fund created in Section 53B-22-202.

(5) "Institution" means a college or university that is part of the Utah System of Higher Education described in Section 53B-1-102.

(6) "Institution's allocation" means the total amount of money in the fund that an institution has been allocated in accordance with Section 53B-22-203.

(7) "Nondedicated project" means a capital development project for which state funds from a source other than an institution's allocation are requested or used.

(8) "State funds" means the same as that term is defined in Section 63A-5-104.

Section 6. Section 53B-22-202 is enacted to read:

53B-22-202. Higher Education Capital Projects Fund -- Use of money in fund -- Appropriations to fund -- Administration of fund.

(1) There is created a capital projects fund known as the Higher Education Capital Projects Fund.

(2) Subject to appropriation, money in the fund shall be used:

(a) for a dedicated project approved in accordance with Section 53B-22-204; or

(b) to pay debt service in accordance with Subsection (3).

(3) Money in the fund may be used to pay debt service:

(a) on a general obligation bond issued for a capital development project in accordance with Title 63B, Chapter 1a, Master General Obligation Bond Act; and

(b) if the Legislature approves the use by a vote of two-thirds of all members elected to each house.

(4) The fund shall be funded by appropriations.

(5) The fund shall accrue interest, which shall be deposited into the fund.

(6) The Division of Finance shall administer the fund in accordance with this part.

Section 7. Section 53B-22-203 is enacted to read:

53B-22-203. Fund money -- Institution allocations.

(1) (a) Based on appropriations to the fund, the board shall annually determine how to allocate among all institutions money that has not been previously allocated to an institution.

(b) The board shall make the determination described in Subsection (1)(a) based on each institution's:

(i) enrollment;

(ii) total performance across the metrics described in Section 53B-7-706;

(iii) projected growth in student population;

(iv) existing square feet per student full-time equivalent;

(v) facility age and condition; and

(vi) utilization of academic space, including off-campus facilities.

(c) On or before August 1, 2019, the board shall establish how the board will determine the amount of money to allocate to an institution, including, for each factor described in Subsection (1)(b):

(i) how the board will measure an institution's fulfillment of the factor; and

(ii) the relative weight assigned to the factor.

(2) On or before May 31 each year, the board shall notify the Division of Finance of the board's determination described in Subsection (1).

(3) The Division of Finance shall:

(a) maintain within the fund separate accounting for each institution's allocation; and

(b) based on the notification described in Subsection (2), add to each institution's allocation the amount of money determined by the board.

Section 8. Section 53B-22-204 is enacted to read:

53B-22-204. Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) An institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the State Building Board for the State Building Board's:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the State Building Board's recommendation as described in Section 63A-5-104; and

(b) is not subject to the State Building Board's prioritization as described in Section 63A-5-104.

(5) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than \$50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least \$50,000,000 but less than \$100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least \$100,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7) (a) An institution may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

Section 9. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) (i) "Capital developments" means a:

(A) remodeling, site, or utility project with a total cost of \$3,500,000 or more;

(B) new facility with a construction cost of \$500,000 or more; or

(C) purchase of real property where an appropriation is requested to fund the purchase.

(ii) "Capital developments" does not include a project described in Subsection (1)(b)(iii).

(b) "Capital improvements" means:

(i) a remodeling, alteration, replacement, or repair project with a total cost of less than \$3,500,000;

(ii) a site or utility improvement with a total cost of less than \$3,500,000;

(iii) a utility infrastructure improvement project that:

(A) has a total cost of less than \$7,000,000;

(B) consists of two or more projects that, if done separately, would each cost less than \$3,500,000; and

(C) the State Building Board determines is more cost effective or feasible to be completed as a single project; or

(iv) a new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not include:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$3,500,000; or

(B) the construction of facilities that do not fully enclose a space.

(d) "Replacement cost of existing state facilities and infrastructure" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board and the

replacement cost of infrastructure as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) (a) [The] Except as provided in Subsection (2)(f), the board shall, on behalf of all state agencies and in accordance with Subsection (4), submit capital development recommendations and priorities to the Legislature for approval and prioritization.

(b) In developing the board's capital development recommendations and priorities, the board shall require each state agency that requests an appropriation for a capital development project to:

(i) submit to the board a capital development project request; and

(ii) complete and submit to the board a study that demonstrates the feasibility of the capital development project, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project.

(c) The board shall verify the completion and accuracy of a feasibility study that a state agency submits to the board under Subsection (2)(b).

(d) The board shall require that an institution of higher education described in Section 53B-1-102 that submits a request for a capital development project address whether and how, as a result of the project, the institution will:

(i) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(ii) respond to individual skilled and technical job demand over the next 3, 5, and 10 years;

(iii) respond to industry demands for trained workers;

(iv) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(v) respond to changing needs in the economy; and

(vi) based on demographics, respond to demands for on-line or in-class instruction.

(e) The board shall give more weight in the board's scoring process to a request that is designated as a higher priority by the State Board of Regents than a request that is designated as a lower priority by the State Board of Regents only when determining the order of prioritization among requests submitted by the State Board of Regents.

(f) (i) For a dedicated project as defined in Section 53B-2a-101 or 53B-22-201, the board shall submit recommendations to the Legislature in accordance with this section.

(ii) A dedicated project as defined in Section 53B-2a-101 or 53B-22-201 is not subject to prioritization by the board.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the board determines that the requesting state agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the state agency provides to the board a written document, signed by the head of the state agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance to the resulting facility for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance for immediate and future capital improvements to the resulting facility; and

(iii) the board determines that the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of

the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation:

(A) as a result of an exchange of real property under Section 72-5-111; or

(B) as a result of a sale or exchange of real property from a maintenance facility if the real property is exchanged for, or the proceeds from the sale of the real property are used for, another maintenance facility, including improvements for a maintenance facility and real property.

(ii) When the Department of Transportation approves a sale or exchange under Subsection (3)(e), it shall notify the president of the Senate, the speaker of the House, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built or improved under this exemption.

(4) (a) (i) On or before January 15 of each year, the board shall, on behalf of all state agencies, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.

(ii) The board shall ensure that the list identifies:

(A) a single project that costs more than \$1,000,000;

(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;

(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$3,500,000;

(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000;

(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

(G) projects approved under Subsection (1)(b)(iii).

(b) Unless otherwise directed by the Legislature, the board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.

(d) In prioritizing capital improvements, the board shall allocate at least 80% of the funds that the Legislature appropriates for capital improvements to:

(i) projects that address:

- (A) a structural issue;
- (B) fire safety;
- (C) a code violation; or
- (D) any issue that impacts health and safety;

(ii) projects that upgrade:

- (A) an HVAC system;
- (B) an electrical system;
- (C) essential equipment;
- (D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(e) In prioritizing capital improvements, the board shall allocate no more than 20% of the funds that the Legislature appropriates for capital improvements to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(f) The board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(g) The board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$3,500,000 or more, if:

(i) the capital improvement project is a project described in Subsection (1)(b)(iii); and

(ii) the Legislature has not refused to fund the project with capital improvement funds.

(h) In prioritizing and allocating capital improvement funding, the State Building Board

shall comply with the requirement in Subsection 63B-23-101(2)(f).

(5) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(6) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(7) (a) Except as provided in ~~Subsection (7)(b)~~ Subsections (7)(b) and (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Education Fund budget deficit or a General Fund budget deficit as those terms are defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (7)(a) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(8) (a) ~~The~~ (i) Except as provided in Subsection (8)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (8)(a)(i) does not apply to a dedicated project as defined in Section 53B-2a-101 or 53B-22-201.

(b) An agency is required to receive approval from the board before the agency begins programming for a new facility that requires legislative approval under Subsection (3).

(c) The board or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (8)(a).

(9) (a) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, after the Legislature approves capital development and

capital improvement priorities under this section, if an emergency arises that creates an unforeseen and critical need for a capital improvement project, the board may reallocate capital improvement funds to address the project.

(b) The board shall report any changes the board makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

(10) (a) The board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

(b) The board shall ensure that the rule:

(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and

(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.

(11) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

(12) (a) Subject to Subsection (12)(b), at least 80% of the state funds appropriated for capital improvements shall be used for maintenance or repair of the existing building or facility.

(b) The board may modify the requirement described in Subsection (12)(a) if the board determines that a different allocation of capital improvements funds is in the best interest of the state.

Section 10. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(4) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is repealed November 30, 2019.

(5) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1, 2020.

(6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1, 2023.

(8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

(10) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(11) On July 1, 2025:

(a) in Subsection 17-27a-404(3)(c)(ii), the language that states “the Resource Development Coordinating Committee,” is repealed;

(b) Subsection 23-14-21(2)(c) is amended to read “(c) provide notification of proposed sites for the transplant of species to local government officials having jurisdiction over areas that may be affected by a transplant.”;

(c) in Subsection 23-14-21(3), the language that states “and the Resource Development Coordinating Committee” is repealed;

(d) in Subsection 23-21-2.3(1), the language that states “the Resource Development Coordinating Committee created in Section 63J-4-501 and” is repealed;

(e) in Subsection 23-21-2.3(2), the language that states “the Resource Development Coordinating Committee and” is repealed;

(f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered accordingly;

(g) Subsections 63J-4-401(5)(a) and (c) are repealed;

(h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the word “and” is inserted immediately after the semicolon;

(i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

(j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed; and

(k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are renumbered accordingly.

(12) Subsection 63J-1-602.1(13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(13) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(14) (a) Subsection 63J-1-602.1~~(51)~~(53), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1~~(51)~~(53), the Office of Legislative Research and General Counsel shall, in addition to the office’s authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(15) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2027.

(17) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(18) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (18)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (18)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

(19) Section 63N-2-512 is repealed on July 1, 2021.

(20) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (20)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(21) Subsections 63N-3-109(2)(f) and 63N-3-109(2)(g)(i)(C) are repealed July 1, 2023.

(22) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(23) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

~~[(24) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed July 1, 2018.]~~

Section 11. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-302.

(6) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(7) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(8) Funds collected from the emergency medical services grant program, as provided in Section 26-8a-207.

(9) The Prostate Cancer Support Restricted Account created in Section 26-21a-303.

(10) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(11) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(12) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(13) The Nurse Home Visiting Restricted Account created in Section ~~[26-62-601]~~ 26-63-601.

(14) The Technology Development Restricted Account created in Section 31A-3-104.

(15) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(16) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent

that Section 31A-3-304 makes the money received under that section free revenue.

(17) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(18) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(19) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(20) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(21) The School Readiness Restricted Account created in Section 35A-3-210.

(22) The Youth Development Organization Restricted Account created in Section 35A-8-1903.

(23) The Youth Character Organization Restricted Account created in Section 35A-8-2003.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(26) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(28) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(29) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(32) The DNA Specimen Restricted Account created in Section 53-10-407.

(33) The Canine Body Armor Restricted Account created in Section 53-16-201.

(34) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(35) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[(34)] (36) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[(35)] (37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[(36)] (38) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[(37)] (39) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[(38)] (40) The Relative Value Study Restricted Account created in Section 59-9-105.

[(39)] (41) The Cigarette Tax Restricted Account created in Section 59-14-204.

[(40)] (42) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[(41)] (43) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[(42)] (44) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[(43)] (45) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[(44)] (46) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[(45)] (47) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[(46)] (48) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[(47)] (49) The Immigration Act Restricted Account created in Section 63G-12-103.

[(48)] (50) Money received by the military installation development authority, as provided in Section 63H-1-504.

[(49)] (51) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[(50)] (52) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[(51)] (53) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[(52)] (54) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[(53)] (55) The Motion Picture Incentive Account created in Section 63N-8-103.

[(54)] (56) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[(55)] (57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[456] (58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[457] (59) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[458] (60) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[459] (61) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[460] (62) Fees for certificate of admission created under Section 78A-9-102.

[461] (63) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[462] (64) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[463] (65) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[464] (66) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent Defense Commission.

Section 12. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To Capital Budget - Capital Development Fund

From General Fund \$40,000,000

From General Fund, One-time \$40,000,000

From Education Fund (\$47,000,000)

From Education Fund, One-time \$47,000,000

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst, for fiscal year 2021:

(1) increase one-time appropriations from the General Fund to the Capital Development Fund by \$20,000,000; and

(2) increase one-time appropriations from the Education Fund to the Capital Development Fund by \$23,500,000.

ITEM 2

To Capital Budget - Higher Education Capital Projects Fund

From General Fund \$26,000,000

From General Fund, One-time (\$26,000,000)

From Education Fund \$47,000,000

From Education Fund, One-time (\$47,000,000)

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst, for fiscal year 2021:

(1) decrease one-time appropriations from the General Fund to the Higher Education Capital Projects Fund by \$13,000,000; and

(2) decrease one-time appropriations from the Education Fund to the Higher Education Capital Projects Fund by \$23,500,000.

ITEM 3

To Capital Budget - Technical Colleges Capital Projects Fund

From General Fund \$14,000,000

From General Fund, One-time (\$14,000,000)

The Legislature intends that in preparing fiscal year 2021 base budget bills, the Legislative Fiscal Analyst decrease one-time appropriations from the General Fund to the Technical Colleges Capital Projects Fund by \$7,000,000 for fiscal year 2021.

Section 13. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 483**S. B. 127**

Passed March 7, 2019
 Approved April 1, 2019
 Effective May 14, 2019

BUSINESS INCENTIVES AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies provisions related to the Industrial Assistance Account.

Highlighted Provisions:

This bill:

- ▶ modifies a sunset provision that is unnecessary if this bill passes;
- ▶ modifies the application requirements and post-performance requirements for an entity to receive a grant from the Industrial Assistance Account related to hosting a high-tech sector conference; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469
 63N-3-109, as last amended by Laws of Utah 2018, Chapter 428

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:**63I-2-263. Repeal dates, Title 63A to Title 63N.**

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(3) Section 63H-7a-303 is repealed on July 1, 2022.

(4) On July 1, 2019:

(a) in Subsection 63J-1-206(2)(c)(i), the language that states " Subsection(2)(c)(ii) and" is repealed; and

(b) Subsection 63J-1-206(2)(c)(ii) is repealed.

(5) Section 63J-4-708 is repealed January 1, 2023.

~~[(6) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.]~~

~~[(7) (6) Section 63N-3-110 is repealed July 1, 2020.]~~

Section 2. Section 63N-3-109 is amended to read:**63N-3-109. Financial assistance to entities offering economic opportunities.**

(1) Subject to the duties and powers of the board under Section 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator in a form approved by the administrator; and

(b) meets the qualifications of Subsection (2).

(2) ~~[The]~~ As part of an application for receiving money under this section, an applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

~~[(d) in the case of an economic opportunity that includes the retention of jobs, demonstrate how the potential relocation of jobs outside the state is related to a merger, acquisition, consolidation, or similar business reason other than the applicant simply requesting state assistance to remain in the state;]~~

~~[(e) (d) satisfy other criteria the administrator considers appropriate;~~

~~[(f) (e) if the applicant meets the requirements of Subsection [(2)(g)(i)(C)] (2)(f)(i):~~

(i) demonstrate that the funding request will be used primarily to reimburse the applicant for expenses related to a program of ~~[out-of-state advertising,]~~ marketing~~;~~ and branding for an annual conference for the high tech sector with at least 10,000 attendees that is held on or after January 1, 2019; and

(ii) ~~[subject to Subsection (3)(e),]~~ demonstrate that the annual conference described in Subsection (2)(f)(i) met post-performance requirements designated by the administrator regarding:

~~[(A) economic impact on the state;]~~

~~[(B) new tax revenue to the state; and]~~

~~[(C) attendance of out-of-state business prospects; and]~~

(A) business leads generated by the conference;

(B) total attendance at the conference;

(C) the number of out-of-state attendees at the conference;

(D) the number of out-of-state businesses represented at the conference; and

(E) documentation of marketing and advertising money spent outside of the state for the conference; and

~~[(g)]~~ (f) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including ~~[- (A) an entity that is a sports development organization under contract with the state for sports development and sporting event attraction and related activities that provide an economic impact or promotional value to the state; (B) an entity that implements technology innovation in public schools, including whole school one-to-one mobile device technology deployment for the purpose of incubating technology solutions related to economic and workforce development; or (C)]~~ an entity that is a nonprofit organization engaged in publicizing, developing, and promoting the high tech sector in the state through activities that include organizing and hosting an annual conference for the high tech sector with at least 10,000 attendees; or

(ii) a company or individual that meets the requirements of Subsections (2)(a) through ~~[(f)]~~ (d) but does not otherwise qualify under Section 63N-3-105.

(3) Subject to the duties and powers of the board under Section 63N-1-402, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions ~~[set forth]~~ described in Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

~~[(e) (i) if an applicant that meets the requirements of Subsection (2)(g)(i)(C) has not received funding under this section in a previous year;]~~

~~[(A) require that the annual conference described in Subsection (2)(f)(i) be attended by at least 100 out-of-state business prospects; and]~~

~~[(B) establish additional requirements as described in Subsection (2)(f)(ii); and]~~

~~[(ii) if an applicant that meets the requirements of Subsection (2)(g)(i)(C) received funding under this section in a previous year, require that the annual conference described in Subsection (2)(f)(i);]~~

~~[(A) have an economic impact on the state of at least 125% of the economic impact of the annual conference in the previous year;]~~

~~[(B) generate new tax revenue to the state that is at least 125% of the new tax revenue generated by the annual conference in the previous year; and]~~

~~[(C) have attendance by out-of-state business prospects that is at least 125% of the attendance by out-of-state business prospects at the annual conference in the previous year;]~~

~~[(d)]~~ (c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

~~[(e)]~~ (d) make funding decisions based upon appropriate findings and compliance.

CHAPTER 484**S. B. 129**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

(Exception clause in Section 8)

**PUBLIC SAFETY AND FIREFIGHTER
TIER II RETIREMENT ENHANCEMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill modifies provisions relating to the New Public Safety and Firefighter Tier II Contributory Retirement System by enhancing certain retirement benefits.

Highlighted Provisions:

This bill:

- ▶ increases the percentage of compensation that a participating employer shall pay to the office on behalf of a member for the defined benefit portion of the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ increases the amount of the nonelective contribution made by a participating employer on behalf of each public safety service employee or firefighter service employee who is a member of the New Public Safety and Firefighter Tier II Contributory Retirement System;
- ▶ increases the multiplier percentage for the calculation of the retirement allowance of a participant in the New Public Safety and Firefighter Tier II hybrid retirement system for certain years;
- ▶ instructs the Retirement and Independent Entities Interim Committee to carry out an uncodified study; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ To Finance-Mandated-State Employee Benefits, as an ongoing appropriation:
 - from the General Fund, \$2,200,000; and
- ▶ To Finance-Mandated-State Employee Benefits, as a one-time appropriation:
 - from the General Fund, One-time (\$2,200,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 49-22-310, as enacted by Laws of Utah 2011, Chapter 439
- 49-23-301, as last amended by Laws of Utah 2016, Chapter 84
- 49-23-302, as last amended by Laws of Utah 2016, Chapter 227
- 49-23-304, as last amended by Laws of Utah 2017, Chapter 141
- 49-23-401, as last amended by Laws of Utah 2016, Chapter 227

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-22-310 is amended to read:**49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.**

(1) In accordance with this section and except as provided in Subsection 49-23-301(7)(b), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-22-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section 49-11-202 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or

(b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:

(i) there is a significant likelihood that contribution rates will continue to rise; and

(ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-22-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

(a) the final average salary calculation provided under Section 49-22-102;

(b) the years of service required to be eligible to receive a retirement allowance under Section 49-22-304;

(c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);

(d) the annual cost-of-living adjustment under Section 49-22-308; or

(e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:

(i) cannot reasonably be sustained under its current provisions;

- (ii) is critically underfunded; and
- (iii) has become unstable and is in risk of collapse.

(b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

- (i) conversion to a different type of retirement plan;
- (ii) equitable distribution of system assets to retirees and members; and
- (iii) a closure of the system.

Section 2. Section 49-23-301 is amended to read:

49-23-301. Contributions.

(1) Participating employers and members shall pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to [~~12%~~] 14% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) A participating employer may [~~not~~] elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

(5) (a) Each member is considered to consent to payroll deductions of member contributions.

(b) The payment of compensation less these payroll deductions is considered full payment for services rendered by the member.

(6) Except as provided under Subsection (7), benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

(7) (a) The Legislature authorizes an increase to the death benefit provided to a Tier II public safety service employee or firefighter member's surviving spouse effective on May 12, 2015, as provided in Section 49-23-503.

(b) (i) The Legislature authorizes an increase to the multiplier for the calculation of the retirement allowance provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system effective July 1, 2020, as provided in Section 49-23-304.

(ii) The requirements of Section 49-22-310 do not apply to the benefit adjustment described in this Subsection (7)(b).

Section 3. Section 49-23-302 is amended to read:

49-23-302. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to [~~12%~~] 14% minus the contribution rate paid by the employer under Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

- (i) is sponsored by the board; and
- (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

- (i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or
- (ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 4. Section 49-23-304 is amended to read:

49-23-304. Defined benefit service retirement plans -- Calculation of

retirement allowance -- Social security limitations.

(1) (a) The retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 25 years of service credit, the allowance is an amount equal to:

(i) 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011[-], but before July 1, 2020; plus

(ii) 2% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2020.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to

the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

Section 5. Section 49-23-401 is amended to read:

49-23-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of ~~[12%]~~ 14% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the ~~[12%]~~ 14% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section 6. Study.

(1) During the 2019 Legislative interim, the Retirement and Independent Entities Interim Committee shall study:

(a) modifications to the New Public Safety and Firefighter Tier II Contributory Retirement System;

(b) the appropriate allocation of funding for the 2% multiplier increase;

(c) the appropriate proportional share of funding between the state, employers, and members for changes to the New Public Safety and Firefighter Tier II Contributory Retirement System; and

(d) other related issues.

(2) The Retirement and Independent Entities Interim Committee may make recommendations for the 2020 General Legislative Session based on the study described in Subsection (1).

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Finance-Mandated-State Employee Benefits

From General Fund \$2,200,000

From General Fund, One-time (\$2,200,000)

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 14, 2019.

(2) The actions affecting the following sections take effect July 1, 2020:

(a) Section 49-22-310;

(b) Section 49-23-301;

(c) Section 49-23-302;

(d) Section 49-23-304; and

(e) Section 49-23-401.

CHAPTER 485**S. B. 157**

Passed March 12, 2019

Approved April 1, 2019

Effective May 14, 2019

**ACUPUNCTURE LICENSING
ACT AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Marc K. Roberts

LONG TITLE**General Description:**

This bill modifies provisions of the Acupuncture Act.

Highlighted Provisions:

This bill:

- ▶ defines terms, including “injection therapy”;
- ▶ modifies the definition of the “practice of acupuncture” to include injection therapy;
- ▶ grants authority to a licensee to procure and administer certain sterile substances as part of injection therapy; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-72-102, as last amended by Laws of Utah 2012, Chapter 88

58-72-302, as last amended by Laws of Utah 2009, Chapter 183

ENACTS:

58-72-701, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-72-102 is amended to read:**58-72-102. Acupuncture licensing --
Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) “Board” means the Acupuncture Licensing Board created in Section 58-72-201.

(2) (a) “Injection therapy” means the use of a hypodermic needle, by a licensed acupuncturist who has obtained a clean needle technique certificate from the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM), to inject any of the following sterile substances in liquid form into acupuncture points on the body subcutaneously or intramuscularly:

- (i) a nutritional substance;
- (ii) a local anesthetic;
- (iii) autologous blood, if the licensee holds a current phlebotomy certification to draw blood;

(iv) sterile water;

(v) dextrose;

(vi) sodium bicarbonate; and

(vii) sterile saline.

(b) “Injection therapy” includes using ultrasound guidance to ensure that an injection is only a subcutaneous injection or an intramuscular injection.

(c) “Injection therapy” does not include injecting a substance into a vein, joint, artery, blood vessel, nerve, tendon, deep organ, or the spine.

(d) “Injection therapy” may not be performed on a pregnant woman or a child under the age of eight.

[(2)] (3) “Licensed acupuncturist,” designated as “L.Ac.,” means a person who has been licensed under this chapter to practice acupuncture.

[(3)] (4) “Moxibustion” means a heat therapy that uses the herb moxa to heat acupuncture points of the body.

[(4)] (5) (a) “Practice of acupuncture” means the insertion of acupuncture needles, the use of injection therapy, and the application of moxibustion to specific areas of the body based on traditional oriental medical diagnosis and modern research as a primary mode of therapy.

(b) Adjunctive therapies within the scope of the practice of acupuncture may include:

(i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based on traditional oriental medical diagnosis and modern research;

(ii) the recommendation, administration, or provision of dietary guidelines, herbs, supplements, homeopathics, and therapeutic exercise based on traditional oriental medical diagnosis and modern research according to practitioner training; and

(iii) the practice described in Subsections [(4)] (5)(a) and (b) on an animal to the extent permitted by:

(A) Subsection 58-28-307(12);

(B) the provisions of this chapter; and

(C) division rule.

(c) “Practice of acupuncture” does not include:

(i) the manual manipulation or adjustment of the joints of the body beyond the elastic barrier; or

(ii) the “manipulation of the articulation of the spinal column” as defined in Section 58-73-102.

[(5)] (6) “Unprofessional conduct” is as defined in Sections 58-1-501 and 58-72-503, and as may be further defined by division rule.

Section 2. Section 58-72-302 is amended to read:**58-72-302. Qualifications for licensure.**

~~[Notwithstanding Section 58-1-302, an]~~ An applicant for licensure as a licensed acupuncturist shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

(3) be of good moral character;

(4) meet the requirements for current active certification in acupuncture under guidelines established by the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other appropriate documentation;

(5) pass the examination required by the division by rule;

(6) establish procedures, as defined by rule, which shall enable patients to give informed consent to treatment; and

(7) meet with the board, if requested, for the purpose of evaluating the applicant's qualifications for licensure.

Section 3. Section 58-72-701 is enacted to read:

Part 7. Procurement and Administration Authority

58-72-701. Procurement and administration authority.

(1) A licensee who has received the necessary training to practice injection therapy, including having obtained a clean needle technique certificate from the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM):

(a) has authority to procure and administer prescriptive substances described in Subsections 58-72-102(2)(a) and (b) for in-office administration only; and

(b) may obtain substances described in Subsection 58-72-102(2) from a registered prescription drug outlet, registered manufacturer, or registered wholesaler.

(2) An entity that provides any substance to a licensee in accordance with this chapter, and relies in good faith on license information provided by the licensee, is not liable for providing the substance.

CHAPTER 486**S. B. 168**

Passed March 12, 2019

Approved April 1, 2019

Effective October 1, 2019

SALES AND USE TAX REVISIONS

Chief Sponsor: Curtis S. Bramble

House Sponsor: Jon Hawkins

Cosponsor: Wayne A. Harper

LONG TITLE**General Description:**

This bill modifies the sales and use tax act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies sales and use tax exemptions;
- ▶ provides the circumstances under which a marketplace facilitator or a marketplace seller is subject to the payment or collection and remittance requirements of the sales and use tax act; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-102, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472

59-12-104, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

59-12-107, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

ENACTS:

59-12-107.6, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:***Section 1. Section 59-12-102 is amended to read:****59-12-102. Definitions.**

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

[4] (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

[5] (6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection [4] (7); and

(b) that are imposed within a local taxing jurisdiction.

[6] (7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

- (g) Section 59-12-402;
- (h) Section 59-12-402.1;
- (i) Section 59-12-703;
- (j) Section 59-12-802;
- (k) Section 59-12-804;
- (l) Section 59-12-1102;
- (m) Section 59-12-1302;
- (n) Section 59-12-1402;
- (o) Section 59-12-1802;
- (p) Section 59-12-2003;
- (q) Section 59-12-2103;
- (r) Section 59-12-2213;
- (s) Section 59-12-2214;
- (t) Section 59-12-2215;
- (u) Section 59-12-2216;
- (v) Section 59-12-2217;
- (w) Section 59-12-2218;
- (x) Section 59-12-2219; or
- (y) Section 59-12-2220.

[~~(7)~~] (8) "Aircraft" means the same as that term is defined in Section 72-10-102.

[~~(8)~~] (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- (a) except for:
 - (i) an airline as defined in Section 59-2-102; or
 - (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
- (b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
 - (i) check, diagnose, overhaul, and repair:
 - (A) an onboard system of a fixed wing turbine powered aircraft; and
 - (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
 - (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
 - (iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
 - (A) an inspection;
 - (B) a repair, including a structural repair or modification;
 - (C) changing landing gear; and
 - (D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

[~~(9)~~] (10) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

[~~(10)~~] (11) "Alternative energy" means:

- (a) biomass energy;
- (b) geothermal energy;
- (c) hydroelectric energy;
- (d) solar energy;
- (e) wind energy; or
- (f) energy that is derived from:
 - (i) coal-to-liquids;
 - (ii) nuclear fuel;
 - (iii) oil-impregnated diatomaceous earth;
 - (iv) oil sands;
 - (v) oil shale;
 - (vi) petroleum coke; or
 - (vii) waste heat from:
 - (A) an industrial facility; or
 - (B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

[~~(11)~~] (12) (a) Subject to Subsection [~~(11)~~] (12)(b), "alternative energy electricity production facility" means a facility that:

- (i) uses alternative energy to produce electricity; and
 - (ii) has a production capacity of two megawatts or greater.
- (b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
- (i) connected to an electric grid; or
 - (ii) located on the premises of an electricity consumer.

[~~(12)~~] (13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

- (b) "Ancillary service" includes:
 - (i) a conference bridging service;
 - (ii) a detailed communications billing service;

- (iii) directory assistance;
- (iv) a vertical service; or
- (v) a voice mail service.

[43] (14) “Area agency on aging” means the same as that term is defined in Section 62A-3-101.

[44] (15) “Assisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

[45] (16) “Assisted cleaning or washing of tangible personal property” means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

[46] (17) “Authorized carrier” means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier’s operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

[47] (18) (a) Except as provided in Subsection [47] (18)(b), “biomass energy” means any of the following that is used as the primary source of energy to produce fuel or electricity:

- (i) material from a plant or tree; or
- (ii) other organic matter that is available on a renewable basis, including:
 - (A) slash and brush from forests and woodlands;
 - (B) animal waste;
 - (C) waste vegetable oil;
 - (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;
 - (E) aquatic plants; and
 - (F) agricultural products.
- (b) “Biomass energy” does not include:

(i) black liquor; or

(ii) treated woods.

[48] (19) (a) “Bundled transaction” means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) “Bundled transaction” does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller’s purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller’s sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection ~~[(48)]~~ (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection ~~[(48)]~~ (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection ~~[(48)]~~ (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection ~~[(48)]~~ (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection ~~[(48)]~~ (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection ~~[(48)]~~ (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection ~~[(48)]~~ (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection ~~[(48)]~~ (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection ~~[(48)]~~ (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

~~[(49)]~~ (20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection ~~[(49)]~~ (20)(a)(i).

~~[(20)]~~ (21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

~~[(21)]~~ (22) (a) Subject to Subsection ~~[(21)]~~ (22)(b), “clothing” means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute “clothing”; and
- (ii) that are consistent with the list of items that constitute “clothing” under the agreement.

~~[(22)]~~ (23) “Coal-to-liquid” means the process of converting coal into a liquid synthetic fuel.

~~[(23)]~~ (24) “Commercial use” means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection ~~[(56)]~~ (57) or residential use under Subsection ~~[(406)]~~ (111).

~~[(24)]~~ (25) (a) “Common carrier” means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) “Common carrier” does not include a person ~~[who]~~ that, at the time the person is traveling to or from that person’s place of employment, transports a passenger to or from the passenger’s place of employment.

(ii) For purposes of Subsection ~~[(24)]~~ (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person’s place of employment.

(c) “Common carrier” does not include a person that provides transportation network services, as defined in Section 13-51-102.

~~[(25)]~~ (26) “Component part” includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

~~[(26)]~~ (27) “Computer” means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

~~[(27)]~~ (28) “Computer software” means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

~~[(28)]~~ (29) “Computer software maintenance contract” means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections ~~[(28)]~~ (29)(a) and (b).

~~[(29)]~~ (30) (a) “Conference bridging service” means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) “Conference bridging service” may include providing a telephone number as part of the ancillary service described in Subsection ~~[(29)]~~ (30)(a).

(c) “Conference bridging service” does not include a telecommunications service used to reach the ancillary service described in Subsection ~~[(29)]~~ (30)(a).

~~[(30)]~~ (31) “Construction materials” means any tangible personal property that will be converted into real property.

~~[(31)]~~ (32) “Delivered electronically” means delivered to a purchaser by means other than tangible storage media.

~~[(32)]~~ (33) (a) “Delivery charge” means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) ~~[services]~~ a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection ~~[(32)]~~ (33)(a)(i) to a location designated by the purchaser.

(b) “Delivery charge” includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

~~[(33)]~~ (34) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement.

~~[(34)]~~ (35) “Dietary supplement” means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections [(34)] (35)(b)(i) through (v);

(c) (i) except as provided in Subsection [(34)] (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections [(34)] (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the “Supplemental Facts” box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

[(35) “Digital audio visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.]

(36) (a) “Digital audio work” means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) “Digital audio work” includes a ringtone.

(37) “Digital audio-visual work” means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

[(37)] (38) “Digital book” means a work that is generally recognized in the ordinary and usual sense as a book.

[(38)] (39) (a) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) “Direct mail” includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) “Direct mail” does not include multiple items of printed material delivered to a single address.

[(39)] (40) “Directory assistance” means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

[(40)] (41) (a) “Disposable home medical equipment or supplies” means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection [(40)] (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections [(40)] (41)(a)(ii)(A) through (C).

(b) “Disposable home medical equipment or supplies” does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

[(41)] (42) “Drilling equipment manufacturer” means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

[(42)] (43) (a) “Drug” means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections [(42)] (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) “Drug” does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

[(43)] (44) (a) Except as provided in Subsection [(43)] (44)(c), “durable medical equipment” means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) “Durable medical equipment” includes parts used in the repair or replacement of the equipment described in Subsection [(43)] (44)(a).

(c) “Durable medical equipment” does not include mobility enhancing equipment.

[(44)] (45) “Electronic” means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections [(44)] (45)(b)(i) through (vi).

[(45)] (46) “Electronic financial payment service” means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

[(46)] (47) “Employee” means the same as that term is defined in Section 59-10-401.

[(47)] (48) “Fixed guideway” means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

[(48)] (49) “Fixed wing turbine powered aircraft” means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

[(49)] (50) “Fixed wireless service” means a telecommunications service that provides radio communication between fixed points.

[(50)] (51) (a) “Food and food ingredients” means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance’s:

(I) taste; or

(II) nutritional value.

(b) “Food and food ingredients” includes an item described in Subsection [(91)] (95)(b)(iii).

(c) “Food and food ingredients” does not include:

- (i) an alcoholic beverage;
- (ii) tobacco; or
- (iii) prepared food.

[(51)] (52) (a) “Fundraising sales” means sales:

- (i) (A) made by a school; or
- (B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection [(51)] (52)(a)(iii), “officially sanctioned school activity” means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

[(52)] (53) “Geothermal energy” means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

[(53)] (54) “Governing board of the agreement” means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

[(54)] (55) (a) For purposes of Subsection 59-12-104(41), “governmental entity” means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) “Governmental entity” does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the State Board of Regents; or

(iv) an institution of higher education described in Section 53B-1-102.

[(55)] (56) “Hydroelectric energy” means water used as the sole source of energy to produce electricity.

[(56)] (57) “Industrial use” means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection [(56)] (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

[(57)] (58) (a) Except as provided in Subsection [(57)] (58)(b), “installation charge” means a charge for installing:

- (i) tangible personal property; or
- (ii) a product transferred electronically.

(b) “Installation charge” does not include a charge for:

(i) repairs or renovations of:

- (A) tangible personal property; or
- (B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

- (A) to other tangible personal property; and
- (B) as part of a manufacturing or fabrication process.

[(58)] (59) “Institution of higher education” means an institution of higher education listed in Section 53B-2-101.

[(59)] (60) (a) “Lease” or “rental” means a transfer of possession or control of tangible personal property or a product transferred electronically for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and

(ii) consideration.

(b) “Lease” or “rental” includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) “Lease” or “rental” does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

- (A) upon completion of required payments; and
- (B) if the payment of an option price does not exceed the greater of:

- (I) \$100; or
- (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an

indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection [(59)] (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator’s duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

[(60)] (61) “Life science establishment” means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

[(61)] (62) “Life science research and development facility” means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

[(62)] (63) “Load and leave” means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

[(63)] (64) “Local taxing jurisdiction” means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

[(64)] (65) “Manufactured home” means the same as that term is defined in Section 15A-1-302.

[(65)] (66) “Manufacturing facility” means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

- (A) iron;

- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

(ii) the new products under Subsection [(65)] (66)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(67) (a) “Marketplace” means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) “Marketplace” includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(68) (a) “Marketplace facilitator” means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller’s product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller’s tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (68)(a)(i), if the

software development or research and development activity is directly related to the person’s marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller’s purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person’s marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person’s marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) “Marketplace facilitator” does not include a person that only provides payment processing services.

(69) “Marketplace seller” means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

[(66)] (70) “Member of the immediate family of the producer” means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

- (i) an adopted child or adopted stepchild; or
- (ii) a foster child or foster stepchild;
- (b) grandchild or stepgrandchild;
- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;

(i) person who is the spouse of a person described in Subsections [(66)] (70)(a) through (g); or

(j) person similar to a person described in Subsections [(66)] (70)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[(67)] (71) “Mobile home” means the same as that term is defined in Section 15A-1-302.

[(68)] (72) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[(69)] (73) (a) “Mobile wireless service” means a telecommunications service, regardless of the technology used, if:

- (i) the origination point of the conveyance, routing, or transmission is not fixed;
- (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- (iii) the origination point described in Subsection [(69)] (73)(a)(i) and the termination point described in Subsection [(69)] (73)(a)(ii) are not fixed.

(b) “Mobile wireless service” includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define “commercial mobile radio service provider.”

[(70)] (74) (a) Except as provided in Subsection [(70)] (74)(c), “mobility enhancing equipment” means equipment that is:

- (i) primarily and customarily used to provide or increase the ability to move from one place to another;
- (ii) appropriate for use in a:
 - (A) home; or
 - (B) motor vehicle; and
- (iii) not generally used by persons with normal mobility.

(b) “Mobility enhancing equipment” includes parts used in the repair or replacement of the equipment described in Subsection [(70)] (74)(a).

(c) “Mobility enhancing equipment” does not include:

- (i) a motor vehicle;
- (ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
- (iii) durable medical equipment; or
- (iv) a prosthetic device.

[(71)] (75) “Model 1 seller” means a seller registered under the agreement that has selected a certified service provider as the seller’s agent to perform all of the seller’s sales and use tax functions for agreement sales and use taxes other than the seller’s obligation under Section 59-12-124 to remit a tax on the seller’s own purchases.

[(72)] (76) “Model 2 seller” means a seller registered under the agreement that:

(a) except as provided in Subsection [(72)] (76)(b), has selected a certified automated system to perform the seller’s sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.

[(73)] (77) (a) Subject to Subsection [(73)] (77)(b), “model 3 seller” means a seller registered under the agreement that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [(73)] (77)(a), “model 3 seller” includes an affiliated group of sellers using the same proprietary system.

[(74)] (78) “Model 4 seller” means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[(75)] (79) “Modular home” means a modular unit as defined in Section 15A-1-302.

[(76)] (80) “Motor vehicle” means the same as that term is defined in Section 41-1a-102.

[(77)] (81) “Oil sands” means impregnated bituminous sands that:

- (a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[(78)] (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[(79)] (83) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[(80)] (84) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

[(81)] (85) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection [(81)] (85)(a), the transmission of a coded radio signal includes a transmission by message or sound.

[(82)] (86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[(83)] (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[(84)] (88) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [(84)] (88)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [(84)] (88)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections [(84)] (88)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [(125)] (129)(c).

[(85)] (89) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

[(86)] (90) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[(87)] (91) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

- (i) through the use of a:
 - (A) bank card;
 - (B) credit card;
 - (C) debit card; or
 - (D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[(88)] (92) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

[(89)] (93) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

- (i) is paid for in advance; and
- (ii) enables the origination of a call using an:

- (A) access number; or
- (B) authorization code;
- (c) that is dialed:

- (i) manually; or
- (ii) electronically; and

(d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

[(90)] (94) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

- (i) mobile wireless service; and
- (ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

- (B) a content service; or
- (C) an ancillary service;
- (b) that:

- (i) is paid for in advance; and

(ii) enables the origination of a call using an:

- (A) access number; or
- (B) authorization code;
- (c) that is dialed:

- (i) manually; or
- (ii) electronically; and

(d) sold in predetermined units or dollars that decline:

- (i) by a known amount; and
- (ii) with use.

[(91)] (95) (a) "Prepared food" means:

(i) food:

- (A) sold in a heated state; or
- (B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [(91)] (95)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;
- (E) glass;
- (F) cup;
- (G) napkin; or
- (H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

- (A) cuts;
- (B) repackages; or
- (C) pasteurizes; or

(ii) (A) the following:

- (I) raw egg;
- (II) raw fish;
- (III) raw meat;
- (IV) raw poultry; or

(V) a food containing an item described in Subsections [(91)] (95)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [(91)] (95)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

- (I) by weight or volume; and
- (II) as a single item; or
- (C) a bakery item, including:
 - (I) a bagel;
 - (II) a bar;
 - (III) a biscuit;
 - (IV) bread;
 - (V) a bun;
 - (VI) a cake;
 - (VII) a cookie;
 - (VIII) a croissant;
 - (IX) a danish;
 - (X) a donut;
 - (XI) a muffin;
 - (XII) a pastry;
 - (XIII) a pie;
 - (XIV) a roll;
 - (XV) a tart;
 - (XVI) a torte; or
 - (XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

[~~92~~] (96) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[~~93~~] (97) (a) Except as provided in Subsection [~~93~~] (97)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [~~93~~] (97)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [~~93~~] (97)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection [~~93~~] (97)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[~~94~~] (98) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more

communications channels as defined in Section 59-12-215.

[~~95~~] (99) (a) Except as provided in Subsection [~~95~~] (99)(b), “product transferred electronically” means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) “Product transferred electronically” does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

[~~96~~] (100) (a) “Prosthetic device” means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) “Prosthetic device” includes:

(i) parts used in the repairs or renovation of a prosthetic device;

- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) “Prosthetic device” does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

[~~97~~] (101) (a) “Protective equipment” means an item:

- (i) for human wear; and
- (ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or
(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “protective equipment”; and

(ii) that are consistent with the list of items that constitute “protective equipment” under the agreement.

[~~98~~] (102) (a) For purposes of Subsection 59-12-104(41), “publication” means any written or printed matter, other than a photocopy:

(i) regardless of:

- (A) characteristics;
- (B) copyright;
- (C) form;
- (D) format;
- (E) method of reproduction; or
- (F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term “photocopy.”

[~~99~~] (103) (a) “Purchase price” and “sales price” mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

- (A) sold;
- (B) leased; or
- (C) rented.

(b) “Purchase price” and “sales price” include:

(i) the seller’s cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

- (A) the cost of materials used;
- (B) a labor cost;
- (C) a service cost;
- (D) interest;
- (E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [~~99~~] (103)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

[~~(400)~~] (104) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

[~~(401)~~] (105) "Qualifying enterprise data center" means an establishment that will:

(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;

(b) be located in the state;

(c) be a new operation constructed on or after July 1, 2016;

(d) consist of one or more buildings that total 150,000 or more square feet;

(e) be owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and

(f) be located on one or more parcels of land that are owned or leased by:

(i) the establishment; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.

[~~(402)~~] (106) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

[~~(403)~~] (107) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (60).

[~~(404)~~] (108) (a) Except as provided in Subsection [~~(404)~~] (108)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or

replacement of tangible personal property or a product transferred electronically.

(b) “Repairs or renovations of tangible personal property” does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

~~[(405)]~~ (109) “Research and development” means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

~~[(406)]~~ (110) (a) “Residential telecommunications services” means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection ~~[(406)]~~ (110)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

~~[(407)]~~ (111) “Residential use” means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(408)]~~ (a) “Retailer” means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.]

~~[(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.]~~

~~[(409)]~~ (112) “Retail sale” or “sale at retail” means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(113) (a) “Retailer” means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection

59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) “Retailer” includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

~~[(410)]~~ (114) (a) “Sale” means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) “Sale” includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

~~[(411)]~~ (115) “Sale at retail” means the same as that term is defined in Subsection ~~[(409)]~~ (112).

~~[(412)]~~ (116) “Sale-leaseback transaction” means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee’s initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

~~[(413)]~~ (117) “Sales price” means the same as that term is defined in Subsection ~~[(99)]~~ (103).

~~[(414)]~~ (118) (a) “Sales relating to schools” means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school’s educational functions or activities including:

- (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

- (I) food and food ingredients; or
- (II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) “Sales relating to schools” does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection ~~[(414)]~~ (118)(a)(i)(B):

- (A) clothing;
- (B) clothing accessories or equipment;
- (C) protective equipment; or
- (D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

- (A) other than a:
 - (I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term “passed through.”

~~[(415)]~~ (119) For purposes of this section and Section 59-12-104, “school”:

(a) means:

(i) an elementary school or a secondary school that:

- (A) is a:
 - (I) public school; or
 - (II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53E-10-601.

~~[(416)]~~ (120) (a) “Seller” means a person that makes a sale, lease, or rental of:

- ~~[(a)]~~ (i) tangible personal property;
- ~~[(b)]~~ (ii) a product transferred electronically; or
- ~~[(e)]~~ (iii) a service.

(b) “Seller” includes a marketplace facilitator.

~~[(417)]~~ (121) (a) “Semiconductor fabricating, processing, research, or development materials” means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

- (A) (I) manufacturing a semiconductor;
- (II) fabricating a semiconductor; or
- (III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) “Semiconductor fabricating, processing, research, or development materials” includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection ~~[(417)]~~ (121)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(418)]~~ (122) “Senior citizen center” means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(419)]~~ (123) (a) Subject to Subsections ~~[(419)]~~ (123)(b) and (c), “short-term lodging consumable” means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) “Short-term lodging consumable” includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections ~~[(419)]~~ (123)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) “Short-term lodging consumable” does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

~~[(420)]~~ (124) “Simplified electronic return” means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

~~[(421)]~~ (125) “Solar energy” means the sun used as the sole source of energy for producing electricity.

~~[(422)]~~ (126) (a) “Sports or recreational equipment” means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute “sports or recreational equipment”; and

(ii) that are consistent with the list of items that constitute “sports or recreational equipment” under the agreement.

~~[(423)]~~ (127) “State” means the state of Utah, its departments, and agencies.

~~[(424)]~~ (128) “Storage” means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(425)]~~ (129) (a) Except as provided in Subsection ~~[(425)]~~ (129)(d) or (e), “tangible personal property” means personal property that:

- (i) may be:
- (A) seen;
- (B) weighed;
- (C) measured;
- (D) felt; or
- (E) touched; or
- (ii) is in any manner perceptible to the senses.
- (b) "Tangible personal property" includes:
 - (i) electricity;
 - (ii) water;
 - (iii) gas;
 - (iv) steam; or
 - (v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

- (i) a dishwasher;
- (ii) a dryer;
- (iii) a freezer;
- (iv) a microwave;
- (v) a refrigerator;
- (vi) a stove;
- (vii) a washer; or
- (viii) an item similar to Subsections ~~(425)~~ (129)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

~~(426)~~ (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection ~~(426)~~ (130)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection ~~(426)~~ (130)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~(426)~~ (130)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection ~~(426)~~ (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~(426)~~ (130)(b)(i) through (vi).

~~(427)~~ (131) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

~~(428)~~ (132) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

~~(429)~~ (133) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

- (ii) an 800 service;
- (iii) a 900 service;
- (iv) a fixed wireless service;
- (v) a mobile wireless service;
- (vi) a postpaid calling service;
- (vii) a prepaid calling service;
- (viii) a prepaid wireless calling service; or
- (ix) a private communications service.

(c) "Telecommunications service" does not include:

- (i) advertising, including directory advertising;
- (ii) an ancillary service;
- (iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

- (I) (Aa) acquired;
- (Bb) generated;
- (Cc) processed;
- (Dd) retrieved; or
- (Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

- (A) equipment; or
- (B) wiring;
- (vi) Internet access service;
- (vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(130)~~] (134) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(130)~~] (134)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(130)~~] (134)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(131)~~] (135) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(131)~~] (135)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(131)~~] (135)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(131)~~] (135)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(131)~~] (135)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(431)]~~ (135)(b)(i) through (ix).

~~[(432)]~~ (136) (a) “Telecommunications transmission equipment, machinery, or software” means an item listed in Subsection ~~[(432)]~~ (136)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection ~~[(432)]~~ (136)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;
- (xxi) software;
- (xxii) a terminal;
- (xxiii) a timing unit;
- (xxiv) a transformer;
- (xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(432)]~~ (136)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection ~~[(432)]~~ (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(432)]~~ (136)(b)(i) through (xxv).

~~[(433)]~~ (137) (a) “Textbook for a higher education course” means a textbook or other printed material that is required for a course:

- (i) offered by an institution of higher education; and
 - (ii) that the purchaser of the textbook or other printed material attends or will attend.
- (b) “Textbook for a higher education course” includes a textbook in electronic format.

~~[(434)]~~ (138) “Tobacco” means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

~~[(435)]~~ (139) “Unassisted amusement device” means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

~~[(436)]~~ (140) (a) “Use” means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) “Use” does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

~~[(437)]~~ (141) “Value-added nonvoice data service” means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

- (i) code;
- (ii) content;
- (iii) form; or
- (iv) protocol.

~~[(438)]~~ (142) (a) Subject to Subsection ~~[(438)]~~ (142)(b), “vehicle” means the following that are required to be titled, registered, or titled and registered:

- (i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [(138)] (142)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[(139)] (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [(138)] (142).

[(140)] (144) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[(141)] (145) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[(142)] (146) (a) Except as provided in Subsection [(142)] (146)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[(143)] (147) "Watercraft" means a vessel as defined in Section 73-18-2.

[(144)] (148) "Wind energy" means wind used as the sole source of energy to produce electricity.

[(145)] (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

- (A) a church; or
- (B) a charitable institution; or
- (ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

- (i) a medical facility; or
- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
 - (i) food and food ingredients;
 - (ii) prepared food; or
 - (iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption

described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

- (A) "commercial distribution";
- (B) "live musical performance";
- (C) "live news program"; or
- (D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred

electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

- (a) clearly identified;
- (b) segregated; and
- (c) installed or converted to real property;
- (74) amounts paid or charged for:
- (a) a purchase or lease of machinery and equipment that:
- (i) are used in performing qualified research:
- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
- (i) for the machinery and equipment described in Subsection (74)(a); and
- (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- (a) for a sale:
- (i) the ownership of the seller and the ownership of the purchaser are identical; and
- (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
- (b) for a lease:
- (i) the ownership of the lessor and the ownership of the lessee are identical; and
- (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
- (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
- (ii) the machinery or equipment:
- (A) has an economic life of three or more years; and
- (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (B) subject to taxation under this chapter; and
- (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:
- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
- (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
- (b) not including amounts paid or charged for a:
- (i) digital audiowork;
- (ii) digital audio-visual work; or
- (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
- (a) machinery and equipment that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts that:
- (i) are used in the operation of the electronic financial payment service; and
- (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
- (a) is stored, used, or consumed in the state; and
- (b) is temporarily brought into the state from another state:
- (i) during a disaster period as defined in Section 53-2a-1202;
- (ii) by an out-of-state business as defined in Section 53-2a-1202;
- (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in

Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office of Energy Development under Subsection 63M-4-702(2);

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205; ~~and~~

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment~~[-]~~; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

Section 3. Section 59-12-107 is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

- (A) advertising; or
- (B) solicitation by:
 - (I) direct mail;
 - (II) electronic mail;
 - (III) the Internet;
 - (IV) telecommunications service; or
 - (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- (iv) regularly engages in the delivery of property in the state other than by:
 - (A) common carrier; or
 - (B) United States mail; or
- (v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.
 - (b) A seller is considered to be engaged in the business of selling tangible personal property, ~~la service, or~~ a product transferred electronically, or a service for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:
 - (i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and
 - (ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or
 - (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.
 - (c) ~~Each~~ Subject to Section 59-12-107.6, each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:
 - (i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and
 - (ii) in either the previous calendar year or the current calendar year:
 - (A) receives gross revenue from the sale of tangible personal property, ~~[any product]~~ products transferred electronically, or services for storage, use, or consumption in the state of more than \$100,000; or
 - (B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.
 - (d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a

- seller required to pay or collect and remit sales and use taxes under Subsection (2)(b) ~~[or]~~, Subsection (2)(c), or Section 59-12-107.6 may voluntarily:
 - (i) collect a tax on a transaction described in Subsection 59-12-103(1); and
 - (ii) remit the tax to the commission as provided in this part.
 - (e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:
 - (i) pay a tax, fee, or charge under:
 - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (C) Section 19-6-714;
 - (D) Section 19-6-805;
 - (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
 - (F) this title; or
 - (ii) collect and remit a tax, fee, or charge under:
 - (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (C) Section 19-6-714;
 - (D) Section 19-6-805;
 - (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
 - (F) this title.
 - (f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:
 - (i) the seller did not collect a tax imposed by this chapter on the transaction; and
 - (ii) the person:
 - (A) stores the tangible personal property or product transferred electronically in the state;
 - (B) uses the tangible personal property or product transferred electronically in the state; or
 - (C) consumes the tangible personal property or product transferred electronically in the state.
 - (g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this chapter [~~shall be collected~~] from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

- (i) registered under the agreement;
- (ii) described in Subsection (2)(d); and
- (iii) not a:
 - (A) model 1 seller;
 - (B) model 2 seller; or
 - (C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(d) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or that fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted constitutes a separate offense.

Section 4. Section 59-12-107.6 is enacted to read:

59-12-107.6. Marketplace facilitator collection, remittance, and payment of sales tax obligation -- Marketplace seller collection, remittance, and payment of sales tax obligation -- Liability for collection.

(1) A marketplace facilitator shall pay or collect and remit sales and use taxes imposed by this chapter in accordance with Section 59-12-107:

(a) if the marketplace facilitator meets one or more of the criteria provided for in Subsection 59-12-107(2)(a) or (b); and

(b) on the sales the marketplace facilitator made on the marketplace facilitator's own behalf.

(2) (a) A marketplace facilitator shall pay or collect and remit sales and use taxes imposed by this chapter in accordance with Subsection (3) if the marketplace facilitator, in the previous calendar year or the current calendar year, makes sales of tangible personal property, products transferred electronically, or services on the marketplace facilitator's own behalf or facilitates sales on behalf of one or more marketplace sellers:

(i) that exceed \$100,000; or

(ii) in 200 or more separate transactions.

(b) For purposes of determining if a marketplace facilitator meets or exceeds one or both thresholds described in this Subsection (2), a marketplace facilitator shall separately total:

(i) the marketplace facilitator's sales; and

(ii) any sales the marketplace facilitator makes or facilitates for a marketplace seller.

(c) A marketplace facilitator without a physical presence in this state shall begin collecting and remitting the sales and use taxes imposed by this chapter no later than the first day of the calendar quarter that is at least 60 days after the day on which the marketplace facilitator meets or exceeds either threshold described in Subsection (2)(a).

(3) A marketplace facilitator described in Subsection (2) shall pay or collect and remit sales and use taxes imposed by this chapter for each sale that the marketplace facilitator:

(a) makes on the marketplace facilitator's own behalf; or

(b) makes or facilitates on behalf of a marketplace seller, regardless of:

(i) whether the marketplace seller has an obligation to pay or collect and remit sales and use taxes under Section 59-12-107;

(ii) whether the marketplace seller would have been required to pay or collect and remit sales and use taxes under Section 59-12-107 if the marketplace facilitator had not facilitated the sale; or

(iii) the amount of the sales price or the purchase price that accrues to or benefits the marketplace facilitator, the marketplace seller, or any other person.

(4) A marketplace facilitator shall comply with the procedures and requirements in this chapter and Chapter 1, General Taxation Policies, for sellers required to pay or collect and remit sales and use taxes except that the marketplace facilitator shall segregate, in the marketplace facilitator's books and records:

(a) the sales that the marketplace facilitator makes on the marketplace facilitator's own behalf; and

(b) the sales that the marketplace facilitator makes or facilitates on behalf of one or more marketplace sellers.

(5) (a) The commission may audit the marketplace facilitator for sales made or facilitated

through the marketplace facilitator's marketplace on behalf of one or more marketplace sellers.

(b) The commission may not audit the marketplace seller for sales made or facilitated through the marketplace facilitator's marketplace on the marketplace seller's behalf.

(6) Nothing in this section prohibits a marketplace facilitator from providing in a marketplace facilitator's agreement with a marketplace seller for the recovery of sales and use taxes, and any related interest or penalties to the extent that a tax, interest, or penalty is assessed by the state in an audit of the marketplace facilitator on a retail sale:

(a) that a marketplace facilitator makes or facilitates on behalf of a marketplace seller; and

(b) for which the marketplace facilitator relied on incorrect or incomplete information provided by the marketplace seller.

(7) (a) Subject to Subsections (7)(b) and (c), a marketplace facilitator is not liable for failing to collect the taxes under this chapter for a sale on which the marketplace facilitator failed to collect sales and use taxes if the marketplace facilitator demonstrates, to the satisfaction of the commission, that:

(i) the marketplace facilitator made or facilitated the sale through the marketplace facilitator's marketplace on or before December 31, 2022;

(ii) the marketplace facilitator made or facilitated the sale on behalf of a marketplace seller and not on behalf of the marketplace facilitator;

(iii) the marketplace facilitator and the marketplace seller are not affiliates; and

(iv) the failure to collect sales and use taxes was due to a good faith error other than an error in sourcing.

(b) For purposes of Subsection (7)(a):

(i) for sales made or facilitated during the 2019 or 2020 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 7% error rate;

(ii) for sales made or facilitated during the 2021 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 5% error rate; and

(iii) for sales made or facilitated during the 2022 calendar year, the marketplace facilitator is not liable for the amount the marketplace facilitator fails to collect due to error that is equal to the error rate, but not to exceed a 3% error rate.

(c) The commission shall calculate the percentages described in Subsection (7)(b):

(i) using the total sales and use taxes due on sales that:

(A) a marketplace facilitator made or facilitated in this state on behalf of one or more marketplace sellers during the calendar year that the sale for which the marketplace facilitator seeks relief was made or facilitated; and

(B) are sourced to the state; and

(ii) not including sales that the marketplace facilitator or the marketplace facilitator's affiliates directly made during the same calendar year.

(8) A marketplace seller shall pay or collect and remit sales and use taxes imposed by this chapter for a sale of tangible personal property, a product transferred electronically, or a service that the marketplace seller makes other than through a marketplace facilitator if:

(a) the sale is sourced to this state; and

(b) the marketplace seller's sales in this state, other than through a marketplace facilitator, in the previous calendar year or the current calendar year:

(i) exceed \$100,000; or

(ii) occur in 200 or more separate transactions.

(9) (a) A marketplace seller may not pay or collect and remit sales and use taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit.

(b) A marketplace seller is not liable for a marketplace facilitator's failure to pay or collect and remit, or the marketplace facilitator's underpayment of, sales and use taxes imposed by this chapter for any sale for which a marketplace facilitator is required to pay or collect and remit the taxes imposed by this chapter.

(10) (a) A purchaser of tangible personal property, a product transferred electronically, or a service may file a claim for a refund with the marketplace facilitator if the purchaser overpaid sales and use taxes imposed under this chapter.

(b) No person may bring a class action against a marketplace facilitator in any court of the state on behalf of purchasers arising from or in any way related to an overpayment of sales and use taxes collected and remitted on sales made or facilitated by the marketplace facilitator on behalf of a marketplace seller, regardless of whether such claim is characterized as a tax refund claim.

(11) Nothing in this section affects the obligation of a purchaser to remit the use tax described in Subsection 59-12-107(2)(f) on any sale for which a marketplace facilitator or marketplace seller failed to collect and remit a tax imposed by this chapter.

Section 5. Effective date.

This bill takes effect on October 1, 2019.

CHAPTER 487**S. B. 172**

Passed March 14, 2019

Approved April 1, 2019

Effective July 1, 2019

**ECONOMIC
DEVELOPMENT AMENDMENTS**Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson**LONG TITLE****General Description:**

This bill modifies provisions related to economic development.

Highlighted Provisions:

This bill:

- ▶ moves the STEM Action Center from the Governor's Office of Economic Development to the Department of Heritage and Arts;
- ▶ moves STEM education endorsements from the Governor's Office of Economic Development to the State Board of Education;
- ▶ requires the Governor's Office of Economic Development to develop a written strategic plan;
- ▶ creates the Utah Works Program within the Talent Ready Utah Center and describes the duties associated with the program; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Governor's Office of Economic Development -- Talent Ready Utah Center -- Utah Works Program, as a one-time appropriation:
 - from the General Fund, \$4,000,000; and
- ▶ to the Governor's Office of Economic Development -- Talent Ready Utah Center -- Utah Works Program, as an ongoing appropriation:
 - from the General Fund, \$1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

63N-1-301, as last amended by Laws of Utah 2018, Chapter 423

ENACTS:

63N-12-505, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

- 9-20-101, (Renumbered from 63N-12-201, as enacted by Laws of Utah 2015, Chapter 283)
- 9-20-102, (Renumbered from 63N-12-202, as last amended by Laws of Utah 2018, Chapters 415 and 423)
- 9-20-103, (Renumbered from 63N-12-203, as last amended by Laws of Utah 2017, Chapter 382)
- 9-20-104, (Renumbered from 63N-12-204, as last amended by Laws of Utah 2017, Chapter 353)

9-20-105, (Renumbered from 63N-12-204.5, as enacted by Laws of Utah 2017, Chapter 353)

9-20-106, (Renumbered from 63N-12-205, as last amended by Laws of Utah 2016, Chapter 139)

9-20-107, (Renumbered from 63N-12-206, as renumbered and amended by Laws of Utah 2015, Chapter 283)

9-20-108, (Renumbered from 63N-12-207, as renumbered and amended by Laws of Utah 2015, Chapter 283)

9-20-109, (Renumbered from 63N-12-208, as last amended by Laws of Utah 2015, Chapter 292 and renumbered and amended by Laws of Utah 2015, Chapter 283)

9-20-110, (Renumbered from 63N-12-210, as last amended by Laws of Utah 2017, Chapter 353)

9-20-111, (Renumbered from 63N-12-211, as renumbered and amended by Laws of Utah 2015, Chapter 283)

9-20-112, (Renumbered from 63N-12-212, as last amended by Laws of Utah 2017, Chapter 382)

9-20-113, (Renumbered from 63N-12-213, as last amended by Laws of Utah 2018, Chapter 415)

9-20-114, (Renumbered from 63N-12-214, as enacted by Laws of Utah 2017, Chapter 219)

53E-6-903, (Renumbered from 63N-12-209, as last amended by Laws of Utah 2016, Chapter 139)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-20-101, which is renumbered from Section 63N-12-201 is renumbered and amended to read:

CHAPTER 20. STEM ACTION CENTER**Part 1. STEM Action Center**

[63N-12-201]. 9-20-101. Title.

This [part] chapter is known as the "STEM Action Center."

Section 2. Section 9-20-102, which is renumbered from Section 63N-12-202 is renumbered and amended to read:

[63N-12-202]. 9-20-102. Definitions.

As used in this [part] chapter:

~~[(1)] "Board" means the STEM Action Center Board created in Section 63N-12-203-]~~

~~[(2)] (1) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.~~

~~[(3)] (2) "Director" means the director appointed by the STEM board to oversee the administration of the STEM Action Center.~~

~~[(4)] (3) "Educator" means the same as that term is defined in Section 53E-6-102.~~

[45] (4) "Foundation" means a foundation established as described in Subsections ~~[63N-12-204(3) and (4)]~~ 9-20-104(3) and (4).

[46] (5) "Fund" means the STEM Action Center Foundation Fund created in Section ~~[63N-12-204.5]~~ 9-20-105.

[47] (6) "Grant program" means the Computing Partnerships Grants program created in this part.

[48] (7) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

[49] (8) "Institution of higher education" means an institution listed in Section 53B-1-102.

[410] (9) "K-16" means kindergarten through grade 12 and post-secondary education programs.

[411] ~~"Office" means the Governor's Office of Economic Development.~~

[412] (10) "Provider" means a provider selected on behalf of the STEM board by the staff of the STEM board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section ~~[63N-12-206]~~ 9-20-107.

[413] (11) "Review committee" means the committee established under Section ~~[63N-12-214]~~ 9-20-114.

[414] (12) "Stacked credentials" means credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) are part of a career pathway system;

(c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitate multiple exit and entry points; and

(e) recognize sub-goals or momentum points.

[415] (13) "STEM" means science, technology, engineering, and mathematics.

[416] (14) "STEM Action Center" means the center described in Section ~~[63N-12-205]~~ 9-20-106.

(15) "STEM board" means the STEM Action Center Board created in Section 9-20-103.

[417] (16) "Talent Ready Utah" means the Talent Ready Utah Center created in Section 63N-12-502.

Section 3. Section 9-20-103, which is renumbered from Section 63N-12-203 is renumbered and amended to read:

[63N-12-203]. 9-20-103. STEM Action Center Board creation -- Membership.

(1) There is created the STEM Action Center Board ~~[within the office]~~, composed of the following members:

(a) six private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state ~~[superintendent of public instruction's]~~ superintendent's designee;

(c) the commissioner of higher education or the ~~[commissioner of higher education's]~~ commissioner's designee;

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the ~~[office or the executive director's designee]~~ department or the executive director's designee;

(g) the Utah System of Technical Colleges commissioner of technical education or the ~~[Utah System of Technical Colleges commissioner of technical education's]~~ commissioner's designee;

(h) the executive director of the Department of Workforce Services or the executive ~~[director of the Department of Workforce Services']~~ director's designee; and

(i) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the ~~[committee]~~ STEM board requires a majority vote of a quorum.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the [board] STEM board to serve a two-year term.

(7) The executive director of the [office] department or the executive director's designee shall serve as the vice chair of the STEM board.

Section 4. Section 9-20-104, which is renumbered from Section 63N-12-204 is renumbered and amended to read:

[63N-12-204]. 9-20-104. STEM Action Center Board -- Duties.

(1) The STEM board shall:

(a) establish a STEM Action Center to:

(i) coordinate STEM activities in the state among the following stakeholders:

- (A) the State Board of Education;
- (B) school districts and charter schools;
- (C) the State Board of Regents;
- (D) institutions of higher education;
- (E) parents of home-schooled students;
- (F) other state agencies; and
- (G) business and industry representatives;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the STEM board:

(i) to support high quality professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms;

(ii) performance change in student achievement in each classroom participating in a STEM Action Center project; and

(iii) that students from at least 50 schools in the state participate in the STEM competitions, fairs, and camps described in Subsection [63N-12-205(2)(d)] 9-20-106(2)(d).

(2) The STEM board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the STEM board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The STEM board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the STEM board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with the requirements described in Section [63N-12-204.5] 9-20-105;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the STEM board;

(e) shall provide the STEM board with information detailing transactions and balances associated with the foundation; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

Section 5. Section 9-20-105, which is renumbered from Section 63N-12-204.5 is renumbered and amended to read:

[63N-12-204.5]. 9-20-105. STEM Action Center Foundation Fund.

(1) There is created an expendable special revenue fund known as the "STEM Action Center Foundation Fund."

(2) The director shall administer the fund under the direction of the STEM board.

(3) Money may be deposited into the fund from a variety of sources, including transfers, grants, private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.

(4) Money collected by a foundation described in Subsections ~~[63N-12-204(3)]~~ 9-20-104(3) and (4) shall be deposited into the fund.

(5) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the STEM Action Center.

(6) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.

(7) The director, under the direction of the STEM board, may expend money from the fund for the purposes described in this part.

Section 6. Section 9-20-106, which is renumbered from Section 63N-12-205 is renumbered and amended to read:

~~[63N-12-205].~~ 9-20-106. STEM Action Center.

(1) ~~[As funding allows, the board]~~ The STEM board shall:

- (a) establish a STEM Action Center;
- (b) ensure that the STEM Action Center:
 - (i) is accessible ~~[by]~~ to the public; and
 - (ii) includes the components described in Subsection (2);
- (c) work cooperatively with the State Board of Education to:
 - (i) further STEM education; and
 - (ii) ensure best practices are implemented as described in Sections ~~[63N-12-206— and 63N-12-207]~~ 9-20-107 and 9-20-108;
 - (d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities; and
 - (e) work cooperatively with stakeholders to support and promote activities that align STEM education and training activities with the employment needs of business and industry in the state.
- (2) As funding allows, the director of the STEM Action Center shall:
 - (a) support high quality professional development for educators regarding STEM education;
 - (b) ensure that the STEM Action Center acts as a research and development center for STEM

education through a request for proposals process described in Section ~~[63N-12-206]~~ 9-20-107;

(c) review and acquire STEM education related materials and products for:

- (i) high quality professional development;
- (ii) assessment, data collection, analysis, and reporting; and
- (iii) public school instruction;
- (d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;
- (e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;
- (f) use resources to bring the latest STEM education learning tools into public education classrooms;
- (g) identify at least 10 best practice innovations used in Utah that have resulted in a measurable improvement in student performance or outcomes in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

- (i) identify:
 - (i) learning tools for kindergarten through grade 6 identified as best practices; and
 - (ii) learning tools for grades 7 through 12 identified as best practices;
- (j) collect data on Utah best practices, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;
- (k) keep track of the following items related to best practices described in Subsection (2)(j):
 - (i) how the best practices data are being used; and
 - (ii) how many individuals are using the data, including the demographics of the users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

- (n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;
- (o) recognize achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(q) develop and distribute STEM information to parents of students in the state;

(r) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

(s) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The STEM board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.

(4) (a) The director shall work with an independent evaluator to track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, if appropriate, in the following activities:

(i) public education high school graduation rates;

(ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;

(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and

(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the STEM board to assist the STEM board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 7. Section 9-20-107, which is renumbered from Section 63N-12-206 is renumbered and amended to read:

[63N-12-206]. 9-20-107. Acquisition of STEM education related instructional technology program -- Research and development of education related instructional technology through a pilot program.

(1) For purposes of this section:

(a) "Pilot" means a pilot of the program.

(b) "Program" means the STEM education related instructional technology program created in Subsection (2).

(2) (a) There is created the STEM education related instructional technology program to provide public schools the STEM education related instructional technology described in Subsection (3).

(b) On behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school districts and charter schools.

(c) On behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).

(3) The STEM education related instructional technology shall:

(a) support mathematics instruction for students in:

(i) kindergarten through grade 6; or

(ii) grades 7 and 8; or

(b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.

(4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for the students described in Subsection (3)(a), the STEM board shall consider the following criteria:

(a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;

(b) the technology is self-adapting to respond to the needs and progress of the learner; and

(c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.

(5) Before issuing a request for proposals described in Subsection (2), on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and may:

(a) conduct a pilot of the program to test and select providers for the program;

(b) select at least two providers through a direct award or sole source procurement process for the purpose of conducting the pilot; and

(c) select schools to participate in the pilot.

(6) (a) A contract with a provider for STEM education related instructional technology may

include professional development for full deployment of the STEM education related instructional technology.

(b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Section 8. Section 9-20-108, which is renumbered from Section 63N-12-207 is renumbered and amended to read:

[63N-12-207]. 9-20-108. Distribution of STEM education instructional technology to schools.

(1) Subject to legislative appropriations, on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and shall:

(a) distribute STEM education related instructional technology described in Section [63N-12-206] 9-20-107 to school districts and charter schools; and

(b) provide related professional development to the school districts and charter schools that receive STEM education related instructional technology.

(2) A school district or charter school may apply to the STEM board, through a competitive process, to receive STEM education related instructional technology from the STEM board.

(3) A school district or charter school that receives STEM education related instructional technology as described in this section shall provide the school district's or charter school's own computer hardware.

Section 9. Section 9-20-109, which is renumbered from Section 63N-12-208 is renumbered and amended to read:

[63N-12-208]. 9-20-109. Report to Legislature and the State Board of Education.

(1) The STEM board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;

(b) the Public Education Appropriations Subcommittee;

(c) the State Board of Education; and

(d) the [office] department for inclusion in the [office's] department's annual written report described in Section [63N-1-301] 9-1-208.

(2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

(a) the number of educators receiving high quality professional development;

(b) the number of students receiving services from the STEM Action Center;

(c) a list of the providers selected pursuant to this part;

(d) a report on the STEM Action Center's [fulfillment] fulfillment of its duties described in Section [63N-12-205] 9-20-106; and

(e) student performance of students participating in a STEM Action Center program as collected in Subsection [63N-12-205] 9-20-106(4).

Section 10. Section 9-20-110, which is renumbered from Section 63N-12-210 is renumbered and amended to read:

[63N-12-210]. 9-20-110. Acquisition of STEM education high quality professional development.

(1) The STEM Action Center may, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.

(2) The high quality professional development application described in Subsection (1) shall:

(a) allow the State Board of Education, a school district, or a school to define the application's input and track results of the high quality professional development;

(b) allow educators to access automatic tools, resources, and strategies, including instructional materials with integrated STEM content;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

(i) cover a cross section of grade levels and subjects;

(ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and

(iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

(3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 11. Section 9-20-111, which is renumbered from Section 63N-12-211 is renumbered and amended to read:

[~~63N-12-211~~]. 9-20-111. STEM education middle school applied science initiative.

(1) The STEM Action Center shall develop an applied science initiative for students in grades 7 and 8 that includes:

(a) a STEM applied science curriculum with instructional materials;

(b) STEM hybrid or blended high quality professional development that allows for face-to-face applied learning; and

(c) hands-on tools for STEM applied science learning.

(2) The STEM Action Center may, through a request for proposals process, select a consultant to assist in developing the initiative described in Subsection (1).

Section 12. Section 9-20-112, which is renumbered from Section 63N-12-212 is renumbered and amended to read:

[~~63N-12-212~~]. 9-20-112. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.

(b) A school district's or charter school's STEM related certification training program shall:

(i) prepare high school students to be job ready for available STEM related positions of employment; and

(ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

(a) a technical college described in Section 53B-2a-105;

(b) Salt Lake Community College;

(c) Snow College;

(d) Utah State University Eastern; or

(e) a private sector employer.

Section 13. Section 9-20-113, which is renumbered from Section 63N-12-213 is renumbered and amended to read:

[~~63N-12-213~~]. 9-20-113. Computer science initiative for public schools.

(1) As used in this section:

(a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.

(b) "Computer coding" means the process of writing script for a computer program or mobile device.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.

(e) (i) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.

(ii) "Institution of higher education" includes a technical college described in Section 53B-2a-105.

(f) "Employer" means a private employer, public employer, industry association, union, or the military.

(g) "License" means the same as that term is defined in Section 53E-6-102.

(2) Subject to legislative appropriations, on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:

(a) creating an online repository that:

(i) is available for school districts and charter schools to use as a resource; and

(ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:

(A) computational thinking skills; and

(B) computer coding skills;

(b) providing for professional development on teaching computer science by:

(i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section [~~63N-12-210~~] 9-20-110; and

(ii) providing statewide or regional professional development institutes; and

(c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.

(3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):

- (a) a school district;
- (b) a charter school;
- (c) an employer;
- (d) an institution of higher education; or
- (e) a non-profit organization.

(4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.

(5) The ~~board and the~~ State Board of Education and the STEM board shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

(6) The STEM board shall include information on the status of the computer science initiative in the annual report described in Section ~~[63N-12-208] 9-20-109~~.

Section 14. Section 9-20-114, which is renumbered from Section 63N-12-214 is renumbered and amended to read:

[63N-12-214]. 9-20-114. Computing Partnerships Grants program.

(1) There is created the Computing Partnerships Grants program consisting of the grants created in this part to provide for the design and implementation of a comprehensive K-16 computing partnerships program, based upon the following common elements:

- (a) outreach and student engagement;
- (b) courses and content;
- (c) instruction and instructional support;
- (d) work-based learning opportunities;
- (e) student retention;
- (f) industry engagement;
- (g) stacked credentials that allow for multiple exit and entry points;
- (h) competency-based learning strategies; and
- (i) secondary and post-secondary collaborations.

(2) The grant program shall incentivize public schools and school districts to work with the STEM Action Center, staff of the State Board of Education, Talent Ready Utah, industry representatives, and secondary partners on the design and implementation of comprehensive K-16 computing partnerships through:

(a) leveraging existing resources for content, professional learning, and instruction, including existing career and technical education funds, programs, and initiatives;

(b) allowing for the support of professional learning for pre- and in-service educators;

(c) supporting activities that promote and enhance access, diversity, and equity;

(d) supporting collaborations and partnerships between K-12, institutions of higher education, cultural and community partners, and industry representatives;

(e) identifying the appropriate credentials that align with industry needs and providing the credentials in a stacked credentials pathway;

(f) implementing a collaborative network that enables sharing and identification of best practices; and

(g) providing infrastructure assistance that allows for the support of new courses and the expansion of capacity for existing courses.

(3) The grant program shall include the following:

(a) rigorous and relevant metrics that are shared by all grant participants; and

(b) an evaluation by the STEM Action Center of the grant program that identifies best practices.

(4) The STEM Action Center, in consultation with the State Board of Education, shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) that define outcome-based measures appropriate to the type of grant awarded under this part;

(b) establish a grant application process;

(c) in accordance with Subsection (5), establish a review committee to make recommendations for:

(i) metrics to analyze the quality of a grant application;

(ii) approval of a grant application; and

(iii) criteria to establish a requirement for an applicant to demonstrate financial need; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(5) (a) The review committee shall consist of K-16 educators, staff of the State Board of Education, representatives of Talent Ready Utah, post-secondary partners, and industry representatives.

(b) The review committee shall:

(i) review a grant application submitted;

(ii) make recommendations to a grant applicant to modify the grant application, if necessary; and

(iii) make recommendations regarding the final disposition of an application.

(6) The STEM Action Center shall report annually on the grant program to the State Board of Education and any findings and recommendations on the grant program shall be included in the STEM Action Center annual report to the Education Interim Committee.

Section 15. Section 53E-6-903, which is renumbered from Section 63N-12-209 is renumbered and amended to read:

[63N-12-209]. 53E-6-903. STEM education endorsements and incentive program.

(1) As used in this section, "STEM" means science, technology, engineering, and mathematics.

[4] (2) The [~~State Board of Education~~] state board shall [~~collaborate with the STEM Action Center to~~]:

(a) develop STEM education endorsements; and

(b) create and implement financial incentives for:

(i) an educator to earn an elementary or secondary STEM education endorsement described in Subsection [~~(1)~~] (2)(a); and

(ii) a school district or a charter school to have STEM endorsed educators on staff.

[2] (3) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education~~] The state board shall make rules establishing the uses of STEM education endorsements described in Subsection [~~(1)~~] (2), including that:

(a) an incentive for an educator to take a course leading to a STEM education endorsement may only be given for a course that carries higher-education credit; and

(b) a school district or a charter school may consider a STEM education endorsement as part of an educator's salary schedule.

Section 16. Section 63N-1-301 is amended to read:

63N-1-301. Annual report -- Content -- Format -- Strategic plan.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

(5) (a) On or before October 1, 2019, the office shall:

(i) in consultation with the organizations described in Subsection (5)(c), coordinate the development of a written strategic plan that contains a coordinated economic development strategy for the state; and

(ii) provide the strategic plan to the president of the Senate, the speaker of the House of Representatives, and the Economic Development and Workforce Services Interim Committee.

(b) The strategic plan shall:

(i) establish a statewide economic development strategy that consists of a limited set of clear, concise, and defined principles and goals;

(ii) recommend targeted economic development policies that will further the implementation of the economic development strategy described in this section;

(iii) identify each of the relevant state-level economic development agencies, including the agencies described in Subsection (5)(c);

(iv) outline the functional role in furthering the state's economic development strategy for each relevant state-level economic development agency;

(v) establish specific principles and make specific recommendations to decrease competition and increase communication and cooperation among state-level economic development agencies, providers and administrators of economic development programs in the state, nonprofit entities that participate in economic development in the state, and local governments;

(vi) recommend a fundamental realignment of economic development programs in the state to ensure each program's purpose is congruent with the mission of the organization within which the program is located;

(vii) address rural economic development by:

(A) establishing goals and principles to ensure the state's economic development strategy works for both urban and rural areas of the state; and

(B) providing recommendations on how existing rural economic development programs should be restructured or realigned;

(viii) assess the effectiveness of the state's economic development incentives and make recommendations regarding:

(A) how incentive policies could be improved; and

(B) how incentives could be better coordinated among state-level economic development agencies and local governments;

(ix) make recommendations regarding how to align the state's economic development strategy and policies in order to take advantage of the strengths and address the weaknesses of the state's current and projected urban and rural workforce;

(x) make recommendations regarding how to monitor and assess whether certain economic development policies further the statewide economic development strategy described in this section, including recommendations on performance metrics to measure results; and

(xi) align the strategic plan with each element of the statewide economic development strategy.

(c) The office shall coordinate the development of the strategic plan by working in coordination with and obtaining information from other state agencies, including:

(i) the Department of Workforce Services;

(ii) the Office of Energy Development;

(iii) the State Board of Education;

(iv) the State Board of Regents; and

(v) the Utah System of Technical Colleges Board of Trustees.

(d) If contacted by the office, other state agencies, including those described in Subsection (5)(c), shall, in accordance with state and federal law, share information and cooperate with the office in coordinating the development of the strategic plan.

Section 17. Section 63N-12-505 is enacted to read:

63N-12-505. Utah Works.

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall develop workforce solutions that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, the Utah System of Higher Education, and the Utah System of Technical Colleges;

(b) identifying businesses that have significant hiring demands in the state;

(c) coordinating with the Department of Workforce Services to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah System of Higher Education and the Utah System of Technical Colleges to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(4) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

(a) the number of participants in the program;

(b) the number of participants who have completed training offered by the program; and

(c) the number of participants who have been hired by a business participating in the program.

Section 18. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending

June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Development -- Talent Ready Utah Center

<u>From General Fund, One-time</u>	<u>\$4,000,000</u>
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<u>From General Fund</u>	<u>\$1,000,000</u>
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Schedule of Programs:

<u>Utah Works Program</u>	<u>\$5,000,000</u>
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Section 19. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 488**S. B. 204**

Passed March 12, 2019

Approved April 1, 2019

Effective May 14, 2019

SURPLUS PROPERTY AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Eric K. Hutchings

LONG TITLE**General Description:**

This bill modifies provisions relating to state surplus property.

Highlighted Provisions:

This bill:

- ▶ modifies the authority of the Division of Purchasing and General Services with respect to the surplus property program;
- ▶ repeals provisions relating to:
 - specific methods of disposing of state surplus property;
 - institutions of higher education participation in the surplus property program;
 - charges and fees for surplus property; and
 - a surplus property contractor;
- ▶ modifies provisions relating to the surplus property program;
- ▶ authorizes a state agency to declare property to be surplus property;
- ▶ modifies provisions relating to the disposal of items of minimal value; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63A-2-101.5, as last amended by Laws of Utah 2015, Chapter 98

63A-2-103, as last amended by Laws of Utah 2017, Chapter 463

63A-2-404, as last amended by Laws of Utah 2013, Chapter 151

63A-2-411, as repealed and reenacted by Laws of Utah 2015, Chapter 98

REPEALS AND REENACTS:

63A-2-401, as last amended by Laws of Utah 2015, Chapter 98

REPEALS:

63A-2-402, as last amended by Laws of Utah 2017, Chapter 382

63A-2-405, as last amended by Laws of Utah 2015, Chapter 98

63A-2-410, as last amended by Laws of Utah 2015, Chapter 98

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-2-101.5 is amended to read:**63A-2-101.5. Definitions.**

As used in this chapter:

(1) "Division" means the Division of Purchasing and General Services created under Section 63A-2-101.

(2) "Federal surplus property" means surplus property of the federal government of the United States.

(3) "Information technology equipment" means equipment capable of downloading, accessing, manipulating, storing, or transferring electronic data, including:

- (a) a computer;
- (b) a smart phone, electronic tablet, personal digital assistant, or other portable electronic device;
- (c) a digital copier or multifunction printer;
- (d) a flash drive or other portable electronic data storage device;
- (e) a server; and
- (f) any other similar device.

(4) "Person with a disability" means a person with a severe, chronic disability that:

- (a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and
- (b) is likely to continue indefinitely.

(5) "Property act" means the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 549.

(6) "Purchasing director" means the director of the division appointed under Section 63A-2-102.

(7) "Smart phone" means an electronic device that combines a cell phone with a hand-held computer, typically offering Internet access, data storage, and text and email capabilities.

(8) "State agency" means any executive branch department, division, or other agency of the state.

(9) "State surplus property":

(a) means state-owned property, whether acquired by purchase, seizure, donation, or otherwise:

- (i) that is no longer being used by the state or no longer usable by the state;
- (ii) that is out of date;
- (iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less than the property's value;
- (iv) whose useful life span has expired; or
- (v) that the state agency possessing the property determines is not required to meet the needs or responsibilities of the state agency;

(b) includes:

- (i) a motor vehicle;
- (ii) equipment;

- (iii) furniture;
- (iv) information technology equipment; and
- (v) a supply; and
- (c) does not include:

(i) real property;

(ii) an asset of the School and Institutional Trust Lands Administration, established in Section 53C-1-201;

(iii) a firearm or ammunition; or

(iv) an office or household item made of aluminum, paper, plastic, cardboard, or other recyclable material, without any meaningful value except for recycling purposes.

(10) "State surplus property contractor" means a person in the private sector under contract with the state to provide one or more services related to the division's program for the management and disposition of state surplus property.

(11) "Surplus property program" means the program relating to state surplus property under Part 4, Surplus Property Service.

(12) "Surplus property program administrator" means:

(a) the purchasing director, if the purchasing director administers the surplus property program; or

(b) the state surplus property contractor, if the state surplus property contractor administers the surplus property program.

Section 2. Section 63A-2-103 is amended to read:

63A-2-103. Duties and authority of purchasing director -- Subscribing to mailing system and electronic central store -- Fee schedule.

(1) The purchasing director:

(a) shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services;

(b) shall, except when a state surplus property contractor administers the ~~[state's program for disposition of state surplus property]~~ surplus property program, operate, manage, and maintain the ~~[state]~~ surplus property program;

(c) shall, when a state surplus property contractor administers the ~~[state's program for disposition of state surplus property]~~ surplus property program, oversee the state surplus property contractor's administration of the ~~[state]~~ surplus property program in accordance with Part 4, Surplus Property Services; and

(d) may establish microfilming, duplicating, printing, addressograph, and other central services.

(2) (a) Each state agency shall subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104.

(b) An institution of higher education, the State Board of Education, a school district, or a political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).

(3) (a) The purchasing director shall:

(i) prescribe a schedule of fees to be charged for all services provided by the division after the purchasing director:

(A) submits the proposed rate, fees, or other amounts for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(B) obtains the approval of the Legislature, as required by Section 63J-1-504;

(ii) ensure that the fees are approximately equal to the cost of providing the services; and

(iii) annually conduct a market analysis of fees.

(b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the fees of other public or private sector providers if comparable services and rates are reasonably available.

Section 3. Section 63A-2-401 is repealed and reenacted to read:

63A-2-401. State agencies required to participate in surplus property program -- Declaring property to be state surplus property -- Division authority.

(1) Except as otherwise provided in this part, a state agency shall dispose of and acquire state surplus property by participating in the surplus property program.

(2) A state agency may declare property that the state agency owns to be state surplus property by making a written determination that the property is state surplus property.

(3) The division shall determine the appropriate method for disposing of state surplus property.

(4) The division may:

(a) establish facilities to store state surplus property at locations throughout the state; and

(b) after consultation with the state agency requesting the sale of state surplus property, establish the selling price for the state surplus property.

(5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may transfer proceeds generated by the sale of state surplus property to the state agency requesting the sale, reduced by a fee approved in accordance with Subsection 63A-2-103(3) to pay the division's costs of administering the surplus property program.

(6) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, the division may make rules establishing a surplus property program that meets the requirements of this chapter.

Section 4. Section 63A-2-404 is amended to read:

63A-2-404. Acquisition of federal surplus property -- Powers and duties -- Advisory boards and committees -- Expenditures and contracts -- Clearinghouse of information -- Reports.

(1) The division may:

(a) acquire from the United States under and in conformance with the property act any federal surplus property under the control of any department or agency of the United States that is usable and necessary for any purposes authorized by federal law;

(b) warehouse federal surplus property if it is not real property; and

(c) distribute federal surplus property within this state to:

(i) tax-supported medical institutions, hospitals, clinics, and health centers;

(ii) school systems, schools, colleges, and universities;

(iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges, and universities that are exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1954;

(iv) civil defense organizations;

(v) political subdivisions; and

(vi) any other types of institutions or activities that are eligible to acquire the federal surplus property under federal law.

(2) The division may:

(a) receive applications from eligible health and educational institutions for the acquisition of federal surplus real property;

(b) investigate the applications;

(c) obtain opinions about those applications from the appropriate health or educational authorities of this state;

(d) make recommendations about the need of the applicant for the property, the merits of the applicant's proposed use of the property, and the suitability of the property for those purposes; and

(e) otherwise assist in the processing of those applications for acquisition of real and related personal property of the United States under the property act.

(3) The division may appoint advisory boards or committees.

(4) If required by law or regulation of the United States in connection with the disposition of surplus

real property and the receipt, warehousing, and distribution of surplus personal property received by the ~~division~~ surplus property program from the United States, the ~~division~~ surplus property program administrator may:

(a) make certifications, take action, and make expenditures;

(b) enter into contracts, agreements, and undertakings for and in the name of the state including cooperative agreements with the federal agencies providing for use by and exchange between them of the property, facilities, personnel, and services of each by the other;

(c) require reports; and

(d) make investigations.

(5) The division shall act as the clearinghouse of information for public and private nonprofit institutions, organizations, and agencies eligible to acquire federal surplus real property to:

(a) locate both real and personal property available for acquisition from the United States;

(b) ascertain the terms and conditions under which that property may be obtained;

(c) receive requests from those institutions, organizations, and agencies and transmit to them all available information in reference to that property; and

(d) aid and assist those institutions, organizations, and agencies in every way possible in those acquisitions or transactions.

(6) The division shall:

(a) cooperate with the departments or agencies of the United States;

(b) file a state plan of operation;

(c) operate according to that plan;

(d) take the actions necessary to meet the minimum standards prescribed by the property act;

(e) make any reports required by the United States or any of its departments or agencies; and

(f) comply with the laws of the United States and the regulations of any of the departments or agencies of the United States governing the allocation of, transfer of, use of, or accounting for any property donated to the state.

Section 5. Section 63A-2-411 is amended to read:

63A-2-411. Disposal of state surplus property with minimal value.

(1) As used in this section, "item of minimal value" means [a value of less than \$100.] an item of property that:

(a) (i) had an initial purchase price of less than \$100; and

(ii) does not appreciate in value; or

(b) the surplus property program administrator determines to be worth less than \$100.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that permit a state agency to dispose of ~~[property with a]~~ an item of minimal value that the state agency has declared to be state surplus property as provided in ~~[Subsection 63A-2-401(7)]~~ Section 63A-2-401.

~~[(3) The division's rules under Subsection (2) shall permit a state agency to dispose of state surplus property with a minimal value by:]~~

~~[(a) destroying the property;]~~

~~[(b) disposing of the property as waste; or]~~

~~[(c) donating the property to:]~~

~~[(i) a charitable organization; or]~~

~~[(ii) an employee of the state agency.]~~

~~[(4) (3) Property of a state agency is presumed to [have a] be an item of minimal value if the property is not purchased after the [state agency] surplus property program administrator offers the property for sale to the public at a price above \$100 [for at least seven days:].~~

~~[(a) through an online auction;]~~

~~[(b) through a live auction;]~~

~~[(c) at a retail location managed by the division; or]~~

~~[(d) through another sale method approved by the director.]~~

Section 6. Repealer.

This bill repeals:

Section 63A-2-402, State surplus property program -- Participation by institutions of higher education.

Section 63A-2-405, Charges and fees assessed for surplus property.

Section 63A-2-410, State surplus property contractor -- Deposit of proceeds.

CHAPTER 489**S. B. 221**

Passed March 12, 2019

Approved April 1, 2019

Effective May 14, 2019

**VETERANS PREFERENCE
IN PRIVATE EMPLOYMENT**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill provides that private employers who provide a veterans preference may extend that preference to the spouses of veterans.

Highlighted Provisions:

This bill:

- ▶ allows private employers to extend veterans preference to spouses of veterans.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

34-50-103, as last amended by Laws of Utah 2016, Chapter 230

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34-50-103 is amended to read:**34-50-103. Voluntary veterans preference employment policy -- Private employment -- Antidiscrimination requirements.**

(1) A private sector employer may create a veterans employment preference policy that may also apply to a veteran's spouse.

(2) The veterans employment preference policy shall be:

(a) in writing; and

(b) applied uniformly to employment decisions regarding hiring, promotion, or retention including during a reduction in force.

(3) A private employer may require a veteran to submit a discharge document form to be eligible for the preference. If the applicant is the spouse of a veteran, the employer may require that the spouse submit the veteran's discharge document.

(4) A private employer's veterans employment preference policy shall be publicly posted by the employer at the place of employment or on the Internet if the employer has a website or uses the Internet to advertise employment opportunities.

CHAPTER 490**S. B. 228**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

**PUBLIC INFRASTRUCTURE
DISTRICT ACT**Chief Sponsor: Daniel McCay
House Sponsor: James A. Dunnigan**LONG TITLE****General Description:**

This bill enacts the Public Infrastructure District Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes a limit on a property tax levy for the operation of a public infrastructure district;
- ▶ imposes a limit on certain bonds that a public infrastructure district may issue;
- ▶ allows for local entities to create public infrastructure districts;
- ▶ provides for the appointment and potential election, in certain circumstances, of members of the board of trustees of a public infrastructure district;
- ▶ provides for the issuance of bonds for certain purposes;
- ▶ allows a public infrastructure district to charge certain fees;
- ▶ imposes certain transparency requirements on public infrastructure districts;
- ▶ allows a public infrastructure district to impose a property tax penalty in the event of nonpayment;
- ▶ limits the time period during which a person may bring certain legal challenges against a public infrastructure district;
- ▶ requires the inclusion of a certain property tax penalty on the property tax notice; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-42-201, as last amended by Laws of Utah 2015, Chapter 396

17B-1-102, as last amended by Laws of Utah 2016, Chapter 176

17B-1-1102, as last amended by Laws of Utah 2015, Chapter 352

59-2-1317, as last amended by Laws of Utah 2018, Chapter 197

ENACTS:

17B-2a-1201, Utah Code Annotated 1953

17B-2a-1202, Utah Code Annotated 1953

17B-2a-1203, Utah Code Annotated 1953

17B-2a-1204, Utah Code Annotated 1953

17B-2a-1205, Utah Code Annotated 1953

17B-2a-1206, Utah Code Annotated 1953

17B-2a-1207, Utah Code Annotated 1953

17B-2a-1208, Utah Code Annotated 1953

17B-2a-1209, Utah Code Annotated 1953

17B-2a-1210, Utah Code Annotated 1953

17B-2a-1211, Utah Code Annotated 1953

17B-2a-1212, Utah Code Annotated 1953

17B-2a-1213, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-201 is amended to read:**11-42-201. Resolution or ordinance designating an assessment area -- Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.**

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district as defined in Section 17B-1-102, may not be coextensive or substantially coterminous with the boundaries of the local entity.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 2. Section 17B-1-102 is amended to read:**17B-1-102. Definitions.**

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

- (2) “Basic local district”:
- (a) means a local district that is not a specialized local district; and
- (b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.
- (3) “Bond” means:
- (a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and
- (b) a lease agreement, installment purchase agreement, or other agreement that:
- (i) includes an obligation by the district to pay money; and
- (ii) the district’s board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.
- (4) “Cemetery maintenance district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.
- (5) “Drainage district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.
- (6) “Facility” or “facilities” includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.
- (7) “Fire protection district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.
- (8) “General obligation bond”:
- (a) means a bond that is directly payable from and secured by ad valorem property taxes that are:
- (i) levied:
- (A) by the district that issues the bond; and
- (B) on taxable property within the district; and
- (ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and
- (b) does not include:
- (i) a short-term bond;
- (ii) a tax and revenue anticipation bond; or
- (iii) a special assessment bond.
- (9) “Improvement assurance” means a surety bond, letter of credit, cash, or other security:
- (a) to guarantee the proper completion of an improvement;
- (b) that is required before a local district may provide a service requested by a service applicant; and
- (c) that is offered to a local district to induce the local district before construction of an improvement begins to:
- (i) provide the requested service; or
- (ii) commit to provide the requested service.
- (10) “Improvement assurance warranty” means a promise that the materials and workmanship of an improvement:
- (a) comply with standards adopted by a local district; and
- (b) will not fail in any material respect within an agreed warranty period.
- (11) “Improvement district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.
- (12) “Irrigation district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.
- (13) “Local district” means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:
- (a) this chapter; or
- (b) (i) this chapter; and
- (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- (B) Chapter 2a, Part 2, Drainage District Act;
- (C) Chapter 2a, Part 3, Fire Protection District Act;
- (D) Chapter 2a, Part 4, Improvement District Act;
- (E) Chapter 2a, Part 5, Irrigation District Act;
- (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- (H) Chapter 2a, Part 8, Public Transit District Act;
- (I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; ~~or~~

(K) Chapter 2a, Part 11, Municipal Services District Act~~[-];~~ or

(L) Chapter 2a, Part 12, Public Infrastructure District Act.

(14) “Metropolitan water district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) “Mosquito abatement district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) “Municipal” means of or relating to a municipality.

(17) “Municipality” means a city, town, or metro township.

(18) “Municipal services district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) “Person” means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(20) “Political subdivision” means a county, city, town, metro township, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(21) “Private,” with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(22) “Public entity” means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(23) “Public infrastructure district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 12, Public Infrastructure District Act.

~~[(23)]~~ (24) “Public transit district” means a local district ~~that~~ operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

~~[(24)]~~ (25) “Revenue bond”:

(a) means a bond payable from designated taxes or other revenues other than the local district’s ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

~~[(25)]~~ (26) “Rules of order and procedure” means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

~~[(26)]~~ (27) “Service applicant” means a person who requests that a local district provide a service that the local district is authorized to provide.

~~[(27)]~~ (28) “Service area” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

~~[(28)]~~ (29) “Short-term bond” means a bond that is required to be repaid during the fiscal year in which the bond is issued.

~~[(29)]~~ (30) “Special assessment” means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

~~[(30)]~~ (31) “Special assessment bond” means a bond payable from special assessments.

~~[(31)]~~ (32) “Specialized local district” means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, ~~or~~ a municipal services district, or a public infrastructure district.

~~[(32)]~~ (33) “Taxable value” means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

~~[(33)]~~ (34) “Tax and revenue anticipation bond” means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

[~~(34)~~] (35) “Unincorporated” means not included within a municipality.

[~~(35)~~] (36) “Water conservancy district” means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

[~~(36)~~] (37) “Works” includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 3. Section 17B-1-1102 is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject[;] to:

(a) for a water conservancy district, [~~to~~] the property tax levy limits of Section 17B-2a-1006[;]; and

(b) for a limited tax bond as defined in Section 17B-2a-1202 that a public infrastructure district issues, the property tax levy limits of Section 17B-2a-1209.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district’s general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1, for a metropolitan water district;

(viii) .0004, for a mosquito abatement district;

(ix) .03, for a public transit district;

(x) .12, for a service area; [øø]

(xi) .05 for a municipal services district[;]; or

(xii) except for a limited tax bond as defined in Section 17B-2a-1202, .15 for a public infrastructure district.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section 4. Section 17B-2a-1201 is enacted to read:

Part 12. Public Infrastructure District Act

17B-2a-1201. Title.

This part is known as “Public Infrastructure District Act.”

Section 5. Section 17B-2a-1202 is enacted to read:

17B-2a-1202. Definitions.

As used in this part:

(1) “Board” means the board of trustees of a public infrastructure district.

(2) “Creating entity” means the county or municipality that approves of the creation of the public infrastructure district.

(3) “District applicant” means the person proposing the creation of the public infrastructure district.

(4) “Division” means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(5) “Governing document” means the document governing the public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

(6) (a) “Limited tax bond” means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by the public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the mill rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

Section 6. Section 17B-2a-1203 is enacted to read:

17B-2a-1203. Provisions applicable to public infrastructure districts.

(1) Each public infrastructure district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to a public infrastructure district.

(3) A public infrastructure district is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

Section 7. Section 17B-2a-1204 is enacted to read:

17B-2a-1204. Creation.

(1) In addition to the provisions regarding creation of a local district in Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(a) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(b) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(2) The election requirement of Section 17B-1-214 does not apply to a petition meeting the requirements of Subsection (1).

(3) (a) Notwithstanding Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district after:

(i) adoption of resolutions of the board and the creating entity, each approving of the annexation;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed and consents to the annexation into the public infrastructure district.

(b) Upon meeting the requirements of Subsection (3)(a), the board shall comply with the resolution and filing requirements of Subsections 17B-1-414(1) and (2).

(c) (i) Notwithstanding Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district after:

(A) adoption of resolutions of the board and the creating entity, each approving of the annexation;

(B) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area and approves of the withdrawal from the public infrastructure district; and

(C) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn and consents to the withdrawal from the public infrastructure district.

(ii) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(d) Upon meeting the requirements of Subsection (3)(c), the board shall comply with the requirements of Section 17B-1-512.

(4) The creating entity may impose limitations on the powers of the public infrastructure district through the governing document.

(5) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (5)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity or any municipality, county, the state, or any other political subdivision.

(ii) Notwithstanding Subsection (5)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (5)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (5)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(6) The creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(7) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 8. Section 17B-2a-1205 is enacted to read:

17B-2a-1205. Public infrastructure district board -- Governing document.

(1) The legislative body of the entity that approves the creation of a public infrastructure

district shall appoint the members of the board, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of

the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions which, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable mill rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax mill limitation requires:

(i) before the adoption of the resolution of the creating entity described in Subsection (8)(a), the public infrastructure district to comply with the notice and public hearing requirements of Section

59-2-919, with at least one member of the governing body of the creating entity attending the public hearing required in Subsection 59-2-919(3)(a)(v) or (4)(b); or

(ii) the consent of:

(A) 100% of surface property owners within the boundaries of the public infrastructure district; and

(B) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

Section 9. Section 17B-2a-1206 is enacted to read:

17B-2a-1206. Additional public infrastructure district powers.

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-401;

(c) public improvements related to the provision of housing; and

(d) capital costs related to public transportation;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements; and

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity.

Section 10. Section 17B-2a-1207 is enacted to read:

17B-2a-1207. Public infrastructure district bonds.

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section 17B-2a-1206, as provided in, as applicable:

(a) Title 11, Chapter 14, Local Government Bonding Act;

(b) Title 11, Chapter 27, Utah Refunding Bond Act;

(c) Title 11, Chapter 42, Assessment Area Act; and

(d) this section.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in

denominations of not less than \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public improvement district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17B-2a-1209.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

Section 11. Section 17B-2a-1208 is enacted to read:

17B-2a-1208. Fees.

A public infrastructure district may charge a fee or other charge for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

(1) costs of acquiring, improving, or extending improvements, facilities, or property; or

(2) costs associated with the enforcement of a legal remedy.

Section 12. Section 17B-2a-1209 is enacted to read:

17B-2a-1209. Limits on public infrastructure district property tax levy -- Notice requirements.

(1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .015 per dollar of taxable value of taxable property in the district.

(2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.

(3) (a) Within 30 days after the day on which the creating entity adopts the resolution creating the public infrastructure district, the board shall record a notice with the recorder of the county in which

property within the public infrastructure district is located.

(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the public infrastructure district;

(ii) state that a copy of the governing document is on file at the office of the creating entity;

(iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the public infrastructure district may levy.

Section 13. Section 17B-2a-1210 is enacted to read:

17B-2a-1210. Property tax penalty for nonpayment.

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Section 14. Section 17B-2a-1211 is enacted to read:

17B-2a-1211. Relation to other local entities.

(1) Notwithstanding the creation of the public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other local district.

(3) (a) All infrastructure that is connected to another public entity's system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) The public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Section 15. Section 17B-2a-1212 is enacted to read:

17B-2a-1212. Transparency.

A public infrastructure district shall file annual reports with the creating entity regarding the

public infrastructure district's actions as provided in the governing document.

Section 16. Section 17B-2a-1213 is enacted to read:

17B-2a-1213. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) shall bring the action in the district court with jurisdiction in the county in which the public infrastructure district is located; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:

(i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or

(ii) tax or fee, if the challenge is to a tax or fee.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Section 17. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506; ~~and~~

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; and

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17B-2a-1210;

(viii) a statement that, due to potentially ongoing charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

CHAPTER 491**S. B. 243**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

ADOPTION AMENDMENTS

Chief Sponsor: Todd Weiler

House Sponsor: Rex P. Shipp

LONG TITLE**General Description:**

This bill modifies provisions relating to adoption.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of “adoption related expenses” as the term is used in relation to the criminal offense of sale of a child;
- ▶ modifies provisions relating to:
 - compliance with the Interstate Compact on Placement of Children;
 - a background check of a prospective adoptive parent;
 - required notice in an adoption proceeding; and
 - procedural requirements for a petition to terminate parental rights; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-7-203, as last amended by Laws of Utah 2008, Chapter 137

78B-6-107, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-110, as last amended by Laws of Utah 2018, Chapter 359

78B-6-110.5, as last amended by Laws of Utah 2017, Chapter 417

78B-6-112, as last amended by Laws of Utah 2018, Chapter 359

78B-6-128, as last amended by Laws of Utah 2017, Chapters 110 and 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-7-203 is amended to read:**76-7-203. Sale of child -- Felony -- Payment of adoption related expenses.**

- (1) For purposes of this section:
 - (a) “Adoption related expenses” means expenses that:
 - (i) are reasonably related to the adoption of a child;

- (ii) are incurred for a reasonable amount; and
- (iii) may include expenses:
 - (A) of the mother or father of the child being adopted, including:
 - (I) legal expenses;
 - (II) maternity expenses;
 - (III) medical expenses;
 - (IV) hospital expenses;
 - (V) counseling expenses;
 - (VI) temporary living expenses and lost wages during the pregnancy [~~or confinement~~] of the mother for up to eight weeks after the day on which the mother delivers the child; or
 - (VII) expenses for travel between the mother’s or father’s home and the location where the child will be born or placed for adoption;
 - (B) of a directly affected person for:
 - (I) travel between the directly affected person’s home and the location where the child will be born or placed for adoption; or
 - (II) temporary living expenses during the pregnancy or confinement of the mother; or
 - (C) other than those included in Subsection (1)(a)(iii)(A) or (B), that are not made for the purpose of inducing the mother, parent, or legal guardian of a child to:
 - (I) place the child for adoption;
 - (II) consent to an adoption; or
 - (III) cooperate in the completion of an adoption.

(3) A person does not violate this section by paying or receiving payment for adoption related expenses, if:

- (a) the expenses are paid as an act of charity; and
- (b) the payment is not made for the purpose of inducing the mother, parent, or legal guardian of a child to:
 - (i) place the child for adoption;
 - (ii) consent to an adoption; or
 - (iii) cooperate in the completion of an adoption.

Section 2. Section 78B-6-107 is amended to read:

78B-6-107. Compliance with the Interstate Compact on Placement of Children -- Compliance with the Indian Child Welfare Act.

(1) (a) ~~[En]~~ Subject to Subsection (1)(b), in any adoption proceeding the petition for adoption shall state whether the child was born in another state and, if so, both the petition and the court's final decree of adoption shall state that the requirements of Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children, have been complied with.

(b) Subsection (1)(a) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 78B-6-128.

(2) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and the petitioners shall comply with the Indian Child Welfare Act, Title 25, Chapter 21, of the United States Code.

Section 3. Section 78B-6-110 is amended to read:

78B-6-110. Notice of adoption proceedings.

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

- (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and
- (ii) has a duty to protect his own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

- (a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:
 - (i) waiver;
 - (ii) relinquishment;

~~[(iii) actual consent, as described in Subsection (12); or]~~

- (iii) actual or implied consent; or
- (iv) judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) a person who is:

(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and

(ii) holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption, unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.

(3) (a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):

(i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health.

(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3-307.

(c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.

(d) When the state registrar of vital statistics receives a completed form, the registrar shall:

- (i) record the date and time the form was received; and
- (ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).

(e) The action and notice described in Subsection (3)(a):

(i) may be filed before or after the child's birth; and

(ii) shall be filed prior to the mother's:

(A) execution of consent to adoption of the child; or

(B) relinquishment of the child for adoption.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section:

(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;

(b) shall be served at least 30 days prior to the final dispositional hearing;

(c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption;

(f) shall state where the person may obtain a copy of the petition for adoption; and

(g) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.

(ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

(c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.

(8) The notice required by this section may be waived in writing by the person entitled to receive notice.

(9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.

(10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.

(11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:

(a) intervene in the adoption; and

(b) present evidence to the court relevant to the best interest of the child.

~~[(12) In order to be excused from the requirement to provide notice as described in Subsection (2)(a) on the grounds that the person has provided consent to the adoption proceeding under Subsection~~

(2)(a)(iii), the consent may not be implied consent, as described in Section 78B-6-120.1.]

Section 4. Section 78B-6-110.5 is amended to read:

78B-6-110.5. Out-of-state birth mothers and adoptive parents -- Declaration regarding potential birth fathers.

The procedural and substantive requirements of this section shall be required only to the extent that they do not exceed the requirements of the state of conception or the birth mother's state of residence.

(1) (a) For a child who is six months of age or less at the time the child is placed with prospective adoptive parents, the birth mother shall sign, and the adoptive parents shall file with the court, a declaration regarding each potential birth father, in accordance with this section, before or at the time a petition for adoption is filed with the court, if, at any point during the time period beginning at the conception of the child and ending at the time the mother executes consent to adoption or relinquishment of the child for adoption, neither the birth mother nor at least one of the adoptive parents has resided in the state for 90 total days or more, as described in Subsection (1)(c).

(b) The child-placing agency or prospective adoptive parents shall search the putative father registry of each state where the birth mother believes the child may have been conceived and each state where the birth mother lived during her pregnancy, if the state has a putative father registry, to determine whether a potential birth father registered with the state's putative father registry.

(c) In determining whether the 90-day requirement is satisfied, the following apply:

- (i) the 90 days are not required to be consecutive;
- (ii) no absence from the state may be for more than seven consecutive days;
- (iii) any day on which the individual is absent from the state does not count toward the total 90-day period; and
- (iv) the 90-day period begins and ends during a period that is no more than 120 consecutive days.

(2) The declaration filed under Subsection (1) regarding a potential birth father shall include, for each potential birth father, the following information:

(a) if known, the potential birth father's name, date of birth, social security number, and address;

(b) with regard to a state's putative father registry in each state described in Subsection (1)(b):

(i) whether the state has a putative father registry; and

(ii) for each state that has a putative father registry, with the declaration, a certificate or written statement from the state's putative father registry that a search of the state's putative father

registry was made and disclosing the results of the search;

(c) whether the potential birth father was notified of:

(i) the birth mother's pregnancy;

(ii) the fact that he is a potential birth father; or

(iii) the fact that the birth mother intends to consent to adoption or relinquishment of the child for adoption, in Utah;

(d) each state where the birth mother lived during the pregnancy;

(e) if known, the state in which the child was conceived;

(f) whether the birth mother informed the potential birth father that she was traveling to or planning to reside in Utah;

(g) whether the birth mother has contacted the potential birth father while she was located in Utah;

(h) whether, and for how long, the potential birth father has ever lived with the child;

(i) whether the potential birth father has given the birth mother money or offered to pay for any of her expenses during pregnancy or the child's birth;

(j) whether the potential birth father has offered to pay child support;

(k) if known, whether the potential birth father has taken any legal action to establish paternity of the child, either in Utah or in any other state, and, if known, what action he has taken; and

(l) whether the birth mother has ever been involved in a domestic violence matter with the potential birth father.

(3) Except as provided in Subsection (5), based on the declaration regarding the potential birth father, the court shall order the birth mother to serve a potential birth father notice that she intends to consent or has consented to adoption or relinquishment of the child for adoption, if the court finds that the potential birth father:

(a) has taken sufficient action to demonstrate an interest in the child;

(b) has taken sufficient action to attempt to preserve his legal rights as a birth father, including by filing a legal action to establish paternity or filing with a state's putative father registry; or

(c) does not know, and does not have a reason to know, that:

(i) the mother or child are present in Utah;

(ii) the mother intended to give birth to the child in Utah;

(iii) the child was born in Utah; or

(iv) the mother intends to consent to adoption or relinquishment of the child for adoption in Utah.

(4) Notice under this section shall be made in accordance with Subsections 78B-6-110(7) through [(42)] (11).

(5) A court may only order the notice requirements in Subsection (3) to the extent that they do not exceed the notice requirements of:

- (a) the state of conception; or
- (b) the birth mother's state of residence.

Section 5. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction to terminate parental rights in a child if the party who filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

- (i) the requirements of this chapter; or
- (ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, if terminating the person's parental rights is in the best interests of the child.

(6) The court shall appoint counsel designated by the county where the petition is filed to represent a party who faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to termination under this section, if:

(a) the court determines that the party is indigent under Section 77-32-202; and

(b) the party does not, after being fully advised of the right to counsel, knowingly, intelligently and voluntarily waive the right to counsel.

(7) If a county incurs expenses in providing defense services to indigent individuals facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act or termination of parental rights under this section, the county may apply for a grant for reimbursement from the Utah Indigent Defense Commission under Section 77-32-806.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 6. Section 78B-6-128 is amended to read:

78B-6-128. Placement adoptive evaluations -- Exceptions.

(1) (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the

purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Human Services, which shall perform a criminal history background check in accordance with Section 62A-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, [ø] to the Office of Licensing within the Department of Human Services for a background check in accordance with Section 62A-2-120[-], or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Human Services from the records of the Department of Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 62A-4a-902, the preplacement adoptive evaluation shall be conducted by the Department of Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Human Services shall comply with Section 78B-6-131.

(6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

CHAPTER 492**S. B. 246**

Passed March 14, 2019

Approved April 1, 2019

Effective January 1, 2020

**URBAN FARMING
ASSESSMENT ACT AMENDMENTS**

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Joel Ferry

LONG TITLE**General Description:**

This bill amends provisions related to the Urban Farming Assessment Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions; and
- ▶ amends a provision related to the minimum acreage requirement for an urban farming assessment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-1702, as last amended by Laws of Utah 2018, Chapter 360

59-2-1703, as last amended by Laws of Utah 2014, Chapter 413

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1702 is amended to read:**59-2-1702. Definitions.**

As used in this part:

(1) "Actively devoted to urban farming" means that:

(a) land is devoted to active urban farming activities; and

(b) the land produces greater than 50% of the average agricultural production per acre:

(i) as determined under Section 59-2-1703; and

(ii) for the given type of land and the given county or area.

(2) "Rollback tax" means the tax imposed under Section 59-2-1705.

(3) (a) Subject to Subsection (3)(b), "urban farming" means cultivating food or other marketable crop:

(i) with a reasonable expectation of profit from the sale of the food or other marketable crop; and

(ii) from irrigated land located in a county that has adopted an ordinance governing urban farming in the county, pursuant to Section 59-2-1714.

(b) "Urban farming" does not include:

(i) cultivating food derived from an animal; or

(ii) grazing.

(4) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Section 2. Section 59-2-1703 is amended to read:**59-2-1703. Qualifications for urban farming assessment.**

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least [~~two~~] one contiguous [~~acres~~] acre, but less than five acres, in size; and

(iii) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall

be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

Section 3. Effective date.

This bill takes effect on January 1, 2020.

CHAPTER 493**S. B. 248**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

**THROUGHPUT
INFRASTRUCTURE AMENDMENTS**Chief Sponsor: Ralph Okerlund
House Sponsor: Michael K. McKell**LONG TITLE****General Description:**

This bill addresses throughput infrastructure amendments.

Highlighted Provisions:

This bill:

- ▶ imposes requirements for the first throughput infrastructure project considered by the Permanent Community Impact Fund Board; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-309, as last amended by Laws of Utah 2017, Chapters 181 and 421

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-309 is amended to read:**35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.**

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund in accordance with Subsection 59-12-103(12) to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal [entity] agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal [entity's] agency's obligation to repay loans for extenuating circumstances.

(4) ~~In order to~~ To receive assistance under this section, a local political subdivision or an interlocal [entity] agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal [entity] agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal [entity] agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal [entities] agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of

undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

CHAPTER 494**S. B. 250**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

GRAFFITI AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: James A. Dunnigan

LONG TITLE**General Description:**

This bill addresses victims of graffiti.

Highlighted Provisions:

This bill:

- ▶ restricts when a victim of graffiti may be cited for failing to clean graffiti; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

76-6-107, as last amended by Laws of Utah 2013, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-107 is amended to read:**76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability -- Victim liability.**

(1) As used in this section:

(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a chemical action which uses any caustic cream, gel, liquid, or solution.

(b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.

(c) "Victim" means the person ~~[or entity]~~ whose property ~~[was]~~ is defaced by ~~[the]~~ graffiti and who bears the expense for ~~[its]~~ removal of the graffiti.

(2) Graffiti is a:

(a) second degree felony if the damage caused is in excess of \$5,000;

(b) third degree felony if the damage caused is in excess of \$1,000;

(c) class A misdemeanor if the damage caused is equal to or in excess of \$300; and

(d) class B misdemeanor if the damage caused is less than \$300.

(3) Damages under Subsection (2) include removal costs, repair costs, or replacement costs, whichever is less.

(4) ~~The court[, upon conviction or adjudication,] shall order an individual convicted under Subsection (2) to pay restitution to the victim in [the amount of removal, repair, or replacement costs] an amount equal to the costs incurred by the victim as a result of the graffiti.~~

(5) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.

(6) ~~[A person] An individual who voluntarily, [and at his] at the individual's own expense, and with the consent of the property owner, removes graffiti for which [he] the individual is responsible may be credited for the removal costs against restitution ordered by a court.~~

(7) Before an authorized government agency may issue a citation or assess a fine to a victim for the victim's failure to remove graffiti from the victim's property, the agency shall:

(a) provide written notice to the victim alerting the victim of the graffiti;

(b) allow the victim one week after the day on which the agency provides written notice of the graffiti to remove the graffiti; and

(c) provide the victim with a list of resources available to assist the victim with removal of the graffiti.

(8) (a) After receiving notification of graffiti under Subsection (7)(a), a victim who is unable to remove the graffiti due to physical or financial hardship may alert the agency that provided notice under Subsection (7)(a) of the hardship.

(b) If an authorized government agency finds a victim has demonstrated that the victim would experience significant hardship in removing the graffiti, the agency:

(i) may not issue a citation or assess a fee to the victim for failure to remove the graffiti; and

(ii) shall provide, or hire an outside entity to provide, the assistance necessary to remove the graffiti from the victim's property.

(c) An authorized government agency that provides, or hires an outside agency to provide, assistance under Subsection (8)(b)(ii), may request reimbursement from a restitution order, under Subsection (4), against an individual who used graffiti to damage the property that the agency removed, or paid another to remove.

CHAPTER 495**S. B. 254**

Passed March 14, 2019

Approved April 1, 2019

Effective July 1, 2020

**UNIFORM FIDUCIARY
INCOME AND PRINCIPAL ACT**

Chief Sponsor: Lyle W. Hillyard

House Sponsor: V. Lowry Snow

LONG TITLE**General Description:**

This bill revises provisions of the Uniform Principal and Income Act and renames it the Uniform Fiduciary Income and Principal Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ describes the duties of a fiduciary;
- ▶ modifies provisions governing unitrusts;
- ▶ addresses the allocation of receipts to income and principal;
- ▶ addresses the allocation of disbursements from income and principal;
- ▶ addresses apportionment at the beginning and end of income interest; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

75-7-103, as enacted by Laws of Utah 2004, Chapter 89

ENACTS:

22-3-203, Utah Code Annotated 1953
 22-3-304, Utah Code Annotated 1953
 22-3-305, Utah Code Annotated 1953
 22-3-306, Utah Code Annotated 1953
 22-3-307, Utah Code Annotated 1953
 22-3-308, Utah Code Annotated 1953
 22-3-309, Utah Code Annotated 1953
 22-3-416, Utah Code Annotated 1953
 22-3-507, Utah Code Annotated 1953
 22-3-701, Utah Code Annotated 1953
 22-3-702, Utah Code Annotated 1953
 22-3-703, Utah Code Annotated 1953
 22-3-801, Utah Code Annotated 1953
 22-3-802, Utah Code Annotated 1953
 22-3-803, Utah Code Annotated 1953
 22-3-804, Utah Code Annotated 1953

REPEALS AND REENACTS:

22-3-101, as enacted by Laws of Utah 2004, Chapter 285
 22-3-102, as enacted by Laws of Utah 2004, Chapter 285
 22-3-103, as enacted by Laws of Utah 2004, Chapter 285
 22-3-104, as last amended by Laws of Utah 2011, Chapter 297
 22-3-201, as enacted by Laws of Utah 2004, Chapter 285

22-3-202, as last amended by Laws of Utah 2011, Chapter 297
 22-3-301, as enacted by Laws of Utah 2004, Chapter 285
 22-3-302, as last amended by Laws of Utah 2011, Chapter 297
 22-3-303, as last amended by Laws of Utah 2011, Chapter 297
 22-3-401, as enacted by Laws of Utah 2004, Chapter 285
 22-3-402, as enacted by Laws of Utah 2004, Chapter 285
 22-3-403, as last amended by Laws of Utah 2011, Chapter 297
 22-3-404, as enacted by Laws of Utah 2004, Chapter 285
 22-3-405, as last amended by Laws of Utah 2011, Chapter 297
 22-3-406, as last amended by Laws of Utah 2011, Chapter 297
 22-3-407, as enacted by Laws of Utah 2004, Chapter 285
 22-3-408, as enacted by Laws of Utah 2004, Chapter 285
 22-3-409, as last amended by Laws of Utah 2009, Chapter 96
 22-3-410, as enacted by Laws of Utah 2004, Chapter 285
 22-3-411, as last amended by Laws of Utah 2011, Chapter 297
 22-3-412, as enacted by Laws of Utah 2004, Chapter 285
 22-3-413, as enacted by Laws of Utah 2004, Chapter 285
 22-3-414, as last amended by Laws of Utah 2011, Chapter 297
 22-3-415, as enacted by Laws of Utah 2004, Chapter 285
 22-3-501, as enacted by Laws of Utah 2004, Chapter 285
 22-3-502, as enacted by Laws of Utah 2004, Chapter 285
 22-3-503, as enacted by Laws of Utah 2004, Chapter 285
 22-3-504, as enacted by Laws of Utah 2004, Chapter 285
 22-3-505, as last amended by Laws of Utah 2011, Chapter 297
 22-3-506, as last amended by Laws of Utah 2011, Chapter 297
 22-3-601, as last amended by Laws of Utah 2011, Chapter 297
 22-3-602, as enacted by Laws of Utah 2004, Chapter 285

REPEALS:

22-3-105, as enacted by Laws of Utah 2004, Chapter 285
 22-3-106, as enacted by Laws of Utah 2004, Chapter 285
 22-3-107, as enacted by Laws of Utah 2004, Chapter 285
 22-3-603, as enacted by Laws of Utah 2004, Chapter 285
 22-3-604, as enacted by Laws of Utah 2009, Chapter 96
 22-7-101, as enacted by Laws of Utah 2013, Chapter 244

22-7-102, as enacted by Laws of Utah 2013, Chapter 244
 22-7-103, as enacted by Laws of Utah 2013, Chapter 244
 22-7-104, as enacted by Laws of Utah 2013, Chapter 244
 22-7-105, as enacted by Laws of Utah 2013, Chapter 244
 22-7-106, as enacted by Laws of Utah 2013, Chapter 244
 22-7-107, as enacted by Laws of Utah 2013, Chapter 244
 22-7-108, as enacted by Laws of Utah 2013, Chapter 244
 22-7-109, as enacted by Laws of Utah 2013, Chapter 244
 22-7-110, as enacted by Laws of Utah 2013, Chapter 244
 22-7-111, as enacted by Laws of Utah 2013, Chapter 244
 22-7-112, as enacted by Laws of Utah 2013, Chapter 244
 22-7-113, as enacted by Laws of Utah 2013, Chapter 244
 22-7-114, as enacted by Laws of Utah 2013, Chapter 244
 22-7-115, as enacted by Laws of Utah 2013, Chapter 244
 22-7-116, as enacted by Laws of Utah 2013, Chapter 244
 22-7-117, as enacted by Laws of Utah 2013, Chapter 244
 22-7-118, as enacted by Laws of Utah 2013, Chapter 244

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 22-3-101 is repealed and reenacted to read:

CHAPTER 3. UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT

Part 1. General Provisions

22-3-101. Title.

This chapter is known as the “Uniform Fiduciary Income and Principal Act.”

Section 2. Section 22-3-102 is repealed and reenacted to read:

22-3-102. Definitions.

In this chapter:

(1) (a) “Accounting period” means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months.

(b) “Accounting period” includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months that begins when an income interest begins or ends when an income interest ends.

(2) (a) “Asset-backed security” means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or

other financial assets that by their terms convert into cash within a finite time.

(b) “Asset-backed security” includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security.

(c) “Asset-backed security” does not include an asset to which Section 22-3-401, 22-3-409, or 22-3-414 applies.

(3) “Beneficiary” includes:

(a) for a trust:

(i) a current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) a remainder beneficiary; and

(iii) any other successor beneficiary;

(b) for an estate, an heir and devisee; and

(c) for a life estate or term interest, a person that holds a life estate, term interest, or remainder, or other interest following a life estate or term interest.

(4) “Court” means a court of competent jurisdiction in the state.

(5) “Current income beneficiary” means a beneficiary to which a fiduciary may distribute net income, whether the fiduciary also may distribute principal to the beneficiary.

(6) (a) “Distribution” means a payment or transfer by a fiduciary to a beneficiary in the beneficiary’s capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary’s right to receive the payment or transfer under the terms of the trust.

(b) “Distribute,” “distributed,” and “distributee” have corresponding meanings.

(7) (a) “Estate” means a decedent’s estate.

(b) “Estate” includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) “Fiduciary” includes:

(a) a trustee, personal representative, life tenant, holder of a term interest, and person acting under a delegation from a fiduciary;

(b) a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal; and

(c) if there are two or more co-fiduciaries, all co-fiduciaries acting under the terms of the trust and applicable law.

(9) (a) “Income” means money or other property a fiduciary receives as current return from principal.

(b) “Income” includes a part of receipts from a sale, exchange, or liquidation of a principal asset to the extent provided in Part 4, Allocation of Receipts.

(10) (a) “Income interest” means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary’s discretion.

(b) “Income interest” includes the right of a current beneficiary to use property held by a fiduciary.

(11) “Independent person” means a person that is not:

(a) for a trust:

(i) a qualified beneficiary as determined under Section 75-7-103;

(ii) a settlor of the trust; or

(iii) an individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) for an estate, a beneficiary;

(c) a spouse, parent, brother, sister, or issue of an individual described in Subsection (11)(a) or (b);

(d) a corporation, partnership, limited liability company, or other entity in which persons described in Subsections (11)(a) through (c), in the aggregate, have voting control; or

(e) an employee of a person described in Subsection (11)(a), (b), (c), or (d).

(12) “Mandatory income interest” means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) (a) “Net income” means:

(i) the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the period, other than distributions, allocated to income under the terms of the trust and this chapter; and

(ii) to the extent the trust is a unitrust under Part 3, Unitrust, the unitrust amount determined under Part 3, Unitrust.

(b) “Net income” includes an adjustment from principal to income under Section 22-3-203.

(c) “Net income” does not include an adjustment from income to principal under Section 22-3-203.

(14) “Person” means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(15) “Personal representative” means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person’s status.

(16) “Principal” means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

(17) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) “Settlor” means the same as that term is defined in Section 75-7-103.

(19) “Special tax benefit” means:

(a) exclusion of a transfer to a trust from gifts described in Section 2503(b) of the Internal Revenue Code because of the qualification of an income interest in the trust as a present interest in property;

(b) status as a qualified subchapter S trust described in Section 1361(d)(3) of the Internal Revenue Code at a time the trust holds stock of an S corporation described in Section 1361(a)(1) of the Internal Revenue Code;

(c) an estate or gift tax marital deduction for a transfer to a trust under Section 2056 or 2523 of the Internal Revenue Code that depends or depended in whole or in part on the right of the settlor’s spouse to receive the net income of the trust;

(d) exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by Section 2601 of the Internal Revenue Code because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust; or

(e) an inclusion ratio, as defined in Section 2642(a) of the Internal Revenue Code, of the trust which is less than one, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust.

(20) “Successive interest” means the interest of a successor beneficiary.

(21) “Successor beneficiary” means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) “Terms of a trust” means:

(a) except as otherwise provided in Subsection (22)(b), the manifestation of the settlor’s intent regarding a trust’s provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding;

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) court order; or

(iii) a nonjudicial settlement agreement under Section 75-7-110;

(c) for an estate, a will; or

(d) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

(23) (a) "Trust" includes:

(i) an express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

(iii) an arrangement under which a person is a nominee, escrowee, or agent for another.

(24) (a) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary.

(b) "Trustee" includes an original, additional, or successor trustee, whether appointed or confirmed by a court.

(25) (a) "Will" means any testamentary instrument recognized by applicable law which makes a legally effective disposition of an individual's property, effective at the individual's death.

(b) "Will" includes a codicil or other amendment to a testamentary instrument.

Section 3. Section 22-3-103 is repealed and reenacted to read:

22-3-103. Scope.

Except as otherwise provided in the terms of a trust or this chapter, this chapter applies to:

(1) a trust or estate; and

(2) a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons.

Section 4. Section 22-3-104 is repealed and reenacted to read:

22-3-104. Governing law.

(1) Except as otherwise provided in the terms of a trust or this chapter, this chapter applies when this state is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest described in Subsection 22-3-103(2).

(2) By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of this chapter to any matter within the scope of this chapter involving the trust.

Section 5. Section 22-3-201 is repealed and reenacted to read:

Part 2. Fiduciary Duties and Judicial Review

22-3-201. Fiduciary duties -- General principles.

(1) In making an allocation or determination or exercising discretion under this chapter, a fiduciary shall:

(a) act in good faith, based on what is fair and reasonable to all beneficiaries;

(b) administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(c) administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this chapter; and

(d) administer the trust or estate in accordance with this chapter, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(2) (a) A fiduciary's allocation, determination, or exercise of discretion under this chapter is presumed to be fair and reasonable to all beneficiaries.

(b) A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power that produces a result different from a result required or permitted by this chapter does not create an inference that the fiduciary abused the fiduciary's discretion.

(3) A fiduciary shall:

(a) add a receipt to principal, to the extent neither the terms of the trust nor this chapter allocates the receipt between income and principal; and

(b) charge a disbursement to principal, to the extent neither the terms of the trust nor this chapter allocates the disbursement between income and principal.

(4) A fiduciary may exercise the power to adjust under Section 22-3-203, convert an income trust to

a unitrust under Subsection 22-3-303(1)(a), change the percentage or method used to calculate a unitrust amount under Subsection 22-3-303(1)(b), or convert a unitrust to an income trust under Subsection 22-3-303(1)(c), if the fiduciary determines the exercise of the power will assist the fiduciary to administer the trust or estate impartially.

(5) Factors the fiduciary must consider in making the determination under Subsection (4) include:

(a) the terms of the trust;

(b) the nature, distribution standards, and expected duration of the trust;

(c) the effect of the allocation rules, including specific adjustments between income and principal, under Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, Part 6, Death of Individual or Termination of Income Interest, and Part 7, Apportionment at Beginning and End of Income Interest;

(d) the desirability of liquidity and regularity of income;

(e) the desirability of the preservation and appreciation of principal;

(f) the extent to which an asset is used or may be used by a beneficiary;

(g) the increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(h) whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;

(i) the extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(j) the effect of current and reasonably expected economic conditions; and

(k) the reasonably expected tax consequences of the exercise of the power.

Section 6. Section 22-3-202 is repealed and reenacted to read:

22-3-202. Judicial review of exercise of discretionary power -- Request for instruction.

(1) In this section, "fiduciary decision" means:

(a) a fiduciary's allocation between income and principal or other determination regarding income and principal required or authorized by the terms of the trust or this chapter;

(b) the fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this chapter, including the power to adjust under Section 22-3-203, convert an income trust to a unitrust under Subsection 22-3-303(1)(a), change the percentage or method used to calculate a

unitrust amount under Subsection 22-3-303(1)(b), or convert a unitrust to an income trust under Subsection 22-3-303(1)(c); or

(c) the fiduciary's implementation of a decision described in Subsection (1)(a) or (b).

(2) The court may not order a fiduciary to change a fiduciary decision unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

(3) (a) If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law, including a remedy authorized in Section 75-7-1001.

(b) To place the beneficiaries in the positions the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(i) the fiduciary to exercise or refrain from exercising the power to adjust under Section 22-3-203;

(ii) the fiduciary to exercise or refrain from exercising the power to convert an income trust to a unitrust under Subsection 22-3-303(1)(a), change the percentage or method used to calculate a unitrust amount under Subsection 22-3-303(1)(b), or convert a unitrust to an income trust under Subsection 22-3-303(1)(c);

(iii) the fiduciary to distribute an amount to a beneficiary;

(iv) a beneficiary to return some or all of a distribution; or

(v) the fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(4) (a) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion.

(b) A beneficiary that opposes the proposed decision has the burden to establish that the proposed decision will result in an abuse of the fiduciary's discretion if the petition:

(i) describes the proposed decision;

(ii) contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies; and

(iii) explains how the beneficiary will be affected by the proposed decision.

Section 7. Section 22-3-203 is enacted to read:

22-3-203. Fiduciary's power to adjust.

(1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(2) This section does not create a duty to exercise or consider the power to adjust under Subsection (1) or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under Subsection (1) is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under Subsection (1), a fiduciary shall consider all factors the fiduciary considers relevant, including relevant factors in Subsection 22-3-201(5) and the application of Subsection 22-3-401(9), Section 22-3-408, and Section 22-3-413.

(5) A fiduciary may not exercise the power under Subsection (1) to make an adjustment or under Section 22-3-408 to make a determination that an allocation is insubstantial if:

(a) the adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(f) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) the fiduciary is not an independent person;

(h) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

(i) the trust is a unitrust under Part 3, Unitrust.

(6) If Subsection (5)(d), (e), (f), or (g) applies to a fiduciary:

(a) a co-fiduciary to which Subsections (5)(d) through (g) do not apply may exercise the power to adjust, unless the exercise of the power by the

remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b) if there is no co-fiduciary to which Subsections (5)(d) through (g) do not apply, the fiduciary may appoint a co-fiduciary to which Subsections (5)(d) through (g) do not apply, which may be a special fiduciary with limited powers, and the appointed co-fiduciary may exercise the power to adjust under Subsection (1), unless the appointment of a co-fiduciary or the exercise of the power by a co-fiduciary is not permitted by the terms of the trust or law other than this chapter.

(7) A fiduciary may release or delegate to a co-fiduciary the power to adjust under Subsection (1) if the fiduciary determines that the fiduciary's possession or exercise of the power will or may:

(a) cause a result described in Subsections (5)(a) through (f) or (h); or

(b) deprive the trust of a tax benefit or impose a tax burden not described in Subsections (5)(a) through (f).

(8) A fiduciary's release or delegation to a co-fiduciary under Subsection (7) of the power to adjust under Subsection (1):

(a) must be in a record;

(b) applies to the entire power, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) from income to principal;

(ii) from principal to income;

(iii) for specified property; or

(iv) in specified circumstances;

(c) for a delegation, may be modified by a redelegation under this subsection by the co-fiduciary to which the delegation is made; and

(d) subject to Subsection (8)(c), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust which deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under Subsection (1).

(10) The exercise of the power to adjust under Subsection (1) in any accounting period may apply to the current period, the immediately preceding period, and one or more subsequent periods.

(11) A description of the exercise of the power to adjust under Subsection (1) must be:

(a) included in a report, if any, sent to beneficiaries under Subsection 75-7-811(3); or

(b) communicated at least annually to the qualified beneficiaries determined under Subsection 75-7-103(1)(h).

Section 8. Section 22-3-301 is repealed and reenacted to read:

Part 3. Unitrust

22-3-301. Definitions.

In this part:

(1) "Applicable value" means the amount of the net fair market value of a trust taken into account under Section 22-3-307.

(2) "Express unitrust" means a trust for which, under the terms of the trust without regard to this part, income or net income must or may be calculated as a unitrust amount.

(3) "Income trust" means a trust that is not a unitrust.

(4) "Net fair market value of a trust" means the fair market value of the assets of the trust, less the noncontingent liabilities of the trust.

(5) (a) "Unitrust" means a trust for which net income is a unitrust amount.

(b) "Unitrust" includes an express unitrust.

(6) "Unitrust amount" means:

(a) an amount computed by multiplying a determined value of a trust by a determined percentage; and

(b) for a unitrust administered under a unitrust policy, the applicable value, multiplied by the unitrust rate.

(7) "Unitrust policy" means a policy described in Sections 22-3-305 through 22-3-309 and adopted under Section 22-3-303.

(8) "Unitrust rate" means the rate used to compute the unitrust amount under Subsection (6) for a unitrust administered under a unitrust policy.

Section 9. Section 22-3-302 is repealed and reenacted to read:

22-3-302. Application -- Duties and remedies.

(1) Except as otherwise provided in Subsection (2), this part applies to:

(a) an income trust, unless the terms of the trust expressly prohibit use of this part by a specific reference to this part or an explicit expression of intent that net income not be calculated as a unitrust amount; and

(b) an express unitrust, except to the extent the terms of the trust explicitly:

(i) prohibit use of this part by a specific reference to this part;

(ii) prohibit conversion to an income trust; or

(iii) limit changes to the method of calculating the unitrust amount.

(2) This part does not apply to a trust described in Section 170(f)(2)(B), 642(c)(5), 664(d),

2702(a)(3)(A)(ii) or (iii), or 2702(b) of the Internal Revenue Code.

(3) (a) An income trust to which this part applies under Subsection (1)(a) may be converted to a unitrust under this part regardless of the terms of the trust concerning distributions.

(b) Conversion to a unitrust under this part does not affect other terms of the trust concerning distributions of income or principal.

(4) (a) This part applies to an estate only to the extent a trust is a beneficiary of the estate.

(b) To the extent of the trust's interest in the estate, the estate may be administered as a unitrust, the administration of the estate as a unitrust may be discontinued, or the percentage or method used to calculate the unitrust amount may be changed, in the same manner as for a trust under this part.

(5) This part does not create a duty to take or consider action under this part or to inform a beneficiary about the applicability of this part.

(6) A fiduciary that in good faith takes or fails to take an action under this part is not liable to a person affected by the action or inaction.

Section 10. Section 22-3-303 is repealed and reenacted to read:

22-3-303. Authority of fiduciary.

(1) A fiduciary, without court approval, by complying with Subsections (2) and (6), may:

(a) convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:

(i) that in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to this part; and

(ii) the percentage and method used to calculate the unitrust amount;

(b) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this part rather than a unitrust amount.

(2) A fiduciary may take an action under Subsection (1) if:

(a) the fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) the fiduciary sends a notice in a record, in the manner required by Section 22-3-304, describing and proposing to take the action;

(c) the fiduciary sends a copy of the notice under Subsection (2)(b) to each settlor of the trust which is:

- (i) if an individual, living; or
- (ii) if not an individual, in existence;

(d) at least one member of each class of the qualified beneficiaries determined under Subsection 75-7-103(1)(h) receiving the notice under Subsection (2)(b) is:

- (i) if an individual, legally competent;
- (ii) if not an individual, in existence; or
- (iii) represented in the manner provided in Subsection 22-3-304(2); and

(e) the fiduciary does not receive, by the date specified in the notice under Subsection 22-3-304(4)(e), an objection in a record to the action proposed under Subsection (2)(b) from a person to which the notice under Subsection (2)(b) is sent.

(3) (a) If a fiduciary receives, not later than the date stated in the notice under Subsection 22-3-304(4)(e), an objection in a record described in Subsection 22-3-304(4)(d) to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented.

(b) A person described in Subsection 22-3-304(1) may oppose the proposed action in the proceeding under this subsection, whether the person:

- (i) consented under Subsection 22-3-304(3); or
- (ii) objected under Subsection 22-3-304(4)(d).

(4) If, after sending a notice under Subsection (2)(b), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in Subsection 22-3-304(1) of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in Subsection (1) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by Subsection (1), or whether and how to respond to a request by a beneficiary under Subsection (5), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including relevant factors in Subsection 22-3-201(5).

(7) A fiduciary may release or delegate the power to convert an income trust to a unitrust under Subsection (1)(a), change the percentage or method used to calculate a unitrust amount under Subsection (1)(b), or convert a unitrust to an income trust under Subsection (1)(c), for a reason described in Subsection 22-3-203(7) and in the manner described in Subsection 22-3-203(8).

Section 11. Section 22-3-304 is enacted to read:

22-3-304. Notice.

(1) A notice required by Subsection 22-3-303(2)(b) must be sent in a manner authorized under Section 75-7-109 to:

(a) the qualified beneficiaries determined under Subsection 75-7-103(1)(h); and

(b) each person that is granted a power over the trust by the terms of the trust, to the extent the power is exercisable when the person is not then serving as a trustee:

(i) including a:

(A) power over the investment, management, or distribution of trust property or other matters of trust administration; and

(B) power to appoint or remove a trustee or person described in this subsection; and

(ii) excluding a:

(A) power of appointment;

(B) power of a beneficiary over the trust, to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary or another beneficiary represented by the beneficiary under Sections 75-7-301 through 75-7-305 with respect to the exercise or nonexercise of the power; and

(C) power over the trust if the terms of the trust provide that the power is held in a nonfiduciary capacity and the power must be held in a nonfiduciary capacity to achieve a tax objective under the Internal Revenue Code.

(2) The representation provisions of Sections 75-7-301 through 75-7-305 apply to notice under this section.

(3) (a) A person may consent in a record at any time to action proposed under Subsection 22-3-303(2)(b).

(b) A notice required by Subsection 22-3-303(2)(b) need not be sent to a person that consents under this subsection.

(4) A notice required by Subsection 22-3-303(2)(b) must include:

(a) the action proposed under Subsection 22-3-303(2)(b);

(b) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Subsection 22-3-303(1)(a);

(c) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under Subsection 22-3-303(1)(b);

(d) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) the date by which an objection under Subsection (4)(d) must be received by the fiduciary, which must be at least 30 days after the date the notice is sent;

(f) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) the name and contact information of the fiduciary; and

(h) the name and contact information of a person that may be contacted for additional information.

Section 12. Section 22-3-305 is enacted to read:

22-3-305. Unitrust policy.

(1) In administering a unitrust under this part, a fiduciary shall follow a unitrust policy adopted under Subsection 22-3-303(1)(a) or (b) or amended or replaced under Subsection 22-3-303(1)(b).

(2) A unitrust policy must provide:

(a) the unitrust rate or the method for determining the unitrust rate under Section 22-3-306;

(b) the method for determining the applicable value under Section 22-3-307; and

(c) the rules described in Sections 22-3-306 through 22-3-309 which apply in the administration of the unitrust, whether the rules are:

(i) mandatory, as provided in Subsections 22-3-307(1) and 22-3-308(1); or

(ii) optional, as provided in Section 22-3-306 and Subsections 22-3-307(2), 22-3-308(2), and 22-3-309(1), to the extent the fiduciary elects to adopt those rules.

Section 13. Section 22-3-306 is enacted to read:

22-3-306. Unitrust rate.

(1) Except as otherwise provided in Subsection 22-3-309(2)(a), a unitrust rate may be:

(a) a fixed unitrust rate; or

(b) a unitrust rate that is determined for each period using:

(i) a market index or other published data; or

(ii) a mathematical blend of market indices or other published data over a stated number of preceding periods.

(2) Except as otherwise provided in Subsection 22-3-309(2)(a), a unitrust policy may provide:

(a) a limit on how high the unitrust rate determined under Subsection (1)(b) may rise;

(b) a limit on how low the unitrust rate determined under Subsection (1)(b) may fall;

(c) a limit on how much the unitrust rate determined under Subsection (1)(b) may increase

over the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods;

(d) a limit on how much the unitrust rate determined under Subsection (1)(b) may decrease below the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods; or

(e) a mathematical blend of any of the unitrust rates determined under Subsection (1)(b) and Subsections (2)(a) through (d).

Section 14. Section 22-3-307 is enacted to read:

22-3-307. Applicable value.

(1) A unitrust policy must provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(a) the frequency of valuing the asset, which need not require a valuation in every period; and

(b) the date for valuing the asset in each period in which the asset is valued.

(2) Except as otherwise provided in Subsection 22-3-309(2)(b), a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(a) obtaining an appraisal of an asset for which fair market value is not readily available;

(b) exclusion of specific assets or groups or types of assets;

(c) other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(d) identification and treatment of cash or property held for distribution;

(e) use of:

(i) an average of fair market values over a stated number of preceding periods; or

(ii) another mathematical blend of fair market values over a stated number of preceding periods;

(f) a limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding periods;

(g) a limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding periods;

(h) the treatment of accrued income and other features of an asset which affect value; and

(i) determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under Subsections (2)(a) through (h).

Section 15. Section 22-3-308 is enacted to read:

22-3-308. Period.

(1) (a) A unitrust policy must provide the period used under Sections 22-3-306 and 22-3-307.

(b) Except as otherwise provided in Subsection 22-3-309(2)(c), the period may be:

- (i) a calendar year;
- (ii) a 12-month period other than a calendar year;
- (iii) a calendar quarter;
- (iv) a three-month period other than a calendar quarter; or
- (v) another period.

(2) Except as otherwise provided in Subsection 22-3-309(2), a unitrust policy may provide standards for:

(a) using fewer preceding periods under Subsection 22-3-306(1)(b)(ii), (2)(c), or (2)(d) if:

(i) the trust was not in existence in a preceding period; or

(ii) market indices or other published data are not available for a preceding period;

(b) using fewer preceding periods under Subsection 22-3-307(2)(e)(i) or (ii), (f)(ii), or (g)(ii) if:

(i) the trust was not in existence in a preceding period; or

(ii) fair market values are not available for a preceding period; and

(c) prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

Section 16. Section 22-3-309 is enacted to read:

22-3-309. Special tax benefits -- Other rules.

(1) A unitrust policy may:

(a) provide methods and standards for:

- (i) determining the timing of distributions;
- (ii) making distributions in cash or in kind or partly in cash and partly in kind; or
- (iii) correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(b) specify sources and the order of sources, including categories of income for federal income

tax purposes, from which distributions of a unitrust amount are paid; or

(c) provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

(2) If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(a) the unitrust rate established under Section 22-3-306 may not be less than 3% or more than 5%;

(b) the only provisions of Section 22-3-307 which apply are Subsections 22-3-307(1) and (2)(a), (d), (e)(i), and (i);

(c) the only period that may be used under Section 22-3-308 is a calendar year under Subsection 22-3-308(1); and

(d) the only other provisions of Section 22-3-308 that apply are Subsection 22-3-308(2)(b)(i) and (c).

Section 17. Section 22-3-401 is repealed and reenacted to read:

Part 4. Allocation of Receipts

22-3-401. Receipts from entity -- Character of receipts from entity.

(1) In this section:

(a) “Capital distribution” means an entity distribution of money which is a:

(i) return of capital; or

(ii) distribution in total or partial liquidation of the entity.

(b) (i) “Entity” means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization or arrangement in which a fiduciary owns or holds an interest, whether or not the entity is a taxpayer for federal income tax purposes.

(ii) “Entity” does not include:

(A) a trust or estate to which Section 22-3-402 applies;

(B) a business or other activity to which Section 22-3-403 applies that is not conducted by an entity described in Subsection (1)(b)(i);

(C) an asset-backed security; or

(D) an instrument or arrangement to which Section 22-3-416 applies.

(c) “Entity distribution” means a payment or transfer by an entity made to a person in the person’s capacity as an owner or holder of an interest in the entity.

(2) In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.

(3) Except as otherwise provided in Subsections (4)(b) through (d), a fiduciary shall allocate to income:

- (a) money received in an entity distribution; and
- (b) tangible personal property of nominal value received from the entity.

(4) A fiduciary shall allocate to principal:

(a) property received in an entity distribution which is not:

- (i) money; or
- (ii) tangible personal property of nominal value;

(b) money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(c) money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(d) money received in an entity distribution from an entity that is:

(i) a regulated investment company or real estate investment trust if the money received is a capital gain dividend for federal income tax purposes; or

(ii) treated for federal income tax purposes comparably to the treatment described in Subsection (4)(d)(i).

(5) A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(a) by relying without inquiry or investigation on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(i) determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(ii) owns or holds more than 50% of the voting interest in the entity;

(b) by determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in the entity distribution or a series of related entity distributions is or will be greater than 20% of the fair market value of the fiduciary's interest in the entity; or

(c) if neither Subsection (5)(a) nor (b) applies, by considering the factors in Subsection (6) and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

(6) In making a determination or estimate under Subsection (5)(c), a fiduciary may consider:

(a) a characterization of an entity distribution provided by or on behalf of the entity;

(b) the amount of money or property received in:

- (i) the entity distribution; or

(ii) what the fiduciary determines is or will be a series of related entity distributions;

(c) the amount described in Subsection (6)(b) compared to the amount the fiduciary determines or estimates is, during the current or preceding accounting periods:

(i) the entity's operating income;

(ii) the proceeds of the entity's sale or other disposition of:

(A) all or part of the business or other activity conducted by the entity;

(B) one or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

(C) one or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(iii) if the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(iv) the entity's regular, periodic entity distributions;

(v) the amount of money the entity has accumulated;

(vi) the amount of money the entity has borrowed;

(vii) the amount of money the entity has received from the sources described in Sections 22-3-407, 22-3-410, 22-3-411, and 22-3-412; and

(viii) the amount of money the entity has received from a source not otherwise described in this subsection; and

(d) any other factor the fiduciary determines is relevant.

(7) If, after applying Subsections (3) through (6), a fiduciary determines that a part of an entity distribution is a capital distribution but is in doubt about the amount of the entity distribution which is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution which is in doubt.

(8) If a fiduciary receives additional information about the application of this section to an entity distribution before the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

(9) If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is not required to change or recover the payment to the beneficiary but may consider that information in determining whether to exercise the power to adjust under Section 22-3-203.

Section 18. Section 22-3-402 is repealed and reenacted to read:

22-3-402. Receipts from entity -- Distribution from trust or estate.

(1) A fiduciary shall allocate to income an amount received as a distribution of income, including a unitrust distribution under Part 3, Unitrust, from a trust or estate in which the fiduciary has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity, and shall allocate to principal an amount received as a distribution of principal from the trust or estate.

(2) If a fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, Section 22-3-401, 22-3-415, or 22-3-416 applies to a receipt from the trust.

Section 19. Section 22-3-403 is repealed and reenacted to read:

22-3-403. Receipts from entity -- Business or other activity conducted by fiduciary.

(1) This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately for the business or other activity instead of:

(a) accounting for the business or other activity as part of the fiduciary's general accounting records; or

(b) conducting the business or other activity through an entity described in Subsection 22-3-401(1)(b)(i).

(2) A fiduciary may account separately under this section for the transactions of a business or other activity, whether or not assets of the business or other activity are segregated from other assets held by the fiduciary.

(3) A fiduciary that accounts separately under this section for a business or other activity:

(a) may determine:

(i) the extent to which the net cash receipts of the business or other activity must be retained for:

(A) working capital;

(B) the acquisition or replacement of fixed assets; and

(C) other reasonably foreseeable needs of the business or other activity; and

(ii) the extent to which the remaining net cash receipts are accounted for as principal or income in the fiduciary's general accounting records for the trust;

(b) may make a determination under Subsection (3)(a) separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(c) shall account for the net amount received from the sale of an asset of the business or other activity,

other than a sale in the ordinary course of the business or other activity, as principal in the fiduciary's general accounting records for the trust, to the extent the fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

(4) Activities for which a fiduciary may account separately under this section include:

(a) retail, manufacturing, service, and other traditional business activities;

(b) farming;

(c) raising and selling livestock and other animals;

(d) managing rental properties;

(e) extracting minerals, water, and other natural resources;

(f) growing and cutting timber;

(g) an activity to which Section 22-3-414, 22-3-415, or 22-3-416 applies; and

(h) any other business conducted by the fiduciary.

Section 20. Section 22-3-404 is repealed and reenacted to read:

22-3-404. Receipts not normally apportioned -- Principal receipts.

A fiduciary shall allocate to principal:

(1) to the extent not allocated to income under this chapter, an asset received from:

(a) an individual during the individual's lifetime;

(b) an estate;

(c) a trust on termination of an income interest; or

(d) a payor under a contract naming the fiduciary as beneficiary;

(2) except as otherwise provided in this part, money or other property received from the sale, exchange, liquidation, or change in form of a principal asset;

(3) an amount recovered from a third party to reimburse the fiduciary because of a disbursement described in Subsection 22-3-502(1) or for another reason to the extent not based on loss of income;

(4) proceeds of property taken by eminent domain, except that proceeds awarded for loss of income in an accounting period are income if a current income beneficiary had a mandatory income interest during the period;

(5) net income received in an accounting period during which there is no beneficiary to which a fiduciary may or must distribute income; and

(6) other receipts as provided in Part 3, Unitrust.

Section 21. Section 22-3-405 is repealed and reenacted to read:

22-3-405. Receipts not normally apportioned -- Rental property.

(1) To the extent a fiduciary does not account for the management of rental property as a business under Section 22-3-403, the fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease.

(2) An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods:

(a) must be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than this chapter; and

(b) is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

Section 22. Section 22-3-406 is repealed and reenacted to read:

22-3-406. Receipts not normally apportioned -- Receipt on obligation to be paid in money.

(1) This section does not apply to an obligation to which Section 22-3-409, 22-3-410, 22-3-411, 22-3-412, 22-3-414, 22-3-415, or 22-3-416 applies.

(2) A fiduciary shall allocate to income, without provision for amortization of premium, an amount received as interest on an obligation to pay money to the fiduciary, including an amount received as consideration for prepaying principal.

(3) (a) A fiduciary shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the fiduciary.

(b) A fiduciary shall allocate to income the increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.

Section 23. Section 22-3-407 is repealed and reenacted to read:

22-3-407. Receipts not normally apportioned -- Insurance policy or contract.

(1) This section does not apply to a contract to which Section 22-3-409 applies.

(2) (a) Except as otherwise provided in Subsection (3), a fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary, including a contract that insures against damage to, destruction of, or loss of title to an asset.

(b) The fiduciary shall allocate dividends on an insurance policy to income to the extent premiums on the policy are paid from income and to principal to the extent premiums on the policy are paid from principal.

(3) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary against loss of:

(a) occupancy or other use by a current income beneficiary;

(b) income; or

(c) subject to Section 22-3-403, profits from a business.

Section 24. Section 22-3-408 is repealed and reenacted to read:

22-3-408. Receipts normally apportioned -- Insubstantial allocation not required.

(1) If a fiduciary determines that an allocation between income and principal required by Section 22-3-409, 22-3-410, 22-3-411, 22-3-412, or 22-3-415 is insubstantial, the fiduciary may allocate the entire amount to principal, unless Subsection 22-3-203(5) applies to the allocation.

(2) A fiduciary may presume an allocation is insubstantial under Subsection (1) if:

(a) the amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10%; and

(b) the asset producing the receipt to be allocated has a fair market value less than 10% of the total fair market value of the assets owned or held by the fiduciary at the beginning of the accounting period.

(3) The power to make a determination under Subsection (1) may be:

(a) exercised by a co-fiduciary in the manner described in Subsection 22-3-203(6); or

(b) released or delegated for a reason described in Subsection 22-3-203(7) and in the manner described in Subsection 22-3-203(8).

Section 25. Section 22-3-409 is repealed and reenacted to read:

22-3-409. Receipts normally apportioned -- Deferred compensation, annuity, or similar payment.

(1) In this section:

(a) "Internal income of a separate fund" means the amount determined under Subsection (2).

(b) "Marital trust" means a trust:

(i) of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(ii) that qualifies for a marital deduction with respect to the settlor's estate under Section 2056 of the Internal Revenue Code because:

(A) an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code has been made; or

(B) the trust qualifies for a marital deduction under Section 2056(b)(5) of the Internal Revenue Code.

(c) (i) "Payment" means an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future amounts the fiduciary may receive.

(ii) "Payment" includes an amount received in money or property from the payor's general assets or from a separate fund created by the payor.

(d) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(2) For each accounting period, the following rules apply to a separate fund:

(a) the fiduciary shall determine the internal income of the separate fund as if the separate fund were a trust subject to this chapter;

(b) if the fiduciary cannot determine the internal income of the separate fund under Subsection (2)(a), the internal income of the separate fund is deemed to equal 3% of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period; and

(c) if the fiduciary cannot determine the value of the separate fund under Subsection (2)(b), the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code, for the month preceding the beginning of the accounting period for which the computation is made.

(3) A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the period, and the balance to principal.

(4) The fiduciary of a marital trust shall:

(a) withdraw from a separate fund the amount the current income beneficiary of the trust requests the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the period;

(b) transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the period exceeds the amount the fiduciary receives from the separate fund during the period after the application of Subsection (4)(a); and

(c) distribute to the current income beneficiary as income:

(i) the amount of the internal income of the separate fund received or withdrawn during the period; and

(ii) the amount transferred from principal to income under Subsection (4)(b).

(5) For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the period.

Section 26. Section 22-3-410 is repealed and reenacted to read:

22-3-410. Receipts normally apportioned -- Liquidating asset.

(1) In this section:

(a) "Liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a limited time.

(b) "Liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance.

(2) This section does not apply to a receipt subject to Section 22-3-401, 22-3-409, 22-3-411, 22-3-412, 22-3-414, 22-3-415, 22-3-416, or 22-3-503.

(3) A fiduciary shall allocate:

(a) to income:

(i) a receipt produced by a liquidating asset, to the extent the receipt does not exceed 3% of the value of the asset; or

(ii) if the fiduciary cannot determine the value of the asset, 10% of the receipt; and

(b) to principal, the balance of the receipt.

Section 27. Section 22-3-411 is repealed and reenacted to read:

22-3-411. Receipts normally apportioned -- Minerals, water, and other natural resources.

(1) To the extent a fiduciary does not account for a receipt from an interest in minerals, water, or other natural resources as a business under Section 22-3-403, the fiduciary shall allocate the receipt:

(a) to income, to the extent received:

(i) as delay rental or annual rent on a lease;

(ii) as a factor for interest or the equivalent of interest under an agreement creating a production payment; or

(iii) on account of an interest in renewable water;

(b) to principal, if received from a production payment, to the extent Subsection (1)(a)(ii) does not apply; or

(c) between income and principal equitably, to the extent received:

(i) on account of an interest in nonrenewable water;

(ii) as a royalty, shut-in-well payment, take-or-pay payment, or bonus; or

(iii) from a working interest or any other interest not provided for in Subsection (1)(a) or (b) or Subsection (1)(c)(i) or (ii).

(2) This section applies to an interest owned or held by a fiduciary whether or not a settlor was extracting minerals, water, or other natural resources before the fiduciary owned or held the interest.

(3) An allocation of a receipt under Subsection (1)(c) is presumed to be equitable if the amount allocated to principal is equal to the amount allowed by the Internal Revenue Code as a deduction for depletion of the interest.

(4) (a) If a fiduciary owns or holds an interest in minerals, water, or other natural resources before July 1, 2019, the fiduciary may allocate receipts from the interest as provided in this section or in the manner used by the fiduciary before July 1, 2019.

(b) If the fiduciary acquires an interest in minerals, water, or other natural resources on or after July 1, 2019, the fiduciary shall allocate receipts from the interest as provided in this section.

Section 28. Section 22-3-412 is repealed and reenacted to read:

22-3-412. Receipts normally apportioned -- Timber.

(1) To the extent a fiduciary does not account for receipts from the sale of timber and related products as a business under Section 22-3-403, the fiduciary shall allocate the net receipts:

(a) to income, to the extent the amount of timber cut from the land does not exceed the rate of growth of the timber;

(b) to principal, to the extent the amount of timber cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(c) between income and principal if the net receipts are from the lease of land used for growing and cutting timber or from a contract to cut timber from land, by determining the amount of timber cut from the land under the lease or contract and applying the rules in Subsections (1)(a) and (b); or

(d) to principal, to the extent advance payments, bonuses, and other payments are not allocated under Subsection (1)(a), (b), or (c).

(2) In determining net receipts to be allocated under Subsection (1), a fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

(3) This section applies to land owned or held by a fiduciary whether or not a settlor was cutting

timber from the land before the fiduciary owned or held the property.

(4) (a) If a fiduciary owns or holds an interest in land used for growing and cutting timber before July 1, 2019, the fiduciary may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the fiduciary before July 1, 2019.

(b) If the fiduciary acquires an interest in land used for growing and cutting timber on or after July 1, 2019, the fiduciary shall allocate net receipts from the sale of timber and related products as provided in this section.

Section 29. Section 22-3-413 is repealed and reenacted to read:

22-3-413. Receipts normally apportioned -- Marital deduction property not productive of income.

(1) If a trust received property for which a gift or estate tax marital deduction was allowed and the settlor's spouse holds a mandatory income interest in the trust, the spouse may require the trustee, to the extent the trust assets otherwise do not provide the spouse with sufficient income from or use of the trust assets to qualify for the deduction, to:

(a) make property productive of income;

(b) convert property to property productive of income within a reasonable time; or

(c) exercise the power to adjust under Section 22-3-203.

(2) The trustee may decide which action or combination of actions in Subsection (1) to take.

Section 30. Section 22-3-414 is repealed and reenacted to read:

22-3-414. Receipts normally apportioned -- Derivative or option.

(1) In this section:

(a) "Derivative" means a contract, instrument, other arrangement, or combination of contracts, instruments, or other arrangements, the value, rights, and obligations of which are, in whole or in part, dependent on or derived from an underlying tangible or intangible asset, group of tangible or intangible assets, index, or occurrence of an event.

(b) "Derivative" includes stocks, fixed income securities, and financial instruments and arrangements based on indices, commodities, interest rates, weather-related events, and credit-default events.

(2) To the extent a fiduciary does not account for a transaction in derivatives as a business under Section 22-3-403, the fiduciary shall allocate 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction to income and the balance to principal.

(3) Subsection (4) applies if:

(a) a fiduciary:

(i) grants an option to buy property from a trust, whether or not the trust owns the property when the option is granted;

(ii) grants an option that permits another person to sell property to the trust; or

(iii) acquires an option to buy property for the trust or an option to sell an asset owned by the trust; and

(b) the fiduciary or other owner of the asset is required to deliver the asset if the option is exercised.

(4) If this subsection applies, the fiduciary shall allocate 10% to income and the balance to principal of the following amounts:

(a) an amount received for granting the option;

(b) an amount paid to acquire the option; and

(c) gain or loss realized on the exercise, exchange, settlement, offset, closing, or expiration of the option.

Section 31. Section 22-3-415 is repealed and reenacted to read:

22-3-415. Receipts normally apportioned -- Asset-backed security.

(1) Except as otherwise provided in Subsection (2), a fiduciary shall allocate to income a receipt from or related to an asset-backed security, to the extent the payor identifies the payment as being from interest or other current return, and to principal the balance of the receipt.

(2) If a fiduciary receives one or more payments in exchange for part or all of the fiduciary's interest in an asset-backed security, including a liquidation or redemption of the fiduciary's interest in the security, the fiduciary shall allocate to income 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction, and to principal the balance of the receipts and disbursements.

Section 32. Section 22-3-416 is enacted to read:

22-3-416. Receipts normally apportioned -- Other financial instrument or arrangement.

(1) A fiduciary shall allocate receipts from or related to a financial instrument or arrangement not otherwise addressed by this chapter.

(2) The allocation must be consistent with Sections 22-3-414 and 22-3-415.

Section 33. Section 22-3-501 is repealed and reenacted to read:

Part 5. Allocation of Disbursements

22-3-501. Disbursement from income.

Subject to Section 22-3-504, and except as otherwise provided in Subsection 22-3-601(3)(b) or (c), a fiduciary shall disburse from income:

(1) one-half of:

(a) the regular compensation of the fiduciary and any person providing investment advisory, custodial, or other services to the fiduciary, to the extent income is sufficient; and

(b) an expense for an accounting, judicial or nonjudicial proceeding, or other matter that involves both income and successive interests, to the extent income is sufficient;

(2) the balance of the disbursements described in Subsection (1), to the extent a fiduciary that is an independent person determines that making those disbursements from income would be in the interests of the beneficiaries;

(3) another ordinary expense incurred in connection with administration, management, or preservation of property and distribution of income, including interest, an ordinary repair, regularly recurring tax assessed against principal, and an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily an income interest, to the extent income is sufficient; and

(4) a premium on insurance covering loss of a principal asset or income from or use of the asset.

Section 34. Section 22-3-502 is repealed and reenacted to read:

22-3-502. Disbursement from principal.

(1) Subject to Section 22-3-505, and except as otherwise provided in Subsection 22-3-601(3)(b) or (c), a fiduciary shall disburse from principal:

(a) the balance of the disbursements described in Subsections 22-3-501(1) and (3), after application of Subsection 22-3-501(2);

(b) the fiduciary's compensation calculated on principal as a fee for acceptance, distribution, or termination;

(c) a payment of an expense to prepare for or execute a sale or other disposition of property;

(d) a payment on the principal of a trust debt;

(e) a payment of an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily principal, including a proceeding to construe the terms of the trust or protect property;

(f) a payment of a premium for insurance, including title insurance, not described in Subsection 22-3-501(4), of which the fiduciary is the owner and beneficiary;

(g) a payment of an estate or inheritance tax or other tax imposed because of the death of a decedent, including penalties, apportioned to the trust; and

(h) a payment:

(i) related to environmental matters, including:

(A) reclamation;

(B) assessing environmental conditions;

(C) remedying and removing environmental contamination;

(D) monitoring remedial activities and the release of substances;

(E) preventing future releases of substances;

(F) collecting amounts from persons liable or potentially liable for the costs of activities described in Subsections (1)(h)(i)(A) through (E);

(G) penalties imposed under environmental laws or regulations;

(H) other actions to comply with environmental laws or regulations;

(I) statutory or common law claims by third parties; and

(J) defending claims based on environmental matters; and

(ii) for a premium for insurance for matters described in Subsection (1)(h)(i).

(2) If a principal asset is encumbered with an obligation that requires income from the asset to be paid directly to a creditor, the fiduciary shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Section 35. Section 22-3-503 is repealed and reenacted to read:

22-3-503. Transfer from income to principal for depreciation.

(1) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a tangible asset having a useful life of more than one year.

(2) A fiduciary may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(a) of the part of real property used or available for use by a beneficiary as a residence;

(b) of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(c) under this section, to the extent the fiduciary accounts:

(i) under Section 22-3-410 for the asset; or

(ii) under Section 22-3-403 for the business or other activity in which the asset is used.

(3) An amount transferred to principal under this section need not be separately held.

Section 36. Section 22-3-504 is repealed and reenacted to read:

22-3-504. Reimbursement of income from principal.

(1) If a fiduciary makes or expects to make an income disbursement described in Subsection (2), the fiduciary may transfer an appropriate amount

from principal to income in one or more accounting periods to reimburse income.

(2) To the extent the fiduciary has not been and does not expect to be reimbursed by a third party, income disbursements to which Subsection (1) applies include:

(a) an amount chargeable to principal but paid from income because principal is illiquid;

(b) a disbursement made to prepare property for sale, including improvements and commissions; and

(c) a disbursement described in Subsection 22-3-502(1).

(3) If an asset whose ownership gives rise to an income disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under Subsection (1).

Section 37. Section 22-3-505 is repealed and reenacted to read:

22-3-505. Reimbursement of principal from income.

(1) If a fiduciary makes or expects to make a principal disbursement described in Subsection (2), the fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or provide a reserve for future principal disbursements.

(2) To the extent a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which Subsection (1) applies include:

(a) an amount chargeable to income but paid from principal because income is not sufficient;

(b) the cost of an improvement to principal, whether a change to an existing asset or the construction of a new asset, including a special assessment;

(c) a disbursement made to prepare property for rental, including tenant allowances, leasehold improvements, and commissions;

(d) a periodic payment on an obligation secured by a principal asset, to the extent the amount transferred from income to principal for depreciation is less than the periodic payment; and

(e) a disbursement described in Subsection 22-3-502(1).

(3) If an asset whose ownership gives rise to a principal disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under Subsection (1).

Section 38. Section 22-3-506 is repealed and reenacted to read:

22-3-506. Income taxes.

(1) A tax required to be paid by a fiduciary that is based on receipts allocated to income must be paid from income.

(2) A tax required to be paid by a fiduciary that is based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(3) Subject to Subsection (4) and Sections 22-3-504, 22-3-505, and 22-3-507, a tax required to be paid by a fiduciary on a share of an entity's taxable income in an accounting period must be paid from:

(a) income and principal proportionately to the allocation between income and principal of receipts from the entity in the period; and

(b) principal to the extent the tax exceeds the receipts from the entity in the period.

(4) After applying Subsections (1) through (3), a fiduciary shall adjust income or principal receipts, to the extent the taxes the fiduciary pays are reduced because of a deduction for a payment made to a beneficiary.

Section 39. Section 22-3-507 is enacted to read:

22-3-507. Adjustment between income and principal because of taxes.

(1) A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries that arises from:

(a) an election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction to which Subsection (2) applies;

(b) an income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or

(c) ownership by the fiduciary of an interest in an entity a part of whose taxable income, whether or not distributed, is includable in the taxable income of the fiduciary or a beneficiary.

(2) (a) If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which the increase in estate tax is paid.

(b) The total reimbursement must equal the increase in the estate tax, to the extent the principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment.

(c) The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced must be the same as its share of the total decrease in income tax.

(3) A fiduciary that charges a beneficiary under Subsection (2) may offset the charge by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

Section 40. Section 22-3-601 is repealed and reenacted to read:

Part 6. Death of Individual or Termination of Income Interest

22-3-601. Determination and distribution of net income.

(1) This section applies when:

(a) the death of an individual results in the creation of an estate or trust; or

(b) an income interest in a trust terminates, whether the trust continues or is distributed.

(2) A fiduciary of an estate or trust with an income interest that terminates shall:

(a) determine, under Subsection (7) and Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, the amount of net income and net principal receipts received from property specifically given to a beneficiary; and

(b) distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(3) A fiduciary shall determine the income and net income of an estate or income interest in a trust that terminates, other than the amount of net income determined under Subsection (2), under Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, and by:

(a) including in net income all income from property used or sold to discharge liabilities;

(b) paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries, court costs and other expenses of administration, and interest on estate and inheritance taxes and other taxes imposed because of the decedent's death, but the fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(i) the payment of the expenses from income will not cause the reduction or loss of the deduction; or

(ii) the fiduciary makes an adjustment under Subsection 22-3-507(2); and

(c) paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(i) to the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family

allowances, estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(ii) related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or income interest that terminates.

(4) If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under Subsection (3) or from principal to the extent net income is insufficient.

(5) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(6) A fiduciary shall distribute net income remaining after payments required by Subsections (4) and (5) in the manner described in Section 22-3-602 to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(7) (a) A fiduciary may not reduce principal or income receipts from property described in Subsection (2) because of a payment described in Section 22-3-501 or 22-3-502, to the extent the decedent's will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent the fiduciary recovers or expects to recover the payment from a third party.

(b) The net income and principal receipts from the property must be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on, or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

Section 41. Section 22-3-602 is repealed and reenacted to read:

22-3-602. Distribution to successor beneficiary.

(1) (a) Except to the extent Part 3, Unitrust, applies for a beneficiary that is a trust, each beneficiary described in Subsection 22-3-601(6) is entitled to receive a share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date.

(b) If a fiduciary makes more than one distribution of assets to beneficiaries to which this section applies, each beneficiary, including a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary received after the decedent's death, an income interest's other terminating event, or the preceding distribution by the fiduciary.

(2) In determining a beneficiary's share of net income under Subsection (1), the following rules apply:

(a) The beneficiary is entitled to receive a share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date.

(b) The beneficiary's fractional interest under Subsection (2)(a) must be calculated:

(i) on the aggregate value of the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(ii) without regard to:

(A) property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

(B) property required to pay pecuniary amounts not in trust.

(c) The distribution date under Subsection (2)(a) may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are distributed.

(3) To the extent a fiduciary does not distribute under this section all the collected but undistributed net income to each beneficiary as of a distribution date, the fiduciary shall maintain records showing the interest of each beneficiary in the net income.

(4) If this section applies to income from an asset, a fiduciary may apply the rules in this section to net gain or loss realized from the disposition of the asset after the decedent's death, an income interest's terminating event, or the preceding distribution by the fiduciary.

Section 42. Section 22-3-701 is enacted to read:

Part 7. Apportionment at Beginning and End of Income Interest

22-3-701. When right to income begins and ends.

(1) (a) An income beneficiary is entitled to net income in accordance with the terms of the trust from the date an income interest begins.

(b) The income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to:

(i) the trust for the current income beneficiary; or

(ii) a successive interest for a successor beneficiary.

(2) An asset becomes subject to a trust under Subsection (1)(b)(i):

(a) for an asset that is transferred to the trust during the settlor's life, on the date the asset is transferred;

(b) for an asset that becomes subject to the trust because of a decedent's death, on the date of the decedent's death, even if there is an intervening period of administration of the decedent's estate; or

(c) for an asset that is transferred to a fiduciary by a third party because of a decedent's death, on the date of the decedent's death.

(3) An asset becomes subject to a successive interest under Subsection (1)(b)(ii) on the day after the preceding income interest ends, as determined under Subsection (4), even if there is an intervening period of administration to wind up the preceding income interest.

(4) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to which a fiduciary may or must distribute income.

Section 43. Section 22-3-702 is enacted to read:

22-3-702. Apportionment of receipts and disbursements when decedent dies or income interest begins.

(1) A fiduciary shall allocate an income receipt or disbursement, other than a receipt to which Subsection 22-3-601(2) applies, to principal if its due date occurs before the date on which:

(a) for an estate, the decedent died; or

(b) for a trust or successive interest, an income interest begins.

(2) If the due date of a periodic income receipt or disbursement occurs on or after the date on which a decedent died or an income interest begins, a fiduciary shall allocate the receipt or disbursement to income.

(3) If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall:

(a) treat the receipt or disbursement under this section as accruing from day to day; and

(b) allocate to principal the portion of the receipt or disbursement accruing before the date on which a decedent died or an income interest begins, and to income the balance.

(4) A receipt or disbursement is periodic under Subsections (2) and (3) if:

(a) the receipt or disbursement must be paid at regular intervals under an obligation to make payments; or

(b) the payor customarily makes payments at regular intervals.

(5) (a) An item of income or obligation is due under this section on the date the payor is required to make a payment.

(b) If a payment date is not stated, there is no due date.

(6) Distributions to shareholders or other owners from an entity to which Section 22-3-401 applies are due:

(a) on the date fixed by or on behalf of the entity for determining the persons entitled to receive the distribution;

(b) if no date is fixed, on the date of the decision by or on behalf of the entity to make the distribution; or

(c) if no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

Section 44. Section 22-3-703 is enacted to read:

22-3-703. Apportionment when income interest ends.

(1) In this section:

(a) "Undistributed income" means net income received on or before the date on which an income interest ends.

(b) "Undistributed income" does not include an item of income or expense which is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(2) Except as otherwise provided in Subsection (3), when a mandatory income interest of a beneficiary ends, the fiduciary shall pay the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust to the beneficiary or, if the beneficiary does not survive the date the interest ends, to the beneficiary's estate.

(3) If a beneficiary has an unqualified power to withdraw more than 5% of the value of a trust immediately before an income interest ends:

(a) the fiduciary shall allocate to principal the undistributed income from the portion of the trust which may be withdrawn; and

(b) Subsection (2) applies only to the balance of the undistributed income.

(4) When a fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of assets ends, the fiduciary shall prorate the final payment as required to preserve an income tax, gift tax, estate tax, or other tax benefit.

Section 45. Section 22-3-801 is enacted to read:

Part 8. Miscellaneous Provisions

22-3-801. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 46. Section 22-3-802 is enacted to read:

22-3-802. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 47. Section 22-3-803 is enacted to read:

22-3-803. Application to trust or estate.

This chapter applies to a trust or estate existing or created on or after July 1, 2019, except as otherwise expressly provided in the terms of the trust or this chapter.

Section 48. Section 22-3-804 is enacted to read:

22-3-804. Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 49. Section 75-7-103 is amended to read:

75-7-103. Definitions.

(1) In this chapter:

(a) "Action," with respect to an act of a trustee, includes a failure to act.

(b) "Beneficiary" means a person that:

(i) has a present or future beneficial interest in a trust, vested or contingent; or

(ii) in a capacity other than that of trustee, holds a power of appointment over trust property.

(c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in Subsection 75-7-405(1).

(d) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(e) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(f) "Jurisdiction," with respect to a geographic area, includes a state or country.

(g) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(h) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(i) is a current distributee or permissible distributee of trust income or principal; or

(ii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(i) "Resident estate" or "resident trust" means:

(i) an estate of a decedent who at death was domiciled in this state;

(ii) a trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or

(iii) a trust administered in this state.

(j) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(k) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(l) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer or encumbrance of a beneficiary's interest.

(m) "Terms of a trust" means:

(i) except as otherwise provided in Subsection (1)(m)(ii), the manifestation of the settlor's intent regarding a trust's provisions as:

(A) expressed in the trust instrument; or [as may be]

(B) established by other evidence that would be admissible in a judicial proceeding[-];

(ii) the trust's provisions as established, determined, or amended by:

(A) a trustee or trust director in accordance with the applicable law;

(B) court order; or

(C) a nonjudicial settlement agreement under Section 75-7-110;

(iii) for an estate, a will; or

(iv) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

(n) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(2) Terms not specifically defined in this section have the meanings provided in Section 75-1-201.

Section 50. Repealer.

This bill repeals:

Section 22-3-105, Judicial control of discretionary power.

Section 22-3-106, Adjustments.

Section 22-3-107, Notice of proposed action -- Objections by beneficiary -- Liability of trustee -- Proceedings.

Section 22-3-603, Application of chapter to existing trusts and estates.

Section 22-3-604, Transitional provisions.

Section 22-7-101, Title.

Section 22-7-102, Definitions.

Section 22-7-103, Trustee powers to convert trusts -- Requirements to make unitrust election.

Section 22-7-104, Trustee powers to convert trusts where there is no trustee other than an interested trustee -- Requirements to make unitrust election.

Section 22-7-105, Unitrust election by beneficiary -- Ability to request trustee action.

Section 22-7-106, Settlor created unitrust.

Section 22-7-107, Valuations.

Section 22-7-108, Unitrust percentages.

Section 22-7-109, Treatment and allocation of income.

Section 22-7-110, Administration.

Section 22-7-111, Treatment of underpayments or overpayments.

Section 22-7-112, Effect of conversion or reconversion on governing instrument.

Section 22-7-113, Situs.

Section 22-7-114, Trustee's liability.

Section 22-7-115, Judicial control of discretionary powers.

Section 22-7-116, Limitation of election.

Section 22-7-117, Application.

Section 22-7-118, Trusts for which a marital deduction under the tax code has been taken -- Trusts for which the generation-skipping transfer tax does not apply.

Section 51. Effective date.
This bill takes effect on July 1, 2020.

CHAPTER 496**S. B. 263**

Passed March 14, 2019

Approved April 1, 2019

Effective July 1, 2020

**PROPERTY TAX
DEFINITION AMENDMENT**Chief Sponsor: Todd Weiler
House Sponsor: Timothy D. Hawkes**LONG TITLE****General Description:**

This bill amends provisions related to property tax exemption.

Highlighted Provisions:

This bill:

- ▶ amends the definition of educational purposes as the definition relates to property tax exemption; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-2-1101, as last amended by Laws of Utah 2018, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1101 is amended to read:**59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.**

(1) As used in this section:

(a) (i) “Educational purposes” means the same as that term is used in Section 501(c)(3), Internal Revenue Code, and interpreted according to federal law.

(ii) “Educational purposes” includes:

~~(4)~~ (A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

~~(ii)~~ (B) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) “Exclusive use exemption” means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) “Government exemption” means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) “Nonprofit entity” includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) “Tax relief” means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 2. Effective date.

This bill takes effect on July 1, 2020.

CHAPTER 497**S. B. 268**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

**TRANSPORTATION INFRASTRUCTURE
BOND AMENDMENTS**

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Francis D. Gibson

LONG TITLE**General Description:**

This bill modifies provisions related to transportation bond authorizations.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to bond authority for certain bonds and specifies how certain bond proceeds may be used to provide funding for certain projects;
- ▶ amends provisions regarding the County of the First Class Highway Projects Fund to provide certain funding for infrastructure development; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63B-18-401, as last amended by Laws of Utah 2013, Chapter 389

63B-27-101, as last amended by Laws of Utah 2018, Chapter 280

72-2-121, as last amended by Laws of Utah 2018, Chapters 403 and 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-18-401 is amended to read:**63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.**

(1) (a) The total amount of bonds issued under this section may not exceed \$2,077,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5) have been met and certifies the amount of bond proceeds that it needs to provide funding for the projects described in Subsection (2) for the next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

- (a) Interstate 15 reconstruction in Utah County;

(b) the Mountain View Corridor;

(c) the Southern Parkway; and

(d) state and federal highways prioritized by the Transportation Commission through:

(i) the prioritization process for new transportation capacity projects adopted under Section 72-1-304; or

(ii) the state highway construction program.

(3) (a) Except as provided in Subsection (5), the bond proceeds issued under this section shall be provided to the Department of Transportation.

(b) The Department of Transportation shall use bond proceeds and the funds provided to it under Section 72-2-124 to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highways:

(i) \$35 million to add highway capacity on I-15 south of the Spanish Fork Main Street interchange to Payson;

(ii) \$28 million for improvements to Riverdale Road in Ogden;

(iii) \$1 million for intersection improvements on S.R. 36 at South Mountain Road;

(iv) \$2 million for capacity enhancements on S.R. 248 between Sidewinder Drive and Richardson Flat Road;

(v) \$12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore Road;

(vi) \$7 million for 2600 South interchange modifications in Woods Cross;

(vii) \$9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder County;

(viii) \$18 million for the Provo west-side connector;

(ix) \$8 million for interchange modifications on I-15 in the Layton area;

(x) \$3,000,000 for an energy corridor study and environmental review for improvements in the Uintah Basin;

(xi) \$2,000,000 for highway improvements to Harrison Boulevard in Ogden City;

(xii) \$2,500,000 to be provided to Tooele City for roads around the Utah State University campus to create improved access to an institution of higher education;

(xiii) \$3,000,000 to be provided to the Utah Office of Tourism within the Governor's Office of Economic Development for transportation infrastructure improvements associated with annual tourism events that have:

(A) a significant economic development impact within the state; and

(B) significant needs for congestion mitigation;

(xiv) \$4,500,000 to be provided to the Governor's Office of Economic Development for transportation

infrastructure acquisitions and improvements that have a significant economic development impact within the state;

(xv) \$125,000,000 to pay all or part of the costs of state and federal highway construction or reconstruction projects prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304; ~~and~~

(xvi) \$10,000,000 for the Transportation Fund to pay all or part of the costs of state and federal highway construction or reconstruction projects as prioritized by the Transportation Commission[-];

(xvii) \$13,000,000 for corridor preservation and land acquisition for a transit hub at the mouth of Big Cottonwood Canyon;

(xviii) \$10,000,000 to be provided to the Governor's Office of Economic Development for transportation infrastructure and right-of-way acquisitions in a project area created by the military installation development authority created in Section 63H-1-201;

(xix) \$28,000,000 for right-of-way or land acquisition, design, engineering, and construction of infrastructure related to the Inland Port Authority created in Section 11-58-201;

(xx) \$6,000,000 for right-of-way acquisition, design, engineering, and construction related to Shepard Lane in Davis County; and

(xxi) \$4,000,000 for right-of-way acquisition, design, engineering, and construction costs related to 1600 North in Orem City.

(4) (a) The Department of Transportation shall use bond proceeds and the funds under Section 72-2-121 to pay for, or to provide funds to, a municipality, county, or political subdivision to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highway or transit projects in Salt Lake County:

(i) \$4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;

(ii) \$4,200,000 to Taylorsville City for highway improvements on or surrounding 6200 South and pedestrian crossings and system connections;

(iii) \$2,250,000 to Herriman City for highway improvements to the Salt Lake Community College Road;

(iv) \$5,300,000 to West Jordan City for highway improvements on 5600 West from 6200 South to 8600 South;

(v) \$4,000,000 to West Jordan City for highway improvements to 7800 South from 1300 West to S.R. 111;

(vi) \$7,300,000 to Sandy City for highway improvements on Monroe Street;

(vii) \$3,000,000 to Draper City for highway improvements to 13490 South from 200 West to 700 West;

(viii) \$5,000,000 to Draper City for highway improvements to Suncrest Road;

(ix) \$1,200,000 to Murray City for highway improvements to 5900 South from State Street to 900 East;

(x) \$1,800,000 to Murray City for highway improvements to 1300 East;

(xi) \$3,000,000 to South Salt Lake City for intersection improvements on West Temple, Main Street, and State Street;

(xii) \$2,000,000 to Salt Lake County for highway improvements to 5400 South from 5600 West to Mountain View Corridor;

(xiii) \$3,000,000 to West Valley City for highway improvements to 6400 West from Parkway Boulevard to SR-201 Frontage Road;

(xiv) \$4,300,000 to West Valley City for highway improvements to 2400 South from 4800 West to 7200 West and pedestrian crossings;

(xv) \$4,000,000 to Salt Lake City for highway improvements to 700 South from 2800 West to 5600 West;

(xvi) \$2,750,000 to Riverton City for highway improvements to 4570 West from 12600 South to Riverton Boulevard;

(xvii) \$1,950,000 to Cottonwood Heights for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard and Big Cottonwood Canyon;

(xviii) \$1,300,000 to Cottonwood Heights for highway improvements to Bengal Boulevard;

(xix) \$1,500,000 to Midvale City for highway improvements to 7200 South from I-15 to 1000 West;

(xx) \$1,000,000 to Bluffdale City for an environmental impact study on Porter Rockwell Boulevard;

(xxi) \$2,900,000 to the Utah Transit Authority for the following public transit studies:

(A) a circulator study; and

(B) a mountain transport study; and

(xxii) \$1,000,000 to South Jordan City for highway improvements to 2700 West.

(b) (i) Before providing funds to a municipality or county under this Subsection (4), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under this Subsection (4) solely for the projects described in Subsection (4)(a); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (4)(c), by January 1 of each year, the municipality or county receiving funds described in this Subsection (4) shall submit to the Department of Transportation a statement of cash flow for the next fiscal year detailing the funds necessary to pay project costs for the projects described in Subsection (4)(a).

(iii) After receiving the statement required under Subsection (4)(b)(ii) and after July 1, the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the next fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsection (4)(a), the municipality or county receiving funds under this Subsection (4) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(c) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (4)(b)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(5) Twenty million dollars of the bond proceeds issued under this section and funds available under Section 72-2-124 shall be provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds available for transportation infrastructure loans and transportation infrastructure assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund.

(6) The costs under Subsections (2), (3), and (4) may include the costs of studies necessary to make transportation infrastructure improvements, the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsections (2), (3), and (4) before the receipt of proceeds of bonds issued under this section.

(9) The Department of Transportation may enter into a new or amend an existing interlocal agreement related to the projects described in Subsections (3) and (4) to establish any necessary covenants or requirements not otherwise provided for by law.

Section 2. Section 63B-27-101 is amended to read:

63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed \$1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed \$1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(5) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed one percent of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) \$100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) ~~[Thirty-nine]~~ Fifty-six million dollars of the bond proceeds issued under this section shall be provided to the Transportation Infrastructure Loan Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, Transportation Infrastructure Loan Fund, including the amounts as follows:

(a) ~~[\$14,000,000]~~ \$24,000,000 to the military installation development authority created in Section 63H-1-201; ~~[and]~~

~~[(b) \$5,000,000 for right-of-way acquisition and highway construction in Salt Lake County for roads in the northwest quadrant of Salt Lake City.]~~

(b) \$5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway, infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

(c) \$7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) ~~[Ten]~~ Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of

improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 3. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) for fiscal year 2012–13 only, to pay for or to provide funds to a municipality or county to pay for a portion of right-of-way acquisition, construction, reconstruction, renovations, and improvements to highways described in Subsections 72–2–121.4(7), (8), and (9);

(e) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72–2–121.3 the amount required in Subsection 72–2–121.3(4)(c) minus the amounts transferred in accordance with Subsection 72–2–124(4)(a)(iv);

(f) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B–18–401 for the projects described in Subsection 63B–18–401(4)(a);

(g) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41–1a–1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(h) for fiscal year 2015 only, and after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to the remainder of the revenue available in the fund for the 2015 fiscal year:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(i) for fiscal year 2015–16 only, and after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to transfer an amount equal to \$25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(j) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59–12–2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B–27–102; and

(ii) the Transportation Fund created in Section 72–2–102 until \$28,079,000 has been deposited into the Transportation Fund;

(k) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(l) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state; ~~and~~

(m) for the 2018–19 fiscal year only, after the department has verified that the amount required under Subsection 72–2–121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(e), the payment under Subsection (4)(f), and the transfers under Subsections (4)(j) through (l) have been made, to transfer \$12,000,000 to the Department of Transportation to distribute for the following projects:

(i) \$2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

~~[(m)]~~ (n) for a fiscal year beginning after the amount described in Subsection (4)(j) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(j)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(f) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on July 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(j)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under this section is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory board of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

- (i) employment;
- (ii) recreation;
- (iii) commerce; and
- (iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

- (ii) any funds available for allocation;
- (iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

CHAPTER 498**S. B. 269**

Passed March 14, 2019

Approved April 1, 2019

Effective May 14, 2019

MILITARY DEVELOPMENT AUTHORITY

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Val L. Peterson

LONG TITLE**General Description:**

This bill modifies provisions related to the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the Military Installation Development Authority's ability to petition for annexation of certain areas;
- ▶ includes the Military Installation Development Authority as a local authority for purposes of a premises that is located within a project area and licensed by the Department of Alcoholic Beverage Control;
- ▶ addresses the exchange of real property between the Military Installation Development Authority and the Department of Transportation for purposes of constructing an interchange;
- ▶ provides limitations on challenges to a project area plan or a project area;
- ▶ extends an authorization for the Military Installation Development Authority to receive a portion of the property tax allocation;
- ▶ provides that certain property owned by the Military Installation Development Authority is not subject to property tax or privilege tax;
- ▶ extends to the Military Installation Development Authority the applicability of provisions relating to tax credit incentives for economic development; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:**AMENDS:**

- 10-2-402, as last amended by Laws of Utah 2017, Chapter 367
- 32B-1-102, as last amended by Laws of Utah 2018, Chapters 249 and 313
- 63H-1-102, as last amended by Laws of Utah 2018, Chapter 442
- 63H-1-202, as last amended by Laws of Utah 2015, Chapter 377
- 63H-1-302, as last amended by Laws of Utah 2018, Chapter 442
- 63H-1-403, as last amended by Laws of Utah 2013, Chapter 362
- 63H-1-501, as last amended by Laws of Utah 2018, Chapter 442
- 63N-2-103, as last amended by Laws of Utah 2016, Chapter 350

ENACTS:

63H-1-206, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63N-2-103, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-402 is amended to read:**10-2-402. Annexation -- Limitations.**

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) An unincorporated area may not be annexed to a municipality unless:

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3); or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) The legislative body of a specified county may not approve urban development within a municipality's expansion area unless:

(a) the county notifies the municipality of the proposed development; and

(b) (i) the municipality consents in writing to the development; or

(ii) (A) within 90 days after the county's notification of the proposed development, the municipality submits to the county a written objection to the county's approval of the proposed development; and

(B) the county responds in writing to the municipality's objections.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) (a) As used in this subsection, "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area [described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act,] without the authority's approval.

~~[(b)] (c) (i) Except as provided in Subsection (8)(b)(c)(ii), the Military Installation Development Authority may petition for annexation of [a project area and contiguous surrounding land] the following areas to a municipality as if it was the sole private [property owner of the project area and surrounding land, if the area to be annexed is entirely contained within the boundaries of a~~

military installation.] property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

~~[(ii) Before petitioning for annexation under Subsection (8)(b)(i), the Military Installation Development Authority shall provide the military installation with a copy of the petition for annexation. The military installation may object to the petition for annexation within 14 days of receipt of the copy of the annexation petition. If the military installation objects under this Subsection (8)(b)(i), the Military Installation Development Authority may not petition for the annexation as if it was the sole private property owner.]~~

~~[(iii) (i) If any portion of an area annexed under a petition for annexation filed by [a] the Military Installation Development Authority is located in a specified county:~~

~~(A) the annexation process shall follow the requirements for a specified county; and~~

~~(B) the provisions of Subsection 10-2-402(6) do not apply.~~

Section 2. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport with a United States Customs office on the premises of the international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) “Alcoholic product” does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) “Alcoholic product” includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) “Alcohol training and education seminar” means a seminar that is:

(a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) “Banquet” means an event:

(a) that is held at one or more designated locations approved by the commission in or on the premises of a:

(i) hotel;

(ii) resort facility;

(iii) sports center; or

(iv) convention center;

(b) for which there is a contract:

(i) between a person operating a facility listed in Subsection (6)(a) and another person; and

(ii) under which the person operating a facility listed in Subsection (6)(a) is required to provide an alcoholic product at the event; and

(c) at which food and alcoholic products may be sold, offered for sale, or furnished.

(7) “Bar structure” means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(a) stored; or

(b) dispensed.

(8) (a) “Bar establishment license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) “Bar establishment license” includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(9) “Bar license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(10) (a) Subject to Subsection (10)(d), “beer” means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by volume or 3.2% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Beer” may or may not contain hops or other vegetable products.

(c) “Beer” includes a product that:

(i) contains alcohol in the percentages described in Subsection (10)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) “Beer” does not include a flavored malt beverage.

(11) “Beer-only restaurant license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(12) “Beer retailer” means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(13) “Beer wholesaling license” means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(14) “Billboard” means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

- (d) a poster;
- (e) a sign;
- (f) a signboard; or
- (g) a scoreboard.
- (15) “Brewer” means a person engaged in manufacturing:
- (a) beer;
- (b) heavy beer; or
- (c) a flavored malt beverage.
- (16) “Brewery manufacturing license” means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.
- (17) “Certificate of approval” means a certificate of approval obtained from the department under Section 32B-11-201.
- (18) “Chartered bus” means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:
- (a) under a single contract;
- (b) at a fixed charge in accordance with the bus company’s tariff; and
- (c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.
- (19) “Church” means a building:
- (a) set apart for worship;
- (b) in which religious services are held;
- (c) with which clergy is associated; and
- (d) that is tax exempt under the laws of this state.
- (20) “Commission” means the Alcoholic Beverage Control Commission created in Section 32B-2-201.
- (21) “Commissioner” means a member of the commission.
- (22) “Community location” means:
- (a) a public or private school;
- (b) a church;
- (c) a public library;
- (d) a public playground; or
- (e) a public park.
- (23) “Community location governing authority” means:
- (a) the governing body of the community location; or
- (b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.
- (24) “Container” means a receptacle that contains an alcoholic product, including:
- (a) a bottle;
- (b) a vessel; or
- (c) a similar item.
- (25) “Convention center” means a facility that is:
- (a) in total at least 30,000 square feet; and
- (b) otherwise defined as a “convention center” by the commission by rule.
- (26) (a) “Counter” means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.
- (b) “Counter” does not include a dispensing structure.
- (27) “Department” means the Department of Alcoholic Beverage Control created in Section 32B-2-203.
- (28) “Department compliance officer” means an individual who is:
- (a) an auditor or inspector; and
- (b) employed by the department.
- (29) “Department sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling.
- (30) “Dining club license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.
- (31) “Director,” unless the context requires otherwise, means the director of the department.
- (32) “Disciplinary proceeding” means an adjudicative proceeding permitted under this title:
- (a) against a person subject to administrative action; and
- (b) that is brought on the basis of a violation of this title.
- (33) (a) Subject to Subsection (33)(b), “dispense” means:
- (i) drawing an alcoholic product; and
- (ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.
- (b) The definition of “dispense” in this Subsection (33) applies only to:
- (i) a full-service restaurant license;
- (ii) a limited-service restaurant license;
- (iii) a reception center license; and
- (iv) a beer-only restaurant license.

(34) “Dispensing structure” means a surface or structure on a licensed premises:

- (a) where an alcoholic product is dispensed; or
- (b) from which an alcoholic product is served.

(35) “Distillery manufacturing license” means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(36) “Distressed merchandise” means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(37) “Educational facility” includes:

- (a) a nursery school;
- (b) an infant day care center; and
- (c) a trade and technical school.

(38) “Equity license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(39) “Event permit” means:

- (a) a single event permit; or
- (b) a temporary beer event permit.

(40) “Exempt license” means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(41) (a) “Flavored malt beverage” means a beverage:

- (i) that contains at least .5% alcohol by volume;
- (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;
- (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) “Flavored malt beverage” is considered liquor for purposes of this title.

(42) “Fraternal license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(43) “Full-service restaurant license” means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(44) (a) “Furnish” means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) “Furnish” includes to:

- (i) serve;
- (ii) deliver; or
- (iii) otherwise make available.

(45) “Guest” means an individual who meets the requirements of Subsection 32B-6-407(9).

(46) “Hard cider” means the same as that term is defined in 26 U.S.C. Sec. 5041.

(47) “Health care practitioner” means:

- (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;
- (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(48) (a) “Heavy beer” means a product that:

- (i) contains more than 4% alcohol by volume; and
- (ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) “Heavy beer” is considered liquor for the purposes of this title.

(49) “Hotel” is as defined by the commission by rule.

(50) “Hotel license” means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(51) “Identification card” means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(52) “Industry representative” means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(53) “Industry representative sample” means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(54) “Interdicted person” means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

- (a) law; or
- (b) court order.

(55) “Intoxicated” means that a person:

(a) is significantly impaired as to the person’s mental or physical functions as a result of the use of:

- (i) an alcoholic product;
- (ii) a controlled substance;
- (iii) a substance having the property of releasing toxic vapors; or
- (iv) a combination of Subsections (55)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(56) “Investigator” means an individual who is:

- (a) a department compliance officer; or
- (b) a nondepartment enforcement officer.

(57) “Invitee” means the same as that term is defined in Section 32B-8-102.

(58) “License” means:

- (a) a retail license;
- (b) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;
- (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act; or
- (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

(59) “Licensee” means a person who holds a license.

(60) “Limited-service restaurant license” means a license issued in accordance with Chapter 5,

Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(61) “Limousine” means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

- (a) in which the driver and a passenger are separated by a partition, glass, or other barrier;
- (b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity’s tariff; and
- (c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(62) (a) (i) “Liquor” means a liquid that:

(A) is:

- (I) alcohol;
- (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) “Liquor” includes:

- (A) heavy beer;
- (B) wine; and
- (C) a flavored malt beverage.

(b) “Liquor” does not include beer.

(63) “Liquor Control Fund” means the enterprise fund created by Section 32B-2-301.

(64) “Liquor warehousing license” means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(65) “Local authority” means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county; ~~(or)~~

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township~~[-];~~ or

(c) for premises that are located in a project area as defined in Section 63H-1-201 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(66) “Lounge or bar area” is as defined by rule made by the commission.

(67) “Manufacture” means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(68) “Member” means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(69) (a) “Military installation” means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) “Military installation” does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(70) “Minor” means an individual under the age of 21 years.

(71) “Nondepartment enforcement agency” means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(72) “Nondepartment enforcement officer” means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(73) (a) “Off-premise beer retailer” means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer’s premises.

(b) “Off-premise beer retailer” does not include an on-premise beer retailer.

(74) “Off-premise beer retailer state license” means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(75) “On-premise banquet license” means a license issued in accordance with Chapter 5, Retail

License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(76) “On-premise beer retailer” means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer’s premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(77) “Opaque” means impenetrable to sight.

(78) “Package agency” means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(79) “Package agent” means a person who holds a package agency.

(80) “Patron” means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort;

(g) a public customer under a resort spa sublicense, as defined in Section 32B-8-102; or

(h) an invitee.

(81) “Permittee” means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(82) “Person subject to administrative action” means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

- (d) a supplier;
- (e) an importer;
- (f) one of the following holding a certificate of approval:
- (i) an out-of-state brewer;
- (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- (g) staff of:
- (i) a person listed in Subsections (82)(a) through (f); or
- (ii) a package agent.
- (83) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.
- (84) "Prescription" means an order issued by a health care practitioner when:
- (a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;
- (b) the order is made in the course of that health care practitioner's professional practice; and
- (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- (85) (a) "Private event" means a specific social, business, or recreational event:
- (i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and
- (ii) that is limited in attendance to people who are specifically designated and their guests.
- (b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.
- (86) (a) "Proof of age" means:
- (i) an identification card;
- (ii) an identification that:
- (A) is substantially similar to an identification card;
- (B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;
- (C) includes date of birth; and
- (D) has a picture affixed;
- (iii) a valid driver license certificate that:
- (A) includes date of birth;
- (B) has a picture affixed; and

- (C) is issued:
- (I) under Title 53, Chapter 3, Uniform Driver License Act; or
- (II) in accordance with the laws of the state in which it is issued;
- (iv) a military identification card that:
- (A) includes date of birth; and
- (B) has a picture affixed; or
- (v) a valid passport.
- (b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.
- (87) (a) "Public building" means a building or permanent structure that is:
- (i) owned or leased by:
- (A) the state; or
- (B) a local government entity; and
- (ii) used for:
- (A) public education;
- (B) transacting public business; or
- (C) regularly conducting government activities.
- (b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.
- (88) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.
- (89) "Reception center" means a business that:
- (a) operates facilities that are at least 5,000 square feet; and
- (b) has as its primary purpose the leasing of the facilities described in Subsection (89)(a) to a third party for the third party's event.
- (90) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.
- (91) (a) "Record" means information that is:
- (i) inscribed on a tangible medium; or
- (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- (b) "Record" includes:
- (i) a book;
- (ii) a book of account;
- (iii) a paper;
- (iv) a contract;
- (v) an agreement;

- (vi) a document; or
- (vii) a recording in any medium.
- (92) "Residence" means a person's principal place of abode within Utah.
- (93) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.
- (94) "Resort" means the same as that term is defined in Section 32B-8-102.
- (95) "Resort facility" is as defined by the commission by rule.
- (96) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.
- (97) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:
- (a) over-serving alcoholic beverages to customers;
 - (b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and
 - (c) serving alcoholic beverages to minors.
- (98) "Restaurant" means a business location:
- (a) at which a variety of foods are prepared;
 - (b) at which complete meals are served; and
 - (c) that is engaged primarily in serving meals.
- (99) "Retail license" means one of the following licenses issued under this title:
- (a) a full-service restaurant license;
 - (b) a master full-service restaurant license;
 - (c) a limited-service restaurant license;
 - (d) a master limited-service restaurant license;
 - (e) a bar establishment license;
 - (f) an airport lounge license;
 - (g) an on-premise banquet license;
 - (h) an on-premise beer license;
 - (i) a reception center license;
 - (j) a beer-only restaurant license;
 - (k) a resort license; or
 - (l) a hotel license.
- (100) "Room service" means furnishing an alcoholic product to a person in a guest room of a:
- (a) hotel; or
 - (b) resort facility.
- (101) (a) "School" means a building used primarily for the general education of minors.
- (b) "School" does not include an educational facility.
- (102) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.
- (103) "Serve" means to place an alcoholic product before an individual.
- (104) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:
- (a) for the entertainment of one or more patrons;
 - (b) on the premises of:
 - (i) a bar licensee; or
 - (ii) a tavern;
 - (c) on behalf of or at the request of the licensee described in Subsection (104)(b);
 - (d) on a contractual or voluntary basis; and
 - (e) whether or not the person is designated as:
 - (i) an employee;
 - (ii) an independent contractor;
 - (iii) an agent of the licensee; or
 - (iv) a different type of classification.
- (105) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.
- (106) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverages per year.
- (107) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.
- (108) (a) "Spirituous liquor" means liquor that is distilled.
- (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- (109) "Sports center" is as defined by the commission by rule.
- (110) (a) "Staff" means an individual who engages in activity governed by this title:
- (i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;
 - (ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or
 - (iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.
- (b) "Staff" includes:
- (i) an officer;

- (ii) a director;
- (iii) an employee;
- (iv) personnel management;
- (v) an agent of the licensee, including a managing agent;

- (vi) an operator; or
- (vii) a representative.

(111) "State of nudity" means:

(a) the appearance of:

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

- (i) the nipple or areola of a female human breast;
- (ii) a human genital;
- (iii) a human pubic area; or
- (iv) a human anus.

(112) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(113) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

- (i) a package agency;
- (ii) a licensee; or
- (iii) a permittee.

(114) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(115) "Sublicense" means the same as that term is defined in Section 32B-8-102 or 32B-8b-102.

(116) "Supplier" means a person who sells an alcoholic product to the department.

(117) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(118) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(119) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(120) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(121) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

- (i) unlabeled;
- (ii) leaky;
- (iii) damaged;
- (iv) difficult to open; or
- (v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

- (A) cloudy;
- (B) spoiled; or
- (C) chemically determined to be impure; or
- (iii) contains:

- (A) sediment; or
- (B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(122) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(123) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 3. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized before the year in which the authority creates the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(18) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of ~~a hotel that is~~ the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity ~~in~~ under which the privately owned entity agrees to operate the ~~hotel~~ property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(22) (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(25) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(26) "Taxing entity" means a public entity that levies a tax on property within a project area.

(27) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) "Transient room tax" means a tax under Section 59-12-352.

Section 4. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) (a) The definitions in Section 57-8-3 apply to this Subsection (3).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for \$1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(4) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

Section 5. Section 63H-1-206 is enacted to read:

63H-1-206. Property exchange -- Freeway interchange construction.

(1) If the authority receives title to real property from a military installation for construction of an interchange by the Department of Transportation, the authority shall exchange the real property intended for the interchange with the Department of Transportation for any unused remainder of real property that the Department of Transportation does not need for the freeway after the interchange is complete.

(2) An exchange described in Subsection (1) shall occur at no cost to the authority or the Department of Transportation, regardless of the value of the real property.

Section 6. Section 63H-1-302 is amended to read:

63H-1-302. Number of board members -- Appointment.

(1) The authority's board shall consist of seven members.

(2) The governor shall appoint five members of the board as follows:

(a) one member shall be appointed who is interested in supporting military efforts in the state;

(b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and

(c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.

(3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.

(4) (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.

(d) If there are more than three project areas where development is actively occurring located in different counties or municipalities, the governor:

(i) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the highest-value project area, as measured by the

planned taxable value of the land within the project area to be developed by the private sector;

(ii) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the second-highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector; and

(iii) may appoint one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to a project area where development is actively occurring for which there is no representation on the board.

(e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) The authority may:

(a) appoint nonvoting members of the board, including a member from a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board under Subsection (2)(b); and

(b) set terms for nonvoting members appointed under Subsection (5)(a).

Section 7. Section 63H-1-403 is amended to read:

63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

~~(a)~~ (i) the board resolution adopting the project area plan or a summary of the resolution; and

~~(b)~~ (ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan shall become effective on the date of publication of the notice.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section 63F-1-506; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) For a project area created before December 1, 2018, a legal action or other challenge is barred.

(c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Section 8. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.

(1) (a) The authority may:

(i) subject to Subsection (1)(b)[7];

(A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

(ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) shall begin on the day on which the authority receives the first property tax allocation from that parcel.

(2) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall enter into a contract with the authority to make an annual payment to the authority:

(i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and

(i) until the parcel becomes subject to the property tax described in Subsection (2).

(b) The authority may use the revenue from payments described in Subsection (3)(a) for any purpose described in Subsection 63H-1-502(1).

(4) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(5) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

(6) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(a) a hotel;

(b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

Section 9. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) "Authority project area" means a project area of the Military Installation Development Authority, created in Section 63H-1-201.

(2) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(3) "Community reinvestment agency" ~~has~~ means the same [meaning] as that term is defined in Section 17C-1-102.

(4) "Development zone" means an economic development zone created under Section 63N-2-104.

(5) "Gross wages" does not include health care or other paid or unpaid benefits.

(6) "High paying jobs" means:

(a) with respect to a business entity, the aggregate average annual gross wages [~~not including health care or other paid or unpaid benefits~~];

(i) of newly created full-time employment positions in a business entity; and

(ii) that are at least 110% of the average wage of a community in which the employment positions will exist;

(b) with respect to a county, the aggregate average annual gross wages [~~not including health care or other paid or unpaid benefits~~];

(i) of newly created full-time employment positions in a new commercial project within the county; and

(ii) that are at least 110% of the average wage of the county in which the employment positions will exist; ~~or~~

(c) with respect to a city or town, the aggregate average annual gross wages [~~not including health care or other paid or unpaid benefits~~];

(i) of newly created full-time employment positions in a new commercial project within the city or town; and

(ii) that are at least 110% of the average wages of the city or town in which the employment positions will exist; ~~or~~

(d) with respect to the Military Installation Development Authority, the aggregate average annual gross wages:

(i) of newly created full-time employment positions in a new commercial project within the city or town that is closest to the location of the authority project area; and

(ii) that are at least 110% of the average wages of the city or town.

(7) "Local government entity" means:

(a) a county, city, or town that enters into an agreement with the office to have a new commercial project that:

(i) is initiated within the county's, city's, or town's boundaries; and

(ii) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2; ~~or~~

(b) the Military Installation Development Authority, if the Military Installation Development Authority enters into an agreement described in Subsection (7)(a).

(8) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" does not include retail business.

(9) (a) "New incremental jobs" means full-time employment positions that are filled by employees who work at least 30 hours per week and that are:

(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

(ii) with respect to a county, created as a result of a new commercial project with respect to which the county or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2; or

(iii) with respect to a city or town or the Military Installation Development Authority, created as a result of a new commercial project with respect to which the city, town, ~~or a~~ community development and renewal agency, or Military Installation Development Authority seeks to claim a tax credit under Section 59-7-614.2.

(b) "New incremental jobs" may include full-time equivalent positions that are filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee.

(c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction in the state to another jurisdiction in the state.

~~[(8)]~~ (10) "New state revenues" means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that a business entity pays as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections ~~[(8)]~~ (10)(a)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections ~~[(8)]~~ (10)(a)(i) through (iii); or

(b) with respect to a local government entity:

(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(C) Title 59, Chapter 10, Part 2, Trusts and Estates;

(D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(E) a combination of Subsections ~~[(8)]~~ (10)(b)(ii)(A) through (D);

(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections ~~[(8)]~~ (10)(b)(i) through (iii).

~~[(9)]~~ (11) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity's existing work force in the state.

~~[(10)]~~ (12) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

~~[(11)]~~ (13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

~~[(12)]~~ (14) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 10. Coordinating S.B. 269 with H.B. 433 -- Superseding technical and substantive amendments.

If this S.B. 269 and H.B. 433, Inland Port Amendments, both pass and become law, it is the

intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by modifying Section 63N-2-103 as follows:

(1) insert a definition of “authority” that reads:

“(1) “Authority” means:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.”;

(2) amend the definition of “authority project area” to read:

“Authority project area” means a project area of:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.”;

(3) amend Subsection (6)(d) of the definition of “high paying jobs” to read:

“(d) with respect to an authority, the aggregate average annual gross wages:

(i) of newly created full-time employment positions in a new commercial project within the city or town that is closest to the location of the authority project area; and

(ii) that are 110% of the average wages of the city or town.”;

(4) delete Subsection (7), the definition of “inland port authority”;

(5) amend the definition of “local government entity” to read:

“Local government entity” means a county, a city, a town, or an authority that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within:

(i) the boundary of the county, city, or town; or

(ii) an authority project area; and

(b) qualifies the county, city, town, or authority to receive a tax credit under Section 59-7-614.2.”;

(6) amend Subsection (9)(a)(iii) in the definition of “new incremental jobs” to read:

“(iii) with respect to a city, a town, or an authority, created as a result of a new commercial project with respect to which the city, town, authority, or a community development and renewal agency seeks to claim a tax credit under Section 59-7-614.2.”; and

(7) renumber the remaining subsections and cross references to those subsections accordingly.

CHAPTER 499**H. B. 84**

Passed February 25, 2019

Approved April 2, 2019

Effective May 14, 2019

**ECONOMIC DEVELOPMENT
PROGRAMS AMENDMENTS**

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill amends provisions related to the Rural Fast Track Program and the Business Expansion and Retention Initiative.

Highlighted Provisions:

This bill:

- ▶ changes the number of months examined in determining the creation of a company's new incremental job under the Rural Fast Track Program;
- ▶ removes a cap on the amount of money the Board of Business and Economic Development may grant to a single rural economic development entity as part of the Business Expansion and Retention Initiative; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-3-104, as last amended by Laws of Utah 2018, Chapter 204

63N-3-104.5, as enacted by Laws of Utah 2018, Chapter 204

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-104 is amended to read:**63N-3-104. Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.**

(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63N-3-103(1)(a).

(2) In awarding a grant, loan, or other financial assistance under this section, the administrator shall:

(a) consider whether the award will:

(i) provide an efficient way for small companies in rural areas of the state to receive incentives for capital investment; and

(ii) lead to the creation of high paying jobs in rural areas of the state; and

(b) request and consider a recommendation from the Governor's Rural Partnership Board created in Section 63C-10-102 regarding an applicant seeking a grant, loan, or other financial assistance under Subsection (5)(d).

(3) (a) Subject to available funds in the restricted account, at least \$1,500,000 from the Industrial Assistance Account created in Subsection 63N-3-103(1) shall be used to fund the program at the beginning of each fiscal year.

(b) The amount referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63N-3-103(1)(a).

(c) If any of the funding referred to in Subsection (3)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company:

(i) shall complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) shall be located and conduct [its] the company's business operations in a county in the state of the third, fourth, fifth, or sixth class as described in Section 17-50-501;

(iii) that is located and conducts [its] the company's business operations in a county of the third class as described in Section 17-50-501, may not be located and conduct [its] the company's business operations within a city that has a:

(A) population of more than 20,000; or

(B) median household income of more than \$70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

(iv) shall have been in business in the state for at least two years; and

(v) shall have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);

(ii) who qualifies as an employee under Subsection (4)(a)(v); and

(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) \$1,000 for each new incremental job that pays over 110% of the county's median annual wage;

(ii) \$1,250 for each incremental job that pays over 115% of the county's median annual wage; and

(iii) \$1,500 for each incremental job that pays over 125% of the county's median annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous [24] 12 months.

(d) A small company may also apply for grants, loans, or other financial assistance under the program for capital investment to help develop [its] the company's business in rural Utah and may receive:

(i) up to \$50,000 under the program if approved by the administrator; or

(ii) over \$50,000 under the program if approved by the administrator and the board.

(6) The administrator shall make an annual report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and [their] the impact of the awards on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63N-1-301.

Section 2. Section 63N-3-104.5 is amended to read:

63N-3-104.5. Business Expansion and Retention Initiative -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.

(1) As used in this section:

(a) "Business resource centers" means the same as that term is defined in Section 63N-3-303.

(b) "Rural economic development entity" means a public, nonprofit, or private organization primarily engaged in economic development efforts in a rural area of the state, and may include:

(i) county, city, or tribal economic development offices;

(ii) associations of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(iii) business resource centers; or

(iv) small business development centers, established under the United States Small Business Administration's small business development center program.

(2) (a) There is created the Business Expansion and Retention Initiative.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection 63N-3-103(1)(a).

(3) In awarding a grant under this section, the administrator shall:

(a) consider whether the grant will:

(i) assist new and existing rural businesses;

(ii) influence rural job creation; and

(iii) diversify Utah's rural economies; and

(b) request and consider a recommendation from the Governor's Rural Partnership Board created in Section 63C-10-102 regarding an applicant seeking financial assistance under this section.

(4) (a) Subject to available funds in the restricted account, at least \$350,000 from the Industrial Assistance Account created in Subsection 63N-3-103(1) shall be used to fund the program at the beginning of each fiscal year.

(b) The amount referred to in Subsection (4)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection 63N-3-103(1)(a).

(c) If any of the funding referred to in Subsection (4)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(5) (a) To qualify for participation in the program a rural economic development entity:

(i) shall complete and file with the office an application for participation in the program;

(ii) shall be located and conduct its operations in a county in the state of the third, fourth, fifth, or sixth class as described in Section 17-50-501; and

(iii) that is located and conducts its operations in a county of the third class as described in Section 17-50-501, may not be located and conduct its operations within a city that has a:

(A) population of more than 20,000; or

(B) median household income of more than \$70,000 as reflected in the most recently available data collected and reported by the United States Census Bureau.

(b) (i) The office shall verify an applicant's qualifications under Subsection (5)(a).

(ii) The application must be approved by the administrator in order for a rural economic development entity to receive a grant under this section.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (5)(a)(i); and

(ii) the verification procedure referred to in Subsection (5)(b).

~~[(6) The board may issue a grant of no more than \$30,000 to a single rural economic development entity under this section in any calendar year.]~~

~~[(7)] (6) A rural economic development entity shall use a grant awarded under this section to:~~

~~(a) conduct outreach and information gathering efforts to better understand the needs of local businesses; or~~

~~(b) engage in other activity approved by the administrator that is intended to expand or retain businesses in a rural area of the state.~~

~~[(8)] (7) The administrator shall make an annual report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section 63N-1-301.~~

CHAPTER 500**H. B. 99**

Passed March 13, 2019

Approved April 2, 2019

Effective May 14, 2019

**CATASTROPHIC WILDFIRE AND
OTHER PUBLIC NUISANCE REVISIONS**Chief Sponsor: Ken Ivory
Senate Sponsor: Ronald Winterton**LONG TITLE****General Description:**

This bill modifies the Catastrophic Public Nuisance Act.

Highlighted Provisions:

This bill:

- ▶ expands notification requirements; and
- ▶ provides that, under certain circumstances, the state shall indemnify, defend, and hold a chief executive officer or county sheriff harmless from any claims or damages, including court costs and attorney fees that are assessed as a result of the chief executive officer's or county sheriff's action in abating a catastrophic public nuisance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

11-51a-103, as enacted by Laws of Utah 2015, Chapter 419

11-51a-104, as enacted by Laws of Utah 2015, Chapter 419

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-51a-103 is amended to read:**11-51a-103. Declaration of catastrophic public nuisance -- Authority to declare and demand abatement.**

(1) The chief executive officer of a political subdivision or a county sheriff may determine that a catastrophic public nuisance exists on land within the borders of the political subdivision.

(2) In evaluating whether a catastrophic public nuisance exists, the chief executive officer of a political subdivision or a county sheriff may consider:

- (a) tree density and overall health of a forested area, including the fire regime condition class;
- (b) insect and disease infestation, including insect and disease hazard ratings;
- (c) fuel loads;
- (d) forest or range type;
- (e) slope and other natural characteristics of an area;

(f) watershed protection criteria;

(g) weather and climate; and

(h) any other factor that the chief executive officer of a political subdivision or a county sheriff reasonably considers to be relevant, under the circumstances.

(3) Except as provided in Section 11-51a-104, upon making the determination described in Subsection (1), the chief executive officer of a political subdivision or a county sheriff shall after consultation with the attorney general:

(a) serve notice of the determination described in Subsection (1), by hand or certified mail, on the federal or state agency that manages the land upon which the catastrophic nuisance exists; and

(b) provide a copy of the determination that is served under Subsection (3)(a) to, together with a proposed detailed abatement plan:

(i) the governor[;];

(ii) the attorney general[; ~~and~~];

(iii) if the catastrophic public nuisance exists on federally managed land, the state's congressional delegation[-];

(iv) the chairs of the Executive Appropriations Committee of the Legislature; and

(v) the Office of the Legislative Fiscal Analyst.

(4) The notice described in Subsection (3)(a) shall include:

(a) a detailed explanation of the basis for determination that a catastrophic public nuisance exists on the land in question;

(b) a demand that the federal or state agency formulate a plan to abate the catastrophic nuisance; and

(c) a specific date, no less than 30 days after the day on which the notice is received, by which time the federal or state agency that manages the land shall:

(i) abate the catastrophic public nuisance; or

(ii) produce a plan for mitigating the catastrophic public nuisance that is reasonably acceptable to the county or subdivision.

(5) The chief executive officer of a political subdivision or a county sheriff may enter into a plan with the relevant federal or state agency, or both, to abate the catastrophic public nuisance.

(6) If, after receiving the notice described in Subsections (3)(a) and (4), the federal or state agency does not respond by the date requested in the notice or otherwise indicates that the federal or state agency is unwilling to take action to abate the catastrophic public nuisance, the chief executive officer of a political subdivision or a county sheriff shall consult with the county attorney and attorney general.

Section 2. Section 11-51a-104 is amended to read:**11-51a-104. Emergency abatement of a catastrophic public nuisance -- Indemnify, defend, hold harmless.**

(1) If a chief executive officer of a political subdivision or a county sheriff determines that a public nuisance exists on federally managed land, pursuant to Subsection 11-51a-103(1), and the chief executive officer of a political subdivision or the county sheriff also finds that the catastrophic public nuisance in question adversely affects, or constitutes a threat to, the public health, safety, and welfare of the people of the political subdivision, the chief executive officer of the political subdivision or the county sheriff may, after consulting with the attorney general, pursue all remedies allowed by law.

(2) In seeking an emergency abatement of a catastrophic public nuisance, a chief executive officer of a political subdivision or a county sheriff shall attempt, as much as possible, to:

(a) coordinate with state and federal agencies; and

(b) seek the advice of professionals, including private sector professionals, with expertise in abating a catastrophic public nuisance.

(3) The state shall indemnify, defend, and hold a chief executive officer or county sheriff harmless from any claims or damages, including court costs and attorney fees, that are assessed as a result of the chief executive officer's or county sheriff's action, if:

(a) the chief executive officer or county sheriff has complied with this chapter;

(b) the court challenge against the chief executive officer or county sheriff addresses the chief executive officer's or county sheriff's action in abating a catastrophic public nuisance; and

(c) the chief executive officer's or county sheriff's action abating the catastrophic public nuisance were in reasonable furtherance of the detailed proposed abatement plan described in Subsection 11-51a-103(3)(b).

CHAPTER 501**H. B. 109**

Passed March 1, 2019
 Approved April 2, 2019
 Effective May 14, 2019

**HYDROGEN FUEL
 PRODUCTION AMENDMENTS**

Chief Sponsor: Douglas V. Sagers
 Senate Sponsor: Scott D. Sandall
 Cosponsor: Melissa G. Ballard

LONG TITLE**General Description:**

This bill modifies provisions related to the Permanent Community Impact Fund and the High Cost Infrastructure Development Tax Credit Act.

Highlighted Provisions:

This bill:

- ▶ expands the definition of “throughput infrastructure project” to include a plant or facility that stores, produces, or distributes hydrogen for use as a fuel in zero emission motor vehicles, for electrical generation, or for industrial use in the context of allowable uses for money in the Permanent Community Impact Fund;
- ▶ expands the definition of “high cost infrastructure project” to include the construction of a plant or other facility for the production and distribution of hydrogen fuel used for transportation, in the context of a program to allow a tax credit for costs associated with the project; and
- ▶ expands the definition of “infrastructure.”

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-8-302, as last amended by Laws of Utah 2017, Chapter 262
 63M-4-602, as last amended by Laws of Utah 2016, Chapter 348

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-302 is amended to read:**35A-8-302. Definitions.**

As used in this part:

(1) “Bonus payments” means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) “Impact board” means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) “Impact fund” means the Permanent Community Impact Fund established by this chapter.

(4) “Interlocal agency” means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) “Leasing Act” means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) “Qualifying sales and use tax distribution reduction” means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) “Subdivision” means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

(8) (a) “Throughput infrastructure project” means the following facilities, whether located within, partially within, or outside of the state:

(i) a bulk commodities ocean terminal;

(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

(iii) electric transmission lines and ancillary facilities;

(iv) a shortline freight railroad and ancillary facilities;

(v) a plant ~~for~~ or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use; or

(vi) a plant for the production of zero emission hydrogen fueled trucks.

(b) “Throughput infrastructure project” includes:

(i) an ownership interest or a joint or undivided ownership interest in a facility;

(ii) a membership interest in the owner of a facility; or

(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 2. Section 63M-4-602 is amended to read:**63M-4-602. Definitions.**

As used in this part:

(1) “Applicant” means a person that conducts business in the state and that applies for a tax credit under this part.

(2) “Fuel standard compliance project” means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency’s Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(3) “High cost infrastructure project” means a project:

(a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business; ~~or~~

(ii) that involves new investment of at least \$50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility, including a fueling station, for the storage, production, or distribution of hydrogen fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) \$10,000,000.

(4) “Infrastructure” means:

(a) an energy delivery project as defined in Section 63H-2-102;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project; ~~or~~

(g) a solution-mined subsurface salt cavern; or

~~[(g)]~~ (h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.

(5) (a) “Infrastructure cost-burdened entity” means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) “Infrastructure cost-burdened entity” includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).

(6) “Infrastructure-related revenue” means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is

directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(7) “Office” means the Office of Energy Development created in Section 63M-4-401.

(8) “Tax credit” means a tax credit under Section 59-7-619 or 59-10-1034.

(9) “Tax credit certificate” means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity’s taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

CHAPTER 502**H. B. 181**

Passed March 12, 2019

Approved April 2, 2019

Effective May 14, 2019

TAX CREDIT AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Karen Mayne

LONG TITLE**General Description:**

This bill modifies provisions related to the Tax Credit for Employment of Persons Who Are Homeless Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes rulemaking authority for the Department of Workforce Services;
- ▶ modifies a deadline for providing information required in a participation agreement;
- ▶ modifies a deadline for determining whether an employer has met the requirements of a participation agreement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

35A-5-302, as enacted by Laws of Utah 2014, Chapter 315

35A-5-303, as enacted by Laws of Utah 2014, Chapter 315

35A-5-304, as enacted by Laws of Utah 2014, Chapter 315

35A-5-305, as enacted by Laws of Utah 2014, Chapter 315

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-5-302 is amended to read:**35A-5-302. Definitions.**

As used in this part:

(1) "Date of hire" means the date a person who is homeless first performs labor or services for compensation for an employer.

(2) "Governmental entity" is as defined in Section 59-2-511.

(3) "Permanent housing, permanent supportive, or transitional facility" means a facility:

- (a) located within the state;
- (b) that provides supervision of residents of the facility; and
- (c) that is:
 - (i) a publicly or privately operated shelter:

(A) designed to provide temporary living accommodations, including a welfare hotel, congregate shelter, or transitional housing for the mentally ill; and

(B) that receives federal homeless assistance funding distributed by the United States Department of Housing and Urban Development; or

(ii) an emergency shelter that receives homeless assistance funding from a county, city, or town.

(4) "Person who is homeless" means an individual whose primary nighttime residence is ~~[a permanent housing, permanent supportive, or transitional facility];~~

(a) a public or private place not designated for or ordinarily used as a regular sleeping accommodation for an individual, including a car, park, abandoned building, bus station, train station, airport, or camping ground; or

(b) a publicly or privately operated shelter designated to provide temporary living arrangements, including a permanent housing, permanent supportive, or transitional facility.

(5) "Wage requirement" means that an employer pays a person who is homeless \$4,000 or more in wages during a time period that:

(a) begins on the date of hire; and

(b) ends no later than two calendar quarters after the calendar quarter in which the date of hire occurs.

Section 2. Section 35A-5-303 is amended to read:**35A-5-303. Application for tax credit certificate.**

(1) An employer who employs a person who is homeless and seeks to receive a tax credit certificate under this part shall file an application with the department with respect to each person who is homeless that the employer employs.

(2) The application shall be on a form the department provides to the employer.

(3) The application shall require the employer to certify that:

(a) the person who ~~[is homeless who]~~ the employer employs:

(i) [on the date of hire, has a primary nighttime residence at a permanent housing, permanent supportive, or transitional facility] met the definition of a person who is homeless on the date of hire or at any time during the 60-day period immediately before the date of hire;

(ii) is an employee, and not an independent contractor, of the employer;

(iii) is legally eligible to work in the United States; and

(iv) has not worked for the employer for more than 40 hours during the 60-day period immediately ~~[preceding]~~ before the date of hire; and

(b) the employer:

(i) complies with all state, federal, or local requirements related to the employment of the person who is homeless; and

(ii) is not a governmental entity.

(4) The application:

(a) shall list, for each person who is homeless that the employer employs:

(i) the person's name;

(ii) the person's ~~[Social Security]~~ social security number; and

(iii) the person's current address;

(b) shall list the employer's federal employer identification number; and

(c) may require additional information as determined by the department.

(5) An employer shall provide documentation to the department to support the certifications and other information the employer provides in the application described in this section.

(6) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has satisfied the certification requirements of Subsection (3) and provided the information described in Subsection (4), the department shall enter into a participation agreement with the employer as provided in Section 35A-5-304 for each person who is homeless who the employer employs.

(7) If the department determines that, on the basis of the documentation and other information the employer provides, the employer has not satisfied the certification requirements of Subsection (3) or provided the information described in Subsection (4), the department:

(a) shall deny the application; or

(b) inform the employer that the documentation the employer provided is inadequate and request the employer to submit new or additional documentation.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with the provisions of this part, the department may make rules governing the administration of the tax credit described in this part.

Section 3. Section 35A-5-304 is amended to read:

35A-5-304. Participation agreements.

(1) If the department enters into a participation agreement with an employer, the participation agreement shall:

(a) be provided by the department; and

(b) establish the requirements the employer is required to meet to be eligible to receive a tax credit certificate, including:

(i) requiring the employer to meet the certification requirements of Subsection 35A-5-303(3);

(ii) requiring the employer to provide written notice to the department [~~within 10 days after the date~~] when the employer meets the wage requirement; and

(iii) requiring the employer to provide documentation or other information the department requests:

(A) to establish the hours and dates that the person who is homeless works for the employer; and

(B) to support the employer's eligibility to receive a tax credit certificate under this part.

(2) An agreement under this section does constitute a right to receive a tax credit certificate under this part.

Section 4. Section 35A-5-305 is amended to read:

35A-5-305. Tax credit certificate.

(1) An employer shall provide written notice to the department [~~within 10 days after the date the employer meets the wage requirement~~] as provided in the participation agreement described in Section 35A-5-304.

(2) The department shall determine whether an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate[~~;~~(a)] after the employer provides the written notice described in Subsection (1) to the department[~~;~~and].

~~[(b) no later than 60 days after the date that the employer provides the department unemployment insurance wage information;]~~

~~[(i) for the person who is homeless;]~~

~~[(ii) as required by Subsection 35A-4-305(8); and]~~

~~[(iii) for each calendar quarter during which the employer pays wages to meet the wage requirement.]~~

(3) Subject to the other provisions of this section, if the department determines that an employer has met the requirements of the participation agreement under Section 35A-5-304 to receive a tax credit certificate, the department may issue a tax credit certificate to the employer.

(4) A tax credit certificate under this section:

(a) shall list the amount of tax credit allowable for the taxable year in an amount that does not exceed \$2,000;

(b) shall list the name and federal employer number of the employer;

(c) shall list the name, Social Security identification number, and current address of the person who is homeless with respect to whom the employer has met the wage requirement; and

(d) may include any other information required by the department.

(5) Subject to Subsections (6) and (7), the department shall issue tax credit certificates under this section in the order that the department receives the written notice described in Subsection (1).

(6) The department may not issue tax credit certificates that total more than \$100,000 in a fiscal year.

(7) (a) Subject to Subsection (7)(b), if the department would have issued tax credit certificates that total more than \$100,000 in a fiscal year but for the limit provided in Subsection (6), the department shall issue the tax credit certificates that exceed \$100,000 in the next fiscal year.

(b) If the department issues tax credit certificates in accordance with Subsection (7)(a):

(i) the tax credit certificates may not total more than \$100,000; and

(ii) the department may not issue tax credit certificates for an amount that exceeds the limit described in Subsection (7)(b)(i) in a future fiscal year.

(8) The department shall provide a copy of a tax credit certificate the department issues under this section to the State Tax Commission.

CHAPTER 503**H. B. 276**

Passed March 13, 2019

Approved April 2, 2019

Effective May 14, 2019

**RURAL ECONOMIC
DEVELOPMENT AMENDMENTS**

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

LONG TITLE**General Description:**

This bill creates a grant program in the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- ▶ defines terms, including "rapid manufacturing";
- ▶ creates the Rural Rapid Manufacturing Grant Program in GOED; and
- ▶ describes the requirements and purposes of the grant program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Governor's Office of Economic Development -- Rural Rapid Manufacturing Grant Program, as a one-time appropriation:
 - from the General Fund, \$500,000.

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

63N-4-501, Utah Code Annotated 1953

63N-4-502, Utah Code Annotated 1953

63N-4-503, Utah Code Annotated 1953

63N-4-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-4-501 is enacted to read:**Part 5. Rural Rapid Manufacturing Grant Program****63N-4-501. Title.**

This part is known as the "Rural Rapid Manufacturing Grant Program."

Section 2. Section 63N-4-502 is enacted to read:**63N-4-502. Definitions.**

As used in this part:

(1) "Entity" means an institution of higher education or nonprofit company.

(2) "Grant" means a grant awarded as part of the Rural Rapid Manufacturing Grant Program created in Section 63N-4-503.

(3) "Grant program" means the Rural Rapid Manufacturing Grant Program created in Section 63N-4-503.

(4) "Rapid manufacturing" means a facility, laboratory, equipment, or process engaged in small-batch, fast-delivery manufacturing.

(5) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Section 3. Section 63N-4-503 is enacted to read:**63N-4-503. Creation and purpose of the Rural Rapid Manufacturing Grant Program.**

(1) There is created the Rural Rapid Manufacturing Grant Program administered by the office.

(2) The office may seek to accomplish the following objectives in administering the grant program:

(a) provide funding for the construction or renovation of a rapid manufacturing clothing production laboratory, engineering and computer graphics laboratory, manufacturing systems laboratory, or textile science laboratory designed to train students and employees;

(b) provide funding for the building and improvement of equipment to provide opportunities for students and employees to train and participate in rapid manufacturing; and

(c) provide training and scholarships for students and employees to participate in rapid manufacturing employment opportunities.

Section 4. Section 63N-4-504 is enacted to read:**63N-4-504. Requirements for awarding a grant.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:

(a) the form and process of submitting an application to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining grant amounts; and

(d) the reporting requirements of grant recipients.

(2) In determining the award of a grant, the office may prioritize projects:

(a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;

(b) where an applicant demonstrates comprehensive planning of the project and the cooperation of high quality partners, including an institution of higher education; and

(c) that will create new high paying employment positions in rural areas that pay at least 125% of the

average wage of the community in which the employment positions will exist.

(3) Subject to legislative appropriation, a grant may only be awarded by the executive director for a project in a rural area of the state.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Governor's Office of Economic Development -- Rural Rapid Manufacturing Grant Program

<u>From General Fund, One-time</u>	<u>\$500,000</u>
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Schedule of Programs:

<u>Rural Rapid Manufacturing Grant Program</u>	<u>\$500,000</u>
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CHAPTER 504**S. B. 103**

Passed March 13, 2019

Approved April 2, 2019

Effective May 14, 2019

**VICTIM TARGETING
PENALTY ENHANCEMENTS**

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Lee B. Perry

LONG TITLE**General Description:**

This bill enacts provisions relating to sentencing for a criminal offense committed against a victim who is selected because of certain personal attributes.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides an enhanced penalty for a criminal offense committed against a victim who is selected because of certain personal attributes; and
- ▶ provides that this bill does not affect an individual's constitutional rights, including an individual's constitutional right of free speech.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

76-3-203.14, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.14 is enacted to read:**76-3-203.14. Victim targeting penalty enhancement -- Penalties.**

(1) As used in this section "personal attribute" means:

- (a) age;
- (b) ancestry;
- (c) disability;
- (d) ethnicity;
- (e) familial status;
- (f) gender identity;
- (g) homelessness;
- (h) marital status;
- (i) matriculation;
- (j) national origin;
- (k) political expression;
- (l) race;
- (m) religion;

(n) sex;

(o) sexual orientation;

(p) service in the U.S. Armed Forces;

(q) status as an emergency responder, as defined in Section 53-2b-102; or

(r) status as a law enforcement officer, correctional officer, special function officer, or any other peace officer, as defined in Title 53, Chapter 13, Peace Officer Classifications.

(2) A defendant is subject to enhanced penalties under Subsection (3) if the defendant intentionally selects:

(a) the victim of the criminal offense because of the defendant's belief or perception regarding the victim's personal attribute or a personal attribute of another individual or group of individuals with whom the victim has a relationship; or

(b) the property damaged or otherwise affected by the criminal offense because of the defendant's belief or perception regarding the property owner's, possessor's, or occupant's personal attribute or a personal attribute of another individual or group of individuals with whom the property owner, possessor, or occupant has a relationship.

(3) (a) If the trier of fact finds beyond a reasonable doubt that a defendant committed a criminal offense and selected the victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection (2), the defendant is subject to an enhanced penalty for the criminal offense as follows:

(i) a class C misdemeanor is a class B misdemeanor;

(ii) a class B misdemeanor is a class A misdemeanor;

(iii) a class A misdemeanor is a third degree felony;

(iv) a third degree felony is a third degree felony punishable by an indeterminate term of imprisonment for not less than one year nor more than five years; and

(v) a second degree felony is a second degree felony punishable by an indeterminate term of imprisonment for not less than two years nor more than 15 years.

(b) If the trier of fact finds beyond a reasonable doubt that a defendant committed a criminal offense that is a first degree felony and selected the victim or property damaged or otherwise affected by the criminal offense in the manner described in Subsection (2), the sentencing judge or the Board of Pardons and Parole shall consider the defendant's selection of the victim or property as an aggravating factor.

(4) This section does not:

(a) apply if:

(i) the penalty for the criminal offense is increased or enhanced under another provision of state law; or

(ii) the personal attribute of the victim or property owner, possessor, or occupant is an element of a criminal offense under another provision of state law;

(b) prevent the court from imposing alternative sanctions as the court finds appropriate;

(c) affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Utah Constitution or the laws of the state, or by the United States Constitution or the laws of the United States; or

(d) create a special or protected class for any purpose other than a criminal penalty enhancement under this section.

(5) (a) If a final decision of a court of competent jurisdiction holds invalid any provision of this section or the application of any provision of this section to any person or circumstance, the remaining provisions of this section remain effective without the invalidated provision or application.

(b) The provisions of this section are severable.

CHAPTER 505**S. B. 149**

Passed March 7, 2019
 Approved April 2, 2019
 Effective May 14, 2019

TEACHER AND STUDENT SUCCESS ACT

Chief Sponsor: Ann Millner
 House Sponsor: Jefferson Moss

LONG TITLE**General Description:**

This bill creates the Teacher and Student Success Program.

Highlighted Provisions:

This bill:

- ▶ creates the Teacher and Student Success Program (program);
- ▶ provides for the State Board of Education to distribute funds from the Teacher and Student Success Account to the boards of local education agencies for the purposes of the program;
- ▶ requires the board of a local education agency to create guidelines for the creation of school outcome-based program plans;
- ▶ provides for the board of a local education agency to use and distribute program money;
- ▶ requires a school to make an outcome-based program plan for the use of program money;
- ▶ provides for oversight of school efforts to improve outcomes according to the school's program plan;
- ▶ repeals provisions related to school improvement plans;
- ▶ replaces references to a school improvement plan with references to the outcome-based school program plan required under the program;
- ▶ repeals provisions related to reading achievement plans; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

53F-5-203, as last amended by Laws of Utah 2018, Chapter 22 and renumbered and amended by Laws of Utah 2018, Chapter 2

53G-5-405, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-7-1202, as last amended by Laws of Utah 2018, Chapters 107 and 448

53G-7-1203, as last amended by Laws of Utah 2018, Chapter 448

53G-7-1206, as enacted by Laws of Utah 2018, Chapter 448

ENACTS:

53F-2-415, Utah Code Annotated 1953

53G-7-1301, Utah Code Annotated 1953

53G-7-1302, Utah Code Annotated 1953

53G-7-1303, Utah Code Annotated 1953

53G-7-1304, Utah Code Annotated 1953

53G-7-1305, Utah Code Annotated 1953

53G-7-1306, Utah Code Annotated 1953

REPEALS:

53E-4-306, as renumbered and amended by Laws of Utah 2018, Chapter 1

53G-7-1204, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-415 is enacted to read:**53F-2-415. Appropriation and distribution for the Teacher and Student Success Program.**

(1) The terms defined in Section 53G-7-1301 apply to this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money from the Teacher and Student Success Account described in Section 53F-9-306 to the state board for the Teacher and Student Success Program.

(3) Except as provided in Subsection (5)(a), the state board shall calculate an amount to distribute to an LEA that is the product of:

(a) the percentage of weighted pupil units in the LEA compared to the total number of weighted pupil units for all LEAs in the state; and

(b) the amount of the appropriation described in Subsection (2), less the amount calculated, in accordance with state board rule, for:

(i) an LEA that is in the LEA's first year of operation; and

(ii) the Utah Schools for the Deaf and the Blind.

(4) The state board shall distribute to an LEA an amount calculated for the LEA as described in Subsection (3) if the LEA governing board of the LEA has submitted an LEA governing board student success framework as required by the program.

(5) In accordance with this section and Title 53G, Chapter 7, Part 13, Teacher and Student Success Program, the state board:

(a) shall make rules to calculate an LEA distribution for:

(i) an LEA that is in the LEA's first year of operation; and

(ii) the Utah Schools for the Deaf and the Blind, taking into account all students who receive services from the Utah Schools for the Deaf and the Blind, regardless of whether a student is enrolled in another LEA; and

(b) may make rules to distribute funds as described in this section.

Section 2. Section 53F-5-203 is amended to read:**53F-5-203. Interventions for Reading Difficulties Pilot Program.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Dyslexia" means a specific learning disability that is neurological in origin and characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities that typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.

(c) "Local education agency" or "LEA" means:

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(d) "Multi-Tier System of Supports" or "MTSS" means a framework integrating assessment and intervention that:

(i) provides increasingly intensive interventions for students at risk for or experiencing reading difficulties, including:

(A) tier II interventions that, in addition to standard classroom reading, provide supplemental and targeted small group instruction in reading using evidence-based curricula; and

(B) tier III interventions that address the specific needs of students who are the most at risk or who have not responded to tier II interventions by providing frequent, intensive, and targeted small group instruction using evidence-based curricula; and

(ii) is developed to:

- (A) maximize student achievement;
- (B) reduce behavior problems; and
- (C) increase long-term success.

(e) "Program" means the Interventions for Reading Difficulties Pilot Program.

(f) "Reading difficulty" means an impairment, including dyslexia, that negatively affects a student's ability to learn to read.

(2) There is created the Interventions for Reading Difficulties Pilot Program to provide:

(a) specific evidence-based literacy interventions using an MTSS for students in kindergarten through grade 5 who are at risk for or experiencing a reading difficulty, including dyslexia; and

(b) professional development to educators who provide the literacy interventions described in Subsection (2)(a).

(3) (a) An LEA may submit a proposal to the board to participate in the program.

(b) An LEA proposal described in Subsection (3)(a) shall:

(i) specify:

(A) a range of current benchmark assessment in reading scores described in Section 53E-4-307 that

the LEA will use to determine whether a student is at risk for a reading difficulty; and

(B) other reading difficulty risk factors that the LEA will use to determine whether a student is at risk for a reading difficulty;

(ii) describe the LEA's existing reading program;

(iii) describe the LEA's MTSS approach; and

(iv) include any other information requested by the board.

(c) The board may:

- (i) specify the format for an LEA proposal; and
- (ii) set a deadline for an LEA to submit a proposal.

(4) The board shall:

(a) define criteria for selecting an LEA to participate in the program;

(b) during fiscal year 2016, select five LEAs to participate in the program:

(i) on a competitive basis; and

(ii) using criteria described in Subsection (4)(a); and

(c) provide each LEA, selected as described in Subsection (4)(b), up to \$30,000 per school within the LEA.

(5) During fiscal years 2017, 2018, and 2019, if funding allows, the board may select additional LEAs to participate in the program.

(6) An LEA that participates in the program:

(a) shall, beginning with the 2016-17 school year, provide the interventions described in Subsection (7)(c) from the time the LEA is selected until the end of the 2018-19 school year; and

(b) may provide the professional development described in Subsections (8)(a) and (b) beginning in fiscal year 2016.

(7) An LEA that participates in the program shall:

(a) select at least one school in the LEA to participate in the program;

(b) identify students in kindergarten through grade 5 for participation in the program by:

(i) using current benchmark assessment in reading scores as described in Section 53E-4-307; and

(ii) considering other reading difficulty risk factors identified by the LEA;

(c) provide interventions for each student participating in the program using an MTSS implemented by an educator trained in evidence-based interventions; and

~~(d) include the LEA's proposal submitted under Subsection (3)(b) in the reading achievement plan described in Section 53E-4-306 for each school in the LEA that participates in the program; and~~

~~(e)~~ (d) report annually to the board on:

(i) individual student outcomes in changes in reading ability;

(ii) school level outcomes; and

(iii) any other information requested by the board.

(8) Subject to funding for the program, an LEA may use the funds described in Subsection (4)(c) for the following purposes:

(a) to provide for ongoing professional development in evidence-based literacy interventions;

(b) to support educators in earning a reading interventionist credential that prepares teachers to provide a student who is at risk for or experiencing reading difficulty, including dyslexia, with reading intervention that is:

(i) explicit;

(ii) systematic; and

(iii) targeted to a student's specific reading difficulty; and

(c) to implement the program.

(9) The board shall contract with an independent evaluator to evaluate the program on:

(a) whether the program improves reading outcomes for a student who receives the interventions described in Subsection (7)(c);

(b) whether the program may reduce future special education costs; and

(c) any other student or school achievement outcomes requested by the board.

(10) (a) The board shall make a final report on the program to the Education Interim Committee on or before November 1, 2018.

(b) In the final report described in Subsection (10)(a), the board shall include the results of the evaluation described in Subsection (9).

Section 3. Section 53G-5-405 is amended to read:

53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2) (a) Except as provided in Subsection (2)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

(a) [Sections] Section 53G-7-1202 [and 53G-7-1204], requiring the establishment of a school community council [and school improvement plan];

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Section 53G-7-606, requiring notification of intent to dispose of textbooks;

(d) Section 53G-10-404, requiring annual presentations on adoption;

(e) Sections 53G-7-304 and 53G-7-306 pertaining to fiscal procedures of school districts and local school boards; and

(f) Section 53E-4-408, requiring an independent evaluation of instructional materials.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 4. Section 53G-7-1202 is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "District school" means a public school under the control of a local school board elected under Title

20A, Chapter 14, Nomination and Election of State and Local School Boards.

(c) "Educator" means the same as that term is defined in Section 53E-6-102.

(d) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

~~[(i) create a school improvement plan in accordance with Section 53G-7-1204;]~~

~~[(iii)]~~ (i) create the School LAND Trust Program and LAND Trust plan in accordance with Section 53G-7-1206;

~~[(iii)]~~ (ii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

~~[(iv)]~~ (iii) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child; and

~~[(v)]~~ (iv) partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3).

(b) To fulfill the school community council's duties described in Subsections (3)(a)~~[(iv)]~~ and ~~(v)]~~(iii) and (iv), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community council who are not educators employed by the school district shall

exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) (A) Except as provided in Subsection (5)(b)(ii)(B), only a parent or guardian of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent or guardian of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee, parent, or guardian, of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G-7-1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on this part.

Section 5. Section 53G-7-1203 is amended to read:

53G-7-1203. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

(b) "School community council" means a council established at a school within a school district under Section 53G-7-1202.

(c) "Council" means a school community council or a charter trust land council.

(d) "Teacher and student success plan" means the same as that term is defined in Section 53G-7-1301.

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

(6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:

(i) the proposed council meeting schedule for the year;

(ii) a telephone number or email address, or both, where each council member can be reached directly; and

(iii) a summary of the annual report required under Section 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan teacher and student success plan.

(b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent or guardian who does not have Internet access.

(ii) Money allocated to a school under the School LAND Trust Program under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).

(7) (a) The notice requirement of Subsection (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a council may not be held unless:

(i) an attempt has been made to notify all the members of the council; and

(ii) a majority of the members of the council approve the meeting.

(8) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (8)(a) shall be listed under an agenda item on the meeting agenda.

(c) A council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (8)(b); and

(ii) included with the advance public notice required by Subsection (5).

(9) (a) Written minutes shall be kept of a council meeting.

(b) Written minutes of a council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the council; and

(B) after being recognized by the chair, provided testimony or comments to the council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (9)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(10) (a) As used in this Subsection (10), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A council shall:

(i) adopt rules of order and procedure to govern a public meeting of the council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (10)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (10)(b)(i) available to the public:

(A) at each public meeting of the council; and

(B) on the school's website.

Section 6. Section 53G-7-1206 is amended to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

(a) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(b) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(c) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(d) "Council" means a school community council or a charter trust land council.

(e) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(f) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.

[~~(f)~~] (g) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(h) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the State Board of Education to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a [~~district school's school improvement plan or a charter school's charter agreement~~] district school or charter school's teacher and student success plan; and

(b) involve parents and guardians of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's ~~improvement plan or charter agreement~~ success plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of ~~its school improvement plan~~ the school's success plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend ~~its~~ the school's allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a ~~plan for the use of School LAND Trust Program money~~ LAND trust plan in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a ~~plan for the use of School LAND Trust Program money~~ LAND trust plan, the LAND trust plan is adopted.

(c) A council shall:

(i) post a ~~plan for the use of School LAND Trust Program money~~ LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the LAND trust plan a report noting the number of council members who voted for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a ~~plan for the use of School LAND Trust Program money~~ LAND trust plan.

(ii) If a local school board disapproves a ~~plan for the use of School LAND Trust Program money~~ LAND trust plan:

(A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and

(B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a LAND trust plan has been approved by a local school board, a school community council

may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's ~~plan for the use of School LAND Trust Program money~~ LAND trust plan is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet State Board of Education reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website each fall.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents or guardians of students attending the school.

(6) On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The School LAND Trust Program shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The School LAND Trust Program shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The School LAND Trust Program shall annually review each school's compliance with applicable law, including rules adopted by the State Board of Education, by:

(a) reading each ~~School LAND Trust Program plan~~ LAND trust plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Section 7. Section 53G-7-1301 is enacted to read:

Part 13. Teacher and Student Success Program

53G-7-1301. Definitions.

As used in this part:

(1) "LEA distribution" means the money distributed by the state board to an LEA as described in Section 53G-7-1303.

(2) "LEA governing board student success framework" means an LEA governing board student success framework described in Section 53G-7-1304.

(3) "Principal" means the chief administrator at a school, including:

(a) a school principal;

(b) a charter school director; or

(c) the superintendent of the Utah Schools for the Deaf and the Blind.

(4) "School allocation" means the amount of money allocated to a school or the Utah Schools for the Deaf and the Blind by an LEA governing board, as described in Section 53G-7-1304.

(5) "School personnel" means an individual who:

(a) is employed by an LEA; and

(b) in an academic role, works directly with and supports students in a school.

(6) "Statewide accountability system" means the statewide school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System.

(7) "Teacher and student success plan" or "success plan" means a school performance and student academic achievement improvement plan described in Section 53G-7-1305.

(8) "Teacher and Student Success Program" or "program" means the Teacher and Student Success Program described in this part.

Section 8. Section 53G-7-1302 is enacted to read:

53G-7-1302. Teacher and Student Success Program created.

There is created the Teacher and Student Success Program to improve school performance and student academic achievement, as described in this part.

Section 9. Section 53G-7-1303 is enacted to read:

53G-7-1303. State funding distribution.

The state board shall distribute program funding to an LEA as described in Section 53F-2-415.

Section 10. Section 53G-7-1304 is enacted to read:

53G-7-1304. Program requirements -- LEA governing board student success framework -- LEA distribution -- School allocation -- Reporting.

(1) (a) To receive an LEA distribution, an LEA governing board shall:

(i) adopt an LEA governing board student success framework to provide guidelines and processes for a school within the LEA governing board's LEA to follow in developing a teacher and student success plan; and

(ii) submit the adopted LEA governing board student success framework to the state board.

(b) An LEA governing board may include in the LEA governing board's student success framework any means reasonably designed to improve school performance or student academic achievement, including:

(i) school personnel stipends for taking on additional responsibility outside of a typical work assignment;

(ii) professional learning;

(iii) additional school employees, including counselors, social workers, mental health workers, tutors, media specialists, information technology specialists, or other specialists;

(iv) technology;

(v) before- or after-school programs;

(vi) summer school programs;

(vii) community support programs or partnerships;

(viii) early childhood education;

(ix) class size reduction strategies;

(x) augmentation of existing programs; or

(xi) other means.

(c) An LEA governing board student success framework may not support the use of program money:

(i) to supplant funding for existing public education programs;

(ii) for district administration costs; or

(iii) for capital expenditures.

(2) (a) An LEA governing board shall use an LEA distribution as follows:

(i) for increases to base salary and salary driven benefits for school personnel that, except as provided in Subsection (2)(c)(i), total 25% or less of the LEA distribution; and

(ii) except as provided in Subsection (2)(b)(ii) and in accordance with Subsection (3), for each school within the LEA governing board's LEA, an allocation that is equal to the product of:

(A) the percentage of the school's prior year average daily membership compared to the total prior year average daily membership for all schools in the LEA; and

(B) the remaining amount of the LEA governing board's LEA distribution after subtracting the amounts described in Subsections (2)(a)(i) and (2)(b)(ii).

(b) (i) The state board shall make rules for an LEA governing board to calculate and distribute a school allocation for a school in the school's first year of operation.

(ii) In accordance with Subsection (3) and the rules described in Subsection (2)(b)(i), an LEA governing board shall distribute a school allocation for a school in the school's first year of operation.

(c) Except as provided in Subsection (2)(d), the LEA governing board of a school district may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if:

(i) the LEA governing board has:

(A) approved a board local levy for the maximum amount allowed under Section 53F-8-302; or

(B) after the LEA governing board has submitted an LEA governing board student success framework to the state board, increased the board local levy described in Section 53F-8-302 by at least .0001 per dollar of taxable value; and

(ii) the school district's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(d) The LEA governing board of a school district in a county of the fourth, fifth, or sixth class or the LEA governing board of a charter school may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if the LEA's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(e) An LEA governing board shall annually report information as requested by the state board for the state board to calculate a state average teacher salary.

(f) The state board shall use the information described in Subsection (2)(c)(ii) to calculate a state average teacher salary amount and a state average teacher benefit amount.

(3) An LEA governing board shall allocate a school allocation to a school with a teacher and student success plan that is approved as described in Section 53G-7-1305.

(4) (a) Except as provided in Subsection (4)(b), a school shall use a school allocation to implement the school's success plan.

(b) A school may use up to 5% of the school's school allocation to fund school personnel retention at the principal's discretion, not including uniform salary increases.

(c) A school may not use a school allocation for:

(i) capital expenditures; or

(ii) a purpose that is not supported by the LEA governing board student success framework for the school's LEA.

(5) A school that receives a school allocation shall annually:

(a) submit to the school's LEA governing board a description of:

(i) the budgeted and actual expenditures of the school's school allocation;

(ii) how the expenditures relate to the school's success plan; and

(iii) how the school measures the success of the school's participation in the program; and

(b) post on the school's website:

(i) the school's approved success plan;

(ii) a description of the school's school allocation budgeted and actual expenditures and how the expenditures help the school accomplish the school's success plan; and

(iii) the school's current level of performance, as described in Section 53G-7-1306, according to the indicators described in Section 53E-5-205 or 53E-5-206.

Section 11. Section 53G-7-1305 is enacted to read:

53G-7-1305. Teacher and student success plans -- Plan review and approval.

(1) (a) The principal of a school shall develop the school's teacher and student success plan:

(i) in accordance with the LEA governing board student success framework for the school's LEA;

(ii) by integrating school-specific goals and criteria for improving the school's performance within the state accountability system; and

(iii) if the school has a school turnaround plan as defined in Section 53E-5-301, in accordance with the school's school turnaround plan.

(b) A principal shall solicit input on developing a success plan from:

(i) for a district school or charter school:

(A) the school community council, as defined in Section 53G-7-1202; or

(B) the charter trust land council, as described in Section 53G-7-1205;

(ii) school-level educators;

(iii) parents of students at the school; and

(iv) school-level administrators.

(c) A principal may solicit input on developing a success plan from:

(i) students;

(ii) support professionals; or

(iii) other community stakeholders.

(2) (a) The principal of a school shall submit a proposed success plan to the school's LEA governing board.

(b) An LEA governing board shall:

(i) annually review each success plan submitted for a school within the LEA governing board's LEA;

(ii) in a regularly scheduled LEA governing board meeting, approve or disapprove each submitted success plan; and

(iii) upon disapproval of a success plan:

(A) explain in writing the reason for disapproval;

(B) make recommendations for revision; and

(C) allow the principal who submitted the success plan to resubmit a revised plan for review and approval.

(3) An LEA governing board shall make the LEA governing board's best efforts to help a school complete the approval process described in Subsection (2) on or before June 30 of each year.

(4) A council, as defined in Section 53G-7-1206, shall select a component of the approved success plan for the council's school to address within the council's School LAND Trust Program, in accordance with Section 53G-7-1206.

Section 12. Section 53G-7-1306 is enacted to read:

53G-7-1306. School improvement oversight -- Performance standards.

(1) The state board shall make rules that:

(a) using a criteria-setting process, determine a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and

(b) determine performance standards for a school described in Section 53E-5-203.

(2) (a) For each year following the year in which a school received approval for a success plan, an LEA governing board shall determine if the school:

(i) meets or exceeds the threshold of points described in Subsection (1);

(ii) has demonstrated at least a 1% increase in the school's total points received under the statewide school accountability system compared to the previous school year; or

(iii) qualifies for and satisfies the performance standards described in Subsection (1)(b).

(b) If the LEA governing board determines that a school does not satisfy Subsection (2)(a)(i), (ii), or (iii), the LEA governing board shall:

(i) work with the school's principal to modify the school's success plan to address the school's performance; and

(ii) oversee and adjust the school's allocation expenditures until the LEA governing board determines the school satisfies Subsection (2)(a)(i), (ii), or (iii).

Section 13. Repealer.

This bill repeals:

Section 53E-4-306, State reading goal -- Reading achievement plan.

Section 53G-7-1204, School improvement plan.

CHAPTER 506**S. B. 222**

Passed March 13, 2019

Approved April 2, 2019

Effective May 14, 2019

**CHILDREN'S OUTDOOR
RECREATION PROGRAM**

Chief Sponsor: Lincoln Fillmore

House Sponsor: Mike Winder

LONG TITLE**General Description:**

This bill creates a grant program in the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Children's Outdoor Recreation and Education Grant Program in GOED;
- ▶ describes the requirements and purposes of the grant program; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Governor's Office of Economic Development -- Utah Office of Outdoor Recreation -- Utah Children's Outdoor Recreation and Education Grant, as a one-time appropriation:
 - from the General Fund, One-time, \$100,000.

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

63N-9-102, as last amended by Laws of Utah 2017, Chapter 166

63N-9-106, as last amended by Laws of Utah 2016, Chapter 88

ENACTS:

63N-9-301, Utah Code Annotated 1953

63N-9-302, Utah Code Annotated 1953

63N-9-303, Utah Code Annotated 1953

63N-9-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-9-102 is amended to read:**63N-9-102. Definitions.**

As used in this chapter:

(1) "Accessible to the general public," in relation to the awarding of an infrastructure grant, means:

(a) the public may use the infrastructure in accordance with federal and state regulations; and

(b) no community or group retains exclusive rights to access the infrastructure.

(2) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years of age or older, and 18 years of age or younger.

~~[(2)]~~ (3) "Director" means the director of the outdoor recreation office.

~~[(3)]~~ (4) "Executive director" means the executive director of GOED.

~~[(4)]~~ (5) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 63N-9-202.

~~[(5)]~~ (6) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63N-9-104.

~~[(6)]~~ (7) (a) "Recreational infrastructure project" means an undertaking to build or improve the approved facilities and installations needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

(i) establishment, construction, or renovation of a trail, trail infrastructure, or trail facilities;

(ii) construction of a project for water-related outdoor recreational activities;

(iii) development of a project for wildlife watching opportunities, including bird watching;

(iv) development of a project that provides winter recreation amenities;

(v) construction or improvement of a community park that has amenities for outdoor recreation; and

(vi) construction or improvement of a naturalistic and accessible playground.

(8) "UCORE grant" means a children's outdoor recreation and education grant described in Section 63N-9-302.

~~[(7)]~~ (9) (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that~~is~~ is economically disadvantaged.

~~[(a)]~~ (b) ~~[has]~~ "Underserved or underprivileged community" includes an economically disadvantaged community where:

(i) in relation to awarding an infrastructure grant, the people of the community have limited access to or [has] have demonstrated a low level of use of recreational infrastructure; and

~~[(b) is economically disadvantaged.]~~

(ii) in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.

Section 2. Section 63N-9-106 is amended to read:**63N-9-106. Annual report.**

The executive director shall include in the annual written report described in Section 63N-1-301 a report from the director on the activities of the outdoor recreation office, including a description and the amount of any awarded infrastructure grants and any awarded UCORE grants.

Section 3. Section 63N-9-301 is enacted to read:

Part 3. Utah Children's Outdoor Recreation and Education Grant Program

63N-9-301. Title.

This part is known as the "Utah Children's Outdoor Recreation and Education Grant Program."

Section 4. Section 63N-9-302 is enacted to read:

63N-9-302. Creation and purpose of the UCORE grant program.

(1) There is created the Utah Children's Outdoor Recreation and Education Grant Program administered by the outdoor recreation office.

(2) The outdoor recreation office may seek to accomplish the following objectives in administering the UCORE grant program:

(a) promote the health and social benefits of outdoor recreation to the state's children;

(b) encourage children to develop the skills and confidence to be physically active for life;

(c) provide outdoor recreational opportunities to underserved or underprivileged communities in the state; and

(d) encourage hands-on outdoor or nature-based learning and play to prepare children for achievement in science, technology, engineering, and math.

Section 5. Section 63N-9-303 is enacted to read:

63N-9-303. Rulemaking and requirements for awarding a UCORE grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive a UCORE grant, including:

(a) the form and process of submitting an application to the outdoor recreation office for a UCORE grant;

(b) which entities are eligible to apply for a UCORE grant;

(c) specific categories of children's programs that are eligible for a UCORE grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of a UCORE grant, the outdoor recreation office may prioritize a children's program that will serve an underprivileged or underserved community in the state.

(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the board.

(4) The following entities may not receive a UCORE grant under this part:

(a) a federal government entity;

(b) a state agency, except for public schools and institutions of higher education; and

(c) a for-profit entity.

(5) In awarding UCORE grants, consideration shall be given to entities that implement programs that:

(a) contribute to healthy and active lifestyles through outdoor recreation; and

(b) include one or more of the following attributes in their programs or initiatives:

(i) serve children with the greatest needs in rural, suburban, and urban areas of the state;

(ii) provide students with opportunities to directly experience nature;

(iii) maximize the number of children who can participate;

(iv) commit matching and in-kind resources;

(v) create partnerships with public and private entities;

(vi) include ongoing program evaluation and assessment;

(vii) utilize veterans in program implementation;

(viii) include outdoor or nature-based programming that incorporates concept learning in science, technology, engineering, or math; or

(ix) utilize educated volunteers in program implementation.

Section 6. Section 63N-9-304 is enacted to read:

63N-9-304. Utah Children's Outdoor Recreation and Education Fund -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Utah Children's Outdoor Recreation and Education Fund," which the office shall use to fund the Utah Children's Outdoor Recreation and Education Grant Program created in Section 63N-9-302.

(2) The fund consists of:

(a) appropriations made by the Legislature;

(b) interest earned on the account; and

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The office shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204, administer the account.

(4) The cost of administering the account shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Governor's Office of Economic Development -- Utah Office of Outdoor Recreation

<u>From General Fund, One-time</u>	<u>\$100,000</u>
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Schedule of Programs:

<u>Utah Children's Outdoor Recreation and Education Grant</u>	<u>\$100,000</u>
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CHAPTER 507**S. B. 236**

Passed March 14, 2019

Approved April 2, 2019

Effective May 14, 2019

**STATE BOARD OF EDUCATION
CANDIDACY AMENDMENTS**

Chief Sponsor: Ann Millner

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill amends provisions of the Election Code relating to becoming a candidate for the office of State Board of Education member.

Highlighted Provisions:

This bill:

- ▶ clarifies that an individual may run for the office of State Board of Education member as a member of a political party, as unaffiliated, or as a write-in candidate; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

20A-14-104.1, as enacted by Laws of Utah 2016,
Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-14-104.1 is amended to read:**20A-14-104.1. State Board of Education -- Candidacy.**

(1) A person interested in becoming a candidate for the office of State Board of Education member shall:

(a) file a declaration of candidacy [according to the procedures and requirements of] in accordance with Sections 20A-9-201 and 20A-9-202[.];

(b) file a certificate of nomination in accordance with Sections 20A-9-501, 20A-9-502, and 20A-9-503; or

(c) seek placement on the ballot as a write-in candidate in accordance with Sections 20A-9-601 and 20A-9-602.

(2) The office of State Board of Education member [is a partisan office.] may be filled by an individual running as a member of a political party, as unaffiliated, or as a write-in candidate.

CHAPTER 508

S. B. 3

Passed March 14, 2019

Approved April 3, 2019

Effective May 14, 2019

(Line Items 90, 98, 136 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations previously provided for the support and operation of state government for the fiscal year beginning July 1, 2018 and ending June 30, 2019 and for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

Highlighted Provisions:

This bill:

- ▶ provides budget increases and decreases for the use and support of certain state agencies;
- ▶ provides budget increases and decreases for the use and support of certain public education programs;
- ▶ provides budget increases and decreases for the use and support of certain institutions of higher education;
- ▶ provides funds for the bills with fiscal impact passed in the 2019 General Session;
- ▶ provides budget increases and decreases for other purposes as described;
- ▶ provides a mathematical formula for the annual appropriations limit; and,
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates \$348,732,700 in operating and capital budgets for fiscal year 2019, including:

- ▶ \$107,825,400 from the General Fund;
- ▶ (\$137,500) from the Education Fund;
- ▶ \$241,044,800 from various sources as detailed in this bill.

This bill appropriates \$6,266,600 in restricted fund and account transfers for fiscal year 2019, including:

- ▶ \$1,225,600 from the General Fund;
- ▶ (\$10,000,000) from the Education Fund;
- ▶ \$15,041,000 from various sources as detailed in this bill.

This bill appropriates \$3,609,600 in transfers to unrestricted funds for fiscal year 2019.

This bill appropriates \$281,865,700 in operating and capital budgets for fiscal year 2020, including:

- ▶ \$70,181,200 from the General Fund;
- ▶ (\$130,640,300) from the Education Fund;
- ▶ \$342,324,800 from various sources as detailed in this bill.

This bill appropriates \$210,900 in expendable funds and accounts for fiscal year 2020, including:

- ▶ \$50,000 from the General Fund;
- ▶ 160,900 from various sources as detailed in this bill.

This bill appropriates \$2,292,400 in business-like activities for fiscal year 2020, including:

- ▶ \$2,000,000 from the General Fund;
- ▶ \$292,400 from various sources as detailed in this bill.

This bill appropriates \$108,592,300 in restricted fund and account transfers for fiscal year 2020, including:

- ▶ \$6,046,800 from the General Fund;
- ▶ (\$6,000,000) from the Education Fund;
- ▶ \$108,545,500 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2019.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2019 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2018 and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up \$200,000 to the Attorney General's Office provided for in S.B. 2, "New and Current Fiscal year Supplemental Appropriations Act" Substitute 1, Item 1 for Digital Citizenship and Safe Technology not lapse at the close of Fiscal Year 2019.

Item 2

To Attorney General - Prosecution Council

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up \$235,000 to the Prosecution Council provided for in S.B. 2, "New and Current Fiscal year Supplemental Appropriations Act" Substitute 1, Item 4 not lapse at the close of Fiscal Year 2019.

UTAH DEPARTMENT OF CORRECTIONS

Item 3

To Utah Department of Corrections - Programs and Operations

From General Fund, One-Time 158,400

Schedule of Programs:
 Department Executive Director 158,400

**JUDICIAL COUNCIL/STATE
 COURT ADMINISTRATOR**

Item 4

To Judicial Council/State Court Administrator -
 Administration
 From General Fund, One-Time 12,000
 Schedule of Programs:
 District Courts 12,000

To implement the provisions of Assisted
 Outpatient Treatment for Mental Illness
(Senate Bill 39, 2019 General Session).

GOVERNOR'S OFFICE

Item 5

To Governor's Office - Commission on Criminal
 and Juvenile Justice
 From Federal Funds, One-Time 5,072,100
 Schedule of Programs:
 CCJJ Commission 785,000
 Utah Office for Victims of Crime 4,287,100

Item 6

To Governor's Office
 From General Fund, One-Time 11,200
 Schedule of Programs:
 Lt. Governor's Office 11,200
 To implement the provisions of Citizen
 Political Process Amendments
(House Bill 145, 2019 General Session).

Item 7

To Governor's Office - Governor's Office
 of Management and Budget
 Notwithstanding the intent language
 contained in New and Current Fiscal Year
 Supplemental Appropriations Act (Senate
 Bill 2, 2019 General Session) items 132, 143,
 and 301, the Legislature intends that the
 Capitol Preservation Board and Division of
 Facilities Construction Management, in
 consultation with the Governor's Office of
 Management and Budget and legislative
 fiscal analyst, use up to \$250,000 of the \$110
 million appropriated to the Capitol
 Preservation Board to develop a long-term
 plan that addresses space needs for the
 Department of Agriculture, Department of
 Heritage and Arts, and agencies residing on
 Capitol Hill. The plan must increase
 utilization of buildings statewide to
 accommodate the needs of the above agencies,
 reduce traffic and congestion on Capitol Hill,
 ameliorate the negative impacts of street
 parking in Capitol Hill neighborhoods,
 replace the State Office Building with a
 smaller, more energy efficient building that
 provides public access to state art and history
 collections, and construct or acquire any
 necessary additional space off Capitol Hill in
 such a manner that new space optimizes
 access to mass transit, minimizes commute
 times, and reduces congestion and associated
 vehicle emissions. The Legislature further

intends that the Division of Finance not
 release amounts appropriated to the Capitol
 Preservation Board for the above purposes in
 excess of \$250,000 until the plan has been
 presented to the Governor, Capitol
 Preservation Board, and Executive
 Appropriations Committee. Upon review and
 recommendation of the Executive
 Appropriations Committee, the Division of
 Finance may transfer recommended amounts
 to the Division of Facilities Construction
 Management for acquisition, renovation, or
 construction.

Item 8

To Governor's Office - Governor's Office
 of Management and Budget
 From General Fund, One-Time 20,000
 Schedule of Programs:
 Operational Excellence 20,000
 To implement the provisions of Budgetary
 Procedures Act Amendments
(House Bill 241, 2019 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 9

To Department of Public Safety - Division of
 Homeland Security - Emergency and Disaster
 Management
 From General Fund Restricted - State
 Disaster Recovery Restr Act,
 One-Time 7,655,800
 From Beginning Nonlapsing
 Balances (3,775,600)
 From Closing Nonlapsing Balances 3,775,600
 Schedule of Programs:
 Emergency and Disaster
 Management 7,655,800

Item 10

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted
 Account, One-Time 5,300
 Schedule of Programs:
 Driver Services 5,300
 To implement the provisions of Driver
 License Renewal Amendments
(House Bill 294, 2019 General Session).

Item 11

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted
 Account, One-Time 2,400
 Schedule of Programs:
 Driver Records 2,400
 To implement the provisions of Offender
 Registry Amendments
(House Bill 298, 2019 General Session).

Item 12

To Department of Public Safety -
 Emergency Management
 From General Fund Restricted - State
 Disaster Recovery Restr Act,
 One-Time 3,200,000
 Schedule of Programs:
 Emergency Management 3,200,000
 To implement the provisions of Disaster
 Recovery Fund Amendments
(House Bill 423, 2019 General Session).

Item 13

To Department of Public Safety - Programs & Operations
 From General Fund, One-Time 2,800
 Schedule of Programs:
 CITS State Bureau of Investigation 2,800
 To implement the provisions of Autonomous Vehicle Regulations
 (*House Bill 101, 2019 General Session*).

Item 14

To Department of Public Safety - Bureau of Criminal Identification
 From General Fund Restricted - Concealed Weapons Account, One-Time 5,000
 Schedule of Programs:
 Non-Government/Other Services 5,000
 To implement the provisions of Firearm Violence and Suicide Prevention Amendments
 (*House Bill 17, 2019 General Session*).

Item 15

To Department of Public Safety - Bureau of Criminal Identification
 From General Fund, One-Time 800
 Schedule of Programs:
 Law Enforcement/Criminal Justice Services 800
 To implement the provisions of Sexual Violence Protective Orders
 (*House Bill 100, 2019 General Session*).

Item 16

To Department of Public Safety - Bureau of Criminal Identification
 From General Fund, One-Time 4,900
 Schedule of Programs:
 Law Enforcement/Criminal Justice Services 4,900
 To implement the provisions of Silver Alert Program
 (*House Bill 215, 2019 General Session*).

Item 17

To Department of Public Safety - Bureau of Criminal Identification
 From General Fund, One-Time 76,400
 Schedule of Programs:
 Law Enforcement/Criminal Justice Services 76,400
 To implement the provisions of Criminal Information Amendments
 (*House Bill 478, 2019 General Session*).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 18

To Department of Administrative Services - DFCM Administration
 Notwithstanding the intent language contained in New and Current Fiscal Year Supplemental Appropriations Act (Senate

Bill 2, 2019 General Session) items 132, 143, and 301, the Legislature intends that the Capitol Preservation Board and Division of Facilities Construction Management, in consultation with the Governor's Office of Management and Budget and legislative fiscal analyst, use up to \$250,000 of the \$110 million appropriated to the Capitol Preservation Board to develop a long-term plan that addresses space needs for the Department of Agriculture, Department of Heritage and Arts, and agencies residing on Capitol Hill. The plan must increase utilization of buildings statewide to accommodate the needs of the above agencies, reduce traffic and congestion on Capitol Hill, ameliorate the negative impacts of street parking in Capitol Hill neighborhoods, replace the State Office Building with a smaller, more energy efficient building that provides public access to state art and history collections, and construct or acquire any necessary additional space off Capitol Hill in such a manner that new space optimizes access to mass transit, minimizes commute times, and reduces congestion and associated vehicle emissions. The Legislature further intends that the Division of Finance not release amounts appropriated to the Capitol Preservation Board for the above purposes in excess of \$250,000 until the plan has been presented to the Governor, Capitol Preservation Board, and Executive Appropriations Committee. Upon review and recommendation of the Executive Appropriations Committee, the Division of Finance may transfer recommended amounts to the Division of Facilities Construction Management for acquisition, renovation, or construction.

Item 19

To Department of Administrative Services - Inspector General of Medicaid Services
 The Legislature authorizes the Inspector General of Medicaid Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund 2252 for FY 2019 regardless of the amount appropriated as allowed by the funds authorizing statute.

TRANSPORTATION

Item 20

To Transportation - Engineering Services
 From Transportation Fund, One-Time . . 225,000
 Schedule of Programs:
 Materials Lab 225,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 21

To Department of Alcoholic Beverage Control - DABC Operations

From Liquor Control Fund, One-Time 5,100
 Schedule of Programs:
 Stores and Agencies 5,100
 To implement the provisions of Beer
 Amendments
 (Senate Bill 132, 2019 General Session).

Item 22

To Department of Alcoholic Beverage Control -
 Parents Empowered
 From General Fund Restricted -
 Underage Drinking Prevention Media
 and Education Campaign Restricted
 Account, One-Time (41,000)
 Schedule of Programs:
 Parents Empowered (41,000)

**GOVERNOR'S OFFICE OF
 ECONOMIC DEVELOPMENT**

Item 23

To Governor's Office of Economic Development -
 Pass-Through
 From General Fund, One-Time (225,000)
 Schedule of Programs:
 Pass-Through (225,000)

Item 24

To Governor's Office of Economic Development -
 Utah Office of Outdoor Recreation
 From Outdoor Recreation Infrastructure
 Account, One-Time 1,000,000
 Schedule of Programs:
 Outdoor Recreational Infrastructure
 Grant Program 1,000,000
 To implement the provisions of Outdoor
 Recreation Grant Amendments
 (Senate Bill 249, 2019 General Session).

DEPARTMENT OF HERITAGE AND ARTS

Item 25

To Department of Heritage and Arts -
 Pass-Through
 From General Fund, One-Time 150,000
 Schedule of Programs:
 Pass-Through 150,000

INSURANCE DEPARTMENT

Item 26

To Insurance Department - Insurance
 Department Administration
 From General Fund, One-Time 9,300
 Schedule of Programs:
 Administration 9,300
 To implement the provisions of Insurance
 Amendments
 (House Bill 55, 2019 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 27

To Department of Health - Disease Control
 and Prevention
 From General Fund, One-Time 6,700
 Schedule of Programs:

Health Promotion 6,700
 To implement the provisions of Public
 Education Vision Screening
 (Senate Bill 143, 2019 General Session).

Item 28

To Department of Health - Executive
 Director's Operations
 From General Fund, One-Time 1,000
 Schedule of Programs:
 Center for Health Data and
 Informatics 1,000
 To implement the provisions of
 Transparency Website Amendments
 (House Bill 178, 2019 General Session).

Item 29

To Department of Health - Family Health
 and Preparedness
 From General Fund, One-Time 4,000
 Schedule of Programs:
 Maternal and Child Health 4,000
 To implement the provisions of Down
 Syndrome Nondiscrimination Abortion Act
 (House Bill 166, 2019 General Session).

Item 30

To Department of Health - Medicaid and
 Health Financing
 From General Fund, One-Time 57,000
 From Federal Funds, One-Time 133,000
 Schedule of Programs:
 Director's Office 190,000
 To implement the provisions of Medicaid
 Eligibility Amendments
 (House Bill 460, 2019 General Session).

Item 31

To Department of Health - Medicaid and
 Health Financing
 From Federal Funds, One-Time 37,500
 From Dedicated Credits Revenue,
 One-Time 37,500
 Schedule of Programs:
 Eligibility Policy 75,000
 To implement the provisions of Medicaid
 Dental Coverage Amendments
 (Senate Bill 11, 2019 General Session).

Item 32

To Department of Health - Medicaid and
 Health Financing
 From Federal Funds, One-Time (1,105,300)
 From Medicaid Expansion Fund,
 One-Time 327,300
 Schedule of Programs:
 Department of Workforce Services'
 Seeded Services (502,800)
 Medicaid Operations (275,200)
 To implement the provisions of Medicaid
 Expansion Adjustments
 (Senate Bill 96, 2019 General Session).

Item 33

To Department of Health - Medicaid Services
 From General Fund, One-Time 30,000
 From Federal Funds, One-Time 270,000
 Schedule of Programs:
 Provider Reimbursement Information
 System for Medicaid 300,000

To implement the provisions of Medicaid Eligibility Amendments
(House Bill 460, 2019 General Session).

Item 34

To Department of Health - Medicaid Services
From General Fund, One-Time (1,300,000)
From Federal Funds, One-Time 197,748,000
From Medicaid Expansion Fund,
One-Time 26,891,500

Schedule of Programs:
Accountable Care Organizations . . . 10,234,400
Medicaid Expansion 2017 217,396,900
Other Services (4,291,800)

To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 35

To Department of Human Services - Division of Aging and Adult Services
From General Fund, One-Time 7,500
Schedule of Programs:
Adult Protective Services 7,500

To implement the provisions of Vulnerable Adult Amendments
(Senate Bill 202, 2019 General Session).

Item 36

To Department of Human Services - Executive Director Operations

The Legislature authorizes the Department of Human Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund 2252 for FY 2019 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 37

To Department of Human Services - Division of Substance Abuse and Mental Health

The Legislature intends that funds appropriated for "Domestic Violence: Self-Protection and Dating Violence Prevention for FLDS Refugee Women" in S.B. 2, Item 70 not lapse at the close of FY 2019.

Item 38

To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund, One-Time (2,750,000)
Schedule of Programs:
Local Substance Abuse Services (2,637,500)
Mental Health Centers (112,500)

To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 39

To Department of Workforce Services - Operations and Policy

The Legislature authorizes the Department of Workforce Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund 2252 for FY 2019 regardless of the amount appropriated as allowed by the funds authorizing statute.

Item 40

To Department of Workforce Services - Operations and Policy
From General Fund, One-Time 41,500
From Federal Funds, One-Time 372,600
Schedule of Programs:
Eligibility Services 113,800
Information Technology 300,300

To implement the provisions of Medicaid Eligibility Amendments
(House Bill 460, 2019 General Session).

Item 41

To Department of Workforce Services - Operations and Policy
From Medicaid Expansion Fund,
One-Time (335,200)
From Revenue Transfers, One-Time . . . (502,800)
Schedule of Programs:
Eligibility Services (838,000)

To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 42

To Department of Agriculture and Food - Utah State Fair Corporation

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$300,000 supplemental appropriation for Olympic-Caliber Skateboard Park at the Utah State Fairpark in Item 86, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

GOVERNOR'S OFFICE

Item 43

To Governor's Office - Office of Energy Development
From General Fund, One-Time 1,000,000
Schedule of Programs:
Office of Energy Development 1,000,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$1,000,000 one-time General Fund appropriated to the Isotopes Research Center shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$250,000 one-time General Fund appropriated to Transmission Line Study in Item 87, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$500,000 one-time General Fund appropriated to Utah Coal to High-Value Products in Item 87, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

DEPARTMENT OF NATURAL RESOURCES

Item 44

To Department of Natural Resources - DNR Pass Through

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$500,000 supplemental appropriation for Muddy Creek Irrigation Company Pipeline in Item 88, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$500,000 supplemental appropriation for Wolf Delisting in Item 88, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$3 million supplemental appropriation for Utah County Wildfire Rehabilitation in Item 88, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the \$500,000 supplemental appropriation for wolf delisting in Item 88, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 45

To Public Lands Policy Coordinating Office From General Fund, One-Time 500,000 Schedule of Programs:

Public Lands Policy Coordinating Office 500,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$500,000 one-time General Fund appropriated for R.S. 2477 Cost Sharing shall not lapse at the close of FY 2019.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that \$1,300,000 one-time General Fund appropriated to the Public Lands Policy Coordinating Office in Item 95, S.B. 2, 2019 General Session, shall not lapse at the close of FY 2019.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 46

To State Board of Education - Minimum School Program - Basic School Program

From Education Fund, One-Time 10,000,000 Schedule of Programs:

Grades 1 - 12 10,000,000

Item 47

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-Time (1,191,400) Schedule of Programs:

Youth in Custody (741,400)

Early Literacy Program (450,000)

Item 48

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Education Fund, One-Time (10,000,000) Schedule of Programs:

Voted Local Levy Program (5,000,000)

Board Local Levy Program (5,000,000)

STATE BOARD OF EDUCATION

Item 49

To State Board of Education - MSP Categorical Program Administration

From Education Fund, One-Time 1,191,400 Schedule of Programs:

Youth-in-Custody 741,400

Early Literacy Program 450,000

Item 50

To State Board of Education - State Administrative Office

From Education Fund, One-Time (137,500) From Education Fund Restricted -

Underage Drinking Prevention Program Restricted Account, One-Time 41,000

Schedule of Programs: Special Education (137,500)

Student Advocacy Services 41,000

RETIREMENT AND INDEPENDENT ENTITIES

CAREER SERVICE REVIEW OFFICE

Item 51

To Career Service Review Office Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$30,000 of appropriations provided for the Career Service Review Office in Laws of Utah 2018, Chapter 16, Item 6 shall not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to grievance resolution.

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 52

To Capitol Preservation Board From General Fund, One-Time 110,000,000 Schedule of Programs:

Capitol Preservation Board 110,000,000

Notwithstanding the intent language contained in New and Current Fiscal Year

Supplemental Appropriations Act (Senate Bill 2, 2019 General Session) items 132, 143, and 301, the Legislature intends that the Capitol Preservation Board and Division of Facilities Construction Management, in consultation with the Governor's Office of Management and Budget and legislative fiscal analyst, use up to \$250,000 of the \$110 million appropriated to the Capitol Preservation Board to develop a long-term plan that addresses space needs for the Department of Agriculture, Department of Heritage and Arts, and agencies residing on Capitol Hill. The plan must increase utilization of buildings statewide to accommodate the needs of the above agencies, reduce traffic and congestion on Capitol Hill, ameliorate the negative impacts of street parking in Capitol Hill neighborhoods, replace the State Office Building with a smaller, more energy efficient building that provides public access to state art and history collections, and construct or acquire any necessary additional space off Capitol Hill in such a manner that new space optimizes access to mass transit, minimizes commute times, and reduces congestion and associated vehicle emissions. The Legislature further intends that the Division of Finance not release amounts appropriated to the Capitol Preservation Board for the above purposes in excess of \$250,000 until the plan has been presented to the Governor, Capitol Preservation Board, and Executive Appropriations Committee. Upon review and recommendation of the Executive Appropriations Committee, the Division of Finance may transfer recommended amounts to the Division of Facilities Construction Management for acquisition, renovation, or construction.

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided by this item not lapse at the close of Fiscal Year 2019.

The Legislature intends that the Capitol Preservation Board may use up to \$50,000 ongoing appropriated in their FY 2019 budget for State Capitol Field Trips to hire a part-time employee to coordinate the program.

LEGISLATURE

Item 53

To Legislature - Senate
 From General Fund, One-Time 2,800
 Schedule of Programs:
 Administration 2,800

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (*House Joint Resolution 10, 2019 General Session*).

Item 54

To Legislature - House of Representatives
 From General Fund, One-Time 4,100

Schedule of Programs:

Administration 4,100

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (*House Joint Resolution 10, 2019 General Session*).

Subsection 1(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 55

To Governor's Office - CCJJ - Child Welfare Parental Defense Fund

The Legislature intends that funding for the Child Welfare Parental Defense Program continue to be spent from the line item provided to the Department of Administrative Services through the remainder of the fiscal year ending June 30, 2019 even though administration of the program will transfer upon the effective date of S.B. 251. The Legislature also intends that the Division of Finance transfer any remaining nonlapsing closing balance in the line item at the end of FY 2019 to the beginning balance of the corresponding line item for parental defense in the Commission on Criminal and Juvenile Justice at the beginning of FY 2020.

Subsection 1(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

RETIREMENT AND INDEPENDENT ENTITIES

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 56

To Department of Human Resource Management - Human Resources Internal Service Fund

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that \$70,000 of appropriations provided for the

Department of Human Resource Management in the Laws of Utah 2018, Chapter 16, Item 8 and Item 11 shall not lapse at the close of fiscal year 2019. The use of any nonlapsing funds is limited to \$50,000 for statewide management training and \$20,000 for administrative law judge compliance.

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 57

To General Fund Restricted - State Disaster Recovery Restricted Account
From General Fund, One-Time 3,775,600
Schedule of Programs:
General Fund Restricted - State Disaster Recovery Restricted Account 3,775,600

SOCIAL SERVICES

Item 58

To Medicaid Expansion Fund
From General Fund, One-Time (2,550,000)
From Dedicated Credits Revenue, One-Time 15,000,000
Schedule of Programs:
Medicaid Expansion Fund 12,450,000
To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

PUBLIC EDUCATION

Item 59

To Uniform School Fund Restricted - Growth in Student Population Account
From Education Fund, One-Time (10,000,000)
Schedule of Programs:
Growth in Student Population Account (10,000,000)

Item 60

To Underage Drinking Prevention Program Restricted Account
From Liquor Control Fund, One-Time 41,000
Schedule of Programs:
Underage Drinking Prevention Program Restricted Account 41,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform

School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 61

To General Fund
From Nonlapsing Balances - From Dept. Public Safety - Emergency and Disaster Management 3,775,600
Schedule of Programs:
General Fund, One-time 3,775,600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 62

To General Fund
From General Fund Restricted - Remote Sales Restricted Account, One-Time 84,000
From Nonlapsing Balances - Utah Science Technology and Research Governing Authority - Research Capacity Building (250,000)
Schedule of Programs:
General Fund, One-time (166,000)

Section 2. FY 2020 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2019 and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 2(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 63

To Attorney General
From Dedicated Credits Revenue 126,100
Schedule of Programs:
Child Protection 126,100

Item 64

To Attorney General
From General Fund 174,300
Schedule of Programs:
Criminal Prosecution 174,300
To implement the provisions of Prosecution Review Amendments
(House Bill 281, 2019 General Session).

BOARD OF PARDONS AND PAROLE

Item 65

To Board of Pardons and Parole
From General Fund 3,500
From General Fund, One-Time (3,200)
Schedule of Programs:
Board of Pardons and Parole 300

To implement the provisions of Prosecution Review Amendments
(House Bill 281, 2019 General Session).

Item 66

To Board of Pardons and Parole
From General Fund 1,300
From General Fund, One-Time (700)
Schedule of Programs:

Board of Pardons and Parole 600

To implement the provisions of Victim Targeting Penalty Enhancements
(Senate Bill 103, 2019 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 67

To Utah Department of Corrections - Programs and Operations
From General Fund (185,000)
Schedule of Programs:

Adult Probation and Parole Programs (185,000)

To implement the provisions of Offender Supervision Amendments
(House Bill 21, 2019 General Session).

Item 68

To Utah Department of Corrections - Programs and Operations
From General Fund 145,000
Schedule of Programs:

Prison Operations Draper Facility 145,000

To implement the provisions of Sexual Violence Protective Orders
(House Bill 100, 2019 General Session).

Item 69

To Utah Department of Corrections - Programs and Operations
From General Fund 186,300
From General Fund, One-Time (168,000)
Schedule of Programs:

Prison Operations Draper Facility 18,300

To implement the provisions of Prosecution Review Amendments (House Bill 281, 2019 General Session).

Item 70

To Utah Department of Corrections - Programs and Operations
From Revenue Transfers 7,100
From Revenue Transfers, One-Time 7,100
Schedule of Programs:

Adult Probation and Parole Administration 14,200

To implement the provisions of Offender Registry Amendments
(House Bill 298, 2019 General Session).

Item 71

To Utah Department of Corrections - Programs and Operations
From General Fund 36,500
Schedule of Programs:

Prison Operations Draper Facility 36,500

To implement the provisions of Child Welfare Worker Protections
(Senate Bill 59, 2019 General Session).

Item 72

To Utah Department of Corrections - Programs and Operations
From General Fund 121,700
From General Fund, One-Time (60,800)
Schedule of Programs:

Prison Operations Draper Facility 60,900

To implement the provisions of Victim Targeting Penalty Enhancements
(Senate Bill 103, 2019 General Session).

Item 73

To Utah Department of Corrections - Programs and Operations
From General Fund 73,000
From General Fund, One-Time (39,000)
Schedule of Programs:

Prison Operations Draper Facility 34,000

To implement the provisions of Vulnerable Adult Amendments
(Senate Bill 202, 2019 General Session).

Item 74

To Utah Department of Corrections - Jail Contracting
From General Fund, One-Time 325,000
Schedule of Programs:

Jail Contracting 325,000

Notwithstanding legislative intent language in S.B. 2, "New and Current Fiscal year Supplemental Appropriations Act" Substitute 1, Item 126, and Under Section 64-13e-105 the Legislature intends that the final state daily incarceration rate be set at \$73.87 for FY 2020.

**JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR**

Item 75

To Judicial Council/State Court Administrator - Administration
From General Fund 1,550,000
Schedule of Programs:

Administrative Office 150,000
Courts Security 500,000
District Courts 900,000

Item 76

To Judicial Council/State Court Administrator - Administration
From General Fund (6,100)
Schedule of Programs:

District Courts (6,100)

To implement the provisions of Amendments to Criminal Provisions
(House Bill 40, 2019 General Session).

Item 77

To Judicial Council/State Court Administrator - Administration
From General Fund (5,800)
Schedule of Programs:

District Courts (5,800)

To implement the provisions of Sex Offender Registry Amendments
(House Bill 75, 2019 General Session).

Item 78

To Judicial Council/State Court Administrator - Administration
 From General Fund 16,600
 Schedule of Programs:
 District Courts 16,600
 To implement the provisions of Offenses Against the Administration of Government Amendments
(House Bill 163, 2019 General Session).

Item 79

To Judicial Council/State Court Administrator - Administration
 From General Fund 13,100
 Schedule of Programs:
 Juvenile Courts 13,100
 To implement the provisions of Marriage Amendments
(House Bill 234, 2019 General Session).

Item 80

To Judicial Council/State Court Administrator - Administration
 From General Fund 11,800
 Schedule of Programs:
 District Courts 11,800
 To implement the provisions of Sexually Oriented Business License Amendments
(House Bill 258, 2019 General Session).

Item 81

To Judicial Council/State Court Administrator - Administration
 From General Fund 3,100
 Schedule of Programs:
 District Courts 3,100
 To implement the provisions of Prosecution Review Amendments
(House Bill 281, 2019 General Session).

Item 82

To Judicial Council/State Court Administrator - Administration
 From General Fund 25,400
 Schedule of Programs:
 District Courts 25,400
 To implement the provisions of Juvenile Justice Competency Revisions
(House Bill 330, 2019 General Session).

Item 83

To Judicial Council/State Court Administrator - Administration
 From General Fund, One-Time 40,500
 Schedule of Programs:
 Data Processing 40,500
 To implement the provisions of Bail Bond Amendments
(House Bill 428, 2019 General Session).

Item 84

To Judicial Council/State Court Administrator - Administration
 From General Fund 200,000
 From General Fund, One-Time 200,000
 Schedule of Programs:
 Data Processing 400,000

To implement the provisions of Expungement Act Amendments
(House Bill 431, 2019 General Session).

Item 85

To Judicial Council/State Court Administrator - Administration
 From General Fund, One-Time 113,800
 Schedule of Programs:
 Juvenile Courts 113,800
 To implement the provisions of Indigent Defense Act Amendments
(Senate Bill 32, 2019 General Session).

Item 86

To Judicial Council/State Court Administrator - Administration
 From General Fund 33,200
 Schedule of Programs:
 District Courts 33,200
 To implement the provisions of Assisted Outpatient Treatment for Mental Illness
(Senate Bill 39, 2019 General Session).

Item 87

To Judicial Council/State Court Administrator - Administration
 From General Fund 2,000
 Schedule of Programs:
 District Courts 2,000
 To implement the provisions of Child Welfare Worker Protections
(Senate Bill 59, 2019 General Session).

Item 88

To Judicial Council/State Court Administrator - Administration
 From General Fund 905,000
 Schedule of Programs:
 District Courts 905,000
 To implement the provisions of Third Judicial District Judge Amendments
(Senate Bill 92, 2019 General Session).

Item 89

To Judicial Council/State Court Administrator - Administration
 From General Fund 900
 Schedule of Programs:
 District Courts 900
 To implement the provisions of Victim Targeting Penalty Enhancements
(Senate Bill 103, 2019 General Session).

Item 90

To Judicial Council/State Court Administrator - Administration
 From General Fund 11,300
 Schedule of Programs:
 District Courts 11,300
 To implement the provisions of Asset Forfeiture Amendments
(Senate Bill 109, 2019 General Session).

Item 91

To Judicial Council/State Court Administrator - Administration
 From General Fund 400
 Schedule of Programs:

Administrative Office 400
 To implement the provisions of Utah
 Communications Authority Amendments
(Senate Bill 154, 2019 General Session).

Item 92

To Judicial Council/State Court Administrator -
 Administration
 From General Fund 1,900
 Schedule of Programs:
 District Courts 1,900
 To implement the provisions of Vulnerable
 Adult Amendments
(Senate Bill 202, 2019 General Session).

GOVERNOR'S OFFICE

Item 93

To Governor's Office - CCJJ - Child
 Welfare Parental Defense
 From General Fund 95,200
 From Dedicated Credits Revenue 45,000
 From Revenue Transfers 9,000
 From Beginning Nonlapsing Balances 59,300
 From Closing Nonlapsing Balances (86,300)
 Schedule of Programs:
 Child Welfare Parental Defense 122,200
 To implement the provisions of Parental
 Defense Office Amendments
(Senate Bill 251, 2019 General Session).

Item 94

To Governor's Office - CCJJ Jail Reimbursement
 From General Fund, One-Time (325,000)
 Schedule of Programs:
 Jail Reimbursement (325,000)

Item 95

To Governor's Office - Character Education
 From General Fund (205,200)
 Schedule of Programs:
 Character Education (205,200)
 To implement the provisions of Boards and
 Commissions Amendments
(House Bill 387, 2019 General Session).

Item 96

To Governor's Office - Commission on Criminal
 and Juvenile Justice
 From General Fund 150,000
 Schedule of Programs:
 CCJJ Commission 150,000
 It is the intent of the Legislature that this
 funding be administered for use in providing
 hospital response team services in a county of
 the first class for the victims of sexual assault
 and violence.

Item 97

To Governor's Office - Commission on Criminal
 and Juvenile Justice
 From General Fund, One-Time 117,300
 Schedule of Programs:
 CCJJ Commission 117,300
 To implement the provisions of Restitution
 Reporting *(House Bill 414, 2019 General
 Session).*

Item 98

To Governor's Office - Commission on Criminal
 and Juvenile Justice
 From General Fund Restricted -
 Criminal Forfeiture Restricted
 Account 34,700
 Schedule of Programs:
 State Asset Forfeiture Grant
 Program 34,700
 To implement the provisions of Asset
 Forfeiture Amendments
(Senate Bill 109, 2019 General Session).

Item 99

To Governor's Office
 From General Fund, One-Time 2,750,000
 Schedule of Programs:
 Lt. Governor's Office 2,750,000

Item 100

To Governor's Office
 From Dedicated Credits Revenue,
 One-Time 9,500
 Schedule of Programs:
 Lt. Governor's Office 9,500
 To implement the provisions of Remote
 Notarization Standards
(House Bill 52, 2019 General Session).

Item 101

To Governor's Office
 From General Fund, One-Time 4,400
 Schedule of Programs:
 Lt. Governor's Office 4,400
 To implement the provisions of Lobbyist
 Expenditures Amendments
(House Bill 64, 2019 General Session).

Item 102

To Governor's Office
 From General Fund 55,000
 Schedule of Programs:
 Administration 55,000
 To implement the provisions of Boards and
 Commissions Amendments
(House Bill 387, 2019 General Session).

Item 103

To Governor's Office
 From General Fund, One-Time 13,000
 Schedule of Programs:
 Lt. Governor's Office 13,000
 To implement the provisions of Proposal to
 Amend Utah Constitution -- Municipal
 Water Resources *(House Joint Resolution 1,
 2019 General Session).*

Item 104

To Governor's Office
 From General Fund, One-Time 13,000
 Schedule of Programs:
 Lt. Governor's Office 13,000
 To implement the provisions of Proposal to
 Amend Utah Constitution -- Legislator
 Qualifications *(House Joint Resolution 4,
 2019 General Session).*

Item 105

To Governor's Office

From General Fund, One-Time 13,000
 Schedule of Programs:
 Lt. Governor's Office 13,000
 To implement the provisions of Proposal to Amend Utah Constitution - Slavery and Involuntary Servitude Prohibition (*House Joint Resolution 8, 2019 General Session*).

Item 106

To Governor's Office
 From General Fund, One-Time 46,800
 Schedule of Programs:
 Lt. Governor's Office 46,800
 To implement the provisions of Conflict Disclosure Amendments
 (*Senate Bill 89, 2019 General Session*).

Item 107

To Governor's Office
 From General Fund 725,000
 From General Fund, One-Time 2,175,000
 Schedule of Programs:
 Lt. Governor's Office 2,900,000
 To implement the provisions of Presidential Primary Amendments
 (*Senate Bill 242, 2019 General Session*).

Item 108

To Governor's Office - Indigent Defense Commission
 From General Fund Restricted - Indigent Defense Resources (1,700,000)
 From General Fund Restricted - Indigent Defense Resources, One-Time 4,586,200
 Schedule of Programs:
 Indigent Defense Commission 2,886,200
 To implement the provisions of Indigent Defense Act Amendments
 (*Senate Bill 32, 2019 General Session*).

Item 109

To Governor's Office - Suicide Prevention
 From General Fund, One-Time 300,000
 Schedule of Programs:
 Suicide Prevention 300,000
 To implement the provisions of Suicide Prevention Amendments
 (*House Bill 393, 2019 General Session*).

DEPARTMENT OF PUBLIC SAFETY

Item 110

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
 From Beginning Nonlapsing Balances (6,975,600)
 From Closing Nonlapsing Balances 6,975,600

Item 111

To Department of Public Safety - Driver License
 From Department of Public Safety Restricted Account 800,000
 From Department of Public Safety Restricted Account, One-Time (800,000)
 From Beginning Nonlapsing Balances . . . 100,000
 Schedule of Programs:
 Driver Services 100,000

To implement the provisions of Electronic Driver Licenses
 (*Senate Bill 100, 2019 General Session*).

Item 112

To Department of Public Safety - Emergency Management
 From General Fund 9,300
 Schedule of Programs:
 Emergency Management 9,300
 To implement the provisions of Post Disaster Recovery and Mitigation Restricted Account
 (*House Bill 305, 2019 General Session*).

Item 113

To Department of Public Safety - Peace Officers' Standards and Training
 From General Fund, One-Time 200,000
 Schedule of Programs:
 Basic Training 200,000

Item 114

To Department of Public Safety - Peace Officers' Standards and Training
 From Uninsured Motorist Identification Restricted Account 500,000
 Schedule of Programs:
 Basic Training 500,000
 To implement the provisions of Uninsured Motorist Identification Sunset Amendments
 (*House Bill 221, 2019 General Session*).

Item 115

To Department of Public Safety - Programs & Operations
 From General Fund 240,000
 From General Fund, One-Time 125,000
 Schedule of Programs:
 CITS State Bureau of Investigation 240,000
 Department Commissioner's Office 5,000
 Department Intelligence Center 120,000

Item 116

To Department of Public Safety - Bureau of Criminal Identification
 From General Fund Restricted - Concealed Weapons Account 20,000
 Schedule of Programs:
 Non-Government/Other Services 20,000
 To implement the provisions of Firearm Violence and Suicide Prevention Amendments
 (*House Bill 17, 2019 General Session*).

Item 117

To Department of Public Safety - Bureau of Criminal Identification
 From Dedicated Credits Revenue 4,600
 From Dedicated Credits Revenue, One-Time 4,600
 Schedule of Programs:
 Non-Government/Other Services 9,200
 To implement the provisions of Offender Registry Amendments
 (*House Bill 298, 2019 General Session*).

Item 118

To Department of Public Safety - Bureau of Criminal Identification

From Dedicated Credits Revenue (2,000)
 From Pass-through (1,300)
 Schedule of Programs:
 Non-Government/Other Services (3,300)
 To implement the provisions of School
 Employee Background Checks
 (House Bill 375, 2019 General Session).

Item 119

To Department of Public Safety -
 Bureau of Criminal Identification
 From General Fund 250,000
 From General Fund, One-Time 250,000
 From Dedicated Credits Revenue (134,300)
 From Dedicated Credits Revenue,
 One-Time 111,900
 Schedule of Programs:
 Non-Government/Other Services 477,600
 To implement the provisions of
 Expungement Act Amendments
 (House Bill 431, 2019 General Session).

UTAH COMMUNICATIONS AUTHORITY

Item 120

To Utah Communications Authority -
 Administrative Services Division
 From Gen. Fund Rest. - Statewide
 Unified E-911 Emerg. Acct. 8,423,000
 From Gen. Fund Rest. - Statewide Unified
 E-911 Emerg. Acct., One-Time (3,235,000)
 Schedule of Programs:
 911 Division 5,188,000
 To implement the provisions of Utah
 Communications Authority Amendments
 (Senate Bill 154, 2019 General Session).

**INFRASTRUCTURE AND
 GENERAL GOVERNMENT**

**DEPARTMENT OF
 ADMINISTRATIVE SERVICES**

Item 121

To Department of Administrative Services -
 Building Board Program
 The Legislature intends that the Utah
 State Building Board allocate \$1,400,000 in
 fiscal year 2020 capital improvement funding
 to the Division of Facilities Construction and
 Management for the demolition and
 remediation of the building located at 210
 South Rio Grande Street in Salt Lake City.

Item 122

To Department of Administrative Services -
 Building Board Program
 From Capital Projects Fund (80,400)
 Schedule of Programs:
 Building Board Program (80,400)
 To implement the provisions of State
 Buildings Amendments
 (House Bill 349, 2019 General Session).

Item 123

To Department of Administrative Services - DFCM
 Administration

The legislature intends, that prior to
 October 31st, 2019, all Utah System of Higher
 Education institutions will develop and
 submit to the Infrastructure and General
 Government Appropriations Subcommittee
 and the Higher Education Appropriations
 Subcommittee, a plan for achieving the Utah
 System of Higher Education classroom
 utilization standards on the main campus of
 each institution by 2025. Said plan shall
 include the following: (1) The standard of
 33.75 average hours of instruction per week
 for Spring and Fall semesters; (2) The
 standard of 66.7 percent seat occupancy in
 classrooms; and (3) Increasing the summer
 utilization of classrooms.

Item 124

To Department of Administrative Services -
 DFCM Administration
 From Capital Projects Fund 80,400
 Schedule of Programs:
 DFCM Administration 80,400
 To implement the provisions of State
 Buildings Amendments
 (House Bill 349, 2019 General Session).

Item 125

To Department of Administrative Services -
 Executive Director
 From General Fund, One-Time 4,060,000
 Schedule of Programs:
 Executive Director 4,060,000

Item 126

To Department of Administrative Services -
 Executive Director
 From General Fund (300)
 Schedule of Programs:
 Executive Director (300)
 To implement the provisions of
 Transparency Website Amendments
 (House Bill 178, 2019 General Session).

Item 127

To Department of Administrative Services -
 Finance - Mandated
 Under provisions of Section 67-19-43,
 Utah Code Annotated, the employer defined
 contribution match for the fiscal year
 beginning July 1, 2019 and ending
 June 30, 2020 shall be \$26 per pay period.

Item 128

To Department of Administrative Services -
 Finance - Mandated
 From General Fund 1,306,000
 From General Fund, One-Time (1,306,000)
 To implement the provisions of Autism
 Amendments
 (Senate Bill 95, 2019 General Session).

Item 129

To Department of Administrative Services -
 Finance - Mandated - Ethics Commissions
 From General Fund 8,000
 Schedule of Programs:
 Executive Branch Ethics Commission 4,000
 Political Subdivisions Ethics
 Commission 4,000

Item 130

To Department of Administrative Services -
 Finance - Mandated - Parental Defense
 From General Fund (95,200)
 From Dedicated Credits Revenue (45,000)
 From Revenue Transfers (9,000)
 From Beginning Nonlapsing
 Balances (59,300)
 From Closing Nonlapsing Balances 86,300
 Schedule of Programs:
 Parental Defense (122,200)
 To implement the provisions of Parental
 Defense Office Amendments
 (*Senate Bill 251, 2019 General Session*).

Item 131

To Department of Administrative Services -
 Finance Administration
 From General Fund 12,700
 From General Fund, One-Time 8,000
 Schedule of Programs:
 Financial Reporting 20,700
 To implement the provisions of Higher
 Education Capital Facilities
 (*Senate Bill 102, 2019 General Session*).

Item 132

To Department of Administrative Services -
 Inspector General of Medicaid Services
 The Legislature authorizes the Inspector
 General of Medicaid Services to spend all
 available money, as authorized by the
 Department of Health, in the Medicaid
 Expansion Fund 2252 for FY 2020 regardless
 of the amount appropriated as allowed by the
 funds authorizing statute.

CAPITAL BUDGET

Item 133

To Capital Budget - Pass-Through
 From General Fund, One-Time 300,000
 Schedule of Programs:
 The Ice Sheet 150,000
 Peaks Olympic Ice Arena 150,000

**DEPARTMENT OF
 TECHNOLOGY SERVICES**

Item 134

To Department of Technology Services -
 Chief Information Officer
 From General Fund, One-Time 500,000
 Schedule of Programs:
 Chief Information Officer 500,000
 To implement the provisions of Single User
 Data Correlation Act
 (*Senate Bill 137, 2019 General Session*).

Item 135

To Department of Technology Services -
 Chief Information Officer
 From General Fund 4,300
 Schedule of Programs:
 Chief Information Officer 4,300
 To implement the provisions of Utah
 Communications Authority Amendments
 (*Senate Bill 154, 2019 General Session*).

TRANSPORTATION

Item 136

To Transportation - Construction Management
 The Legislature intends that the
 Department of Transportation use \$800,000
 from the Transportation Fund to construct a
 sound barrier along Mountain View Corridor
 at 8157 South Mapleleaf Way, West Jordan.

Item 137

To Transportation - Construction Management
 From Transportation Fund,
 One-Time 5,000,000
 Schedule of Programs:
 Federal Construction - New 5,000,000
 To implement the provisions of Right of
 Way Equity Amendments
 (*House Bill 358, 2019 General Session*).

Item 138

To Transportation - Engineering Services
 From Transportation Fund 225,000
 Schedule of Programs:
 Materials Lab 225,000

Item 139

To Transportation - Engineering Services
 From Transportation Fund 115,000
 From Transportation Fund, One-Time .. 755,000
 Schedule of Programs:
 Research 870,000
 To implement the provisions of
 Transportation Governance and Funding
 Revisions
 (*Senate Bill 72, 2019 General Session*).

Item 140

To Transportation - Operations/
 Maintenance Management
 From General Fund, One-Time 2,000,000
 Schedule of Programs:
 Equipment Purchases 2,000,000

Item 141

To Transportation - Operations/
 Maintenance Management
 From Transportation Fund 4,400
 Schedule of Programs:
 Maintenance Administration 4,400
 To implement the provisions of State
 Highway System Amendments
 (*House Bill 157, 2019 General Session*).

Item 142

To Transportation - Support Services
 From General Fund, One-Time 492,200
 Schedule of Programs:
 Administrative Services 492,200

Item 143

To Transportation - Motorcycle Safety Awareness
 From General Fund Restricted -
 Motorcycle Safety Awareness
 Support Rest Account 12,500
 From General Fund Restricted -
 Motorcycle Safety Awareness
 Support Rest Account, One-Time (3,100)
 Schedule of Programs:
 Motorcycle Safety Awareness 9,400

To implement the provisions of Special Group License Plate for Motorcycle Safety Awareness
(House Bill 65, 2019 General Session).

Item 144

To Transportation – Amusement Ride Safety
From General Fund 350,800
Schedule of Programs:
Amusement Ride Safety 350,800

To implement the provisions of Amusement Ride Safety
(House Bill 381, 2019 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 145

To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 42,300
From Liquor Control Fund, One-Time 15,200
Schedule of Programs:
Executive Director 57,500

To implement the provisions of Alcohol Amendments
(House Bill 453, 2019 General Session).

Item 146

To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 190,000
From Liquor Control Fund, One-Time (190,000)

To implement the provisions of Revenue Bonds and Capital Facilities Authorizations
(Senate Bill 9, 2019 General Session).

Item 147

To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 57,500
From Liquor Control Fund, One-Time 15,200
Schedule of Programs:
Stores and Agencies 72,700

To implement the provisions of Beer Amendments
(Senate Bill 132, 2019 General Session).

DEPARTMENT OF COMMERCE

Item 148

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 21,900
Schedule of Programs:
Occupational and Professional Licensing 21,900

To implement the provisions of Occupational Licensing Modifications
(House Bill 90, 2019 General Session).

Item 149

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 6,600
Schedule of Programs:
Consumer Protection 6,600

To implement the provisions of Consumer Ticket Protection Modifications
(House Bill 128, 2019 General Session).

Item 150

To Department of Commerce – Commerce General Regulation
From Dedicated Credits Revenue 26,000
From General Fund Restricted – Commerce Service Account (100)
Schedule of Programs:
Occupational and Professional Licensing 25,900

To implement the provisions of Professional Licensing Amendments
(House Bill 187, 2019 General Session).

Item 151

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 4,000
Schedule of Programs:
Occupational and Professional Licensing 4,000

To implement the provisions of Controlled Substance Abuse Amendments
(House Bill 191, 2019 General Session).

Item 152

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 148,000
Schedule of Programs:
Administration 148,000

To implement the provisions of Regulatory Sandbox
(House Bill 378, 2019 General Session).

Item 153

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Pawnbroker Operations, One-Time 77,000
Schedule of Programs:
Consumer Protection 77,000

To implement the provisions of Pawnshop and Secondhand Merchandise Amendments
(House Bill 394, 2019 General Session).

Item 154

To Department of Commerce – Commerce General Regulation
From General Fund Restricted – Commerce Service Account 7,100
Schedule of Programs:
Consumer Protection 7,100

To implement the provisions of Consumer Ticket Protection Amendments
(Senate Bill 69, 2019 General Session).

Item 155

To Department of Commerce -
 Commerce General Regulation
 From Dedicated Credits Revenue,
 One-Time 562,500
 Schedule of Programs:
 Real Estate 562,500
 To implement the provisions of Real Estate
 Amendments
 (Senate Bill 140, 2019 General Session).

**GOVERNOR'S OFFICE
 OF ECONOMIC DEVELOPMENT**

Item 156

To Governor's Office of Economic Development -
 Business Development
 From Dedicated Credits Revenue 80,000
 From Dedicated Credits Revenue,
 One-Time 40,000
 Schedule of Programs:
 Corporate Recruitment and
 Business Services 120,000
 To implement the provisions of Community
 Reinvestment Agency Report Amendments
 (Senate Bill 56, 2019 General Session).

Item 157

To Governor's Office of Economic Development -
 Office of Tourism
 From General Fund Rest. - Motion
 Picture Incentive Acct., One-Time ... 1,000,000
 From General Fund Restricted -
 Tourism Marketing Performance . (24,000,000)
 From General Fund Restricted -
 Tourism Marketing Performance,
 One-Time 25,000,000
 Schedule of Programs:
 Film Commission 1,000,000
 Marketing and Advertising 1,000,000

Item 158

To Governor's Office of Economic Development -
 Pass-Through
 From General Fund 1,425,000
 From General Fund, One-Time 1,855,000
 Schedule of Programs:
 Pass-Through 3,280,000

Item 159

To Governor's Office of Economic Development -
 STEM Action Center
 From General Fund (10,824,300)
 From General Fund, One-Time (2,100)
 From Dedicated Credits Revenue ... (1,536,900)
 Schedule of Programs:
 STEM Action Center (3,106,000)
 STEM Action Center -
 Grades 6-8 (4,257,300)
 STEM College Ready Math (5,000,000)
 To implement the provisions of Economic
 Development Amendments
 (Senate Bill 172, 2019 General Session).

Item 160

To Governor's Office of Economic Development -
 Utah Office of Outdoor Recreation

From Outdoor Recreation Infrastructure
 Account 1,000,000
 Schedule of Programs:
 Outdoor Recreational Infrastructure
 Grant Program 1,000,000
 To implement the provisions of Outdoor
 Recreation Grant Amendments
 (Senate Bill 249, 2019 General Session).

Item 161

To Governor's Office of Economic Development -
 Talent Ready Utah Center
 From General Fund 1,000
 Schedule of Programs:
 Talent Ready Utah Center 1,000
 To implement the provisions of Boards and
 Commissions Amendments
 (House Bill 387, 2019 General Session).

Item 162

To Governor's Office of Economic Development -
 Talent Ready Utah Center
 From General Fund 165,000
 Schedule of Programs:
 Talent Ready Utah Center 165,000
 To implement the provisions of Utah
 Apprenticeship Act
 (Senate Bill 138, 2019 General Session).

DEPARTMENT OF HERITAGE AND ARTS

Item 163

To Department of Heritage and Arts -
 Division of Arts and Museums
 The Legislature intends that the FY 2020
 appropriation for Community Arts grants be
 used for museums and arts grants.

Item 164

To Department of Heritage and Arts -
 Commission on Service and Volunteerism
 From General Fund 205,200
 Schedule of Programs:
 Commission on Service and
 Volunteerism 205,200
 To implement the provisions of Boards and
 Commissions Amendments
 (House Bill 387, 2019 General Session).

The Legislature intends that the
 appropriation of \$205,200 be used to continue
 to support civics and character education
 initiatives, including professional learning,
 that promote the knowledge, skills and
 dispositions necessary for civic engagement
 and character development.

Item 165

To Department of Heritage and Arts -
 Pass-Through
 From General Fund 50,000
 From General Fund, One-Time 1,130,000
 Schedule of Programs:
 Pass-Through 1,180,000

Item 166

To Department of Heritage and Arts - State History
 From General Fund, One-Time 5,000
 Schedule of Programs:
 Administration 5,000

To implement the provisions of World War II Memorial Commission
(House Bill 369, 2019 General Session).

Item 167

To Department of Heritage and Arts - Stem Action Center
From General Fund, One-Time 25,000
Schedule of Programs:
STEM Action Center 25,000

Item 168

To Department of Heritage and Arts - Stem Action Center
From General Fund 5,824,300
From General Fund, One-Time 2,100
From Dedicated Credits Revenue 1,536,900
Schedule of Programs:
STEM Action Center 3,106,000
STEM Action Center - Grades 6-8 .. 4,257,300

To implement the provisions of Economic Development Amendments
(Senate Bill 172, 2019 General Session).

INSURANCE DEPARTMENT

Item 169

To Insurance Department - Insurance Department Administration
From General Fund 9,800
Schedule of Programs:
Administration 9,800

To implement the provisions of Insurance Amendments
(House Bill 55, 2019 General Session).

Item 170

To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. 6,300
From General Fund Restricted - Insurance Department Acct., One-Time .. 6,800
Schedule of Programs:
Administration 13,100

To implement the provisions of Medical Treatment Authorization Amendments
(Senate Bill 264, 2019 General Session).

UTAH STATE TAX COMMISSION

Item 171

To Utah State Tax Commission - Tax Administration
From Dedicated Credits Revenue, One-Time 7,500
Schedule of Programs:
Motor Vehicles 7,500

To implement the provisions of Special Group License Plate for Motorcycle Safety Awareness
(House Bill 65, 2019 General Session).

Item 172

To Utah State Tax Commission - Tax Administration

From Dedicated Credits Revenue, One-Time 7,500
Schedule of Programs:
Motor Vehicles 7,500

To implement the provisions of Transportation of Veterans to Memorials Support Special Group License Plate
(House Bill 175, 2019 General Session).

Item 173

To Utah State Tax Commission - Tax Administration
From General Fund, One-Time 7,500
Schedule of Programs:
Motor Vehicles 7,500

To implement the provisions of Civil Air Patrol License Plate
(House Bill 184, 2019 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 174

To Department of Health - Children's Health Insurance Program
From General Fund (292,900)
From General Fund, One-Time 440,900
From General Fund Restricted - Tobacco Settlement Account, One-Time (292,900)

Schedule of Programs:
Children's Health Insurance Program (144,900)

To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

Item 175

To Department of Health - Disease Control and Prevention
From General Fund 400,000
From General Fund, One-Time 250,000
Schedule of Programs:
Health Promotion 650,000

Notwithstanding the fee amount authorized in S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, the fee for "Cremation Authorization Review and authorize," the Legislature intends that this fee be set at \$150 for FY 2020.

Item 176

To Department of Health - Disease Control and Prevention
From General Fund 5,400
Schedule of Programs:
Health Promotion 5,400

To implement the provisions of Student Asthma Relief Amendments
(House Bill 344, 2019 General Session).

Item 177

To Department of Health - Disease Control and Prevention
From General Fund 6,800
Schedule of Programs:

Epidemiology 6,800	Schedule of Programs:
To implement the provisions of Prohibition of Genital Mutilation (<i>House Bill 430, 2019 General Session</i>).	Emergency Medical Services and Preparedness 3,500
Item 178	To implement the provisions of Air Ambulance Revisions (<i>Senate Bill 74, 2019 General Session</i>).
To Department of Health – Disease Control and Prevention	Item 185
From General Fund 32,000	To Department of Health – Family Health and Preparedness
Schedule of Programs:	From Dedicated Credits Revenue 12,500
Health Promotion 32,000	Schedule of Programs:
To implement the provisions of Public Education Vision Screening (<i>Senate Bill 143, 2019 General Session</i>).	Emergency Medical Services and Preparedness 12,500
Item 179	To implement the provisions of Secure Transport Designation Amendments (<i>Senate Bill 85, 2019 General Session</i>).
To Department of Health – Executive Director’s Operations	Item 186
From General Fund 2,000	To Department of Health – Medicaid and Health Financing
Schedule of Programs:	From General Fund (71,800)
Center for Health Data and Informatics 2,000	From Nursing Care Facilities Provider Assessment Fund 71,800
To implement the provisions of Transparency Website Amendments (<i>House Bill 178, 2019 General Session</i>).	Item 187
Item 180	To Department of Health – Medicaid and Health Financing
To Department of Health – Family Health and Preparedness	From General Fund (400)
From General Fund, One-Time (400,000)	From Federal Funds (400)
Schedule of Programs:	Schedule of Programs:
Primary Care (400,000)	Financial Services (800)
Item 181	To implement the provisions of Health Care Amendments (<i>House Bill 366, 2019 General Session</i>).
To Department of Health – Family Health and Preparedness	Item 188
From General Fund 2,000	To Department of Health – Medicaid and Health Financing
Schedule of Programs:	From General Fund, One-Time 900
Maternal and Child Health 2,000	From Federal Funds, One-Time 900
To implement the provisions of Down Syndrome Nondiscrimination Abortion Act (<i>House Bill 166, 2019 General Session</i>).	Schedule of Programs:
Item 182	Coverage and Reimbursement Policy 1,800
To Department of Health – Family Health and Preparedness	To implement the provisions of Telemedicine Reimbursement Amendments (<i>House Bill 392, 2019 General Session</i>).
From General Fund (1,800)	Item 189
Schedule of Programs:	To Department of Health – Medicaid and Health Financing
Child Development (1,800)	From General Fund 97,000
To implement the provisions of School Employee Background Checks (<i>House Bill 375, 2019 General Session</i>).	From Federal Funds 97,000
Item 183	Schedule of Programs:
To Department of Health – Family Health and Preparedness	Authorization and Community Based Services 194,000
From General Fund 43,800	To implement the provisions of Joint Resolution Regarding Approval of Settlement Agreement (<i>House Joint Resolution 28, 2019 General Session</i>).
Schedule of Programs:	Item 190
Director’s Office 43,800	To Department of Health – Medicaid and Health Financing
To implement the provisions of Anesthesia and Sedation Related Provisions Reauthorization (<i>Senate Bill 30, 2019 General Session</i>).	From Federal Funds 56,500
Item 184	From Federal Funds, One-Time 7,500
To Department of Health – Family Health and Preparedness	From Dedicated Credits Revenue 45,500
From General Fund 3,500	From Dedicated Credits Revenue, One-Time 2,500
	Schedule of Programs:

Authorization and Community
 Based Services 17,500
 Eligibility Policy 75,000
 Financial Services 10,000
 Medicaid Operations 9,500
 To implement the provisions of Medicaid
 Dental Coverage Amendments
(Senate Bill 11, 2019 General Session).

Item 191

To Department of Health - Medicaid and
 Health Financing
 From Federal Funds 6,065,000
 From Federal Funds, One-Time (3,650,000)
 From Dedicated Credits Revenue (550,000)
 From Medicaid Expansion Fund 1,967,300
 From Medicaid Expansion Fund,
 One-Time (317,100)
 Schedule of Programs:
 Department of Workforce Services'
 Seeded Services (140,000)
 Medicaid Operations 3,570,200
 Other Seeded Services 85,000
 To implement the provisions of Medicaid
 Expansion Adjustments
(Senate Bill 96, 2019 General Session).

Item 192

To Department of Health - Medicaid and
 Health Financing
 From Federal Funds 200
 From Dedicated Credits Revenue 200
 Schedule of Programs:
 Medicaid Operations 400
 To implement the provisions of Mental
 Health Services in Schools
(Senate Bill 106, 2019 General Session).

Item 193

To Department of Health - Medicaid Services
 From General Fund 1,292,800
 From Federal Funds 7,886,200
 From Nursing Care Facilities Provider
 Assessment Fund 2,320,000
 Schedule of Programs:
 Accountable Care Organizations 654,200
 Home and Community Based
 Waivers 1,272,700
 Home Health and Hospice 2,241,200
 Nursing Home 6,960,900
 Other Services 370,000

Item 194

To Department of Health - Medicaid Services
 From Federal Funds 16,461,800
 From Hospital Provider Assessment
 Fund 7,545,500
 Schedule of Programs:
 Outpatient Hospital 24,007,300
 To implement the provisions of
 Reauthorization of Hospital Provider
 Assessment Act
(House Bill 37, 2019 General Session).

Item 195

To Department of Health - Medicaid Services
 From General Fund (1,538,000)
 From General Fund, One-Time 496,000
 From Federal Funds (3,240,800)

From Federal Funds, One-Time 1,082,100
 Schedule of Programs:
 Accountable Care Organizations 1,419,100
 Intermediate Care Facilities for
 the Intellectually Disabled (4,619,800)
 To implement the provisions of Joint
 Resolution Regarding Approval of Settlement
 Agreement *(House Joint Resolution 28, 2019
 General Session).*

Item 196

To Department of Health - Medicaid Services
 From Federal Funds 2,524,000
 From Federal Funds, One-Time (157,500)
 From Dedicated Credits Revenue 1,171,000
 From Dedicated Credits Revenue,
 One-Time (90,500)
 Schedule of Programs:
 Dental Services 3,321,000
 Medicaid Expansion 2017 111,000
 Provider Reimbursement Information
 System for Medicaid 15,000
 To implement the provisions of Medicaid
 Dental Coverage Amendments
(Senate Bill 11, 2019 General Session).

Item 197

To Department of Health - Medicaid Services
 From General Fund 5,600
 From Federal Funds 94,700
 From Expendable Receipts 20,200
 Schedule of Programs:
 Medicaid Expansion 2017 56,300
 Mental Health and Substance Abuse 64,200
 To implement the provisions of Assisted
 Outpatient Treatment for Mental Illness
(Senate Bill 39, 2019 General Session).

Item 198

To Department of Health - Medicaid Services
 From General Fund, One-Time 1,048,200
 From Federal Funds 471,327,300
 From Federal Funds, One-Time .. (287,905,800)
 From Dedicated Credits Revenue ... (5,500,000)
 From Medicaid Expansion Fund 54,212,000
 From Medicaid Expansion Fund,
 One-Time 40,500,000
 From General Fund Restricted -
 Tobacco Settlement Account,
 One-Time 292,900
 Schedule of Programs:
 Accountable Care Organizations ... 53,452,100
 Medicaid Expansion 2017 232,836,300
 Other Services (16,580,700)
 Pharmacy 4,266,900
 To implement the provisions of Medicaid
 Expansion Adjustments
(Senate Bill 96, 2019 General Session).

Item 199

To Department of Health - Medicaid Services
 From Federal Funds 25,000
 From Dedicated Credits Revenue 11,000
 Schedule of Programs:
 School Based Skills Development 36,000
 To implement the provisions of Mental
 Health Services in Schools
(Senate Bill 106, 2019 General Session).

Item 200

To Department of Health - Medicaid Services
 From General Fund, One-Time 1,100
 From Federal Funds, One-Time 1,100
 Schedule of Programs:

Home and Community Based Waivers ... 2,200

To implement the provisions of Caregiver
 Compensation Amendments
(Senate Bill 237, 2019 General Session).

DEPARTMENT OF HUMAN SERVICES**Item 201**

To Department of Human Services -
 Division of Aging and Adult Services
 From General Fund 322,200
 From Revenue Transfers (322,200)

Item 202

To Department of Human Services -
 Executive Director Operations

The Legislature authorizes the
 Department of Human Services to spend all
 available money, as authorized by the
 Department of Health, in the Medicaid
 Expansion Fund 2252 for FY 2020 regardless
 of the amount appropriated as allowed by the
 fund's authorizing statute.

Item 203

To Department of Human Services -
 Office of Public Guardian
 From General Fund 116,000
 From Revenue Transfers 78,000
 Schedule of Programs:

Office of Public Guardian 194,000

To implement the provisions of Joint
 Resolution Regarding Approval of Settlement
 Agreement *(House Joint Resolution 28, 2019
 General Session).*

Item 204

To Department of Human Services -
 Office of Recovery Services
 From Medicaid Expansion Fund 50,000
 From Revenue Transfers 50,000
 Schedule of Programs:

Medical Collections 100,000

To implement the provisions of Medicaid
 Expansion Adjustments
(Senate Bill 96, 2019 General Session).

Item 205

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 350,000
 From Revenue Transfers 763,600
 Schedule of Programs:

Community Supports Waiver 1,113,600

Item 206

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund 8,649,000
 From General Fund, One-Time (4,231,000)
 From Revenue Transfers 17,577,700
 From Revenue Transfers,

One-Time (8,714,100)

Schedule of Programs:

Community Supports Waiver 11,771,500
 Non-waiver Services 355,200
 Service Delivery 1,154,900

To implement the provisions of Joint
 Resolution Regarding Approval of Settlement
 Agreement *(House Joint Resolution 28, 2019
 General Session).*

Item 207

To Department of Human Services - Division
 of Services for People with Disabilities
 From General Fund, One-Time 1,100
 From Federal Funds, One-Time 1,100
 Schedule of Programs:

Service Delivery 2,200

To implement the provisions of Caregiver
 Compensation Amendments
(Senate Bill 237, 2019 General Session).

Item 208

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 25,000
 From General Fund, One-Time 100,000
 Schedule of Programs:

Community Mental Health Services ... 125,000

Item 209

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund 3,400
 Schedule of Programs:

State Hospital 3,400

To implement the provisions of Secure
 Transport Designation Amendments
(Senate Bill 85, 2019 General Session).

Item 210

To Department of Human Services - Division
 of Substance Abuse and Mental Health
 From General Fund (3,256,800)
 Schedule of Programs:

Local Substance Abuse Services (3,123,600)

Mental Health Centers (133,200)

To implement the provisions of Medicaid
 Expansion Adjustments
(Senate Bill 96, 2019 General Session).

**DEPARTMENT OF
 WORKFORCE SERVICES****Item 211**

To Department of Workforce Services -
 Housing and Community Development
 From General Fund, One-Time 400,000
 Schedule of Programs:

Community Development 200,000

Homeless Committee 200,000

The Legislature intends that the Utah
 State Building Board allocate \$1,400,000 in
 FY 2020 Capital Improvement funding to the
 Division of Facilities Construction and
 Management for the demolition and
 remediation of the building located at 210
 South Rio Grande Street in Salt Lake City.

Item 212

To Department of Workforce Services -
 Housing and Community Development

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account (198,200)
 From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time 101,300
 Schedule of Programs:
 Homeless Committee (96,900)
 To implement the provisions of Homeless Shelter Funding Revisions
(House Bill 203, 2019 General Session).

Item 213

To Department of Workforce Services - Office of Child Care
 From General Fund (1,900)
 From General Fund, One-Time (600)
 Schedule of Programs:
 Intergenerational Poverty School
 Readiness Scholarship (2,500)

Item 214

To Department of Workforce Services - Operations and Policy
 From General Fund 1,900
 From General Fund, One-Time 51,600
 Schedule of Programs:
 Workforce Development 53,500

The Legislature authorizes the Department of Workforce Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund 2252 for FY 2020 regardless of the amount appropriated as allowed by the funds authorizing statute.

The Legislature intends that the recipient of funding for CIRCLES Intergenerational Poverty Reduction Initiative provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings; the recipient shall provide the report by August 31, 2020.

Item 215

To Department of Workforce Services - Operations and Policy
 From General Fund 128,800
 Schedule of Programs:
 Workforce Development 128,800

To implement the provisions of Apprenticeship Opportunity Awareness
(House Bill 280, 2019 General Session).

Item 216

To Department of Workforce Services - Operations and Policy
 From Medicaid Expansion Fund 1,010,600
 From Medicaid Expansion Fund, One-Time (1,055,000)
 From Revenue Transfers 3,030,000
 From Revenue Transfers, One-Time (3,170,000)
 Schedule of Programs:
 Eligibility Services (184,400)

To implement the provisions of Medicaid Expansion Adjustments
(Senate Bill 96, 2019 General Session).

Item 217

To Department of Workforce Services - State Office of Rehabilitation
 From General Fund (32,200)
 Schedule of Programs:
 Blind and Visually Impaired (32,200)
 To implement the provisions of Public Education Vision Screening
(Senate Bill 143, 2019 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 218

To University of Utah - Education and General
 From General Fund 146,000,000
 From General Fund, One-Time 210,000
 From Education Fund (145,000,000)
 From Education Fund, One-Time (1,500,000)
 Schedule of Programs:
 Education and General (290,000)

The Legislature intends that the University of Utah may use up to \$1,000,000 appropriated ongoing for a program that promotes the development, acceleration and commercialization of technology and innovation by teaming industry and university research expertise to address specific technology problems or gaps identified by companies that have a substantial presence in Utah and have identified a specific technology challenge whose solution would result in economic impact for the state.

The Legislature intends that \$210,000 of the funding provided by this item be allocated as follows to the Kem C. Gardner Institute: (a) \$10,000, one-time, to Item 203 of the New and Current Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2019 General Session) for costs related to tax revenue and incidence forecasting and research; and (b) \$200,000, one-time, to Item 203 of the New and Current Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2019 General Session) for the development of an air quality and climate research study to be delivered no later than December 13th, 2019.

The Legislature intends that \$486,600 of the funding in Item 4 of the Higher Education Base Budget (House Bill 1, 2019 General Session) be allocated to support personnel costs related to the Kem C. Gardner Institute's demographic and economic projection functions.

Item 219

To University of Utah - School of Medicine
 From General Fund 800,000
 From General Fund, One-Time (800,000)
 To implement the provisions of Psychiatry Medical Residents Amendments
(House Bill 174, 2019 General Session).

Item 220

To University of Utah - Cancer Research and Treatment
 From General Fund, One-Time 5,000,000
 Schedule of Programs:
 Cancer Research and Treatment 5,000,000

It is the intent of the legislature to appropriate \$5,000,000 one-time to the University of Utah Huntsman Cancer Institute to advance research focused on enhanced function of elephant p53 to understand mechanisms of cancer resistance and develop novel p53-based therapeutics for the treatment of cancer.

Item 221

To University of Utah - University Hospital
 From General Fund, One-Time 500,000
 Schedule of Programs:
 University Hospital 500,000

It is the intent of the legislature to appropriate \$500,000 one-time to the University of Utah Center for Medical Innovation to promote medical and global health innovation, with an emphasis on medical device development.

UTAH STATE UNIVERSITY

Item 222

To Utah State University - Education and General
 From General Fund 93,900
 Schedule of Programs:
 Education and General 93,900

Item 223

To Utah State University - Education and General
 From Education Fund 596,600
 From Education Fund, One-Time (596,600)

To implement the provisions of Revenue Bonds and Capital Facilities Authorizations
(Senate Bill 9, 2019 General Session).

Item 224

To Utah State University - USU - Eastern Education and General
 From Education Fund, One-Time 250,000
 Schedule of Programs:
 USU - Eastern Education and General 250,000

SOUTHERN UTAH UNIVERSITY

Item 225

To Southern Utah University - Education and General
 From Education Fund 1,000,000
 Schedule of Programs:
 Education and General 1,000,000

SALT LAKE COMMUNITY COLLEGE

Item 226

To Salt Lake Community College - Education and General
 From Education Fund 60,000
 Schedule of Programs:
 Education and General 60,000

STATE BOARD OF REGENTS

Item 227

To State Board of Regents - Administration
 From Education Fund 5,800
 Schedule of Programs:
 Administration 5,800

To implement the provisions of Utah Communications Authority Amendments
(Senate Bill 154, 2019 General Session).

Item 228

To State Board of Regents - Student Assistance
 From General Fund 40,000
 Schedule of Programs:
 Student Prosperity Savings Program . . . 40,000

Item 229

To State Board of Regents - Student Assistance
 From Education Fund 304,100
 Schedule of Programs:
 T.H. Bell Teaching Incentive Loans Program 304,100

To implement the provisions of T.H. Bell Program Amendments
(House Bill 188, 2019 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 230

To Department of Agriculture and Food - Administration
 From Dedicated Credits Revenue 172,000
 Schedule of Programs:
 Chemistry Laboratory 172,000

To implement the provisions of Kratom Consumer Protection Act
(Senate Bill 58, 2019 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 231

To Department of Environmental Quality - Air Quality
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Air Quality 50,000

Item 232

To Department of Environmental Quality - Air Quality
 From General Fund, One-Time 4,000,000
 Schedule of Programs:
 Air Quality 4,000,000

To implement the provisions of Voluntary Wood Burning Conversion Program
(House Bill 357, 2019 General Session).

Item 233

To Department of Environmental Quality - Air Quality
 From General Fund (30,300)
 From General Fund, One-Time 30,300

To implement the provisions of Boards and Commissions Amendments
(House Bill 387, 2019 General Session).

Item 234

To Department of Environmental Quality -
 Air Quality
 From General Fund 5,600
 From General Fund, One-Time 292,500
 Schedule of Programs:
 Air Quality 298,100
 To implement the provisions of
 Environmental Quality Monitoring
 Amendments
 (Senate Bill 144, 2019 General Session).

Item 235

To Department of Environmental Quality -
 Waste Management and Radiation Control
 From Dedicated Credits Revenue 230,000
 Schedule of Programs:
 Waste Management and Radiation
 Control 230,000
 To implement the provisions of Radioactive
 Waste Amendments
 (House Bill 220, 2019 General Session).

Item 236

To Department of Environmental Quality -
 Water Quality
 From General Fund, One-Time 163,100
 Schedule of Programs:
 Water Quality 163,100
 To implement the provisions of
 Environmental Quality Monitoring
 Amendments
 (Senate Bill 144, 2019 General Session).

GOVERNOR’S OFFICE

Item 237

To Governor’s Office - Office of
 Energy Development
 From General Fund 5,000
 From General Fund, One-Time 2,200
 Schedule of Programs:
 Office of Energy Development 7,200
 To implement the provisions of Hydrogen
 Fuel Production Amendments
 (House Bill 109, 2019 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 238

To Department of Natural Resources -
 DNR Pass Through
 From General Fund 500,000
 Schedule of Programs:
 DNR Pass Through 500,000

Item 239

To Department of Natural Resources -
 Forestry, Fire and State Lands
 From General Fund, One-Time (1,400,000)
 From General Fund Restricted - Sovereign
 Lands Management, One-Time 1,500,000
 Schedule of Programs:
 Project Management 100,000

Item 240

To Department of Natural Resources -
 Parks and Recreation

From General Fund Restricted -
 Off-highway Vehicle 5,000
 From General Fund Restricted -
 Off-highway Vehicle, One-Time (2,500)
 Schedule of Programs:
 Park Operation Management 2,500
 To implement the provisions of
 Off-highway Vehicle Permit Amendments
 (House Bill 105, 2019 General Session).

Item 241

To Department of Natural Resources -
 Parks and Recreation
 From General Fund Restricted -
 State Park Fees 5,000
 Schedule of Programs:
 Park Operation Management 5,000
 To implement the provisions of Wildlife
 Management Area Amendments
 (House Bill 265, 2019 General Session).

Item 242

To Department of Natural Resources -
 Water Rights
 From General Fund, One-Time 20,000
 Schedule of Programs:
 Technical Services 20,000
 To implement the provisions of Secondary
 Water Requirements
 (Senate Bill 52, 2019 General Session).

Item 243

To Department of Natural Resources - Watershed
 The Legislature intends that the \$2 million
 appropriated for the Water Development
 Fund in Item 293, S.B. 2, 2019 General
 Session, be used for projects that benefit both
 wildlife and livestock.

Item 244

To Department of Natural Resources -
 Wildlife Resources
 From General Fund 50,000
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Law Enforcement 100,000
 To implement the provisions of
 Expungement Act Amendments
 (House Bill 431, 2019 General Session).

**PUBLIC LANDS POLICY
 COORDINATING OFFICE**

Item 245

To Public Lands Policy Coordinating Office
 From General Fund, One-Time 100,000
 Schedule of Programs:
 Public Lands Policy Coordinating
 Office 100,000
 The Legislature intends that the \$200,000
 appropriation for PLPCO Environmental
 Mitigation in Item 296, S.B. 2, 2019 General
 Session, shall be used for air quality modeling
 in the Uintah Basin and Box Elder counties.
 These funds shall be disbursed by using a
 request-for-proposals process.

Item 246

To Public Lands Policy Coordinating Office

From General Fund 18,300
 Schedule of Programs:
 Public Lands Policy Coordinating
 Office 18,300
 To implement the provisions of Land
 Transfer Amendments
 (House Bill 229, 2019 General Session).

PUBLIC EDUCATION

**STATE BOARD OF EDUCATION -
 MINIMUM SCHOOL PROGRAM**

Item 247

To State Board of Education - Minimum School
 Program - Related to Basic School Programs
 From Education Fund (226,000)
 From Education Fund, One-Time 1,000,000
 Schedule of Programs:
 Dual Immersion 774,000

Item 248

To State Board of Education - Minimum School
 Program - Related to Basic School Programs
 From Education Fund 4,900,000
 Schedule of Programs:
 Teacher Salary Supplement 4,900,000
 To implement the provisions of Teacher
 Salary Supplement Amendments
 (House Bill 236, 2019 General Session).

Item 249

To State Board of Education - Minimum School
 Program - Related to Basic School Programs
 From Teacher and Student Success
 Account 65,150,000
 From Teacher and Student
 Success Account, One-Time (65,150,000)
 Schedule of Programs:
 Flexible Allocation - WPU
 Distribution (65,150,000)
 Teacher and Student Success
 Program 65,150,000
 To implement the provisions of Teacher and
 Student Success Act
 (Senate Bill 149, 2019 General Session).

STATE BOARD OF EDUCATION

Item 250

To State Board of Education - Educator Licensing
 From Education Fund 5,000,000
 Schedule of Programs:
 STEM Endorsement Incentives 5,000,000
 To implement the provisions of Economic
 Development Amendments *(Senate Bill 172,*
 2019 General Session).

Item 251

To State Board of Education - Fine Arts Outreach
 From Education Fund (200,000)
 From Education Fund, One-Time 200,000

Item 252

To State Board of Education - Initiative Programs
 From Education Fund 3,000,000

Schedule of Programs:
 Early Intervention Reading
 Software 3,000,000

Item 253

To State Board of Education - Initiative Programs
 From Education Fund 350,000
 Schedule of Programs:
 Interventions for Reading
 Difficulties 350,000
 To implement the provisions of
 Interventions for Reading Difficulties Sunset
 Amendments
 (Senate Bill 37, 2019 General Session).

Item 254

To State Board of Education - MSP
 Categorical Program Administration
 From Education Fund, One-Time 100,000
 Schedule of Programs:
 Dual Immersion 100,000
 To implement the provisions of Dual
 Language Immersion Amendments
 (Senate Bill 173, 2019 General Session).

Item 255

To State Board of Education - Science Outreach
 From Education Fund (200,000)
 From Education Fund, One-Time 200,000

Item 256

To State Board of Education - State
 Administrative Office
 From Education Fund 100,000
 Schedule of Programs:
 Special Education 100,000

Item 257

To State Board of Education - State
 Administrative Office
 From Education Fund 1,100
 Schedule of Programs:
 Board and Administration 1,100
 To implement the provisions of Utah
 Communications Authority Amendments
 (Senate Bill 154, 2019 General Session).

Item 258

To State Board of Education - State
 Administrative Office
 From Education Fund 7,700
 Schedule of Programs:
 Policy and Communication 7,700
 To implement the provisions of Student
 Data Privacy Amendments
 (Senate Bill 164, 2019 General Session).

Item 259

To State Board of Education -
 General System Support
 From Education Fund 3,000
 From Education Fund, One-Time 5,000
 Schedule of Programs:
 Teaching and Learning 8,000
 To implement the provisions of Public
 Education Exit Survey
 (House Bill 130, 2019 General Session).

**RETIREMENT AND
INDEPENDENT ENTITIES**

**UTAH EDUCATION AND
TELEHEALTH NETWORK**

Item 260

To Utah Education and Telehealth Network
From Education Fund (1,000)
Schedule of Programs:
Administration (1,000)
To implement the provisions of Boards and
Commissions Amendments
(House Bill 387, 2019 General Session).

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 261

To Capitol Preservation Board
From General Fund, One-Time ... (110,000,000)
Schedule of Programs:
Capitol Preservation Board (110,000,000)

LEGISLATURE

Item 262

To Legislature - Senate
From General Fund 2,400
Schedule of Programs:
Administration 2,400

Item 263

To Legislature - Senate
From General Fund, One-Time 12,600
Schedule of Programs:
Administration 12,600
To implement the provisions of Insurance
Amendments
(House Bill 55, 2019 General Session).

Item 264

To Legislature - Senate
From General Fund, One-Time 3,200
Schedule of Programs:
Administration 3,200
To implement the provisions of Mental
Health Protections for First Responders
(House Bill 154, 2019 General Session).

Item 265

To Legislature - Senate
From General Fund (4,700)
From General Fund, One-Time 4,700
To implement the provisions of Criminal
Code Task Force Changes
(House Bill 335, 2019 General Session).

Item 266

To Legislature - Senate
From General Fund, One-Time 4,700
Schedule of Programs:
Administration 4,700
To implement the provisions of World
War II Memorial Commission
(House Bill 369, 2019 General Session).

Item 267

To Legislature - Senate
From General Fund (46,100)
From General Fund, One-Time 22,600
Schedule of Programs:
Administration (23,500)
To implement the provisions of Boards and
Commissions Amendments
(House Bill 387, 2019 General Session).

Item 268

To Legislature - Senate
From General Fund 2,800
Schedule of Programs:
Administration 2,800
To implement the provisions of Joint
Resolution Authorizing Pay of In-session
Employees *(House Joint Resolution 10, 2019
General Session).*

Item 269

To Legislature - Senate
From General Fund, One-Time 1,600
Schedule of Programs:
Administration 1,600
To implement the provisions of Blockchain
Technology Act
(Senate Bill 213, 2019 General Session).

Item 270

To Legislature - House of Representatives
From General Fund 2,400
Schedule of Programs:
Administration 2,400

Item 271

To Legislature - House of Representatives
From General Fund, One-Time 22,100
Schedule of Programs:
Administration 22,100
To implement the provisions of Insurance
Amendments
(House Bill 55, 2019 General Session).

Item 272

To Legislature - House of Representatives
From General Fund, One-Time 3,200
Schedule of Programs:
Administration 3,200
To implement the provisions of Mental
Health Protections for First Responders
(House Bill 154, 2019 General Session).

Item 273

To Legislature - House of Representatives
From General Fund (4,700)
From General Fund, One-Time 4,700
To implement the provisions of Criminal
Code Task Force Changes
(House Bill 335, 2019 General Session).

Item 274

To Legislature - House of Representatives
From General Fund, One-Time 9,500
Schedule of Programs:
Administration 9,500
To implement the provisions of World
War II Memorial Commission
(House Bill 369, 2019 General Session).

Item 275

To Legislature - House of Representatives
 From General Fund (56,300)
 From General Fund, One-Time 27,300
 Schedule of Programs:
 Administration (29,000)

To implement the provisions of Boards and
 Commissions Amendments
(House Bill 387, 2019 General Session).

Item 276

To Legislature - House of Representatives
 From General Fund 4,100
 Schedule of Programs:
 Administration 4,100

To implement the provisions of Joint
 Resolution Authorizing Pay of In-session
 Employees *(House Joint Resolution 10, 2019
 General Session).*

Item 277

To Legislature - House of Representatives
 From General Fund, One-Time 1,600
 Schedule of Programs:
 Administration 1,600

To implement the provisions of Blockchain
 Technology Act *(Senate Bill 213, 2019
 General Session).*

Item 278

To Legislature - Legislative Printing
 From General Fund (626,500)
 From General Fund, One-Time (1,800)
 From Dedicated Credits Revenue (262,400)
 From Beginning Nonlapsing
 Balances (609,700)
 From Closing Nonlapsing Balances 609,700
 Schedule of Programs:
 Administration (890,700)

Item 279

To Legislature - Office of Legislative Research and
 General Counsel
 From General Fund 150,000
 From General Fund, One-Time (300,000)
 Schedule of Programs:
 Administration (150,000)

Item 280

To Legislature - Office of Legislative Research and
 General Counsel
 From General Fund (40,000)
 From General Fund, One-Time 40,000

To implement the provisions of Criminal
 Code Task Force Changes
(House Bill 335, 2019 General Session).

Item 281

To Legislature - Office of Legislative Research
 and General Counsel
 From General Fund (75,000)
 From General Fund, One-Time 75,000

To implement the provisions of Boards and
 Commissions Amendments
(House Bill 387, 2019 General Session).

Item 282

To Legislature - Legislative Support
 From General Fund 1,400
 Schedule of Programs:
 Administration 1,400

To implement the provisions of Utah
 Communications Authority Amendments
(Senate Bill 154, 2019 General Session).

Item 283

To Legislature - Legislative Services
 From General Fund 980,500
 From General Fund, One-Time 1,501,800
 From Dedicated Credits Revenue 262,400
 From Beginning Nonlapsing Balances ... 609,700
 From Closing Nonlapsing Balances ... (609,700)
 Schedule of Programs:
 Administration 1,854,000
 Legislative Printing 890,700

UTAH NATIONAL GUARD**Item 284**

To Utah National Guard
 From General Fund 100
 From Federal Funds 1,000
 Schedule of Programs:
 Operations and Maintenance 1,100

To implement the provisions of Utah
 Communications Authority Amendments
(Senate Bill 154, 2019 General Session).

**DEPARTMENT OF VETERANS
AND MILITARY AFFAIRS****Item 285**

To Department of Veterans and Military Affairs -
 Veterans and Military Affairs
 From General Fund 60,000
 Schedule of Programs:
 Outreach Services 60,000

Item 286

To Department of Veterans and Military Affairs -
 Veterans and Military Affairs
 From General Fund Restricted - Transportation
 of Veterans to Memorials Supp
 Rest Acct 12,500
 Schedule of Programs:
 Outreach Services 12,500

To implement the provisions of
 Transportation of Veterans to Memorials
 Support Special Group License Plate
(House Bill 175, 2019 General Session).

**Subsection 2(b). Expendable Funds and
 Accounts.** The Legislature has reviewed the
 following expendable funds. The Legislature
 authorizes the State Division of Finance to
 transfer amounts between funds and accounts
 as indicated. Outlays and expenditures from the
 funds or accounts to which the money is

transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 287

To Department of Commerce - Electrician Education Fund
 From Licenses/Fees 28,800
 Schedule of Programs:
 Electrician Education Fund 28,800
 To implement the provisions of Professional Licensing Amendments
(House Bill 187, 2019 General Session).

Item 288

To Department of Commerce - Plumber Education Fund
 From Licenses/Fees 11,500
 Schedule of Programs:
 Plumber Education Fund 11,500
 To implement the provisions of Professional Licensing Amendments *(House Bill 187, 2019 General Session).*

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 289

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
 The Legislature intends that the recipient of funding for Spinal Cord and Brain Injury Rehabilitation Fund provide a report to the Office of the Legislative Fiscal Analyst that details the following: (1) what specific savings were generated, (2) who received the savings, and (3) what the funding sources were for these savings. For FY 2020 items, the recipient shall provide the report by August 31, 2020.

Item 290

To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
 From General Fund, One-Time 50,000
 Schedule of Programs:
 Spinal Cord and Brain Injury Rehabilitation Fund 50,000
 To implement the provisions of Pediatric Neuro-rehabilitation Fund
(House Bill 461, 2019 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 291

To Department of Environmental Quality - Waste Tire Recycling Fund
 From Dedicated Credits Revenue 120,600

Schedule of Programs:

Waste Tire Recycling Fund 120,600
 To implement the provisions of Tire Recycling Amendments
(Senate Bill 46, 2019 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 292

To Department of Natural Resources - Wildland Fire Suppression Fund
 From Revenue Transfers (99,300)
 Schedule of Programs:
 Wildland Fire Suppression Fund (99,300)
 To implement the provisions of Wildfire Preparedness Amendments
(House Bill 135, 2019 General Session).

Item 293

To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
 From Wildland Fire Suppression Fund ... 99,300
 Schedule of Programs:
 Wildland Fire Preparedness Grants Fund 99,300
 To implement the provisions of Wildfire Preparedness Amendments
(House Bill 135, 2019 General Session).

Subsection 2(c). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 294

To Department of Administrative Services Internal Service Funds - Division of Fleet Operations
 From General Fund, One-Time 2,000,000
 Schedule of Programs:
 ISF - Motor Pool 2,000,000
 Authorized Capital Outlay 2,000,000

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 295

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
 From Dedicated Credits Revenue 3,800
 From Dedicated Credits Revenue, One-Time 250,000
 Schedule of Programs:
 ISF - Enterprise Technology Division 253,800

To implement the provisions of
Expungement Act Amendments
(House Bill 431, 2019 General Session).

**RETIREMENT AND
INDEPENDENT ENTITIES**

**DEPARTMENT OF HUMAN
RESOURCE MANAGEMENT**

Item 296

To Department of Human Resource Management -
Human Resources Internal Service Fund
From Dedicated Credits Revenue 38,600
Schedule of Programs:
ISF - Field Services 38,600

To implement the provisions of Remote
Notarization Standards
(House Bill 52, 2019 General Session).

**Subsection 2(d). Restricted Fund and
Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

**EXECUTIVE OFFICES
AND CRIMINAL JUSTICE**

Item 297

To General Fund Restricted - Indigent
Defense Resources Account
From General Fund (1,700,000)
From General Fund, One-Time 4,586,200
Schedule of Programs:

General Fund Restricted - Indigent
Defense Resources Account 2,886,200
To implement the provisions of Indigent
Defense Act Amendments
(Senate Bill 32, 2019 General Session).

**BUSINESS, ECONOMIC
DEVELOPMENT, AND LABOR**

Item 298

To General Fund Restricted - Motion
Picture Incentive Fund
From General Fund, One-Time 1,000,000
Schedule of Programs:
General Fund Restricted - Motion
Picture Incentive Fund 1,000,000

Item 299

To General Fund Restricted -
Workforce Development Restricted Account
From General Fund (1,000,000)
From General Fund, One-Time (5,500,000)
Schedule of Programs:
Workforce Development Restricted
Account (6,500,000)

SOCIAL SERVICES

Item 300

To Hospital Provider Assessment
Expendable Special Revenue Fund

From Dedicated Credits Revenue 7,545,500
Schedule of Programs:
Hospital Provider Assessment
Expendable Special Revenue
Fund 7,545,500

To implement the provisions of
Reauthorization of Hospital Provider
Assessment Act
(House Bill 37, 2019 General Session).

Item 301

To Medicaid Expansion Fund
From General Fund 3,549,700
From General Fund, One-Time 5,110,900
From Dedicated Credits Revenue ... 106,000,000
From Dedicated Credits Revenue,
One-Time (5,000,000)
Schedule of Programs:

Medicaid Expansion Fund 109,660,600
To implement the provisions of Medicaid
Expansion Adjustments
(Senate Bill 96, 2019 General Session).

PUBLIC EDUCATION

Item 302

To Uniform School Fund Restricted -
Growth in Student Population Account
From Education Fund (6,000,000)
Schedule of Programs:
Growth in Student Population
Account (6,000,000)

Item 303

To General Fund Restricted - School
Readiness Account
From General Fund (3,000,000)
From General Fund, One-Time 3,000,000

Section 3. Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

$$(a) \quad Inflate_{Base} = \frac{GNPIndex_{int,GR,1985}}{GNPIndex_{int,GR,1985}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

$$(b) \quad Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1985}} \times Inflate_{Base}$$

$$(c) \quad PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1985} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

$$(d) \quad SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}}\right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}}\right) \right]$$

(e) as used in the state appropriations limit formula:

(i) *i* is a variable representing a given fiscal year;

(ii) *Adjust_i* is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) *Appropriations₁₉₈₅* is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) *Debt₁₉₈₅* is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,t}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{t-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{t-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2019.

CHAPTER 509**S. B. 154**

Passed March 14, 2019

(Passed into law without governor's signature)

Effective July 1, 2019

**UTAH COMMUNICATIONS
AUTHORITY AMENDMENTS**

Chief Sponsor: Wayne A. Harper

House Sponsor: Bradley G. Last

LONG TITLE**General Description:**

This bill modifies provisions related to the Utah Communications Authority.

Highlighted Provisions:

This bill:

- ▶ clarifies purposes of the Utah Communications Authority and the authority's Radio Network Division;
- ▶ clarifies the definition of a public safety answering point in the state of Utah;
- ▶ amends provisions related to the authority's ability to sell network capacity;
- ▶ amends provisions related to the Utah Communications Authority board;
- ▶ amends provisions related to the duties of the Utah Communications Authority Board and the Radio Network Division;
- ▶ repeals the operations advisory committee and creates the public safety advisory committee;
- ▶ repeals regional advisory committees and creates the PSAP advisory committee;
- ▶ provides duties of the advisory committees in relation to the Utah Communications Authority board, including nonvoting board membership of the chair of each committee;
- ▶ modifies provisions in the determination of asset distribution in the event of the Utah Communications Authority's dissolution;
- ▶ prohibits any public entity from causing or allowing a 911 or emergency call box communication to be redirected to anywhere other than the 911 emergency service network;
- ▶ updates provisions related to the Computer Aided Dispatch Restricted Account;
- ▶ authorizes the Utah Communications Authority to not expend funds from the Unified Statewide 911 Emergency Service Account and the Utah Statewide Radio System Restricted Account in certain circumstances;
- ▶ exempts the Utah Communications Authority from certain provisions of Title 63J, Chapter 1, Budgetary Procedures Act, in certain circumstances;
- ▶ clarifies audit reporting requirements for counties not serviced by a single, physically consolidated public safety answering point to the Utah Communications Authority;
- ▶ extends to July 1, 2025, the sunset of the emergency services telecommunication charge to fund unified statewide 911 emergency service;
- ▶ raises the Unified Statewide 911 emergency service charge for each access line in the state;
- ▶ changes percentage rates distributed from the prepaid wireless 911 service charge revenue to a public safety answering point, the Unified Statewide 911 Emergency Service Account, and

the Utah Statewide Radio System Restricted Account; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

- 63H-7a-102, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-103, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-202, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-203, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-204, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-206, as repealed and reenacted by Laws of Utah 2017, Chapter 430
- 63H-7a-303, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-304, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-402, as last amended by Laws of Utah 2016, Chapters 123 and 179
- 63H-7a-403, as last amended by Laws of Utah 2017, Chapter 430
- 63H-7a-802, as renumbered and amended by Laws of Utah 2015, Chapter 411
- 63H-7a-803, as last amended by Laws of Utah 2017, Chapters 221 and 430
- 63I-1-269, as last amended by Laws of Utah 2017, Chapter 430
- 69-2-201, as renumbered and amended by Laws of Utah 2017, Chapter 430
- 69-2-203, as enacted by Laws of Utah 2017, Chapter 430
- 69-2-403, as renumbered and amended by Laws of Utah 2017, Chapter 430
- 69-2-405, as renumbered and amended by Laws of Utah 2017, Chapter 430

REPEALS AND REENACTS:

- 63H-7a-207, as enacted by Laws of Utah 2017, Chapter 430
- 63H-7a-208, as enacted by Laws of Utah 2017, Chapter 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-7a-102 is amended to read:**63H-7a-102. Utah Communications Authority -- Purpose.**

(1) This chapter establishes the Utah Communications Authority as an independent state agency.

(2) The Utah Communications Authority shall:

(a) provide administrative and financial support for statewide 911 emergency services; and

(b) establish and maintain a statewide public safety communications network for state agencies, public safety agencies, and public safety answering points.

Section 2. Section 63H-7a-103 is amended to read:

63H-7a-103. Definitions.

As used in this chapter:

(1) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(2) "Authority" means the Utah Communications Authority created in Section 63H-7a-201.

(3) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

(4) "Dispatch center" means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.

(5) "FirstNet" means the federal First Responder Network Authority established in 47 U.S.C. Sec. 1424.

(6) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

(7) "Public agency" means any political subdivision of the state dispatched by a public safety answering point.

(8) "Public safety agency" means the same as that term defined in Section 69-2-102.

~~[(8)]~~ (9) "Public safety answering point" or "PSAP" means an entity in this state that:

(a) receives, as a first point of contact, direct 911 emergency ~~[and nonemergency communications requesting a public safety service]~~ communications from the 911 emergency service network requesting a public safety service;

(b) has a facility with the equipment and staff necessary to receive the communication;

(c) assesses, classifies, and prioritizes the communication; and

(d) dispatches the communication to the proper responding agency.

~~[(9)]~~ (10) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, connectivity, and ~~[computer-aided dispatch systems]~~ 911 call processing equipment.

Section 3. Section 63H-7a-202 is amended to read:

63H-7a-202. Powers of the authority.

- (1) The authority has the power to:
 - (a) sue and be sued in the authority's own name;
 - (b) have an official seal and power to alter that seal at will;

- (c) make and execute contracts and all other instruments necessary or convenient for the performance of the authority's duties and the exercise of the authority's powers and functions under this chapter, including contracts with public and private providers;

- (d) own, acquire, design, construct, operate, maintain, repair, and dispose of any portion of a public safety communications network utilizing technology that is fiscally prudent, upgradable, technologically advanced, redundant, and secure;

- (e) borrow money and incur indebtedness;

- (f) enter into agreements with public agencies, private entities, the state, and federal government to provide public safety communications network services on terms and conditions the authority considers to be in the best interest of the authority;

- (g) acquire, by gift, grant, purchase, or by exercise of eminent domain, any real property or personal property in connection with the acquisition and construction of a public safety communications network and all related facilities and rights-of-way that the authority owns, operates, and maintains;

- (h) except as provided in Subsection (3), sell public safety communications network capacity to a state agency [or], a political subdivision of the state, an agency of the federal government, or a private entity engaged in a public safety purpose, if the sale is:

- (i) for a public safety purpose;

- (ii) consistent with the authority's duties under this chapter; or

- (iii) pursuant to:

- (A) an agreement entered into by the authority before January 1, 2017; or

- (B) a renewal of an agreement described in Subsection (1)(h)(iii)(A);

- (i) review, approve, disapprove, or revise recommendations regarding the expenditure of funds disbursed by the authority under this chapter; and

- (j) perform all other duties authorized by this chapter.

(2) The authority may not intentionally overbuild the public safety communications network for the purpose of competing with a public or private provider of a telecommunications service.

(3) Notwithstanding Subsection (1)(h), the authority may not sell public safety communications network capacity to any telecommunication carrier.

Section 4. Section 63H-7a-203 is amended to read:

63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the Utah Communications Authority Board.

(2) The board shall consist of nine voting board members and two nonvoting board members as follows:

(a) as voting members:

(i) three individuals appointed by the governor with the advice and consent of the Senate;

~~[(b)]~~ (ii) one individual appointed by the speaker of the House of Representatives;

~~[(c)]~~ (iii) one individual appointed by the president of the Senate;

~~[(d)]~~ (iv) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and

~~[(e)]~~ (v) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate~~[-];~~ and

(b) as nonvoting members, the chairs of the public safety advisory committee created in Section 63H-7a-207 and the PSAP advisory committee created in Section 63H-7a-208.

(3) Subject to this section, an individual is eligible for appointment under Subsection (2) if the individual has knowledge of at least one of the following:

- (a) law enforcement;
- (b) public safety;
- (c) fire service;
- (d) telecommunications;
- (e) finance;
- (f) management; and
- (g) government.

(4) An individual may not serve as a voting board member if the individual is a current public safety communications network:

- (a) user; or
- (b) vendor.

(5) (a) (i) Five of the board members appointed under Subsection (2)(a) shall serve an initial term of two years and four of the board members appointed under Subsection (2)(a) shall serve an initial term of four years.

(ii) Successor board members shall each serve a term of four years.

(b) (i) The governor may remove a board member with cause.

(ii) If the governor removes a board member the entity that appointed the board member under Subsection (2)(a) shall appoint a replacement board

member in the same manner as described in Subsection (2)(a).

(6) (a) The governor shall, after consultation with the board, appoint a voting board member as chair of the board with the advice and consent of the Senate.

(b) The chair shall serve a two-year term.

(7) The board shall meet on an as-needed basis and as provided in the bylaws.

(8) (a) The board shall elect one of the board members to serve as vice chair.

(b) (i) The board may elect a secretary and treasurer who are not members of the board.

(ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.

(c) A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer.

(9) ~~[Each]~~ Except for the nonvoting members described in Subsection (2)(b), each board member, including the chair, has one vote.

(10) A vote of a majority of the board members is necessary to take action on behalf of the board.

(11) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 5. Section 63H-7a-204 is amended to read:

63H-7a-204. Board -- Powers and duties.

The board shall:

(1) manage the affairs and business of the authority consistent with this chapter;

(2) adopt bylaws;

(3) appoint an executive director to administer the authority;

(4) receive and act upon reports covering the operations of the public safety communications network and funds administered by the authority;

(5) receive and act upon reports from the Radio Network Division prepared pursuant to Subsection 63H-7a-402(1)(b) that identify the benefits, costs, and economic feasibility of using existing public or private facilities, equipment, or services consistent with Subsections 63H-7a-402(1)(a), 63H-7a-404(2)(c), and 63H-7a-404(3) prior to issuing or approving a request for proposal;

~~[(5)]~~ (6) ensure that the public safety communications network and funds are administered according to law;

[~~6~~] (7) examine and approve an annual operating budget for the authority;

[~~7~~] (8) receive and act upon recommendations of the director;

[~~8~~] (9) recommend to the governor and Legislature legislation involving the public safety communications network;

[~~9~~] (10) develop policies for the long-term operation of the authority and the performance of the authority's functions;

[~~10~~] (11) authorize the executive director to enter into agreements on behalf of the authority;

[~~11~~] (12) provide for the management and administration of the public safety communications network by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

[~~12~~] (13) exercise the powers and perform the duties conferred on the board by this chapter;

(14) consider issues and information received from the public safety advisory committee and the PSAP advisory committee;

[~~13~~] (15) provide for audits of the authority; and

[~~14~~] (16) establish the following divisions within the authority:

- (a) 911 Division;
- (b) Radio Network Division;
- (c) Interoperability Division; and
- (d) Administrative Services Division.

Section 6. Section 63H-7a-206 is amended to read:

63H-7a-206. Strategic plan -- Report.

(1) The authority shall create, maintain and review annually a statewide, comprehensive multiyear strategic plan in consultation with state and local stakeholders and the ~~regional advisory committees~~ PSAP advisory committee created in Section 63H-7a-208 that:

(a) coordinates the authority's activities and duties in the:

- (i) 911 Division;
 - (ii) Radio Network Division;
 - (iii) Interoperability Division; and
 - (iv) Administrative Services Division; and
- (b) includes a plan for:
- (i) the public safety communications network;
 - (ii) developing new systems;
 - (iii) expanding existing systems, including microwave and fiber optics based systems;
 - (iv) statewide interoperability;
 - (v) statewide coordination; and

(vi) FirstNet standards.

(2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

- (a) the board;
- (b) the Executive Offices and Criminal Justice Appropriations Subcommittee; and
- (c) the Legislative Management Committee.

(4) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

Section 7. Section 63H-7a-207 is repealed and reenacted to read:

63H-7a-207. Public safety advisory committee.

(1) There is established the public safety advisory committee composed of 15 members as described in Subsections (2) and (3).

(2) The board shall appoint members to the public safety advisory committee as follows:

- (a) one representative from an association that represents fire chiefs in the state;
- (b) one representative from an association that represents police chiefs in the state;
- (c) one representative from an association that represents sheriffs in the state;
- (d) one representative from an association that represents emergency medical service personnel in the state;

(e) one member of law enforcement from a county of the first or second class;

(f) one member of law enforcement from a county of the third or fourth class;

(g) one member of law enforcement from a county of the fifth or sixth class;

(h) one individual from a fire department within a county of the first or second class;

(i) one individual from a fire department within a county of the third or fourth class;

(j) one individual from a fire department within a county of the fifth or sixth class; and

(k) one individual from the public safety communications industry.

(3) The following shall serve on the public safety advisory committee:

- (a) the commissioner of public safety or the commissioner's designee;
- (b) the executive director of the Department of Transportation or the executive director's designee;
- (c) the chair of the public safety answering point advisory committee created in Section 63H-7a-208; and

(d) an individual nominated by the representatives of tribal governments elected under Section 9-9-104.5.

(4) (a) Subject to Subsection (4)(b), each member appointed pursuant to Subsection (2) shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

(i) at the time of appointment or reappointment of individuals described in Subsection (2), adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the those appointed pursuant to Subsection (2) are appointed every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed as described in Subsection (2) or (3), as applicable, for the unexpired term.

(6) (a) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(7) (a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of eight or more members of the committee.

(8) Eight members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.

(9) A member may not receive compensation or benefits for the member's service.

(10) The public safety advisory committee shall make recommendations to the director regarding:

(a) the authority operations and policies;

(b) the radio network division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of the public safety communications network; and

(d) the authority's administrative rules relative to the radio network division and interoperability division.

(11) The chair of the public safety advisory committee is a nonvoting member of the board.

(12) The committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 8. Section 63H-7a-208 is repealed and reenacted to read:

63H-7a-208. PSAP advisory committee.

(1) There is established a PSAP advisory committee composed of nine members appointed by the board as follows:

(a) one representative from a PSAP managed by a city;

(b) one representative from a PSAP managed by a county;

(c) one representative from a PSAP managed by a special service district;

(d) one representative from a PSAP managed by the Department of Public Safety;

(e) one representative from a PSAP from a county of the first class;

(f) one representative from a PSAP from a county of the second class;

(g) one representative from a PSAP from a county of the third or fourth class;

(h) one representative from a PSAP from a county of the fifth or sixth class; and

(i) one member from the telecommunications industry.

(2) (a) Except as provided in Subsection (2)(b), each member shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

(i) at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that the terms of approximately half of the committee end every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the board for the unexpired term.

(4) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(5) (a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of five or more members of the committee.

(6) Five members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.

(7) A member may not receive compensation or benefits for the member's service.

(8) The PSAP advisory committee shall make recommendations to the director and the board regarding:

(a) the authority operations and policies;

(b) the 911 division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of the public safety communications network;

(d) the authority's administrative rules relative to the 911 division and the interoperability division; and

(e) the development of minimum standards and best practices as described in Subsection 63H-7a-302(1)(a).

(9) The chair of the PSAP advisory committee is a nonvoting member of the board.

(10) The committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 9. Section 63H-7a-303 is amended to read:

63H-7a-303. Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of ~~of~~ ~~(a)~~ money appropriated or otherwise made available by the Legislature ~~and~~.

~~[(b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.]~~

(2) Subject to this Subsection (2) and appropriations by the Legislature, the authority may expend funds in the Computer Aided Dispatch Restricted Account for the following purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating a shared computer aided dispatch system including:

(i) an interoperable computer aided dispatch platform that will be selected, shared, or hosted on a statewide or regional basis;

(ii) an interoperable computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may expend funds from the Computer Aided Dispatch Restricted Account to cover the Administrative Services Division's administrative costs related to the Computer Aided Dispatch Restricted Account.

(4) On July 1, 2022, all funds in the Computer Aided Dispatch Restricted Account shall automatically transfer to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

Section 10. Section 63H-7a-304 is amended to read:

63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority ~~may~~ shall disburse funds in the Unified Statewide 911 Emergency Service Account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly and efficiently deliver 911 services in the state.

(b) In expending funds in the Unified Statewide 911 Emergency Service Account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(c) The authority shall expend funds in the Unified Statewide 911 Emergency Service Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the Unified Statewide 911 Emergency Service Account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the Unified Statewide 911 Emergency Service Account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(b)(ii) on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) 911 emergency service defined in Section 69-2-102.

~~(d)~~ (f) The executive director shall recommend to the board expenditures for the authority to make from the Unified Statewide 911 Emergency Service Account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the Unified Statewide 911 Emergency Service Account to cover the Administrative Services Division's administrative costs related to the Unified Statewide 911 Emergency Service Account.

(4) (a) The authority shall reimburse from the Unified Statewide 911 Emergency Service Account to the Automated Geographic Reference Center created in Section 63F-1-506 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the Unified Statewide 911 Emergency Service Account under Section 69-2-403.

(b) The Automated Geographic Reference Center shall use the funds reimbursed to the Automated Geographic Reference Center under Subsection (4)(a) to:

(i) enhance and upgrade digital mapping standards; and

(ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

(c) Subject to an appropriation by the Legislature, the authority may expend funds from the Unified Statewide 911 Emergency Service Account to reimburse a county for the costs, up to \$60,000, of each audit described in Section 69-2-203.

Section 11. Section 63H-7a-402 is amended to read:

63H-7a-402. Radio Network Division duties.

(1) The Radio Network Division shall:

(a) provide and maintain the public safety communications network for state agencies and local government public safety agencies within the authority network, including the existing VHF and 800 MHz networks, in a manner that:

(i) promotes high quality, cost effective service;

(ii) evaluates the benefits, cost, existing facilities, equipment, and services of public and private providers; and

(iii) where economically feasible, utilizes existing infrastructure to avoid duplication of facilities, equipment, and services of providers of communication services;

(b) prior to issuing one or more requests for proposal:

(i) prepare a report demonstrating the Radio Network Division has:

(A) identified the locations and functional capabilities of existing public and private communications facilities in the state;

(B) specifically evaluated the benefits, costs, and economic feasibility of utilizing existing facilities, equipment, and services of public and private providers; and

(C) identified the public and private communications facilities that may be integrated with the public safety communications network; and

(ii) present the report to the board at an open and public board meeting;

~~(b)~~ (c) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the Radio Network Division;

(ii) an annual plan for the program funded by the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and

(iii) information required by the director to contribute to the comprehensive strategic plan described in ~~Subsection 63H-7a-204(18)~~ Section 63H-7a-206;

~~(e)~~ (d) recommend to the executive director administrative rules for approval by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program funded by the restricted account created in Section 63H-7a-403, including rules that establish the criteria, standards, technology, equipment, and services that will qualify for goods or services that are funded from the restricted accounts; and

~~(d)~~ (e) fulfill other duties assigned to the Radio Network Division under this chapter.

(2) The Radio Network Division may:

(a) recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to the public safety communications network;

(b) recommend to the executive director to own, operate, or enter into contracts for the public safety communications network;

(c) review information regarding:

(i) in aggregate, the number of radio service subscribers by service type in a political subdivision; and

(ii) matters related to the public safety communications network;

(d) in accordance with Subsection (2)(c), request information from:

- (i) local and state entities; and
- (ii) public safety agencies; and
- (e) employ outside consultants to study and advise the division on issues related to:
 - (i) the public safety communications network;
 - (ii) radio technologies and services;
 - (iii) microwave connectivity;
 - (iv) fiber connectivity; and
 - (v) public safety communication network connectivity and usage.

(3) The information requested by and provided to the Radio Network Division under Subsections (2)(c) and (d) is a protected record in accordance with Section 63G-2-305.

(4) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 12. Section 63H-7a-403 is amended to read:

63H-7a-403. Utah Statewide Radio System Restricted Account -- Creation -- Administration.

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

- (a) money appropriated or otherwise made available by the Legislature; and
- (b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Subject to appropriations by the Legislature and subject to this Subsection (2), the authority may expend funds in the Utah Statewide Radio System Restricted Account for the purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

- (i) public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;
- (ii) installation, implementation, and maintenance of the public safety communications network;
- (iii) maintaining and upgrading VHF and 800 MHz radio networks; and
- (iv) an operating budget to include personnel costs not otherwise covered by funds from another account.

(b) For each radio network charge that is deposited into the Utah Statewide Radio System Restricted Account under Section 69-2-404, the authority shall spend, subject to an appropriation by the Legislature and this Subsection (2):

- (i) on and after July 1, 2017, 18 cents of each total radio network charge to maintain the public safety communications network, including:
 - (A) the 800 MHz and VHF radio networks;
 - (B) radio console network connectivity;
 - (C) funding a statewide interoperability coordinator; and
 - (D) supplementing costs formerly offset by public safety communications network user fees assessed by the authority before July 1, 2017; and

(ii) on and after January 1, 2018, 34 cents of each total radio network charge to acquire, construct, equip, and install property for, and to make improvements to, the 800 MHz radio system, including debt service costs.

(c) In expending funds in the Utah Statewide Radio System Restricted Account, the authority shall give a higher priority to an expenditure that:

- (i) best promotes statewide public safety;
- (ii) best promotes interoperability;
- (iii) impacts the largest service territory;
- (iv) impacts a densely populated area; or
- (v) impacts an underserved area.

(d) The authority shall expend funds in the Utah Statewide Radio System Restricted Account in accordance with the authority strategic plan described in Section 63H-7a-206.

(e) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the radio network charge imposed in Section 69-2-404 on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

- (i) public safety communications network; and
- (ii) radio communications service defined in Section 69-2-102.

(f) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(b)(iii) on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

- (i) public safety communications network; and
- (ii) radio communications service defined in Section 69-2-102.

[(e)] (g) The executive director shall recommend to the board expenditures for the authority to make from the Utah Statewide Radio System Restricted Account in accordance with this Subsection (2).

(3) Subject to appropriations by the Legislature, the Administrative Services Division may expend funds in the Utah Statewide Radio System Restricted Account for administrative costs that the Administrative Services Division incurs related to the Utah Statewide Radio System Restricted Account.

Section 13. Section 63H-7a-802 is amended to read:

63H-7a-802. Term of the authority -- Dissolution -- Withdrawal.

(1) ~~[(a)]~~ The authority may be dissolved by an act of the Legislature.

~~[(b)]~~ (2) Title to all assets of the authority upon its dissolution shall revert to the ~~[members and the state pro rata, based upon the total amount of money paid to the authority by each member or the] state for services provided [to each] by the public safety communications network.~~

~~[(c)]~~ (3) The board is authorized to:

~~[(i)]~~ (a) take any necessary action to dissolve the authority; and

~~[(ii)]~~ (b) dispose of the property of the authority upon its dissolution as provided in Subsection ~~[(1)(b)]~~ (2).

~~[(2) (a) Each member may, at any time, withdraw as a member of the authority by delivering to the board a written notice of withdrawal which has been approved by the governing body of the member, except that a member may not withdraw from the authority at any time during which it has an outstanding payment obligation to the authority as a result of having entered into a service contract, lease, or other financial obligation.]~~

~~[(b) Except as provided in Subsection (2)(a), the board shall delete the petitioning member from the membership of the authority as of the date of the board's receipt of the member's notice of withdrawal. The board may not include a member who has given notice of withdrawal in any future obligation of the authority.]~~

Section 14. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Administrative Services Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act, only with respect to money appropriated to the authority by the Legislature.

(3) (a) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(b) The authority is subject to Title 63A, Chapter 3, Part 4, Utah Public Finance Website.

Section 15. Section 63I-1-269 is amended to read:

63I-1-269. Repeal dates, Title 69.

Section 69-2-403, emergency services telecommunications charge to fund unified statewide 911 emergency service, is repealed July 1, ~~[2021]~~ 2025.

Section 16. Section 69-2-201 is amended to read:

69-2-201. Public safety answering point -- Establishment -- Administration -- Consolidation.

(1) (a) A public agency may:

(i) operate a public safety answering point to provide 911 emergency service to any part of the geographic area within the public agency's jurisdiction;

(ii) subject to Subsection (1)(b), operate a public safety answering point with any other contiguous public agency to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions; or

(iii) operate a public safety answering point under an agreement with another public agency that existed before January 1, 2017, to provide 911 emergency service to any part of the geographic area within the public agencies' jurisdictions.

(b) A public agency that operates a public safety answering point in connection with a contiguous public agency shall:

(i) provide for the operation of the public safety answering point by interlocal agreement between the public agencies; and

(ii) submit a copy of the interlocal agreement to the director of the Utah Communications Authority.

(2) Except as provided in Subsection (3), a public agency may not establish a dispatch center or a public safety answering point after January 1, 2017.

(3) (a) A public agency that operates a public safety answering point established before January 1, 2017, may:

(i) continue to operate the public safety answering point; or

(ii) physically consolidate the public safety answering point with another public safety answering point operated by another contiguous public agency.

(b) A county may establish a public safety answering point on or after January 1, 2017, if no public safety answering point exists in the county.

(4) A public agency may, in order to provide funding for operating a public safety answering point:

(a) seek funds from the federal or state government;

(b) seek funds appropriated by local governmental taxing authorities to fund a public safety agency; or

(c) seek gifts, donations, or grants from a private entity.

(5) ~~[Before July 1, 2017, each]~~ Each dispatch center in the state shall enter into an interlocal agreement with the governing authority of a public safety answering point that serves the county where the dispatch center is located that provides for:

(a) functional consolidation of the dispatch center with the public safety answering point; and

(b) a plan for the public safety answering point to provide 911 emergency service to the geographic area served by the dispatch center.

(6) (a) No public entity may cause or allow a 911 or emergency call box communication to be redirected to any network other than to the 911 emergency service network.

(b) Each public entity shall comply with Subsection (6)(a) on or before July 1, 2019, and thereafter.

~~[(6)]~~ (7) A special service district that operates a public safety answering point or a dispatch center:

(a) shall administer the public safety answering point or dispatch center in accordance with Title 17D, Chapter 1, Special Service District Act; and

(b) may raise funds, borrow money, or incur indebtedness for the purpose of maintaining the public safety answering point or the dispatch center in accordance with:

(i) Section 17D-1-105; and

(ii) Section 17D-1-103.

Section 17. Section 69-2-203 is amended to read:

69-2-203. Audit to assess emergency services -- County.

~~[Before January 1, 2018, each county in the state that is not served by a single, consolidated public safety answering point shall conduct an audit to determine:]~~

~~[(1) how best to provide emergency services within the county; and]~~

~~[(2) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county.]~~

(1) Before July 1, 2021, and before July 1 of every fourth year beginning in 2025, each county that is not served by a single, physically consolidated public safety answering point shall utilize a qualified third party to conduct an audit of each public safety answering point within the county.

(2) (a) The audit described in Subsection (1) shall evaluate:

(i) how best to provide the emergency services within the county; and

(ii) whether the county could provide more cost efficient emergency service or improve public safety by establishing a single public safety answering point for the county.

(b) The county may request and the Utah Communications Authority Board created in Section 63H-7a-203 may grant reimbursement for the costs of each audit described in Subsection (1), up to \$60,000, distributed from the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.

(3) (a) Each public safety answering point shall participate and cooperate in the audit described in Subsection (1).

(b) A public safety answering point that fails to participate and cooperate in the audit as described in Subsection (1) is ineligible for funding or services provided by the Unified Statewide 911 Emergency Services Account described in Section 63H-7a-304.

Section 18. Section 69-2-403 is amended to read:

69-2-403. Unified statewide 911 emergency service charge to fund Unified Statewide 911 Emergency Service Account.

(1) As used in this section, "unified statewide 911 emergency service charge" means the unified statewide 911 emergency service charge imposed under Subsection (2).

(2) (a) Subject to Subsection (6), there is imposed on each access line in the state a unified statewide 911 emergency service charge of ~~[9 cents per month]:~~

(i) until June 30, 2019, 9 cents per month; and

(ii) beginning July 1, 2019, 25 cents per month.

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

(i) for the purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) as determined in accordance with Section 59-12-215.

(3) (a) The person that provides service to an access line shall bill and collect the unified statewide 911 emergency service charge.

(b) A person that bills and collects the unified statewide 911 emergency service charge shall pay the unified statewide 911 emergency service charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If an access line user is not required to pay for the access line, the access line provider shall collect the unified statewide 911 emergency service charge from the person that is required to pay for the access line.

(d) The person that bills and collects the unified statewide 911 emergency service charge:

(i) shall remit the unified statewide 911 emergency service charge along with a form prescribed by the commission;

(ii) may bill the unified statewide 911 emergency service charge in combination with the charges levied under Sections 69-2-402 and 69-2-404 as one line item charge for 911 emergency service; and

(iii) may retain an amount not to exceed 1.5% of the unified statewide 911 emergency service charge collected under this section as reimbursement for the cost of billing, collecting, and remitting the unified statewide 911 emergency service charge.

(4) The commission shall deposit any unified 911 emergency service charge remitted to the commission into the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(5) An access line provider that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect an emergency services telecommunications charge under this section on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(7) This section sunsets in accordance with Section 63I-1-269.

Section 19. Section 69-2-405 is amended to read:

69-2-405. Prepaid wireless 911 service charge to fund 911 emergency service.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the charges levied under Sections 69-2-402, 69-2-403, and 69-2-404, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed a prepaid wireless 911 service charge of:

(a) before January 1, 2018, 2.45% of the sales price per transaction; ~~and~~

(b) on ~~and after~~ January 1, 2018, and until June 30, 2019, 3.30% of the sales price per transaction~~[-];~~ and

(c) beginning July 1, 2019, 3.7% of the sales price per transaction.

(3) (a) The prepaid wireless 911 service charge shall be collected by the seller from the consumer for each transaction occurring in this state.

(b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.

(ii) The charge described in Subsection (2) is not imposed on a seller or a consumer of federal wireless

lifeline service if the consumer does not pay the seller for the service.

(iii) A consumer of federal wireless lifeline service shall pay, and the seller of the service shall collect and remit, the charge described in Subsection (2) when the consumer purchases from the seller optional services in addition to the federally funded lifeline benefit.

(4) The prepaid wireless 911 service charge shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in ~~[Section]~~ Subsection (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of prepaid wireless 911 service charges that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) A person that collects a prepaid wireless 911 service charge, except as retained under Subsection (7), shall remit the prepaid wireless 911 service charge to the commission at the same time that the seller remits to the commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The commission shall distribute:

~~[(a) on and after July 1, 2017, and before January 1, 2018:]~~

~~[(i) 72.4% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;]~~

~~[(ii) 9.2% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and]~~

~~[(iii) 18.4% of the revenue to the Utah Statewide Radio System Restricted Account; and]~~

~~[(b) on and after January 1, 2018:]~~

(a) for revenues collected under this section for a filing period ending on or before June 30, 2019:

(i) 53.8% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) 6.8% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) 39.4% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio System Restricted Account~~[-]~~ created in Section 63H-7a-403; and

(b) for revenues collected under this section for a filing period beginning July 1, 2019:

(i) 47.97% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) 16.89% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) 35.14% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

Section 20. Effective date.

This bill takes effect on July 1, 2019.

CHAPTER 510**S. B. 187**

Passed March 14, 2019

(Passed into law without governor's signature)

Effective May 14, 2019

**COUNTY PLANNING
AND SERVICES AMENDMENTS**

Chief Sponsor: Curtis S. Bramble

House Sponsor: Mike Schultz

LONG TITLE**General Description:**

This bill amends provisions regarding county planning and services.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the membership on a county mountainous planning commission;
- ▶ allows a county to fund fire, paramedic, and police services within a municipality that is located within an area that the county has designated as a recreation area;
- ▶ extends sunset dates for the mountainous planning commission; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

17-27a-301, as last amended by Laws of Utah 2017, Chapters 70 and 448

17-34-1, as last amended by Laws of Utah 2014, Chapter 405

63I-2-210, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

63I-2-217, as last amended by Laws of Utah 2018, Chapter 68 and further amended by Revisor Instructions, Laws of Utah 2018, Chapter 456

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-27a-301 is amended to read:**17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.**

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

- (i) municipalities;

(ii) planning advisory areas with their own planning commissions; and

(iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), and except as provided in Subsection (1)(c)(ii), a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district, including areas of the mountainous planning district that are also located within a municipality or are unincorporated.

(ii) A planning commission described in Subsection (1)(c)(i):

(A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and

(B) has jurisdiction subject to a local health department exercising its authority in accordance with Title 26A, Chapter 1, Local Health Departments and a municipality exercising the municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that:

(A) members of the planning commission represent areas located in the unincorporated and incorporated county;

(B) members of the planning commission be registered voters who reside either in the unincorporated or incorporated county;

(C) at least one member of the planning commission resides within the mountainous planning district and another member ~~[either resides or owns property]~~ is a resident of a municipality located within the mountainous planning district; and

(D) the county designate up to four seats on the planning commission, and fill each vacancy in the designated seats in accordance with the procedure described in Subsection (7).

(2) (a) The ordinance described in Subsection (1)(a) or (c) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a planning advisory area planning commission, the county

legislative body shall enact an ordinance that defines:

- (A) appointment procedures;
- (B) procedures for filling vacancies and removing members from office;
- (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the planning advisory area planning commission in a public meeting; and
- (D) details relating to the organization and procedures of each planning advisory area planning commission.
 - (i) Subsection (3)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.
 - (b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:
 - (i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or
 - (ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.
 - (c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.
 - (ii) Notwithstanding the provisions of Subsection (3)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.
 - (d) (i) Each member of a planning advisory area planning commission shall be a registered voter residing within the planning advisory area.
 - (ii) Subsection (3)(d)(i) does not apply to a member described in Subsection (4)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory area.
 - (4) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.
 - (b) Upon the expiration of an elected term described in Subsection (4)(a), the vacant seat shall be filled by appointment in accordance with this section.
 - (5) Upon the appointment of all members of a planning advisory area planning commission, each planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the

countywide planning commission or planning advisory area planning and zoning board.

- (6) The legislative body may authorize a member of a planning commission to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.
 - (7) (a) Subject to Subsection (7)(f), a county shall fill a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (7).
 - (b) If a county designates one or more planning commission seats under Subsection (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:
 - (i) (A) are adjacent to the mountainous planning district; and
 - (B) border the entrance to a canyon that is located within the boundaries of the mountainous planning district and accessed by a paved road maintained by the county or the state; or
 - (ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.
 - (c) When there is a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D), the county shall send a written request to one of the cities described in Subsection (7)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.
 - (d) The city shall respond to a written request described in Subsection (7)(c) within 60 days after the day on which the city receives the written request.
 - (e) After the county receives the city's list of three individuals, the county shall submit one of the individuals on the list for appointment to the vacant planning commission seat in accordance with county ordinance.
 - (f) The county shall fill the vacancy in accordance with the county's standard procedure if the city fails to timely respond to the written request.
- Section 2. Section 17-34-1 is amended to read:**
- 17-34-1. Counties may provide municipal services -- Limitation -- First-class counties to provide certain services -- Counties allowed to provide certain services in recreational areas.**
- (1) For purposes of this chapter, except as otherwise provided in Subsection (3):
 - (a) "Greater than class C radioactive waste" has the same meaning as in Section 19-3-303.
 - (b) "High-level nuclear waste" has the same meaning as in Section 19-3-303.
 - (c) "Municipal-type services" means:
 - (i) fire protection service;
 - (ii) waste and garbage collection and disposal;

- (iii) planning and zoning;
- (iv) street lighting;
- (v) animal services;
- (vi) storm drains;
- (vii) traffic engineering;
- (viii) code enforcement;
- (ix) business licensing;
- (x) building permits and inspections;
- (xi) in a county of the first class:
 - (A) advanced life support and paramedic services; and
 - (B) detective investigative services; and
 - (xii) all other services and functions that are required by law to be budgeted, appropriated, and accounted for from a municipal services fund or a municipal capital projects fund as defined under Chapter 36, Uniform Fiscal Procedures Act for Counties.
- (d) "Placement" has the same meaning as in Section 19-3-303.
- (e) "Storage facility" has the same meaning as in Section 19-3-303.
- (f) "Transfer facility" has the same meaning as in Section 19-3-303.
- (2) A county may:
 - (a) provide municipal-type services to areas of the county outside the limits of cities and towns without providing the same services to cities or towns; and
 - (b) fund those services by:
 - (i) levying a tax on taxable property in the county outside the limits of cities and towns;
 - (ii) charging a service charge or fee to persons benefitting from the municipal-type services; or
 - (iii) providing funds to a municipal services district in accordance with Section 17B-2a-1109.
- (3) A county may not:
 - (a) provide, contract to provide, or agree in any manner to provide municipal-type services, as these services are defined in Section 19-3-303, to any area under consideration for a storage facility or transfer facility for the placement of high-level nuclear waste, or greater than class C radioactive waste; or
 - (b) seek to fund services for these facilities by:
 - (i) levying a tax; or
 - (ii) charging a service charge or fee to persons benefitting from the municipal-type services.
- (4) Each county of the first class shall provide to the area of the county outside the limits of cities and towns:

(a) advanced life support and paramedic services; and

(b) detective investigative services.

(5) (a) A county may provide fire, paramedic, and police protection services in any area of the county outside the limits of cities and towns that is designated as a recreational area in accordance with the provisions of this Subsection (5).

(b) A county legislative body may designate any area of the county outside the limits of cities and towns as a recreational area if:

(i) the area has fewer than 1,500 residents and is primarily used for recreational purposes, including canyons, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas; and

(ii) the county legislative body makes a finding that the recreational area is used by residents of the county who live both inside and outside the limits of cities and towns.

(c) Fire, paramedic, and police protection services needed to primarily serve those involved in the recreation activities in areas designated as recreational areas by the county legislative body in accordance with Subsection (5)(b) may be funded from the county general fund.

(d) A county legislative body may determine that fire, paramedic, and police protection services within a municipality that is located in an area designated as a recreational area, in accordance with this Subsection (5), may be funded with county general funds if the county legislative body makes a finding that a disproportionate share of public safety service needs within the municipality are generated by residents of the county who live both inside and outside the limits of cities and towns.

Section 3. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

~~(1) On July 1, 2018, the following are repealed:]~~

~~[(a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";]~~

~~[(b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";]~~

~~[(c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";]~~

~~[(d) Section 10-2a-302;]~~

~~[(e) Subsection 10-2a-302.5(2)(a);]~~

~~[(f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";]~~

~~[(g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and "10-2a-302(7)(b)(iv) or";]~~

~~[(h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and]~~

~~[(i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5) or";]~~

~~[(2)] (1) Subsection 10-9a-304(2), regarding municipal authority over property located within a~~

mountainous planning district, is repealed June 1, [2020] 2021.

[~~3~~] (2) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

Section 4. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, [2020] 2021.

(2) (a) Subsection 17-27a-103(15)(b), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(b) Subsection 17-27a-103(37), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, [2020] 2021.

(4) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(c) Subsection 17-27a-301(2)(a), the language that states "described in Subsection (1)(a) or (c)" is repealed June 1, [2020] 2021.

(5) Subsection 17-27a-302(1), the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, [2020] 2021.

(6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, [2020] 2021.

(7) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(b) Subsection 17-27a-401[~~6~~](7), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(8) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(c) Subsection (2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, [2020] 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, [2020] 2021.

(9) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(10) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, [2020] 2021.

(12) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, [2020] 2021.

(13) Subsection 17-27a-605(1), the language that states "or mountainous planning district land" is repealed June 1, [2020] 2021.

(14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, [2020] 2021.

(15) On June 1, [2020] 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3)[,];

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(16) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

[~~46~~] (17) On June 1, 2020:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(2)," is repealed;

(c) Subsection 17-52a-301(3)(a)(vi) is repealed;

(d) in Subsection 17-52a-501(1), the language that states "or, for a county under a pending process described in Section 17-52a-104, under Section 17-52-204 as that section was in effect on March 14, 2018," is repealed; and

(e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a pending process described in Section 17-52a-104, the attorney's report that is described in Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14, 2018," is repealed.

[~~47~~] (18) On January 1, 2028, Subsection 17-52a-~~102~~(3) is repealed.

Resolutions

passed at the
General Session
of the
Sixty-Third Legislature
2019

H.C.R. 1

Passed February 14, 2019

Approved March 27, 2019

Effective March 27, 2019

CONCURRENT RESOLUTION URGING THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION TO APPROVE A PHARMACEUTICAL DROP BOX PILOT PROGRAM

Chief Sponsor: Brad M. Daw
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This concurrent resolution highlights the devastating impact of the opioid epidemic and urges the United States Drug Enforcement Administration to approve a pilot program for pharmaceutical drop boxes.

Highlighted Provisions:

This resolution:

- ▶ highlights the impact of the opioid epidemic on the state of Utah;
- ▶ describes previous actions to place law enforcement-controlled pharmaceutical drop boxes in local pharmacies; and
- ▶ urges the United States Drug Enforcement Administration to approve a pilot program for pharmaceutical drop boxes that are controlled by local law enforcement agencies.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is committed to fostering a safe and drug-free environment for all of its citizens;

WHEREAS, the United States Drug Enforcement Administration designated the state of Utah as an official DEA 360 strategy area in the fall of 2017 to combat opioid addiction and overdose deaths in the state;

WHEREAS, Utah ranks 4th highest in the nation for drug overdose deaths, with 23 individuals dying each month from a prescription opioid overdose in 2016;

WHEREAS, from 2000 to 2015, Utah experienced a nearly 400% increase in deaths from the misuse and abuse of opioids, and the problem is continuing to grow;

WHEREAS, most individuals who misuse prescription drugs have access to the drugs from a friend or relative, not a local drug dealer;

WHEREAS, Utah currently has over 150 drop boxes based in local law enforcement offices around the state;

WHEREAS, Utahns have advised members of the newly formed Attorney General's Opioid Task Force that people would be more likely to drop off

unused pharmaceutical drugs in a drop box if the boxes are placed in local pharmacies;

WHEREAS, even though drop boxes are allowed in pharmacies, Utah pharmacists have repeatedly informed the Opioid Task Force that federal regulations governing the placement and maintenance of drop boxes are too onerous;

WHEREAS, Utah is a geographically large state with a substantial portion of the population living in rural areas, and some citizens must drive over 20 miles to place their unused drugs in a designated drop box;

WHEREAS, in a letter sent to the United States Drug Enforcement Administration on May 31, 2017, the Utah Attorney General requested a waiver from existing regulations to operate a one-year pilot program that would allow law enforcement agencies to place and operate pharmaceutical drop boxes in local pharmacies;

WHEREAS, the United States Drug Enforcement Administration's response dated September 6, 2017, to the Utah Attorney General's request merely reiterated existing regulations and failed to address the pilot program;

WHEREAS, all of the pharmaceutical drop boxes in the pilot program would be completely owned and operated by a local law enforcement entity, and all boxes would be installed in conjunction with in-store security camera and facility alarm systems;

WHEREAS, local law enforcement officers would be solely responsible for emptying and securing the disposed drugs until the drugs could be properly destroyed;

WHEREAS, drugs placed in the secure drop boxes would be considered abandoned property and would be destroyed in accordance with applicable state and federal law;

WHEREAS, drop boxes in the pilot program would not be placed in pharmacies that are already registered as Collectors with the United States Drug Enforcement Administration; and

WHEREAS, the pilot program would allow the Opioid Task Force to evaluate whether a significant increase in the number of take-back locations could reduce rates of prescription drug misuse, overdose, and death:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, requests that the United States Drug Enforcement Administration respond to the Utah Attorney General's request for a pilot program to allow local law enforcement agencies to place and operate pharmaceutical drop boxes in local pharmacies.

BE IT FURTHER RESOLVED that the Legislature and the Governor join the Utah Attorney General to call on the United States Drug Enforcement Administration to act quickly to support the state of Utah in its efforts to address the opioid epidemic by approving the pharmaceutical drop box pilot program.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to the United States Attorney General, the United States Attorney for the District of Utah, and the Administrator of the United States Drug Enforcement Administration.

H.C.R. 2

Passed February 13, 2019
 Approved March 27, 2019
 Effective March 27, 2019

**CONCURRENT RESOLUTION
 SUPPORTING RENEWABLE AND
 SUSTAINABLE ENERGY OPTIONS
 TO PROMOTE RURAL ECONOMIC
 DEVELOPMENT**

Chief Sponsor: Patrice M. Arent
 Senate Sponsor: David P. Hinkins
 Cosponsors: Carl R. Albrecht
 Joel K. Briscoe
 Walt Brooks
 Kay J. Christofferson
 Susan Duckworth
 Stephen G. Handy
 Suzanne Harrison
 Brian S. King
 Carol Spackman Moss
 Val K. Potter
 V. Lowry Snow
 Keven J. Stratton
 Christine F. Watkins
 Elizabeth Weight

LONG TITLE

General Description:

This resolution supports the development of wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy in rural areas of the state as a complement to Utah's diversified energy system and supports the export of those Utah-produced renewable energy sources to other states.

Highlighted Provisions:

This resolution:

- ▶ acknowledges the important role of rural communities in the development of energy resources;
- ▶ recognizes the economic and supply benefits that wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy development provide;
- ▶ recognizes the energy market opportunities available to those states that develop wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy;
- ▶ supports the development of wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy in rural areas of the state as a complement to Utah's diversified energy system; and
- ▶ supports the export of Utah-produced wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy to other states.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah's rural communities have long produced much of the energy necessary to drive Utah's economy;

WHEREAS, some of these rural communities have not always enjoyed the prosperity that has come with Utah's tremendous economic growth in recent decades;

WHEREAS, many of these rural communities are rich with the natural resources, including wind, solar, hydrogen, small conduit hydroelectric, and geothermal resources, necessary to provide energy for Utah and the nation;

WHEREAS, competitive energy markets in western states are providing new opportunities for the sale of energy across state lines;

WHEREAS, Utah's natural salt dome geologic formations provide complementary cost-effective storage potential for wind, solar, hydrogen, small conduit hydroelectric, and geothermal development, as well as their own economic development opportunities;

WHEREAS, many western states are responding to this energy opportunity by harnessing wind, solar, hydrogen, small conduit hydroelectric, and geothermal power, thus providing economic benefits for rural communities and energy supplies to customers within and outside their states; and

WHEREAS, Utah has an opportunity to maintain its position as a net exporter of energy and a leader in energy production and innovation in the region:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports rural development of wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy resources within Utah as a complement to Utah's diversified energy system, so that Utah's rural communities can take an active part in and receive the benefits of Utah's economic development.

BE IT FURTHER RESOLVED that the Legislature and the Governor support the export of Utah-produced wind, solar, hydrogen, small conduit hydroelectric, and geothermal energy.

H.C.R. 3

Passed March 13, 2019
 Approved March 29, 2019
 Effective March 29, 2019

**CONCURRENT RESOLUTION
 CONCERNING SWITCHER
 LOCOMOTIVE EMISSION STANDARDS**

Chief Sponsor: Stephen G. Handy
 Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This concurrent resolution requests that Congress allow states to regulate certain switcher locomotive emission standards.

Highlighted Provisions:

This resolution:

- ▶ recognizes the railroad’s economic impact in Utah;
- ▶ describes the Environmental Protection Agency’s (EPA) emission standards for switcher locomotives;
- ▶ recognizes that more stringent emission standards for switcher locomotives would reduce harmful emissions in the state;
- ▶ acknowledges that federal law prohibits states from adopting more stringent emission standards for switcher locomotives; and
- ▶ requests that Congress allow states to regulate certain switcher locomotive emissions standards.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, railroads continue to play a vital role in Utah’s economy;

WHEREAS, there are approximately 63 switcher locomotives operating in Utah;

WHEREAS, the vast majority of the switcher locomotives operating in Utah are certified to the Environmental Protection Agency’s (EPA) Tier 0 or Tier 0+ emission standards;

WHEREAS, the Utah Division of Air Quality finds replacing and repowering switcher locomotives to be a cost-effective emission control strategy;

WHEREAS, replacing or repowering a switcher locomotive certified to the Tier 0+ emission standard to meet Tier 4 emission standards would result in an 89% reduction in nitrogen-oxide emissions and an 88.5% reduction in direct particulate-matter emissions;

WHEREAS, the Clean Air Act, 42 U.S.C. Sec. 7543(e) prohibits states from establishing emission standards for locomotives;

WHEREAS, current EPA emissions standards only require switcher locomotives certified to the Tier 0 emission standard to be remanufactured to meet the Tier 0+ emission standard and such remanufacturing may continue indefinitely; and

WHEREAS, the EPA has continued to tighten the National Ambient Air Quality Standards for fine particulate matter and ozone without providing improved locomotive remanufacturing emissions requirements to help meet said standards:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby requests that Congress allow states to regulate switcher locomotive

emissions standards so that a state can require that Tier 0 and 0+ locomotives be repowered to meet Tier 4 standards or otherwise be retired in a timely and cost-effective manner.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the United States Environmental Protection Agency’s Office of the Administrator, and each member of Utah’s congressional delegation.

H.C.R. 4

Passed February 20, 2019

Approved March 27, 2019

Effective March 27, 2019

**CONCURRENT RESOLUTION
SUPPORTING UTAH’S EVERY
KID OUTDOORS INITIATIVE**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Lincoln Fillmore

Cosponsors: Stewart E. Barlow

Jennifer Dailey-Provost

Brad M. Daw

Stephen G. Handy

Suzanne Harrison

Sandra Hollins

Marsha Judkins

Brian S. King

Kelly B. Miles

Carol Spackman Moss

Stephanie Pitcher

Marie H. Poulson

Angela Romero

Rex P. Shipp

Lawanna Shurtliff

Robert M. Spendlove

Andrew Stoddard

Steve Waldrip

Raymond P. Ward

LONG TITLE

General Description:

This concurrent resolution expresses support for Utah’s Every Kid Outdoors Initiative.

Highlighted Provisions:

This resolution:

- ▶ describes the benefits of children spending time outdoors;
- ▶ expresses support for Utah’s Every Kid Outdoors Initiative; and
- ▶ describes Utah’s Every Kid Outdoors Initiative.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, scientific research shows that children are spending more time inside than previous generations, are increasingly distanced from nature, are engaging in less physical exercise, and are at increased risks for poor health;

WHEREAS, research shows that time spent in nature can lead to physical, mental, developmental, and behavioral health benefits;

WHEREAS, there is significant value in providing opportunities for children to experience awe-inspiring moments while gazing upon the natural beauty of Utah's uniquely spectacular outdoor places;

WHEREAS, quality time in the natural world encourages curiosity, and provides hands-on field experience and experiential learning, resulting in improved learning across various fields of science; and

WHEREAS, Utahns have a heritage of outdoor pastimes, agriculture and a relationship to the land:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes that it is critical for the well-being and development of Utah's children that we promote a healthy, active childhood filled with outdoor experiences for Utah's children.

BE IT FURTHER RESOLVED that we hereby support Utah's Every Kid Outdoors Initiative, which states that every child in Utah should have the opportunity to:

- (1) observe nature and wildlife in Utah;
- (2) explore Utah's parks, public lands, and wildplaces;
- (3) experience The Greatest Snow on Earth;
- (4) gaze at the starry sky;
- (5) bring along a friend to discover nearby nature;
- (6) splash in Utah's rivers, lakes, and streams;
- (7) follow a trail;
- (8) plant a seed;
- (9) play on Utah's rocks and mountains; and
- (10) be a steward and take care of Utah's outdoor places.

H.C.R. 5

Passed March 12, 2019
 Approved March 28, 2019
 Effective March 28, 2019

**CONCURRENT RESOLUTION URGING
 POLICIES THAT REDUCE DAMAGE
 FROM WILDFIRES**

Chief Sponsor: Raymond P. Ward
 Senate Sponsor: Ronald Winterton

LONG TITLE

General Description:

This resolution urges the federal government to pursue policies that allow for easier reduction of excess forest fuel loads.

Highlighted Provisions:

This resolution:

- ▶ notes that recent wildfire seasons have been exceptionally destructive;
- ▶ notes the impact that wildfire has on air quality in Utah;
- ▶ urges the federal government to pursue forest fuel load reductions to mitigate wildfire risk; and
- ▶ urges that entities work together to find policies regarding effectively using prescribed burns.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, recent fire seasons in Utah have been exceptionally destructive, including the 2018 fire season which included 485,989 acres and 400 structures burned and fire-fighting costs estimated to be \$150,000,000;

WHEREAS, because of smoke from wildfires, Utah's air quality during the summer of 2018 was much worse than usual along the Wasatch Front with a large increase in the number of unhealthy red air quality days;

WHEREAS, if wildfires continue to worsen, it will come with a terrible cost in terms of dollars to fight the fires and increased loss of property and loss of human life; and

WHEREAS, federal land management policies that encourage a large amount of excess fuel load to accumulate in our forests are also a contributing factor to worsening wildfires:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the federal government to pursue policies that allow for common sense fuel load reductions in Utah's forests, including allowing for appropriate salvage logging to occur before timber loses its economic value.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge that the Legislature, through the Natural Resources, Agriculture, and Environment Interim Committee, work with the executive branch, through the Utah Department of Natural Resources, and their federal counterparts in the United States Forest Services to find policies that can improve our abilities to effectively use prescribed burns, including options for revising the Regional Haze State Implementation Plan to allow for easier permitting of prescribed burns during times of the year with low fire risk.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's federal delegation, the chief of the United States Forest Service, and the director of the United States Bureau of Land Management.

H.C.R. 6

Passed March 5, 2019
 Approved March 25, 2019
 Effective March 25, 2019

**CONCURRENT RESOLUTION
 DESIGNATING MAY 5 AS MISSING
 AND MURDERED INDIGENOUS WOMEN,
 GIRLS, AND LGBT+ AWARENESS DAY**

Chief Sponsor: Angela Romero
 Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This concurrent resolution designates May 5 as “Missing and Murdered Indigenous Women, Girls, and LGBT+ Awareness Day.”

Highlighted Provisions:

This resolution:

- ▶ highlights data and impacts related to missing and murdered indigenous women, girls, and LGBT+;
- ▶ designates May 5 as “Missing and Murdered Indigenous Women, Girls, and LGBT+ Awareness Day”; and
- ▶ calls on the people of Utah and interested groups to commemorate the lives of missing and murdered indigenous women, girls, and LGBT+ and demonstrate solidarity with the families.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, according to the United States Census there are over 70,300 Native Americans living in the state of Utah in one of the eight federally recognized tribal nations or within Utah’s urban areas;

WHEREAS, according to a study commissioned by the United States Department of Justice, indigenous women face murder rates that are more than 10 times the national average;

WHEREAS, according to the most recently available data from the Centers for Disease Control and Prevention, in 2015, homicide:

- (1) ranged from the second to seventh leading cause of death for Native American females between 1 and 39 years of age; and
- (2) remained a leading cause of death for most Native American females between 40 and 64 years of age;

WHEREAS, challenges in collecting data and tracking prevent a full understanding of the scope of the crisis of missing and murdered indigenous women, girls, and LGBT+;

WHEREAS, tribal nations and community leaders are actively working to prevent further violence against tribal community members in the state of Utah;

WHEREAS, this crisis affects the well-being of individuals and communities both on and off tribal nations located in the state of Utah; and

WHEREAS, in 2018, the United States Senate proclaimed May 5th “National Day of Awareness for Missing and Murdered Native Women and Girls”:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates May 5th of each year as the “Missing and Murdered Indigenous Women, Girls, and LGBT+ Awareness Day.”

BE IT FURTHER RESOLVED that the Legislature and the Governor call on the people of Utah and interested groups to:

- (1) commemorate the lives of missing and murdered indigenous women, girls, and LGBT+ whose cases are documented or undocumented in public records and the media; and
- (2) demonstrate solidarity with the families of the victims in light of those tragedies.

H.C.R. 7

Passed February 15, 2019
 Approved March 29, 2019
 Effective March 29, 2019

**CONCURRENT RESOLUTION
 RECOGNIZING THE ECONOMIC
 IMPORTANCE OF OUTDOOR
 RECREATION FOR UTAH**

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Patrice M. Arent
 Karen Kwan
 Karianne Lisonbee
 Derrin R. Owens
 Rex P. Shipp

LONG TITLE

General Description:

This concurrent resolution recognizes the importance of outdoor recreation for Utah.

Highlighted Provisions:

This bill:

- ▶ highlights the natural assets and benefits derived from the natural assets in Utah;
- ▶ recognizes the economic importance of Utah’s natural assets to Utah’s people; and
- ▶ expresses the intention to continue the legacy of supporting and growing the broad economic value of Utah’s natural assets to benefit the people of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah’s world-famous natural landscapes and unmatched access to diverse outdoor recreation opportunities provide all Utahns with unique and unrivaled natural assets that improve our health, enhance our quality of life, and strengthen our economy;

WHEREAS, Utah’s beautiful lands, stunning mountains, spectacular canyons, and magnificent waterways are home to 14 ski resorts, world-class backcountry skiing, snowboarding and snowmobiling on The Greatest Snow on Earth, 44 state parks, over 40 blue ribbon fisheries, thousands of miles of trails for hiking, off-road vehicle, mountain bike and equestrian use, numerous fascinating natural areas, prolific dinosaur quarries, eight National Monuments, the planet’s finest hang gliding venues, outstanding hunting opportunities, boating on lakes and reservoirs, the largest river rapids in the United States, and America’s five most spectacular National Parks;

WHEREAS, many of these natural assets are located near urban centers and contribute to the growth of thriving communities and enable all Utahns to find solitude and world class outdoor recreation within convenient travel times and live an active and healthy lifestyle;

WHEREAS, these natural assets draw millions of visitors each year from across the nation and around the world who spend over \$8 billion in the state, generating \$1.25 billion in tax revenue and directly employing some 146,000 Utahns;

WHEREAS, outdoor recreation builds Utah’s economy in other significant but less well-known ways, including:

- (1) acting as a critical tool for employee recruitment and retention;
- (2) driving development and construction in proximity to recreation opportunities;
- (3) fostering the manufacture of outdoor-related products;
- (4) attracting telecommuters and retirees; and
- (5) bringing high-tech and other diverse businesses to Utah that value access to recreation even though they are not in the business of recreation, as reflected in a recent study by Utah Outdoor Partners and the Kem Gardner Institute showing that, for newer, fast-growing businesses, access to outdoor recreation and Utah’s outdoor lifestyle were the second and third most important factors in the decision to locate those businesses in Utah;

WHEREAS, Utah led the nation in supporting the development of its outdoor economy and outdoor recreation infrastructure through the establishment of the very first state Office of Outdoor Recreation in 2013 and in establishing the Utah Outdoor Recreation Infrastructure Grant

that has very successfully leveraged other public and private funding sources; and

WHEREAS, the private sector is a key partner in our state’s success, and Utah’s leaders are committed to responsibly partnering with the business community to ensure that our natural assets can sustain economic growth for years to come:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognize the significant and broad economic importance of Utah’s natural assets to Utah’s people, and draws particular attention to the fact that this economic importance flows not only directly from outdoor recreation and tourism but also from other significant sources such as attracting people and businesses who build the state’s economy in diverse ways.

BE IT FURTHER RESOLVED that the Legislature and Governor unitedly express the intention to continue the legacy of supporting and growing the broad economic value of Utah’s natural assets to benefit the people of Utah.

H.C.R. 8

Passed February 21, 2019
Approved March 25, 2019
Effective March 25, 2019

**CONCURRENT RESOLUTION
RECOGNIZING THE WORK OF THE STOP
THE BLEED INITIATIVE AND CAMPAIGN**

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This resolution addresses the health dangers of uncontrolled bleeding and encourages participation in and recognition of the Stop the Bleed initiative and campaign.

Highlighted Provisions:

This concurrent resolution:

- ▶ recognizes the impact of uncontrolled bleeds;
- ▶ encourages citizens to participate in the Stop the Bleed campaign to learn more about uncontrolled bleeding and how to address uncontrolled bleeding;
- ▶ highlights the contributions of the Stop the Bleed initiative and campaign; and
- ▶ establishes March 31, 2019, as Stop the Bleed Education Day.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the most common preventable cause of death after an injury is uncontrolled bleeding;

WHEREAS, when a person is losing blood, every minute counts;

WHEREAS, the Stop the Bleed campaign of the United States Department of Homeland Security informs Americans about vital measures that can be taken to aid trauma victims;

WHEREAS, the Stop the Bleed campaign was created after the 2012 mass shooting at Sandy Hook Elementary School, through the work of a blue-ribbon committee and a panel of experts, including representatives from the American College of Surgeons;

WHEREAS, implementation of the Stop the Bleed initiative in Utah is being guided by Intermountain Medical Center, Primary Children’s Medical Center, and the University of Utah Hospital, which are the three Level I Trauma Centers in the state, in coordination with the Trauma System Advisory Committee within the Department of Health;

WHEREAS, no matter how quickly professional emergency responders arrive, bystanders are always the first on the scene;

WHEREAS, a person who is bleeding can die from blood loss within five minutes, making it critically important to stop the bleed quickly;

WHEREAS, the Stop the Bleed initiative and campaign provides kits that include tourniquets, dressings, and topical hemostatic agents to aid bystanders who are offering swift assistance at the scene of a mass casualty or other incident;

WHEREAS, these kits are fastened to walls in public places; and

WHEREAS, the Stop the Bleed initiative and campaign aim to educate all adults and to empower citizens to act when a life is at stake, whether from an individual act or a mass casualty event:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages all Utah citizens to participate in the Stop the Bleed initiative and campaign and to learn more about the importance of measures that can be taken to control bleeding in an emergency.

BE IT FURTHER RESOLVED that the Legislature and Governor commend the Stop the Bleed initiative and campaign and recognize March 31, 2019, as Stop the Bleed Education Day in the state.

H.C.R. 9

Passed February 28, 2019

Approved March 27, 2019

Effective March 27, 2019

**CONCURRENT RESOLUTION
COMMENDING JORDAN SCHOOL
DISTRICT ON ITS FLEET OF NATURAL
GAS SCHOOL BUSES**

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Lincoln Fillmore
Cosponsors: Kim F. Coleman
Ken Ivory
Marsha Judkins
Susan Pulsipher

LONG TITLE

General Description:

This resolution commends Jordan School District for investing in the state’s largest fleet of natural gas buses.

Highlighted Provisions:

This resolution:

- ▶ commends Jordan School District for its contribution to improved public health and fiscal responsibility through acquiring school buses that operate on compressed natural gas.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utahns rank air quality among their highest concerns, and individuals living along the Wasatch Front rank air quality as their highest priority among their top 10 concerns in the state;

WHEREAS, Utahns’ major concerns with air quality include ozone and very fine particulate matter that are produced from the burning of fossil fuels;

WHEREAS, the Wasatch Front is known to have some of the most challenging short-term air quality issues;

WHEREAS, in 2017 the Environmental Protection Agency (EPA) reclassified the Wasatch Front from a “moderate” to a “serious” nonattainment area, based on the Clean Air Act’s air quality health standards;

WHEREAS, although vehicle contribution to air pollution has decreased over time and will continue to decline with both the implementation of Tier III fuel and automobile standards and rapidly increasing fuel economy standards, fossil fuel combustion engines continue to account for approximately 48% of emissions that lead to poor air quality in Utah;

WHEREAS, as Utah’s population continues to grow, so will the challenge of reducing tailpipe emissions;

WHEREAS, Utah public schools have over 2,400 buses that transport 175,000 children every day;

WHEREAS, most of the school buses being used by school districts and charter schools burn diesel fuel;

WHEREAS, numerous studies have concluded that the younger a person is, the more susceptible that person is to the dangers of diesel exhaust fumes, resulting in increased health risks associated with lung disease, cancer, and heart disease;

WHEREAS, the concentration of numerous idling diesel school buses around schools contributes to poor air quality, impacting the health of children and other members of the community;

WHEREAS, inversions settle into the valleys along the Wasatch Front during the school year, trapping exhaust fumes and fine particulate matter in the air we breathe;

WHEREAS, numerous efforts have been made over the past several years to remove older diesel school buses in Utah and replace them with clean fuel alternatives such as compressed natural gas (CNG), clean diesel, electricity, propane, or hybrid capability;

WHEREAS, one CNG school bus saves the equivalent of the emissions produced by 35 cars on the road;

WHEREAS, Jordan School District became a leader in clean fuel school buses when it began acquiring CNG school buses 30 years ago;

WHEREAS, Jordan School District continually demonstrates leadership in clean fuel school buses and currently has the state's largest fleet of CNG school buses;

WHEREAS, Jordan School District is contributing to cleaner air and better health for students and residents along the Wasatch Front through the use of CNG school buses in place of diesel school buses;

WHEREAS, in 2018 Jordan School District used \$1.7 million in grant money to purchase 36 new CNG school buses, bringing its total number of CNG buses to 105;

WHEREAS, more than half of all of the school buses used by Jordan School District are CNG buses; and

WHEREAS, each CNG bus saves Jordan School District at least \$6,000 per year, resulting in an annual savings in fuel costs of \$630,000;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commends Jordan School District for its exemplary contribution to the public health of the citizens of the state of Utah by acquiring a fleet of CNG school buses with little additional expense to taxpayers, reducing emissions, and improving air quality.

BE IT FURTHER RESOLVED that the Legislature and the Governor commend Jordan School District for being an excellent example of environmentally sensitive, forward-thinking, and fiscally responsible leadership in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor commend Jordan School District for its fiscal responsibility in seeking grants and rebates to acquire CNG school buses and a CNG fueling facility, resulting in lower ongoing operational costs of its school bus fleet.

H.C.R. 10

Passed March 6, 2019

Approved March 27, 2019

Effective March 27, 2019

**CONCURRENT RESOLUTION TO ADDRESS
DECLINING WATER LEVELS OF
THE GREAT SALT LAKE**

Chief Sponsor: Timothy D. Hawkes

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This concurrent resolution recognizes the critical importance of continued water flows to Great Salt Lake and its wetlands and the need for solutions to address declining water levels, while appropriately balancing economic, social, and environmental needs.

Highlighted Provisions:

This resolution:

- ▶ urges expeditious and collaborative development of recommendations for policy and actionable solutions to avert economic, social, and environmental harm due to declining water levels at Great Salt Lake and its wetlands; and
- ▶ encourages reports to the Legislature and Governor.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 2014 the Utah Legislature recognized the "economic, recreational, and natural significance of the Great Salt Lake" pursuant to enrolled H.J.R. 20, Joint Resolution Recognizing the Significance of the Great Salt Lake (General Session 2014);

WHEREAS, Great Salt Lake, the largest saline lake in the Western Hemisphere, is a symbol of our state, an economic driver, and a unique and complex ecosystem of regional, international, and hemispherical importance;

WHEREAS, Great Salt Lake and its wetlands support a range of economic activities, accounting for a total regional economic output of more than \$1.3 billion annually from mineral extraction, brine shrimp harvesting, recreation, including hunting, birding, and boating, and other uses;

WHEREAS, Great Salt Lake and its wetlands are recognized as hemispherically and globally important habitat for millions of waterbirds, waterfowl, and shorebirds;

WHEREAS, Great Salt Lake is home to three state parks, five state waterfowl management areas, a national bird refuge, and private preserves and duck clubs;

WHEREAS, the “lake effect” from Great Salt Lake provides an important contribution to snowpack in the Wasatch Range, which is crucially important to Utah’s water cycle and its tourism, agricultural, and other industries;

WHEREAS, many state, local, and federal entities have responsibilities relating to the management and preservation of Great Salt Lake, its wetlands, wildlife, or communities that rely on the lake’s many resources;

WHEREAS, the Great Salt Lake Advisory Council was established in 2010 to advise Utah administrative and legislative bodies on the sustainable use, protection, and development of Great Salt Lake;

WHEREAS, water levels at Great Salt Lake and its wetlands can fluctuate naturally, however, the lake is currently on a sustained, downward trend having lost significant volume and substantial river inflow over the past 150 years, leaving large areas of exposed lakebed;

WHEREAS, the current trajectory suggests there is a real and near-term risk of significant and irreversible impacts to the health of Great Salt Lake and its wetlands, which also poses a threat to Utah’s economy, public health and welfare, air quality, environmental resources, and the ability to provide water to meet Utah’s growing economy;

WHEREAS, other states or communities with closed basin lakes that have experienced excessive drying, have witnessed dire outcomes and have incurred enormous costs and public health, environmental and other economic effects;

WHEREAS, Great Salt Lake and its ecosystem could face a similar fate due to historic water management practices, diversions, drought and variable climatic conditions; and

WHEREAS, by taking steps now, Utah will be best-positioned to avoid the kind of degradation and economic harm experienced by other states or communities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognize the critical importance of ensuring adequate water flows to Great Salt Lake and its wetlands, to maintain a healthy and sustainable lake system.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize there is a need for an overall policy that supports effective administration of water flow to Great Salt Lake to maintain or increase lake levels, while

appropriately balancing economic, social, and environmental needs, including the need to sustain working agricultural land.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the Departments of Natural Resources and Environmental Quality through their relevant divisions to expeditiously, jointly, and collaboratively engage with a wide-range of stakeholders to develop recommendations for policy and other solutions to ensure adequate water flows to Great Salt Lake and its wetlands.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the presentation of findings, conclusions, and recommendations to the Legislature and Governor, including encouraging a report of progress in achieving the objectives of this resolution to the Natural Resources, Agriculture, and Environment Interim Committee by no later than November 30, 2020.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Natural Resources, the Utah Department of Environmental Quality, the Great Salt Lake Advisory Council, and all municipalities and counties bordering Great Salt Lake or within the Great Salt Lake watershed.

H.C.R. 11

Passed February 28, 2019

Approved March 29, 2019

Effective March 29, 2019

**CONCURRENT RESOLUTION
ENCOURAGING THE PURCHASE
OF TIER 3 GASOLINE**

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Daniel Hemmert

Cosponsors: Patrice M. Arent

Derrin R. Owens

Norman K. Thurston

Steve Waldrip

Mike Winder

LONG TITLE

General Description:

This concurrent resolution encourages purchase of Tier 3 compliant gasoline.

Highlighted Provisions:

This resolution:

- ▶ recognizes impacts of air quality on the state;
- ▶ recognizes impact of vehicle emissions on air quality;
- ▶ recognizes that the lower-sulfur Tier 3 gasoline standards are crucial to improving the safety, health, and welfare of Utah’s citizens;
- ▶ recognizes that certain local refineries have committed to manufacturing Tier 3 compliant lower-sulfur gasoline for sale in Utah;
- ▶ acknowledges the air quality benefits that come from burning lower-sulfur gasoline in vehicles;

- ▶ acknowledges that the state is providing certain tax benefits for refineries manufacturing lower-sulfur gasoline; and
- ▶ encourages purchase of lower-sulfur Tier 3 compliant gasoline by retailers and consumers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Legislature of the state of Utah is charged with protecting and enhancing the safety, health, and welfare of its citizens;

WHEREAS, the safety, health, and welfare of the citizens of the state of Utah are profoundly affected by its air quality;

WHEREAS, communities along the Wasatch Front and other areas in the state of Utah experience episodic and sustained periods of time where air pollutants are elevated to levels that are known to cause serious short- and long-term health problems in humans;

WHEREAS, there are indications that air quality may impact the ability to recruit and retain businesses and a high quality labor force, as well as the cost of negative health impacts and the loss of tourism and recreational revenue, air quality significantly impacts the economy of the state of Utah;

WHEREAS, vehicle emissions are the largest contributing source of total emissions and contribute significantly to the buildup of air pollutants during wintertime inversions;

WHEREAS, national standards exist for improved vehicle emissions and gasoline, called Tier 3 standards, bringing down the sulfur content of gasoline from 30 parts per million to 10 parts per million;

WHEREAS, burning lower-sulfur Tier 3 gasoline in vehicles greatly improves the effectiveness of a vehicle's catalytic converter;

WHEREAS, burning lower-sulfur Tier 3 gasoline will significantly reduce vehicle emissions of nitrogen oxides and volatile organic compounds, pollutants that are significant contributors to poor air quality in the state of Utah;

WHEREAS, some of Utah's local refineries have committed to manufacturing gasoline for sale in Utah with an average sulfur level of 10 parts per million or less;

WHEREAS, lower-sulfur Tier 3 gasoline is manufactured by at least one local refinery, Silver Eagle Refinery, and other local refineries have committed to manufacture Tier 3 gasoline for purchase, including Marathon Petroleum and Chevron, and other refineries are encouraged to manufacture Tier 3 gasoline;

WHEREAS, many gasoline retailers have the option to purchase gasoline from the refineries that have committed to manufacturing cleaner burning Tier 3 gasoline;

WHEREAS, there have been measurable improvements in air quality because of sustained efforts made by individuals and industry throughout the state; and

WHEREAS, the state of Utah is providing certain tax benefits to refineries that manufacture lower-sulfur Tier 3 compliant gasoline:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages gasoline retailers to purchase gasoline from refineries that manufacture Tier 3 compliant gasoline with an average sulfur content of 10 parts per million or less.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage citizens of the state to purchase gasoline at retailers whose supply comes from refineries manufacturing Tier 3 compliant gasoline.

H.C.R. 12

Passed February 28, 2019

Approved March 21, 2019

Effective March 21, 2019

**CONCURRENT RESOLUTION
CELEBRATING THE 100TH
BIRTHDAY OF JOE MCQUEEN**

Chief Sponsor: Sandra Hollins

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This concurrent resolution celebrates the 100th birthday of Joe McQueen.

Highlighted Provisions:

This resolution:

- ▶ recognizes Joe McQueen as a nationally renowned jazz musician; and
- ▶ acknowledges Mr. McQueen's upcoming 100th birthday on May 30, 2019.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Joe McQueen was born on May 30, 1919, in Dallas, Texas and was raised in Ardmore, Oklahoma;

WHEREAS, since the age of 16, Mr. McQueen has been playing the saxophone and performing jazz music;

WHEREAS, Mr. McQueen traveled to Ogden, Utah in the 1940s and has resided there ever since;

WHEREAS, Mr. McQueen was the first African-American in Utah to play at previously white-only establishments and to have a mixed-race band;

WHEREAS, Mr. McQueen performed in Ogden with fellow jazz celebrities such as Charlie Parker,

Chet Baker, Paul Gonsalves, Lester Young, Count Basie, Duke Ellington, and Dizzy Gillespie and toured throughout the rocky mountain west;

WHEREAS, in 2002, Governor Michael Leavitt declared April 18 as “Joe McQueen Day”;

WHEREAS, Mr. McQueen continues to perform live in Ogden’s music venues; and

WHEREAS, on May 30, 2019, Mr. McQueen will celebrate his 100th birthday:

NOW, THEREFORE, BE IT RESOLVED that the state of Utah, the Governor concurring therein, recognizes Joe McQueen as a nationally renowned jazz musician and celebrates Mr. McQueen’s 100th birthday.

H.C.R. 13

Passed February 22, 2019

Approved March 27, 2019

Effective March 27, 2019

**CONCURRENT RESOLUTION
ENCOURAGING UTAH REFINERS
TO MANUFACTURE TIER 3 GASOLINE
TO IMPROVE AIR QUALITY**

Chief Sponsor: Patrice M. Arent

Senate Sponsor: Todd Weiler

Cosponsors: Cheryl K. Acton

Carl R. Albrecht

Kyle R. Andersen

Melissa G. Ballard

Stewart E. Barlow

Joel K. Briscoe

Walt Brooks

Kay J. Christofferson

Jennifer Dailey-Provost

Brad M. Daw

Susan Duckworth

James A. Dunnigan

Steve Eliason

Joel Ferry

Craig Hall

Stephen G. Handy

Suzanne Harrison

Timothy D. Hawkes

Sandra Hollins

Eric K. Hutchings

Dan N. Johnson

Marsha Judkins

Brian S. King

John Knotwell

Karen Kwan

Karianne Lisonbee

A. Cory Maloy

Kelly B. Miles

Carol Spackman Moss

Jefferson Moss
Calvin R. Musselman
Merrill F. Nelson
Lee B. Perry
Val K. Potter
Marie H. Poulson
Susan Pulsipher
Tim Quinn
Paul Ray
Adam Robertson
Angela Romero
Douglas V. Sagers
Mike Schultz
Rex P. Shipp
Lawanna Shurtliff
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Norman K. Thurston
Steve Waldrip
Raymond P. Ward
Elizabeth Weight
Mark A. Wheatley
Logan Wilde
Mike Winder

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor urges refineries operating within Utah to utilize the state sales and use tax exemption provided by the state to make the investments necessary to manufacture lower-sulfur Tier 3 gasoline in Utah.

Highlighted Provisions:

This resolution:

- ▶ recognizes how vehicle emissions impact Utah’s air quality;
- ▶ recognizes that the lower-sulfur gasoline in the Environmental Protection Agency’s Tier 3 Gasoline Standards are crucial to improving Utah’s air quality; and
- ▶ recognizes that three out of the five Utah refineries have committed to manufacturing Tier 3 compliant lower-sulfur gasoline for sale in Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Legislature of the state of Utah is charged with protecting and enhancing the safety, health, and welfare of its citizens;

WHEREAS, the safety, health, and welfare of many of the citizens of the state of Utah are profoundly affected by its air quality;

WHEREAS, communities along the Wasatch Front and other areas in the state of Utah experience episodic and sustained periods of time where air pollutants are elevated to levels that are known to cause serious short and long-term health problems in humans;

WHEREAS, there are indications that air quality may impact the ability to recruit and retain

businesses and a high quality labor force, as well as the cost of negative health impacts and the loss of tourism and recreational revenue, air quality significantly impacts the economy of the state of Utah;

WHEREAS, vehicle emissions are the largest contributing source of total emissions and contribute significantly to the buildup of air pollutants during wintertime inversions;

WHEREAS, there have been measurable improvements in air quality because of sustained efforts made by individuals and industry throughout the state;

WHEREAS, the United States Environmental Protection Agency has adopted national standards for improved vehicle emissions and gasoline, called Tier 3 standards, bringing down the sulfur content of gasoline from 30 parts per million to 10 parts per million;

WHEREAS, burning lower-sulfur Tier 3 gasoline in vehicles greatly improves the effectiveness of a vehicle's catalytic converter;

WHEREAS, burning lower-sulfur Tier 3 gasoline will significantly reduce vehicle emissions of nitrogen oxides (NOx) and volatile organic compounds (VOC) -- pollutants that are significant contributors to poor air quality in the state of Utah;

WHEREAS, combining Tier 3 lower-sulfur gasoline standards with Tier 3 emissions standards for new vehicles will reduce VOC and NOx emissions per vehicle-mile traveled by as much as 80% compared to previous Tier 2 standards, and result in significant reductions in ozone and secondary PM 2.5 -- pollutants of great concern in the state of Utah;

WHEREAS, use of lower-sulfur Tier 3 gasoline in Utah's current pre-Tier 3 vehicle fleet will result in immediate tailpipe emissions reductions of approximately 9.5% in NOx and 3.7% in VOC;

WHEREAS, current federal provisions allow certain refineries to meet the standard by utilizing national averaging, trading, and banking, which applies to the five refineries located in Utah;

WHEREAS, in 2017, the Legislature of the state of Utah passed a state sales and use tax exemption to encourage and entice local refineries to manufacture and sell lower-sulfur gasoline in the state, rather than utilizing averaging, trading, and banking to meet the standard;

WHEREAS, a refiner that seeks to be eligible for a sales and use tax exemption under Utah Code, Subsection 59-12-104(86), beginning on July 1, 2021, shall annually report to the Office of Energy Development whether the refiner's facility that is located within the state will have an average gasoline sulfur level of 10 parts per million or less, using formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616; and

WHEREAS, three of Utah's local refineries, including Marathon Petroleum, Chevron, and

Silver Eagle, have committed to manufacturing gasoline for sale with an average sulfur level of 10 parts per million or less by the end of 2019:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges refineries operating a refinery within Utah to use the tax incentives provided by the state to make the investments necessary to manufacture lower-sulfur Tier 3 gasoline at its Utah refinery.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge local refiners to manufacture and sell gasoline with an average sulfur content of 10 parts per million or less, rather than using national averaging, trading, and banking provisions to meet the standard.

H.C.R. 14

Passed February 22, 2019
 Approved March 21, 2019
 Effective March 21, 2019

**CONCURRENT RESOLUTION
 ENCOURAGING HIGH EXPECTATIONS
 FOR STUDENTS WITH DISABILITIES**

Chief Sponsor: Robert M. Spendlove
 Senate Sponsor: Kathleen Riebe

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor encourages high expectations for students with disabilities.

Highlighted Provisions:

This resolution:

- ▶ describes the benefits students of all abilities obtain when students with disabilities participate in general education classrooms; and
- ▶ encourages all stakeholders in the educational system to have and maintain high expectations for all students, including students with disabilities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, there is a significant and persistent achievement gap between students with disabilities and students without disabilities;

WHEREAS, more than 80% of students who qualify for services under the Individuals with Disabilities Education Act have disabilities classified as mild to moderate, such as speech delays, learning disabilities, and dyslexia;

WHEREAS, there are students with disabilities in most classrooms around the country;

WHEREAS, more than half of all students with disabilities spend at least 80% of the school day in general education classrooms;

WHEREAS, students with disabilities need quality general education instruction in addition to targeted interventions and accommodations;

WHEREAS, time in general education settings for students with disabilities often leads to fewer absences, less disruptive behavior, and better outcomes after high school;

WHEREAS, students without disabilities experience new learning and cooperation opportunities when students with disabilities learn in general education classrooms;

WHEREAS, what happens between teachers and students in classrooms has a significant impact on student learning and achievement;

WHEREAS, research shows that there is a crucial relationship between teacher expectations of students with disabilities and higher levels of achievement amongst these students;

WHEREAS, students' mindsets play a key role in their motivation and achievement;

WHEREAS, upholding high expectations for all students and promoting cooperative relationships between students of all abilities can reduce the high incidence of stigmatization of students with disabilities; and

WHEREAS, having high expectations for all students helps a school community develop an understanding that students with disabilities are first and foremost general education students:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages all stakeholders in the educational system, including teachers, parents, administrators, students, and members of the community, to have and maintain high expectations for all students, including students with disabilities.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage school communities to include children with disabilities and their families in all school activities, which promotes cooperative relationships between students of all abilities.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage stakeholders to consider the strengths and weaknesses of each individual student when making educational decisions.

BE IT FURTHER RESOLVED that the Legislature and the Governor support schools in implementing best practices in meeting the needs of students of all ability levels, including providing assistive technologies, so that students with disabilities may be enabled to achieve their full potential.

H.C.R. 15

Passed March 8, 2019
Approved March 27, 2019
Effective March 27, 2019

**CONCURRENT RESOLUTION
COMMEMORATING THE 150TH
ANNIVERSARY OF THE GOLDEN SPIKE**

Chief Sponsor: Joel Ferry
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor commemorates the 150th anniversary of the Golden Spike site.

Highlighted Provisions:

This resolution:

- ▶ recognizes the historic significance of the completion of the first transcontinental railroad to the state and the nation;
- ▶ recognizes the efforts of the people of Box Elder County and Utah, many of whom have dedicated countless hours to the Golden Spike National Historic Site; and
- ▶ recognizes the 150th anniversary of the Golden Spike ceremony and the completion of the transcontinental railroad.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on May 10, 1869, at Promontory Summit, Utah, a ceremonial golden spike was driven into the final tie joining the Union Pacific Railroad and Central Pacific Railroad lines, marking the completion of the first transcontinental railroad across the nation;

WHEREAS, the transcontinental railroad was a significant accomplishment for the people of Utah and the nation;

WHEREAS, the construction of the first transcontinental railroad involved 15,000 workers and took almost six years;

WHEREAS, Chinese, Irish, and other immigrant laborers were responsible for much of the labor necessary to complete the railroad;

WHEREAS, Mormon settlers in Utah provided significant labor and capital toward the construction of the transcontinental railroad, including much of the grading work to complete both the Central Pacific and Union Pacific lines through Utah;

WHEREAS, the transcontinental railroad accelerated the settlement of the American West, allowing goods and people to move from coast to coast more safely, more efficiently, and more economically;

WHEREAS, the transcontinental railroad reduced the cost and time of travel from the east to the west side of the United States from \$1000 to

\$150 and from six months to approximately one week;

WHEREAS, the transcontinental railroad paved the way for the economic growth of the United States, shipping \$50 million worth of freight from coast to coast each year by 1880;

WHEREAS, it took until 96 years after the completion of the transcontinental railroad for the Golden Spike site to be recognized for its important role in the nation's history and heritage and established as the Golden Spike National Historic Site;

WHEREAS, the preservation and recognition of the site can be attributed to the diligent and persistent efforts of the people of Box Elder County and Utah, many of whom have dedicated countless hours of service to the Golden Spike site; and

WHEREAS, May 10, 2019, will be the 150th anniversary of the completion of the transcontinental railroad and the Golden Spike ceremony:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, the Governor concurring therein, recognizes and expresses gratitude for the tireless efforts of the people of Box Elder County, the state of Utah, and the Spike 150 Commission who have educated the citizens of Utah and the United States about the historic events that occurred on May 10, 1869, in Promontory Summit, Utah, and have protected and preserved the site for future generations.

BE IT FURTHER RESOLVED that the Legislature and the Governor authorize the Spike 150 Commission to create a spike using native Utah copper. This spike shall officially be known as the "Utah Spike."

BE IT FURTHER RESOLVED that the Legislature and the Governor commemorate the 150th anniversary of the Golden Spike ceremony and the completion of the transcontinental railroad.

H.C.R. 16

Passed February 14, 2019
Approved March 25, 2019
Effective March 25, 2019

**CONCURRENT RESOLUTION
DESIGNATING UTAH WOMEN'S
VOTER REGISTRATION DAY**

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This concurrent resolution designates February 14 as Utah Women's Voter Registration Day.

Highlighted Provisions:

This resolution:

► designates February 14 as Utah Women's Voter Registration Day.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on February 14, 1870, Utah women became the first women to vote in the modern nation;

WHEREAS, on February 12, 1870, the Utah Territorial Legislature unanimously voted to give women the right to vote in political elections;

WHEREAS, the year 2020 marks both the 150th anniversary of the first vote cast by a woman, on February 14, 1870, in Utah, and the 100th anniversary of the ratification of the Nineteenth Amendment to the United States Constitution on August 18, 1920, granting women the right to vote and beginning the expansion of women's voting rights throughout the United States;

WHEREAS, overall voter turnout in Utah has dropped from 5th among the 50 states and the District of Columbia in 1980 to 39th in 2016;

WHEREAS, according to the November 2016 U.S. Census Bureau Current Population Survey, Table 4b, there were 288,000 women in Utah who were not registered to vote, comprising 29.2% of the female citizen voting age population;

WHEREAS, National Voter Registration Day has been celebrated on the last Tuesday of September since 2012, but a Women's Voter Registration Day does not currently exist collectively in the United States or individually in any of the 50 states or the District of Columbia; and

WHEREAS, Utah was a leader in the women's emancipation movement in the 19th century and can again assume a leadership position in promoting women's civil engagement:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the State of Utah, the Governor concurring therein, that February 14 is designated this year and henceforth as Utah Women's Voter Registration Day.

BE IT FURTHER RESOLVED that Utah Women's Voter Registration Day be a celebration of democracy, rights, and opportunities for all women in Utah.

H.C.R. 17

Passed March 14, 2019
Approved March 22, 2019
Effective March 22, 2019

**CONCURRENT RESOLUTION
DESIGNATING RAILROAD WORKERS DAY**

Chief Sponsor: Karen Kwan
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This resolution designates May 10 as Utah Railroad Workers Day.

Highlighted Provisions:

This resolution:

- ▶ expresses gratitude for the dedication and sacrifices of the railroad workers that helped build and complete the transcontinental railroad;
- ▶ expresses gratitude for the railroad workers today who continue to selflessly commit themselves to the good of our state and nation by connecting Utah and the United States by rail; and
- ▶ designates May 10 as Utah Railroad Workers Day.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the completion of the transcontinental railroad, including the dedication and sacrifice of Utah railroad workers in building it, is an integral part of Utah and American history;

WHEREAS, May 10, 2019, will be the 150th anniversary of the completion of the transcontinental railroad connecting the Central Pacific Railroad and the Union Pacific Railroad at Promontory Summit, Box Elder County, Utah, and the Golden Spike ceremony commemorating the event;

WHEREAS, it took nearly seven years to complete the transcontinental railroad, requiring all together between 12,000 and 15,000 Chinese, 8,000 and 10,000 Irish (2,000 of whom were former Union and Confederate Soldiers), an undetermined number of African American freemen and freed slaves, some Native Americans, and between 3,000 and 4,000 Latter-day Saint workers (cutting, filling, tunneling, and grade building), all told making the workforce of the workers and laborers, who built and finished the overland route across the Great Plains and the American West;

WHEREAS, the railroad workers reflected the multicultural and changing demographics of the United States at that time and included immigrants from various nations such as China, Ireland, and Germany;

WHEREAS, between 3,000 and 4,000 of Utah's early settlers also helped complete the rail line working for both the Central Pacific and the Union Pacific Railroads, from Humboldt Wells, Nevada, to the west, and to the Wyoming-Utah border to the east, covering over 250 miles (a little less than 1/7 of the 1,776 total miles of the transcontinental railroad);

WHEREAS, most of the construction of the railroad was done by human labor, with the aid of oxen, horses, mules, wagons, and explosives, and required overcoming dangerous and difficult obstacles to construct rail lines through the

challenging terrain leading up to and through the Intermountain West, including tunnel blasting and building on mountainous terrain;

WHEREAS, at times, both railroad companies were laying down track at an unprecedented pace, including a stretch of 10 miles of track, west of Promontory Summit, that was laid in a single day by the Central Pacific Railroad crews;

WHEREAS, many of the railroad workers sacrificed much, sometimes even their lives, to help finish the transcontinental line;

WHEREAS, due to the hard work and dedication of the railroad workers, the transcontinental railroad was finished at Promontory Summit in Utah, linking the United States by rail;

WHEREAS, if it were not for the sacrifice of the railroad workers who took part in the construction of the railroad, the successful completion of the transcontinental rail line would not have been possible;

WHEREAS, after the transcontinental line was finished, people and goods could more easily travel across the country, introducing a period of growth and expansion in the western United States;

WHEREAS, the railroad workers that helped build the transcontinental railroad were an integral part of the history of the American West and of Utah, and the rebuilding of our nation after the American Civil War (1861-1865), reflecting the hardworking determination and sacrifice that helped grow the United States;

WHEREAS, the proud heritage and tradition of thousands of railroad workers, who collectively by their brains and brawn, accomplished this grand national goal, continues to be remembered today, as the railroad remains vital to our national and state economy, ensuring that shipments of food, automobiles, agricultural products, and many other types of industrial and manufactured items are delivered across our country; and

WHEREAS, the dedication and sacrifice of railroad workers today allows for the continuous and safe shipment and delivery of goods and people across the country and Utah, 24 hours a day, seven days a week, 365 days a year:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, the Governor concurring therein, commemorates the contributions of the transcontinental railroad workers and the dedication and sacrifice of today's railroad workers in the state of Utah by designating May 10 as Utah Railroad Workers Day.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize and express gratitude for the dedication and sacrifice of the railroad workers that helped build and complete the transcontinental railroad and the workers today who continue to selflessly commit themselves to the good of our state and nation by connecting Utah and the rest of the United States by rail.

H.C.R. 18

Passed March 14, 2019
Approved March 27, 2019
Effective March 27, 2019

**CONCURRENT RESOLUTION
CONCERNING BEAR LAKE**

Chief Sponsor: Logan Wilde
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This concurrent resolution of the Legislature and Governor encourages action regarding Bear Lake.

Highlighted Provisions:

This resolution:

- ▶ recognizes the characteristics, benefits, and challenges of Bear Lake;
- ▶ urges solutions to address challenges to Bear Lake;
- ▶ urges continued cooperation with the state of Idaho to develop joint expectations for the continued health, beauty, and enjoyment of Bear Lake; and
- ▶ encourages the development of opportunities for participation of a wide-range of stakeholders to develop recommendations.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is committed to protecting and enhancing Bear Lake storage water supplies, maintaining its pristine water quality, and enhancing recreational and economic opportunities for Utah's citizens and tourists who add to our economy;

WHEREAS, Bear Lake is a large freshwater lake straddling the border of Utah and Idaho with approximately half of the lake in each state, and it is the second largest natural freshwater lake by area in the state of Utah;

WHEREAS, Bear Lake has a surface area of approximately 110 square miles;

WHEREAS, Bear Lake is the oldest known continually "wet" lake in North America, and one of the five oldest lakes in the world, being at least 250,000 years old;

WHEREAS, international scientists study Bear Lake for clues to the climate and ecology of the region;

WHEREAS, Bear Lake has unique water chemistry giving it the intense turquoise blue color for which it is known all over the world;

WHEREAS, Bear Lake has an extensive shoreline with areas of cobbled and sandy beaches that offer prime recreational opportunities;

WHEREAS, in addition to having more endemic fish species (four found only in Bear Lake) than any

other lake in the United States, Bear Lake is home to the largest and most genetically pure population of Bonneville cutthroat trout in existence, and the Bonneville cutthroat trout is Utah's state fish;

WHEREAS, since about 1912, the upper 21.65 feet of Bear Lake (approximately 1,400,000 acre feet of water) has been used as a storage reservoir replenished from natural inflow sources and from diversions from the Bear River in Idaho made by PacifiCorp;

WHEREAS, the storage reservoir in Bear Lake has been operated by PacifiCorp to supply irrigation water to approximately 150,000 acres of prime irrigated agriculture on family farms and ranches downstream in Utah and Idaho for over 100 years and will remain an essential irrigation water supply into the future;

WHEREAS, the historic Bear Lake irrigation water supply is protected by many agreements among PacifiCorp, the states of Utah, Idaho, and Wyoming, the Bear River Water Users Association and its members, and Bear Lake Watch, each with individual and unique interests in Bear Lake;

WHEREAS, in addition to the irrigation water supply, esthetic and recreation uses, PacifiCorp also operates Bear Lake for flood control, and water released and pumped from Bear Lake is used to generate 107 megawatts of electricity downstream on the Bear River;

WHEREAS, at times when water is low or is released or pumped from Bear Lake, the exposed lakebed is vulnerable to nonnative vegetation invasion and degradation which create hazards to navigation and impair recreational use for tens of thousands of visitors and thousands of homeowners;

WHEREAS, Bear Lake is a major recreation destination, with seven Utah State Park recreation areas and two Idaho State Park recreation areas, the Bear Lake National Wildlife Refuge, private marinas, and Boy Scout camps;

WHEREAS, Bear Lake is vital to local and regional economies in Utah and Idaho; and

WHEREAS, the state of Utah is committed to work in collaboration with the state of Idaho, PacifiCorp, irrigators, and local stakeholders to protect existing uses and plan for the future uses and enjoyment of Bear Lake:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges solutions to address challenges to Bear Lake, including recreation and economic development interests, water quality, invasive species, lakebed management and preservation, and enhancement of irrigation water storage and water supply functions.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge continued cooperation with the state of Idaho to develop joint expectations for the continued health, beauty, and enjoyment of Bear Lake.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the development of opportunities for participation with stakeholders to develop recommendations to protect and enhance existing beneficial uses, maintain a healthy and sustainable lake, encourage economic development, protect irrigation water storage, enhance recreation, and preserve and protect Bear Lake for future generations.

H.C.R. 19

Passed March 13, 2019
 Approved March 28, 2019
 Effective March 28, 2019

**CONCURRENT RESOLUTION
 CONCERNING UTAH'S FARMLAND
 ASSESSMENT ACT OF 1969**

Chief Sponsor: Joel Ferry
 Senate Sponsor: Daniel Hemmert
 Cosponsors: Marsha Judkins
 John Knotwell
 Phil Lyman
 Rex P. Shipp
 Norman K. Thurston
 Steve Waldrip
 Mike Winder

LONG TITLE

General Description:

This concurrent resolution honors the enactment and effect of Utah's Farmland Assessment Act of 1969.

Highlighted Provisions:

This resolution:

- ▶ discusses the enactment of the Farmland Assessment Act of 1969;
- ▶ addresses issues raised by valuation of farmland;
- ▶ highlights the importance of agriculture to Utah;
- ▶ discusses 50 years of Utah Legislatures supporting farmland assessment;
- ▶ provides that the Legislature and the Governor recognizes the "Farmland Assessment Act of 1969" as landmark legislation that paves the way for Utah's farmers and ranchers to remain a strong steward of Utah's private lands and waters;
- ▶ provides that the Legislature and the Governor commend previous legislatures for their commitment to uphold the Farmland Assessment Act; and
- ▶ provides that the Legislature and the Governor unitedly express support for the continued use of the Farmland Assessment Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, 50 years ago in 1969 the 38th legislature of the state of Utah passed landmark legislation, sponsored by Miles (Cap) Ferry, Merrill

Jenkins, and Kendrick Harward, that permitted qualifying farms in Utah to be assessed for tax purposes at productive value rather than its speculative or market value;

WHEREAS, this legislation enacted the "Farmland Assessment Act of 1969," and it has been commonly referred to as the "Greenbelt Amendment";

WHEREAS, this unique method of assessment is vital to agriculture operations in close proximity to expanding urban areas, where taxing agricultural property at market value could make farming operations economically prohibitive;

WHEREAS, productive values are established by the Utah State Tax Commission with the assistance of a five-member Farmland Assessment Advisory Committee and Utah State University and county-wide productive values are based upon income and expense factors associated with agriculture activities;

WHEREAS, Utah's agriculture receipts, or the market value of agricultural commodities, totaled \$1.7 billion in 2017, reflecting a steady increase over decades and generations of farmers;

WHEREAS, Utah agriculture continues to be an important economic driver accounting for \$2.5 billion in total economic output when including economic multiplier effects, and combining both agriculture production and processing produces nearly 80,000 Utah jobs and \$3.5 billion in compensation;

WHEREAS, the number of Utah farms has increased in the last 10 years to 18,200 farms (#37 rank in the United States), 11 million acres (#25 rank in the United States) with an average size farm of 604 acres (#12 rank in the United States);

WHEREAS, Utah's top county for agriculture sales in 2017 was an urban county -- Utah County (\$189 million), and other top counties for 2017 agricultural sales were Beaver County (\$178 million), Millard County (\$166 million), Sanpete County (\$165 million), and Box Elder County (\$149 million);

WHEREAS, Utah production agriculture is a vast undertaking, from producing a bounty of food for consumers, to growing the wood that frames our homes, the fiber in our clothes, and even the renewable fuel in our cars;

WHEREAS, Utah farmers and ranchers are dedicated to an important mission -- feeding Americans so we do not have to depend on other nations for our most basic need;

WHEREAS, Utah farmers and ranchers love the land and animals in which they are stewards and love helping Utah's rural and urban economies stay economically vibrant;

WHEREAS, Utah's farm and ranch families make up less than 1% of Utah's population and receive only 16 cents (on average) out of every retail dollar spent on food that is eaten at home and away from home, down nearly 50% from 1980; and

WHEREAS, for 50 years Utah Legislatures have recognized the vital role the Farmland Assessment Act has had in maintaining and sustaining Utah family farms and ranches by repeatedly anchoring and upholding a productive value property tax for qualifying Utah farm and ranch landowners:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the "Farmland Assessment Act of 1969" as landmark legislation that paves the way for Utah's farmers and ranchers to remain strong stewards of Utah's private lands and waters.

BE IT FURTHER RESOLVED that the Legislature and the Governor commend previous legislatures for their commitment to uphold the Farmland Assessment Act.

BE IT FURTHER RESOLVED that the Legislature and Governor unitedly express support for the continued use of the Farmland Assessment Act.

H.C.R. 20

Passed March 14, 2019
 Approved March 25, 2019
 Effective March 25, 2019

CONCURRENT RESOLUTION REGARDING THE STATUE OF PHILO T. FARNSWORTH

Chief Sponsor: Jeffrey D. Stenquist
 Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This concurrent resolution recommends that the statue of Philo T. Farnsworth that is currently on display in the National Statuary Hall be found a permanent and honorable home in the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ recognizes Philo T. Farnsworth's contributions to the world;
- ▶ recognizes Philo T. Farnsworth as a symbol for the state of Utah; and
- ▶ recommends that the statue of Philo T. Farnsworth that is currently on display in the National Statuary Hall be found a permanent and honorable home in the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Philo T. Farnsworth made truly amazing contributions to society that are worth recognizing, celebrating, and memorializing;

WHEREAS, Philo overcame substantial obstacles and persevered in his quest to become an inventor to change the course of human history;

WHEREAS, Philo received more than 200 patents, including patents for:

- (1) the image dissector tube and the receiver that reassembled broadcasted images, upon which today's television and wireless broadcast technology is based;
- (2) the incubator, which has saved hundreds of thousands of premature infants;
- (3) an electronic microscope;
- (4) an infrared night scope; and
- (5) many other important inventions that profoundly changed the world and are still affecting our culture;

WHEREAS, at the end of his life, Philo focused on developing cold fusion technology -- for which he received two patents and developed a working model -- but died before he could consummate another world-changing invention;

WHEREAS, Philo was self-educated, yet managed to achieve recognition by the most gifted scientists of his day;

WHEREAS, Philo was born in Beaver, Utah, grew up poor in rural Utah, had substantial ties to the state of Utah, and is an excellent emissary and symbol for the state of Utah;

WHEREAS, both Philo and his wife Pemberly are buried in Utah;

WHEREAS, Pemberly spent the last 30 years of her life fighting for the recognition Philo deserved;

WHEREAS, when the fifth grade class at Ridgecrest Elementary School sought input from the public regarding which public figure should represent the state of Utah in the National Statuary Hall of the national capitol building, hundreds of survey responses from around the state were submitted indicating a strong desire that Philo should be that representative;

WHEREAS, the children of Ridgecrest Elementary School successfully petitioned the state Legislature to commission the creation and placement of the statue of Philo that is currently on display in the National Statuary Hall;

WHEREAS, Utah's school children collected substantial funds to pay for the statue, led by the students at Ridgecrest Elementary School;

WHEREAS, the idea to place the statue of Philo was discussed for several years and many advocates worked vigorously over that time to ensure Philo was selected; and

WHEREAS, when the statue of Philo is removed from the National Statuary Hall, the statue deserves to be treated with the dignity and respect that Philo deserves:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recommends that the statue of Philo T. Farnsworth that is currently located in the National Statuary Hall be found a permanent and honorable home in the state of Utah.

H.J.R. 1

Passed March 12, 2019

Effective date (if approved by voters)

January 1, 2021

**PROPOSAL TO AMEND UTAH
CONSTITUTION — MUNICIPAL
WATER RESOURCES**

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to municipal water rights and sources of water supply.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ revise a provision relating to municipal water rights and sources of water supply;
- ▶ eliminate references to municipal waterworks; and
- ▶ specify the circumstances under which a municipality may commit water resources or supply water outside its boundary or exchange water resources.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

Utah Constitution Sections Affected:

REPEALS AND REENACTS:

ARTICLE XI, SECTION 6

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to repeal and reenact Utah Constitution Article XI, Section 6, to read:

Article XI, Section 6. [Municipal water rights and sources of water supply.]

~~[No municipal corporation, shall directly or indirectly, lease, sell, alien or dispose of any waterworks, water rights, or sources of water supply now, or hereafter to be owned or controlled by it; but all such waterworks, water rights and sources of water supply now owned or hereafter to be acquired by any municipal corporation, shall be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges: Provided, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water rights, or sources of water supply, for other water rights or sources of water supply of equal value, and to be~~

~~devoted in like manner to the public supply of its inhabitants.]~~

(1) A municipality that owns, acquires, or controls water rights or sources of water supply to supply water to the public:

(a) may not directly or indirectly lease, sell, alienate, or dispose of any of those water rights or sources of water supply;

(b) shall preserve and maintain those water rights and sources of water supply to supply water to its inhabitants and others within its designated water service area; and

(c) may by ordinance designate the geographic limits of its water service area and define the terms of service, including water service charges that are reasonable.

(2) Nothing in Subsection (1) may be construed to prevent a municipality from:

(a) supplying water to retail consumers outside its boundary but within its designated water service area for reasonable charges established by ordinance;

(b) contractually committing its water rights or sources of water supply to provide water for use outside its designated water service area, if the water is in excess of the water needed for the municipality's designated water service area; or

(c) exchanging water rights or sources of water supply for other water rights or sources of water supply that the municipality determines will equally enable the municipality to meet the needs of its designated water service area.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

H.J.R. 2

Passed January 31, 2019

Effective May 14, 2019

**JOINT RESOLUTION APPOINTING
KADE R. MINCHEY AS LEGISLATIVE
AUDITOR GENERAL**

Chief Sponsor: Brad R. Wilson

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This joint resolution of the Legislature approves the appointment of Kade R. Minchey as legislative auditor general.

Highlighted Provisions:

This resolution:

- ▶ approves the appointment of Kade R. Minchey as legislative auditor general for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Annotated Section 36-12-7, the Legislative Management Committee has recommended the appointment of Mr. Kade R. Minchey as legislative auditor general for the Utah Legislature; and

WHEREAS, the appointment of Mr. Kade R. Minchey in this position for a term of office of six years beginning May 14, 2019, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the appointment of Mr. Kade R. Minchey as legislative auditor general for the Utah Legislature be approved for a six-year term of office beginning May 14, 2019.

H.J.R. 3

Passed March 14, 2019

Effective July 31, 2019

**JOINT RESOLUTION ADOPTING
PRIVILEGE UNDER RULES OF EVIDENCE**

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This joint resolution adopts a privilege under the rules of evidence related to confidential communications of victims.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ states the privilege and who may claim the privilege; and
- ▶ provides for exceptions from the privilege.

Special Clauses:

This bill provides a special effective date.

Utah Rules of Evidence Affected:

ENACTS:

Rule 512, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah

Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 512, Utah Rules of Evidence is enacted to read:

Rule 512. Victim Communications.

(a) Definitions.

(a) (1) “Advocacy services” means the same as that term is defined in UCA § 77-38-403.

(a) (2) “Confidential communication” means a communication that is intended to be confidential between a victim and a victim advocate for the purpose of obtaining advocacy services as defined in UCA § 77-38-403.

(a) (3) “Criminal justice system victim advocate” means the same as that term is defined in UCA § 77-38-403.

(a) (4) “Health care provider” means the same as that term is defined in UCA § 78B-3-403.

(a) (5) “Mental health therapist” means the same as that term is defined in UCA § 58-60-102.

(a) (6) “Victim” means an individual defined as a victim in UCA § 77-38-403.

(a) (7) “Victim advocate” means the same as that term is defined in UCA § 77-38-403.

(b) Statement of the Privilege. A victim communicating with a victim advocate has a privilege during the victim’s life to refuse to disclose and to prevent any other person from disclosing a confidential communication.

(c) Who May Claim the Privilege. The privilege may be claimed by the victim engaged in a confidential communication, or the guardian or conservator of the victim engaged in a confidential communication if the guardian or conservator is not the accused. An individual who is a victim advocate at the time of a confidential communication is presumed to have authority during the life of the victim to claim the privilege on behalf of the victim.

(d) Exceptions. An exception to the privilege exists in the following circumstances:

(d) (1) when the victim, or the victim’s guardian or conservator if the guardian or conservator is not the accused, provides written, informed, and voluntary consent for the disclosure, and the written disclosure contains:

(d) (1) (A) the specific confidential communication subject to disclosure;

(d) (1) (B) the limited purpose of the disclosure; and

(d) (1) (C) the name of the individual or party to which the specific confidential communication may be disclosed;

(d) (2) when the confidential communication is required to be disclosed under Title 62A, Chapter 4a, Child and Family Services, or UCA § 62A-3-305;

(d) (3) when the confidential communication is evidence of a victim being in clear and immediate danger to the victim's self or others;

(d) (4) when the confidential communication is evidence that the victim has committed a crime, plans to commit a crime, or intends to conceal a crime;

(d) (5) if the confidential communication is with a criminal justice system victim advocate, the criminal justice system victim advocate may disclose the confidential communication to a parent or guardian if the victim is a minor and the parent or guardian is not the accused, or a law enforcement officer, health care provider, mental health therapist, domestic violence shelter employee, an employee of the Utah Office for Victims of Crime, or member of a multidisciplinary team assembled by a Children's Justice Center or law enforcement agency for the purpose of providing advocacy services;

(d) (6) if the confidential communication is with a criminal justice system victim advocate, the criminal justice system victim advocate must disclose the confidential communication to a prosecutor under UCA § 77-38-405;

(d) (7) if the confidential communication is with a criminal justice system victim advocate, and a court determines, after the victim and the defense attorney have been notified and afforded an opportunity to be heard at an in camera review, that:

(d) (7) (A) the probative value of the confidential communication and the interest of justice served by the admission of the confidential communication substantially outweigh the adverse effect of the admission of the confidential communication on the victim or the relationship between the victim and the criminal justice system victim advocate; or

(d) (7) (B) the confidential communication is exculpatory evidence, including impeachment evidence.

Section 2. Effective date.

(1) Except as provided in Subsection (2), this resolution takes effect on July 31, 2019.

(2) If the Utah Supreme Court adopts a rule of privilege for victim communications on or before July 30, 2019, this resolution does not take effect.

H.J.R. 4

Passed March 13, 2019
Effective date (if approved by voters)
January 1, 2021

**PROPOSAL TO AMEND
UTAH CONSTITUTION —
LEGISLATOR QUALIFICATIONS**

Chief Sponsor: Craig Hall
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to legislator qualifications.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ specify that certain qualifications of a person elected or appointed as a legislator apply as of the time of election or appointment.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VI, SECTION 5

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VI, Section 5, to read:

Article VI, Section 5. [Who is eligible as a legislator.]

(1) A person is not eligible to the office of senator or representative unless the person is:

(a) at the time of election or appointment:

~~(a)~~ (i) a citizen of the United States;

~~(b)~~ (ii) at least twenty-five years of age; and

~~(c)~~ (iii) a qualified voter in the district from which the person is chosen;

~~(d)~~ (b) a resident of the state for three consecutive years immediately prior to:

(i) the last date provided by statute for filing for the office, for a person seeking election to the office; or

(ii) the person's appointment to the office, for a person appointed to fill a mid-term vacancy; and

~~(e)~~ (c) (i) a resident of the district from which the person is elected for six consecutive months immediately prior to the last date provided by statute for filing for the office; or

(ii) a resident of the district for which the person is appointed to fill a mid-term vacancy for six consecutive months immediately prior to the person's appointment.

(2) A person elected or appointed to the office of senator or representative may not continue to serve in that office after ceasing to be a resident of the district from which elected or for which appointed.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

H.J.R. 5

Passed March 4, 2019
Effective March 4, 2019

**JOINT RESOLUTION APPROVING
NOTES TO WATER RIGHTS ADDENDA**

Chief Sponsor: Derrin R. Owens
Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This joint resolution of the Legislature adopts notes to water rights addenda to deeds.

Highlighted Provisions:

This resolution adopts:

- ▶ the notes to water rights addendum to land deeds; and
- ▶ the notes to water rights addendum to water deeds.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, it is the intent of the Legislature of the state of Utah that the state engineer shall use and distribute to a county recorder's office the water rights addendum to land deeds as described in Section 57-3-109; and

WHEREAS, it is the intent of the Legislature of the state of Utah that the state engineer shall use and distribute to a county recorder's office the water rights addendum to water deeds as described in Section 57-3-109:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah adopts the notes to the water rights addendum to land deeds incorporated by reference in, and attached to, this joint resolution.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah adopts the notes to the water rights addendum to water deeds incorporated by reference in, and attached to, this joint resolution.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah directs the chief clerk of the Utah House of Representatives to send a copy of this joint resolution, the notes to the water rights addendum to land deeds, and the notes to the water rights addendum to water deeds to the state engineer for distribution.

**NOTES TO WATER RIGHTS
ADDENDUM TO LAND DEEDS**

Please read the following notes carefully in order to avoid problems and the possible loss of the water rights being conveyed in connection with this transaction.

The mere purchase of a water right does not guarantee: (1) that the water right is in good standing with the Utah Division of Water Rights; (2) that the owner has clear title to the water right; (3) that the Division will recognize the ownership change; or (4) that the Division will approve any proposed changes or extensions regarding the water right. You are encouraged to conduct proper "due diligence" research into any water right before purchasing it.

N1 Once this Water Rights Addendum and deed has been recorded at the County Recorder's Office, the county recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the state engineer. Water right deeds and addendum submitted in conformance with statute which names as the grantor the person listed as owner on state engineer records - shall be processed as though it were a completed report of water right conveyance. If the state engineer does not update water right ownership on records of the Division upon submittal of a Water Right Addendum and deed, a water right owner must submit a report of water right conveyance (ROC) as directed in Utah Code Section 73-1-10(3). Filing an ROC is necessary in order to: (1) have the Division's records updated with current ownership and address information; (2) file any application on these water rights; and (3) receive notifications concerning deadlines and other essential information pertaining to these rights. Help with reviewing the water rights and the ROC can be obtained from the Utah Division of Water Rights and/or water professionals, such as attorneys, engineers, surveyors, and title professionals with experience in water rights and water law.

N2 A water right often has one or more applications on file with the Utah Division of Water Rights that affect that water right, such as change applications, extension requests, and non-use applications. All applications will be transferred with the water right. The Grantee should review the water right applications and other documents on file with the Utah Division of Water Rights.

N3 Water rights owned by the Grantor and used on Grantor's Parcel may be "appurtenant" to Grantor's Parcel. Not all appurtenant water rights have been assigned a water right number because not all water rights are "of record." If Section A is being completed, this conveyance includes all appurtenant water rights, whether or not they are listed by water right number or are of record; only water right numbers listed on the addendum will be updated. Grantee should investigate each water right listed and determine if there are any water rights that are not of record. If there are water rights not of record, Grantee should seriously consider making them of record by filing the

appropriate forms with the Utah Division of Water Rights.

N4 100% of the water rights listed here are being conveyed to Grantee. The Water Rights listed in Section B may not provide sufficient water for all of the historical water uses.

N5 Less than 100% of the water right listed is being conveyed to Grantee. The exact portion to be conveyed, expressed in terms of the beneficial uses associated with this portion of the water right must be described. This description generally consists of: (1) the number of families for domestic (indoor culinary) uses (generally quantified as 0.45 acre-feet per family for a year round residence and 0.25 acre-feet per family for a seasonal residence); (2) the number of acres irrigated (this involves issues of "irrigation duty" [the number of acre-feet of water allowed per acre of irrigated land] and "sole supply/supplemental supply" [the amount of water allocated to each water right when more than one right is used on the same land or for the same livestock]; and (3) the number of livestock being watered (expressed in terms of equivalent livestock units or "ELUs" which are quantified at the rate of 0.028 acre-feet per ELU for full-year use. Any other uses being conveyed should be similarly described. Help with understanding the described uses of the water right can be obtained from the Utah Division of Water Rights and/or water professionals.

N6 Shares of stock in water companies (including irrigation, canal, and ditch companies) are generally not transferred by deed. Each company has procedures for transferring ownership. The company should be contacted to ascertain the appropriate procedures to follow. The most common procedure is for the Grantor to endorse and deliver the stock certificate to the Grantee, who then presents that certificate to company for issuance of a new certificate in the Grantee's name. If another procedure is to be followed, that should be noted on the "Other water related disclosures" line in Section C of this form. Each company also defines how much water is associated with a particular share and what fees and assessments are charged. The Grantee should contact the company about all such issues.

N7 If culinary water service is currently being provided to the Grantor's Parcel by a municipality, a water district, or a water company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.

N8 If outdoor/secondary/irrigation water service is currently being provided to the Grantor's Parcel by a municipality, a water district, or a water company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.

N9 If this box is checked, the Grantee should investigate what water IF ANY is available for use on the Grantor's Parcel.

N10 This space should be used for any other information that the Grantor has which is relevant to water issues associated with the Grantor's Parcel.

The Utah Division of Water Rights (often referred to as the State Engineer's Office) is located at 1594 W. North Temple, Suite 220, PO Box 146300, Salt Lake City, Utah 84114-6300 Telephone: 801-538-7240 Web Address: www.waterrights.utah.gov

H.J.R. 8

Passed March 13, 2019

Effective date (if approved by voters)

January 1, 2021

PROPOSAL TO AMEND UTAH CONSTITUTION - SLAVERY AND INVOLUNTARY SERVITUDE PROHIBITION

- Chief Sponsor: Sandra Hollins
- Senate Sponsor: Jacob L. Anderegg
- Cosponsors: Patrice M. Arent
- Joel K. Briscoe
- Jennifer Dailey-Provost
- Susan Duckworth
- Suzanne Harrison
- Eric K. Hutchings
- Marsha Judkins
- Brian S. King
- Karen Kwan
- A. Cory Maloy
- Carol Spackman Moss
- Stephanie Pitcher
- Marie H. Poulson
- Adam Robertson
- Angela Romero
- Rex P. Shipp
- Lawanna Shurtliff
- Andrew Stoddard
- Steve Waldrip
- Elizabeth Weight
- Mark A. Wheatley
- Mike Winder

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision prohibiting slavery and involuntary servitude.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ eliminate an exception to the prohibition against slavery and involuntary servitude; and
- ▶ provide a limit on the application of the prohibition.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE I, SECTION 21

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article I, Section 21, to read:

Article I, Section 21. [Slavery and involuntary servitude forbidden -- Limitation.]

(1) Neither slavery nor involuntary servitude[~~, except as a punishment for crime, whereof the party shall have been duly convicted,~~] shall exist within this State.

(2) Subsection (1) does not apply to the otherwise lawful administration of the criminal justice system.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

H.J.R. 9

Passed February 28, 2019
Effective February 28, 2019

**JOINT RULES
RESOLUTION ON PROCEDURE**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This rules resolution amends and enacts provisions related to legislative procedure.

Highlighted Provisions:

This resolution:

- ▶ provides authority to the legislative general counsel to correct technical errors in legislative rule;
- ▶ addresses the circumstances under which the Senate or House of Representatives may amend or substitute legislation after it passes both houses; and
- ▶ makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-901
JR4-3-108

ENACTS:

JR1-1-103

Be it resolved by the Legislature of the state of Utah:

Section 11. JR1-1-103 is enacted to read: JR1-1-103. Legislative general counsel to correct certain technical errors in legislative rules.

The legislative general counsel may correct technical errors in the Rules of the Utah Legislature in preparing the rules for publication, including:

- (1) adopting a uniform system of punctuation, capitalization, numbering, or wording;
- (2) eliminating duplication or the repeal of rules directly or by implication, including renumbering when necessary;
- (3) correcting defective or inconsistent rule or paragraph structure in the arrangement of the subject matter of existing rules;
- (4) eliminating obsolete or redundant words;
- (5) correcting obvious errors or inconsistencies, including those involving punctuation, capitalization, cross references, numbering, or wording;
- (6) changing the boldface to more accurately reflect the substance of each rule, part, chapter, or title; and
- (7) merging or determining priority of any amendments, enactments, or repealers to the same rule provisions.

Section 2. JR3-2-901 is amended to read:

JR3-2-901. Appointment and chairs -- Notice.

- (1) (a) If the Senate refuses to concur in the House amendments to a Senate bill, the secretary of the Senate shall notify the House of the refusal and ask the House to recede from its amendments.
- (b) Either house may recede from its position on any difference existing between the two houses by a majority vote of its members.
- (c) (i) If the House refuses to recede, the speaker shall appoint a conference committee of three.
 - (ii) After making the appointment, the speaker shall:
 - (A) publicly announce the House members of the conference committee and the time and place that the conference committee will meet;
 - (B) ensure that no more than two of the appointees are members of the majority party; and
 - (C) direct House staff to provide electronic notice that identifies the House members of the conference

committee and the time and place of the conference committee meeting.

(d) If the speaker does not immediately appoint a conference committee, the president may appoint a conference committee as provided in Subsection (2)(c).

(e) After the Senate refuses to concur in the House amendments to a Senate bill, the House may not amend or substitute the bill, unless:

(i) the sole effect of the amendment or substitute is to recede from one or more House amendments to the bill; or

(ii) the amendment or substitute is part of a conference committee report.

(2) (a) If the House refuses to concur in the Senate amendments to a House bill, the chief clerk of the House shall notify the Senate of the refusal and ask the Senate to recede from its amendments.

(b) Either house may recede from its position on any difference existing between the two houses by a majority vote of its members.

(c) (i) If the Senate refuses to recede, the president shall appoint a conference committee of three.

(ii) After making the appointment, the president shall:

(A) publicly announce the Senate members of the conference committee and the time and place that the conference committee will meet;

(B) ensure that no more than two of the appointees are members of the majority party; and

(C) direct Senate staff to provide electronic notice that identifies the Senate members of the conference committee and the time and place of the conference committee meeting.

(d) If the president does not immediately appoint a conference committee, the speaker may appoint a conference committee as provided in Subsection (1)(c).

(e) After the House refuses to concur in the Senate amendments to a House bill, the Senate may not amend or substitute the bill, unless:

(i) the sole effect of the amendment or substitute is to recede from one or more Senate amendments to the bill; or

(ii) the amendment or substitute is part of a conference committee report.

(3) (a) Whenever the president or speaker appoints a conference committee, the secretary of the Senate or chief clerk of the House shall:

(i) immediately notify the other house of the action taken; and

(ii) request the appointment of conference committee members from that other house.

(b) After receiving the notice and request, the presiding officer of the other house shall:

(i) appoint a conference committee of three;

(ii) publicly announce the members of the conference committee from that house and the time and place that the conference committee will meet; and

(iii) direct staff to provide electronic notice that identifies the members of the conference committee and the time and place of the conference committee meeting.

(4) (a) The first senator named on the conference committee is the Senate chair of the committee, and the first representative named on the conference committee is the House chair.

(b) The conference committee chairs shall direct the preparation of the conference committee report.

Section 3. JR4-3-108 is amended to read:

JR4-3-108. Consideration and action on amendments to legislation made in the other chamber.

(1) (a) If the Senate amends and passes, or substitutes and passes, a piece of House legislation, the House:

(i) must either “concur” or “refuse to concur” in the amendments or substitute[-]; and

(ii) may not amend or substitute the legislation.

(b) (i) If the House concurs, the legislation shall be voted on for final passage in the House.

(ii) If the legislation passes, the chief clerk of the House shall notify the Senate, obtain the signatures required by JR4-6-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the House refuses to concur in the Senate amendments or substitute to a piece of House legislation, the chief clerk of the House and the House shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

(2) (a) If the House amends and passes, or substitutes and passes, a piece of Senate legislation, the Senate:

(i) must either “concur” or “refuse to concur” in the amendments or substitute[-]; and

(ii) may not amend or substitute the legislation.

(b) (i) If the Senate concurs, the legislation shall be voted on for final passage in the Senate.

(ii) If the legislation passes, the secretary of the Senate shall notify the House, obtain the signatures required by JR4-6-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the Senate refuses to concur in the House amendments or substitute to a piece of Senate legislation, the secretary of the Senate and the

Senate shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

H.J.R. 10

Passed January 31, 2019

Effective January 31, 2019

(Retrospective operation to January 1, 2019)

**JOINT RESOLUTION AUTHORIZING
PAY OF IN-SESSION EMPLOYEES**

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2019.

Highlighted Provisions:

This resolution:

- ▶ sets the compensation for legislative in-session employees for the 2019 Legislative Session.

Special Clauses:

This resolution provides retrospective operation to January 1, 2019.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature acting under authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

General Session - 2019

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	\$12.52	\$12.84	\$13.14	\$13.40	\$13.49	\$14.19	\$14.53	\$14.90
Amending Clerk (H-S)	\$14.11	\$14.51	\$14.82	\$15.15	\$15.51	\$15.85	\$16.21	\$16.61
Assistant Page Supervisor (H-S)	\$12.22	\$12.52	\$12.84	\$13.17	\$13.49	\$13.82	\$14.19	\$14.53
Asst. Sergeant-at-Arms (H-S)	\$12.22	\$12.52	\$12.84	\$13.17	\$13.49	\$13.82	\$14.19	\$14.53
Calendar/Voting System Specialist (H)	\$12.49	\$12.84	\$13.17	\$13.49	\$13.82	\$13.84	\$14.53	\$14.90
Committee Secretary (H-S)	\$13.63	\$13.95	\$14.28	\$14.58	\$14.93	\$15.29	\$15.85	\$16.01
Docket Clerk/Legislative Aide (H-S)	\$15.34	\$15.74	\$16.15	\$16.57	\$17.00	\$17.46	\$17.72	\$18.38
Reading Clerk (S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Kitchen Hostess (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
IT Technician (S)	\$13.84	\$14.53	\$14.90	\$15.29	\$15.67	\$16.07	\$16.50	\$16.90
Page (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Page Supervisor (H-S)	\$13.84	\$14.53	\$14.90	\$15.29	\$15.67	\$16.07	\$16.50	\$16.90
Public Information Specialist (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Receptionist (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Receptionist and Legislative Aide (H-S)	\$12.52	\$12.84	\$13.14	\$13.40	\$13.81	\$14.19	\$14.53	\$14.90
Audio Specialist (H-S)	\$11.90	\$12.22	\$12.52	\$12.84	\$13.17	\$13.49	\$13.82	\$14.19
Rules Committee Secretary (H-S)	\$14.23	\$14.58	\$14.94	\$15.33	\$15.71	\$16.11	\$16.54	\$16.95
Security (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Sergeant-at-Arms (H-S)	\$13.84	\$14.53	\$14.90	\$15.29	\$15.67	\$16.07	\$16.50	\$16.90
Supply/Copy Room Specialist(H)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Tour Liaison (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49
Video Specialist (H-S)	\$11.35	\$11.62	\$11.93	\$12.21	\$12.52	\$12.84	\$13.17	\$13.49

The compensation schedule established by this resolution has retrospective operation to January 1, 2019.

H.J.R. 11

Passed March 8, 2019
Effective March 8, 2019

**JOINT RULES RESOLUTION
ESTABLISHING INTERIM
COMMITTEE RULES**

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This joint rules resolution establishes rules governing legislative committees that meet during the interim.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ establishes interim committees and provides for the appointment of interim committee members and interim committee chairs;
- ▶ creates procedural rules for legislative committees that are not standing committees, including requirements related to quorum, voting, meeting location, meeting date, meeting time, order of business, and motions;
- ▶ provides the powers and duties of a chair;
- ▶ addresses the powers and duties of an interim committee, including the process by which an interim committee receives study assignments and the manner in which an interim committee reports on the results of its studies;
- ▶ provides that a legislative committee may open one or more committee bill files and adopt one or more committee bills;
- ▶ allows a legislative committee to hold an electronic meeting;
- ▶ authorizes a legislative committee to create one or more subcommittees;
- ▶ addresses the manner in which a legislative committee considers draft legislation; and
- ▶ makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR1-1-102
JR4-2-102

ENACTS:

JR7-1-101
JR7-1-102
JR7-1-201
JR7-1-202
JR7-1-203
JR7-1-204
JR7-1-301
JR7-1-302
JR7-1-303
JR7-1-304
JR7-1-305
JR7-1-306
JR7-1-307
JR7-1-308
JR7-1-309
JR7-1-310

JR7-1-311
JR7-1-312
JR7-1-401
JR7-1-402
JR7-1-403
JR7-1-404
JR7-1-405
JR7-1-406
JR7-1-407
JR7-1-408
JR7-1-409
JR7-1-410
JR7-1-411
JR7-1-501
JR7-1-502
JR7-1-503
JR7-1-504
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JR7-1-606
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JR7-1-608
JR7-1-609
JR7-1-610
JR7-1-611

REPEALS:

IR1-1-101
IR1-1-201
IR1-1-202
IR1-1-203
IR2-1-101
IR2-1-102
IR2-2-101
IR2-2-102
IR2-2-103
IR2-2-104
IR3-1-101
IR3-1-102
IR3-1-103
IR3-1-104
IR3-1-105
IR3-2-101
IR3-2-102
IR3-2-201
IR3-3-101
IR3-3-102
IR3-3-103
IR3-3-201
IR3-4-101
IR3-4-102
IR3-4-103
IR3-4-104
IR3-4-105
IR3-4-201
IR3-4-202

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-1-102 is amended to read:

JR1-1-102. Adoption of legislative rules.

(1) (a) At the beginning of each legislative session, the Legislature shall adopt Joint Rules ~~[and the Interim Rules]~~ by a constitutional two-thirds vote of all senators and representatives.

(b) Except as provided in Subsection (1)(c), after the initial adoption of Joint ~~[and Interim]~~ Rules, the Legislature may adopt additional Joint ~~[and Interim]~~ Rules or amend or repeal existing Joint ~~[or Interim]~~ Rules by a constitutional majority vote.

(c) The Legislature may adopt or amend a Joint ~~[or Interim Rule]~~ Rule that includes a voting requirement of more than a constitutional majority only by a constitutional two-thirds vote of all senators and representatives.

(2) The Senate and House Rules Committees shall:

(a) meet before each annual general session of the Legislature convenes;

(b) review Joint Rules ~~[and Interim Rules]~~; and

(c) recommend to the Legislature any modifications that they consider necessary.

Section 2. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this section, "interim committee" means a committee established under ~~[JR1-1-201]~~ JR7-1-201.

(2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this section.

(b) ~~[The]~~ When sufficient drafting information is available, the following requests for legislation shall be drafted before other requests for legislation ~~[when sufficient drafting information or sponsor instruction is available]~~, in the following order of priority:

(i) a committee bill file, as defined in JR7-1-101; and

~~[(4)]~~ (ii) a request for legislation that is prioritized by a legislator under Subsection (3) ~~]; and~~.

~~[(ii) a request for legislation that is adopted as a committee bill by an interim committee as follows:]~~

~~[(A) a member of the interim committee makes a motion to open a new request for legislation to be sponsored by the committee or to convert an existing request for legislation to committee-sponsored legislation;]~~

~~[(B) the interim committee adopts the motion by a majority vote after a description or discussion of the general subject matter of the legislation;]~~

~~[(C) the subject matter of the legislation is germane to the oversight assignment of the interim committee; and]~~

~~[(D) the interim committee intends to take action on the legislation in a meeting of the committee held before the next general session.]~~

~~[(e) (i) Except as permitted under IR2-2-103(3), the committee may not delegate the authority to designate committee bills on behalf of an interim committee under Subsection (2)(b)(ii) to committee chairs or any other subset of the membership of an interim committee.]~~

~~[(ii) During the interim, the drafting of committee bills that are adopted under Subsection (2)(b)(ii), and for which sufficient drafting information is available, shall take precedence in drafting priority over bills that have been prioritized by an individual legislator under Subsection (2)(b)(i).]~~

(3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a legislator may designate up to three requests for legislation as priority requests subject to the following deadlines:

(i) priority request number one must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(ii) priority request number two must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iii) priority request number three must be requested on or before the first Thursday of the annual general session.

(b) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

(c) A legislator who begins serving after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.

(d) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(5) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 3. JR7-1-101 is enacted to read:

TITLE 7. INTERIM

CHAPTER 1. INTERIM AND SPECIAL COMMITTEES

Part 1. General Provisions

JR7-1-101. Definitions.

(1) “Anchor location” means the physical location from which:

- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) “Bill” means the same as that term is defined in JR4-1-101.

(3) “Chair” except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (3)(a), (b), or (c) to act as chair under JR7-1-202.

(4) “Committee bill” means draft legislation that receives a favorable recommendation.

(5) “Committee bill file” means a request for legislation made by:

- (a) a majority vote of a legislative committee; or
- (b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(6) “Committee note” means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(7) “Draft legislation” means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(8) “Electronic meeting” means a public meeting of a legislative committee that is partially convened

or conducted by means of a voice telephone or computer web or video conference.

(9) “Electronic notice” means electronic mail or fax.

(10) “Favorable recommendation” means an action of a legislative committee by majority vote to favorably recommend legislation.

(11) “Legislative committee” means:

- (a) an interim committee; or
- (b) a special committee.

(12) “Interim committee” means a committee created under JR7-1-201.

(13) “Legislative sponsor” means:

(a) for a committee bill file, the chairs of the legislative committee that opened the committee bill file or the chairs’ designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator’s designee.

(14) “Majority vote” means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

(15) “Mixed special committee” means a special committee that is composed of one or more members who are legislators and one or more members who are not legislators.

(16) “Monitor” means to:

(a) hear live, by speaker, or by other equipment, all of the public statements of each member of the legislative committee who is participating in a meeting; or

(b) see and hear, by computer screen or other visual medium, all of the public statements of each member of the legislative committee who is participating in a meeting.

(17) “Original motion” means a nonprivileged motion that is accepted by the chair when no other motion is pending.

(18) “Participate” means the ability to communicate with all of the members of a legislative committee, either verbally or electronically, so that each member of the legislative committee can hear or see the communication.

(19) “Pending motion” means a motion described in JR7-1-307.

(20) “Privileged motion” means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(21) “Public statement” means a statement made in the ordinary course of business of a legislative

committee with the intent that all other members of the legislative committee receive it.

(22) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.

(23) "Request for legislation" means the same as that term is defined in JR4-1-101.

(24) "Resolution" means the same as that term is defined in JR4-1-101.

(25) (a) "Special committee" means a committee, commission, or task force that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

(26) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

(27) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 4. JR7-1-102 is enacted to read:

JR7-1-102. Application of rules for special committees -- Priority in the event of conflict.

If a provision of this chapter conflicts with a provision in legislation or rule that is specific to a special committee, the provision in the legislation or rule that is specific to the special committee controls.

Section 5. JR7-1-201 is enacted to read:

Part 2. Creation and Organization of Legislative Committees

JR7-1-201. Interim committees -- Creation.

There are created the following interim committees:

(1) Business and Labor Interim Committee;

(2) Economic Development and Workforce Services Interim Committee;

(3) Education Interim Committee;

(4) Government Operations Interim Committee;

(5) Health and Human Services Interim Committee;

(6) Judiciary Interim Committee;

(7) Law Enforcement and Criminal Justice Interim Committee;

(8) Natural Resources, Agriculture, and Environment Interim Committee;

(9) Political Subdivisions Interim Committee;

(10) Public Utilities, Energy, and Technology Interim Committee;

(11) Retirement and Independent Entities Interim Committee;

(12) Revenue and Taxation Interim Committee; and

(13) Transportation Interim Committee.

Section 6. JR7-1-202 is enacted to read:

JR7-1-202. President and speaker to appoint legislative committee members and chairs.

(1) The president of the Senate shall appoint:

(a) one or more senators to each legislative committee; and

(b) one senator to serve as a chair of each legislative committee.

(2) The speaker of the House of Representatives shall appoint:

(a) one or more representatives to each legislative committee; and

(b) one representative to serve as a chair under each legislative committee.

(3) A chair may designate a member of the legislative committee to act as a chair for all or part of a legislative committee meeting if neither chair is present at the meeting.

Section 7. JR7-1-203 is enacted to read:

JR7-1-203. Quorum requirements.

(1) Except as provided in Subsection (2) and subject to the other provisions of this rule, a quorum of a legislative committee:

(a) is at least 50% of the members of the legislative committee from one chamber and more than 50% of the members of the legislative committee from the other chamber; and

(b) notwithstanding Subsection (2) or (3), shall include at least one member of the legislative committee from the Senate.

(2) A quorum of a mixed special committee is:

(a) at least 50% of the legislator members of the mixed special committee from one chamber and more than 50% of the legislator members of the mixed special committee from the other chamber; and

(b) more than 50% of the nonlegislator members of the mixed special committee.

(3) If a member of a legislative committee does not attend two consecutive meetings of the legislative

committee in a calendar year, the member is not counted for purposes of determining a quorum for the remainder of the calendar year, unless the member is present at the meeting when the action requiring a quorum occurs.

(4) The following individuals are not counted for purposes of determining a quorum, unless the member is present at the legislative committee meeting when the action requiring a quorum occurs:

(a) a member of the Legislative Management Committee;

(b) the Senate chair and vice chair of the Executive Appropriations Committee;

(c) the House chair and vice chair of the Executive Appropriations Committee;

(d) the chair of the Senate Rules Committee;

(e) the chair of the House Rules Committee;

(f) the fourth member of leadership from the minority party in the Senate; and

(g) the fourth member of leadership from the minority party in the House of Representatives.

Section 8. JR7-1-204 is enacted to read:

JR7-1-204. Committee order of business.

Unless a chair, or the legislative committee by majority vote, determines otherwise, the order of business for a legislative committee is:

(1) call to order;

(2) approval of the minutes of the immediately preceding meeting;

(3) brief description of each item on the agenda;

(4) announcement of any time restrictions, subject to JR7-1-305;

(5) consideration of legislative committee business for the meeting; and

(6) adjournment.

Section 9. JR7-1-301 is enacted to read:

Part 3. Duties of Legislative Committee Chairs

JR7-1-301. Chairs to enforce legislative rules and procedures.

Each chair is responsible for ensuring the integrity of the committee process by enforcing legislative rules and parliamentary procedure without delay.

Section 10. JR7-1-302 is enacted to read:

JR7-1-302. Chairs to preserve order -- Powers to preserve order.

(1) A chair shall preserve order and decorum during a meeting of the legislative committee by:

(a) controlling outbursts or demonstrations; and

(b) ensuring that each legislative committee member, presenter, witness, or visitor acts in a dignified and respectful manner.

(2) To preserve order and decorum, a chair may:

(a) remove from the meeting room any individual who engages in disorderly conduct;

(b) recess a meeting of the legislative committee; or

(c) request assistance from the Utah Highway Patrol.

Section 11. JR7-1-303 is enacted to read:

JR7-1-303. Chairs to set agenda.

Subject to the other provisions of this chapter, including JR7-1-401 and JR7-1-402, the agenda for a legislative committee meeting shall be set by the chairs of the legislative committee.

Section 12. JR7-1-304 is enacted to read:

JR7-1-304. Chairs to post notice and agenda.

The chairs of each legislative committee shall cause a public notice and agenda for each meeting of the legislative committee to be posted at least 24 hours before the meeting as required by Utah Code, Title 52, Chapter 4, Open and Public Meetings Act.

Section 13. JR7-1-305 is enacted to read:

JR7-1-305. Chairs may direct order of agenda -- Time restrictions.

A chair, or a legislative committee by majority vote, may adopt one or more committee procedures or time restrictions related to the manner in which the legislative committee hears the items on an agenda, including:

(1) directing the order of the agenda;

(2) directing the order in which the legislative committee hears a witness or presenter;

(3) directing the number of witnesses or presenters that the legislative committee hears; or

(4) limiting the time the legislative committee spends:

(a) on an item on an agenda; or

(b) hearing from a witness or presenter.

Section 14. JR7-1-306 is enacted to read:

JR7-1-306. Chairs to recognize committee members.

A chair shall recognize any member of the legislative committee who desires to speak on a subject that is under consideration by the legislative committee.

Section 15. JR7-1-307 is enacted to read:

JR7-1-307. Chairs to accept all motions that are in order.

(1) A chair shall accept any motion made by a member of the legislative committee who the chair has recognized, unless the motion is prohibited by this chapter.

(2) To accept a motion, the chair shall restate the motion.

(3) If a chair accepts a motion, the motion is pending.

Section 16. JR7-1-308 is enacted to read:

JR7-1-308. Chairs to allow response to motions before placing motions for a vote.

After a chair accepts a motion and before the chair places the motion for a vote, the chair shall allow:

(1) any member of the legislative committee to ask one or more questions about the motion of the member who made the motion;

(2) members of the legislative committee to debate the motion;

(3) if the legislative committee is considering draft legislation, the legislative sponsor to respond to the motion; and

(4) the member of the legislative committee who made the motion to provide a summation on the motion.

Section 17. JR7-1-309 is enacted to read:

JR7-1-309. Chairs to place motions for vote.

Unless withdrawn in accordance with JR7-1-508, the chair shall place a pending motion for a vote after the member of the legislative committee who made the motion provides a summation on the motion or waives the opportunity to provide a summation on the motion.

Section 18. JR7-1-310 is enacted to read:

JR7-1-310. Chairs to verbally announce vote on motions -- Motions pass with majority vote.

After a legislative committee votes on a motion, the chair shall:

(1) determine and verbally announce whether the motion passed or failed; and

(2) unless the vote on the motion is unanimous, verbally identify by name each committee member who voted "yes" or each committee member who voted "no."

Section 19. JR7-1-311 is enacted to read:

JR7-1-311. Chairs may direct a roll call vote.

A chair, or the legislative committee by majority vote, may require a roll call vote.

Section 20. JR7-1-312 is enacted to read:

JR7-1-312. Chairs to ensure integrity of minutes -- Retention of minutes -- Content requirements.

(1) Each chair shall:

(a) cause a draft of the minutes of the chair's legislative committee to be available for each member of the legislative committee to review

before the legislative committee approves the minutes; and

(b) ensure that the minutes of each meeting of the legislative committee include:

(i) each item required by Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) each motion, point of order, or appeal of a decision on a point of order.

(2) The Office of Legislative Research and General Counsel shall retain a physical or electronic copy of the minutes for each meeting of a legislative committee for three years.

Section 21. JR7-1-401 is enacted to read:

Part 4. Powers and Duties of Legislative Committees

JR7-1-401. Interim committees to receive study assignments.

(1) Each interim committee shall:

(a) study issues assigned:

(i) by passed legislation; or

(ii) the Legislative Management Committee; and

(b) review programs and hear reports as required by statute.

(2) Each interim committee may:

(a) investigate and study possibilities for improvement in government services within the interim committee's subject area;

(b) receive research reports from interim committee staff pertaining to the interim committee's study agenda;

(c) request testimony from government officials, private organizations, or members of the public on issues being studied by the interim committee;

(d) make recommendations to the Legislature for legislative action; or

(e) prepare one or more committee bills based on the interim committee's studies.

(3) During the interim committee's first meeting of each calendar year, the interim committee:

(a) shall review the interim committee's study items described in Subsection (1)(a);

(b) may, by majority vote, modify or add to the study items described in Subsection (1)(a), provided any modification or addition is within the interim committee's subject area; and

(c) shall adopt the study items described in Subsection (1)(a), with any modifications or additions, by majority vote.

Section 22. JR7-1-402 is enacted to read:

JR7-1-402. Review of audit reports.

If a legislative committee receives an audit report from the Audit Subcommittee of the Legislative Management Committee for review, the legislative committee shall:

(1) review the audit report and make an affirmative decision whether each recommendation in the audit report should be implemented;

(2) if necessary, open a committee bill file to implement any recommendation the legislative committee recommends the Legislature implement; and

(3) recommend an appropriation to the Executive Appropriations Committee, if appropriate.

Section 23. JR7-1-403 is enacted to read:

JR7-1-403. Review rules referred by Administrative Rules Review Committee.

If a legislative committee receives an administrative rule for review from the Administrative Rules Review Committee, the legislative committee may:

(1) review the administrative rule; and

(2) (a) recommend to the Administrative Rules Review Committee whether the Legislature should reauthorize the administrative rule; or

(b) decide whether to recommend any related statutory change to the Legislature.

Section 24. JR7-1-404 is enacted to read:

JR7-1-404. Location of interim committee meetings -- Additional meetings.

(1) Unless approved by the Legislative Management Committee, an interim committee shall meet at the time and in the room assigned by the Legislative Management Committee.

(2) Notwithstanding Subsection (1), a chair of an interim committee may start a meeting of the interim committee earlier or end a meeting of the interim committee later than the time assigned by the Legislative Management Committee if:

(a) the chair complies with:

(i) Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) JR7-1-405; and

(b) the meeting does not interfere with a caucus meeting.

Section 25. JR7-1-405 is enacted to read:

JR7-1-405. Prohibited meeting times -- Exceptions.

(1) A legislative committee may not meet:

(a) while the Senate or the House of Representatives is in session, unless the meeting is approved by:

(i) the president of the Senate and the speaker of the House of Representatives; or

(ii) (A) a majority vote of the Senate; and

(B) a majority vote of the House of Representatives; or

(b) except as provided in Subsection (2), during the period that begins January 1 and ends the day

after the day on which the Legislature adjourns that year's general session sine die.

(2) Subsection (1)(b) does not apply to:

(a) a meeting of the Administrative Rules Review Committee for the purpose of considering draft legislation reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(b) the Legislative Process Committee.

(3) An action of a legislative committee that occurs during a meeting that violates this rule is invalid.

Section 26. JR7-1-406 is enacted to read:

JR7-1-406. Closed legislative committee meetings.

A meeting of a legislative committee is open to the public unless closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

Section 27. JR7-1-407 is enacted to read:

JR7-1-407. Electronic legislative committee meetings.

(1) A chair may, by following the procedures and requirements of this rule, convene and conduct an electronic meeting of a legislative committee.

(2) (a) A member of a legislative committee who will be more than 50 miles away from the anchor location on the day and at the time of a scheduled meeting of the legislative committee may request that the chair allow the member to participate from a remote location.

(b) If a member of a legislative committee wishes to participate in a meeting of the legislative committee from a remote location, the member shall, at least three days before the meeting, contact the chair and request that the chair convene and conduct an electronic meeting.

(c) After receiving the request, the chair shall:

(i) determine whether the member will be more than 50 miles away from the anchor location on the day and at the time of the scheduled meeting;

(ii) if the chair determines that the member will be more than 50 miles away from the anchor location on that day and time, consult with committee staff to determine whether there are sufficient equipment and connections to allow the member to participate from a remote location; and

(iii) obtain permission from the president of the Senate and the speaker of the House of Representatives to conduct an electronic meeting.

(d) If the requirements of Subsection (2)(c) are satisfied, the chair may grant the member's request to participate from a remote location.

(3) A chair convening or conducting an electronic meeting shall, if necessary, establish and communicate protocols and procedures governing the electronic meeting to ensure order and fair opportunities for all members of the legislative committee to participate.

(4) A chair convening or conducting an electronic meeting shall ensure that:

(a) public notice of the meeting, as required by Utah Code Section 52-4-202, is given including posting written notice at the anchor location; and

(b) notice of the electronic meeting describing how the members will be connected to the electronic meeting is given to each member of the legislative committee at least 24 hours before the meeting.

(5) A member of a legislative committee participating from a remote location is included in calculating a quorum and may vote.

Section 28. JR7-1-408 is enacted to read:

JR7-1-408. Testimony may be taken under oath.

(1) At the direction of a chair of the legislative committee, or upon majority vote of the legislative committee, a legislative committee may take the testimony of a witness, presenter, or visitor under oath.

(2) A chair of the legislative committee or committee staff shall administer the oath.

Section 29. JR7-1-409 is enacted to read:

JR7-1-409. Subpoena powers.

A chair may subpoena testimony or documents in accordance with Utah Code Title 36, Chapter 14, Legislative Subpoena Powers.

Section 30. JR7-1-410 is enacted to read:

JR7-1-410. Right of legislators to attend legislative committee meetings.

(1) Any member of the Legislature may:

(a) attend any meeting of a legislative committee or a subcommittee, unless the meeting is closed in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) if recognized by the chair, present the legislator's views on the subject under consideration.

(2) A legislator who attends a meeting of a legislative committee of which the legislator is not a member or a meeting of a subcommittee of which the legislator is not a member may not:

(a) make a motion;

(b) vote; or

(c) receive compensation for attending the meeting, unless approved by the Legislative Expenses Oversight Committee for the chamber of which the legislator is a member.

Section 31. JR7-1-411 is enacted to read:

JR7-1-411. Creation and organization of subcommittees.

(1) A legislative committee may establish one or more subcommittees if approved by:

(a) a majority vote of the legislative committee; and

(b) the Legislative Management Committee.

(2) The legislative committee shall establish each study assignment of a subcommittee by majority vote.

(3) After a legislative committee establishes a subcommittee, the chairs of the legislative committee shall:

(a) appoint at least four members of the legislative committee to serve on the subcommittee;

(b) appoint at least one and no more than two additional members of the legislative committee as chair or cochairs of the subcommittee; and

(c) establish the subcommittee's powers, duties, and reporting requirements.

(4) Each member of a subcommittee shall receive compensation and expenses.

Section 32. JR7-1-501 is enacted to read:

**Part 5. Legislative Committee
Parliamentary Procedures**

JR7-1-501. Obtaining the floor in legislative committee meeting -- Remarks to be germane.

(1) An individual may not speak to a legislative committee unless recognized by the chair.

(2) In accordance with JR7-1-306, the chair shall recognize a member of a legislative committee who requests to speak to the legislative committee.

(3) After the chair recognizes a member of a legislative committee, the member:

(a) shall ensure that the member's remarks are germane to the subject under consideration; and

(b) may make a motion consistent with the requirements of this chapter.

Section 33. JR7-1-502 is enacted to read:

JR7-1-502. Members shall vote when present.

Each member of a legislative committee who is present when the legislative committee votes on a motion shall vote on the motion.

Section 34. JR7-1-503 is enacted to read:

JR7-1-503. Privileged motions -- General requirements, procedures, and priority.

(1) A privileged motion:

(a) is nondebatable; and

(b) takes precedence over a nonprivileged motion.

(2) If a member of a legislative committee makes a privileged motion while another privileged motion is pending, the chair shall place the motions in the following order:

(a) adjourn;

(b) set a time to adjourn;

(c) recess;

(d) end debate or call the question;

(e) extend debate; and

(f) limit debate.

(3) Except for a motion to adjourn, a privileged motion, if approved, does not dispose of any other pending motion.

Section 35. JR7-1-504 is enacted to read:

JR7-1-504. Original motions -- General requirements and procedures.

(1) An original motion:

(a) is debatable; and

(b) may be replaced with a substitute motion.

(2) A member of a legislative committee may not make an original motion if:

(a) a privileged motion is pending; or

(b) a substitute motion is pending.

Section 36. JR7-1-505 is enacted to read:

JR7-1-505. Substitute motions -- General requirements and procedures.

(1) A substitute motion:

(a) is debatable; and

(b) takes precedence over an original motion.

(2) A member of a legislative committee may not make a substitute motion if:

(a) a privileged motion is pending; or

(b) another substitute motion is pending.

(3) If a substitute motion is adopted, the adoption disposes of the original motion.

(4) If a substitute motion is not adopted, the original motion is pending.

Section 37. JR7-1-506 is enacted to read:

JR7-1-506. Reconsideration of action.

(1) Except as provided in Subsection (2), a member of a legislative committee may make a motion to reconsider an action of the legislative committee if:

(a) the issue or draft legislation that is the subject of the action being reconsidered is on the legislative committee's agenda as required by Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) the legislative committee considered other business after the legislative committee voted to take the action that is being reconsidered.

(2) A legislative committee may not reconsider an action more than once.

Section 38. JR7-1-507 is enacted to read:

JR7-1-507. Repeating a defeated motion.

If a legislative committee defeats a motion made by a member of the legislative committee, a member of the legislative committee may not make the motion again until the legislative committee considers other committee business.

Section 39. JR7-1-508 is enacted to read:

JR7-1-508. Withdrawing a motion.

A member of a legislative committee who makes a motion may withdraw the motion at any time before the motion is placed for a vote.

Section 40. JR7-1-509 is enacted to read:

JR7-1-509. Point of order -- Appeal of chair's decision.

(1) (a) If a member of a legislative committee is concerned that the chair is not following or enforcing legislative rule or procedure, the member may make a point of order.

(b) A point of order is not a motion.

(2) Except during a vote, a member of a legislative committee may make a point of order at any time during a meeting of the legislative committee without recognition by the chair.

(3) If a member of a legislative committee makes a point of order, the chair shall:

(a) immediately allow the member to state the member's point of order; and

(b) rule on the point of order without discussion or debate.

(4) (a) A member of the legislative committee may appeal the chair's ruling on a point of order.

(b) An appeal of the chair's ruling on a point of order is not a motion.

(5) Except during a vote, a member of a legislative committee may appeal the chair's ruling on a point of order at any time during a meeting of the legislative committee without recognition by the chair.

(6) (a) If a member of the legislative committee appeals the chair's ruling on a point of order, the chair shall place a vote asking the members of the legislative committee whether to override the chair's ruling on the point of order.

(b) The legislative committee may overrule the chair's ruling by a majority vote.

(7) (a) If the legislative committee overrides the chair's ruling, the ruling of the legislative committee is final.

(b) If the legislative committee does not override the chair's ruling, the ruling of the chair is final.

Section 41. JR7-1-510 is enacted to read:

JR7-1-510. Point of information.

(1) (a) If a member of a legislative committee desires clarification on any aspect of a legislative committee meeting, the member may make a point of information.

(b) A point of information is not a motion.

(2) Except during a vote, a member of a legislative committee may make a point of information at any time during a meeting of the legislative committee.

(3) If a member of a legislative committee makes a point of information, the chair shall immediately

allow the member to state the member's point of information.

Section 42. JR7-1-511 is enacted to read:

JR7-1-511. Division of a motion.

(1) (a) Except during a vote, a member of a legislative committee may request division of a motion at any time during a meeting of the legislative committee without being recognized by the chair.

(b) A request for division is not a motion.

(2) If a member of a legislative committee requests division of a motion:

(a) the member shall clearly state how the motion is to be divided; and

(b) the chair shall:

(i) restate how the motion is to be divided; and

(ii) place each motion that results from the divided motion.

(3) A member of a legislative committee may not divide a motion to amend draft legislation if the division could create an unintelligible or ambiguous result.

Section 43. JR7-1-512 is enacted to read:

JR7-1-512. Prohibited motions and requests.

(1) (a) Except a motion to adjourn, a member of a legislative committee may not make a motion unless a quorum of the legislative committee is present.

(b) If a member of a legislative committee makes a motion to adjourn when a quorum of the legislative committee is not present, the motion passes by an affirmative vote of a majority of the legislative committee members present.

(2) The following are not in order during a vote:

(a) a motion;

(b) a point of order;

(c) a point of information; or

(d) a request for division.

(3) A member of a legislative committee may not make a motion to favorably recommend draft legislation unless the legislation is drafted and distributed to the members of the legislative committee.

Section 44. JR7-1-601 is enacted to read:

Part 6. Draft Legislation

JR7-1-601. Opening committee bill files.

(1) Except as provided in Subsection (3), a member of a legislative committee may make a motion to open a committee bill file if:

(a) the member describes the general subject matter of the legislation;

(b) the subject matter is germane to the subject matter over which the legislative committee has jurisdiction; and

(c) the member intends that the legislative committee take action on the resulting draft legislation before the next general session in a meeting of the legislative committee.

(2) Except as provided in JR7-1-602, a legislative committee may not authorize any individual or group of individuals to open a committee bill file.

(3) A legislative committee may not open a committee bill file during the period that begins January 1 and ends the day after the day on which the Legislature adjourns that year's general session sine die.

Section 45. JR7-1-602 is enacted to read:

JR7-1-602. Interim committee chairs' authority to open committee bill files.

During an interim committee's first meeting of a calendar year, the interim committee may, by motion and majority vote, authorize the chairs to do one of the following:

(1) open one or more committee bill files related to any study item adopted by the interim committee under JR7-1-401(3), as the chairs deem necessary; or

(2) open one or more committee bill files related to one or more study items that are:

(a) adopted by the interim committee under JR7-1-401(3); and

(b) specified in the motion.

Section 46. JR7-1-603 is enacted to read:

JR7-1-603. Four phases when considering draft legislation -- Exception.

(1) Subject to Subsection (2), a legislative committee shall consider draft legislation in the following four phases:

(a) the presentation phase as described in JR7-1-604;

(b) the clarifying questions phase as described in JR7-1-605;

(c) the public comment phase as described in JR7-1-606; and

(d) the legislative committee action phase as described in JR7-1-607.

(2) The chair, or the legislative committee by majority vote, may elect to have the legislative committee consider draft legislation in a manner different from the four phases described in this part.

Section 47. JR7-1-604 is enacted to read:

JR7-1-604. Presentation phase.

(1) During the presentation phase:

(a) the chair shall permit the legislative sponsor of the draft legislation to present the draft legislation to the legislative committee; and

(b) a member of the legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) At the election of the legislative sponsor, the chair shall allow another individual to assist with the legislative sponsor's presentation if the individual has expertise related to the draft legislation.

Section 48. JR7-1-605 is enacted to read:

JR7-1-605. Clarifying questions phase.

(1) During the clarifying questions phase:

(a) the chair shall allow members of the legislative committee to ask the legislative sponsor questions to help clarify:

(i) the intent or purpose of the draft legislation; or

(ii) the meaning of the language of the draft legislation; and

(b) a member of the legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) The chair shall allow the legislative sponsor to respond to any clarifying question from a member of the legislative committee.

Section 49. JR7-1-606 is enacted to read:

JR7-1-606. Public comment phase.

(1) Except as otherwise provided in this rule, during the public comment phase:

(a) the chair shall take comment from one or more members of the public; and

(b) a member of the legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) The chair, or the legislative committee by majority vote, may preclude or terminate the public comment phase.

Section 50. JR7-1-607 is enacted to read:

JR7-1-607. Committee action phase.

During the committee action phase, a member of the legislative committee may make a motion authorized by this chapter, including a motion to amend the draft legislation or favorably recommend the draft legislation.

Section 51. JR7-1-608 is enacted to read:

JR7-1-608. Motions related to draft legislation.

A legislative committee may approve one or more of the following motions with respect to draft legislation it considers:

(1) move to the next item on the agenda;

(2) amend the draft legislation, subject to the requirements of JR7-1-609; or

(3) favorably recommend the draft legislation as a committee bill.

Section 52. JR7-1-609 is enacted to read:

JR7-1-609. Amending draft legislation -- Verbal amendments -- Amendments must be germane.

(1) Subject to Subsection (2), when timely and when recognized by the chair, a member of a legislative committee may make a motion to amend the draft legislation under consideration.

(2) (a) A member of the legislative committee may make a motion to amend the draft legislation only if the subject of the proposed amendment is germane to the subject of the draft legislation.

(b) If a member of the legislative committee believes a proposed amendment is not germane to the subject of the draft legislation, the member may make a point of order in accordance with JR7-1-509.

(3) During a legislative committee's last meeting before the start of a general session, a member of the legislative committee may make a motion for a verbal amendment only if the verbal amendment is sufficiently clear to allow the members of the legislative committee to know how the draft legislation will read when the verbal amendment is incorporated into the draft legislation.

Section 53. JR7-1-610 is enacted to read:

JR7-1-610. Committee bill files -- Effect of favorable recommendation -- Committee bill files without recommendation abandoned.

(1) After a legislative committee reviews draft legislation the legislative committee may give the draft legislation a favorable recommendation.

(2) If a legislative committee gives draft legislation a favorable recommendation, the Office of Legislative Research and General Counsel shall:

(a) attach a committee note to the committee bill, as required under JR4-2-401; and

(b) assign the committee bill a bill number in accordance with JR4-2-501.

(3) (a) Except as provided in Subsection (3)(b), a committee bill file that does not receive a favorable recommendation before December 31 of the year in which the committee bill file was opened is abandoned.

(b) Subsection (3)(a) does not apply to a committee bill file opened by:

(i) the Administrative Rules Review Committee for the purpose of reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(ii) the Legislative Process Committee.

(4) (a) Nothing in this rule prohibits a legislator from making a request for legislation in the legislator's name to sponsor legislation that was abandoned in accordance with Subsection (3).

(b) A request for legislation described in Subsection (4)(a) is subject to the drafting priority described in JR4-2-102.

Section 54. JR7-1-611 is enacted to read:

JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.

(1) The chairs of each legislative committee shall:

(a) assign each of the legislative committee's bills a chief sponsor and a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor; and

(iv) how each member of the interim committee voted when the interim committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

(a) a copy of the report described in Subsection (1)(b); and

(b) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

(3) (a) The chairs of an interim committee shall comply with this rule on or before December 15.

(b) The chairs of a special committee shall comply with this rule as soon as practicable.

Section 55.

Repealer.

This resolution repeals:

IR1-1-101, Definitions.

IR1-1-201, Interim committees established -- Membership -- Chairs -- Chair duties.

IR1-1-202, Interim committees -- Creation and organization of subcommittees.

IR1-1-203, Special committees -- Creation and organization of subcommittees.

IR2-1-101, Interim committees -- General duties.
IR2-1-102, Favorable recommendation of legislation to the Legislature.

IR2-2-101, Interim committees -- Reviewing audit reports.

IR2-2-102, Interim committees -- Review of rules referred by Administrative Rules Review Committee.

IR2-2-103, Interim committees -- First meeting of interim -- List of study items -- Long-term planning emphasis.

IR2-2-104, Interim committees and task forces -- Recommendation of legislation -- Abandonment and assignment of committee bills.

IR3-1-101, Interim committees -- Joint meetings -- Location of meetings -- Notice of meetings.

IR3-1-102, Rights of members to attend meetings -- Nonmembers of the committee or subcommittee may not vote.

IR3-1-103, Order and decorum -- Points of order.
IR3-1-104, Visitors.

IR3-1-105, Electronic meetings.

IR3-2-101, Quorum requirements.

IR3-2-102, Voting requirements.

IR3-2-201, Minutes.

IR3-3-101, Order of business.

IR3-3-102, Obtaining the floor in committee -- Remarks to be germane.

IR3-3-103, Members required to vote.

IR3-3-201, Public hearings.

IR3-4-101, Motions to be stated before debate -- Dividing a motion -- Withdrawing a motion.

IR3-4-102, Motions in order during debate.

IR3-4-103, Motions to be decided without debate.
IR3-4-104, Substitute motions.

IR3-4-105, Which motions may be amended (Masons Sec. 396).

IR3-4-201, Motion to adjourn.

IR3-4-202, Motion to end debate.

H.J.R. 12

Passed March 7, 2019

Effective March 7, 2019

JOINT RESOLUTION DIRECTING TAX REVIEW COMMISSION TO STUDY TAX INCENTIVES

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This joint resolution directs the Utah Tax Review Commission to study tax incentives offered by the state.

Highlighted Provisions:

This joint resolution directs the Utah Tax Review Commission to:

- ▶ study the state's current tax incentive structure;
- ▶ examine the positive and negative effects of the current incentives on the state's economy;
- ▶ identify any overlapping or redundant tax credits, tax exemptions, or other incentives;
- ▶ make recommendations regarding whether:
 - the current structure of providing targeted exemptions, credits, and other incentives is

more effective than lowering overall rates for all taxpayers; and

- certain activities should be eligible for multiple incentives; and
- ▶ report recommendations on these issues to the Revenue and Taxation Interim Committee.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah Code Title 59, Chapter 1, Part 9, Utah Tax Review Commission, creates the Utah Tax Review Commission (TRC);

WHEREAS, the TRC shall make recommendations to the governor and the Legislature on specific tax issues, as requested by the Legislature in a joint resolution of the Legislature;

WHEREAS, Utah's sales and use tax system has numerous exemptions available to a variety of taxpayers and for a variety of purchases; and

WHEREAS, Utah's corporate and individual income tax systems have multiple credits available to a variety of businesses and individuals:

NOW, THEREFORE, BE IT RESOLVED that the Legislature directs the TRC to study the state's current tax incentive structure.

BE IT FURTHER RESOLVED that the Legislature directs the TRC to examine the positive and negative effects of the current incentives on the state's economy.

BE IT FURTHER RESOLVED that the Legislature directs the TRC to identify any overlapping or redundant tax credits, tax exemptions, or other incentives.

BE IT FURTHER RESOLVED that the Legislature directs the TRC to make recommendations regarding whether:

- (1) the current structure of providing targeted exemptions, credits, and other incentives is more effective than lowering overall rates for all taxpayers; and
- (2) certain activities should be eligible for multiple incentives.

BE IT FURTHER RESOLVED that the Legislature directs the TRC to report the TRC's recommendations to the Revenue and Taxation Interim Committee by November 1, 2019.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the chairperson of the TRC immediately after the Legislature passes this resolution.

H.J.R. 14

Passed February 28, 2019
Effective February 28, 2019

JOINT RESOLUTION TO HARDEN THE UTAH AND UNITED STATES ELECTRICAL GRIDS

Chief Sponsor: Lee B. Perry
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This joint resolution of the Legislature encourages Utah's state and congressional delegations to continue supporting legislation and practices that enhance electrical grid security against natural, accidental, or intentional occurrences, including disruption from electromagnetic pulses, that could potentially interrupt reliable electricity services.

Highlighted Provisions:

This resolution:

- ▶ acknowledges safeguarding Utah's electrical infrastructure as a shared function of the federal and state government;
- ▶ acknowledges the threats to Utah's and the United States' electrical grids from natural, accidental, and intentional occurrences, such as disruption from electromagnetic pulses, that could potentially interrupt reliable electricity services;
- ▶ references government-commissioned studies that illustrate the capabilities and consequences of such occurrences on civil society; and
- ▶ supports Utah's continued investment in public policy, technologies, and federal regulatory drills and standards that promote a resilient and reliable electrical grid and will ultimately contribute to the economic development of the state and well-being of all Utahns.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, protecting our electrical infrastructure is a vital function of the federal and state governments benefitting all citizens;

WHEREAS, Utah Code Section 63M-4-301, State Energy Policy, instructs that Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

WHEREAS, pro-actively supporting the importance of a resilient and reliable electrical grid is congruent with Utah's State Energy Policy;

WHEREAS, the United States' electrical infrastructure is vulnerable to damage from natural, accidental, and intentional occurrences, including electromagnetic pulses, that could potentially interrupt reliable electricity services;

WHEREAS, studies commissioned by the United States Task Force on National and Homeland Security, the Department of Energy's Oak Ridge National Laboratory, and the National Conference of State Legislatures have found that cyberterrorist

and physical terrorist attacks could potentially produce electromagnetic interference;

WHEREAS, the aforementioned studies also point to the grave consequences that such interference could have for civil society;

WHEREAS, the North American Electric Reliability Corporation, as designated by the Federal Energy Regulatory Commission, regularly proposes mandatory and enforceable reliability standards for physical and cybersecurity for critical electrical infrastructure protection;

WHEREAS, the Department of Energy has been given the authority pursuant to the Fixing America's Surface Transportation Act of 2015, Pub. L. No. 114-94, to order electric utilities and the North American Electric Reliability Corporation to implement emergency security actions;

WHEREAS, the North American Electric Reliability Corporation organizes a two-day security exercise, GridEx, every two years to test the electricity sector's ability to respond to grid security emergencies caused by cyber and physical attacks; and

WHEREAS, continued participation in grid security exercises, updates to security standards, and investment in technologies that enhance the resiliency and reliability of Utah's electrical infrastructure are likely to attract businesses and industries that wish to safeguard their data, enhancing Utah's economy;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah calls upon its congressional and state delegations to ensure state and national participation and support of the next GridEx drill in 2019, be informed and ready to implement North American Electric Reliability Corporation reliability standards when they are released or updated, and encourage electric utilities operating in Utah to be prepared to upgrade or replace infrastructure in order to safeguard against natural, accidental, or intentional occurrences, such as electromagnetic pulses, that could potentially interrupt reliable electricity services.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's congressional delegation requesting their support of hardening the electrical grids of Utah and the United States.

H.J.R. 15

Passed March 14, 2019
Effective March 14, 2019

**JOINT RESOLUTION
SUPPORTING THE DAYLIGHT ACT**

Chief Sponsor: Marsha Judkins
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This joint resolution urges Congress to pass the Daylight Act.

Highlighted Provisions:

This resolution:

- ▶ discusses states' limited ability to take action on daylight saving time;
- ▶ describes negative effects of daylight saving time; and
- ▶ urges Congress to pass the Daylight Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, 27 states and the District of Columbia have active legislation to make changes to their observance of daylight saving time, which is a strong indicator that states are displeased with the practice;

WHEREAS, notwithstanding state-level interest on the subject, states have limited authority to change whether or how they observe daylight saving time;

WHEREAS, current federal law prohibits a state from electing to observe daylight saving time year-round;

WHEREAS, multiple states have enacted legislation to observe daylight saving time year-round, including Florida and California, but that legislation requires congressional action to take effect;

WHEREAS, the United States Congress has the power to change daylight saving time and has exercised that power repeatedly;

WHEREAS, on March 7, 2019, Representative Rob Bishop introduced H.R. 1601, the Daylight Act, in the United States House of Representatives to "allow States to elect to observe daylight savings time for the duration of the year";

WHEREAS, states should have power to determine whether and how they observe daylight saving time and the Daylight Act would grant them that power;

WHEREAS, extensive studies over time have exposed several negative impacts from changing clocks twice each year, including:

- (1) an increased risk of deadly cardiovascular conditions, as evidenced by one study that found a 24% increase in the number of heart attacks on the Monday following a daylight saving time change;
- (2) increased workplace injuries -- especially in occupations that involve physical labor -- induced by sleep deprivation and decreased cognitive function;
- (3) a 6.3% increase in fatal car accidents in the six days immediately following a daylight saving time change;
- (4) a substantial increase in mental health problems, including an 11% increase in

hospitalizations over depressive episodes in the weeks following a daylight saving time change; and

(5) a decrease in overall mental wellness, as evidenced by a substantial decrease in individuals' self-reported well-being immediately following a daylight saving time change; and

WHEREAS, the Daylight Act would empower states to address the aforementioned problems by allowing them to disband daylight saving time in the way they best see fit:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to enact H.R. 1601, 116th Cong. (2019), the Daylight Act.

BE IT FURTHER RESOLVED that the members of Utah's congressional delegation are urged to support the Daylight Act.

BE IT FURTHER RESOLVED that a copy of this resolution be mailed to each member of Utah's congressional delegation.

H.J.R. 17

Passed March 14, 2019
Effective March 14, 2019

JOINT RESOLUTION ON THE FORMATION OF PUBLIC LAND MANAGEMENT PLANS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint resolution expresses support for a process of forming land use plans for certain federally managed public lands in the state.

Highlighted Provisions:

This resolution:

- ▶ affirms the state's commitment to its public lands;
- ▶ asserts that the state should form legislatively approved land use plans for federally managed public lands in the state to better ensure that the land management reflects state and local interests;
- ▶ recognizes the Commission for the Stewardship of Public Lands as the appropriate legislative entity to oversee the formation of the land use plans;
- ▶ identifies certain areas of federally managed public lands that are of heightened concern to the state; and
- ▶ supports the Commission for the Stewardship of Public Lands issuing a request for proposals to hire a consultant to form land use plans for federally managed public lands that are of heightened concern to submit to the Legislature for its approval.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah is a premier public lands state and is committed to remaining a public lands state;

WHEREAS, Utah's public lands provide unique opportunities for outdoor recreation including motorized recreation, skiing, camping, hunting, fishing, biking, rock climbing, and spelunking in addition to economic opportunities like responsible timber harvesting, mineral development, wind and solar energy development, and livestock grazing;

WHEREAS, the federal government controls more than 66% of all land in the state of Utah;

WHEREAS, the current condition of a significant portion of the federally managed public lands in the state has jeopardized Utah communities, forests, wildlife, economies, recreational opportunities, water quality, and air quality;

WHEREAS, the management of federally managed public lands in the state has infringed upon and undermined the jurisdiction and duties of the state of Utah to protect the health, safety, and welfare of its citizens;

WHEREAS, there are certain areas of federally managed public lands that are of heightened concern to the state, including the Bears Ears National Monument, the Grand Staircase-Escalante National Monument, certain areas in Emery County, and certain areas of the central Wasatch Range;

WHEREAS, the Federal Land Policy and Management Act (FLPMA) requires the Secretary of the Interior (Secretary) to form land use plans for federally managed public lands;

WHEREAS, the Secretary's land use plans must be "consistent with State and local plans to the maximum extent [the Secretary] finds consistent with Federal law and the purposes of [FLPMA].";

WHEREAS, the state of Utah has not formed legislatively approved land use plans for the state's federally managed public lands;

WHEREAS, the state is committed to improving the way public lands are managed in the state;

WHEREAS, in 2018, the Legislature adopted a statewide resource management plan that addresses natural resources on federally managed public lands and was the result of significant public input and a collaborative effort between the state and each of Utah's 29 counties;

WHEREAS, the Utah Public Land Management Act, enacted in 2016, and the Utah Wilderness Act, enacted in 2014, provide a legislative framework for caring for Utah's public lands;

WHEREAS, local jurisdictions have done significant work regarding the management of federally managed public lands based on extensive public input;

WHEREAS, the state of Utah, not the federal government, is in the best position to form land use plans that ensure appropriate conservation, secure

public access, encourage multiple use, grow the economy, and sustain proper land management;

WHEREAS, forming land use plans for federally managed public lands will give the state greater and more appropriate control over the land use plans used to manage federally managed public lands in the state;

WHEREAS, in 2014 the Utah Legislature established the Commission for the Stewardship of Public Lands, in part, to make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands; and

WHEREAS, the Commission for the Stewardship of Public Lands has the responsibility to oversee the formation of land use plans for federally managed public lands in the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the importance of the state forming legislatively approved land use plans for federally managed public lands in the state, especially those of heightened concern.

BE IT FURTHER RESOLVED that the land use plans draw upon and integrate work already completed in the area of public land management, including the efforts of local jurisdictions, the statewide resource management plan, and existing state law.

BE IT FURTHER RESOLVED that the Legislature supports the Commission for the Stewardship of Public Lands issuing a request for proposals to hire a consultant to form land use plans for federally managed public lands that are of heightened concern to submit to the Legislature for its approval.

H.J.R. 18

Passed March 13, 2019
Effective March 13, 2019

**JOINT RULES RESOLUTION
ON BASE BUDGETING PROVISIONS**

Chief Sponsor: Jefferson Moss
Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This resolution modifies joint rules related to base budgeting.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ requires every appropriations subcommittee to create an accountable process budget for a percentage of the subcommittee's budgets each interim; and
- ▶ modifies provisions governing appropriations subcommittee meetings.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

- JR3-2-101
- JR3-2-402
- JR3-2-501
- JR4-2-406

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-101 is amended to read:

JR3-2-101. Definitions.

As used in this chapter:

(1) "Accountable process budget" means a budget that is created by starting from zero and adding line items and programs recommended through an accountable budget process.

(2) "Accountable budget process" means a review of a line item or program in a simple base budget to determine whether or the extent to which to recommend the line item or program be included in a budget for the upcoming fiscal year.

(3) "Base budget" means:

(a) an accountable process budget; or

(b) for a line item or program that was not the subject of an accountable process budget analysis during the immediately preceding interim, a simple base budget.

(4) "Chair" means:

(a) the chair of an appropriations subcommittee or the Executive Appropriations Committee; or

(b) a member of a joint appropriations subcommittee or the Executive Appropriations Committee member who is authorized to act as chair under JR3-2-303.

(5) "Committee" means a joint appropriations subcommittee or the Executive Appropriations Committee.

(6) "Majority vote" means a majority of a quorum as provided in JR3-2-404.

(7) "Original motion" means a non-privileged motion that is accepted by the chair when no other motion is pending.

(8) "Pending motion" refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

(9) (a) "Privileged motion" means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) "Privileged motions" are not substitute motions.

(10) "Proposed budget item" means any item under consideration by an appropriations committee for inclusion in an appropriations bill.

(11) (a) "Simple base budget" means amounts appropriated by the Legislature for each line item for the current fiscal year that:

(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) "Simple base budget" includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

[~~(8)~~] (12) "Substitute motion" means a non-privileged motion that is made when a non-privileged motion is pending.

[~~(9)~~] (13) "Under consideration" means the time starting when a chair opens a discussion on a subject or an appropriations request that is listed on a committee agenda and ending when the committee disposes of the subject or request, moves on to another item on the agenda, or adjourns.

Section 2. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

[~~(1) As used in this rule:~~]

[~~(a) "Base budget" means amounts appropriated by the Legislature for each item of appropriation for the current fiscal year that:~~]

[~~(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and~~]

[~~(ii) were not vetoed by the governor, unless the Legislature overrode the veto.~~]

[~~(b) "Base budget" includes:~~]

[~~(i) any changes to those amounts approved by the Executive Appropriations Committee; and~~]

[~~(ii) amounts appropriated for debt service.~~]

[~~(2)~~] (1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

- (A) debt;
- (B) long term liabilities;
- (C) contingent liabilities;
- (D) General Fund borrowing;
- (E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) approve the appropriate amount for each subcommittee to use in preparing its budget;

(vii) set a budget figure; and

(viii) adopt a base budget in accordance with Subsection [~~(2)~~] (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection [~~(2)~~] (1)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection [~~(2)~~] (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection [~~(2)~~] (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection [~~(2)~~] (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection [~~(2)~~] (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

[3] (2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

[4] (3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

[5] (4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the 39th day of the annual general session.

Section 3. JR3-2-501 is amended to read:

JR3-2-501. Meetings -- Accountable process budget creation -- Appropriation reviews.

(1) (a) During the interim, the Executive Appropriations Committee shall meet at least every other month on the day before interim meetings.

(b) The appropriations subcommittee chairs may attend these meetings and provide input regarding their budget.

(2) Appropriation subcommittees shall meet at least once during the interim and may also hold additional meetings if authorized by the Legislative Management Committee.

(3) (a) Each interim, each appropriations subcommittee shall create an accountable process budget for approximately 20% of the budgets that fall within the appropriation subcommittee's responsibilities.

(b) Each appropriations subcommittee shall ensure that each of the budgets for which the appropriations subcommittee has responsibility is the subject of an accountable budget process at least once every five years.

[3] (4) (a) The Executive Appropriations Committee may, based on a legislator's or citizen's complaint, review any appropriation, whether in an appropriations bill or otherwise, to ensure that the entity to which the funds were appropriated complies with any legislative intent expressed in the legislation appropriating the funds.

(b) If the Executive Appropriations Committee finds that an entity has not complied with any

legislative intent concerning an appropriation expressed in the legislation appropriating the fund, the committee may make a recommendation concerning the appropriation to the entity receiving the funds and the Legislative Management Committee.

Section 4. JR4-2-406 is amended to read:

JR4-2-406. Funding mix for state employee compensation adjustments and internal service fund rate impacts.

(1) The legislative fiscal analyst shall prepare a budget for state employee compensation adjustments and internal service fund rate impacts that minimizes costs to the unrestricted General Fund, Education Fund, and Uniform School Fund, by:

(a) using a mix of funding sources that is proportionate to that of the base budget, as defined ~~under Joint Rule 3-2-402~~ in JR3-2-101, at the appropriation unit level for the same budget year;

(b) including sources other than the unrestricted General Fund, Education Fund, and Uniform School Fund, regardless of the availability of additional revenue;

(c) adjusting the funding mix when the full or partial use of one or more sources is directed in statute, federal regulation, or the terms of a federal grant; and

(d) adjusting the funding mix based on the appropriate use of funding sources other than the unrestricted General Fund, Education Fund, and Uniform School Fund, transportation-related funds, federal funds, restricted accounts, and dedicated credits.

(2) When the legislative fiscal analyst adjusts the funding mix in accordance with Subsection (1)(c) or (d), the legislative fiscal analyst shall:

(a) eliminate the appropriate portion of the source from the funding mix;

(b) deduct the amount associated with the source from the base budget total;

(c) recalculate the proportional distribution among remaining sources; and

(d) distribute the appropriate budget adjustment amounts accordingly.

(3) If the legislative fiscal analyst identifies a funding mix that would provide additional spending authority for sources other than the unrestricted General Fund, Education Fund, and Uniform School Fund and additional revenue is unavailable, in accordance with Subsection (1)(b), an agency may make or request program reductions, reprioritizations, reallocations, or fee increases pursuant with Utah Code Title 63J, Chapter 1, Budgetary Procedures Act.

(4) The legislative fiscal analyst shall request that an internal service fund agency reflect state employee compensation adjustments and impacts from rate changes in other internal funds in the

rates recommended by the internal service fund agency for a given budget cycle, either:

(a) on a prospective basis for the budget year, based on an estimated amount; or

(b) on a one-year lag basis, if the specific internal service fund has sufficient operating reserves to maintain the internal service fund's fiscal integrity.

(5) (a) The Executive Appropriations Committee may approve for one fiscal year exceptions to the budget preparation criteria described in Subsections (1) through (4).

(b) The legislative fiscal analyst shall prepare a budget that includes exceptions approved by the Executive Appropriations Committee under this Subsection (5).

(c) The Executive Appropriations Committee shall annually determine whether to re-approve an exception approved by the Executive Appropriations Committee under this Subsection (5).

H.J.R. 19

Passed March 8, 2019
Effective March 8, 2019

JOINT RESOLUTION DIRECTING A STUDY OF BLOCKCHAIN TECHNOLOGY

Chief Sponsor: Michael K. McKell
Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This resolution directs a legislative study of blockchain technology.

Highlighted Provisions:

This resolution:

- ▶ recognizes the potential benefits and applications of blockchain technology; and
- ▶ directs the Business and Labor Interim Committee to study and make legislative recommendations regarding the potential benefits and value of blockchain technology, including potential uses in state government.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, blockchain is a decentralized distributed ledger technology that allows creation, validation, and encrypted transaction of digital assets to happen and be recorded in an incorruptible way;

WHEREAS, blockchain allows peer-to-peer and business-to-business transactions to be completed without the need for a third party, which is often a bank, effectively reducing transaction costs;

WHEREAS, recording transactions through blockchain virtually eliminates human error and protects the data from possible tampering;

WHEREAS, the global blockchain market is expected to be worth \$20 billion by 2024, and 90% of major North American and European banks are exploring blockchain solutions;

WHEREAS, a hyperconnected government enables unprecedented transparency and efficiency where services are tailored to an individual's needs; and

WHEREAS, instead of using blockchain technology only for currency, new blockchain systems could focus on other types of transactions, such as exchanging titles for houses or cars, essentially decentralizing the infrastructure for these sales and making them faster and cheaper compared to what would normally be a slow complicated trudge through bureaucracy;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah directs that, before the 2020 Annual General Session, the Business and Labor Interim Committee study the potential benefits and value of blockchain technology, including the potential benefits and value it could provide to state government administration and affairs.

BE IT FURTHER RESOLVED that the Business and Labor Interim Committee, based on its study of blockchain technology, prepare any legislation it finds appropriate for consideration by the Legislature during the 2020 Annual General Session.

H.J.R. 20

Passed March 14, 2019
Effective March 14, 2019

JOINT RESOLUTION ON DRONE SAFETY

Chief Sponsor: Adam Robertson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This resolution recognizes the Know Before You Fly program as an official source of safety education for operators of unmanned aircraft systems in Utah.

Highlighted Provisions:

This resolution:

- ▶ describes the growth of the use of unmanned aircraft systems;
- ▶ explains safety concerns related to unmanned aircraft systems; and
- ▶ recognizes the Know Before You Fly program as an official source of safety education for operators of unmanned aircraft systems in Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the safe integration of unmanned aircraft systems into the National Airspace System promises to drive new economic development and consumer choice, promote more responsible

stewardship of natural resources, facilitate more effective emergency response and disaster recovery, and improve the efficiency and security of energy, transportation, and communications networks;

WHEREAS, direct operation of unmanned aircraft systems for both commercial and noncommercial use is growing rapidly, with more than 1,000,000 aircraft already registered;

WHEREAS, the development and adoption of services provided by unmanned aircraft systems is expected to generate billions of dollars of new economic activity and create thousands of new jobs in the United States;

WHEREAS, the safe operation of unmanned aircraft systems for both noncommercial and commercial purposes is necessary for continued innovation, economic activity, and public benefit;

WHEREAS, prospective operators of unmanned aircraft systems must understand and abide by relevant requirements and limitations to ensure the safe operation of such systems;

WHEREAS, the regulatory framework for unmanned aircraft systems continues to develop, including steps by the Federal Aviation Administration to integrate unmanned aircraft systems into the National Airspace System and the issuance of operational requirements for small unmanned aircraft systems operations in the airspace;

WHEREAS, easily accessible and freely available information regarding current guidance for safe and responsible unmanned aircraft systems operations provides certainty to unmanned aircraft system owners and operators, maximizes the public benefits of unmanned aircraft systems, and mitigates risks to public safety and security;

WHEREAS, Know Before You Fly is an education campaign founded by the Association for Unmanned Vehicle Systems International and the Academy of Model Aeronautics, in partnership with the Federal Aviation Administration, to educate prospective users about the safe and responsible operation of unmanned aircraft systems; and

WHEREAS, the Know Before You Fly educational campaign has developed relationships with more than 150 supporters, including unmanned aircraft manufacturers, law enforcement agencies, retailers, labor organizations, and institutions of higher education;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes and supports the Know Before You Fly program as an official source of safety education for prospective and active operators of unmanned aircraft systems in Utah.

H.J.R. 21

Passed March 6, 2019

Effective March 6, 2019

JOINT RESOLUTION REAFFIRMING THE VALUE OF WOMEN

Chief Sponsor: Karen Kwan
 Senate Sponsor: Evan J. Vickers
 Cosponsors: Joel K. Briscoe
 Kim F. Coleman
 Jennifer Dailey-Provost
 Timothy D. Hawkes
 Eric K. Hutchings
 Marsha Judkins
 Brian S. King
 Val K. Potter
 Andrew Stoddard
 Mark A. Wheatley
 Brad R. Wilson
 Mike Winder

LONG TITLE

General Description:

This resolution relates to women’s equal political rights.

Highlighted Provisions:

This resolution:

- ▶ reaffirms women’s equal political, civil, and religious rights contained in the Utah Constitution; and
- ▶ recommends the inclusion of similar language in the United States Constitution.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Article IV, Section 1 of the Utah Constitution, adopted in 1895, states: “The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges.”;

WHEREAS, when Utah joined the nation in 1896 as the third state to include women’s voting rights in its constitution, Anna Howard Shaw, one of the nation’s greatest suffrage leaders, expressed no surprise that the men of Utah had chosen to lead in this way. She said, “Utah is . . . dear to the heart of every woman who loves liberty in these United States.”;

WHEREAS, suffragist Alice Paul, in drafting the language of the Equal Rights Amendment, was advised by Utah Senator George Sutherland, who drew upon Article IV, Section 1 of the Utah Constitution;

WHEREAS, Utah should tout our history of being a leader in equal political rights;

WHEREAS, on February 14, 1870, Seraph Young, the grandniece of Brigham Young, was the first woman to legally cast a vote in any election in the United States;

WHEREAS, in Utah in 1896, Dr. Martha Hughes Cannon became the first woman in the United

States ever to be elected as a state senator, and a statute of her will join that of Brigham Young in the National Statuary Hall in Washington, D.C., recognizing Martha Hughes Cannon as a pioneer for women’s equality in government;

WHEREAS, Utah should tout other important firsts, including:

- Christine M. Burckle, who in 2016 began serving as Utah’s first female Brigadier General of the Utah National Guard; and
- Rosie Rivera, who in 2017 became the first female sheriff in Utah and the second Latina sheriff in the United States;

WHEREAS, Utah must reaffirm this historical example of women leadership and highlight the advances of Utah women today, including:

- women presidents of five of the nine institutions of higher education in the state;
- a woman currently serving as the State Superintendent of Public Instruction, the latest of many women who have served in that role;
- 24% of current Utah legislators who are women, seven of whom (three House and four Senate, four of whom are women of color) hold legislative leadership positions;
- a current majority of women judges on the Utah Court of Appeals; and
- many women mayors, city and county council and commission members, and school board members throughout the state;

WHEREAS, Utah has had women lead in all three branches of government, including:

- Rebecca D. Lockhart, who served as speaker of the House of Representatives from 2010 to 2014;
- Christine M. Durham, who was appointed to the Utah Supreme Court in 1982 and served with distinction for 35 years, including ten years as chief justice; and
- Olene S. Walker, who served as lieutenant governor in Utah (1993-2003) and then as governor (2003-05);

WHEREAS, there is reason to celebrate the historic and ongoing accomplishments of women and their role in numerous positions of importance in the state and to affirm the autonomy and independence of women to pursue opportunities to serve as elected, appointed, and hired leaders in the state, and to recognize our historical roots of women’s equal political rights; and

WHEREAS, Utah’s state constitution is a shining example to the nation that women everywhere shall have equal political rights and enjoy equally all civil, political, and religious rights and privileges:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah reaffirms the equal political, civil, and religious rights and privileges

granted by the Utah Constitution for both men and women.

BE IT FURTHER RESOLVED that the Legislature reaffirms Utah as a state that has a long and rich history and tradition of protecting and advancing women’s rights and interests.

BE IT FURTHER RESOLVED that the Legislature recommends that the language and intent of the Utah Constitution provision guaranteeing equal political rights be considered for inclusion in the United States Constitution and in the formation of policy and regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to each member of the Utah Congressional delegation, the president pro tempore of the United States Senate, and the speaker of the United States House of Representatives.

H.J.R. 22

Passed March 13, 2019
Effective May 14, 2019

**JOINT RULES RESOLUTION -
BOARDS AND COMMISSIONS
PROCESS AMENDMENTS**

Chief Sponsor: John Knotwell
Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This joint rules resolution addresses boards and commissions.

Highlighted Provisions:

This resolution:

- ▶ defines terms;
- ▶ requires the Legislative Management Committee to review legislation that increases legislative workload;
- ▶ requires legislation that increases legislative workload to include certain sunset or repeal provisions; and
- ▶ requires a sunset review for the International Relations and Trade Committee.

Special Clauses:

This resolution provides a special effective date.

Legislative Rules Affected:

ENACTS:
JR3-4-102
JR4-3-110

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-4-102 is enacted to read:

JR3-4-102. Repeal of committee -- Review.

- (1) This chapter is repealed July 1, 2023.
- (2) The Economic Development and Workforce Services Interim Committee shall:
 - (a) review this chapter during the 2022 interim to evaluate whether the International Relations and

Trade Committee created in this chapter should continue to function; and

(b) if the committee determines the International Relations and Trade Committee should continue to function, prepare legislation to amend or repeal Subsection (1) accordingly.

Section 2. JR4-3-110 is enacted to read:

JR4-3-110. Legislation increasing legislative workload -- Legislative Management Committee review -- Sunset dates.

(1) (a) As used in this section, "increases legislative workload" means to:

(i) place a member of the Legislature on a board, commission, task force, or other body; or

(ii) give authority to a member of the Legislative Management Committee to appoint a member of a board, commission, task force, or other body.

(b) "Increases legislative workload" includes reauthorizing an existing provision described in Subsection (1)(a).

(2) (a) The Legislative Management Committee shall review legislation that increases legislative workload:

(i) in accordance with Subsection (2)(b); and

(ii) if practicable, before the legislation passes both houses of the Legislature.

(b) When reviewing legislation that increases legislative workload, the Legislative Management Committee shall consider:

(i) the funding required by the legislation;

(ii) the staffing resources required to implement the legislation;

(iii) the time legislators and legislative staff will be required to commit as a result of the legislation;

(iv) if the legislation creates or reauthorizes a board, commission, task force, or other body, whether the responsibilities of that board, commission, task force, or other body could reasonably be accomplished through an existing entity or without legislation; and

(v) whether the legislation complies with Subsection (3).

(c) The Office of Legislative Research and General Counsel shall assist the Legislative Management Committee in identifying:

(i) legislation that increases legislative workload; and

(ii) information described in Subsection (2)(b) related to legislation that increases legislative workload.

(3) Legislation that increases legislative workload shall include a sunset or repeal date on

the provision that creates the board, commission, task force, or other body that is related to the increase.

Section 3. Effective date.

This resolution takes effect on May 14, 2019.

H.J.R. 28

Passed March 12, 2019

Effective March 12, 2019

**JOINT RESOLUTION REGARDING
APPROVAL OF SETTLEMENT
AGREEMENT**

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This resolution grants the Legislature's approval for certain state entities to enter into a settlement agreement to resolve a pending lawsuit.

Highlighted Provisions:

This resolution:

- ▶ gives approval to the settlement agreement negotiated by the parties and approved by the governor in the case Christensen et al. v. Miner et al., Case No. 2:18-cv-0037 (United States District Court for the District of Utah).

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Department of Health and other state entities and employees of Utah were sued by the Disability Law Center and a prospective class of Utah Medicaid eligible individuals with intellectual or developmental disabilities;

WHEREAS, the parties have entered into a final settlement agreement;

WHEREAS, pursuant to Utah Code Section 63G-10-302, the governor has approved that settlement agreement;

WHEREAS, Utah Code Section 63G-10-303 requires the Legislature to approve a settlement agreement that legally binds the state to take action that might cost government entities more than \$1,000,000 to implement; and

WHEREAS, the cost of implementing the settlement agreement will exceed \$1,000,000:

NOW, THEREFORE, BE IT RESOLVED by the Legislature that the Legislature approves the final draft of the settlement agreement and action plan in the case of Christensen et al. v. Miner et al.

H.R. 2

Passed February 21, 2019
Effective February 21, 2019

**HOUSE RULES RESOLUTION -
HOUSE FLOOR CONDUCT**

Chief Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This House resolution addresses conduct on the House floor.

Highlighted Provisions:

This resolution:

- ▶ provides that a representative may invite one guest who is not a lobbyist to accompany the representative on the House floor while the House is in session;
- ▶ addresses a guest's conduct on the House floor, including where the guest may sit; and
- ▶ makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR2-4-101.2
HR2-4-102

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR2-4-101.2 is amended to read:

**HR2-4-101.2. Admittance to House floor --
Prohibition against lobbying on House
floor -- Rules for lobbyists on House floor.**

(1) ~~[While]~~ Except as otherwise provided in this rule, while the House is convened in annual general session or special session, only the following individuals are permitted on the House floor:

- (a) a legislator;
- (b) a member of House or Senate staff;
- (c) a member of professional legislative staff;
- (d) a House intern;
- (e) a former legislator who is not a lobbyist; and
- (f) the governor, lieutenant governor, state attorney general, state treasurer, and state auditor.

(2) (a) While the House is convened in annual general session or special session, a representative may invite one ~~[of the following individuals as a]~~ guest who is not a lobbyist to accompany the representative on the House floor, provided that:

~~[(i) a member of the representative's immediate family;]~~

~~[(ii) an administrative assistant other than a House intern; or]~~

~~[(iii) a constituent who resides in the member's district.]~~

(i) the guest sits on a bench on the House floor or sits next to the representative;

(ii) the representative ensures that the guest does not impede staff work, distract from the work of the House, or encroach on a neighboring representative's desk;

(iii) the guest complies with the requirements of this rule, HR2-4-102, and HR2-4-103; and

(iv) no representative makes an objection in accordance with this subsection.

(b) A representative who believes that another representative's guest is impeding staff work, distracting from the work of the House, or intruding on the representative's desk space may communicate the representative's objection to the representative who invited the guest or through the majority leader, the minority leader, or the speaker.

~~[(b)]~~ (c) A representative may have no more than one guest on the House floor at any one time.

~~[(c) A representative who invites a guest onto the House floor shall:]~~

~~[(i) if the guest is not seated next to the representative as permitted under HR2-4-102, ensure that the guest sits on a bench on the House floor, provided that seating is available; and]~~

~~[(ii) ensure that the guest stays only for a short visit not to exceed one hour.]~~

(3) A lobbyist, a guest, or an individual described in Subsection (1)(e)[~~5~~] or Subsection (1)(f)[~~5~~ or Subsection (2)] is prohibited from lobbying on the House floor.

(4) (a) Except as provided in this Subsection (4), a lobbyist is not permitted on the House floor.

(b) A representative sponsoring a piece of legislation being debated by the House may invite one lobbyist with expertise on the legislation being considered to be present on the House floor during the presentation and debate on the legislation, if:

(i) the representative informs the sergeant-at-arms that the lobbyist is present on the House floor;

(ii) the representative ensures that the lobbyist is seated on a bench on the House floor during the presentation and debate on the legislation;

(iii) the representative ensures that the lobbyist does not engage in lobbying on the House floor; and

(iv) the lobbyist leaves the House floor when the House moves to another item of business.

(c) If the representative sponsoring the legislation needs the assistance of the lobbyist during the course of debate on the legislation, the representative may request permission of the speaker to have the lobbyist approach the representative sponsoring the legislation to provide the needed information to the representative.

(5) The speaker or the speaker's designee may authorize special guests to be present in the House chamber or on the House floor.

~~[(6) A representative who is visited by two or more guests shall arrange with the sergeant-at-arms for the guests to be seated in the House gallery.]~~

Section 2. HR2-4-102 is amended to read:

HR2-4-102. Representatives' chairs and seating on the House floor.

(1) No one other than the speaker may occupy the chair or use the desk of the speaker, without the speaker's authorization.

(2) When the House is convened in session, only the representative assigned to a desk and chair may occupy the chair or use the desk, except that a legislator may sit in the chair of another legislator.

(3) ~~[When] In accordance with HR2-4-101.2, when the House is convened in session, a representative may invite one individual to sit next to the representative on the House floor, if the representative complies with the requirements of HR2-4-101.2 and the invited individual is:]~~

~~[(a) another legislator;]~~

~~[(b) a member of House or Senate staff;]~~

~~[(c) a member of professional legislative staff;]~~

~~[(d) a House intern;]~~

~~[(e) a member of the representative's immediate family;]~~

~~[(f) a constituent who resides in the representative's district; or]~~

~~[(g) a special guest who is authorized to access the House floor under HR2-4-101.2(5).]~~

H.R. 3

Passed February 19, 2019
Effective February 19, 2019

**HOUSE RESOLUTION SUPPORTING
HUMANE RESPONSE TO
REFUGEE CRISES**

Chief Sponsor: Jennifer Dailey-Provost

Cosponsors: Patrice M. Arent

Susan Duckworth

Suzanne Harrison

Jon Hawkins

Sandra Hollins

Marsha Judkins

Brian S. King

John Knotwell

Karen Kwan

Phil Lyman

Stephanie Pitcher

Marie H. Poulson

Marc K. Roberts

Angela Romero

Lawanna Shurtliff

Andrew Stoddard

Steve Waldrip

Elizabeth Weight
Mark A. Wheatley

LONG TITLE

General Description:

This House resolution urges a humane response to the humanitarian crises at the U.S.-Mexico border.

Highlighted Provisions:

This resolution:

- ▶ recognizes the plight of millions of people who fled their country seeking relief from civil conflict or other hardships; and
- ▶ opposes separating children from their families at the U.S.-Mexico border.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the U.S. Department of Justice has adopted a zero tolerance policy toward individuals apprehended at the U.S.-Mexico border, which calls for the criminal prosecution of all migrants entering the United States outside of ports of entry;

WHEREAS, the effects of this policy have been costly, unnecessarily punitive, and harmful to family units;

WHEREAS, on June 19, 2018, officials confirmed, in compliance with this policy, that 2,342 children had been separated from their parents at the U.S.-Mexico border between May 5 and June 9, 2018 (an average of 65 children each day);

WHEREAS, it has been reported that children have been held at the U.S.-Mexico border in unsanitary and overcrowded conditions beyond the legally mandated 72-hour period;

WHEREAS, many of the affected families are fleeing violence in their home countries and it is inhumane to punish them for claiming refuge or asylum in the United States;

WHEREAS, individuals claiming refugee or asylee status have a right under U.S. law to due process;

WHEREAS, the zero tolerance policy that has separated children from their families has threatened the moral core of our nation;

WHEREAS, forced family separation and the intentional infliction of injury on children are reprehensible and contrary to American values;

WHEREAS, Utah supports, values, and respects asylees and refugees regardless of their immigration status;

WHEREAS, Utah believes that families, including refugee and asylee families, are a core and vital building block of the community;

WHEREAS, Utah believes in the words of Emma Lazarus, etched on a plaque at the Statue of Liberty, Mother of Exiles, "Give me your tired, your poor Your huddled masses yearning to breathe free Send these, the homeless, tempest-tossed to me";

WHEREAS, Utah is a state founded and populated by individuals fleeing violence and persecution, and consequently has a rich history of being a place of refuge;

WHEREAS, Utah recognizes that children growing up without their parents suffer lasting negative impacts on their development and future success;

WHEREAS, the long-term negative psychological effects of family separation have significant and long-term consequences;

WHEREAS, various private, public, and faith communities have a long standing commitment to supporting policies that encourage keeping families whole; and

WHEREAS, Utah has a long and rich history of prioritizing policies that keep families intact and healthy;

NOW, THEREFORE, BE IT RESOLVED that the House of Representative of the state of Utah recognizes with great concern and compassion the plight of millions of people around the world who have fled their homes seeking relief from civil conflict or other hardships.

BE IT FURTHER RESOLVED that Utah supports a humane response to the humanitarian crises at the U.S.-Mexico border.

BE IT FURTHER RESOLVED that Utah affirms the rights of all families, regardless of immigration status to be together and strongly opposes separating children from their families at the U.S.-Mexico border.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to members of the Utah congressional delegation, the President of the United States, the U.S. Department of Justice, the U.S. Department of Homeland Security, and the Governor of this state.

H.R. 4

Passed March 8, 2019
Effective March 8, 2019

RULES RESOLUTION ON HOUSE RULES

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This rules resolution amends House rules governing standing committees and floor conduct and procedures.

Highlighted Provisions:

This resolution:

- ▶ addresses the duties of the sergeant-at-arms and the employees under the sergeant's direction;
- ▶ prohibits certain items from the House gallery;

- ▶ modifies the circumstances under which the governor, the lieutenant governor, the state attorney general, the state treasurer, the state auditor, governor's staff, and certain former legislators may be present on the House floor and in House space;
- ▶ provides that a guest who accompanies a representative on the House floor shall sit next to the representative;
- ▶ allows a standing committee chair or vice chair to designate a member of the standing committee to conduct a meeting of the standing committee;
- ▶ modifies the list of motions that are prohibited in a standing committee meeting;
- ▶ prohibits a motion to lift tabled legislation from a standing committee or the House Rules Committee and place it on the third reading calendar; and
- ▶ makes technical and conforming changes.

Special Clauses:

This resolution provides a coordination clause.

Legislative Rules Affected:

AMENDS:

- HR1-4-202
- HR2-2-103
- HR2-4-101
- HR2-4-101.2
- HR2-4-101.3
- HR2-4-101.4
- HR2-4-102
- HR3-2-202
- HR3-2-317
- HR3-2-406
- HR3-2-407
- HR3-2-408
- HR3-2-510
- HR3-2-511
- HR4-4-203

Legislative Rules Affected by Coordination Clause:

- HR2-4-101.2
- HR2-4-102

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-4-202 is amended to read:

HR1-4-202. Duties of the sergeant-at-arms.

The sergeant-at-arms and the employees under the sergeant's direction shall:

- (1) maintain security in areas controlled by the House;
- (2) enforce the House Rules at the direction of the presiding officer of the House;
- (3) enforce the provision of Utah Code Title 26, Chapter 38, Utah Indoor Clean Air Act, in areas controlled by the House; ~~and~~

(4) when the House is convened in annual general session or special session, receive and, in coordination with the chief clerk, transmit written messages to representatives on the House floor from or on behalf of individuals who are present at the capitol; and

[4] (5) provide other service as requested by the chief clerk or the speaker.

Section 2. HR2-2-103 is amended to read:

HR2-2-103. Disorderly conduct in House -- Items prohibited in House gallery.

(1) (a) The speaker or presiding officer may order the House areas or gallery cleared if a disturbance occurs.

[2] (b) The sergeant-at-arms shall enforce this ~~rule~~ subsection in the areas controlled by the House.

(2) Signs, banners, placards, and other similar materials are prohibited in the House gallery.

Section 3. HR2-4-101 is amended to read:

HR2-4-101. Definitions.

As used in this chapter:

(1) "Former legislator" means a person who is not a current member of the Legislature, but who served in the Utah House or Utah Senate at one time.

[2] "Governor's staff" means:

~~[(a) a person employed directly by the Office of the Governor or the Office of the Lieutenant Governor; and]~~

~~[(b) the director of the Office of Planning and Budget.]~~

[3] (2) (a) "Guest" means an individual who is afforded access to the House space under a provision of this chapter, who is not an individual described in Subsection [3] ~~(b)~~ (2)(c) or a special guest as described under HR2-4-101.2(5).

(b) "Guest" includes:

(i) the governor, the lieutenant governor, the state attorney general, the state treasurer, the state auditor, and governor's staff; and

(ii) a former legislator who is an individual described in Subsection (2)(b)(i).

~~[(b)] (c) "Guest" does not mean a legislator, a member of House or Senate staff, a member of professional legislative staff, a House intern, or a lobbyist[, the governor, the lieutenant governor, the state attorney general, the state treasurer, or the state auditor].~~

[4] (3) "House conference rooms" means one of the conference rooms adjacent to the House lounge, speaker's office, or the majority caucus room.

[5] (4) "House halls" means the passageways that allow access to:

- (a) the House chamber;
- (b) the House lounge;
- (c) the House offices; or

(d) any other nonpublic areas adjoining the House chamber.

[6] (5) "House intern" means an individual who is:

(a) an official participant in the student intern program sponsored by the Utah Legislature and administered by the Office of Legislative Research and General Counsel; and

(b) is assigned to a representative.

[7] (6) "House offices" means:

(a) Representatives' offices adjacent to the House chamber;

(b) Representatives' offices on the third and fourth floors of the capitol building;

(c) Representatives' offices in the House building; and

(d) kitchens, restrooms, elevators, and any auxiliary rooms in the nonpublic areas connected with the offices listed above.

[8] (7) "House or Senate staff" means an individual who is employed directly by the House or Senate.

[9] (8) (a) "House space" means the House chamber, House lounge, House offices, House halls, and House conference rooms.

(b) "House space" does not mean the common public space outside the House chamber.

[10] (9) "Immediate family" means any parent, spouse, child, grandparent, grandchild, great-grandparent, great-grandchild, sibling, aunt, uncle, niece, or nephew of a member of the House, provided that the individual is not a lobbyist.

[11] (10) "Lobbying" means communicating with a legislator for the purpose of influencing the passage, defeat, amendment, or postponement of legislative action.

[12] (11) "Lobbyist" means an individual who is required to register as a lobbyist by Utah Code Section 36-11-103.

[13] (12) "Professional legislative staff" means an individual employed by one of the Legislature's profession-based staff offices, namely the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, the Office of the Legislative Auditor General, or the Office of Legislative Printing.

Section 4. HR2-4-101.2 is amended to read:

HR2-4-101.2. Admittance to House floor -- Prohibition against lobbying -- Rules for lobbyists on House floor.

(1) ~~[While]~~ Except as otherwise provided in this rule, while the House is convened in annual general session or special session, only the following individuals are permitted on the House floor:

- (a) a legislator;
- (b) a member of House or Senate staff;
- (c) a member of professional legislative staff;

- (d) a House intern; and
- (e) a former legislator who is not ~~[a lobbyist; and];~~
- (i) a lobbyist; or

~~[(f)]~~ (ii) the governor, lieutenant governor, state attorney general, state treasurer, ~~[and]~~ or state auditor.

(2) (a) While the House is convened in annual general session or special session, a representative may invite one ~~[of the following individuals as a]~~ guest who is not a lobbyist to accompany the representative on the House floor, provided that:

~~[(i) a member of the representative's immediate family;]~~

~~[(ii) an administrative assistant other than a House intern; or]~~

~~[(iii) a constituent who resides in the member's district.]~~

- (i) the guest sits next to the representative;
- (ii) the representative ensures that the guest does not impede staff work, distract from the work of the House, or encroach on a neighboring representative's desk;

(iii) the guest complies with the requirements of this rule, HR2-4-102, and HR2-4-103; and

(iv) no representative objects.

(b) A representative may have no more than one guest on the House floor at any one time.

~~[(c) A representative who invites a guest onto the House floor shall:]~~

~~[(i) if the guest is not seated next to the representative as permitted under HR2-4-102, ensure that the guest sits on a bench on the House floor, provided that seating is available; and]~~

~~[(ii) ensure that the guest stays only for a short visit not to exceed one hour.]~~

(3) A lobbyist, a guest, or an individual described in Subsection (1)(e)~~], Subsection (1)(f), or Subsection (2)]~~ is prohibited from lobbying on the House floor.

(4) (a) Except as provided in this Subsection (4), a lobbyist is not permitted on the House floor.

(b) A representative sponsoring a piece of legislation being debated by the House may invite one lobbyist with expertise on the legislation being considered to be present on the House floor during the presentation and debate on the legislation, if:

(i) the representative informs the sergeant-at-arms that the lobbyist is present on the House floor;

(ii) the representative ensures that the lobbyist is seated on a bench on the House floor during the presentation and debate on the legislation;

(iii) the representative ensures that the lobbyist does not engage in lobbying on the House floor; and

(iv) the lobbyist leaves the House floor when the House moves to another item of business.

(c) If the representative sponsoring the legislation needs the assistance of the lobbyist during the course of debate on the legislation, the representative may request permission of the speaker to have the lobbyist approach the representative sponsoring the legislation to provide the needed information to the representative.

(5) The speaker or the speaker's designee may authorize special guests to be present in the House chamber or on the House floor.

~~[(6) A representative who is visited by two or more guests shall arrange with the sergeant-at-arms for the guests to be seated in the House gallery.]~~

Section 5. HR2-4-101.3 is amended to read:

HR2-4-101.3. Admittance to the House lounge.

(1) While the House is convened in annual general session or special session only the following individuals are permitted in the House lounge:

- (a) a legislator;
- (b) a member of House or Senate staff;
- (c) a member of professional legislative staff;
- (d) a member of the representative's immediate family;
- (e) a House intern;
- (f) a former legislator who is not ~~[a lobbyist];~~
- (i) a lobbyist; or

~~[(g)]~~ (ii) the governor, ~~[the]~~ lieutenant governor, ~~[the]~~ state attorney general, ~~[the]~~ state treasurer, ~~[and the]~~ or state auditor; and

~~[(h) the governor's staff, or a staff member for the attorney general, the state treasurer, or the state auditor; and]~~

~~[(i)]~~ (g) a lobbyist or guest as provided in Subsection (2).

(2) (a) A representative may invite a small number of lobbyists or guests to meet with the representative in the House lounge for the purpose of educating the lobbyists or guests about the legislative process or to discuss specific legislative issues.

(b) The representative shall ensure that the lobbyists and guests leave the House space when the meeting is over.

Section 6. HR2-4-101.4 is amended to read:

HR2-4-101.4. Admittance to the House offices, conference rooms, and halls.

(1) While the House is convened in annual general session or special session only the following individuals are permitted in the House offices:

- (a) a legislator;
- (b) a member of House or Senate staff;

- (c) a member of professional legislative staff;
- (d) a House intern;
- (e) a member of the representative's immediate family;
- (f) a former legislator who is not ~~[a lobbyist; and]~~:
- (i) a lobbyist; or
- (ii) the governor, lieutenant governor, state attorney general, state treasurer, or state auditor; and

(g) a lobbyist or guest, as provided in Subsection (3).

(2) An administrative assistant who is not a House intern is permitted in:

(a) the office of the representative who is employing the administrative assistant;

(b) the common areas of the House offices;

(c) a conference room in the House space, when meeting to discuss legislative business with a representative; and

(d) the office of another representative with the consent of that representative.

(3) (a) A representative may invite a small number of lobbyists or guests to meet with the representative in the representative's House office or a House conference room to discuss specific legislative issues.

(b) The representative shall ensure that the lobbyists and guests leave the House space when the meeting is over.

(4) (a) While the House is convened as a body on the House floor, and except as provided in Subsection (4)(b), only the following individuals are allowed in the House halls:

- (i) a legislator;
- (ii) a member of House or Senate staff;
- (iii) a member of professional legislative staff;
- (iv) a House intern;

(v) an administrative assistant who is not a House intern; and

(vi) a former legislator who is not ~~[a lobbyist; and]~~:

(A) a lobbyist; or

~~[(vii)]~~ (B) the governor, lieutenant governor, state attorney general, state treasurer, [and] or state auditor.

(b) Immediate family of a representative, a lobbyist, a guest, an administrative assistant who is not a House intern, or any other authorized individual who is in transit to the House chamber, House lounge, or House offices may pass through the House halls when traveling to and from an authorized destination.

(5) An administrative assistant to a representative who is not a House intern is not permitted to use or be issued an access badge that grants access to the House floor, House lounge, House offices, House conference rooms, or House hallways.

**Section 7. HR2-4-102 is amended to read:
HR2-4-102. Representatives' chairs and seating on the House floor.**

(1) No one other than the speaker may occupy the chair or use the desk of the speaker, without the speaker's authorization.

(2) When the House is convened in session, only the representative assigned to a desk and chair may occupy the chair or use the desk, except that a legislator may sit in the chair of another legislator.

(3) ~~[When]~~ In accordance with HR2-4-101.2, when the House is convened in session, a representative may invite one individual to sit next to the representative on the House floor ~~[if the representative complies with the requirements of HR2-4-101.2 and the invited individual is:]~~

~~[(a) another legislator;]~~

~~[(b) a member of House or Senate staff;]~~

~~[(c) a member of professional legislative staff;]~~

~~[(d) a House intern;]~~

~~[(e) a member of the representative's immediate family;]~~

~~[(f) a constituent who resides in the representative's district; or]~~

~~[(g) a special guest who is authorized to access the House floor under HR2-4-101.2(5).]~~

**Section 8. HR3-2-202 is amended to read:
HR3-2-202. Speaker to appoint committee members, chairs, and vice chairs.**

(1) The speaker of the House shall appoint members of the House to each standing committee.

(2) The speaker of the House shall appoint a chair to each standing committee.

(3) The speaker of the House may appoint a vice chair to each standing committee.

(4) A vice chair may perform the duties of a chair:

- (a) as requested by the chair; or
- (b) in the absence of the chair.

(5) The chair, or the vice chair as authorized under Subsection (4), may designate a member of the committee to conduct a standing committee meeting ~~[when neither the chair nor the vice chair is able to attend a meeting].~~

(6) A committee member designated under Subsection (5) may conduct a committee meeting but may not perform the duties of a chair described in HR3-2-302 and HR3-2-303.

**Section 9. HR3-2-317 is amended to read:
HR3-2-317. Chair to decide points of order -- Committee may appeal chair's decision.**

(1) A chair shall rule on a point of order without committee discussion or debate.

(2) As provided in ~~[HR3-2-506]~~ HR3-2-507, a committee member may:

- (a) make a point of order; or
- (b) appeal the decision of the chair.

Section 10. HR3-2-406 is amended to read:

HR3-2-406. Amending legislation -- Verbal amendments -- Amendments must be germane.

(1) (a) ~~[Except as provided in]~~ Subject to Subsection (2) and HR3-2-306, and if recognized by the chair during the sponsor presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 15 or fewer words.

(ii) Before proposing a motion to amend, a committee member shall ensure that a proposed amendment that contains more than 15 words is printed and distributed to committee staff and to all committee members present.

(iii) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

- (A) numbering shall not be counted as a word;
- (B) instructions to delete a word or words shall not count as a word; and
- (C) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-506.

Section 11. HR3-2-408 is amended to read:

HR3-2-408. Legislation tabled in a standing committee -- Requirements.

(1) If legislation is tabled, the chair shall list the tabled legislation on the committee agenda for the next committee meeting.

(2) At the next committee meeting, the committee may, by a two-thirds vote, lift the tabled legislation from the table.

(3) If a motion to lift tabled legislation is successful, the standing committee may make any motion on the legislation that is authorized under this chapter.

(4) (a) If legislation is tabled by a committee and the legislation is not lifted from the table at the

committee's next meeting, the committee chair shall submit a committee report to the chief clerk of the House informing the House that the legislation was tabled.

(b) After reading the committee report on the tabled legislation, the chief clerk of the House shall send the tabled legislation to the House Rules Committee for filing.

(5) After tabled legislation is sent to the House Rules Committee for filing, a representative may not make a motion to:

- (a) lift the tabled legislation from the House Rules Committee and place it on the third reading calendar; or
- (b) lift the tabled legislation from the House Rules Committee and refer it to a standing committee for consideration.

Section 12. HR3-2-407 is amended to read:

HR3-2-407. Substitute legislation -- Substitutes must be germane.

(1) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to substitute legislation that is under consideration.

(2) (a) A committee member may only make a motion to substitute that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that ~~[an amendment]~~ a substitute is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-507.

Section 13. HR3-2-510 is amended to read:

HR3-2-510. Prohibited motions.

(1) (a) Except for a motion to adjourn, a committee member may not make a motion unless a quorum of the standing committee is present.

(b) When a quorum is not present, a motion to adjourn is passed with a majority vote of those present.

- (2) No motion is in order during a vote.
- (3) A point of order is not in order during a vote.
- (4) A committee member may not make a motion to:

- (a) strike the enacting clause of legislation;
- (b) strike the resolving clause of a resolution;
- (c) circle legislation; ~~[or]~~
- (d) place legislation on a time certain calendar~~[,];~~
- (e) postpone legislation to a day certain; or
- (f) postpone legislation indefinitely.

Section 14. HR3-2-511 is amended to read:

HR3-2-511. Repeating defeated motion.

(1) Except as provided in Subsection (2), a motion that is defeated may not be made by a committee

member until the committee has considered other committee business.

(2) A motion to ~~[postpone legislation to a day certain, to postpone legislation indefinitely, or to] return legislation to the House Rules Committee, if defeated, may not be made again by any committee member during the same committee meeting.~~

Section 15. HR4-4-203 is amended to read:

HR4-4-203. Motion to lift legislation from committee.

(1) (a) ~~[A] Except as provided in Subsection (1)(b), a representative may make a motion to lift legislation from a standing committee or the House Rules Committee and place it on the third reading calendar.~~

(b) A representative may not make a motion under Subsection (1)(a) if the legislation was tabled by a standing committee.

(2) Except as provided in Subsections (3) and (4), a motion to lift legislation from a standing committee or the House Rules Committee may be approved with a majority vote of the members present.

~~[(3) (a) A motion to lift legislation that was tabled by a standing committee requires a vote of two-thirds of the members present.]~~

~~[(b)] (3) A motion to lift legislation that failed to pass a standing committee motion to send the legislation to the second reading calendar requires a vote of two-thirds of the members present.~~

(4) A motion to lift legislation during the 43rd, 44th, and 45th day of the annual general session, and during any special session, requires a vote of two-thirds of the members present.

(5) If a motion to lift legislation is approved, the presiding officer shall direct that the legislation be placed on the third reading calendar.

Section 16. Coordinating H.R. 4 with H.R. 2 -- Superseding technical and substantive amendments.

If this H.R. 4 and H.R. 2, House Rules Resolution - House Floor Conduct, both pass, it is the intent of the House of Representatives that the amendments to HR2-4-101.2 and HR2-4-102 in this resolution supersede the amendments to HR2-4-101.2 and HR2-4-102 in H.R. 2 when the Office of Legislative Research and General Counsel prepares the Legislative Rules database for publication.

S.C.R. 1

Passed February 11, 2019

Approved March 25, 2019

Effective March 25, 2019

CONCURRENT RESOLUTION ON THE PAYMENT FOR TREATMENT IN AN INSTITUTION FOR MENTAL ILLNESS

Chief Sponsor: Lincoln Fillmore

House Sponsor: Brad M. Daw

LONG TITLE

General Description:

This concurrent resolution urges Congress to extend Medicaid coverage beyond 15 days for services provided in certain settings to adults with serious mental illness.

Highlighted Provisions:

This resolution:

- ▶ urges Congress to extend Medicaid coverage beyond 15 days for services provided in certain settings to adults with serious mental illness.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the scope of medical and behavioral health care services covered by Utah's Medicaid program is determined in large measure by federal law;

WHEREAS, for many years, federal law has prohibited coverage of services provided to adults with serious mental illness in an institution for mental disease (IMD), which is an inpatient residential facility having more than 16 beds;

WHEREAS, the federal prohibition long ago achieved its intended purpose of shifting treatment of mental illness from IMDs to outpatient and small residential inpatient settings;

WHEREAS, in 2016, federal regulators authorized coverage of services provided in IMDs for up to 15 days in a month under certain circumstances;

WHEREAS, treatment for more than 15 days in the Utah State Hospital, specialty psychiatric hospitals, or other IMDs is still the most medically appropriate intervention for a small number of Utahns who do not respond to outpatient treatment, inpatient treatment in a small residential setting, or short-term treatment in an IMD;

WHEREAS, many of these individuals are ravaged by the recurring effects of serious mental illness because they are unable to receive appropriate treatment in an IMD, due to the federal coverage limit;

WHEREAS, the federal government and the state of Utah unnecessarily expend significant sums of public revenue by repeatedly arresting, incarcerating, treating, and housing a small number of individuals who fail to receive

appropriate treatment for a serious mental illness; and

WHEREAS, society suffers when those who could be restored to a stable, fulfilling life go untreated due to outdated policies:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges Congress to extend Medicaid coverage beyond 15 days for services provided in an IMD to adults with serious mental illness.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's congressional delegation and the United States Secretary of Health and Human Services.

S.C.R. 2

Passed February 4, 2019
 Approved March 25, 2019
 Effective March 25, 2019

**CONCURRENT RESOLUTION
 RECOGNIZING NAVAJO CODE TALKERS**

- Chief Sponsor: Jani Iwamoto
 House Sponsor: Christine F. Watkins
 Cosponsors: J. Stuart Adams
 Curtis S. Bramble
 David G. Buxton
 Allen M. Christensen
 Kirk A. Cullimore
 Gene Davis
 Luz Escamilla
 Keith Grover
 Wayne A. Harper
 Daniel Hemmert
 Deidre M. Henderson
 Lyle W. Hillyard
 David P. Hinkins
 Don L. Ipson
 Derek L. Kitchen
 Karen Mayne
 Ann Millner
 Ralph Okerlund
 Kathleen Riebe
 Scott D. Sandall
 Jerry W. Stevenson
 Daniel W. Thatcher
 Evan J. Vickers
 Todd Weiler
 Ronald Winterton

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes and honors the legacy of the Navajo Code Talkers.

Highlighted Provisions:

This resolution:

- ▶ recognizes and honors the Navajo Code Talkers' legacy for their extraordinary contribution to the nation; and

- ▶ designates August 14, 2019, as "Navajo Code Talkers Day" in the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Navajo Code Talkers, from Arizona, Utah, and New Mexico, saved thousands of lives and helped win World War II in the Pacific Theater by using a top secret code that used the Navajo language to transmit messages;

WHEREAS, the enemy was breaking military codes in use until the Navajo Code was introduced;

WHEREAS, during World War II, these modest young Navajo men fashioned from the Navajo language the only military code in modern history that was never broken by an enemy;

WHEREAS, armed with special top secret training, these men developed over 600 Navajo Code words to transmit the top secret messages;

WHEREAS, the Navajo Code Talkers' messages were transmitted to the front lines, beach command posts, command ships, aircraft carriers, battleships, and to all landing units involved in every major invasion in the Pacific during World War II;

WHEREAS, Navajo radio operators transmitted the code throughout the dense jungles and exposed beachheads of the Pacific Theater from 1942 to 1945, passing over 800 error-free messages in 48 hours at Iwo Jima alone;

WHEREAS, Major Howard Conner, 5th Marine Division signal officer on Iwo Jima landing, said, "were it not for the Navajos, the Marines would never have taken Iwo Jima";

WHEREAS, the bravery and ingenuity of these young Navajo men gave the United States and Allied Forces the upper hand they so desperately needed in the Pacific Theater, hastened the war's end, and assured victory for the United States and its allies;

WHEREAS, over a dozen Navajo Code Talkers were killed in action and more than a dozen were wounded;

WHEREAS, after 23 years of secrecy, the Navajo Code was declassified in 1968;

WHEREAS, the United States Congress and the President, on behalf of United States, honored Navajo Code Talkers with the nation's highest honor, the Congressional Gold and Silver medals, in 2001;

WHEREAS, eight of the more than 400 original World War II Navajo Code Talkers are alive today;

WHEREAS, the eight surviving Navajo Code Talkers are: Fleming Begaye, Thomas H. Begay, William Brown, John Kinsel, Peter MacDonald Sr., John Pinto, Samuel Sandoval, and Joe Vandever; and

WHEREAS, the Navajo Code Talkers leave a legacy of service that continues to inspire others to achieve excellence and instills core values of pride, discipline, and honor:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates August 14, 2019, as “Utah Navajo Code Talkers Day” in the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the Navajo Code Talkers’ legacy and extraordinary contribution to the nation.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Fleming Begaye, Thomas H. Begay, William Brown, John Kinsel, Peter MacDonald Sr., John Pinto, Samuel Sandoval, and Joe Vandever.

S.C.R. 3

Passed February 27, 2019

Approved March 25, 2019

Effective March 25, 2019

**CONCURRENT RESOLUTION
REGARDING THE PUBLIC
EMPLOYEES’ HEALTH PLANS**

Chief Sponsor: Daniel Hemmert
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This concurrent resolution directs the Public Employees’ Benefit and Insurance Program to offer certain benefits with respect to employee health benefit packages.

Highlighted Provisions:

This resolution:

- ▶ describes the state’s philosophy on compensation and benefit design for state employees;
- ▶ emphasizes the need for greater flexibility with respect to overall compensation design, including health benefit plans, offered to state employees; and
- ▶ directs the Public Employees’ Benefit and Insurance Program to:
 - allow employees, under certain circumstances, to elect that up to half of the amount that would otherwise go to the employee’s HSA be forwarded to the employee as cash;
 - maintain plans, premiums, and premium share percentages for the 2019–2020 plan year;
 - changes the name of the “Utah Basic Plus” plan to “Consumer Plus”; and
 - cover certain preventative chronic disease medications before the deductible in certain plans.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state offers a competitive compensation package for employees that generally provides higher benefits than salary compared to other employers in the market;

WHEREAS, while many state employees prefer a higher level of benefits compared to salary, others may prefer more compensation in cash and less in benefits;

WHEREAS, the state desires to provide flexibility for employee compensation preferences as long as it does not alter the overall structure of compensation or result in higher costs to the state;

WHEREAS, the state currently offers state employees three health plan options, two of which are qualified high-deductible health plans for which the state provides a Health Savings Account (HSA) contribution to the employee as part of the benefit design;

WHEREAS, the state’s HSA contribution to an employee is not subject to federal or state tax nor is it countable as income for retirement, workers’ compensation, long-term disability, or other benefits;

WHEREAS, the combined amount of an employer HSA contribution and premium savings as compared to other available plan options should not exceed an employee’s deductible from an actuarial standpoint;

WHEREAS, the state’s HSA contribution and premium savings compared to the Traditional Plan exceed an employee’s deductible on the STAR Plan, which has resulted in a cap on the state’s HSA contribution and a reduction in the comparative value of the STAR Plan benefit; and

WHEREAS, data from the Public Employees’ Benefit and Insurance Program (PEHP) supports cost offsets in medical complications from increased medication adherence by covering certain preventative chronic medications before the deductible:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, directs PEHP to:

(1) create a flexible spending account to allow a state employee participating in a qualified high-deductible health plan to elect up to half of the allocation sent to PEHP as an HSA contribution to be forwarded to the employee rather than deposited into the employee’s HSA;

(2) require a state employee who requests any part of an HSA contribution in cash to agree as a condition of receiving the sum that:

(a) the sum shall be treated as an employer benefit and thus not be counted toward retirement, workers’ compensation, long-term disability, or any other benefit; and

(b) the employee will be responsible for all taxes related to that sum, including any employer-related taxes; and

(3) distribute any cash-elected sum to state employees at the same time that HSA contributions are dispersed.

BE IT FURTHER RESOLVED that the Legislature and Governor direct PEHP to change the name of the plan currently known as "Utah Basic Plus" to "Consumer Plus."

BE IT FURTHER RESOLVED that PEHP shall maintain the same plans, benefits, and employee premium share percentages for the 2019-2020 plan year that were available during the 2018-2019 plan year, except that PEHP shall identify and cover certain preventative chronic disease medications before the deductible for HSA STAR Plan members, subject to applicable cost sharing requirements that would otherwise apply.

S.C.R. 4

Passed February 27, 2019
Approved March 25, 2019
Effective March 25, 2019

**CONCURRENT RESOLUTION DIRECTING
CREATION OF A REQUEST FOR PAYMENT
PILOT PROGRAM**

Chief Sponsor: Ann Millner
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill directs the Public Employees' Benefit and Insurance Program to implement provisions relating to value-based payment.

Highlighted Provisions:

This resolution:

- ▶ directs the Public Employees' Benefit and Insurance Program to issue a request for proposals for health care services using a value-based payment methodology.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, most healthcare in Utah is paid for on a fee-for-service basis by which providers are paid for each activity they perform;

WHEREAS, fee-for-service rewards a provider for performing more services and discourages a provider from performing services not recognized as compensable by insurance;

WHEREAS, value-based payment arrangements better align financial incentives between payers, providers, and patients through gain sharing and various forms of fixed and risk-based payments for episodes of care and patient populations; further, these arrangements can also improve health outcomes for patients;

WHEREAS, the state has an interest in promoting the health of its employees and encouraging the development of value-based payment arrangements;

WHEREAS, there are various potential approaches for value-based payment arrangements and some providers may prefer one approach to another; and

WHEREAS, the state wishes to issue a request for proposals (RFP), through the Public Employees' Benefit and Insurance Program (PEHP), to encourage providers to come forward with proposals for offering services to state employees using value-based payment arrangements and for PEHP to contract with one or more providers who are willing and able to provide high quality and cost-effective services using such an arrangement:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, the Governor concurring therein, directs PEHP to:

- (1) issue an RFP by July 1, 2019, for health care services using a value-based payment methodology;
- (2) determine whether an RFP response:
 - (a) clearly and adequately defines the scope of proposed services and the intended population for those services;
 - (b) advances the objective of aligning payment incentives and providing quality care through a value-based payment arrangement;
 - (c) is commercially and financially reasonable when compared to PEHP's current payment standards, practices, and expenditures for similar services;
 - (d) satisfactorily addresses all clinical, quality, and operations-related issues raised in the RFP or by PEHP; and
 - (e) meets all other RFP requirements;
- (3) rank each RFP response and determine which, if any, should be awarded a contract, which may not exceed three years; and
- (4) report on the outcomes of awarded contracts to the Legislature upon request and at the end of the initial three-year contract term.

S.C.R. 5

Passed February 28, 2019

Approved March 21, 2019

Effective March 21, 2019

**CONCURRENT RESOLUTION
RECOGNIZING EDWARD T. ALTER
FOR HIS SERVICE AS UTAH
STATE TREASURER**

Chief Sponsor: Ralph Okerlund
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This concurrent resolution recognizes Edward T. Alter for his service as Utah State Treasurer.

Highlighted Provisions:

This resolution:

- ▶ recognizes the lifelong dedication and public service of Edward T. Alter, 23rd Utah State Treasurer; and
- ▶ expresses appreciation for Treasurer Alter’s many contributions to the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Edward T. Alter, 23rd Utah State Treasurer, served 28 consecutive years in that capacity;

WHEREAS, Treasurer Alter graduated from the University of Utah with a Bachelor of Arts degree in Banking and Finance and a Master of Business Administration degree;

WHEREAS, Treasurer Alter began his career in public accounting and became a Certified Public Accountant;

WHEREAS, Treasurer Alter was elected on November 4, 1980, and was sworn in as the Utah State Treasurer on January 5, 1981;

WHEREAS, Treasurer Alter created the Public Treasurers’ Investment Fund as a pooled short-term investment fund which provides competitive returns, professional management, and daily liquidity for all government entities in Utah;

WHEREAS, Treasurer Alter directed the first book-entry municipal bond issuance for a state, which is now the common practice in the industry;

WHEREAS, Treasurer Alter worked with industry partners to develop an electronic platform for the competitive sale of municipal bonds, which has also become the common practice in the industry;

WHEREAS, Treasurer Alter championed the Utah School District Bond Guarantee Act, which

has reduced the interest expense of municipal bonds issued by local school districts throughout Utah, resulting in millions of dollars of savings to Utah taxpayers;

WHEREAS, Treasurer Alter served on various boards and commissions including the Utah Retirement Systems Board, the Permanent Community Impact Board, the Utah Navajo Trust Fund Board, the Utah Housing Corporation Board, and the Utah Higher Education Assistance Authority Board, where his knowledge and expertise have benefitted residents of rural Utah, residents of the Navajo Reservation, state employees, students, and others throughout the state;

WHEREAS, in 1986, Treasurer Alter served as President of the National Association of State Treasurers and received the Association’s Jesse M. Unruh award for treasury excellence and the Tanya Gritz Award for Excellence in Public Finance;

WHEREAS, in 1988, Treasurer Alter was named by City & State magazine to its All-Pro Government Team;

WHEREAS, in 2003, Treasurer Alter received the Harlan Boyles Distinguished Service Award, which is now known as the Harlan Boyles-Edward T. Alter Award;

WHEREAS, Treasurer Alter has continued his public service as a member of the Utah Retirement Systems Board, Utah Higher Education Assistance Authority Board, and a member of the my529 Investment Advisory Committee, providing institutional knowledge and investment and debt issuance expertise that are vital to the continued success of these organizations;

WHEREAS, Treasurer Alter is respected by his peers across the nation, elected leaders in Utah, and leaders in communities throughout the state for the many contributions he made to make Utah a better place; and

WHEREAS, Treasurer Alter’s significant state and national contributions merit recognition:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the lifelong dedication and public service of Edward T. Alter, 23rd Utah State Treasurer, and expresses appreciation for Treasurer Alter’s many contributions to the state.

BE IT FURTHER RESOLVED that a copy of this resolution is sent to Treasurer Alter.

S.C.R. 6

Passed February 27, 2019
 Approved March 21, 2019
 Effective March 21, 2019

**CONCURRENT RESOLUTION IN
 SUPPORT OF ADVANCED NUCLEAR
 REACTOR TECHNOLOGY**

Chief Sponsor: Curtis S. Bramble
 House Sponsor: Brad M. Daw

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor supports the development and integration of advanced nuclear reactor technology as a way of supporting Utah's continued economic growth while addressing the health of Utah's environment and of its residents.

Highlighted Provisions:

This resolution:

- ▶ acknowledges Utah's leadership, ingenuity, and prudence in solving tough generational challenges like climate change and air pollution;
- ▶ recognizes that Utah's population is set to double by 2050 and that local, rural, and regional energy demands will necessarily grow as a result of these changes;
- ▶ recognizes that advancing affordable, reliable, and sustainable energy across all Utah's resources will be key to growing Utah's economy;
- ▶ recognizes that advanced nuclear technology is a safe, resilient, and environmentally sustainable energy resource;
- ▶ recognizes that advanced nuclear technology is a flexible generation source that can support the integration of renewable resources in a carbon free manner; and
- ▶ supports the procurement of energy from advanced nuclear facilities as well as the construction and operation of advanced nuclear facilities within the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah's economy is one of the healthiest and fastest growing in the United States with a population that will more than double by 2050;

WHEREAS, Utah supports private and public technological innovation and solutions to reduce carbon emissions, promote economic growth, and protect the environment for future generations;

WHEREAS, the growth of Utah's economy is supported by an increasingly diverse energy portfolio, but will need to broaden its supply of flexible and resilient base load electricity resources to meet growing demand;

WHEREAS, under Title 10, Chapter 19, Utah Municipal Electric Utility Carbon Emission Reduction Act, nuclear energy is recognized as a qualifying zero carbon emissions resource and is

important to reducing Utah's carbon emissions and cleaning the state's air;

WHEREAS, advanced nuclear reactor technology has the potential to meet Utah's base load generation needs with a carbon free energy source;

WHEREAS, the engineering and design of advanced nuclear facilities can result in both enhanced electricity reliability and public safety, and can do so in a fiscally responsible manner;

WHEREAS, the manufacturing and construction of advanced nuclear facilities will facilitate the construction and operation of nuclear facilities in rural Utah; and

WHEREAS, the dispatch and ramping ability of advanced nuclear facilities can be adjusted to meet the variability of renewable generation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports market access to energy derived from advanced nuclear reactor facilities.

BE IT FURTHER RESOLVED that the Legislature and the Governor support the development of advanced nuclear facilities within the state, and when it serves Utah's interests, within other states, as a means of ensuring that Utah has access to abundant, affordable, resilient, flexible, and clean energy that supports the state's growing economy.

S.C.R. 7

Passed March 7, 2019
 Approved March 21, 2019
 Effective March 21, 2019

**CONCURRENT RESOLUTION URGING
 LEGAL MEDICAL CANNABIS BANKING**

Chief Sponsor: Jacob L. Anderegg
 House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This concurrent resolution urges the President of the United States and Congress to resolve the medical cannabis banking issue.

Highlighted Provisions:

This resolution:

- ▶ acknowledges that, despite the enactment of the Utah Medical Cannabis Act, cannabis plant extracts remain classified as Schedule I controlled substances under federal law;
- ▶ recognizes that the illegality of cannabis under federal law restricts the medical cannabis industry's legal access to financial institutions' banking services;
- ▶ warns of the dangers associated with businesses that operate entirely in cash; and
- ▶ urges the President and Congress to remove the barriers that prohibit the medical cannabis industry from legally accessing banking services.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 2018, the Legislature enacted H.B. 3001, Utah Medical Cannabis Act, which provides for the cultivation, processing, medical recommendation, and patient use of medical cannabis;

WHEREAS, despite the legalization of medical cannabis under the Utah Medical Cannabis Act, cannabis plant extracts such as cannabidiol (CBD) and tetrahydrocannabinol (THC) are classified by federal law as Schedule I controlled substances;

WHEREAS, the classification of CBD and THC as Schedule I controlled substances makes using, prescribing, and dispensing these substances illegal under federal law;

WHEREAS, the illegality of cannabis under federal law further restricts the ability for a cannabis business operating legally under state law to access banking services from United States or state-chartered financial institutions;

WHEREAS, in July 2015, the United States Federal Reserve System denied a Colorado credit union access to its payment systems, sparking a lawsuit in which the court upheld the Federal Reserve's claim that, given the illegality of cannabis at the federal level, the credit union did not have the right to insert state cannabis money into the federal banking system;

WHEREAS, the outcome of this case indicates that:

- courts will defer to the Federal Reserve's significant control over access to its payment systems; and
- states are not able to circumvent federal statutes in order to solve the problem of cannabis banking simply by chartering and endorsing special financial institutions;

WHEREAS, any industry conducting its business entirely in cash cannot be fairly taxed or regulated, and has historically been associated with unlawful activity, such as money laundering and increased threats to the security of the business and its patrons;

WHEREAS, the Utah Medical Cannabis Act will inevitably involve financial transactions between cultivators, producers, medical cannabis pharmacies, and users of medical cannabis, and the ensuing medical cannabis industry in Utah will require access to financial services;

WHEREAS, while some financial institutions may be willing to risk breaking federal law in order to provide much-needed banking services to medical cannabis businesses, many remain reluctant to take such a risk; and

WHEREAS, it is in the best interest of all Utahns that Utah's financial institutions provide banking

services to support the medical cannabis industry and patients under the Utah Medical Cannabis Act:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly encourage the President of the United States and Congress to remove the barriers that prohibit the medical cannabis industry from legally accessing banking services.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, each member of Utah's congressional delegation, the National Conference of State Legislatures, and the Governors' Association.

S.C.R. 8

Passed March 7, 2019
Approved March 26, 2019
Effective March 26, 2019

**CONCURRENT RESOLUTION
SUPPORTING EXPORTS OF UTAH
NATURAL GAS TO INTERNATIONAL
MARKETS**

Chief Sponsor: Ronald Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This concurrent resolution supports the export of liquefied natural gas (LNG) as an opportunity to realize economic development in rural communities and tribal nations and to promote Utah's natural gas production as a key contributing resource for economic growth, national security, and as a cost-effective, reliable, and safe energy source.

Highlighted Provisions:

This resolution:

- ▶ recognizes the potential for natural gas production increasing in the United States;
- ▶ recognizes the role that Utah can play in growing the economy and protecting our national security through energy supplies;
- ▶ recognizes that natural gas is produced in an environmentally safe way and is an efficient use of energy;
- ▶ recognizes the strategic role of rural communities and the Ute and Navajo Tribal Nations in the development and production of energy resources in Utah;
- ▶ recognizes the benefits additional natural gas production in Utah will create;
- ▶ recognizes various LNG export terminals, such as the Jordan Cove LNG export terminal;
- ▶ supports the export of LNG and petroleum products as a way to provide economic development opportunities to rural Utah; and
- ▶ supports LNG export terminals to export Utah natural gas to international markets.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the State of Utah supports an “all of the above” energy policy and the responsible development and marketing of its abundant energy and mineral resources, including natural gas, petroleum, and coal;

WHEREAS, the potential for natural gas production in the United States has increased substantially due to technological advancements in oil and natural gas extraction methods;

WHEREAS, abundant associated gas from oil production and increasing natural gas production in Utah and throughout the United States continue to keep natural gas prices low and oversupply and low pricing are creating an increased demand for United States natural gas in Asia and other international markets for export as LNG;

WHEREAS, due to the demand for LNG globally, Utah has an opportunity to maintain its position as a net exporter of energy and a leader in energy production and innovation in the region;

WHEREAS, Utah can play a key role in growing the American economy and in securing our national security through energy exports, infrastructure development, stakeholder engagement and outreach;

WHEREAS, natural gas is produced in an environmentally safe and friendly way and is an efficient use of energy, and ample supplies of natural gas are available from domestic resources, such as in Utah;

WHEREAS, Utah’s rural communities have long produced the energy necessary to drive Utah’s fast and diverse growing urban economy, Utah can now provide the energy necessary for developing nations in Asia and India to the largest emerging middle class for its residential, commercial, manufacturing, and medical advancements;

WHEREAS, many of these energy-producing rural communities in Utah have not always enjoyed the same shared prosperity that has come with Utah’s tremendous economic growth in recent decades due to “stranded resource assets” or a lack of access to United States and international markets due to the lack of railway, highway, and pipeline infrastructure directly connected to west coast and gulf coast markets;

WHEREAS, additional natural gas production in Utah will create high paying jobs, attract capital investment, provide federal, state, and local revenues derived from federal mineral royalties and state severance taxes collected on natural gas production and royalties for Utah School Trust Lands Administration, whose major beneficiaries include Utah’s school children;

WHEREAS, Utah has an interest in collaborating with the Ute and Navajo Tribal Nations on initiatives, such as the Western States and Tribal Nations Rural Natural Gas Initiative, that advance the shared interests of the state of Utah and the Ute and Navajo Tribal Nations in the responsible

development and marketing of their respective natural resources; and

WHEREAS, a west coast LNG export terminal, such as Oregon’s proposed Jordan Cove LNG export terminal would directly connect Utah’s resources to new energy markets through the Ruby Pipeline, LNG terminals in Mexico could directly connect Utah natural gas to new markets through the Kern River Pipeline, and LNG terminals in the gulf coast of Texas and Louisiana will continue to alleviate negative pricing pressure for natural gas in the Rocky Mountains and reduce oversupply into this region:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports LNG exports as a way to increase oil production and natural gas production in Utah, so that Utah’s rural communities can take an active part in, and receive the benefits of Utah’s global economic development.

BE IT FURTHER RESOLVED that the Legislature and the Governor support LNG export terminals to export Utah natural gas to international markets.

S.C.R. 9

Passed March 12, 2019

Approved March 27, 2019

Effective March 27, 2019

**CONCURRENT RESOLUTION
REGARDING NAVAJO WATER
RIGHTS SETTLEMENT AGREEMENT**

Chief Sponsor: David P. Hinkins

House Sponsor: Phil Lyman

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor declares support for the negotiated settlement agreement of federal reserved water rights claims between representatives of the Navajo Nation, the United States, and the state of Utah.

Highlighted Provisions:

This resolution:

- ▶ declares support for the negotiated settlement agreement of federal reserved water rights claims, particularly the state of Utah/Navajo Nation Reserved Water Rights Settlement Agreement proposed by a negotiating committee composed of representatives of the Navajo Nation, the state of Utah, and the United States.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Governor of Utah and the President of the Navajo Nation, by a memorandum of understanding dated August 13, 2003, agreed to jointly explore settlement of federal reserved water

right claims for the portion of the Navajo Nation located in southeastern Utah;

WHEREAS, representatives of the state of Utah, the Navajo Nation, and the United States have negotiated a proposed settlement agreement in good faith;

WHEREAS, the proposed settlement agreement creates a water development fund that will finance future projects that will supply drinking water to those portions of the Navajo Nation located within Utah;

WHEREAS, the proposed settlement agreement involves an amount of water and other provisions to minimize the impact of the settlement agreement on Utah water rights, particularly municipal rights, and to assure that the water needed for the settlement agreement fits within Utah's allocation from the Colorado River;

WHEREAS, in exchange for providing most of the funds for construction of the drinking water projects that the settlement agreement contemplates, the United States receives a valuable waiver of claims related to water and lands located within Utah;

WHEREAS, when the settlement agreement is ratified by the Legislature, the Navajo Nation, and the United States Congress, it will have the effect of law to resolve all controversies with regard to water right claims by the Navajo Nation and its members in Utah;

WHEREAS, this resolution does not constitute the Legislature's ratification of the settlement agreement;

WHEREAS, in consideration of the promises made in and the value received from the settlement agreement, the state of Utah will be required to contribute to the water development fund identified in the settlement agreement;

WHEREAS, the amount of the state of Utah's contribution is currently projected to be approximately \$8 million;

WHEREAS, the state of Utah has established a Navajo Water Rights Negotiation Account, into which money has been deposited in anticipation of the settlement agreement's ratification;

WHEREAS, at the present time, the Legislature prefers not to encumber additional funds for the settlement agreement, recognizing these funds will likely not be expended during the upcoming fiscal year;

WHEREAS, the state of Utah maintains a rainy day fund that contains sufficient money that could be used to fulfill its settlement agreement obligations, if necessary; and

WHEREAS, in the 116th Congress, Congressman Rob Bishop has introduced H.R. 644 "Navajo Utah Water Rights Settlement Act of 2019" to ratify the settlement agreement on behalf of the United States Congress:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares support for the negotiated settlement agreement of federal reserved water rights claims, particularly the state of Utah/Navajo Nation Reserved Water Rights Settlement Agreement proposed by a negotiating committee composed of representatives of the Navajo Nation, the state of Utah, and the United States.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the President of the Navajo Nation, the Navajo Nation Council, the Navajo Nation Department of Justice, and the members of Utah's congressional delegation.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Utah's congressional delegation to use their best efforts to enact legislation to ratify and fund the settlement agreement.

S.C.R. 11

Passed March 12, 2019

Approved March 26, 2019

Effective March 26, 2019

**CONCURRENT RESOLUTION
DESIGNATING UTAH GIRLS IN TECH DAY**

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This concurrent resolution designates "Utah Girls in Tech Day."

Highlighted Provisions:

This resolution:

- ▶ recognizes that women are significantly underrepresented in technology-related fields despite a shortage of qualified talent;
- ▶ encourages more young women to pursue technology-related careers; and
- ▶ designates March 20 as "Utah Girls in Tech Day."

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, according to the National Center for Women in Information Technology:

- 56% of Advanced Placement test takers are women, but only 19% of Advanced Placement Computer Science test takers are women; and
- women earn 57% of all undergraduate degrees, but women earn only 18% of all undergraduate computer and information science degrees;

WHEREAS, according to the Department of Labor, by 2020 there will be more than 1.4 million

computer software-related job openings, but there will only be enough graduates to fill approximately 30% of those positions;

WHEREAS, despite a shortage of qualified talent, women are significantly underrepresented in technology-related fields; and

WHEREAS, the Women Tech Council, educators, businesses, and other stakeholders are strengthening the support network needed to encourage more young women to consider and successfully launch technology-related careers and helping to fill the talent gap that is currently hindering our nation's economy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, designates March 20 as "Utah Girls in Tech Day" to help encourage more young women to consider jobs in technology-related fields.

S.C.R. 12

Passed March 14, 2019
Approved March 27, 2019
Effective March 27, 2019

CONCURRENT RESOLUTION HONORING OREM ON ITS 100TH ANNIVERSARY

Chief Sponsor: Daniel Hemmert
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This concurrent resolution honors Orem City on its 100th anniversary.

Highlighted Provisions:

This resolution:

- ▶ recognizes Orem City's history and contributions to the state of Utah; and
- ▶ honors Orem's 100th anniversary on May 5, 2019.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Orem City was incorporated on May 5, 1919, and named after Walter C. Orem, President of the Salt Lake and Utah Railroad;

WHEREAS, Orem's origins are in homesteads settled along the territorial highway and along other substantial streets where area farmers built their homes;

WHEREAS, Orem was incorporated because residents recognized the need to develop a water system for the area, and one of its first acts as a new city was to issue \$110,000 in bonds to construct a water system;

WHEREAS, the availability of water launched Orem to become the fruit capital of the nation as

millions of pounds of peaches, apples, cherries, pears, and more were shipped across the country every year, giving Orem one of its early nicknames as the "Garden City";

WHEREAS, the first major evolution of Orem began in the early 1940s when the federal government constructed Geneva Steel Works as an inland producer of steel, employing many of Orem's residents;

WHEREAS, the second major change came as many of Orem's farms were converted to shopping centers and malls along State Street and University Parkway;

WHEREAS, the third major evolution has been the result of the city's development as a center of computer technology and development, spearheaded by WordPerfect Corporation;

WHEREAS, many of the companies that have made Utah a technology epicenter got their start in Orem;

WHEREAS, Orem is the fifth-largest city in Utah and home to Utah Valley University, Utah's largest public university;

WHEREAS, Orem's most famous nickname, "Family City, U.S.A.," is due to its parks, plentiful indoor and outdoor recreational offerings, a world-class library, good schools, low crime, and a service-oriented culture; and

WHEREAS, Orem has been given numerous national awards, including:

- the #1 City in America to Raise a Family;
- the #1 City in America for Working Parents;
- 2018 Best Places to Live in America; and
- 2017 30 Safest Cities to Raise a Child;

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes Orem City for its significant achievements and contributions to the state of Utah and honors Orem's 100th anniversary.

BE IT FURTHER RESOLVED that the Legislature sends a copy of this resolution to the Orem City Mayor and Council.

S.C.R. 13

Passed March 14, 2019
Approved March 28, 2019
Effective March 28, 2019

CONCURRENT RESOLUTION ON PUBLIC LANDS STRATEGY

Chief Sponsor: David P. Hinkins
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This resolution directs the state to pursue strategies for ensuring sound public lands management policies.

Highlighted Provisions:

This resolution:

- ▶ recognizes Utah as a public lands state and the state's commitment to perpetually remain a public lands state;
- ▶ recognizes that state officials should be involved in the creation and implementation of public lands policies; and
- ▶ directs state legislative bodies and agencies to work with federal legislative bodies, agencies, and other like-minded states to pursue strategies that outline the state's laws, principles, values, priorities, and willingness to work with federal agencies to manage the state's public lands.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is a public lands state and is committed to perpetually remaining a public lands state;

WHEREAS, Utah's public lands are unparalleled in their beauty, solitude, ecosystems, abundant natural resources, and productivity;

WHEREAS, Utah's public lands are for all those who visit and recreate in the state, but the decisions made regarding public lands management and use directly impact the people of Utah;

WHEREAS, public lands policies and issues implicate vital constitutional principles, such as state sovereignty and the right to self-governance;

WHEREAS, in recent years, state and local officials have advocated for the transfer of federal public lands to state ownership;

WHEREAS, the position of state and local officials has often been misunderstood or mischaracterized, which has led to unproductive contention, conflict, and gridlock;

WHEREAS, from the beginning, the state has desired effective, efficient, and predictable public lands stewardship strategies, which are vital to Utah's sovereignty, economy, and quality of life;

WHEREAS, to account for and protect local and state interests, state officials should be involved in both the creation and implementation of public lands policies;

WHEREAS, gridlock does not serve the interests of the state, the people of Utah, or the millions of people who visit Utah every year;

WHEREAS, the challenges in public lands management can be overcome by strengthening partnerships with federal agencies and exploring practical changes to federal laws and regulations;

WHEREAS, in today's political climate, renewing a partnership between the state and the federal government will likely be the most effective method for ensuring practical legislative reform and sound land management practices;

WHEREAS, the state desires to pursue strategies that would outline the state's laws, principles,

values, priorities, and willingness to work with federal agencies in a more effective and cooperative manner;

WHEREAS, the National Forest Management Act of 1976 requires the Secretary of Agriculture to develop resource management plans for units of the National Forest System in coordination with state and local resource management planning processes; and

WHEREAS, the Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to provide for meaningful involvement of state and local government officials in the development of land use plans and requires those land use plans to be consistent with state and local land use plans to the maximum extent that the Secretary of the Interior finds consistent with federal law and the purposes of FLPMA:

NOW, THEREFORE, BE IT RESOLVED, that the Legislature of the state of Utah, the Governor concurring therein, directs state legislative bodies and agencies to work with federal legislative bodies, agencies, and other like-minded states to pursue strategies that outline the state's laws, principles, values, priorities, and willingness to work with federal agencies to manage the state's public lands.

S.J.R. 1

Passed February 13, 2019

Effective February 13, 2019

JOINT RESOLUTION SUPPORTING THE STUDY OF WATER BANKING IN UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This resolution requests recommendations on the development and creation of water banks to further the 2017 State Recommended Water Strategy.

Highlighted Provisions:

This resolution:

- ▶ encourages the study of possible options to create and develop water banks to further the 2017 State Recommended Water Strategy and the preparation of recommendations for the Legislature to consider for the 2020 General Session.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, in July 2017, the Governor's Water Strategy Advisory Team finalized a Recommended State Water Strategy, which identified strategies to help meet the water demands of the more than five million people who are projected to live in Utah by 2060;

WHEREAS, the Recommended State Water Strategy identified ways to stretch Utah's limited

water supplies and provide clean and affordable water to sustain thriving communities and businesses, robust agriculture, ample recreation, and a healthy and resilient natural environment;

WHEREAS, the Recommended State Water Strategy found that there is a need to facilitate temporary water right transfers through leases, contracts, or other voluntary arrangements to supply competing water uses during a given year and to meet authorized uses and short-term needs;

WHEREAS, the Recommended State Water Strategy found that water banks could facilitate voluntary temporary transfers and provide increased transparency regarding the nature and costs of such transactions;

WHEREAS, a water bank facilitates the temporary transfer of water by allowing water users to “deposit” unused water into the bank in years when they do not need it so that other users in the region can lease the water for lawful purposes;

WHEREAS, the Recommended State Water Strategy recommended the establishment of “water banking procedures through legislative action that could allow flexibility in the availability of water for various uses in a particular drainage system depending on needs and availability”;

WHEREAS, during the 2017 General Session, the Legislature passed S.B. 214 “Public Water Supplier Amendments,” which encouraged the Legislative Water Development Commission and the Executive Water Task Force to study possible options for expanding the groups who may file an application for instream flows;

WHEREAS, in response to S.B. 214, an informal committee of interested stakeholders was formed, consisting of agricultural representatives, public water suppliers, environmental organizations, and other stakeholders to study instream flows;

WHEREAS, the informal committee identified water banking as a topic ripe for discussion;

WHEREAS, water banking would address S.B. 214’s goals of facilitating instream flows while also supporting many of the Recommended State Water Strategy’s other recommendations, including providing water for environmental needs and minimizing the need to convert agricultural water rights to supply growing municipal and industrial needs; and

WHEREAS, interested stakeholders continue to develop consensus-based recommendations to implement the Recommended State Water Strategy’s water banking findings and recommendations and further the goals of S.B. 214:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah encourages the:

- (1) continued study of ways to implement the recommendations in the 2017 Recommended State Water Strategy regarding water banking; and
- (2) support of the goals of S.B. 214.

BE IT FURTHER RESOLVED that the Legislature encourages the presentation of findings, conclusions, and recommendations, including any suggested legislation, to the Legislature before the 2020 General Session.

BE IT FURTHER RESOLVED that recommendations and legislation presented to the Legislature:

- (1) recognize that the majority of water rights in Utah are agricultural in nature;
- (2) incentivize agricultural water users to participate in water banking;
- (3) protect against abandonment and forfeiture for water rights placed within a water bank;
- (4) minimize the potential for water right impairment; and
- (5) ensure that water placed within a water bank may be leased or otherwise used for any lawful purpose.

S.J.R. 2

Passed January 30, 2019

Effective May 14, 2019

JOINT RESOLUTION REAPPOINTING JONATHAN C. BALL AS LEGISLATIVE FISCAL ANALYST

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This joint resolution of the Legislature approves the reappointment of Jonathan C. Ball as legislative fiscal analyst.

Highlighted Provisions:

This resolution:

- ▶ approves the reappointment of Jonathan C. Ball as legislative fiscal analyst for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Annotated Section 36-12-7, the Legislative Management Committee has recommended the reappointment of Mr. Jonathan C. Ball as legislative fiscal analyst for the Utah Legislature; and

WHEREAS, the reappointment of Mr. Jonathan C. Ball in this position for a term of office of six years beginning May 14, 2019, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the reappointment of Mr. Jonathan C. Ball as legislative fiscal analyst for the Utah Legislature be approved for a six-year term of office beginning May 14, 2019.

S.J.R. 4

Passed January 30, 2019
Effective January 30, 2019

**JOINT RULES RESOLUTION -
BASE BUDGET AMENDMENTS**

Chief Sponsor: Don L. Ipson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This resolution amends provisions related to the Legislature's consideration of a base budget bill.

Highlighted Provisions:

This resolution:

- ▶ amends the deadline for passing base budget bills.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR4-4-201

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-4-201 is amended to read:

JR4-4-201. Deadline for passing base budget bills.

(1) Each legislator shall receive a copy of each base budget bill for the next fiscal year by calendared floor time on the first day of the annual general session.

(2) [By] No later than noon on the [16th] 10th day, but not before the third day, of the annual general session, the Legislature shall either pass or defeat each base budget bill.

S.J.R. 5

Passed February 14, 2019
Effective February 14, 2019

**JOINT RULES RESOLUTION —
ETHICS COMMISSION AMENDMENTS**

Chief Sponsor: Derek L. Kitchen
House Sponsor: Casey Snider

LONG TITLE

General Description:

This resolution amends provisions related to disqualifying a member of the Independent Legislative Ethics Commission.

Highlighted Provisions:

This resolution:

- ▶ corrects an incorrect citation.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR6-2-103.5

Be it resolved by the Legislature of the state of Utah:

Section 1. JR6-2-103.5 is amended to read:

JR6-2-103.5. Motion to disqualify Independent Legislative Ethics Commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the Independent Legislative Ethics Commission from participating in proceedings relating to an ethics complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to an ethics complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the ethics complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of [Section 78B-5-705] Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:

- (a) is not timely filed; or
- (b) does not comply with the requirements of this section.
- (6) A member of the commission may:
 - (a) on the member's own motion, disqualify the member from participating in proceedings relating to an ethics complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or
 - (b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.
- (7) (a) When a party files a motion under this section, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.
 - (b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.
 - (c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.
 - (d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.
 - (8) In making a determination under Subsection (7)(c), the commission may:
 - (a) gather additional evidence;
 - (b) hear testimony; or
 - (c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by commission.

S.J.R. 6

Passed February 13, 2019
Effective February 13, 2019

**JOINT RULES RESOLUTION --
EFFECTIVE DATES AND CONVENING
OF LEGISLATIVE SESSION**

Chief Sponsor: Deidre M. Henderson
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution enacts provisions related to a bill or resolution effective date and the Legislature calling itself into session.

Highlighted Provisions:

This resolution:

- ▶ enacts provisions related to the effective or contingent date of a bill;
- ▶ enacts provisions related to the effective or contingent date of a resolution;
- ▶ amends provisions related to convening the Legislature and introducing bills to reflect constitutional changes allowing the Legislature to call itself into a special session; and
- ▶ makes technical corrections.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR1-2-101
JR2-1-102
JR4-1-203
JR4-1-302

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-2-101 is amended to read:

**JR1-2-101. Convening the Legislature --
Process -- Date.**

- (1) The Legislature shall convene:
 - (a) on the date set by the Utah Constitution for the beginning of the annual general session; [øø]
 - (b) on the date set by the governor in the proclamation that calls the Legislature into special session[.]; or
 - (c) on the date set by joint proclamation of the president and the speaker that convenes the Legislature into special session.
- (2) The Legislature shall convene by:
 - (a) each house being called to order;
 - (b) having an invocation;
 - (c) reciting the pledge of allegiance;
 - (d) reading the certificates of election and giving the oath of office to legislators, if necessary;
 - (e) calling the roll and declaring whether or not a quorum is present;
 - (f) electing a presiding officer, if necessary;
 - (g) appointing standing committees, if necessary;
 - (h) adopting rules;
 - (i) giving and receiving the notifications required in JR1-2-102 and JR1-2-103; and
 - (j) introducing bills.
- (3) Nothing in this rule:
 - (a) requires the Senate or House to perform the items in this rule in a particular order; or

(b) prohibits the Senate or House from adding or deleting items.

(4) The daily order of business set forth in SR1-5-103 and HR1-5-103 governs on all legislative days other than the day on which the Legislature convenes.

Section 2. JR2-1-102 is amended to read:

JR2-1-102. Introduction of bills.

Legislation authorized by the governor's special session proclamation or by joint proclamation of the president and the speaker may be introduced in either house at any time during a special session of the Legislature.

Section 3. JR4-1-203 is amended to read:

JR4-1-203. Effective date of bills.

(1) (a) Unless otherwise directed by the Legislature and subject to Subsections (2) and (3), a bill becomes effective 60 days after the adjournment of the session at which it passed.

[2] (b) The 60 days begins to run the day after the Legislature adjourns sine die.

(2) (a) The effective date of a bill may not be a date later than December 31 of the calendar year immediately following the calendar year of the session at which the bill is passed.

(b) A bill with a contingent effective date is not subject to Subsection (2)(a).

(3) (a) If the effective date of a bill is contingent, before the bill may be introduced:

(i) the bill sponsor shall inform the legislative general counsel of the contingent effective date; and

(ii) the legislative general counsel shall, on behalf of the bill sponsor, request approval of the contingent effective date from the president and speaker.

(b) A bill that has a contingent effective date that is not approved by the president and the speaker may not be introduced.

(c) Subsections (3)(a) and (b) do not apply to a bill that has a contingent effective date that is contingent on voter approval of an amendment to the Utah Constitution.

(4) A rules committee, a standing committee, the Senate, or the House of Representatives is prohibited from suspending the provisions of Subsection (2) or (3).

Section 4. JR4-1-302 is amended to read:

JR4-1-302. Effective date of resolutions.

(1) Unless otherwise directed by the Legislature and subject to Subsections (2) and (3), a resolution becomes effective on the day that the resolution receives final approval from:

[4] (a) the House of Representatives or the Senate, if it is a single house resolution;

[2] (b) both the House of Representatives and the Senate, if it is a joint resolution;

[3] (c) the House of Representatives, the Senate, and the governor, if it is a concurrent resolution; or

[4] (d) the House of Representatives, the Senate, and the voters at the next general election, if it is a constitutional joint resolution.

(2) (a) The effective date of a resolution may not be a date later than December 31 of the calendar year immediately following the calendar year of the session at which the resolution is passed.

(b) A resolution with a contingent effective date is not subject to Subsection (2)(a).

(3) (a) If the effective date of a resolution is contingent, before the resolution may be introduced:

(i) the resolution sponsor shall inform the legislative general counsel of the contingent effective date; and

(ii) the legislative general counsel shall, on behalf of the resolution sponsor, request approval of the contingent effective date from the president and speaker.

(b) A resolution that has a contingent effective date that is not approved by the president and the speaker may not be introduced.

(c) Subsections (3)(a) and (b) do not apply to a resolution to amend the Utah Constitution that is contingent on approval by the voters.

(4) A rules committee, a standing committee, the Senate, or the House of Representatives is prohibited from suspending the provisions of Subsection (2) or (3).

S.J.R. 7

Passed March 6, 2019

Effective date (if approved by voters)

January 1, 2021

**PROPOSAL TO AMEND
UTAH CONSTITUTION —
TERMINOLOGY UPDATE**

Chief Sponsor: Deidre M. Henderson

House Sponsor: John Knotwell

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify gender-specific terminology.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- ▶ revise gender-specific terminology to be gender neutral.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2021, for this proposal.

Utah Constitution Sections Affected:

AMENDS:

- ARTICLE I, SECTION 1
- ARTICLE I, SECTION 11
- ARTICLE I, SECTION 12
- ARTICLE VI, SECTION 7
- ARTICLE VI, SECTION 20
- ARTICLE VI, SECTION 33

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article I, Section 1, to read:

Article I, Section 1. [Inherent and inalienable rights.]

All ~~men~~ persons have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

Section 2. It is proposed to amend Utah Constitution, Article I, Section 11, to read:

Article I, Section 11. [Courts open -- Redress of injuries.]

All courts shall be open, and every person, for an injury done to ~~him in his~~ the person in his or her person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, ~~by himself or~~ with or without counsel, any civil cause to which ~~he~~ the person is a party.

Section 3. It is proposed to amend Utah Constitution, Article I, Section 12, to read:

Article I, Section 12. [Rights of accused persons.]

In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation ~~against him~~, to have a copy thereof, to testify in ~~his~~ the accused's own behalf, to be confronted by the witnesses against ~~him~~ the accused, to have compulsory process to compel the attendance of witnesses in ~~his~~ the accused's own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself or herself; a ~~wife~~ person shall not be compelled to testify against ~~her husband, nor a husband against his wife~~ the

person's spouse, nor shall any person be twice put in jeopardy for the same offense.

Where the defendant is otherwise entitled to a preliminary examination, the function of that examination is limited to determining whether probable cause exists unless otherwise provided by statute. Nothing in this constitution shall preclude the use of reliable hearsay evidence as defined by statute or rule in whole or in part at any preliminary examination to determine probable cause or at any pretrial proceeding with respect to release of the defendant if appropriate discovery is allowed as defined by statute or rule.

Section 4. It is proposed to amend Utah Constitution, Article VI, Section 7, to read:

Article VI, Section 7. [Ineligibility of legislator to office created at term for which elected.]

No member of the Legislature, during the term for which ~~he~~ the member was elected, shall be appointed or elected to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during the term for which ~~he~~ the member was elected.

Section 5. It is proposed to amend Utah Constitution, Article VI, Section 20, to read:

Article VI, Section 20. [Service of articles of impeachment.]

No person shall be tried on impeachment, unless ~~he~~ the person shall have been served with a copy of the articles thereof, at least ten days before the trial, and after such service ~~he~~ the person shall not exercise the duties of ~~his~~ office until ~~he shall have been~~ acquitted.

Section 6. It is proposed to amend Utah Constitution, Article VI, Section 33, to read:

Article VI, Section 33. [Legislative auditor appointed.]

The Legislature shall appoint a legislative auditor to serve at its pleasure. The legislative auditor shall have authority to conduct audits of any funds, functions, and accounts in any branch, department, agency or political subdivision of this state and shall perform such other related duties as may be prescribed by the Legislature. ~~He~~ The legislative auditor shall report to and be answerable only to the Legislature.

Section 7. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 8. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2021.

S.J.R. 8

Passed March 12, 2019
Effective March 13, 2019

JOINT RESOLUTION AMENDING RULES OF EVIDENCE - VICTIM SELECTION

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This joint resolution amends the Utah Rules of Evidence by enacting a rule that prohibits the admissibility of evidence regarding a defendant's selection of a victim, except as specified.

Highlighted Provisions:

This resolution:

- ▶ provides that a defendant's expressions or associations are not admissible as evidence of the defendant's selection of a victim for purposes of a victim targeting penalty enhancement, except when the evidence:
 - specifically relates to the criminal offense charged; or
 - is introduced for impeachment.

Special Clauses:

This resolution provides a special effective date.

Utah Rules of Evidence Affected:

ENACTS:

Rule 417, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 417, Utah Rules of Evidence is enacted to read:

Rule 417. Admissibility of Evidence of the Actor's Expression or Association in Victim Targeting Criminal Penalty Enhancements.

Evidence of a criminal defendant's expressions or associations is not admissible to establish a penalty enhancement for a defendant's selection of a victim unless the evidence is otherwise admissible under these rules and specifically relates to the defendant's selection of the victim of the offense charged or is introduced for impeachment.

Section 2. Effective date.

This resolution takes effect upon approval by a constitutional two-thirds vote of all members elected to each house.

S.J.R. 9

Passed March 5, 2019
Effective March 5, 2019

JOINT RESOLUTION CALLING FOR A CONVENTION TO AMEND THE UNITED STATES CONSTITUTION

Chief Sponsor: Evan J. Vickers
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This joint resolution of the Legislature expresses support for a convention of the states to discuss potential amendments to the Constitution of the United States.

Highlighted Provisions:

This joint resolution:

- ▶ applies to Congress for the calling of a convention of the states for the purpose of discussing potential amendments to the Constitution of the United States.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the founders of our Constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government;

WHEREAS, the federal government has created a crushing national debt through improper and imprudent spending;

WHEREAS, the federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent;

WHEREAS, the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

WHEREAS, it is the solemn duty of the states to protect the liberty of our people particularly for the generations to come by proposing amendments to the Constitution of the United States through a convention of the states under Article V for the purpose of restraining these and related abuses of power:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States Senate, Speaker of the United States House of Representatives, members of Utah's congressional delegation, and the state legislators of the other 50 states, requesting their cooperation.

BE IT FURTHER RESOLVED that this joint resolution constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject.

S.J.R. 10

Passed March 11, 2019

Effective March 11, 2019

**JOINT RESOLUTION ENCOURAGING
MORE TRAINING AND RESOURCES
FOR MUNICIPAL CODE
ENFORCEMENT OFFICERS**

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This joint resolution of the Legislature encourages more training and resources to improve the safety of code enforcement officers.

Highlighted Provisions:

This resolution:

- ▶ recognizes the vital role that code enforcement officers play in the health, safety, and welfare of our communities;
- ▶ recognizes the risks that come with being a code enforcement officer;
- ▶ encourages code enforcement officers to become familiar with organizations and resources that provide training; and
- ▶ encourages local municipalities to adopt ordinances and policies to greater facilitate the training and protection of code enforcement officers.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, code enforcement officers provide an essential service by helping to maintain the standards and dignity of our communities;

WHEREAS, recent tragic events have highlighted the fact that many code enforcement officers enter dangerous situations in the performance of their duties;

WHEREAS, due to the function they serve and the risks they encounter, code enforcement officers deserve the respect and dignity afforded to all public servants who regularly risk their own safety for the betterment of our communities, along with the resources they need to assure their own safety; and

WHEREAS, in response to the need for continuing education of code enforcement officers, certain nonprofit organizations such as Utah Ordinance Compliance Association and American Association of Code Enforcement provide access to education, training, and resources that could

increase the safety and awareness of all code enforcement officers:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah strongly encourages code enforcement officers to become familiar with organizations and resources that provide training to increase situational awareness, recognize and understand personal property rights, develop professional conduct, and aid them in all other duties associated with their position.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah encourages local municipalities to adopt ordinances and policies to greater facilitate the training and protection of code enforcement officers, including but not limited to the resources cited in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah League of Cities and Towns and the Utah Association of Counties for distribution to all their constituents.

**LEGISLATION, LAW WITHOUT
SIGNATURE, AND LINE ITEMS VETOED
BY THE GOVERNOR**

S.B. 123 was vetoed by the Governor.

*The Governor vetoed line items in S.B. 3.
See Chapter 508 for complete text.*

*H.B. 220 became a law without the Governor's
signature. See Chapter 18 for complete text.*

*S.B. 154 became a law without the Governor's
signature. See Chapter 509 for complete text.*

*S.B. 187 became a law without th Governor's
signature. See Chapter 510 for complete text.*

S.B. 123

Passed March 14, 2019

Vetoed March 25, 2019

ELECTION PROCESS AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill amends provisions of the Election Code.

Highlighted Provisions:

This bill:

- ▶ allows a registered political party to replace a candidate for congressional office if the candidate resigns to accept an appointment to a federal office;
- ▶ modifies the deadline for a political party's central committee to certify a replacement name for a ballot when a candidate vacancy occurs;
- ▶ modifies a provision relating to a temporary appointment to fill a vacancy in the office of United States senator, pending a special election to fill the office;
- ▶ describes requirements and procedures relating to a special election to fill a vacancy in the office of United States representative;
- ▶ describes when a vacancy occurs in a congressional office;
- ▶ grants authority to the governor to establish, consistent with the requirements of this bill, the deadlines, time frames, and procedures relating to a special election described in this bill; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-501, as last amended by Laws of Utah 2016, Chapter 16

20A-1-502, as enacted by Laws of Utah 1993, Chapter 1

ENACTS:

20A-1-502.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-501 is amended to read:

20A-1-501. Candidate vacancies -- Procedure for filling.

(1) The state central committee of a political party, for candidates for United States senator, United States representative, governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of a political party, for all other party candidates seeking an office elected at a regular general

election, may certify the name of another candidate to the appropriate election officer if:

(a) for a registered political party that will have a candidate on a ballot in a primary election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor provides the list described in Subsection 20A-9-403(4)(a):

(i) only one or two candidates from that party have filed a declaration of candidacy for that office; and

(ii) one or both:

(A) dies;

(B) resigns because of acquiring a physical or mental disability, certified by a physician, that prevents the candidate from continuing the candidacy; ~~or~~

(C) is disqualified by an election officer for improper filing or nominating procedures; or

(D) resigns to accept an appointment to a federal office, if the candidate is a candidate for United States senator or United States representative;

(b) for a registered political party that does not have a candidate on the ballot in a primary, but that will have a candidate on the ballot for a general election, after the close of the period for filing a declaration of candidacy and continuing through the day before the day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; ~~or~~

(iv) resigns to become a candidate for president or vice president of the United States; or

(v) resigns to accept an appointment to a federal office, if the candidate is a candidate for United States senator or United States representative; or

(c) for a registered political party with a candidate certified as winning a primary election, after the deadline described in Subsection (1)(a) and continuing through the day before that day on which the lieutenant governor makes the certification described in Section 20A-5-409, the party's candidate:

(i) dies;

(ii) resigns because of acquiring a physical or mental disability as certified by a physician;

(iii) is disqualified by an election officer for improper filing or nominating procedures; ~~or~~

(iv) resigns to become a candidate for president or vice president of the United States~~[-];~~ or

(v) resigns to accept an appointment to a federal office, if the candidate is a candidate for United States senator or United States representative.

(2) If no more than two candidates from a political party have filed a declaration of candidacy for an office elected at a regular general election and one resigns to become the party candidate for another position, the state central committee of that political party, for candidates for governor, lieutenant governor, attorney general, state treasurer, and state auditor, and for legislative candidates whose legislative districts encompass more than one county, and the county central committee of that political party, for all other party candidates, may certify the name of another candidate to the appropriate election officer.

(3) Each replacement candidate shall file a declaration of candidacy as required by Title 20A, Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy.

(4) (a) The name of a candidate who is certified under Subsection (1)(a) ~~[after the deadline described in Subsection (1)(a)]~~ may not appear on the primary election ballot~~[-]~~ if the central committee makes the certification after the earlier of:

(i) 21 days after the day on which an event described in Subsection (1)(a)(ii) occurs; or

(ii) the first Tuesday after the third Saturday in April.

(b) The name of a candidate who is certified under Subsection (1)(b) ~~[after the deadline described in Subsection (1)(b)]~~ may not appear on the general election ballot~~[-]~~ if the central committee makes the certification after the earlier of:

(i) 21 days after the day on which an event described in Subsections (1)(b)(i) through (iv) occurs; or

(ii) August 30.

(c) The name of a candidate who is certified under Subsection (1)(c) ~~[after the deadline described in Subsection (1)(c)]~~ may not appear on the general election ballot~~[-]~~ if the central committee makes the certification after the earlier of:

(i) 21 days after the day on which an event described in Subsections (1)(c)(i) through (iv) occurs; or

(ii) August 30.

(5) A political party may not replace a candidate who is disqualified for failure to timely file a campaign disclosure financial report under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, or Section 17-16-6.5.

Section 2. Section 20A-1-502 is amended to read:

20A-1-502. Midterm vacancies in office of United States senator.

~~[(1) When a vacancy occurs for any reason in the office of a representative in Congress, the governor shall issue a proclamation calling an election to fill the vacancy.]~~

~~[(2)(a) (1) When a vacancy occurs in the office of [U.S. senator, it] United States senator, the vacancy shall be filled for the unexpired term at the next regular general election.~~

~~[(b) (2) The governor shall appoint [a person] an individual, from three individuals nominated by the Legislature, who is a member of the same political party as the prior officeholder, to serve as [U.S.] United States senator until the vacancy is filled by election [from one of three persons nominated by the state central committee of the same political party as the prior officeholder].~~

(3) A vacancy in the office of United States senator does not occur unless the

senator:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or the president of the United States Senate.

Section 3. Section 20A-1-502.5 is enacted to read:

20A-1-502.5. Midterm vacancy in office of United States representative.

(1) (a) Except as provided in Subsection (2)(a), when a vacancy occurs in the office of United States representative, the governor shall, within seven days after the day on which the vacancy occurs:

(i) issue a proclamation calling a special congressional election to fill the vacancy; and

(ii) post the proclamation on the lieutenant governor's website.

(b) An individual who fills a vacancy under this section shall serve until the end of the current term for which the vacancy exists.

(2) (a) Except as provided in Subsection (2)(b), if the vacancy occurs on or after the date of the regular general election, and before the beginning of the term for the office of United States representative:

(i) the governor may not call a special congressional election to fill the vacancy; and

(ii) the office shall remain vacant for the remainder of the current term.

(b) The governor shall comply with Subsection (3) for a vacancy that occurs under Subsection (2)(a) if the individual who vacates the office is certified by the lieutenant governor as the winner of the regular general election described in Subsection (2)(a).

(3) (a) The governor shall, no later than seven days after the day on which the vacancy occurs:

(i) subject to Subsection (3)(b), set the date of a primary election and a general election to fill the vacancy;

(ii) consistent with the requirements of this section, establish the deadlines, time frames, and procedures for filing a declaration of candidacy to fill the vacancy, giving notice of an election, and other election and campaign finance reporting requirements;

(iii) for each registered political party that desires to submit a candidate to fill the vacancy:

(A) require the registered political party to submit to the lieutenant governor the names of two members of the registered political party, who timely file a declaration of candidacy to fill the vacancy, before the deadline established under Subsection (3)(a)(ii); or

(B) if only one member of the registered political party files a declaration of candidacy, instruct the lieutenant governor to place that member on the congressional special election general election ballot for that registered political party;

(iv) for each registered political party that desires to submit a candidate to fill the vacancy:

(A) require the registered political party to select the members described in Subsection (3)(a)(iii) at a convention held by the registered political party; and

(B) require that only party delegates who reside in the congressional district related to the vacated congressional seat may vote to select the members described in Subsection (3)(a)(iii);

(v) include the dates, deadlines, and other requirements described in Subsection (3)(a)(i) through (iv) in the proclamation described in Subsection (1)(a); and

(vi) establish a deadline that is not fewer than seven days after the day on which the vacancy occurs by which a new political party is required to submit signatures under Section 20A-8-103 to participate in an election to fill the vacancy.

(b) When setting the dates of the primary and general elections under Subsection (3)(a)(i), the governor shall give priority to holding the elections on the dates of other regularly scheduled primary or general elections.

(c) The candidate who wins the general election described in Subsection (3)(a)(i) shall fill the vacancy for the remainder of the term.

(4) If, for any reason, a candidate vacancy occurs in a special congressional election at least one day before the day on which the lieutenant governor certifies the names to be included on the special congressional election ballot, the registered political party of the candidate shall certify a replacement candidate to the lieutenant governor before a deadline established by the lieutenant governor.

(5) A vacancy in the office of United States representative does not occur unless the representative:

(a) has left the office; or

(b) submits an irrevocable letter of resignation to the governor or to the speaker of the United States House of Representatives.



STATE OF UTAH

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GARY R. HERBERT
GOVERNOR

SPENCER J. COX
LIEUTENANT GOVERNOR

March 25, 2019

Dear President Adams and Speaker Wilson,

I have vetoed SB 123, Election Process Amendments. Compared to how candidates are selected in our regular Congressional elections, this bill significantly limits participation and choice in elections to fill vacancies in the United States House of Representatives and therefore limits the ability of Utah voters to choose their Congressional representatives. I am also concerned that the replacement process for the United States Senate identified in SB123 creates ambiguities by failing to explain how the entire Legislature will forward three names to the Governor.

Utah law provides multiple paths to the ballot for partisan elections: a political party convention and signature gathering being the most common. These options have been embraced by the majority of Utah voters as providing reasonable alternatives to access the ballot.

Although most general election candidates are chosen through the party convention process, recent election results demonstrate that Utah primary voters appreciate the choice afforded by both the political party convention method and the signature gathering method for candidate selection. For example, John Curtis, who ultimately won the Republican primary for the special election in Utah's third congressional district, got his name onto the Republican Party primary ballot because he gathered signatures.

The caucus system has been preserved in Utah law and remains a strong, critical component of Utah elections. Recent changes in Utah law add to that foundation and give candidates the choice to pursue one or more options. That system is working well for both candidates and voters. SB123 establishes a different system that removes choices from candidates and from the voters.

For these reasons, I have vetoed SB123. I look forward to working with the Legislature on a Congressional vacancy replacement procedure that reflects our general election process.

Sincerely,

Gary R. Herbert
Governor



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

April 3, 2019

The Honorable Stuart Adams
President of the Senate

and

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson:

This letter serves to inform you that on April 3, 2019, I signed SB 3, Appropriations Adjustments with the following vetoes.

- Item 90, lines 828-833. This is an appropriation for a bill that did not pass.
- Item 98, lines 884-890. This is an appropriation for a bill that did not pass.
- Item 136, lines 1148-52. This intent language is for a sound barrier at an address that does not exist along Mountain View Corridor.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



Office of the Governor

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

March 18, 2019

The Honorable Brad Wilson
Speaker of the House

and

The Honorable Stuart Adams
President of the Senate

Dear Speaker Wilson and President Adams,

I have allowed HB 220, Radioactive Waste Amendments to become law without my signature.

I have had reservations about how this legislation came forward. Nonetheless, I recognize the need to address challenges of dealing with modifying standards at the federal Nuclear Regulatory Commission by creating a robust site-based performance assessment standard for Utah. This bill does that.

Most importantly, before depleted uranium can be accepted and stored in Utah, this bill requires the federal government to accept long-term care and maintenance of the waste.

Public safety is my primary concern with the issue of radioactive waste. With the modifications that have been made to this bill, I believe public safety is protected and it will be more difficult for depleted uranium to come into Utah than under current law.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

April 3, 2019

Dear President Adams
President of the Senate

and

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson:

I have allowed SB154, Utah Communications Authority Amendments, to become law without my signature.

SB154 helps Utah take an important step toward implementation of Next Generation 911. This will provide first responders with better information about the location of 911 callers. In turn, that will help first responders locate and provide life-saving services to injured people.

Public safety is, and has always been, a focus of my administration. Government must make appropriate investments to keep residents safe and to respond when emergencies do occur. Because the stakes are so high with Next Generation 911 and because our 911 systems need critical upgrades, I agree that SB154 should become law.

However, the Utah Communications Authority should do more in coming months to articulate a clear business case including performance measures, the need for a 178% increase in the statewide 911 emergency service charge, and a plan to incorporate improvements resulting from this bill into the overall 911 structure.

I look forward to working with the Utah Communications Authority and other stakeholders on these critical issues.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Office of the Governor

April 3, 2019

Dear President Adams
President of the Senate

and

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson:

I have allowed SB187, County Planning and Services Amendments, to become law without my signature.

What was originally intended to be a one-year project will now extend to a total of six years.

I strongly encourage the Mountain Planning District to complete its work in as timely a manner as possible.

Sincerely,

A handwritten signature in black ink that reads "Gary R. Herbert".

Gary R. Herbert
Governor

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2019 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 3753) for explanations and clarifications of sections that were technically renumbered.

Laws of Utah - 2019

Section	Action	Bill Number	Former/ Renumber	Chapter Number	Section	Action	Bill Number	Former/ Renumber	Chapter Number
2018 Third Special Session									
4-41-102	A	HB3001		1	26-36d-102	E	HB3001		1
4-41-201	R	HB3001		1	26-36d-103	E	HB3001		1
4-41-202	R	HB3001		1	26-36d-201	E	HB3001		1
4-41-203	R	HB3001		1	26-36d-202	E	HB3001		1
4-41-301	R	HB3001		1	26-36d-203	E	HB3001		1
4-41-302	R	HB3001		1	26-36d-204	E	HB3001		1
4-41-303	R	HB3001		1	26-36d-205	E	HB3001		1
4-41-304	R	HB3001		1	26-36d-206	E	HB3001		1
4-41a-101	F	HB3001	4-41b-101	1	26-36d-207	E	HB3001		1
4-41a-102	F	HB3001	4-41b-102	1	26-36d-208	E	HB3001		1
4-41a-103	F	HB3001	4-41b-103	1	26-60b-101	N	HB3001	26-61a-101	1
4-41a-104	E	HB3001		1	26-60b-102	N	HB3001	26-61a-102	1
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4-41a-106	E	HB3001		1	26-60b-104	R	HB3001		1
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78A-6-1103	A	HB 249		136	79-4-1203	E	HB 14		360
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HR3-2-407	A	HR 4			JR7-1-509	E	HJR 11		
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TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to “correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication;” The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2019 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
4-44-101	4-45-101	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-102	4-45-102	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-103	4-45-103	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-104	4-45-104	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-105	4-45-105	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-106	4-45-106	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-107	4-45-107	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
4-44-108	4-45-108	T	S.B. 58	329	Technically renumbered for proper placement in chapter.
9-20-101	9-22-101	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-102	9-22-102	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-103	9-22-103	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-104	9-22-104	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-105	9-22-105	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-106	9-22-106	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
9-20-107	9-22-107	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-108	9-22-108	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-109	9-22-109	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-110	9-22-110	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-111	9-22-111	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-112	9-22-112	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-113	9-22-113	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
9-20-114	9-22-114	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 224, Chapter 221.
10-2a-106		A	S.B. 35	165	Revisor instructions to modify language.
10-2a-207		A	S.B. 35	165	Coordination clause direction to modify lanuage.
10-9a-509		A	H.B. 315	384	Coordination clause direction to modify language.
11-63-101	11-64-101	T	H.B. 15	183	Technically renumbered for proper placement in chapter.
13-54-101	13-56-101	T	S.B. 69	423	Technically renumbered for proper placement in chapter.
13-54-102	13-56-102	T	S.B. 69	423	Technically renumbered for proper placement in chapter.

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13-54-103	13-56-103	T	S.B. 69	423	Technically renumbered for proper placement in chapter.
13-54-201	13-56-201	T	S.B. 69	423	Technically renumbered for proper placement in chapter.
13-54-301	13-56-301	T	S.B. 69	423	Technically renumbered for proper placement in chapter.
13-54-302	13-56-302	T	S.B. 69	423	Technically renumbered for proper placement in chapter.
17-27a-508		A	H.B. 315	384	Incorrect citation to Section 17-27a-509 in coordination clause, modified language in Section 17-27a-508 for accuracy.
20A-7-407		A	H.B. 119	203	Revisor instructions to modify language.
26-18-25	26-18-26	T	S.B. 85	265	Technically renumbered to avoid duplication of section number used in HB 435, Chapter 320.
31A-22-650	31A-22-651	T	S.B. 39	256	Technically renumbered to avoid duplication of section number used in SB 264, Chapter 439
31A-22-650	31A-22-652	T	S.B. 106	172	Technically renumbered to avoid duplication of section number used in SB 264, Chapter 439
31A-23a-1101	31A-23a-1001	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
31A-23a-1102	31A-23a-1002	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
31A-23a-1103	31A-23a-1003	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
31A-23a-1104	31A-23a-1004	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
31A-23a-1105	31A-23a-1005	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
31A-23a-1106	31A-23a-1006	T	S.B. 121	475	Technically renumbered for proper placement in chapter.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
31A-23a-1107	31A-23a-1007	T	S.B. 121	475	Technically renumbered for proper placement in chapter.
34-54-101	34-55-101	T	H.B. 173	126	Technically renumbered for proper placement in chapter.
34-54-102	34-55-102	T	H.B. 173	126	Technically renumbered for proper placement in chapter.
34-54-201	34-55-201	T	H.B. 173	126	Technically renumbered for proper placement in chapter.
34-54-202	34-55-202	T	H.B. 173	126	Technically renumbered for proper placement in chapter.
35A-15-202		A	S.B. 166	342	Coordination clause direction that Section 35A-15-202 supersede Section 53F-6-304.
35A-15-301		A	S.B. 166	342	Coordination clause direction that Section 35A-15-301 supersede Section 53F-6-305.
35A-15-303		E	S.B. 166	342	Coordination clause direction to replace language with new language.
35A-15-401		A	S.B. 166	342	Coordination clause direction that Section 35A-15-401 supersede Section 53F-6-306.
35A-15-402		A	S.B. 166	342	Coordination clause direction that Section 35A-15-402 supersede Section 53F-6-309.
53-10-213	53-10-214	T	H.B. 478	406	Technically renumbered for proper placement in section.
53B-1-301		A	S.B. 14	324	Coordination clause direction to modify lanuage.
53B-8-114	53B-8-115	T	S.B. 136	273	Technically renumbered to avoid duplication of section number used in HB 260, Chapter 444.
53B-8-114	53B-8-116	T	H.B. 188	129	Technically renumbered to avoid duplication of section number used in HB 260, Chapter 444.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
53B-28-301	53B-28-401	T	S.B. 134	476	Technically renumbered to avoid duplication of section number used in HB 346, Chapter 307.
53E-1-201		A	S.B. 14	324	This section was affected by multiple coordination clauses to modify lanuage from bills HB 81, HB 130, HB 250, HB 373, SB 134, and SB 166.
53E-1-202		A	S.B. 14	324	Coordination clause direction to modify lanuage.
53E-3-518	53E-3-519	T	H.B. 81	41	Technically renumbered to avoid duplication of section number used in SB 112, Chapter 83.
53E-3-518	53E-3-520	T	H.B. 250	223	Technically renumbered to avoid duplication of section number used in SB 112, Chapter 83.
53E-7-201		A	H.B. 29	187	Coordination clause direction to modify lanuage.
53F-2-415	53F-2-416	T	S.B. 149	505	Technically renumbered to avoid duplication of section number used in HB 373, Chapter 446.
53F-2-415	53F-2-417	T	S.B. 4	408	Technically renumbered to avoid duplication of section number used in HB 373, Chapter 446.
53F-2-520	53F-2-521	T	S.B. 208	283	Technically renumbered to avoid duplication of section number used in SB 4, Chapter 408.
53F-5-212	53F-5-213	T	S.B. 173	344	Technically renumbered to avoid duplication of section number used in SB 115, Chapter 173.
53F-6-305		A	S.B. 166	342	Coordination clause direction to modify lanuage.
53F-6-306		A	S.B. 166	342	Coordination clause direction to modify lanuage.
58-1-310	58-1-311	T	H.B. 132	117	Technically renumbered for proper placement in section.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63M-7-211	63M-7-212	T	H.B. 398	311	Technically renumbered to avoid duplication of section number used in SB 251, Chapter 435.
63N-2-103		A	H.B. 264	465	Coordination clause made it so HB 264 supercedes coordination clause in SB 269.
63N-4-501	63N-4-601	T	H.B. 276	503	Technically renumbered to avoid duplication of section number used in HB 296, Chapter 467.
63N-4-502	63N-4-602	T	H.B. 276	503	Technically renumbered to avoid duplication of section number used in HB 296, Chapter 467.
63N-4-503	63N-4-603	T	H.B. 276	503	Technically renumbered to avoid duplication of section number used in HB 296, Chapter 467.
63N-4-504	63N-4-604	T	H.B. 276	503	Technically renumbered to avoid duplication of section number used in HB 296, Chapter 467.
63N-9-301	63N-9-401	T	S.B. 222	506	Technically renumbered to avoid duplication of section number used in SB 249, Chapter 290.
63N-9-302	63N-9-402	T	S.B. 222	506	Technically renumbered to avoid duplication of section number used in SB 249, Chapter 290.
63N-9-303	63N-9-403	T	S.B. 222	506	Technically renumbered to avoid duplication of section number used in SB 249, Chapter 290.
63N-9-304	63N-9-404	T	S.B. 222	506	Technically renumbered to avoid duplication of section number used in SB 249, Chapter 290.
63N-12-505	63N-12-507	T	S.B. 138	427	Technically renumbered to avoid duplication of section number used in HB 227, Chapter 443.
63N-12-505	63N-12-508	T	S.B. 172	487	Technically renumbered to avoid duplication of section number used in HB 227, Chapter 443.
63N-12-505	63N-12-509	T	H.B. 387	246	Technically renumbered to avoid duplication of section number used in HB 227, Chapter 443.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
72-4-218	72-4-219	T	H.B. 138	209	Technically renumbered to avoid duplication of section number used in SB 101, Chapter 82.
76-10-2203	76-10-2204	T	H.B. 251	377	Technically renumbered to avoid duplication of section number used in HB 16, Chapter 97.
78B-22-101	78B-23-101	T	H.B. 199	132	Technically renumbered to avoid duplication of section number used in SB 32, Chapter 326.
78B-22-102	78B-23-102	T	H.B. 199	132	Technically renumbered to avoid duplication of section number used in HB 32, Chapter 326.

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